

The provisions of sections 483 and 594 of title 28, U.S.C., 1940 ed., requiring the judges and United States attorneys to certify or evidence in writing the necessity for assistant United States attorneys in their respective districts, and specifying that such opinion of the judge shall state to the Attorney General the facts as distinguished from conclusions, showing the necessity therefor, were omitted. The Attorney General, as chief law enforcement officer, is in a better position to determine such necessity.

The salary provisions of such section 594 were omitted as covered by section 508 [now 548] of this title.

Changes were made in phraseology.

Editorial Notes

PRIOR PROVISIONS

A prior section 542, act June 25, 1948, ch. 646, 62 Stat. 911, related to appointment and tenure of deputies and assistants for United States marshals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 562 of this title by section 4(c) of Pub. L. 89-554.

§ 543. Special attorneys

(a) The Attorney General may appoint attorneys to assist United States attorneys when the public interest so requires, including the appointment of qualified tribal prosecutors and other qualified attorneys to assist in prosecuting Federal offenses committed in Indian country.

(b) Each attorney appointed under this section is subject to removal by the Attorney General.

(c) INDIAN COUNTRY.—In this section, the term “Indian country” has the meaning given that term in section 1151 of title 18.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 111-211, title II, §213(a)(1), July 29, 2010, 124 Stat. 2268.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row (a) shows derivation from 28 U.S.C. 503 and 5 U.S.C. 298. Row (b) shows derivation from 28 U.S.C. 504(b).

The text of former section 298 of title 5 is omitted as unnecessary. The position so authorized has not been filled in recent years, and the authority is preserved by this section and revised section 3101 of title 5, United States Code.

In subsection (b), the word “is” is substituted for “shall be”.

1948 ACT

Prior section 503.—Based on section 312 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees (R.S. §363).

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 507 [now 509 and 547] and 508 [now 548] of this title.

Changes were made in phraseology.

Editorial Notes

PRIOR PROVISIONS

A prior section 543, act June 25, 1948, ch. 646, 62 Stat. 911, related to oath of office for United States Mar-

shals, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 563 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-211, §213(a)(1)(A), inserted “, including the appointment of qualified tribal prosecutors and other qualified attorneys to assist in prosecuting Federal offenses committed in Indian country” before period at end.

Subsec. (c). Pub. L. 111-211, §213(a)(1)(B), added subsec. (c).

§ 544. Oath of office

Each United States attorney, assistant United States attorney, and attorney appointed under section 543 of this title, before taking office, shall take an oath to execute faithfully his duties.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618.)

HISTORICAL AND REVISION NOTES
1966 ACT

Table with 3 columns: Derivation, U.S. Code, Revised Statutes and Statutes at Large. Row shows derivation from 28 U.S.C. 504(c) with [None] in the third column.

1948 ACT

Prior section 504.—Based on section 315 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees, title 28, U.S.C., 1940 ed., §482, and sections 643 and 863 of title 48, U.S.C., 1940 ed., Territories and Insular Possessions (R.S. §§366, 769; June 24, 1898, ch. 495, §1, 30 Stat. 487; Apr. 12, 1900, ch. 191, §34, 31 Stat. 85; Apr. 30, 1900, ch. 339, §86, 31 Stat. 158; Mar. 3, 1909, ch. 269, §1, 35 Stat. 838; Jan. 7, 1913, ch. 6, 37 Stat. 648; Mar. 2, 1917, ch. 145, §41, 39 Stat. 965; Mar. 4, 1921, ch. 161, §1, 41 Stat. 1412; July 9, 1921, ch. 42, §313, 42 Stat. 119; Feb. 12, 1925, ch. 220, 43 Stat. 890; Apr. 17, 1930, ch. 174, 46 Stat. 170; Mar. 26, 1938, ch. 51, §2, 52 Stat. 118).

Section consolidates parts of sections 315 of title 5, U.S.C., 1940 ed., and 643 and 863 of title 48, both U.S.C., 1940 ed., with section 482 of title 28, U.S.C., 1940 ed. It is recommended that said section 315 be amended so as to omit those provisions relating to special attorneys to assist “district attorneys” which were used as part of the basis for this section, as other parts of said section 315, relating to special assistants to the Attorney General, and to foreign counsel, are to remain in title 5.

Words “United States attorney” were substituted for district attorney, and reference to District of Columbia was omitted. (See reviser’s note under section 501 [now 541] of this title.)

Reference to the territories in said section 482, was also omitted as covered by provisions of title 48, U.S.C., 1940 ed., Territories and Insular Possessions. See sections 109 and 112 of such title applicable to United States attorney in Alaska, and 1353 applicable in the Canal Zone, and 1405y applicable in the Virgin Islands.

The provision as to the tenure of the assistant United States attorneys and special attorneys is new. Existing law contains no provision as to tenure or removal of such officials. While the Supreme Court has held that the power of removal of executive officials is incident to the power of appointment, this section expressly provides for removal. See Meyers v. United States, 1926 (47 S.Ct. 21, 272 U.S. 52, 71 L.Ed. 160).

Said section 315 contained a provision that special attorneys appointed to assist United States attorneys should take the same oath required of the latter. This section was extended to assistant United States attorneys, respecting whom no provision existed as to oaths.

A portion of section 863 of title 48, U.S.C., 1940 ed., is retained in said title 48. For remainder of said section