

Public Law 102-572
102d Congress

An Act

Oct. 29, 1992
[S. 1569]

To implement the recommendations of the Federal Courts Study Committee, and for other purposes.

Federal
Courts
Administration
Act of 1992.
28 USC 1
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Courts Administration Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d)."

SEC. 102. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) **APPEALS UNDER ECONOMIC STABILIZATION ACT.**—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking subsections (b) through (h) and inserting the following:

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title shall be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code."

(b) **JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.**—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking "Temporary Emergency Court of Appeals" each place it appears and inserting "United States Court of Appeals for the Federal Circuit".

12 USC 1904
note.

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

- (1) by striking “and” at the end of paragraph (9);
- (2) by striking the period at the end of paragraph (10) and inserting a semicolon; and
- (3) by adding at the end the following new paragraphs:
“(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;
“(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;
“(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and
“(14) of an appeal under section 523 of the Energy Policy and Conservation Act.”.

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished, effective 6 months after the date of the enactment of this Act.

Effective date.
28 USC 1295
note.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described in subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

28 USC 1295
note.

(2) Any case which, before the effective date of abolition described in subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 103. JURISDICTION OF MAGISTRATE JUDGES TO MODIFY OR REVOKE PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking “and to revoke or reinstate the probation of any person granted probation by him.” and inserting “and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge.”; and

(2) by adding at the end the following new subsections:

“(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

“(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.”.

SEC. 104. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

“(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.”.

TITLE II—JUDICIAL SURVIVORS’ ANNUITIES IMPROVEMENTS

Retirement.

SEC. 201. JUDICIAL SURVIVORS’ ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376(a)(1) of title 28, United States Code, is amended in the matter following subparagraph (G)—

(1) by striking “or” at the end of clause (v); and

(2) by inserting before the semicolon at the end of clause (vi) “; or (vii) the date of the enactment of the Federal Courts Administration Act of 1992”.

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(b)”;

(2) in the first sentence by striking “including any ‘retirement salary’, a sum equal to 5 percent of that salary.” and inserting “a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

“(A) of a justice or judge of the United States retired from regular active service who is described in section 371(b)(1) of this title,

“(B) of a justice or judge of the United States retired under section 372(a) of this title who is willing and able to perform judicial duties in accordance with section 294 of this title,

“(C) of a judge of the United States Court of Federal Claims retired under section 178 (a) or (b) of this title who meets the requirements of section 178(d) of this title, or

“(D) of a judicial official on recall under section 155(b), 797, 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.”; (3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

“(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within 90 days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred retirement salary which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section.”; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "so deducted and withheld from the salary of each such judicial official" and inserting "deducted and withheld from the salary of each judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "5 percent" and inserting "3.5 percent"; and

(2) in paragraph (2) by striking "5 percent" and inserting "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 2.2 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section, a 'reasonable period of time' shall be presumed to be no longer than 1 year following the date upon which such judicial official relinquishes his or her office."

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking "or while receiving retirement salary," and inserting "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period and inserting "and"; and

(3) by adding at the end the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her retirement salary in accordance with subsection (b) (1) or (2) of this section."

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "(i) during those three years of such service in which his or her annual salary" and inserting "(i) during those three years of such service, or during those three years while receiving a retirement salary, in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) **TERMINATION.**—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

“(v) Subject to the terms of a decree, court order, or agreement described in subsection (t)(1), if any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.”

(i) **ADJUSTMENT OF CONTRIBUTION RATE.**—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

“(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors’ Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.”

(j) **CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.**—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this section), of any judicial official who is within the purview of such section 376 on the effective date of this title shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors’ Annuities Fund or for 18 months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term “years” shall mean full years and twelfth parts thereof.

(k) **REDEPOSIT OF PRIOR CONTRIBUTIONS.**—Any judicial official as defined in section 376(a)(1) of title 28, United States Code, who makes an election under section 376(b) of title 28, United States Code, may make a redeposit, as required by section 7 of Public Law 94-554 and section 2(c)(2) of Public Law 99-336, to the credit of the Judicial Survivors’ Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last 18 months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

Reports.

28 USC 376
note.

28 USC 376
note.

(1) AUDIT BY GAO.—The Comptroller General shall—28 USC 376
note.

(1) conduct an audit of the judicial survivors annuities program under section 376 of title 28, United States Code, for the 3-year period beginning on the date of the enactment of this Act; and

(2) report to the Congress, not later than 60 days after the end of that 3-year period, on the results of such audit, comparing such program to other survivors annuities programs within the Federal Government.

Reports.

SEC. 202. EFFECTIVE DATE.28 USC 376
note.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) ACTIONS COMMENCED BY THE UNITED STATES.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting “(1)” after “(a)”; and

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

“(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.”

(b) DISPOSITION OF FILING FEES.—Section 1931 of title 28, United States Code, is amended by striking “The following” and all that follows through the end and inserting the following:

“(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, \$60 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

“(b) If the court authorizes a fee under section 1914(a) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than \$120, the entire fee or amount, up to \$60, shall be deposited into the special fund provided in this section.”

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end the following: “The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.”

Massachusetts.

SEC. 402. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves."

SEC. 403. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) **AUTHORITY TO USE ONE-STEP PROCEDURE.**—Section 1878 of title 28, United States Code, is amended to read as follows:

"§ 1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section."

(b) **CONFORMING AMENDMENT.**—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure."

(c) **SAVINGS PROVISION.**—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking " , with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

(a) **ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.**—After January 1, 1992, the Director of the Administrative Office of the United States Courts is not required to send a report under section 1121(a) of Public Law 95-630 (12 U.S.C. 3421(a)).

(b) **TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.**—Section 2412(d)(5) of title 28, United States Code, is amended by striking "The Director" and all that follows through "this title," and inserting "The Attorney General shall report annually to the Congress on".

Effective date.
28 USC 1878
note.

12 USC 3421
note.

(c) **EXTENSION FOR JUDICIAL CENTER REPORT.**—Section 302(c) of the Judicial Improvements Act of 1990 (Public Law 101-650; 104 Stat. 5104) is amended by striking “2 years” and inserting “2 years and 9 months”.

28 USC 620
note.

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

“(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

“(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.”.

SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period “, if there is no district in which the action may otherwise be brought”.

SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking “the reports” and inserting “summaries of the reports”.

28 USC 471
note.

SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) **IN GENERAL.**—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon “and the United States Court of Veterans Appeals”.

(b) **APPLICATION TO PENDING CASES.**—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit.

28 USC 2412
note.

(c) **FEE AGREEMENTS.**—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee.

28 USC 2412
note.

(d) **EFFECTIVE DATE.**—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act.

28 USC 2412
note.

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after “Judicial survivors’ annuities fund (10-8110-0-7-602);” the following:

“Judicial Officers’ Retirement Fund (10-8122-0-7-602);

“Court of Federal Claims Judges’ Retirement Fund (10-8124-0-7-602);”.

(b) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after “Payment to civil service retirement and disability fund (24-0200-0-1-805);” the following:

“Payment to Judiciary Trust Funds (10-0941-0-1-752);”.

SEC. 602. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking “and” at the end;

(2) in paragraph (5) by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.”.

(b) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking “competitive service and” and inserting “competitive service without regard to”.

TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

SEC. 701. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

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

(1) in paragraph (7) by striking “and” at the end;

(2) by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

“(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report

Reports.

such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; and".

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

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee."

SEC. 702. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

Contracts.
18 USC 3006A
note.

The Administrator of General Services, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 703. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking "paragraph (b)(2)(D)" and inserting "subparagraph (B)(iv) of this paragraph".

TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

The text of section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title \$20,000,000 for fiscal year 1993, \$20,000,000 for fiscal year 1994, \$25,000,000 for fiscal year 1995, and \$25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended."

SEC. 802. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(b)) is amended—

(1) in paragraph (1)—

(A) by striking “shall give priority to grants, cooperative agreements, or contracts” and inserting “may award grants to or enter into cooperative agreements or contracts”; and

(B) in subparagraph (A) by striking the comma and inserting a semicolon;

(2) in paragraph (2) by inserting “to” after “award grants”; (3) by striking paragraph (3) and inserting the following:

“(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.”;

(4) by redesignating paragraph (4) as paragraph (5); and

(5) by inserting after paragraph (3) the following new paragraph:

“(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this title.”.

SEC. 803. TECHNICAL AMENDMENTS.

(a) BOARD OF DIRECTORS.—Section 204(a)(3) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(a)(3)) is amended in the second sentence by striking “conference” and inserting “Conference”.

(b) USES OF FUNDS.—Section 206(c)(7) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)(7)) is amended by striking “effect” and inserting “affect”.

42 USC 10703
note.

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of the enactment of this Act.

Court of Federal
Claims
Technical
and Procedural
Improvements
Act of 1992.
28 USC 1
note.

TITLE IX—COURT OF FEDERAL CLAIMS

SEC. 901. SHORT TITLE.

This title may be cited as the “Court of Federal Claims Technical and Procedural Improvements Act of 1992”.

SEC. 902. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, are amended—

(1) by striking “United States Claims Court” each place it appears and inserting “United States Court of Federal Claims”; and

(2) by striking “Claims Court” each place it appears and inserting “Court of Federal Claims”.

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document to—

(1) the “United States Claims Court” shall be deemed to refer to the “United States Court of Federal Claims”; and

(2) the “Claims Court” shall be deemed to refer to the “Court of Federal Claims”.

28 USC 171
note.

SEC. 903. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

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

“§ 180. Military retirement pay for retired judges

“Section 371(e) of this title applies to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined in section 451 of this title.”.

(b) **TABLE OF SECTIONS.**—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end the following:

“179. Insurance and annuities programs.

“180. Military retirement pay for retired judges.”.

SEC. 904. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) **IN GENERAL.**—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking “, a judge of the Claims Court,” and “, judge of the Claims Court,”;

(2) by amending paragraph (2) of subsection (a) to read as follows:

“(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.”;

(3) by amending paragraph (3) of subsection (a) to read as follows:

“(3) For purposes of this section, the term ‘bankruptcy judge’ means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984.”; and

(4) in subsection (f)—

(A) by striking “, a judge of the Claims Court,”; and

(B) by striking “, a commissioner of the Court of Claims,”.

(b) **RECALL OF RETIRED JUDGES.**—Section 797(d) of title 28, United States Code, is amended in the second sentence by striking “civil service”.

SEC. 905. LAW CLERKS.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after “may approve” the following: “for district judges”.

SEC. 906. SITES FOR HOLDING COURT.

(a) **IN GENERAL.**—Section 798(a) of title 28, United States Code, is amended to read as follows:

“(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services

Administration, shall be made available for trials and other proceedings outside of the District of Columbia.”

(b) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b) Upon application of a party or upon the judge’s own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.”

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United States Code, is amended by inserting after “When” the following: “the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when”.

SEC. 907. JURISDICTION.

(a) CERTIFICATIONS.—(1) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(A) in paragraph (1) in the second sentence—

(i) by striking “and” after “belief,”; and

(ii) by inserting before the period at the end of the sentence the following: “, and that the certifier is duly authorized to certify the claim on behalf of the contractor”; and

(B) by adding at the end the following:

“(6) The contracting officer shall have no obligation to render a final decision on any claim of more than \$50,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim shall not deprive a court or an agency board of contract appeals of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency board of contract appeals, the court or agency board shall require a defective certification to be corrected.

“(7) The certification required by paragraph (1) may be executed by any person duly authorized to bind the contractor with respect to the claim.”

(2) The amendment made by paragraph (1)(B) shall be effective with respect to all claims filed before, on, or after the date of the enactment of this Act, except for those claims which, before such date of enactment, have been the subject of an appeal to an agency board of contract appeals or a suit in the United States Claims Court.

(3) If any interest is due under section 12 of the Contract Disputes Act of 1978 on a claim for which the certification under section 6(c)(1) is, on or after the date of the enactment of this Act, found to be defective shall be paid from the later of the date on which the contracting officer initially received the claim or the date of the enactment of this Act.

41 USC 605
note.

41 USC 611
note.

(4) The amendments made by paragraph (1)(A) shall be effective with respect to certifications executed more than 60 days after the effective date of amendments to the Federal Acquisition Regulation implementing the amendments made by paragraph (1)(A) with respect to the certification of claims.

Effective date.
41 USC 605
note.

(b) JURISDICTION OF COURT OF FEDERAL CLAIMS.—(1) Section 1491(a)(2) of title 28, United States Code, is amended in the last sentence by inserting before the period at the end the following: “, including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act”.

(2) The amendment made by paragraph (1) shall be effective with respect to all actions filed before, on, or after the date of the enactment of this Act, except for those actions which, before such date of enactment, have been the subject of—

Effective date.
28 USC 1491
note.

(A) a final judgment of the United States Claims Court, if the time for appeal of that judgment has expired without an appeal having been filed, or

(B) a final judgment of the Court of Appeals for the Federal Circuit.

SEC. 908. AWARDABLE COSTS.

(a) AWARD OF COSTS.—Section 1919 of title 28, United States Code, is amended—

(1) by striking “district court or” and inserting “district court,”; and

(2) by inserting after “Trade” the following: “, or the Court of Federal Claims”.

(b) TECHNICAL AMENDMENTS.—(1) The section caption for section 1919 of title 28, United States Code, is amended to read as follows:

“§ 1919. Dismissal for lack of jurisdiction”.

(2) The item relating to section 1919 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

“1919. Dismissal for lack of jurisdiction.”.

SEC. 909. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end the following:

“(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.”.

SEC. 910. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended—

(1) by amending the section caption to read as follows:

“§ 2521. Subpoenas and incidental powers”;

(2) by inserting “(a)” before “Subpoenas requiring”; and

(3) by adding at the end the following new subsections:

“(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district."

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers."

28 USC 171
note.

SEC. 911. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation."; and

(2) by striking subsection (d) and inserting the following:

"(d) The Fund shall be available as follows:

"(1) The first \$6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first \$3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next \$100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next \$5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next \$4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

“(B) 47.5 percent shall be available for grants under section 1404(a).

“(C) 5 percent shall be available for grants under section 1404(c).”.

SEC. 1002. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period “; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title”.

SEC. 1003. TERRORISM CIVIL REMEDY.

(a) **TERRORISM.**—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

“§ 2332. Criminal penalties”;

(3) by inserting before section 2332 as redesignated the following:

“§ 2331. Definitions

“As used in this chapter—

“(1) the term ‘international terrorism’ means activities that—

“(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

“(B) appear to be intended—

“(i) to intimidate or coerce a civilian population;

“(ii) to influence the policy of a government by intimidation or coercion; or

“(iii) to affect the conduct of a government by assassination or kidnapping; and

“(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

“(2) the term ‘national of the United States’ has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

“(3) the term ‘person’ means any individual or entity capable of holding a legal or beneficial interest in property; and

“(4) the term ‘act of war’ means any act occurring in the course of—

“(A) declared war;

“(B) armed conflict, whether or not war has been declared, between two or more nations; or

“(C) armed conflict between military forces of any origin.”;

(4) by adding after section 2332, as redesignated by paragraph (2) of this subsection, the following new sections:

“§ 2333. Civil remedies

“(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney’s fees.

“(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

“(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

“§ 2334. Jurisdiction and venue

“(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

“(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

“(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

“(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

“(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

“(2) that foreign court is significantly more convenient and appropriate; and

“(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

“§ 2335. Limitation of actions

“(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

“(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

“§ 2336. Other limitations

“(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

“(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

“(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

“(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

“§ 2337. Suits against Government officials

“No action shall be maintained under section 2333 of this title against—

“(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.

"2331. Definitions.

"2332. Criminal penalties.

"2333. Civil remedies.

"2334. Jurisdiction and venue.

"2335. Limitation of actions.

"2336. Other limitations.

"2337. Suits against Government officials.

"2338. Exclusive Federal jurisdiction."

(b) **TABLE OF CONTENTS.**—The table of contents of part 1 of title 18, United States Code, is amended by striking

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals 2331"

and inserting

"113A. Terrorism 2331".

18 USC 2331
note.

(c) **EFFECTIVE DATE.**—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

2 USC 905
note.

(a) **IN GENERAL.**—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall take effect on January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

Approved October 29, 1992.

LEGISLATIVE HISTORY—S. 1569 (H.R. 5933):

HOUSE REPORTS: No. 102-1006 accompanying H.R. 5933 (Comm. on the Judiciary).

SENATE REPORTS: No. 102-342 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 3, considered and passed Senate.

Oct. 3, H.R. 5933 considered and passed House; S. 1569, amended, passed in lieu.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 29, Presidential statement.