

104TH CONGRESS
2D SESSION

S. 1887

AN ACT

To make improvements in the operation and administration
of the Federal courts, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Courts Improvement Act of 1996”.

1 (b) TABLE OF CONTENTS.—The table of contents of
2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CRIMINAL LAW AND CRIMINAL JUSTICE AMENDMENTS

Sec. 101. New authority for probation and pretrial services officers.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Duties of magistrate judge on emergency assignment.

Sec. 202. Consent to trial in certain criminal actions.

Sec. 203. Registration of judgments for enforcement in other districts.

Sec. 204. Vacancy in clerk position; absence of clerk.

Sec. 205. Diversity jurisdiction.

Sec. 206. Removal of cases against the United States and Federal officers or agencies.

Sec. 207. Appeal route in civil cases decided by magistrate judges with consent.

Sec. 208. Reports by judicial councils relating to misconduct and disability orders.

TITLE III—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS,
AND PROTECTIONS

Sec. 301. Senior judge certification.

Sec. 302. Refund of contribution for deceased deferred annuitant under the Judicial Survivors' Annuities System.

Sec. 303. Bankruptcy judges reappointment procedure.

Sec. 304. Technical correction related to commencement date of temporary judgeships.

Sec. 305. Full-time status of court reporters.

Sec. 306. Court interpreters.

Sec. 307. Technical amendment related to commencement date of temporary bankruptcy judgeships.

Sec. 308. Contribution rate for senior judges under the judicial survivors' annuities system.

Sec. 309. Prohibition against awards of costs, including attorneys fees, and injunctive relief against a judicial officer.

TITLE IV—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 401. Increase in civil action filing fee.

Sec. 402. Interpreter performance examination fees.

Sec. 403. Judicial panel on multidistrict litigation.

Sec. 404. Disposition of fees.

TITLE V—FEDERAL COURTS STUDY COMMITTEE
RECOMMENDATIONS

Sec. 501. Qualification of Chief Judge of Court of International Trade.

TITLE VI—MISCELLANEOUS

Sec. 601. Participation in judicial governance activities by district, senior, and magistrate judges.

Sec. 602. The Director and Deputy Director of the administrative office as officers of the United States.

Sec. 603. Removal of action from State court.

Sec. 604. Federal judicial center employee retirement provisions.

Sec. 605. Abolition of the special court, Regional Rail Reorganization Act of 1973.

Sec. 606. Place of holding court in the District Court of Utah.

Sec. 607. Exception of residency requirement for district judges appointed to the Southern District and Eastern District of New York.

Sec. 608. Extension of civil justice expense and delay reduction reports on pilot and demonstration programs.

Sec. 609. Place of holding court in the Southern District of New York.

Sec. 610. Venue for territorial courts.

1 **TITLE I—CRIMINAL LAW AND** 2 **CRIMINAL JUSTICE AMEND-** 3 **MENTS**

4 **SEC. 101. NEW AUTHORITY FOR PROBATION AND PRETRIAL** 5 **SERVICES OFFICERS.**

6 (a) PROBATION OFFICERS.—Section 3603 of title 18,
7 United States Code, is amended—

8 (1) by striking out “and” at the end of para-
9 graph (8)(B);

10 (2) by redesignating paragraph (9) as para-
11 graph (10); and

12 (3) by inserting after paragraph (8) the follow-
13 ing new paragraph:

14 “(9) if approved by the district court, be au-
15 thorized to carry firearms under such rules and reg-
16 ulations as the Director of the Administrative Office
17 of the United States Courts may prescribe; and”.

18 (b) PRETRIAL SERVICES OFFICERS.—Section 3154
19 of title 18, United States Code, is amended—

1 (1) by redesignating paragraph (13) as para-
 2 graph (14); and

3 (2) by inserting after paragraph (12) the fol-
 4 lowing new paragraph:

5 “(13) If approved by the district court, be au-
 6 thorized to carry firearms under such rules and reg-
 7 ulations as the Director of the Administrative Office
 8 of the United States Courts may prescribe.”.

9 **TITLE II—JUDICIAL PROCESS** 10 **IMPROVEMENTS**

11 **SEC. 201. DUTIES OF MAGISTRATE JUDGE ON EMERGENCY** 12 **ASSIGNMENT.**

13 The first sentence of section 636(f) of title 28, United
 14 States Code, is amended by striking out “(a) or (b)” and
 15 inserting in lieu thereof “(a), (b), or (c)”.

16 **SEC. 202. CONSENT TO TRIAL IN CERTAIN CRIMINAL** 17 **ACTIONS.**

18 (a) AMENDMENTS TO TITLE 18.—(1) Section
 19 3401(b) of title 18, United States Code, is amended—

20 (A) in the first sentence by inserting “, other
 21 than a petty offense that is a class B misdemeanor
 22 charging a motor vehicle offense, a class C mis-
 23 demeanor, or an infraction,” after “misdemeanor”;

24 (B) in the second sentence by inserting “judge”
 25 after “magistrate” each place it appears;

1 (C) by striking out the third sentence and in-
2 serting in lieu thereof the following: “The magistrate
3 judge may not proceed to try the case unless the de-
4 fendant, after such explanation, expressly consents
5 to be tried before the magistrate judge and expressly
6 and specifically waives trial, judgment, and sentenc-
7 ing by a district judge. Any such consent and waiver
8 shall be made in writing or orally on the record.”;
9 and

10 (D) by striking out “judge of the district court”
11 each place it appears and inserting in lieu thereof
12 “district judge”.

13 (2) Section 3401(g) of title 18, United States Code,
14 is amended by striking out the first sentence and inserting
15 in lieu thereof the following: “The magistrate judge may,
16 in a petty offense case involving a juvenile, that is a class
17 B misdemeanor charging a motor vehicle offense, a class
18 C misdemeanor, or an infraction, exercise all powers
19 granted to the district court under chapter 403 of this
20 title. The magistrate judge may, in any other class B or
21 C misdemeanor case involving a juvenile in which consent
22 to trial before a magistrate judge has been filed under sub-
23 section (b), exercise all powers granted to the district
24 court under chapter 403 of this title.”.

1 (b) AMENDMENTS TO TITLE 28.—Section 636(a) of
2 title 28, United States Code, is amended—

3 (1) by striking out “, and” at the end of para-
4 graph (3) and inserting in lieu thereof a semicolon;
5 and

6 (2) by striking out paragraph (4) and inserting
7 the following:

8 “(4) the power to enter a sentence for a petty
9 offense that is a class B misdemeanor charging a
10 motor vehicle offense, a class C misdemeanor, or an
11 infraction; and

12 “(5) the power to enter a sentence for a class
13 A misdemeanor, or a class B or C misdemeanor not
14 covered by paragraph (4), in a case in which the
15 parties have consented.”.

16 **SEC. 203. REGISTRATION OF JUDGMENTS FOR ENFORCE-**
17 **MENT IN OTHER DISTRICTS.**

18 (a) IN GENERAL.—Section 1963 of title 28, United
19 States Code, is amended—

20 (1) by amending the section heading to read as
21 follows:

22 **“§ 1963. Registration of judgments for enforcement in**
23 **other districts”;**

24 (2) in the first sentence—

1 (A) by striking out “district court” and in-
 2 serting in lieu thereof “court of appeals, district
 3 court, bankruptcy court,”; and

4 (B) by striking out “such judgment” and
 5 inserting in lieu thereof “the judgment”; and

6 (3) by adding at the end thereof the following
 7 new undesignated paragraph:

8 “The procedure prescribed under this section is in ad-
 9 dition to other procedures provided by law for the enforce-
 10 ment of judgments.”.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 12 The table of sections for chapter 125 of title 28, United
 13 States Code, relating to section 1963 is amended to read
 14 as follows:

“1963. Registration of judgments for enforcement in other districts.”.

15 **SEC. 204. VACANCY IN CLERK POSITION; ABSENCE OF**
 16 **CLERK.**

17 (a) IN GENERAL.—Section 954 of title 28, United
 18 States Code, is amended to read as follows:

19 **“§ 954. Vacancy in clerk position; absence of clerk**

20 “When the office of clerk is vacant, the deputy clerks
 21 shall perform the duties of the clerk in the name of the
 22 last person who held that office. When the clerk is inca-
 23 pacitated, absent, or otherwise unavailable to perform offi-
 24 cial duties, the deputy clerks shall perform the duties of
 25 the clerk in the name of the clerk. The court may des-

1 designate a deputy clerk to act temporarily as clerk of the
2 court in his or her own name.”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—
4 The table of sections for chapter 57 of title 28, United
5 States Code, relating to section 954 is amended to read
6 as follows:

“954. Vacancy in clerk position; absence of clerk.”.

7 **SEC. 205. DIVERSITY JURISDICTION.**

8 (a) IN GENERAL.—Section 1332 of title 28, United
9 States Code, is amended—

10 (1) in subsection (a) by striking out “\$50,000”
11 and inserting in lieu thereof “\$75,000”; and

12 (2) in subsection (b) by striking out “\$50,000”
13 and inserting in lieu thereof “\$75,000”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect 90 days after the date of en-
16 actment of this Act.

17 **SEC. 206. REMOVAL OF CASES AGAINST THE UNITED**
18 **STATES AND FEDERAL OFFICERS OR AGEN-**
19 **CIES.**

20 (a) IN GENERAL.—Section 1442 of title 28, United
21 States Code, is amended—

22 (1) in the section heading by inserting “**or**
23 **agencies**” after “**officers**”; and

24 (2) in subsection (a)—

1 (A) in the matter preceding paragraph (1)
 2 by striking out “persons”; and

3 (B) in paragraph (1) by striking out “Any
 4 officer of the United States or any agency
 5 thereof, or person acting under him, for any act
 6 under color of such office” and inserting in lieu
 7 thereof “The United States or any agency
 8 thereof or any officer (or any person acting
 9 under that officer) of the United States or of
 10 any agency thereof, sued in an official or indi-
 11 vidual capacity for any act under color of such
 12 office”.

13 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 14 The table of sections for chapter 89 of title 28, United
 15 States Code, is amended by amending the item relating
 16 to section 1442 to read as follows:

“1442. Federal officers and agencies sued or prosecuted.”.

17 **SEC. 207. APPEAL ROUTE IN CIVIL CASES DECIDED BY**
 18 **MAGISTRATE JUDGES WITH CONSENT.**

19 Section 636 of title 28, United States Code, is
 20 amended—

21 (1) in subsection (c)—

22 (A) in paragraph (3) by striking out “In
 23 this circumstance, the” and inserting in lieu
 24 thereof “The”;

1 (B) by striking out paragraphs (4) and
2 (5); and

3 (C) by redesignating paragraphs (6) and
4 (7) as paragraphs (4) and (5); and

5 (2) in subsection (d) by striking out “, and for
6 the taking and hearing of appeals to the district
7 courts,”.

8 **SEC. 208. REPORTS BY JUDICIAL COUNCILS RELATING TO**
9 **MISCONDUCT AND DISABILITY ORDERS.**

10 Section 332 of title 28, United States Code, is
11 amended by adding at the end thereof the following new
12 subsection:

13 “(g) No later than January 31 of each year, each
14 judicial council shall submit a report to the Administrative
15 Office of the United States Courts on the number and na-
16 ture of orders entered under this section during the pre-
17 ceding calendar year that relate to judicial misconduct or
18 disability.”.

19 **TITLE III—JUDICIARY PERSON-**
20 **NEL ADMINISTRATION, BENE-**
21 **FITS, AND PROTECTIONS**

22 **SEC. 301. SENIOR JUDGE CERTIFICATION.**

23 (a) RETROACTIVE CREDIT FOR RESUMPTION OF SIG-
24 NIFICANT WORKLOAD.—Section 371(f)(3) of title 28,
25 United States Code, is amended by striking out “is there-

1 after ineligible to receive such a certification.” and insert-
2 ing in lieu thereof “may thereafter receive a certification
3 for that year by satisfying the requirements of subpara-
4 graph (A), (B), (C), or (D) of paragraph (1) of this sub-
5 section in a subsequent year and attributing a sufficient
6 part of the work performed in such subsequent year to
7 the earlier year so that the work so attributed, when added
8 to the work performed during such earlier year, satisfies
9 the requirements for certification for that year. However,
10 a justice or judge may not receive credit for the same work
11 for purposes of certification for more than 1 year.”.

12 (b) AGGREGATION OF CERTAIN WORK FOR PARTIAL
13 YEARS.—Section 371(f)(1) of title 28, United States
14 Code, is amended by adding at the end of subparagraph
15 (D) the following: “In any year in which a justice or judge
16 performs work described under this subparagraph for less
17 than the full year, one-half of such work may be aggre-
18 gated with work described under subparagraph (A), (B),
19 or (C) of this paragraph for the purpose of the justice
20 or judge satisfying the requirements of such subpara-
21 graph.”.

1 **SEC. 302. REFUND OF CONTRIBUTION FOR DECEASED DE-**
2 **FERRED ANNUITANT UNDER THE JUDICIAL**
3 **SURVIVORS' ANNUITIES SYSTEM.**

4 Section 376(o)(1) of title 28, United States Code, is
5 amended by striking out “or while receiving ‘retirement
6 salary’,” and inserting in lieu thereof “while receiving re-
7 tirement salary, or after filing an election and otherwise
8 complying with the conditions under subsection (b)(2) of
9 this section,”.

10 **SEC. 303. BANKRUPTCY JUDGES REAPPOINTMENT PROCE-**
11 **DURE.**

12 Section 120 of the Bankruptcy Amendments and
13 Federal Judgeship Act of 1984 (Public Law 98–353; 98
14 Stat. 344), is amended—

15 (1) in subsection (a) by adding at the end
16 thereof the following new paragraph:

17 “(3) When filling vacancies, the court of appeals may
18 consider reappointing incumbent bankruptcy judges under
19 procedures prescribed by regulations issued by the Judi-
20 cial Conference of the United States.”; and

21 (2) in subsection (b) by adding at the end
22 thereof the following: “All incumbent nominees seek-
23 ing reappointment thereafter may be considered for
24 such a reappointment, pursuant to a majority vote
25 of the judges of the appointing court of appeals,

1 under procedures authorized under subsection
 2 (a)(3).”.

3 **SEC. 304. TECHNICAL CORRECTION RELATED TO COM-**
 4 **MENCEMENT DATE OF TEMPORARY JUDGE-**
 5 **SHIPS.**

6 Section 203(c) of the Judicial Improvements Act of
 7 1990 (Public Law 101–650; 104 Stat. 5101; 28 U.S.C.
 8 133 note) is amended by adding at the end thereof the
 9 following: “For districts named in this subsection for
 10 which multiple judgeships are created by this Act, the last
 11 of those judgeships filled shall be the judgeship created
 12 under this subsection.”.

13 **SEC. 305. FULL-TIME STATUS OF COURT REPORTERS.**

14 Section 753(e) of title 28, United States Code, is
 15 amended by inserting after the first sentence the follow-
 16 ing: “For the purposes of subchapter III of chapter 83
 17 of title 5 and chapter 84 of such title, a reporter shall
 18 be considered a full-time employee during any pay period
 19 for which a reporter receives a salary at the annual salary
 20 rate fixed for a full-time reporter under the preceding sen-
 21 tence.”.

22 **SEC. 306. COURT INTERPRETERS.**

23 Section 1827 of title 28, United States Code, is
 24 amended by adding at the end thereof the following new
 25 subsection:

1 “(l) Notwithstanding any other provision of this sec-
 2 tion or section 1828, the presiding judicial officer may ap-
 3 point a certified or otherwise qualified sign language inter-
 4 preter to provide services to a party, witness, or other par-
 5 ticipant in a judicial proceeding, whether or not the pro-
 6 ceeding is instituted by the United States, if the presiding
 7 judicial officer determines, on such officer’s own motion
 8 or on the motion of a party or other participant in the
 9 proceeding, that such individual suffers from a hearing
 10 impairment. The presiding judicial officer shall, subject to
 11 the availability of appropriated funds, approve the com-
 12 pensation and expenses payable to sign language inter-
 13 preters appointed under this section in accordance with
 14 the schedule of fees prescribed by the Director under sub-
 15 section (b)(3) of this section.”.

16 **SEC. 307. TECHNICAL AMENDMENT RELATED TO COM-**
 17 **MENCEMENT DATE OF TEMPORARY BANK-**
 18 **RUPTCY JUDGESHIPS.**

19 Section 3(b) of the Bankruptcy Judgeship Act of
 20 1992 (Public Law 102–361; 106 Stat. 965; 28 U.S.C. 152
 21 note) is amended in the first sentence by striking out
 22 “date of the enactment of this Act” and inserting in lieu
 23 thereof “appointment date of the judge named to fill the
 24 temporary judgeship position”.

1 **SEC. 308. CONTRIBUTION RATE FOR SENIOR JUDGES**
2 **UNDER THE JUDICIAL SURVIVORS' ANNU-**
3 **ITIES SYSTEM.**

4 Section 376(b)(1) of title 28, United States Code, is
5 amended to read as follows:

6 “(b)(1) Every judicial official who files a written noti-
7 fication of his or her intention to come within the purview
8 of this section, in accordance with paragraph (1) of sub-
9 section (a) of this section, shall be deemed thereby to con-
10 sent and agree to having deducted and withheld from his
11 or her salary a sum equal to 2.2 percent of that salary,
12 and a sum equal to 3.5 percent of his or her retirement
13 salary. The deduction from any retirement salary—

14 “(A) of a justice or judge of the United States
15 retired from regular active service under section
16 371(b) or section 372(a) of this title,

17 “(B) of a judge of the United States Court of
18 Federal Claims retired under section 178 of this
19 title, or

20 “(C) of a judicial official on recall under section
21 155(b), 373(c)(4), 375, or 636(h) of this title,
22 shall be an amount equal to 2.2 percent of retirement sal-
23 ary.”.

1 **SEC. 309. PROHIBITION AGAINST AWARDS OF COSTS, IN-**
2 **CLUDING ATTORNEY'S FEES, AND INJUNC-**
3 **TIVE RELIEF AGAINST A JUDICIAL OFFICER.**

4 (a) NONLIABILITY FOR COSTS.—Notwithstanding
5 any other provision of law, no judicial officer shall be held
6 liable for any costs, including attorney's fees, in any action
7 brought against such officer for an act or omission taken
8 in such officer's judicial capacity, unless such action was
9 clearly in excess of such officer's jurisdiction.

10 (b) PROCEEDINGS IN VINDICATION OF CIVIL
11 RIGHTS.—Section 722(b) of the Revised Statutes (42
12 U.S.C. 1988(b)) is amended by inserting before the period
13 at the end thereof “, except that in any action brought
14 against a judicial officer for an act or omission taken in
15 such officer's judicial capacity such officer shall not be
16 held liable for any costs, including attorney's fees, unless
17 such action was clearly in excess of such officer's jurisdic-
18 tion”.

19 (c) CIVIL ACTION FOR DEPRIVATION OF RIGHTS.—
20 Section 1979 of the Revised Statutes (42 U.S.C. 1983)
21 is amended by inserting before the period at the end of
22 the first sentence: “, except that in any action brought
23 against a judicial officer for an act or omission taken in
24 such officer's judicial capacity, injunctive relief shall not
25 be granted unless a declaratory decree was violated or de-
26 claratory relief was unavailable”.

1 **TITLE IV—JUDICIAL FINANCIAL**
 2 **ADMINISTRATION**

3 **SEC. 401. INCREASE IN CIVIL ACTION FILING FEE.**

4 (a) FILING FEE INCREASE.—Section 1914(a) of title
 5 28, United States Code, is amended by striking out
 6 “\$120” and inserting in lieu thereof “\$150”.

7 (b) DISPOSITION OF INCREASE.—Section 1931 of
 8 title 28, United States Code, is amended—

9 (1) in subsection (a) by striking out “\$60” and
 10 inserting in lieu thereof “\$90”; and

11 (2) in subsection (b)—

12 (A) by striking out “\$120” and inserting
 13 in lieu thereof “\$150”; and

14 (B) by striking out “\$60” and inserting in
 15 lieu thereof “\$90”.

16 (c) EFFECTIVE DATE.—This section shall take effect
 17 60 days after the date of the enactment of this Act.

18 **SEC. 402. INTERPRETER PERFORMANCE EXAMINATION**
 19 **FEEES.**

20 (a) IN GENERAL.—Section 1827(g) of title 28, Unit-
 21 ed States Code, is amended by redesignating paragraph
 22 (5) as paragraph (6) and inserting after paragraph (4)
 23 the following new paragraph:

24 “(5) If the Director of the Administrative Office of
 25 the United States Courts finds it necessary to develop and

1 administer criterion-referenced performance examinations
2 for purposes of certification, or other examinations for the
3 selection of otherwise qualified interpreters, the Director
4 may prescribe for each examination a uniform fee for ap-
5 plicants to take such examination. In determining the rate
6 of the fee for each examination, the Director shall consider
7 the fees charged by other organizations for examinations
8 that are similar in scope or nature. Notwithstanding sec-
9 tion 3302(b) of title 31, the Director is authorized to pro-
10 vide in any contract or agreement for the development or
11 administration of examinations and the collection of fees
12 that the contractor may retain all or a portion of the fees
13 in payment for the services. Notwithstanding paragraph
14 (6) of this subsection, all fees collected after the effective
15 date of this paragraph and not retained by a contractor
16 shall be deposited in the fund established under section
17 1931 of this title and shall remain available until ex-
18 pended.”.

19 (b) PAYMENT FOR CONTRACTUAL SERVICES.—Not-
20 withstanding sections 3302(b), 1341, and 1517 of title 31,
21 United States Code, the Director of the Administrative Of-
22 fice of the United States Courts may include in any con-
23 tract for the development or administration of examina-
24 tions for interpreters (including such a contract entered
25 into before the date of the enactment of this Act) a provi-

1 sion which permits the contractor to collect and retain fees
 2 in payment for contractual services in accordance with sec-
 3 tion 1827(g)(5) of title 28, United States Code.

4 **SEC. 403. JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.**

5 (a) IN GENERAL.—(1) Chapter 123 of title 28, Unit-
 6 ed States Code, is amended by adding after section 1931
 7 the following new section:

8 **“§ 1932. Judicial Panel on Multidistrict Litigation**

9 “The Judicial Conference of the United States shall
 10 prescribe from time to time the fees and costs to be
 11 charged and collected by the Judicial Panel on Multidis-
 12 trict Litigation.”.

13 (2) The table of sections for chapter 123 of title 28,
 14 United States Code, is amended by adding after the item
 15 relating to section 1931 the following:

“1932. Judicial Panel on Multidistrict Litigation.”.

16 (b) RELATED FEES FOR ACCESS TO INFORMA-
 17 TION.—Section 303(a) of the Judiciary Appropriations
 18 Act, 1992 (Public Law 102–140; 105 Stat. 810; 28 U.S.C.
 19 1913 note) is amended in the first sentence by striking
 20 out “1926, and 1930” and inserting in lieu thereof “1926,
 21 1930, and 1932”.

22 **SEC. 404. DISPOSITION OF FEES.**

23 (a) DISPOSITION OF ATTORNEY ADMISSION FEES.—
 24 For each fee collected for admission of an attorney to
 25 practice, as prescribed by the Judicial Conference of the

1 United States pursuant to section 1914 of title 28, United
2 States Code, \$30 of that portion of the fee exceeding \$20
3 shall be deposited into the special fund of the Treasury
4 established under section 1931 of title 28, United States
5 Code. Any portion exceeding \$5 of the fee for a duplicate
6 certificate of admission or certificate of good standing, as
7 prescribed by the Judicial Conference of the United States
8 pursuant to section 1914 of title 28, United States Code,
9 shall be deposited into the special fund of the Treasury
10 established under section 1931 of title 28, United States
11 Code.

12 (b) DISPOSITION OF BANKRUPTCY COMPLAINT FIL-
13 ING FEES.—For each fee collected for filing an adversary
14 complaint in a bankruptcy proceeding, as established in
15 Item 6 of the Bankruptcy Court Miscellaneous Fee Sched-
16 ule prescribed by the Judicial Conference of the United
17 States pursuant to section 1930(b) of title 28, United
18 States Code, the portion of the fee exceeding \$120 shall
19 be deposited into the special fund of the Treasury estab-
20 lished under section 1931 of title 28, United States Code.

21 (c) EFFECTIVE DATE.—This section shall take effect
22 60 days after the date of the enactment of this Act.

1 **TITLE V—FEDERAL COURTS**
 2 **STUDY COMMITTEE REC-**
 3 **COMMENDATIONS**

4 **SEC. 501. QUALIFICATION OF CHIEF JUDGE OF COURT OF**
 5 **INTERNATIONAL TRADE.**

6 (a) IN GENERAL.—Chapter 11 of title 28, United
 7 States Code, is amended by adding at the end thereof the
 8 following new section:

9 **“§ 258. Chief judges; precedence of judges**

10 “(a)(1) The chief judge of the Court of International
 11 Trade shall be the judge of the court in regular active
 12 service who is senior in commission of those judges who—

13 “(A) are 64 years of age or under;

14 “(B) have served for 1 year or more as a judge
 15 of the court; and

16 “(C) have not served previously as chief judge.

17 “(2)(A) In any case in which no judge of the court
 18 meets the qualifications under paragraph (1), the young-
 19 est judge in regular active service who is 65 years of age
 20 or over and who has served as a judge of the court for
 21 1 year or more shall act as the chief judge.

22 “(B) In any case under subparagraph (A) in which
 23 there is no judge of the court in regular active service who
 24 has served as a judge of the court for 1 year or more,
 25 the judge of the court in regular active service who is sen-

ior in commission and who has not served previously as
chief judge shall act as the chief judge.

“(3)(A) Except as provided under subparagraph (C),
the chief judge serving under paragraph (1) shall serve
for a term of 7 years and shall serve after expiration of
such term until another judge is eligible under paragraph
(1) to serve as chief judge.

“(B) Except as provided under subparagraph (C), a
judge of the court acting as chief judge under subpara-
graph (A) or (B) of paragraph (2) shall serve until a judge
meets the qualifications under paragraph (1).

“(C) No judge of the court may serve or act as chief
judge of the court after attaining the age of 70 years un-
less no other judge is qualified to serve as chief judge
under paragraph (1) or is qualified to act as chief judge
under paragraph (2).

“(b) The chief judge shall have precedence and pre-
side at any session of the court which such judge attends.
Other judges of the court shall have precedence and pre-
side according to the seniority of their commissions.
Judges whose commissions bear the same date shall have
precedence according to seniority in age.

“(c) If the chief judge desires to be relieved of the
duties as chief judge while retaining active status as a
judge of the court, the chief judge may so certify to the

1 Chief Justice of the United States, and thereafter the
 2 chief judge of the court shall be such other judge of the
 3 court who is qualified to serve or act as chief judge under
 4 subsection (a).

5 “(d) If a chief judge is temporarily unable to perform
 6 the duties as such, such duties shall be performed by the
 7 judge of the court in active service, able and qualified to
 8 act, who is next in precedence.”.

9 (b) TECHNICAL AND CONFORMING AMENDMENTS.—
 10 Chapter 11 of title 28, United States Code, is amended—

11 (1) in section 251 by striking out subsection (b)
 12 and redesignating subsection (c) as subsection (b);

13 (2) in section 253—

14 (A) by amending the section heading to
 15 read as follows:

16 “§ 253. Duties of chief judge.”;

17 and

18 (B) by striking out subsections (d) and (e);

19 and

20 (3) in the table of sections for chapter 11 of
 21 title 28, United States Code—

22 (A) by amending the item relating to sec-
 23 tion 253 to read as follows:

“253. Duties of chief judge.”;

24 and

1 (B) by adding at the end thereof the fol-
2 lowing:

“258. Chief judges; precedence of judges.”.

3 (c) APPLICATION.—(1) Notwithstanding the provi-
4 sions of section 258(a) of title 28, United States Code (as
5 added by subsection (a) of this section), the chief judge
6 of the United States Court of International Trade who is
7 in office on the day before the date of enactment of this
8 Act shall continue to be such chief judge on or after such
9 date until any one of the following events occurs:

10 (A) The chief judge is relieved of his duties
11 under section 258(c) of title 28, United States Code.

12 (B) The regular active status of the chief judge
13 is terminated.

14 (C) The chief judge attains the age of 70 years.

15 (D) The chief judge has served for a term of 7
16 years as chief judge.

17 (2) When the chief judge vacates the position of chief
18 judge under paragraph (1), the position of chief judge of
19 the Court of International Trade shall be filled in accord-
20 ance with section 258(a) of title 28, United States Code.

1 **TITLE VI—MISCELLANEOUS**

2 **SEC. 601. PARTICIPATION IN JUDICIAL GOVERNANCE AC-**
3 **TIVITIES BY DISTRICT, SENIOR, AND MAG-**
4 **ISTRATE JUDGES.**

5 (a) JUDICIAL CONFERENCE OF THE UNITED
6 STATES.—Section 331 of title 28, United States Code, is
7 amended by striking out the second undesignated para-
8 graph and inserting in lieu thereof the following:

9 “The district judge to be summoned from each judi-
10 cial circuit shall be chosen by the circuit and district
11 judges of the circuit and shall serve as a member of the
12 Judicial Conference of the United States for a term of
13 not less than 3 successive years nor more than 5 succes-
14 sive years, as established by majority vote of all circuit
15 and district judges of the circuit. A district judge serving
16 as a member of the Judicial Conference may be either a
17 judge in regular active service or a judge retired from reg-
18 ular active service under section 371(b) of this title.”.

19 (b) BOARD OF THE FEDERAL JUDICIAL CENTER.—
20 Section 621 of title 28, United States Code, is amended—

21 (1) in subsection (a) by striking out paragraph
22 (2) and inserting in lieu thereof the following:

23 “(2) two circuit judges, three district judges,
24 one bankruptcy judge, and one magistrate judge,
25 elected by vote of the members of the Judicial Con-

1 ference of the United States, except that any circuit
 2 or district judge so elected may be either a judge in
 3 regular active service or a judge retired from regular
 4 active service under section 371(b) of this title but
 5 shall not be a member of the Judicial Conference of
 6 the United States; and”; and

7 (2) in subsection (b) by striking out “retire-
 8 ment,” and inserting in lieu thereof “retirement pur-
 9 suant to section 371(a) or section 372(a) of this
 10 title,”.

11 **SEC. 602. THE DIRECTOR AND DEPUTY DIRECTOR OF THE**
 12 **ADMINISTRATIVE OFFICE AS OFFICERS OF**
 13 **THE UNITED STATES.**

14 Section 601 of title 28, United States Code, is
 15 amended by adding at the end thereof the following: “The
 16 Director and Deputy Director shall be deemed to be offi-
 17 cers for purposes of title 5, United States Code.”.

18 **SEC. 603. REMOVAL OF ACTION FROM STATE COURT.**

19 Section 1446(c)(1) of title 28, United States Code,
 20 is amended by striking out “petitioner” and inserting in
 21 lieu thereof “defendant or defendants”.

22 **SEC. 604. FEDERAL JUDICIAL CENTER EMPLOYEE RETIRE-**
 23 **MENT PROVISIONS.**

24 Section 627(b) of title 28, United States Code, is
 25 amended—

1 (1) in the first sentence by inserting “Deputy
2 Director,” before “the professional staff”; and

3 (2) in the first sentence by inserting “chapter
4 84 (relating to the Federal Employees’ Retirement
5 System),” after “(relating to civil service retire-
6 ment),”.

7 **SEC. 605. ABOLITION OF THE SPECIAL COURT, REGIONAL**
8 **RAIL REORGANIZATION ACT OF 1973.**

9 (a) ABOLITION OF THE SPECIAL COURT.—Section
10 209 of the Regional Rail Reorganization Act of 1973 (45
11 U.S.C. 719) is amended in subsection (b)—

12 (1) by inserting “(1)” before “Within 30 days
13 after”; and

14 (2) by adding at the end thereof the following
15 new paragraph:

16 “(2) The special court referred to in paragraph (1)
17 of this subsection is abolished effective 90 days after the
18 date of enactment of the Federal Courts Improvement Act
19 of 1996. On such effective date, all jurisdiction and other
20 functions of the special court shall be assumed by the
21 United States District Court for the District of Columbia.
22 With respect to any proceedings that arise or continue
23 after the date on which the special court is abolished, the
24 references in the following provisions to the special court
25 established under this subsection shall be deemed to refer

1 to the United States District Court for the District of Co-
 2 lumbia:

3 “(A) Subsections (c), (e)(1), (e)(2), (f) and (g)
 4 of this section.

5 “(B) Sections 202 (d)(3), (g), 207 (a)(1),
 6 (b)(1), (b)(2), 208(d)(2), 301 (e)(2), (g), (k)(3),
 7 (k)(15), 303 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1),
 8 (c)(2), (c)(3), (c)(4), (c)(5), 304 (a)(1)(B), (i)(3),
 9 305 (c), (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8),
 10 (e), (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 306
 11 (a), (b), (c)(4), and 601 (b)(3), (c) of this Act (45
 12 U.S.C. 712 (d)(3), (g), 717 (a)(1), (b)(1), (b)(2),
 13 718(d)(2), 741 (e)(2), (g), (k)(3), (k)(15), 743
 14 (a)(1), (a)(2), (b)(1), (b)(6)(A), (c)(1), (c)(2),
 15 (c)(3), (c)(4), (c)(5), 744 (a)(1)(B), (i)(3), 745 (c),
 16 (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(8), (e),
 17 (f)(1), (f)(2)(B), (f)(2)(D), (f)(2)(E), (f)(3), 746 (a),
 18 (b), (c)(4), 791 (b)(3), (c)).

19 “(C) Sections 1152(a) and 1167(b) of the
 20 Northeast Rail Service Act of 1981 (45 U.S.C.
 21 1105(a), 1115(a)).

22 “(D) Sections 4023 (2)(A)(iii), (2)(B), (2)(C),
 23 (3)(C), (3)(E), (4)(A) and 4025(b) of the Conrail
 24 Privatization Act (45 U.S.C. 1323 (2)(A)(iii),
 25 (2)(B), (2)(C), (3)(C), (3)(E), (4)(A), 1324(b)).

1 “(E) Section 24907(b) of title 49, United
2 States Code.

3 “(F) Any other Federal law (other than this
4 subsection and section 605 of the Federal Courts
5 Improvement Act of 1996), Executive order, rule,
6 regulation, delegation of authority, or document of
7 or relating to the special court as previously estab-
8 lished under paragraph (1) of this subsection.”.

9 (b) APPELLATE REVIEW.—(1) Section 209(e) of the
10 Regional Rail Reorganization Act of 1973 (45 U.S.C. 719)
11 is amended by striking out the paragraph following para-
12 graph (2) and inserting in lieu thereof the following:

13 “(3) An order or judgment of the United States Dis-
14 trict Court for the District of Columbia in any action re-
15 ferred to in this section shall be reviewable in accordance
16 with sections 1291, 1292, and 1294 of title 28, United
17 States Code.”.

18 (2) Section 303 of the Regional Rail Reorganization
19 Act of 1973 (45 U.S.C. 743) is amended by striking out
20 subsection (d) and inserting in lieu thereof the following:

21 “(d) APPEAL.—An order or judgment entered by the
22 United States District Court for the District of Columbia
23 pursuant to subsection (c) of this section or section 306
24 shall be reviewable in accordance with sections 1291,
25 1292, and 1294 of title 28, United States Code.”.

1 (3) Section 1152 of the Northeast Rail Service Act
 2 of 1981 (45 U.S.C. 1105) is amended by striking out sub-
 3 section (b) and inserting in lieu thereof the following:

4 “(b) APPEAL.—An order or judgment of the United
 5 States District Court for the District of Columbia in any
 6 action referred to in this section shall be reviewable in ac-
 7 cordance with sections 1291, 1292, and 1294 of title 28,
 8 United States Code.”.

9 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
 10 (1) Section 209 of the Regional Rail Reorganization Act
 11 of 1973 (45 U.S.C. 719) is further amended—

12 (A) in subsection (g) by inserting “or Court of
 13 Appeals for the District of Columbia Circuit” after
 14 “Supreme Court”; and

15 (B) by striking out subsection (h).

16 (2) Section 305(d)(4) of the Regional Rail Reorga-
 17 nization Act of 1973 (45 U.S.C. 745(d)) is amended by
 18 striking out “a judge of the United States district court
 19 with respect to such proceedings and such powers shall
 20 include those of”.

21 (3) Section 1135(a)(8) of the Northeast Rail Service
 22 Act of 1981 (45 U.S.C. 1104(8)) is amended to read as
 23 follows:

24 “(8) ‘Special court’ means the judicial panel estab-
 25 lished under section 209(b)(1) of the Regional Rail Reor-

1 ganization Act of 1973 (45 U.S.C. 719(b)(1)) or, with re-
 2 spect to any proceedings that arise or continue after the
 3 panel is abolished pursuant to section 209(b)(2) of such
 4 Act, the United States District Court for the District of
 5 Columbia.”.

6 (4) Section 1152 of the Northeast Rail Service Act
 7 of 1981 (45 U.S.C. 1105) is further amended by striking
 8 out subsection (d).

9 (d) PENDING CASES.—Effective 90 days after the
 10 date of enactment of this Act, any case pending in the
 11 special court established under section 209(b) of the Re-
 12 gional Rail Reorganization Act of 1973 (45 U.S.C.
 13 719(b)) shall be assigned to the United States District
 14 Court for the District of Columbia as though the case had
 15 originally been filed in that court. The amendments made
 16 by subsection (b) of this section shall not apply to any
 17 final order or judgment entered by the special court for
 18 which—

19 (1) a petition for writ of certiorari has been
 20 filed before the date on which the special court is
 21 abolished; or

22 (2) the time for filing a petition for writ of cer-
 23 tiorari has not expired before that date.

24 (e) EFFECTIVE DATE.—The amendments made by
 25 subsections (b) and (c) of this section shall take effect 90

1 days after the date of enactment of this Act and, except
 2 as provided in subsection (d), shall apply with respect to
 3 proceedings that arise or continue after such effective
 4 date.

5 **SEC. 606. PLACE OF HOLDING COURT IN THE DISTRICT**
 6 **COURT OF UTAH.**

7 (a) NORTHERN DIVISION.—Section 125(1) of title
 8 28, United States Code, is amended by inserting “Salt
 9 Lake City and” before “Ogden”.

10 (b) CENTRAL DIVISION.—Section 125(2) of title 28,
 11 United States Code, is amended by inserting “, Provo, and
 12 St. George” after “Salt Lake City”.

13 **SEC. 607. EXCEPTION OF RESIDENCY REQUIREMENT FOR**
 14 **DISTRICT JUDGES APPOINTED TO THE**
 15 **SOUTHERN DISTRICT AND EASTERN DIS-**
 16 **TRICT OF NEW YORK.**

17 Section 134(b) of title 28, United States Code, is
 18 amended—

19 (1) by inserting “the Southern District of New
 20 York, and the Eastern District of New York,” after
 21 “the District of Columbia,”; and

22 (2) by inserting at the end the following: “Each
 23 district judge of the Southern District of New York
 24 and the Eastern District of New York may reside

1 within 20 miles of the district to which he or she is
 2 appointed.”.

3 **SEC. 608. EXTENSION OF CIVIL JUSTICE EXPENSE AND**
 4 **DELAY REDUCTION REPORTS ON DEM-**
 5 **ONSTRATION AND PILOT PROGRAMS.**

6 (a) DEMONSTRATION PROGRAM.—Section 104(d) of
 7 the Civil Justice Reform Act of 1990 (28 U.S.C. 471 note)
 8 is amended by striking out “December 31, 1996,” and in-
 9 serting in lieu thereof “June 30, 1997,”.

10 (b) PILOT PROGRAM.—Section 105(c)(1) of the Civil
 11 Justice Reform Act of 1990 (28 U.S.C. 471 note) is
 12 amended by striking out “December 31, 1996,” and in-
 13 serting in lieu thereof “June 30, 1997,”.

14 **SEC. 609. PLACE OF HOLDING COURT IN THE SOUTHERN**
 15 **DISTRICT OF NEW YORK.**

16 The last sentence of section 112(b) of title 28, United
 17 States Code, is amended to read as follows:

18 “Court for the Southern District shall be held at
 19 New York, White Plains, and in the Middletown-
 20 Wallkill area of Orange County or such nearby loca-
 21 tion as may be deemed appropriate.”.

22 **SEC. 610. VENUE FOR TERRITORIAL COURTS.**

23 (a) CHANGE OF VENUE.—Section 1404(d) of title 28,
 24 United States Code, is amended to read as follows:

1 “(d) As used in this section, the term ‘district court’
 2 includes the District Court of Guam, the District Court
 3 for the Northern Mariana Islands, and the District Court
 4 of the Virgin Islands, and the term ‘district’ includes the
 5 territorial jurisdiction of each such court.”.

6 (b) CURE OR WAIVER OF DEFECTS.—Section
 7 1406(c) of title 28, United States Code, is amended to
 8 read as follows:

9 “(c) As used in this section, the term ‘district court’
 10 includes the District Court of Guam, the District Court
 11 for the Northern Mariana Islands, and the District Court
 12 of the Virgin Islands, and the term ‘district’ includes the
 13 territorial jurisdiction of each such court.”.

14 (c) APPLICABILITY.—The amendments made by this
 15 section apply to cases pending on the date of the enact-
 16 ment of this Act and to cases commenced on or after such
 17 date.

Passed the Senate October 3, 1996.

Attest:

Secretary.

104TH CONGRESS
2D Session

S. 1887

AN ACT

To make improvements in the operation and administration of the Federal courts, and for other purposes.