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28 USC Sec. 331

01/19/04

-EXPCITE-

TITLE 28 - JUDICIARY AND JUDICIAL PROCEDURE
PART I - ORGANIZATION OF COURTS
CHAPTER 15 - CONFERENCES AND COUNCILS OF JUDGES

-HEAD-

Sec. 331. Judicial Conference of the United States

-STATUTE-

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit to a conference at such time and place in the United States as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit and shall serve as a member of the Judicial Conference of the United States for a term of not less than 3 successive years nor more than 5 successive years, as established by majority vote of all circuit and district judges of the circuit. A district judge serving as a member of the Judicial Conference may be either a judge in regular active service or a judge retired from regular active service under section 371(b) of this title.

If the chief judge of any circuit, the chief judge of the Court of International Trade, or the district judge chosen by the judges of the circuit is unable to attend, the Chief Justice may summon any other circuit or district judge from such circuit or any other judge of the Court of International Trade, as the case may be. Every judge summoned shall attend and, unless excused by the Chief Justice, shall remain throughout the sessions of the conference and advise as to the needs of his circuit or court and as to any

matters in respect of which the administration of justice in the courts of the United States may be improved.

The Conference shall make a comprehensive survey of the condition of business in the courts of the United States and prepare plans for assignment of judges to or from circuits or districts where necessary. It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business. The Conference is authorized to exercise the authority provided in chapter 16 of this title as the Conference, or through a standing committee. If the Conference elects to establish a standing committee, it shall be appointed by the Chief Justice and all petitions for review shall be reviewed by that committee. The Conference or the standing committee may hold hearings, take sworn testimony, issue subpoenas and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority. Subpoenas and subpoenas duces tecum shall be issued by the clerk of the Supreme Court or by the clerk of any court of appeals, at the direction of the Chief Justice or his designee and under the seal of the court, and shall be served in the manner provided in rule 45(c) of the Federal Rules of Civil Procedure for subpoenas and subpoenas duces tecum issued on behalf of the United States or an officer or any agency thereof. The Conference may also prescribe and modify rules for the exercise of the authority provided in chapter 16 of this title. All judicial officers and employees of the United States shall promptly carry into effect all orders of the Judicial Conference or the standing committee established pursuant to this section.

The Conference shall also carry on a continuous study of the operation and effect of the general rules of practice and procedure now or hereafter in use as prescribed by the Supreme Court for the other courts of the United States pursuant to law. Such changes in and additions to those rules as the Conference may deem desirable to promote simplicity in procedure, fairness in administration, the just determination of litigation, and the elimination of unjustifiable expense and delay shall be recommended by the Conference from time to time to the Supreme Court for its consideration and adoption, modification or rejection, in

accordance with law.

The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.

The Attorney General shall, upon request of the Chief Justice, report to such Conference on matters relating to the business of the several courts of the United States, with particular reference to cases to which the United States is a party.

The Chief Justice shall submit to Congress an annual report of the proceedings of the Judicial Conference and its recommendations for legislation.

-SOURCE-

(June 25, 1948, ch. 646, 62 Stat. 902; July 9, 1956, ch. 517, Sec. 1(d), 70 Stat. 497; Pub. L. 85-202, Aug. 28, 1957, 71 Stat. 476; Pub. L. 85-513, July 11, 1958, 72 Stat. 356; Pub. L. 87-253, Secs. 1, 2, Sept. 19, 1961, 75 Stat. 521; Pub. L. 95-598, title II, Sec. 208, Nov. 6, 1978, 92 Stat. 2660; Pub. L. 96-458, Sec. 4, Oct. 15, 1980, 94 Stat. 2040; Pub. L. 97-164, title I, Sec. 111, Apr. 2, 1982, 96 Stat. 29; Pub. L. 99-466, Sec. 1, Oct. 14, 1986, 100 Stat. 1190; Pub. L. 100-702, title IV, Sec. 402(b), Nov. 19, 1988, 102 Stat. 4650; Pub. L. 104-317, title VI, Sec. 601(a), Oct. 19, 1996, 110 Stat. 3857; Pub. L. 107-273, div. C, title I, Sec. 11043(b), Nov. 2, 2002, 116 Stat. 1855.)

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HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., Sec. 218 (Sept. 14, 1922, ch. 306, Sec. 2, 42 Stat. 838; July 5, 1937, ch. 427, 50 Stat. 473).

Provisions as to associate justice acting when Chief Justice is disabled are omitted as unnecessary in view of section 3 of this title giving senior associate justice power to act upon the disability of the Chief Justice.

The provision of section 218 of title 28, U.S.C., 1940 ed., as to traveling expenses is incorporated in section 456 of this title.

Provision as to time and place for holding conference was omitted as unnecessary since the Chief Justice is vested with discretionary power to designate the time and place under the language retained.

The references to "chief judge" are in harmony with other sections of this title. (See Reviser's Note under section 136 of this title.)

Provision for stated annual reports by the chief judge of the district was omitted as obsolete and unnecessary in view of sections 332 and 333 of this title.

The last paragraph is new and is inserted to authorize the communication to Congress of information which now reaches that body only because incorporated in the annual report of the Attorney General.

Numerous changes were made in phraseology and arrangement.

-REFTEXT-

REFERENCES IN TEXT

Rule 45(c) of the Federal Rules of Civil Procedure, referred to in fourth paragraph, is set out in the Appendix to this title.

-MISC2-

AMENDMENTS

2002 - Pub. L. 107-273 substituted "chapter 16" for "section 372(c)" in two places in fourth par.

1996 - Pub. L. 104-317 added second par. and struck out former second par. which read as follows: "The district judge to be summoned from each judicial circuit shall be chosen by the circuit and district judges of the circuit at the annual judicial conference of the circuit held pursuant to section 333 of this title and shall serve as a member of the conference for three successive years, except that in the year following the enactment of this amended section the judges in the first, fourth, seventh, and tenth circuits shall choose a district judge to serve for one year, the judges in the second, fifth, and eighth circuits shall

choose a district judge to serve for two years and the judges in the third, sixth, ninth, and District of Columbia circuits shall choose a district judge to serve for three years."

1988 - Pub. L. 100-702 inserted paragraph requiring Judicial Conference review of section 2071 rules prescribed by courts other than Supreme court or district courts for consistency with Federal law.

1986 - Pub. L. 99-466, Sec. 1(a), inserted ", the chief judge of the Court of International Trade," and substituted "Conference may" for "conference may" in first par.

Pub. L. 99-466, Sec. 1(b), inserted ", the chief judge of the Court of International Trade," and "or any other judge of the Court of International Trade, as the case may be" in first sentence of third par.

Pub. L. 99-466, Sec. 1(c), substituted "Conference" for "conference" in sixth par.

1982 - Pub. L. 97-164, in first par., struck out references to the chief judge of the Court of Claims and to the chief judge of the Court of Customs and Patent Appeals in the enumeration of judges which the Chief Justice must summon each year for a conference and, in third par., struck out provision that authorized the Chief Justice to summon an associate judge of the Court of Claims or the Court of Customs and Patent Appeals if the chief judge of either of those courts could not attend.

1980 - Pub. L. 96-458, in fourth par., substituted "It shall also submit suggestions and recommendations to the various courts to promote uniformity of management procedures and the expeditious conduct of court business." for "and shall submit suggestions to the various courts, in the interest of uniformity and expedition of business.", and inserted provisions relating to exercise of authority under section 372(c) as the Conference or through standing committee, the holding of hearings, taking of testimony, and the issuance of subpoenas pursuant to rule 45(c) of the Federal Rules of Civil Procedure.

1978 - Pub. L. 95-598 directed the amendment of section by inserting references to bankruptcy judges, 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.

1961 - Pub. L. 87-253 provided for the summoning to the judicial conference of the chief judge of the Court of Customs and Patent Appeals, and if he is unable to attend, for the summoning of an associate judge of such court.

1958 - Pub. L. 85-513 inserted paragraph requiring a continuous study of the operation and effect of the general rules of practice and procedure.

1957 - Pub. L. 85-202 provided generally in first three paragraphs for the representation of district judges on the Judicial Conference.

1956 - Act July 9, 1956, inserted provisions relating to participation of Court of Claims judges.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-702 effective Dec. 1, 1988, see section 407 of Pub. L. 100-702, set out as a note under section 2071 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 4 of Pub. L. 99-466 provided that: "This Act and the amendments made by this Act [enacting section 335 of this title, amending this section and section 569 of this title, renumbering section 873 of this title as 872, and repealing former section 872 of this title] shall take effect 60 days after the date of the enactment of this Act [Oct. 14, 1986]."

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 7 of Pub. L. 96-458 provided that: "This Act [amending this section and sections 332, 372, and 604 of this title and enacting provisions set out as notes under this section and section

1 of this title] shall become effective on October 1, 1981."

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in this section relating to requirement that the Chief Justice submit to Congress an annual report of proceedings of the Judicial Conference and recommendations for legislation, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 13 of House Document No. 103-7.

POLICIES, PROCEDURES, AND METHODOLOGIES USED IN RECOMMENDATION FOR CREATION OF ADDITIONAL FEDERAL JUDGESHIPS; STUDY BY GENERAL

ACCOUNTING OFFICE AND REPORT TO CONGRESS

Pub. L. 101-650, title II, Sec. 205, Dec. 1, 1990, 104 Stat. 5103, provided that:

"(a) In General. - The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies -

"(1) provide an accurate measure of the workload of existing judges;

"(2) are applied consistently to the various circuit courts of appeals and district courts; and

"(3) provide an accurate indicator of the need for additional judgeships.

"(b) Report to Congress. - The Comptroller General shall, not later than 18 months after the date of the enactment of this Act [Dec. 1, 1990], report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used

by the Judicial Conference that were reviewed in the report."

FEDERAL COURTS STUDY COMMITTEE

Title I of Pub. L. 100-702, known as the "Federal Courts Study Act", established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal Judiciary, which was directed to examine problems and issues currently facing the courts of the United States, develop a long-range plan for the future of the Federal Judiciary, including assessments involving alternative methods of dispute resolution, the structure and administration of the Federal court system, methods of resolving intracircuit and intercircuit conflicts in the courts of appeals, and the types of disputes resolved by the Federal courts, and to submit, within 15 months after Jan. 1, 1989, a report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deemed advisable, and further provided for membership of the Committee, duties, powers and functions, compensation of members, appropriations, and expiration of the Committee 60 days after submission of report.

-SECRET-

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 356, 357, 359, 360, 372 of this title; title 42 section 10608.

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