

## TITLE 28.—JUDICIARY AND JUDICIAL PROCEDURE

### Chapter 39.—INDEPENDENT COUNSEL

**479 NOTE: Chapter expired June 30, 1999.**

**479**

**479.1 § 596. Removal of an independent counsel; termination of office. 479.1**

(a) REMOVAL; REPORT ON REMOVAL.—

(1) GROUNDS FOR REMOVAL.—An independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties.

(2) REPORT TO DIVISION OF THE COURT AND CONGRESS.—If an independent counsel is removed from office, the Attorney General shall promptly submit to the division of the court and the Committees on the Judiciary of the Senate and the House of Representatives a report specifying the facts found and the ultimate grounds for such removal. The committees shall make available to the public such report, except that each committee may, if necessary to protect the rights of any individual named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report. The division of the court may release any or all of such report in accordance with section 594(h)(2).

(3) JUDICIAL REVIEW OF REMOVAL.—An independent counsel removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia. A member of the division of the court may not hear or determine any such civil action or any appeal of a decision in any such civil action. The independent counsel may be reinstated or granted other appropriate relief by order of the court.

(b) TERMINATION OF OFFICE.—

(1) TERMINATION BY ACTION OF INDEPENDENT COUNSEL.—An office of independent counsel shall terminate when—

(A) the independent counsel notifies the Attorney General that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions; and

(B) the independent counsel files a final report in compliance with section 594(h)(1)(B).

(2) TERMINATION BY DIVISION OF THE COURT.—The division of the court, either on its own motion or upon the request of the Attorney General, may terminate an office of independent counsel at any

time, on the ground that the investigation of all matters within the prosecutorial jurisdiction of such independent counsel or accepted by such independent counsel under section 594(e), and any resulting prosecutions, have been completed or so substantially completed that it would be appropriate for the Department of Justice to complete such investigations and prosecutions. At the same time of such termination, the independent counsel shall file the final report required by section 594(h)(1)(B). If the Attorney General has not made a request under this paragraph, the division of the court shall determine on its own motion whether termination is appropriate under this paragraph no later than 2 years after the appointment of an independent counsel, at the end of the succeeding 2-year period, and thereafter at the end of each succeeding 1-year period.

(c) AUDITS.—(1) On or before June 30 of each year, an independent counsel shall prepare a statement of expenditures for the 6 months that ended on the immediately preceding March 31. On or before December 31 of each year, an independent counsel shall prepare a statement of expenditures for the fiscal year that ended on the immediately preceding September 30. An independent counsel whose office is terminated prior to the end of the fiscal year shall prepare a statement of expenditures on or before the date that is 90 days after the date on which the office is terminated.

(2) THE COMPTROLLER GENERAL SHALL—

(A) conduct a financial review of a mid-year statement and a financial audit of a year-end statement and statement on termination; and

(B) report the results to the Committee on the Judiciary, Committee on Governmental Affairs, and Committee on Appropriations of the Senate and the Committee on the Judiciary, Committee on Government Operations, and Committee on Appropriations of the House of Representatives not later than 90 days following the submission of each such statement. (Added Oct. 26, 1978, Pub. L. 95-521, Title VI, § 601(a), 92 Stat. 1872; Jan. 3, 1983, Pub. L. 97-409, § 2; Dec. 15, 1987, Pub. L. 100-191, § 2, 101 Stat. 1304; June 30, 1994, Pub. L. 103-270, 108 Stat. 735.)

#### Chapter 85.—DISTRICT COURTS; JURISDICTION

##### 479.2 § 1365. Senate actions.

479.2

(a) The United States District Court for the District of Columbia shall have original jurisdiction, without regard to the amount in controversy, over any civil action brought by the Senate or any authorized committee or subcommittee of the Senate to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal or failure to comply with, any subpoena or order issued by the Senate or committee or subcommittee of the Senate to any entity acting or purporting to act under color or authority of State law or to any natural person to secure the production of documents or other materials of any kind or the answering of any deposition or interrogatory or to secure testimony or any combination thereof. This section shall not apply to an action to enforce, to secure a declaratory judgment concerning the validity of, or to prevent a threatened refusal to comply with, any

subpena or order issued to an officer or employee of the executive branch of the Federal Government acting within his or her official capacity, except that this section shall apply if the refusal to comply is based on the assertion of a personal privilege or objection and is not based on a governmental privilege or objection the assertion of which has been authorized by the executive branch of the Federal Government.

(b) Upon application by the Senate or any authorized committee or subcommittee of the Senate, the district court shall issue an order to an entity or person refusing, or failing to comply with, or threatening to refuse or not to comply with, a subpoena or order of the Senate or committee or subcommittee of the Senate requiring such entity or person to comply forthwith. Any refusal or failure to obey a lawful order of the district court issued pursuant to this section may be held by such court to be a contempt thereof. A contempt proceeding shall be commenced by an order to show cause before the court why the entity or person refusing or failing to obey the court order should not be held in contempt of court. Such contempt proceeding shall be tried by the court and shall be summary in manner. The purpose of sanctions imposed as a result of such contempt proceeding shall be to compel obedience to the order of the court. Process in any such action or contempt proceeding may be served in any judicial district wherein the entity or party refusing, or failing to comply, or threatening to refuse or not to comply, resides, transacts business, or may be found, and subpoenas for witnesses who are required to attend such proceeding may run into any other district. Nothing in this section shall confer upon such court jurisdiction to affect by injunction or otherwise the issuance or effect of any subpoena or order of the Senate or any committee or subcommittee of the Senate or to review, modify, suspend, terminate, or set aside any such subpoena or order. An action, contempt proceeding, or sanction brought or imposed pursuant to this section shall not abate upon adjournment sine die by the Senate at the end of a Congress if the Senate or the committee or subcommittee of the Senate which issued the subpoena or order certifies to the court that it maintains its interest in securing the documents, answers, or testimony during such adjournment.

[*(c)* Repealed. Pub. L. 98-620, Title IV, §402(29)(D), Nov. 8, 1984, 98 Stat. 3359]

(d) The Senate or any committee or subcommittee of the Senate commencing and prosecuting a civil action or contempt proceeding under this section may be represented in such action by such attorneys as the Senate may designate.

(e) A civil action commenced or prosecuted under this section, may not be authorized pursuant to the Standing Order of the Senate "authorizing suits by Senate Committees" (S. Jour. 572, May 28, 1928).

(f) For the purposes of this section the term "committee" includes standing, select, or special committees of the Senate established by law or resolution.

(Added Pub. L. 95-521, Title VII, §705(f)(1), Oct. 26, 1978, 92 Stat. 1879, §1364, and amended Pub. L. 98-620, Title IV, §402(29)(D), Nov. 8, 1984, 98 Stat. 3359; renumbered §1365, Pub. L. 99-336, §6(a)(1)(B), June 19, 1986, 100 Stat. 638; Pub. L. 104-292, §4, Oct. 11, 1996, 110 Stat. 3460.)

**Chapter 91.—UNITED STATES COURT OF FEDERAL CLAIMS****479.3 § 1492. Congressional reference cases. 479.3**

Any bill, except a bill for a pension, may be referred by either House of Congress to the chief judge of the United States Court of Federal Claims for a report in conformity with section 2509 of this title. (June 25, 1948, ch. 646, 62 Stat. 941; Oct. 15, 1966, Pub. L. 89-681, §1, 80 Stat. 958. April 2, 1982, Pub. L. 97-164, Title I, 133(b), 96 Stat. 40; Oct. 29, 1992, Pub. L. 102-572, Title IX, §902(a)(1), 106 Stat. 4516.)

**Chapter 115.—EVIDENCE; DOCUMENTARY****480 § 1736. Congressional Journals. 480**

Extracts from the Journals of the Senate and the House of Representatives, and from the Executive Journal of the Senate when the injunction of secrecy is removed, certified by the Secretary of the Senate or the Clerk of the House of Representatives shall be received in evidence with the same effect as the originals would have. (June 25, 1948, ch. 646, §1, 62 Stat. 947.)

**Chapter 131.—RULES OF COURTS****480.3 § 2076. [Repealed] (Pub. L. 100-702, §401(c), 102 Stat. 4650). 480.3****Chapter 165.—UNITED STATES COURT OF FEDERAL CLAIMS PROCEDURE****480.5 § 2509. Congressional reference cases. 480.5**

(a) Whenever a bill, except a bill for a pension, is referred by either House of Congress to the chief judge of the United States Court of Federal Claims pursuant to section 1492 of this title, the chief judge shall designate a judge as hearing officer for the case and a panel of three judges of the court to serve as a reviewing body. One member of the review panel shall be designated as presiding officer of the panel.

(b) Proceedings in a congressional reference case shall be under rules and regulations prescribed for the purpose by the chief judge who is hereby authorized and directed to require the application of the pertinent rules of practice of the Court of Federal Claims insofar as feasible. Each hearing officer and each review panel shall have authority to do and perform any acts which may be necessary or proper for the efficient performance of their duties, including the power of subpoena and the power to administer oaths and affirmations. None of the rules, rulings, findings, or conclusions authorized by this section shall be subject to judicial review.

(c) The hearing officer to whom a congressional reference case is assigned by the chief judge shall proceed in accordance with the applicable rules to determine the facts, including facts relating to delay or laches, facts bearing upon the question whether the bar of any statute of limitation should be removed, or facts claimed to excuse the claimant for not having resorted to any established legal remedy. He shall append to his findings of fact conclusions sufficient to inform Congress whether the demand is a legal or equitable claim or a gratuity, and the amount, if any, legally or equitably due from the United States to the claimant.

(d) The findings and conclusions of the hearing officer shall be submitted by him, together with the record in the case, to the review panel for review by it pursuant to such rules as may be provided for the purpose, which shall include provision for submitting the report of the hearing officer to the parties for consideration, exception, and argument before the panel. The panel, by majority vote, shall adopt or modify the findings or the conclusions of the hearing officer.

(e) The panel shall submit its report to the chief judge for transmission to the appropriate House of Congress.

(f) Any act or failure to act or other conduct by a party, a witness, or an attorney which would call for the imposition of sanctions under the rules of practice of the Court of Federal Claims shall be noted by the panel or the hearing officer at the time of occurrence thereof and upon failure of the delinquent or offending party, witness, or attorney to make prompt compliance with the order of the panel or the hearing officer a full statement of the circumstances shall be incorporated in the report of the panel.

(g) The Court of Federal Claims is hereby authorized and directed, under such regulations as it may prescribe, to provide the facilities and services of the office of the clerk of the court for the filing, processing, hearing, and dispatch of congressional reference cases and to include within its annual appropriations the costs thereof and other costs of administration, including (but without limitation to the items herein listed) the salaries and traveling expenses of the judges serving as hearing officers and panel members, mailing and service of process, necessary physical facilities, equipment, and supplies, and personnel (including secretaries and law clerks). (Oct. 15, 1966, Pub. L. 89-681, § 2, 80 Stat. 958; April 2, 1982, Pub. L. 97-164, Title I, § 139(h), 96 Stat. 42; Oct. 29, 1992, Pub. L. 102-572, Title IX, § 902(a), 106 Stat. 4516.)