

L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

CONTINUATION OF MAXIMUM RATES OF SALARY OF FULL-TIME AND PART-TIME UNITED STATES MAGISTRATES IN EFFECT ON JUNE 27, 1984

Pub. L. 98-353, title I, §108(b), July 10, 1984, 98 Stat. 342, provided that: "The maximum rates for salary of full-time and part-time United States magistrates [now United States magistrate judges] in effect on June 27, 1984, shall remain in effect until changed as a result of a determination made under section 634(a) of title 28, United States Code, as amended by this Act."

[Section 108(b) of Pub. L. 98-353 effective June 27, 1984, see section 122(c) of Pub. L. 98-353, set out as an Effective Date note under section 151 of this title.]

Executive Documents

SALARY INCREASES

1987—Maximum salaries of U.S. magistrates (full-time) and U.S. magistrates (part-time) increased respectively to \$72,500 and \$36,200 per annum, on recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

§ 635. Expenses

(a) Full-time United States magistrate judges serving under this chapter shall be allowed their actual and necessary expenses incurred in the performance of their duties, including the compensation of such legal assistants as the Judicial Conference, on the basis of the recommendations of the judicial councils of the circuits, considers necessary, and the compensation of necessary clerical and secretarial assistance. Such expenses and compensation shall be determined and paid by the Director under such regulations as the Director shall prescribe with the approval of the conference. The Administrator of General Services shall provide such magistrate judges with necessary courtrooms, office space, furniture and facilities within United States courthouses or office buildings owned or occupied by departments or agencies of the United States, or should suitable courtroom and office space not be available within any such courthouse or office building, the Administrator of General Services, at the request of the Director, shall procure and pay for suitable courtroom and office space, furniture and facilities for such magistrate judge in another building, but only if such request has been approved as necessary by the judicial council of the appropriate circuit.

(b) Under such regulations as the Director shall prescribe with the approval of the conference, the Director shall reimburse part-time magistrate judges for actual expenses necessarily incurred by them in the performance of their duties under this chapter. Such reimbursement may be made, at rates not exceeding those prescribed by such regulations, for expenses incurred by such part-time magistrate judges for clerical and secretarial assistance, stationery, telephone and other communications services, travel, and such other expenses as may be determined to be necessary for the proper performance of the duties of such officers: *Provided, however*, That no reimbursement shall be made for all or any portion of the expense incurred by such part-time magistrate judges for the procurement of office space.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, §101, Oct. 17, 1968, 82 Stat. 1112; Pub. L. 96-82, §8(a), Oct. 10, 1979, 93 Stat. 646; Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Prior section 663.—Based on title 28, U.S.C., 1940 ed., §§597, 597a, 597b, 597c (May 28, 1896, ch. 252, §§21, 24, 29 Stat. 184, 186; Aug. 1, 1946, ch. 721, §§1-4, 60 Stat. 752, 753).

The provision of section 597c of title 28, U.S.C., 1940 ed., excepting commissioners in the Territory of Alaska was omitted as unnecessary since this exception is implicit in the revised section. The words "in each judicial district" limit the section to the commissioners in the districts enumerated in chapter 5 which includes Hawaii, Puerto Rico, and District of Columbia but omits Alaska, Canal Zone, [Guam] and Virgin Islands.

Salaries of park commissioners are provided by section 634 of this title.

Changes were made in phraseology.

Editorial Notes

AMENDMENTS

1979—Subsec. (a). Pub. L. 96-82 inserted reference to the compensation of such legal assistants as the Judicial Conference, on the basis of the recommendations of the judicial councils of the circuits, considers necessary.

1968—Pub. L. 90-578 substituted provisions relating to expenses for provisions prescribing residence for park commissioners. See section 631(b)(3) of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words "magistrate judges" and "magistrate judge" substituted for "magistrates" and "magistrate", respectively, wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

§ 636. Jurisdiction, powers, and temporary assignment

(a) Each United States magistrate judge serving under this chapter shall have within the district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law—

(1) all powers and duties conferred or imposed upon United States commissioners by law or by the Rules of Criminal Procedure for the United States District Courts;

(2) the power to administer oaths and affirmations, issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial, and take acknowledgements, affidavits, and depositions;

(3) the power to conduct trials under section 3401, title 18, United States Code, in conformity with and subject to the limitations of that section;

(4) the power to enter a sentence for a petty offense; and

(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.

(b)(1) Notwithstanding any provision of law to the contrary—

(A) a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court, except a motion for injunctive relief, for judgment on the pleadings, for summary judgment, to dismiss or quash an indictment or information made by the defendant, to suppress evidence in a criminal case, to dismiss or to permit maintenance of a class action, to dismiss for failure to state a claim upon which relief can be granted, and to involuntarily dismiss an action. A judge of the court may reconsider any pretrial matter under this subparagraph (A) where it has been shown that the magistrate judge's order is clearly erroneous or contrary to law.

(B) a judge may also designate a magistrate judge to conduct hearings, including evidentiary hearings, and to submit to a judge of the court proposed findings of fact and recommendations for the disposition, by a judge of the court, of any motion excepted in subparagraph (A), of applications for posttrial¹ relief made by individuals convicted of criminal offenses and of prisoner petitions challenging conditions of confinement.

(C) the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.

Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.

(2) A judge may designate a magistrate judge to serve as a special master pursuant to the applicable provisions of this title and the Federal Rules of Civil Procedure for the United States district courts. A judge may designate a magistrate judge to serve as a special master in any civil case, upon consent of the parties, without regard to the provisions of rule 53(b) of the Federal Rules of Civil Procedure for the United States district courts.

(3) A magistrate judge may be assigned such additional duties as are not inconsistent with the Constitution and laws of the United States.

(4) Each district court shall establish rules pursuant to which the magistrate judges shall discharge their duties.

(c) Notwithstanding any provision of law to the contrary—

(1) Upon the consent of the parties, a full-time United States magistrate judge or a part-

time United States magistrate judge who serves as a full-time judicial officer may conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case, when specially designated to exercise such jurisdiction by the district court or courts he serves. Upon the consent of the parties, pursuant to their specific written request, any other part-time magistrate judge may exercise such jurisdiction, if such magistrate judge meets the bar membership requirements set forth in section 631(b)(1) and the chief judge of the district court certifies that a full-time magistrate judge is not reasonably available in accordance with guidelines established by the judicial council of the circuit. When there is more than one judge of a district court, designation under this paragraph shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge.

(2) If a magistrate judge is designated to exercise civil jurisdiction under paragraph (1) of this subsection, the clerk of court shall, at the time the action is filed, notify the parties of the availability of a magistrate judge to exercise such jurisdiction. The decision of the parties shall be communicated to the clerk of court. Thereafter, either the district court judge or the magistrate judge may again advise the parties of the availability of the magistrate judge, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences. Rules of court for the reference of civil matters to magistrate judges shall include procedures to protect the voluntariness of the parties' consent.

(3) Upon entry of judgment in any case referred under paragraph (1) of this subsection, an aggrieved party may appeal directly to the appropriate United States court of appeals from the judgment of the magistrate judge in the same manner as an appeal from any other judgment of a district court. The consent of the parties allows a magistrate judge designated to exercise civil jurisdiction under paragraph (1) of this subsection to direct the entry of a judgment of the district court in accordance with the Federal Rules of Civil Procedure. Nothing in this paragraph shall be construed as a limitation of any party's right to seek review by the Supreme Court of the United States.

(4) The court may, for good cause shown on its own motion, or under extraordinary circumstances shown by any party, vacate a reference of a civil matter to a magistrate judge under this subsection.

(5) The magistrate judge shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.

(d) The practice and procedure for the trial of cases before officers serving under this chapter shall conform to rules promulgated by the Supreme Court pursuant to section 2072 of this title.

¹ So in original. Probably should be "post-trial".

(e) CONTEMPT AUTHORITY.—

(1) IN GENERAL.—A United States magistrate judge serving under this chapter shall have within the territorial jurisdiction prescribed by the appointment of such magistrate judge the power to exercise contempt authority as set forth in this subsection.

(2) SUMMARY CRIMINAL CONTEMPT AUTHORITY.—A magistrate judge shall have the power to punish summarily by fine or imprisonment, or both, such contempt of the authority of such magistrate judge constituting misbehavior of any person in the magistrate judge's presence so as to obstruct the administration of justice. The order of contempt shall be issued under the Federal Rules of Criminal Procedure.

(3) ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge shall have the power to punish, by fine or imprisonment, or both, criminal contempt constituting disobedience or resistance to the magistrate judge's lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing under the Federal Rules of Criminal Procedure.

(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This paragraph shall not be construed to limit the authority of a magistrate judge to order sanctions under any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

(5) CRIMINAL CONTEMPT PENALTIES.—The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

(6) CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT.—Upon the commission of any such act—

(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where—

(i) the act committed in the magistrate judge's presence may, in the opinion of the magistrate judge, constitute a serious

criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection,

(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge, or

(iii) the act constitutes a civil contempt,

the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served, upon any person whose behavior is brought into question under this paragraph, an order requiring such person to appear before a district judge upon a day certain to show cause why that person should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS.—The appeal of an order of contempt under this subsection shall be made to the court of appeals in cases proceeding under subsection (c) of this section. The appeal of any other order of contempt issued under this section shall be made to the district court.

(f) In an emergency and upon the concurrence of the chief judges of the districts involved, a United States magistrate judge may be temporarily assigned to perform any of the duties specified in subsection (a), (b), or (c) of this section in a judicial district other than the judicial district for which he has been appointed. No magistrate judge shall perform any of such duties in a district to which he has been temporarily assigned until an order has been issued by the chief judge of such district specifying (1) the emergency by reason of which he has been transferred, (2) the duration of his assignment, and (3) the duties which he is authorized to perform. A magistrate judge so assigned shall not be entitled to additional compensation but shall be reimbursed for actual and necessary expenses incurred in the performance of his duties in accordance with section 635.

(g) A United States magistrate judge may perform the verification function required by section 4107 of title 18, United States Code. A magistrate judge may be assigned by a judge of any United States district court to perform the verification required by section 4108 and the appointment of counsel authorized by section 4109 of title 18, United States Code, and may perform such functions beyond the territorial limits of the United States. A magistrate judge assigned such functions shall have no authority to perform any other function within the territory of a foreign country.

(h) A United States magistrate judge who has retired may, upon the consent of the chief judge of the district involved, be recalled to serve as a magistrate judge in any judicial district by the judicial council of the circuit within which such district is located. Upon recall, a magistrate judge may receive a salary for such service in accordance with regulations promulgated by the Judicial Conference, subject to the restrictions on the payment of an annuity set forth in sec-

tion 377 of this title or in subchapter III of chapter 83, and chapter 84, of title 5 which are applicable to such magistrate judge. The requirements set forth in subsections (a), (b)(3), and (d) of section 631, and paragraph (1) of subsection (b) of such section to the extent such paragraph requires membership of the bar of the location in which an individual is to serve as a magistrate judge, shall not apply to the recall of a retired magistrate judge under this subsection or section 375 of this title. Any other requirement set forth in section 631(b) shall apply to the recall of a retired magistrate judge under this subsection or section 375 of this title unless such retired magistrate judge met such requirement upon appointment or reappointment as a magistrate judge under section 631.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, § 101, Oct. 17, 1968, 82 Stat. 1113; Pub. L. 92-239, §§ 1, 2, Mar. 1, 1972, 86 Stat. 47; Pub. L. 94-577, § 1, Oct. 21, 1976, 90 Stat. 2729; Pub. L. 95-144, § 2, Oct. 28, 1977, 91 Stat. 1220; Pub. L. 96-82, § 2, Oct. 10, 1979, 93 Stat. 643; Pub. L. 98-473, title II, § 208, Oct. 12, 1984, 98 Stat. 1986; Pub. L. 98-620, title IV, § 402(29)(B), Nov. 8, 1984, 98 Stat. 3359; Pub. L. 99-651, title II, § 201(a)(2), Nov. 14, 1986, 100 Stat. 3647; Pub. L. 100-659, § 4(c), Nov. 15, 1988, 102 Stat. 3918; Pub. L. 100-690, title VII, § 7322, Nov. 18, 1988, 102 Stat. 4467; Pub. L. 100-702, title IV, § 404(b)(1), title X, § 1014, Nov. 19, 1988, 102 Stat. 4651, 4669; Pub. L. 101-650, title III, §§ 308(a), 321, Dec. 1, 1990, 104 Stat. 5112, 5117; Pub. L. 104-317, title II, §§ 201, 202(b), 207, Oct. 19, 1996, 110 Stat. 3848-3850; Pub. L. 106-518, title II, §§ 202, 203(b), Nov. 13, 2000, 114 Stat. 2412, 2414; Pub. L. 107-273, div. B, title III, § 3002(b), Nov. 2, 2002, 116 Stat. 1805; Pub. L. 109-63, § 2(d), Sept. 9, 2005, 119 Stat. 1995; Pub. L. 111-16, § 6(1), May 7, 2009, 123 Stat. 1608.)

HISTORICAL AND REVISION NOTES

Prior jurisdiction, powers, and procedure provisions in section 632.—Based on sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5, and 408m of title 16, U.S.C., 1940 ed., Conservation (May 7, 1894, ch. 72, § 5, 28 Stat. 74; Apr. 20, 1904, ch. 1400, § 6, 33 Stat. 188; Mar. 2, 1907, ch. 2516, §§ 1, 2, 34 Stat. 1218; Mar. 3, 1911, ch. 230, 36 Stat. 1086; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; Aug. 22, 1914, ch. 264, § 6, 38 Stat. 700; June 30, 1916, ch. 197, § 6, 39 Stat. 245; Aug. 21, 1916, ch. 368, § 6, 39 Stat. 523; June 2, 1920, ch. 218, §§ 7, 8, 41 Stat. 733; Apr. 25, 1928, ch. 434, § 6, 45 Stat. 460; Apr. 26, 1928, ch. 438, § 6, 45 Stat. 464; Apr. 19, 1930, ch. 200, § 6, 4 Stat. 228; May 2, 1932, ch. 155, § 3, 47 Stat. 145; June 25, 1935, ch. 309, § 1, 49 Stat. 422; Aug. 19, 1937, ch. 703, §§ 5, 6, 50 Stat. 702; June 25, 1938, ch. 684, § 1, 52 Stat. 1164; June 28, 1938, ch. 778, § 1, 52 Stat. 1213; Mar. 4, 1940, ch. 40, § 2, 54 Stat. 43; Mar. 6, 1942, ch. 150, § 5, 56 Stat. 134; Mar. 6, 1942, ch. 151, § 5, 56 Stat. 137; Apr. 29, 1942, ch. 264, § 5, 56 Stat. 260; June 5, 1942, ch. 341, § 5, 56 Stat. 318; Apr. 23, 1946, ch. 202, § 2, 60 Stat. 120; June 24, 1946, ch. 463, § 2, 60 Stat. 303).

Section consolidates provisions of sections 27, 66, 67, 68, 80f, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U.S.C., 1940 ed., relating to jurisdiction and powers of park commissioners with necessary changes in arrangement and phraseology. For other provisions of such sections, see Distribution Table.

The provisions of sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U.S.C., 1940 ed., relating to the powers of park commissioners respecting issuance of warrants of arrest and other process were omitted

and are recommended for repeal as covered by sections 3041 and 3141 of revised title 18 (H.R. 1600, 80th Cong.), and Rules. 4, 5(c), and 9 of the new Federal Rules of Criminal Procedure.

Provisions in sections 27, 66, 67, 68, 100, 117e, 129, 172, 181b, 204e, 256d, 376, 395e, 403c-5, 403c-6, 403h-5, 404c-5 and 408m of title 16, U.S.C., 1940 ed., for arrest without warrant for violation of law or regulation within a national park were also omitted and are recommended for repeal as covered by section 3054 of revised title 18 (H.R. 2200, 79th Cong.), Rule 4 of the Federal Rules of Criminal Procedure and Rule 4 of the Federal Rules of Civil Procedure.

SENATE REVISION AMENDMENT

As finally enacted, section 158b of Title 16, U.S.C., which was derived from act May 15, 1947, ch. 55, § 2, 61 Stat. 92, was an additional source of this section, and such act was accordingly included by Senate amendment in the schedule of repeals. No change in the text of the section was necessary as the result of inclusion of such section 158b. See 80th Congress Senate Report No. 1559.

As finally enacted, act May 15, 1947, ch. 57, 61 Stat. 92, which amended section 403c-5 of Title 16, U.S.C., was an additional source of this section, and such act was accordingly included by Senate amendment in the schedule of repeals. See 80th Congress Senate Report No. 1559.

Prior oaths, acknowledgments, affidavits, and depositions provisions in section 637.—Based on title 28, U.S.C., 1940 ed., §§ 525, 758 (R.S. § 945; May 28, 1896, ch. 252, § 19, 29 Stat. 184; Mar. 2, 1901, ch. 814, 31 Stat. 956; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167).

This section consolidates part of section 525 with section 758 of title 28, U.S.C., 1940 ed. The provision of said section 525 empowering clerks and deputy clerks to administer oaths is incorporated in section 953 of this title. The provision of said section 758 that acknowledgments of bail and affidavits should have the same effect as if taken before judges was omitted as surplusage.

The exception as to Alaska, provided in section 591 of title 28, U.S.C., 1940 ed., and referred to in section 525 of title 28, U.S.C., 1940 ed., was omitted as unnecessary since section 108 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions, and section 1119 of the Compiled Laws of Alaska, 1933, give commissioners all powers of notaries public. See also reviser's notes to sections 631 and 633 of this title.

Word "acknowledgments" was inserted to make it clear that commissioners, like justices of the peace, can take acknowledgments as well as oaths, affidavits, etc.

The authority to take depositions was included to conform to Federal Rules of Civil Procedure, Rule 28.

Changes were made in phraseology.

Editorial Notes

REFERENCES IN TEXT

The Rules of Criminal Procedure for the United States District Courts, referred to in subsecs. (a)(1) and (e)(2)-(4), are set out in the Appendix to Title 18, Crimes and Criminal Procedure.

The Federal Rules of Civil Procedure for the United States district courts, referred to in subsecs. (b)(2), (c)(3), and (e)(4), are set out in the Appendix to this title.

AMENDMENTS

2009—Subsec. (b)(1). Pub. L. 111-16 substituted "fourteen days" for "ten days" in concluding provisions.

2005—Subsec. (a). Pub. L. 109-63 substituted "district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law—" for "territorial jurisdiction prescribed by his appointment—" in introductory provisions.

2002—Subsec. (e)(2). Pub. L. 107-273, § 3002(b)(1), inserted ", or both," after "fine or imprisonment".

Subsec. (e)(3). Pub. L. 107-273, §3002(b)(2), inserted “or both,” after “fine or imprisonment.”

2000—Subsec. (a)(4), (5). Pub. L. 106-518, §203(b), added pars. (4) and (5) and struck out former pars. (4) and (5) which read as follows:

“(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

“(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.”

Subsec. (e). Pub. L. 106-518, §202, amended subsec. (e) generally. Prior to amendment, subsec. (e) specified conduct before a magistrate judge which constituted contempt of court and prescribed procedure for adjudicating and punishing contempts.

1996—Subsec. (a)(3). Pub. L. 104-317, §202(b)(1), substituted a semicolon for “, and” at end.

Subsec. (a)(4), (5). Pub. L. 104-317, §202(b)(2), added pars. (4) and (5) and struck out former par. (4) which read as follows: “the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.”

Subsec. (c)(3). Pub. L. 104-317, §207(1)(A), substituted “The consent of the parties” for “In this circumstance, the consent of the parties”.

Subsec. (c)(4) to (7). Pub. L. 104-317, §207(1)(B), (C), redesignated pars. (6) and (7) as (4) and (5) and struck out former pars. (4) and (5) which read as follows:

“(4) Notwithstanding the provisions of paragraph (3) of this subsection, at the time of reference to a magistrate, the parties may further consent to appeal on the record to a judge of the district court in the same manner as on an appeal from a judgment of the district court to a court of appeals. Wherever possible the local rules of the district court and the rules promulgated by the conference shall endeavor to make such appeal inexpensive. The district court may affirm, reverse, modify, or remand the magistrate’s judgment.

“(5) Cases in the district courts under paragraph (4) of this subsection may be reviewed by the appropriate United States court of appeals upon petition for leave to appeal by a party stating specific objections to the judgment. Nothing in this paragraph shall be construed to be a limitation on any party’s right to seek review by the Supreme Court of the United States.”

Subsec. (d). Pub. L. 104-317, §207(2), struck out “, and for the taking and hearing of appeals to the district courts,” after “officers serving under this chapter”.

Subsec. (f). Pub. L. 104-317, §201, substituted “subsection (a), (b), or (c)” for “subsection (a) or (b)” in first sentence.

1990—Subsec. (c)(2). Pub. L. 101-650 substituted “the availability of a magistrate to exercise” for “their right to consent to the exercise of” in first sentence and amended third sentence generally. Prior to amendment, third sentence read as follows: “Thereafter, neither the district judge nor the magistrate shall attempt to persuade or induce any party to consent to reference of any civil matter to a magistrate.”

1988—Subsec. (a)(4). Pub. L. 100-690 added par. (4).

Subsec. (c)(7). Pub. L. 100-702, §1014, amended par. (7) generally. Prior to amendment, par. (7) read as follows: “The magistrate shall determine, taking into account the complexity of the particular matter referred to the magistrate, whether the record in the proceeding shall be taken, pursuant to section 753 of this title, by electronic sound recording means, by a court reporter appointed or employed by the court to take a verbatim record by shorthand or by mechanical means, or by an employee of the court designated by the court to take such a verbatim record. Notwithstanding the magistrate’s determination, (A) the proceeding shall be taken down by a court reporter if any party so requests, (B) the proceeding shall be recorded by a means other than a court reporter if all parties so agree, and (C) no record of the proceeding shall be made if all parties so agree. Reporters referred to in this paragraph may be transferred for temporary service in any dis-

trict court of the judicial circuit for reporting proceedings under this subsection, or for other reporting duties in such court.”

Subsec. (d). Pub. L. 100-702, §404(b)(1), substituted “section 2072 of this title” for “section 3402 of title 18, United States Code”.

Subsec. (h). Pub. L. 100-659 inserted “section 377 of this title or in” after “annuity set forth in” and “which are applicable to such magistrate” after “title 5” in second sentence.

1986—Subsec. (h). Pub. L. 99-651 added subsec. (h).

1984—Subsec. (a)(2). Pub. L. 98-473 substituted “issue orders pursuant to section 3142 of title 18 concerning release or detention of persons pending trial” for “impose conditions of release under section 3146 of title 18”.

Subsec. (c)(4). Pub. L. 98-620 struck out “expeditious and” before “inexpensive”.

1979—Subsec. (c). Pub. L. 96-82, §2(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsecs. (d) to (g). Pub. L. 96-82, §2(1), redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1977—Subsec. (f). Pub. L. 95-144 added subsec. (f).

1976—Subsec. (b). Pub. L. 94-577 completely revised provisions under which additional duties may be assigned to a United States Magistrate by allowing, among other additional duties, the assignment of pretrial matters, dispositive motions, and service as a special master.

1972—Pub. L. 92-239, §2, substituted “Jurisdiction, powers, and temporary assignment” for “Jurisdiction and powers” in section catchline.

Subsec. (e). Pub. L. 92-239, §1, added subsec. (e).

1968—Pub. L. 90-578 substituted provisions declaratory of jurisdiction and powers of United States magistrates for prior provisions respecting rendition of accounts by United States commissioners.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words “magistrate judge”, “magistrate judge’s”, and “magistrate judges” substituted for “magistrate”, “magistrate’s”, and “magistrates”, respectively, wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of Title 11, Bankruptcy.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by section 404(b)(1) of 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.

Amendment by Pub. L. 100-659 effective Nov. 15, 1988, and applicable to bankruptcy judges and magistrate judges who retire on or after Nov. 15, 1988, with exception for bankruptcy judges and magistrate judges retiring on or after July 31, 1987, see section 9 of Pub. L. 100-659, as amended, set out as an Effective Date note under section 377 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-651 effective Jan. 1, 1987, see section 203 of Pub. L. 99-651, set out as a note under section 155 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which

is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

§ 637. Training

The Federal Judicial Center shall conduct periodic training programs and seminars for both full-time and part-time United States magistrate judges, including an introductory training program for new magistrate judges, to be held within one year after initial appointment.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

Editorial Notes

AMENDMENTS

1968—Pub. L. 90-578 substituted provisions for periodic training programs and seminars for United States magistrates for prior authorization of United States commissioners to administer oaths and take bail, acknowledgements, affidavits, and depositions, now incorporated in section 636(a)(2) of this title.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Words “magistrate judges” substituted for “magistrates” wherever appearing in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

§ 638. Dockets and forms; United States Code; seals

(a) The Director shall furnish to United States magistrate judges adequate docket books and forms prescribed by the Director. The Director shall also furnish to each such officer a copy of the current edition of the United States Code.

(b) All property furnished to any such officer shall remain the property of the United States and, upon the termination of his term of office, shall be transmitted to his successor in office or otherwise disposed of as the Director orders.

(c) The Director shall furnish to each United States magistrate judge appointed under this chapter an official impression seal in a form prescribed by the conference. Each such officer shall affix his seal to every jurat or certificate of his official acts without fee.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §§ 528, 528a (June 28, 1906, ch. 3573, 34 Stat. 546; July 10, 1946, ch. 548, 60 Stat. 525).

Section consolidates section 528 and part of section 528a of title 28, U.S.C., 1940 ed., with changes in phraseology necessary to effect consolidation.

Provisions of section 528a of title 28, U.S.C., 1940 ed., relating to dockets and forms, are incorporated in section 639 of this title.

Words “Director of the Administrative Office of the United States Courts” were substituted for “Attorney General”, contained in section 528 of title 28, U.S.C., 1940 ed., in view of Act Aug. 7, 1939, ch. 501, § 6, 53 Stat. 1226, 28 U.S.C., 1940 ed., following § 446, giving the Director supervision of court administrative matters.

Changes in phraseology were made.

Editorial Notes

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-578 incorporated in provisions designated as subsec. (a) provisions of first par. of former section 639 of this title, substituting “United States magistrates” for prior designation as “United States Commissioners”, specifying that the copy of the United States Code be a current edition, and dispensing with approval by the chief judge of the district court for a copy of such Code.

Subsec. (b). Pub. L. 90-578 incorporated in provisions designated as subsec. (b) provisions of the second par. of former section 639 of this title.

Subsec. (c). Pub. L. 90-578 designated existing provisions as subsec. (c), and substituted “United States magistrate” for “United States commissioner”, provision for appointment under this chapter rather than after July 10, 1946, provision that the form of the seal be prescribed by the conference rather than the Director, and “without fee” for “without additional fee”.

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

“United States magistrate judges” and “United States magistrate judge” substituted for “United States magistrates” and “United States magistrate”, respectively, in subsecs. (a) and (c) pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of this title.

§ 639. Definitions

As used in this chapter—

(1) “Conference” shall mean the Judicial Conference of the United States;

(2) “Council” shall mean the Judicial Council of the Circuit;

(3) “Director” shall mean the Director of the Administrative Office of the United States Courts;

(4) “Full-time magistrate judge” shall mean a full-time United States magistrate judge;

(5) “Part-time magistrate judge” shall mean a part-time United States magistrate judge; and

(6) “United States magistrate judge” and “magistrate judge” shall mean both full-time and part-time United States magistrate judges.

(June 25, 1948, ch. 646, 62 Stat. 917; Pub. L. 90-578, title I, § 101, Oct. 17, 1968, 82 Stat. 1114; Pub. L. 101-650, title III, § 321, Dec. 1, 1990, 104 Stat. 5117.)