

105TH CONGRESS
1ST SESSION

S. 581

To amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 15, 1997

Mr. DURBIN (for himself, and Mr. LEAHY, Mrs. FEINSTEIN, and Mr. TORRICELLI) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 49 of title 28, United States Code, to limit the periods of service that a judge or justice may serve on the division of the United States Court of Appeals for the District of Columbia to appoint independent counsels, 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. LIMITATION ON PERIODS OF SERVICE THAT A**
4 **JUDGE MAY SERVE ON THE DIVISION TO AP-**
5 **POINT INDEPENDENT COUNSELS.**

6 (a) LIMITATION ON SERVICE.—



1 (1) IN GENERAL.—Section 49 of title 28,
 2 United States Code, is amended by adding at the
 3 end the following:

4 “(g)(1) Notwithstanding subsections (a) through (f)
 5 and subject to paragraphs (2) and (3) of this subsection,
 6 no judge or justice may serve more than 2 two-year peri-
 7 ods assigned to the division to appoint independent coun-
 8 sels under this section.

9 “(2) For purposes of paragraph (1), service in filling
 10 a vacancy on the division of—

11 “(A) less than 1 year shall not apply; and

12 “(B) 1 year or more shall be considered service
 13 for the full two-year period.

14 “(3) A judge of the United States Court of Appeals
 15 for the District of Columbia who has served 2 two-year
 16 periods on the division may be assigned to serve an addi-
 17 tional two-year period, if—

18 “(A) every other judge of such Court otherwise
 19 eligible for such assignment has served 2 two-year
 20 periods in such assignment; and

21 “(B) the period of time since such judge last
 22 served in such assignment is not less than the period
 23 of time any other judge of such Court (who is other-
 24 wise eligible to serve) last served in such assign-
 25 ment.”.

1 (2) EFFECTIVE DATE.—The amendments made
 2 by this subsection shall take effect on the date of en-
 3 actment of this Act and shall apply to any judge or
 4 justice serving on such date on the division to ap-
 5 point independent counsels of the United States
 6 Court of Appeals for the District of Columbia.

7 (b) ADMINISTRATION OF DIVISION BY THE CIRCUIT
 8 JUDICIAL COUNCIL.—

9 (1) IN GENERAL.—Section 332 of title 28,
 10 United States Code (including subsection (d) of such
 11 section relating to making all necessary and appro-
 12 priate orders for the effective and expeditious ad-
 13 ministration of justice), shall apply with respect to
 14 the administration of the division of the United
 15 States Court of Appeals for the District of Columbia
 16 to appoint independent counsels by the Circuit Judi-
 17 cial Council for the District of Columbia.

18 (2) RULES.—No later than 6 months after the
 19 date of enactment of this Act, the Circuit Judicial
 20 Council for the District of Columbia shall promul-
 21 gate rules to—

22 (A) govern practice and procedures before
 23 the division to appoint independent counsels;

24 (B) govern the procedure for the appoint-
 25 ment of an independent counsel by the division;

1 (C) clarify procedures for judicial appellate
2 review of actions of the division; and

3 (D) catalog and preserve independent
4 counsel reports and make public versions avail-
5 able upon request.

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