

# TITLE 28—JUDICIARY AND JUDICIAL PROCEDURE

*This title was enacted by act June 25, 1948, ch. 646, §1, 62 Stat. 869*

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#### AMENDMENTS

1966—Pub. L. 89-554, §4(a), Sept. 6, 1966, 80 Stat. 611, substituted "Department of Justice" for "United States Attorneys and Marshals" in item for part II.

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<i>Title 28 Former Sections</i>	<i>Title 28 New Sections</i>
946	Elim.

<sup>1</sup>Court of Claims Rules were replaced by U.S. Claims Court Rules effective Oct. 1, 1982, and subsequently by United States Court of Federal Claims Rules effective Dec. 4, 1992.  
<sup>2</sup>Admiralty Rules were superseded July 1, 1966, by Supplemental Rules for Certain Admiralty and Maritime Claims.

**Statutory Notes and Related Subsidiaries**

ENACTMENT INTO LAW; CITATION

Section 1 of act June 25, 1948, ch. 646, 62 Stat. 869, provided in part: "That title 28 of the United States Code, entitled 'Judicial Code and Judiciary' is hereby revised, codified, and enacted into law, and may be cited as 'Title 28, United States Code, section \_\_\_\_\_.'"

LEGISLATIVE CONSTRUCTION

Section 33 of act June 25, 1948, ch. 646, 62 Stat. 991, provided that: "No inference of a legislative construction is to be drawn by reason of the chapter in Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, in which any section is placed, nor by reason of the catchlines used in such title."

SEPARABILITY

Section 34 of act June 25, 1948, ch. 646, 62 Stat. 991, provided that: "If any part of Title 28, Judiciary and Judicial Procedure, as set out in section 1 of this Act, shall be held invalid, the remainder shall not be affected thereby."

EFFECTIVE DATE

Section 38 of act June 25, 1948, ch. 646, 62 Stat. 992, provided that: "The provisions of this Act shall take effect on September 1, 1948."

REPEALS; RIGHTS AND LIABILITIES SAVED

Act June 25, 1948, ch. 646, §39, 62 Stat. 992, repealed the sections or parts thereof of the Revised Statutes of the United States, Statutes at Large, or the Revised Statutes of the District of Columbia covering provisions codified in this title, but saved any rights or liabilities then existing under said sections or parts thereof.

R.S. §1012 as affected by act Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167 [section 880 of former Title 28, Judicial Code and Judiciary], provided that appeals from district courts shall be subject to the same rules, regulations, and restrictions as are or may be prescribed in law in cases of writs of error. This provision was repealed by act June 25, 1948, ch. 646, §39, 62 Stat. 992. Section 2 of act Jan. 31, 1928, ch. 14, 45 Stat. 54, as amended Apr. 26, 1928, ch. 440, 45 Stat. 466; June 25, 1948, ch. 646, §23, 62 Stat. 990 [section 861b of former Title 28, Judicial Code and Judiciary], provided that: "All Acts of Congress referring to writs of error shall be construed as amended to the extent necessary to substitute appeal for writ of error."

WRITS OF ERROR

Act Jan. 31, 1928, ch. 14, §1, 45 Stat. 54 [section 861a of former Title 28, Judicial Code and Judiciary], provided that: "The writ of error in cases, civil and criminal, is abolished. All relief which heretofore [Jan. 31, 1928] could be obtained by writ of error shall hereafter be obtainable by appeal." This provision was omitted from the 1948 Revised Judicial Code as obsolete, and repealed by act June 25, 1948, ch. 646, §39, 62 Stat. 992. Section 2 of act Jan. 31, 1928, which originally related to procedure in appeal cases, was also omitted from the 1948 Revised Judicial Code and was amended generally by act June 25, 1948, ch. 646, §23, 62 Stat. 990. Text as amended by section 23 of act June 25, 1948, is set out as

a note preceding section 1 of Title 1, General Provisions.

TITLE 28 AS CONTINUATION OF EXISTING LAW; CHANGE OF NAME OF CIRCUIT COURTS OF APPEALS

Act June 25, 1948, ch. 646, §2(b), 62 Stat. 985, provided that: "The provisions of Title 28, Judiciary and Judicial Procedure, of the United States Code, set out in section 1 of this Act, with respect to the organization of each of the several courts therein provided for and of the Administrative Office of the United States Courts, shall be construed as continuations of existing law, and the tenure of the judges, officers, and employees thereof and of the United States attorneys and marshals and their deputies and assistants, in office on the effective date of this Act [Sept. 1, 1948], shall not be affected by its enactment, but each of them shall continue to serve in the same capacity under the appropriate provisions of title 28, as set out in section 1 of this Act, pursuant to his prior appointment: Provided, however, That each circuit court of appeals shall, as in said title 28 set out, hereafter be known as a United States court of appeals. No loss of rights, interruption of jurisdiction, or prejudice to matters pending in any of such courts on the effective date of this Act shall result from its enactment."

PART I—ORGANIZATION OF COURTS

Table with 2 columns: Chap. and Section. Rows include Supreme Court (1), Courts of appeals (3), District courts (5), Bankruptcy judges (6), United States Court of Federal Claims (7), Repealed (9), Court of International Trade (11), Assignment of judges to other courts (13), Conferences and councils of judges (15), Complaints against judges and judicial discipline (16), Resignation and retirement of judges (17), Distribution of reports and digests (19), General provisions applicable to courts and judges (21), Civil justice expense and delay reduction plans (23).

Editorial Notes

AMENDMENTS

2002—Pub. L. 107-273, div. C, title I, §11042(b), Nov. 2, 2002, 116 Stat. 1855, added item for chapter 16.

1992—Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516, substituted "United States Court of Federal Claims" for "United States Claims Court" in item for chapter 7.

1990—Pub. L. 101-650, title I, §103(d), Dec. 1, 1990, 104 Stat. 5096, added item for chapter 23.

1984—Pub. L. 98-353, title I, §104(b), July 10, 1984, 98 Stat. 342, added item for chapter 6.

1982—Pub. L. 97-164, title I, §§105(b), 106, Apr. 2, 1982, 96 Stat. 28, substituted "United States Claims Court" for "Court of Claims" in item for chapter 7 and struck out item for chapter 9 "Court of Customs and Patent Appeals".

1980—Pub. L. 96-417, title V, §501(1), Oct. 10, 1980, 94 Stat. 1742, substituted "Court of International Trade" for "Customs Court" in item for chapter 11.

<sup>1</sup>Chapter heading amended by Pub. L. 92-397 without corresponding amendment of analysis.

1978—Pub. L. 98-598, title II, §201(b), Nov. 6, 1978, 92 Stat. 2660, directed amendment of analysis of chapters comprising part I by adding item for chapter 6 "Bankruptcy courts", which amendment did not become effective pursuant to section 402(b) of Pub. L. 95-598, as amended, set out as an Effective Date note preceding section 101 of Title 11, Bankruptcy.

Executive Documents

EXECUTIVE ORDER NO. 11992

Ex. Ord. No. 11992, May 24, 1977, 42 F.R. 27195, which established Committee on Selection of Federal Judicial Officers and provided for its membership, functions, etc., was revoked, and Committee terminated, by Ex. Ord. No. 12305, May 5, 1981, 46 F.R. 25421, formerly set out as a note under section 1013 of Title 5, Government Organization and Employees.

CHAPTER 1—SUPREME COURT

Sec.

- 1. Number of justices; quorum.
2. Terms of court.
3. Vacancy in office of Chief Justice; disability.
4. Precedence of associate justices.
5. Salaries of justices.
6. Records of former court of appeals.

§ 1. Number of justices; quorum

The Supreme Court of the United States shall consist of a Chief Justice of the United States and eight associate justices, any six of whom shall constitute a quorum.

(June 25, 1948, ch. 646, 62 Stat. 869.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §321 (Mar. 3, 1911, ch. 231, §215, 36 Stat. 1152).

Appointment of "judges of the Supreme Court" by the President by and with the advice and consent of the Senate is provided by U.S. Constitution art. 2, §2, cl. 2.

Statutory Notes and Related Subsidiaries

SHORT TITLE OF 2023 AMENDMENT

Pub. L. 117-354, §1, Jan. 5, 2023, 136 Stat. 6270, provided that: "This Act [enacting section 540D of this title and section 20306 of Title 34, Crime Control and Law Enforcement, amending sections 20301 to 20305 of Title 34, and repealing section 20306 of Title 34] may be cited as the 'Respect for Child Survivors Act'."

SHORT TITLE OF 2022 AMENDMENT

Pub. L. 117-252, §1, Dec. 20, 2022, 136 Stat. 2359, provided that: "This Act [amending provisions set out as a note preceding section 81 of this title] may be cited as the 'Pro bono Work to Empower and Represent Act of 2021' or the 'POWER 2.0 Act'."

SHORT TITLE OF 2021 AMENDMENT

Pub. L. 116-325, §1, Jan. 12, 2021, 134 Stat. 5086, provided that: "This Act [amending sections 375, 589a, and 1930 of this title and section 330 of Title 11, Bankruptcy, and enacting provisions set out as notes under sections 152, 589a, and 1930 of this title and section 330 of Title 11] may be cited as the 'Bankruptcy Administration Improvement Act of 2020'."

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116-73, §1, Nov. 26, 2019, 133 Stat. 1154, provided that: "This Act [amending section 83 of this title and enacting provisions set out as a note under section 83 of this title] may be cited as the 'Divisional Realignment for the Eastern District of Arkansas Act of 2019'."

SHORT TITLE OF 2018 AMENDMENT

Pub. L. 115-332, §1, Dec. 19, 2018, 132 Stat. 4487, provided that: "This Act [amending section 1631 of this