

115TH CONGRESS
1ST SESSION

H. R. 1598

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into 2 circuits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 17, 2017

Mr. GOHMERT (for himself and Mr. DUNCAN of South Carolina) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into 2 circuits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ninth Circuit Court
5 Modernization and Twelfth Circuit Court Creation Act of
6 2017”.

7 **SEC. 2. DEFINITIONS.**

8 In this Act:

9 (1) **FORMER NINTH CIRCUIT.**—The term
10 “former ninth circuit” means the ninth judicial cir-

1 cuit of the United States as in existence on the day
2 before the effective date of this Act.

3 (2) NEW NINTH CIRCUIT.—The term “new
4 ninth circuit” means the ninth judicial circuit of the
5 United States established by the amendment made
6 by section 3.

7 (3) TWELFTH CIRCUIT.—The term “twelfth cir-
8 cuit” means the twelfth judicial circuit of the United
9 States established by the amendment made by sec-
10 tion 3.

11 **SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.**

12 Section 41 of title 28, United States Code, is amend-
13 ed—

14 (1) in the matter preceding the table, by strik-
15 ing “thirteen” and inserting “fourteen”; and

16 (2) in the table—

17 (A) by striking the item relating to the
18 ninth circuit and inserting the following:

“Ninth California.”;

19 and

20 (B) by inserting after the item relating to
21 the eleventh circuit the following:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
vada, Oregon, Washington, Guam,
Hawaii.”.

1 **SEC. 4. NUMBER OF CIRCUIT JUDGES.**

2 The table contained in section 44(a) of title 28,
3 United States Code, is amended by inserting after the
4 item relating to the eleventh circuit the following:

“Twelfth 17”.

5 **SEC. 5. PLACES OF CIRCUIT COURT.**

6 The table contained in section 48(a) of title 28,
7 United States Code, is amended by—

8 (1) deleting “Portland” and “Seattle” in the
9 item relating to the ninth circuit; and

10 (2) inserting after the item relating to the elev-
11 enth circuit the following:

“Twelfth Las Vegas, Phoenix, Anchorage, Mis-
soula, Portland, Seattle.”.

12 **SEC. 6. JUDGESHIPS.**

13 (a) IN GENERAL.—Each circuit judge of the former
14 ninth circuit who is in regular active service and whose
15 official duty station on the day before the effective date
16 of this Act is in Alaska, Arizona, Idaho, Montana, Oregon,
17 Washington, Guam, Hawaii, or the Northern Mariana Is-
18 lands or Nevada shall be a circuit judge of the new ninth
19 circuit as of such effective date.

20 (b) APPOINTMENT OF JUDGES FOR THE TWELFTH
21 CIRCUIT.—The President shall appoint, by and with the
22 advice of the Senate, 17 circuit judges for the new twelfth
23 circuit, selected from the States assigned to the new

1 twelfth circuit. The official duty station of a judge ap-
2 pointed under this paragraph shall be the locations in the
3 table contained in section 48(a) of title 28, United States
4 Code, as amended by this Act.

5 **SEC. 7. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

6 Each judge who is a senior circuit judge of the former
7 ninth circuit, whose official duty station on the day before
8 the effective date of this Act is in Alaska, Arizona, Idaho,
9 Montana, Oregon, Washington, Guam, Hawaii, Nevada, or
10 the Northern Mariana Islands, may elect to be assigned
11 to the new ninth circuit or the twelfth circuit as of such
12 effective date and shall notify the Director of the Adminis-
13 trative Office of the United States Courts of such election.

14 **SEC. 8. SENIORITY OF JUDGES.**

15 The seniority of each judge appointed under section
16 6(b) shall run from the date of commission of such judge
17 as a judge of the twelfth circuit.

18 **SEC. 9. APPLICATION TO CASES.**

19 The following apply to any case in which, on the day
20 before the effective date of this Act, an appeal or other
21 proceeding has been filed with the former ninth circuit:

22 (1) Except as provided in paragraph (3), if the
23 matter has been submitted for decision, further pro-
24 ceedings with respect to the matter shall be had in

1 the same manner and with the same effect as if this
2 Act had not been enacted.

3 (2) If the matter has not been submitted for de-
4 cision, the appeal or proceeding, together with the
5 original papers, printed records, and record entries
6 duly certified, shall, by appropriate orders, be trans-
7 ferred to the court to which the matter would have
8 been submitted had this Act been in full force and
9 effect on the date on which such appeal was taken
10 or other proceeding commenced, and further pro-
11 ceedings with respect to the case shall be had in the
12 same manner and with the same effect as if the ap-
13 peal or other proceeding had been filed in such
14 court.

15 (3) If a petition for rehearing en banc is pend-
16 ing on or after the effective date of this Act, the pe-
17 tition shall be considered by the court of appeals to
18 which the petition would have been submitted had
19 this Act been in full force and effect on the date on
20 which the appeal or other proceeding was filed with
21 the court of appeals.

22 **SEC. 10. ADMINISTRATION.**

23 The court of appeals for the ninth circuit as con-
24 stituted on the day before the effective date of this Act
25 may take such administrative action as may be required

1 to carry out this Act and the amendments made by this
2 Act.

3 **SEC. 11. EFFECTIVE DATE.**

4 This Act and the amendments made by this Act shall
5 take effect immediately upon enactment of this Act.

6 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
8 as may be necessary to carry out this Act and the amend-
9 ments made by this Act, including such sums as may be
10 necessary to provide appropriate space and facilities for
11 any judicial positions created by this Act or an amendment
12 made by this Act.

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