

105TH CONGRESS
1ST SESSION

S. 678

To provide for the appointment of additional Federal circuit and district judges, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 1, 1997

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the appointment of additional Federal circuit and district judges, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Judgeship Act
5 of 1997”.

6 **SEC. 2. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF AP-**
7 **PEALS.**

8 (a) IN GENERAL.—The President shall appoint, by
9 and with the advice and consent of the Senate—

1 (1) 1 additional circuit judge for the first cir-
2 cuit court of appeals;

3 (2) 2 additional circuit judges for the second
4 circuit court of appeals;

5 (3) 1 additional circuit judge for the fifth cir-
6 cuit court of appeals;

7 (4) 2 additional circuit judges for the sixth cir-
8 cuit court of appeals; and

9 (5) 6 additional circuit judges for the ninth cir-
10 cuit court of appeals.

11 (b) TEMPORARY JUDGEShips.—The President shall
12 appoint, by and with the advice and consent of the Sen-
13 ate—

14 (1) 2 additional circuit judges for the sixth cir-
15 cuit court of appeals; and

16 (2) 3 additional circuit judges for the ninth cir-
17 cuit court of appeals.

18 The first vacancy in the office of circuit judge in each of
19 the circuits named in this section, occurring 7 years or
20 more after the confirmation date of the judge named to
21 fill a temporary judgeship created by this subsection, shall
22 not be filled.

23 (c) TABLES.—In order that the table contained in
24 section 44 of title 28, United States Code, will, with re-
25 spect to each judicial circuit, reflect the changes in the

1 total number of permanent circuit judgeships authorized
 2 as a result of subsection (a) of this section, such table
 3 is amended to read as follows:

| “Circuits | Number of Judges |
|----------------------------|-------------------------|
| District of Columbia | 12 |
| First | 7 |
| Second | 15 |
| Third | 14 |
| Fourth | 15 |
| Fifth | 18 |
| Sixth | 18 |
| Seventh | 11 |
| Eighth | 11 |
| Ninth | 34 |
| Tenth | 12 |
| Eleventh | 12 |
| Federal | 12.”. |

4 **SEC. 3. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

5 (a) IN GENERAL.—The President shall appoint, by
 6 and with the advice and consent of the Senate—

7 (1) 1 additional district judge for the middle
 8 district of Alabama;

9 (2) 2 additional district judges for the district
 10 of Arizona;

11 (3) 1 additional district judge for the eastern
 12 district of California;

13 (4) 2 additional district judges for the southern
 14 district of California;

15 (5) 1 additional district judge for the district of
 16 Colorado;

17 (6) 3 additional district judges for the middle
 18 district of Florida;

1 (7) 2 additional district judges for the southern
2 district of Florida;

3 (8) 2 additional district judges for the district
4 of Nevada;

5 (9) 1 additional district judge for the district of
6 New Mexico;

7 (10) 3 additional district judges for the eastern
8 district of New York;

9 (11) 2 additional district judges for the western
10 district of North Carolina;

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

13 (13) 1 additional district judge for the northern
14 district of Texas;

15 (14) 1 additional district judge for the southern
16 district of Texas; and

17 (15) 1 additional district judge for the eastern
18 district of Virginia.

19 (b) TEMPORARY JUDGEShips.—The President shall
20 appoint, by and with the advice and consent of the Sen-
21 ate—

22 (1) 1 additional district judge for the eastern
23 district of California;

24 (2) 1 additional district judge for the district of
25 Colorado;

1 (3) 1 additional district judge for the middle
2 district of Florida;

3 (4) 1 additional district judge for the southern
4 district of Indiana;

5 (5) 1 additional district judge for the eastern
6 district of Kentucky;

7 (6) 1 additional district judge for the middle
8 district of Louisiana;

9 (7) 1 additional district judge for the district of
10 New Mexico;

11 (8) 1 additional district judge for the northern
12 district of New York;

13 (9) 1 additional district judge for the western
14 district of New York;

15 (10) 1 additional district judge for the district
16 of South Carolina;

17 (11) 1 additional district judge for the eastern
18 district of Tennessee; and

19 (12) 1 additional district judge for the western
20 district of Washington.

21 The first vacancy in the office of district judge in each
22 of the judicial districts named in this subsection, occurring
23 7 years or more after the confirmation date of the judge
24 named to fill a temporary judgeship created by this sub-
25 section, shall not be filled.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

| “Districts | Judges |
|----------------------------|---------------|
| Alabama: | |
| Northern | 7 |
| Middle | 4 |
| Southern | 3 |
| Alaska | 3 |
| Arizona | 10 |
| Arkansas: | |
| Eastern | 5 |
| Western | 3 |
| California: | |
| Northern | 14 |
| Eastern | 7 |
| Central | 27 |
| Southern | 10 |
| Colorado | 8 |
| Connecticut | 8 |
| Delaware | 4 |
| District of Columbia | 15 |
| Florida: | |
| Northern | 4 |
| Middle | 14 |
| Southern | 18 |
| Georgia: | |
| Northern | 11 |
| Middle | 4 |
| Southern | 3 |
| Hawaii | 3 |
| Idaho | 2 |
| Illinois: | |
| Northern | 22 |
| Central | 3 |
| Southern | 3 |
| Indiana: | |
| Northern | 5 |
| Southern | 5 |
| Iowa: | |
| Northern | 2 |
| Southern | 3 |
| Kansas | 5 |
| Kentucky: | |
| Eastern | 4 |

| | |
|--------------------------------------|----|
| Western | 4 |
| Eastern and Western | 1 |
| Louisiana: | |
| Eastern | 13 |
| Middle | 2 |
| Western | 7 |
| Maine | 3 |
| Maryland | 10 |
| Massachusetts | 13 |
| Michigan: | |
| Eastern | 15 |
| Western | 4 |
| Minnesota | 7 |
| Mississippi: | |
| Northern | 3 |
| Southern | 6 |
| Missouri: | |
| Eastern | 6 |
| Western | 5 |
| Eastern and Western | 2 |
| Montana | 3 |
| Nebraska | 3 |
| Nevada | 6 |
| New Hampshire | 3 |
| New Jersey | 17 |
| New Mexico | 6 |
| New York: | |
| Northern | 4 |
| Southern | 28 |
| Eastern | 18 |
| Western | 4 |
| North Carolina: | |
| Eastern | 4 |
| Middle | 4 |
| Western | 5 |
| North Dakota | 2 |
| Ohio: | |
| Northern | 11 |
| Southern | 8 |
| Oklahoma: | |
| Northern | 3 |
| Eastern | 1 |
| Western | 6 |
| Northern, Eastern, and Western | 1 |
| Oregon | 7 |
| Pennsylvania: | |
| Eastern | 22 |
| Middle | 6 |
| Western | 10 |
| Puerto Rico | 7 |
| Rhode Island | 3 |
| South Carolina | 9 |
| South Dakota | 3 |
| Tennessee: | |
| Eastern | 5 |

| | |
|----------------|------|
| Middle | 4 |
| Western | 5 |
| Texas: | |
| Northern | 13 |
| Southern | 19 |
| Eastern | 7 |
| Western | 10 |
| Utah | 5 |
| Vermont | 2 |
| Virginia: | |
| Eastern | 10 |
| Western | 4 |
| Washington: | |
| Eastern | 4 |
| Western | 7 |
| West Virginia: | |
| Northern | 3 |
| Southern | 5 |
| Wisconsin: | |
| Eastern | 4 |
| Western | 2 |
| Wyoming | 3.”. |

1 **SEC. 4. ARTICLE III STATUS FOR THE JUDGESHIP AUTHOR-**
2 **IZED FOR THE COMMONWEALTH OF THE**
3 **NORTHERN MARIANA ISLANDS.**

4 (a) COMPOSITION OF NINTH CIRCUIT.—Section 41
5 of title 28, United States Code, is amended in the matter
6 relating to the ninth circuit by inserting “, Northern Mari-
7 ana Islands” after “Hawaii”.

8 (b) ESTABLISHMENT OF JUDICIAL DISTRICT.—

9 (1) IN GENERAL.—Chapter 5 of title 28, United
10 States Code, is amended by inserting after section
11 114 the following new section:

12 **“§ 114A. Northern Mariana Islands**

13 “The Northern Mariana Islands constitute 1 judicial
14 district. Court shall be held at Saipan.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
 2 MENT.—The table of sections for chapter 5 of title
 3 28, United States Code, is amended by inserting
 4 after the item relating to section 114 the following:

“114A. Northern Mariana Islands.”.

5 (c) DISTRICT JUDGE.—Section 133(a) of title 28,
 6 United States Code, is amended by inserting after the
 7 item relating to North Dakota the following:

“Northern Mariana Islands 1”.

8 (d) BANKRUPTCY JUDGE.—Section 152(a) of title
 9 28, United States Code, is amended—

10 (1) in paragraph (2) by inserting after the item
 11 relating to North Dakota the following:

“Northern Mariana Islands 0”;

12 and

13 (2) in paragraph (4) in the first sentence by in-
 14 serting “and the Commonwealth of the Northern
 15 Mariana Islands” after “territories”.

16 (e) ASSIGNMENT OF JUDGES.—

17 (1) IN GENERAL.—Chapter 13 of title 28, Unit-
 18 ed States Code, is amended by adding after section
 19 297 the following:

20 **“§ 298. Assignment to the United States District**
 21 **Court for the Northern Mariana Islands**

22 “In addition to the judges authorized to be des-
 23 ignated by sections 291 and 292, the Chief Judge of the

1 United States Court of Appeals for the Ninth Circuit may
 2 assign judges of courts of record of the Northern Mariana
 3 Islands or Guam, including a judge of the District Court
 4 of Guam who is appointed by the President or a recalled
 5 senior judge of the District Court of Guam, to serve tem-
 6 porarily as a judge in the United States District Court
 7 for the Northern Mariana Islands whenever such an as-
 8 signment is necessary for the proper dispatch of the busi-
 9 ness of the court. Such designated judges shall have the
 10 powers of a magistrate judge under section 636.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
 12 MENT.—The table of sections for chapter 13 of title
 13 28, United States Code, is amended by adding after
 14 the item relating to section 297 the following:

“298. Assignment to the United States District Court for the Northern Mariana
 Islands.”.

15 (f) JUDICIAL CONFERENCES OF CIRCUITS.—Section
 16 333 of title 28, United States Code, is amended in the
 17 third sentence of the first undesignated paragraph by
 18 striking “the District Court of the Virgin Islands, and the
 19 District Court of the Northern Mariana Islands” and in-
 20 serting “and the District Court of the Virgin Islands”.

21 (g) JUDGE IN TERRITORIES AND POSSESSIONS.—
 22 Section 373 of title 28, United States Code, is amended—

23 (1) in subsection (a) by striking “the District
 24 Court of the Northern Mariana Islands,”; and

1 (2) in subsection (e) by striking “the District
2 Court of the Northern Mariana Islands,”.

3 (h) ANNUITIES FOR SURVIVORS OF CERTAIN JUDI-
4 CIAL OFFICIALS OF THE UNITED STATES.—Section
5 376(a) of title 28, United States Code, is amended—

6 (1) in paragraph (1)(B) by striking “, the Dis-
7 trict Court of the Northern Mariana Islands,”; and

8 (2) in paragraph (2)(B) by striking “, the Dis-
9 trict Court of the Northern Mariana Islands,”.

10 (i) SAVINGS PROVISIONS.—The amendments made
11 by subsections (a) through (h) of this section shall not
12 affect the rights of any judge who may have retired before
13 the effective date of this section. Service as a judge of the
14 District Court of the Northern Mariana Islands shall be
15 included in computing under sections 371, 372, 373, and
16 376 of title 28, United States Code, the aggregate years
17 of judicial service of any person who is in office as a dis-
18 trict judge for the District of the Northern Mariana Is-
19 lands on the effective date of this section. The term of
20 office of any such judge shall terminate upon a vacancy
21 in the office by expiration of the term or otherwise. Upon
22 such termination, the President shall appoint, by and with
23 the advice and consent of the Senate, a judge for the dis-
24 trict who shall hold office during good behavior.

1 (j) UNITED STATES ATTORNEY.—Section 541 of title
2 28, United States Code, is amended—

3 (1) in subsection (a) by inserting before the pe-
4 riod the following: “, except that any United States
5 attorney appointed for the Northern Mariana Is-
6 lands may at the same time serve as United States
7 attorney in another judicial district”; and

8 (2) by redesignating subsection (c) as sub-
9 section (d) and inserting after subsection (b) the fol-
10 lowing:

11 “(c) If the President appoints a United States attor-
12 ney for the Northern Mariana Islands who at that time
13 is serving in the same capacity in another district, the ap-
14 pointment shall, without prejudice to a subsequent ap-
15 pointment, be for the unexpired term of such United
16 States attorney.”.

17 (k) UNITED STATES MARSHALS SERVICE.—Section
18 561(d) of title 28, United States Code, is amended by add-
19 ing after the second sentence the following: “If the Presi-
20 dent appoints a marshal for the Northern Mariana Islands
21 who at that time is serving in the same capacity in another
22 district, the appointment shall, without prejudice to a sub-
23 sequent appointment, be for the unexpired term of such
24 marshal.”.

1 (l) UNITED STATES MAGISTRATES.—Section
 2 631(b)(1) of title 28, United States Code, is amended by
 3 inserting “the Commonwealth of the Northern Mariana
 4 Islands,” after “Puerto Rico,”.

5 (m) INTERLOCUTORY DECISIONS.—Section
 6 1292(d)(4)(A) of title 28, United States Code, is amended
 7 by striking “, the District Court of the Virgin Islands, or
 8 the District Court for the Northern Mariana Islands,” and
 9 inserting “, or the District Court of the Virgin Islands,”.

10 (n) JURISDICTION OF THE UNITED STATES COURT
 11 OF APPEALS FOR THE FEDERAL CIRCUIT.—Section
 12 1295(a) of title 28, United States Code, is amended—

13 (1) in paragraph (1) by striking “, the District
 14 Court of the Virgin Islands, or the District Court for
 15 the Northern Mariana Islands,” and inserting “, or
 16 the District Court of the Virgin Islands,”; and

17 (2) in paragraph (2) by striking “, the District
 18 Court of the Virgin Islands, or the District Court for
 19 the Northern Mariana Islands,” and inserting “, or
 20 the District Court of the Virgin Islands,”.

21 (o) DIVERSITY JURISDICTION.—Section 1332(d) of
 22 title 28, United States Code, is amended by striking “,
 23 and the Commonwealth of Puerto Rico” and inserting “,
 24 the Commonwealth of Puerto Rico, and the Common-
 25 wealth of the Northern Mariana Islands”.

1 (p) CIVIL COMMITMENT AND REHABILITATION OF
 2 NARCOTICS ADDICTS.—Section 2901(e) of title 28, United
 3 States Code, is amended by striking “or the Common-
 4 wealth of Puerto Rico,” and inserting “the Commonwealth
 5 of Puerto Rico, or the Commonwealth of the Northern
 6 Mariana Islands,”.

7 (q) NORTHERN MARIANA ISLANDS JUDICIAL PROVI-
 8 SIONS.—The Act of November 8, 1977 (Public Law 95–
 9 157; 91 Stat. 1265) is amended—

10 (1) in section 4(a) (48 U.S.C. 1824(a))—

11 (A) by striking “(a)”;

12 (B) by striking all beginning with “, unless
 13 those cases are reviewable in the District Court
 14 for the Northern Mariana Islands” through the
 15 period and inserting a period; and

16 (C) by striking subsection (b); and

17 (2) by striking—

18 (A) the first section (48 U.S.C. 1821);

19 (B) section 2 (48 U.S.C. 1822);

20 (C) section 3 (48 U.S.C. 1823);

21 (D) section 5 (48 U.S.C. 1825); and

22 (E) section 6 (48 U.S.C. 1826).

23 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
 25 as may be necessary to carry out the provisions of this

1 Act, including such sums as may be necessary to provide
2 appropriate space and facilities for the judicial positions
3 created by this Act.

4 **SEC. 6. EFFECTIVE DATE.**

5 This Act shall take effect on the date of enactment
6 of this Act.

