

## [CHAPTER 192]

## AN ACT

Relating to the status of retired judges.

May 11, 1944

[S. 156]

[Public Law 299]

Judicial Code,  
amendment.  
36 Stat. 1161.Salary of U. S.  
judges after resigna-  
tion or retirement.Successor to retiring  
judge.  
Voluntary assign-  
ment after retirement.56 Stat. 1094.  
28 U. S. C., Supp.  
III, §§ 17-23.Procedure where  
disabled judge re-  
mains in office.

Seniority.

Appointment of  
court officials.Seniority for ap-  
pointment purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That section 260 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, sec. 375), be, and it is hereby, amended to read as follows:

"SEC. 260. When any judge of any court of the United States, appointed to hold his office during good behavior, resigns his office after having held a commission or commissions as judge of any such court or courts at least ten years, continuously or otherwise, and having attained the age of seventy years, he shall, during the residue of his natural life, receive the salary which is payable at the time of his resignation for the office that he held at the time of his resignation. But, instead of resigning, any judge other than a Justice of the Supreme Court, who is qualified to resign under the foregoing provisions, may retire, upon the salary of which he is then in receipt, from regular active service on the bench, and the President shall thereupon be authorized to appoint a successor; but a judge so retiring may nevertheless be called upon by the senior circuit judge or judicial council of that circuit and be by such senior circuit judge or such council authorized to perform such judicial duties in such circuit as such retired judge may be willing to undertake, or he may be called upon by the Chief Justice and be by him authorized to perform such judicial duties in any other circuit as such retired judge may be willing to undertake or he may be called upon either by the presiding judge or senior judge of any other such court and be by him authorized to perform such judicial duties in such court as such retired judge may be willing to undertake. Any judge who has heretofore retired, or who hereafter retires, under the provisions of this section, may perform judicial duties only when so called and authorized as herein provided, or as provided by an Act approved December 29, 1942, entitled 'An Act to amend the Judicial Code to authorize the Chief Justice of the United States to assign circuit judges to temporary duty in circuits other than their own'.

"In the event any circuit judge, or district judge, having so held a commission or commissions at least ten years, continuously or otherwise, and having attained the age of seventy years as aforesaid, shall nevertheless remain in office, and not resign or retire as aforesaid, the President, if he finds any such judge is unable to discharge efficiently all the duties of his office by reason of mental or physical disability of permanent character, may, when necessary for the efficient dispatch of business, appoint, by and with the advice and consent of the Senate, an additional circuit judge of the circuit, or district judge of the district, to which such disabled judge belongs. Any judge who has heretofore retired or who hereafter retires voluntarily under the provisions of this section, or whose mental or physical condition caused the President to appoint an additional judge, shall be held and treated as if junior in commission to the remaining judges of said court, who shall, in the order of the seniority of their respective commissions, exercise such powers and perform such duties as by law may be incident to seniority. In districts where there may be more than one district judge, if the judges or a majority of them cannot agree upon the appointment of officials of the court, to be appointed by such judges, then the senior judge shall have the power to make such appointments: *Provided*, That in determining the seniority of district judges in any State for the purpose of exercising the power of appointing officials of the court, any district judge whose jurisdiction extends over more than one district shall be held

and treated as if junior in commission to the other district judges in such State, in all districts except the district of his residence at the time of his appointment.

"Upon the death, resignation, or retirement of any circuit or district judge, so entitled to resign, following the appointment of any additional judge as provided in this section, the vacancy caused by such death, resignation, or retirement of the said judge so entitled to resign shall not be filled."

SEC. 2. The Act of August 5, 1939 (53 Stat. 1204; U. S. C., title 28, sec. 375b), entitled "An Act to extend the privilege of retirement for disability to judges appointed to hold office during good behavior", is hereby amended by adding at the end thereof the following new section:

"SEC. 5. Any Justice of the Supreme Court who retires or who has retired under the provisions of this Act may nevertheless be called upon by the Chief Justice and be by him authorized to perform such judicial duties, in any judicial circuit, including those of a circuit justice in such circuit, as such retired Justice may be willing to undertake; a circuit or district judge so retiring or retired may nevertheless be called upon by the senior circuit judge or judicial council of that circuit and be by such senior circuit judge or such judicial council authorized to perform such judicial duties in such circuit as such retired judge may be willing to undertake, or he may be called upon by the Chief Justice and be by him authorized to perform such judicial duties in any other circuit as such retired judge may be willing to undertake; and any judge of any other court of the United States so retiring or retired may be called upon by the presiding judge or senior judge of such court and be by him authorized to perform such judicial duties in such court as he may be willing to undertake. Any such judge so retiring or retired may perform judicial duties only when so called and authorized as herein provided."

SEC. 3. For the purpose of this Act the District of Columbia shall be considered as a judicial circuit.

Approved May 11, 1944.

[CHAPTER 193]

AN ACT

To amend part II of Veterans Regulation Numbered 1 (a).

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That Veterans Regulation Numbered 1 (a), part II, be amended by adding thereto a new paragraph, numbered paragraph IV, to read as follows:

"IV. For the purposes of paragraph I hereof, as amended, any person who, on or after August 27, 1940, and prior to termination of the present hostilities, has applied or shall hereafter apply for enlistment or enrollment in the active military or naval forces and who was or shall be provisionally accepted and directed or ordered to report to a place for final acceptance into such military or naval service, or who was or is selected for service and after reporting pursuant to the call of his local board and prior to rejection, or who after being called in the Federal service as a member of the National Guard but before being enrolled for the Federal service suffered or shall suffer an injury or a disease in line of duty and not the result of his own misconduct, will be considered to have incurred such disability in active military or naval service: *Provided,* That payments of pension under the terms of this paragraph shall not be effective prior to the date of enactment of this amendment."

Approved May 11, 1944.

Vacancies.

28 U. S. C. §§ 375b-375e.

Performance of judicial duties after retirement for disability.

D. C. considered a judicial circuit.

May 11, 1944  
[S. 698]

[Public Law 300]

38 U. S. C. note foll. § 724; Supp. III, note foll. § 732.

Disabilities suffered prior to induction, etc. Service connection.