

Public Law 96-452  
96th Congress

An Act

Oct. 14, 1980  
[H.R. 7665]

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

Fifth Circuit  
Court  
of Appeals Reor-  
ganization Act of  
1980.  
28 USC 1 note.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Fifth Circuit Court of Appeals Reorganization Act of 1980".*

SEC. 2. Section 41 of title 28, United States Code, is amended—

(1) in the text before the table, by striking out "eleven" and inserting in lieu thereof "twelve";

(2) in the table, by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth..... District of the Canal Zone, Louisiana,  
Mississippi, Texas.;"

and

(3) at the end of the table, by adding the following new item:

"Eleventh..... Alabama, Florida, Georgia."

SEC. 3. The table in section 44(a) of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth..... 14";

and

(2) by adding at the end thereof the following new item:

"Eleventh..... 12".

SEC. 4. The table in section 48 of title 28, United States Code, is amended—

(1) by striking out the item relating to the fifth circuit and inserting in lieu thereof the following new item:

"Fifth..... New Orleans, Fort Worth, Jackson.;"

and

(2) by adding at the end thereof the following new item:

"Eleventh..... Atlanta, Jacksonville, Montgomery."

Assignments.  
28 USC 41 note.

SEC. 5. Each circuit judge in regular active service of the former fifth circuit whose official station on the day before the effective date of this Act—

(1) is in Louisiana, Mississippi, or Texas is assigned as a circuit judge of the new fifth circuit; and

(2) is in Alabama, Florida, or Georgia is assigned as a circuit judge of the eleventh circuit.

Senior judges,  
assignment  
election.  
28 USC 41 note.

SEC. 6. Each judge who is a senior judge of the former fifth circuit on the day before the effective date of this Act may elect to be assigned to the new fifth circuit or to the eleventh circuit and shall

notify the Director of the Administrative Office of the United States Courts of such election.

**SEC. 7. The seniority of each judge—**

Seniority.  
28 USC 41 note.

(1) who is assigned under section 5 of this Act; or

(2) who elects to be assigned under section 6 of this Act; shall run from the date of commission of such judge as a judge of the former fifth circuit.

**SEC. 8.** The eleventh circuit is authorized to hold terms or sessions of court at New Orleans, Louisiana, until such time as adequate facilities for such court are provided in Atlanta, Georgia.

Eleventh circuit,  
temporary site.  
28 USC 41 note.

**SEC. 9.** The provisions of the following paragraphs of this section apply to any case in which, on the day before the effective date of this Act, an appeal or other proceeding has been filed with the former fifth circuit:

Cases, applicable  
provisions.  
28 USC 41 note.

(1) If the matter has been submitted for decision, further proceedings in respect of the matter shall be had in the same manner and with the same effect as if this Act had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which it would have gone had this Act been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings in respect of the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this Act, or submitted before the effective date of this Act and decided on or after the effective date as provided in paragraph (1) of this section, shall be treated in the same manner and with the same effect as though this Act had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this Act had not been enacted.

**SEC. 10.** As used in sections 5, 6, 7, 8, and 9 of this Act, the term—

Definitions.  
28 USC 41 note.

(1) “former fifth circuit” means the fifth judicial circuit of the United States as in existence on the day before the effective date of this Act;

(2) the term “new fifth circuit” means the fifth judicial circuit of the United States established by the amendment made by section 2(2) of this Act; and

(3) the term “eleventh circuit” means the eleventh judicial circuit of the United States established by the amendment made by section 2(3) of this Act.

28 USC 41 note.

Termination.

Effective date.

28 USC 41 note.

**SEC. 11.** The court of appeals for the fifth circuit as constituted on the day before the effective date of this Act may take such administrative action as may be required to carry out this Act. Such court shall cease to exist for administrative purposes on July 1, 1984.

**SEC. 12.** This Act and the amendments made by this Act shall take effect on October 1, 1981.

Approved October 14, 1980.

#### LEGISLATIVE HISTORY:

HOUSE REPORT No. 96-1390 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Oct. 1, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 16, No. 42:

Oct. 15, Presidential statement.