

District of Columbia was added because of the relatively small and congested area of the District, as a result of which few Federal officers are appointed from the District or reside therein. Also the residence requirement of this section has no relation to domicile or voting residence nor does it affect the citizenship or residence status of District of Columbia officeholders in the several States from which appointed.

Only citizens of Hawaii resident therein at least 3 years preceding appointment may be appointed as United States Attorneys for the district of Hawaii. See section 501 [now 541] of this title.

Other provisions of section 524 of title 28, U.S.C., 1940 ed., were incorporated in sections 541 [see 561] and 751 of this title.

Changes were made in phraseology.

Editorial Notes

PRIOR PROVISIONS

A prior section 545, act June 25, 1948, ch. 646, 62 Stat. 911, related to vacancies in the office of the United States Marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 565 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-177 inserted at end “Pursuant to an order from the Attorney General or his designee, a United States attorney or an assistant United States attorney may be assigned dual or additional responsibilities that exempt such officer from the residency requirement in this subsection for a specific period as established by the order and subject to renewal.”

1994—Subsec. (a). Pub. L. 103-322 struck out “and assistant United States attorney” after “Each United States attorney” and inserted after first sentence “Each assistant United States attorney shall reside in the district for which he or she is appointed or within 25 miles thereof.”

1979—Subsec. (a). Pub. L. 96-91 inserted provisions authorizing the United States attorney and the assistant United States attorneys for the Eastern District of New York to reside outside the district but within 20 miles thereof.

1978—Subsec. (a). Pub. L. 95-530 inserted provision that this subsection not apply to any United States attorney or assistant United States attorney appointed for the Northern Mariana Islands who at the same time is serving in the same capacity in another district.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-177, title V, §501(b), Mar. 9, 2006, 120 Stat. 246, provided that: “The amendment made by subsection (a) [amending this section] shall take effect as of February 1, 2005.”

§ 546. Vacancies

(a) Except as provided in subsection (b), the Attorney General may appoint a United States attorney for the district in which the office of United States attorney is vacant.

(b) The Attorney General shall not appoint as United States attorney a person to whose appointment by the President to that office the Senate refused to give advice and consent.

(c) A person appointed as United States attorney under this section may serve until the earlier of—

- (1) the qualification of a United States attorney for such district appointed by the President under section 541 of this title; or
- (2) the expiration of 120 days after appointment by the Attorney General under this section.

(d) If an appointment expires under subsection (c)(2), the district court for such district may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.

(Added Pub. L. 89-554, §4(c), Sept. 6, 1966, 80 Stat. 618; amended Pub. L. 99-646, §69, Nov. 10, 1986, 100 Stat. 3616; Pub. L. 109-177, title V, §502, Mar. 9, 2006, 120 Stat. 246; Pub. L. 110-34, §2, June 14, 2007, 121 Stat. 224.)

**HISTORICAL AND REVISION NOTES
1966 ACT**

<i>Derivation</i>	<i>U.S. Code</i>	<i>Revised Statutes and Statutes at Large</i>
.....	28 U.S.C. 506.	[None].

1948 ACT

Prior section 506.—Based on title 28, U.S.C., 1940 ed., §511 (R.S. §793; June 24, 1898, ch. 495, §2, 30 Stat. 487; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

Words “United States attorney” were substituted for “district attorney.” (See Reviser’s Note under section 501 [now 541] of this title.)

Words “The Supreme Court of the Territory, and the district court of the United States for the District of Columbia” were omitted as obsolete. This section, as revised, applies to all districts enumerated in chapter 5 of this title. There were no provisions respecting vacancies in Hawaii and Puerto Rico. Therefore this section remedies this situation and establishes a uniform method to fill interim vacancies.

Words “and a copy shall be entered on the journal of the court” after “filed in the clerk’s office of said court”, in section 511 of title 28, U.S.C., 1940 ed., were omitted as unnecessary.

The provisions of section 511 of title 28, U.S.C., 1940 ed., relating to marshals, are incorporated in sections 544 and 545 [see Prior Provisions notes under those sections] of this title.

Changes were made in phraseology.

Editorial Notes

PRIOR PROVISIONS

A prior section 546, act June 25, 1948, ch. 646, 62 Stat. 911, related to death of a marshal, prior to repeal by Pub. L. 89-554, §8(a), and reenactment in section 566 of this title by section 4(c) of Pub. L. 89-554.

AMENDMENTS

2007—Subsecs. (c), (d). Pub. L. 110-34 added subsecs. (c) and (d) and struck out former subsec. (c) which read as follows: “A person appointed as United States attorney under this section may serve until the qualification of a United States Attorney for such district appointed by the President under section 541 of this title.”

2006—Subsecs. (c), (d). Pub. L. 109-177 added subsec. (c) and struck out former subsecs. (c) and (d) which related to length of service of a United States attorney appointed under this section and appointment of a United States attorney by a district court after expiration of a previous appointment, respectively.

1986—Pub. L. 99-646 amended section generally. Prior to amendment, section read as follows: “The district court for a district in which the office of United States attorney is vacant may appoint a United States attorney to serve until the vacancy is filled. The order of appointment by the court shall be filed with the clerk of the court.”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-34, §3, June 14, 2007, 121 Stat. 224, provided that:

“(a) IN GENERAL.—The amendments made by this Act [amending this section] shall take effect on the date of enactment of this Act [June 14, 2007].

“(b) APPLICATION.—

“(1) IN GENERAL.—Any person serving as a United States attorney on the day before the date of enactment of this Act [June 14, 2007] who was appointed under section 546 of title 28, United States Code, may serve until the earlier of—

“(A) the qualification of a United States attorney for such district appointed by the President under section 541 of that title; or

“(B) 120 days after the date of enactment of this Act.

“(2) EXPIRED APPOINTMENTS.—If an appointment expires under paragraph (1), the district court for that district may appoint a United States attorney for that district under section 546(d) of title 28, United States Code, as added by this Act.”

§ 547. Duties

Except as otherwise provided by law, each United States attorney, within his district, shall—

- (1) prosecute for all offenses against the United States;
(2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned;
(3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury;
(4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and
(5) make such reports as the Attorney General may direct.

(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 1: [blank], 28 U.S.C. 507(a), [None].

The word “shall” is substituted for “it shall be the duty of”.

1948 ACT

Prior section 507.—Based on sections 312, 317, 323, 324, 327, 329, 330, 331 of title 5, U.S.C., 1940 ed., Executive Departments and Government Officers and Employees; second paragraph of section 305e of title 25, U.S.C., 1940 ed., Indians; and title 28, U.S.C., 1940 ed., §§ 485, 486, 487, 488, 489 (R.S. §§ 362, 363, 373, 374, 377, 379-381, 771-775, 838; Feb. 27, 1877, ch. 69, § 1, 19 Stat. 241; Apr. 9, 1910, ch. 152, 36 Stat. 294; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; May 10, 1934, ch. 277, § 512, 48 Stat. 758; Aug. 27, 1935, ch. 748, § 6, 49 Stat. 893).

This section consolidates provisions of the sections enumerated above.

Other provisions of section 312 of title 5, U.S.C., 1940 ed., are incorporated in sections 503 [now 543] and 508 [now 548] of this title.

All requirements in said sections for reports to officers other than the Attorney General are omitted as unnecessary and are simplified in subsection (a)(5) of this section. The Attorney General directs the course

of litigation in government cases and makes appropriate rules for furnishing information promptly to the Departments interested.

Specific duties fixed by sections 485-489 of title 28, U.S.C., 1940 ed., and the second paragraph of section 305e of title 25, U.S.C., 1940 ed., to prosecute and defend both civil and criminal proceedings, are covered in subsections (a)(1)-(4) of this section.

Use of “revenue law” in subsection (a)(4) in this section, which is based on section 486 of title 28, U.S.C., 1940 ed., obviates repetition of provisions relating to customs and revenue laws as both are covered by the term. For discussion of this point, see reviser’s note under section 3283 in House Report 152, to accompany H.R. 1600 Eightieth Congress, for revision of the Criminal Code.

The following sections of said title 5, U.S.C., 1940 ed., are superseded by, covered by, or inconsistent with subsection (a)(2)(5) of this section, subsection (b) of this section [now section 519 of this title], and section 5 of Executive Order No. 6166 of June 10, 1933, transferring to the Department of Justice the function of supervising the work of United States attorneys in connection with suits by or against the United States exercised by any agency or officer:

Section 323 requiring the General Counsel of the Treasury to make entries of bonds delivered to United States attorneys by collectors for suit until the amounts have been paid or judgments secured;

Section 324 requiring said General Counsel to examine and compare the reports made by collectors of bonds delivered by them to United States attorneys for suit, and of the returns of such bonds;

Section 329 authorizing said General Counsel to instruct United States attorneys, marshals and clerks in all matters relating to suits, except for taxes, forfeitures and penalties, and to require them to make such reports to him as he may direct. The first provision of section 329 of title 5, U.S.C., 1940 ed., is covered by the last paragraph of this section [now section 519 of this title], under which the Attorney General exercises supervision of the duties of United States attorneys. The Director of the Administrative Office of the United States Courts supervises the duties of clerks under chapter 41 of this title. The provision for authority of said General Counsel over marshals, also contained in section 329, is incorporated in section 547 [see Prior Provisions note below] of this title in which such authority is vested in the Attorney General.

Section 327 of title 5, U.S.C., 1940 ed., authorized said General Counsel to establish regulations, subject to approval by the Attorney General, to be observed by United States attorneys and marshals in which the United States is a party. The provision as to United States attorneys is also covered by the last paragraph of this section [now section 519 of this title], and that as to marshals is covered by section 547 [see Prior Provisions note below] of this title.

Provisions of section 327 of title 5, U.S.C., 1940 ed., relating to establishment of regulations for the observance of collectors of the customs, by the General Counsel for the Department of the Treasury, with the approbation of the Secretary of the Treasury, was omitted and recommended for repeal as covered by section 66 of title 19, U.S.C., 1940 ed., Customs Duties.

The last paragraph of this section [now section 519 of this title], is based on the first clause of section 317 of title 5, U.S.C., 1940 ed.; see also section 309 of title 5. The second clause of said section 317 is covered by subsection (a)(5) of this section. The authority of the Attorney General over marshals and the requirement that they shall report to him the conduct and state of their offices, contained also in said section 317, is incorporated in section 547 [see Prior Provisions note below] of this title.

Section 330 of title 5, U.S.C., 1940 ed., which required that United States attorneys should conduct, under direction of the General Counsel of the Treasury, all suits and proceedings involving the United States under the laws governing national banking associations is covered by subsection (a)(2) of this section.