

116TH CONGRESS
1ST SESSION

S. 722

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

MARCH 7, 2019

Mr. SULLIVAN (for himself, Ms. MURKOWSKI, Mr. DAINES, and Ms. MCSALLY) 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 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(2)(A).

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(2)(B).

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, Guam, Hawaii, Northern
Mariana Islands.”;

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.”.

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—

4 (1) 4 additional circuit judges for the new ninth
5 circuit, whose official duty station shall be in Cali-
6 fornia; and

7 (2) 1 additional circuit judge for the twelfth cir-
8 cuit, whose official duty station shall be in Idaho.

9 (b) TEMPORARY JUDGESHIPS.—

10 (1) APPOINTMENT OF JUDGES.—The President
11 shall appoint, by and with the advice and consent of
12 the Senate, 2 additional circuit judges for the former
13 ninth circuit, whose official duty station shall be in
14 California.

15 (2) EFFECT OF VACANCIES.—The first 2 vacan-
16 cies in the position of circuit judge for the new ninth
17 circuit occurring 10 years or more after judges are
18 first confirmed to fill both temporary circuit judge-
19 ships created by this subsection shall not be filled.

20 (c) EFFECTIVE DATE.—This section shall take effect
21 on the date of enactment of this Act.

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

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

3 and

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

6 SEC. 6. PLACES OF CIRCUIT COURT.

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

9 (1) by striking the item relating to the ninth
10 circuit and inserting the following:

11 and

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

14 SEC. 7. LOCATION OF TWELFTH CIRCUIT HEADQUARTERS.

15 The offices of the Circuit Executive of the Twelfth
16 Circuit and the Clerk of the Court of the Twelfth Circuit
17 shall be located in Seattle, Washington.

18 SEC. 8. ASSIGNMENT OF CIRCUIT JUDGES.

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

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

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

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

8 Each judge who is a senior circuit judge of the former
9 ninth circuit on the day before the effective date of this
10 Act—

11 (1) may elect to be assigned to the new ninth
12 circuit or the twelfth circuit as of that effective date;
13 and

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

17 **SEC. 10. SENIORITY OF JUDGES.**

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

22 **SEC. 11. APPLICATION TO CASES.**

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

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

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

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

1 **SEC. 12. TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES**
2 **AMONG CIRCUITS.**

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

5 “(c) The chief judge of the Ninth Circuit may, in the
6 public interest and upon request by the chief judge of the
7 Twelfth Circuit, designate and assign temporarily any cir-
8 cuit judge of the Ninth Circuit to act as circuit judge in
9 the Twelfth Circuit.

10 “(d) The chief judge of the Twelfth Circuit may, in
11 the public interest and upon request by the chief judge
12 of the Ninth Circuit, designate and assign temporarily any
13 circuit judge of the Twelfth Circuit to act as circuit judge
14 in the Ninth Circuit.”.

15 **SEC. 13. TEMPORARY ASSIGNMENT OF DISTRICT JUDGES**
16 **AMONG CIRCUITS.**

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

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

21 “(1) upon request by the chief judge of the
22 Twelfth Circuit, designate and assign one or more
23 district judges within the Ninth Circuit to sit upon
24 the Court of Appeals of the Twelfth Circuit, or a di-
25 vision thereof, whenever the business of that court
26 so requires; and

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

4 “(g) The chief judge of the United States Court of
 5 Appeals for the Twelfth Circuit may in the public inter-
 6 est—

7 “(1) upon request by the chief judge of the
 8 Ninth Circuit, designate and assign one or more dis-
 9 trict judges within the Twelfth Circuit to sit upon
 10 the Court of Appeals of the Ninth Circuit, or a divi-
 11 sion thereof, whenever the business of that court so
 12 requires; and

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

16 “(h) Any designation or assignment under subsection
 17 (f) or (g) shall be in conformity with the rules or orders
 18 of the court of appeals of, or the district within, as applica-
 19 ble, the circuit to which the judge is designated or as-
 20 signed.”.

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

22 (a) **ADDITIONAL JUDGESHIPS.**—The President shall
 23 appoint, by and with the advice and consent of the Sen-
 24 ate—

1 (1) 4 additional district judges for the district
2 of Arizona;

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

5 (3) 5 additional district judges for the eastern
6 district of California;

7 (4) 2 additional district judges for the northern
8 district of California;

9 (5) 3 additional district judges for the southern
10 district of California;

11 (6) 1 additional district judge for the district of
12 Colorado;

13 (7) 1 additional district judge for the district of
14 Delaware;

15 (8) 6 additional district judges for the middle
16 district of Florida;

17 (9) 1 additional district judge for the northern
18 district of Florida;

19 (10) 3 additional district judges for the south-
20 ern district of Florida;

21 (11) 1 additional district judge for the northern
22 district of Georgia;

23 (12) 1 additional district judge for the district
24 of Idaho;

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

3 (14) 1 additional district judge for the district
4 of Minnesota;

5 (15) 1 additional district judge for the district
6 of Nevada;

7 (16) 3 additional district judges for the district
8 of New Jersey;

9 (17) 2 additional district judges for the district
10 of New Mexico;

11 (18) 2 additional district judges for the eastern
12 district of New York;

13 (19) 1 additional district judge for the southern
14 district of New York;

15 (20) 1 additional district judge for the western
16 district of New York;

17 (21) 1 additional district judge for the district
18 of Puerto Rico;

19 (22) 2 additional district judges for the eastern
20 district of Texas;

21 (23) 2 additional district judges for the south-
22 ern district of Texas; and

23 (24) 4 additional district judges for the western
24 district of Texas.

1 (b) CONVERSION OF TEMPORARY JUDGEShips.—The
 2 existing judgeships for the district of Kansas and the east-
 3 ern district of Missouri authorized by section 203(c) of
 4 the Judicial Improvements Act of 1990 (Public Law 101–
 5 650; 28 U.S.C. 133 note) and the existing judgeships for
 6 the district of Arizona, the central district of California,
 7 the southern district of Florida, the district of New Mex-
 8 ico, the western district of North Carolina, and the eastern
 9 district of Texas authorized by section 312(c) of the 21st
 10 Century Department of Justice Appropriations Authoriza-
 11 tion Act (Public Law 107–273, 28 U.S.C. 133 note), as
 12 of the date of enactment of this Act, shall be authorized
 13 under section 133 of title 28, United States Code, and
 14 the incumbents in those offices shall hold the office under
 15 section 133 of title 28, United States Code, as amended
 16 by this Act.

17 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
 18 The table contained in section 133(a) of title 28, United
 19 States Code, is amended—

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

“Arizona 17”;

22 (2) by striking the items relating to California
 23 and inserting the following:

“California:
 Northern 16

Eastern	11
Central	35
Southern	16”;

- 1 (3) by striking the item relating to the district
2 of Colorado and inserting the following:

“Colorado

8”;

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

“Delaware

5”;

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

“Florida:
Northern

5
Middle
21
Southern
21”;

- 7 (6) by striking the items relating to Georgia
8 and inserting the following:

“Georgia:
Northern

12
Middle
4
Southern
3”;

- 9 (7) by striking the item relating to Idaho and
10 inserting the following:

“Idaho

3”;

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

“Indiana:
Northern

5
Southern
6”;

1 (9) by striking the item relating to Kansas and
2 inserting the following:

“Kansas 6”;

3 (10) by striking the item relating to Minnesota
4 and inserting the following:

“Minnesota 8”;

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

“Missouri:

Eastern 8

Western 5

Eastern and Western 2”;

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

“Nevada 8”;

9 (13) by striking the item relating to New Jer-
10 sey and inserting the following:

“New Jersey 20”;

11 (14) by striking the item relating to New Mex-
12 ico and inserting the following:

“New Mexico 9”;

13 (15) by striking the items relating to New York
14 and inserting the following:

“New York:

Northern 5

Southern 29

Eastern 17

Western 5”;

1 (16) by striking the items relating to North
2 Carolina and inserting the following:

“North Carolina:
Eastern 4
Middle 4
Western 5”;

3 (17) by striking the item relating to Puerto
4 Rico and inserting the following:

“Puerto Rico 8”;

5 and

6 (18) by striking the items relating to Texas and
7 inserting the following:

“Texas:
Northern 12
Southern 21
Eastern 10
Western 17”.

8 **SEC. 15. ADMINISTRATION.**

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

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

1 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act, including funds
4 for additional court facilities.

5 **SEC. 17. EFFECTIVE DATE.**

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

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