

118TH CONGRESS
1ST SESSION

S. 1878

To increase the number of judgeships for the United States Court of Appeals for the Ninth Circuit and certain district courts of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2023

Mr. SULLIVAN (for himself, Mr. CRAPO, Mr. DAINES, Ms. MURKOWSKI, and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To increase the number of judgeships for the United States Court of Appeals for the Ninth Circuit and certain district courts of the United States, 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 “Judicial Efficiency Im-

5 provement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **FORMER NINTH CIRCUIT.**—The term

9 “former ninth circuit” means the ninth judicial cir-

1 **SEC. 4. CIRCUIT COURT JUDGESHIPS.**

2 (a) NEW JUDGESHIPS.—The President shall appoint,
3 by and with the advice and consent of the Senate, 2 addi-
4 tional circuit judges for the new ninth circuit, whose offi-
5 cial duty station shall be in California.

6 (b) EFFECTIVE DATE.—This section shall take effect
7 on the date of enactment of this Act.

8 **SEC. 5. NUMBER OF CIRCUIT JUDGES.**

9 The table in section 44(a) of title 28, United States
10 Code, is amended—

11 (1) by striking the item relating to the ninth
12 circuit and inserting the following:

“Ninth 18”;

13 and

14 (2) by inserting after the item relating to the
15 eleventh circuit the following:

“Twelfth 13”.

16 **SEC. 6. PLACES OF CIRCUIT COURT.**

17 The table in section 48(a) of title 28, United States
18 Code, is amended—

19 (1) by striking the item relating to the ninth
20 circuit and inserting the following:

“Ninth Honolulu, Pasadena, San Fran-
cisco.”;

21 and

1 (2) by inserting after the item relating to the
2 eleventh circuit the following:

“Twelfth Las Vegas, Phoenix, Portland, Se-
attle.”.

3 **SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.**

4 The offices of the Circuit Executive of the Twelfth
5 Circuit and the Clerk of the Court of the Twelfth Circuit
6 shall be located in Seattle, Washington.

7 **SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.**

8 Each circuit judge of the former ninth circuit who
9 is in regular active service and whose official duty station
10 on the day before the effective date of this Act—

11 (1) is in California, Guam, Hawaii, or the
12 Northern Mariana Islands shall be a circuit judge of
13 the new ninth circuit as of that effective date; and

14 (2) is in Alaska, Arizona, Idaho, Montana, Ne-
15 vada, Oregon, or Washington shall be a circuit judge
16 of the twelfth circuit as of that effective date.

17 **SEC. 9. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

18 Each judge who is a senior circuit judge of the former
19 ninth circuit on the day before the effective date of this
20 Act—

21 (1) may elect to be assigned to the new ninth
22 circuit or the twelfth circuit as of that effective date;
23 and

1 (2) shall notify the Director of the Administra-
2 tive Office of the United States Courts of the elec-
3 tion made under paragraph (1).

4 **SEC. 10. SENIORITY OF JUDGES.**

5 The seniority of each judge who is assigned under
6 section 8 or elects to be assigned under section 9 shall
7 run from the date of commission of the judge as a judge
8 of the former ninth circuit.

9 **SEC. 11. APPLICATION TO CASES.**

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

13 (1) Except as provided in paragraph (3), if the
14 matter has been submitted for decision, further pro-
15 ceedings with respect to the matter shall be had in
16 the same manner and with the same effect as if this
17 Act had not been enacted.

18 (2) If the matter has not been submitted for de-
19 cision, the appeal or proceeding, together with the
20 original papers, printed records, and record entries
21 duly certified, shall, by appropriate orders, be trans-
22 ferred to the court to which the matter would have
23 been submitted had this Act been in full force and
24 effect on the date on which the appeal was taken or
25 other proceeding commenced, and further pro-

1 proceedings with respect to the case shall be had in the
2 same manner and with the same effect as if the ap-
3 peal or other proceeding had been filed in that court.

4 (3) If a petition for rehearing en banc is pend-
5 ing on or after the effective date of this Act, the pe-
6 tition shall be considered by the court of appeals to
7 which the petition would have been submitted had
8 this Act been in full force and effect on the date on
9 which the appeal or other proceeding was filed with
10 the court of appeals.

11 **SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**
12 **AMONG CIRCUITS.**

13 Section 291 of title 28, United States Code, is
14 amended by adding at the end the following:

15 “(c) The chief judge of the United States Court of
16 Appeals for the Ninth Circuit may, in the public interest
17 and upon request by the chief judge of the United States
18 Court of Appeals for the Twelfth Circuit, designate and
19 assign temporarily any circuit judge of the Ninth Circuit
20 to act as circuit judge in the Twelfth Circuit.

21 “(d) The chief judge of the United States Court of
22 Appeals for the Twelfth Circuit may, in the public interest
23 and upon request by the chief judge of the United States
24 Court of Appeals for the Ninth Circuit, designate and as-

1 sign temporarily any circuit judge of the Twelfth Circuit
2 to act as circuit judge in the Ninth Circuit.”.

3 **SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**
4 **AMONG CIRCUITS.**

5 Section 292 of title 28, United States Code, is
6 amended by adding at the end the following:

7 “(f) The chief judge of the United States Court of
8 Appeals for the Ninth Circuit may in the public interest—

9 “(1) upon request by the chief judge of the
10 United States Court of Appeals for the Twelfth Cir-
11 cuit, designate and assign one or more district
12 judges of the Ninth Circuit to sit upon the Court of
13 Appeals of the Twelfth Circuit, or a division thereof,
14 whenever the business of that court so requires; and

15 “(2) designate and assign temporarily any dis-
16 trict judge of the Ninth Circuit to hold a district
17 court in any district within the Twelfth Circuit.

18 “(g) The chief judge of the United States Court of
19 Appeals for the Twelfth Circuit may in the public inter-
20 est—

21 “(1) upon request by the chief judge of the
22 United States Court of Appeals for the Ninth Cir-
23 cuit, designate and assign one or more district
24 judges of the Twelfth Circuit to sit upon the Court
25 of Appeals of the Ninth Circuit, or a division there-

1 of, whenever the business of that court so requires;
2 and

3 “(2) designate and assign temporarily any dis-
4 trict judge of the Twelfth Circuit to hold a district
5 court in any district within the Ninth Circuit.

6 “(h) Any designation or assignment under subsection
7 (f) or (g) shall be in conformity with the rules or orders
8 of the court of appeals of, or the district within, as applica-
9 ble, the circuit to which the judge is designated or as-
10 signed.”.

11 **SEC. 14. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

12 (a) **ADDITIONAL JUDGESHIPS.**—The President shall
13 appoint, by and with the advice and consent of the Sen-
14 ate—

15 (1) 2 additional district judges for the district
16 of Arizona;

17 (2) 9 additional district judges for the central
18 district of California;

19 (3) 4 additional district judges for the eastern
20 district of California;

21 (4) 6 additional district judges for the northern
22 district of California;

23 (5) 2 additional district judges for the southern
24 district of California;

1 (6) 2 additional district judges for the district
2 of Colorado;

3 (7) 2 additional district judges for the district
4 of Delaware;

5 (8) 5 additional district judges for the middle
6 district of Florida;

7 (9) 1 additional district judge for the northern
8 district of Florida;

9 (10) 3 additional district judges for the south-
10 ern district of Florida;

11 (11) 2 additional district judges for the north-
12 ern district of Georgia;

13 (12) 1 additional district judge for the district
14 of Idaho;

15 (13) 1 additional district judge for the southern
16 district of Indiana;

17 (14) 1 additional district judge for the northern
18 district of Iowa;

19 (15) 1 additional district judge for the district
20 of Nebraska;

21 (16) 3 additional district judges for the district
22 of New Jersey;

23 (17) 2 additional district judges for the eastern
24 district of New York;

1 (18) 2 additional district judges for the south-
2 ern district of New York;

3 (19) 1 additional district judge for the western
4 district of New York;

5 (20) 2 additional district judges for the eastern
6 district of Oklahoma;

7 (21) 1 additional district judge for the northern
8 district of Oklahoma;

9 (22) 2 additional district judges for the eastern
10 district of Texas;

11 (23) 1 additional district judge for the northern
12 district of Texas;

13 (24) 4 additional district judges for the south-
14 ern district of Texas; and

15 (25) 6 additional district judges for the western
16 district of Texas.

17 (b) EXTENSION OF TEMPORARY JUDGESHIPS.—Sec-
18 tion 203(c) of the Judicial Improvements Act of 1990
19 (Public Law 101–650; 28 U.S.C. 133 note) is amended,
20 in second sentence of the matter following paragraph (12),
21 by striking “31 years” and inserting “36 years”.

22 (c) CONVERSION OF TEMPORARY JUDGESHIPS.—The
23 existing judgeship for the eastern district of Missouri au-
24 thorized by section 203(c) of the Judicial Improvements
25 Act of 1990 (Public Law 101–650; 28 U.S.C. 133 note)

1 and the existing judgeships for the district of Arizona, the
 2 central district of California, the southern district of Flor-
 3 ida, the district of New Mexico, the western district of
 4 North Carolina, and the eastern district of Texas author-
 5 ized by section 312(e) of the 21st Century Department
 6 of Justice Appropriations Authorization Act (Public Law
 7 107–273, 28 U.S.C. 133 note), as of the date of enact-
 8 ment of this Act, shall be authorized under section 133
 9 of title 28, United States Code, and the incumbents in
 10 those offices shall hold the office under section 133 of title
 11 28, United States Code, as amended by this Act.

12 (d) TECHNICAL AND CONFORMING AMENDMENTS.—
 13 The table contained in section 133(a) of title 28, United
 14 States Code, is amended—

15 (1) by striking the item relating to the district
 16 of Arizona and inserting the following:

“Arizona 15”;

17 (2) by striking the items relating to California
 18 and inserting the following:

“California:
 Northern 20
 Eastern 10
 Central 37
 Southern 15”;

19 (3) by striking the item relating to the district
 20 of Colorado and inserting the following:

“Colorado 9”;

1 (4) by striking the item relating to the district
2 of Delaware and inserting the following:

“Delaware 6”;

3 (5) by striking the items relating to Florida and
4 inserting the following:

“Florida:
Northern 5
Middle 20
Southern 21”;

5 (6) by striking the items relating to Georgia
6 and inserting the following:

“Georgia:
Northern 13
Middle 4
Southern 3”;

7 (7) by striking the item relating to Idaho and
8 inserting the following:

“Idaho 3”;

9 (8) by striking the items relating to Indiana
10 and inserting the following:

“Indiana:
Northern 5
Southern 6”;

11 (9) by striking the items relating to Indiana
12 and inserting the following:

“Iowa:
Northern 3
Southern 3”;

13 (10) by striking the items relating to Nebraska
14 and inserting the following:

“Nebraska 4”;

1 (11) by striking the item relating to New Jer-
2 sey and inserting the following:

“New Jersey 20”;

3 (12) by striking the items relating to New York
4 and inserting the following:

“New York:
Southern 30
Eastern 17
Western 5”;

5 (13) by striking the items relating to Oklahoma
6 and inserting the following:

“North Carolina:
Eastern 3.5
Northern 4.5”;

7 and

8 (14) by striking the items relating to Texas and
9 inserting the following:

“Texas:
Northern 13
Southern 23
Eastern 10
Western 19”.

10 **SEC. 15. ADMINISTRATION.**

11 (a) **TRANSITION AUTHORITY.**—The court of appeals
12 for the ninth circuit as constituted on the day before the
13 effective date of this Act may take any administrative ac-
14 tion that is required to carry out this Act and the amend-
15 ments made by this Act.

1 (b) ADMINISTRATIVE TERMINATION.—The court de-
2 scribed in subsection (a) shall cease to exist for adminis-
3 trative purposes 2 years after the date of enactment of
4 this Act.

5 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

6 There are authorized to be appropriated such sums
7 as may be necessary to carry out this Act, including funds
8 for additional court facilities.

9 **SEC. 17. EFFECTIVE DATE.**

10 Except as provided in section 4(c), this Act and the
11 amendments made by this Act shall take effect 1 year
12 after the date of enactment of this Act.

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