

**§ 1454. Patent, plant variety protection, and copyright cases**

(a) **IN GENERAL.**—A civil action in which any party asserts a claim for relief arising under any Act of Congress relating to patents, plant variety protection, or copyrights may be removed to the district court of the United States for the district and division embracing the place where the action is pending.

(b) **SPECIAL RULES.**—The removal of an action under this section shall be made in accordance with section 1446, except that if the removal is based solely on this section—

- (1) the action may be removed by any party; and
- (2) the time limitations contained in section 1446(b) may be extended at any time for cause shown.

(c) **CLARIFICATION OF JURISDICTION IN CERTAIN CASES.**—The court to which a civil action is removed under this section is not precluded from hearing and determining any claim in the civil action because the State court from which the civil action is removed did not have jurisdiction over that claim.

(d) **REMAND.**—If a civil action is removed solely under this section, the district court—

- (1) shall remand all claims that are neither a basis for removal under subsection (a) nor within the original or supplemental jurisdiction of the district court under any Act of Congress; and
- (2) may, under the circumstances specified in section 1367(c), remand any claims within the supplemental jurisdiction of the district court under section 1367.

(Added Pub. L. 112-29, §19(c)(1), Sept. 16, 2011, 125 Stat. 332.)

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section applicable to any civil action commenced on or after Sept. 16, 2011, see section 19(e) of Pub. L. 112-29, set out as an Effective Date of 2011 Amendment note under section 1295 of this title.

**§ 1455. Procedure for removal of criminal prosecutions**

(a) **NOTICE OF REMOVAL.**—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

(b) **REQUIREMENTS.**—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

(2) A notice of removal of a criminal prosecution shall include all grounds for such removal.

A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

(c) **WRIT OF HABEAS CORPUS.**—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal's custody and deliver a copy of the writ to the clerk of such State court.

(Added Pub. L. 112-63, title I, §103(c), Dec. 7, 2011, 125 Stat. 761.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Federal Rules of Civil Procedure, referred to in subsec. (a), are set out in the Appendix to this title.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective upon the expiration of the 30-day period beginning on Dec. 7, 2011, and applicable to any action or prosecution commenced on or after such effective date, with provisions for treatment of cases removed to Federal court, see section 105 of Pub. L. 112-63, set out as an Effective Date of 2011 Amendment note under section 1332 of this title.

**[CHAPTER 90—OMITTED]**

**Editorial Notes**

**CODIFICATION**

Chapter 90, consisting of sections 1471 to 1482, which was added by Pub. L. 95-598, title II, §241(a), Nov. 6, 1978, 92 Stat. 2668, and which related to district courts and bankruptcy courts, 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.

**Statutory Notes and Related Subsidiaries**

**TRANSITION TO NEW COURT SYSTEM**

Pub. L. 95-598, title IV, §409, Nov. 6, 1978, 92 Stat. 2687, as amended by Pub. L. 98-249, §1(d), Mar. 31, 1984, 98