

109TH CONGRESS
2^D SESSION

H. R. 3729

IN THE SENATE OF THE UNITED STATES

JULY 18, 2006

Received; read twice and referred to the Committee on the Judiciary

AN ACT

To provide emergency authority to delay or toll judicial proceedings in United States district and circuit courts.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Federal Judiciary
3 Emergency Tolling Act of 2006”.

4 **SEC. 2. EMERGENCY AUTHORITY TO DELAY OR TOLL JUDI-**
5 **CIAL PROCEEDINGS.**

6 (a) IN GENERAL.—Chapter 111 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 **“§ 1660. Emergency authority to delay or toll judicial**
10 **deadlines**

11 “(a) TOLLING IN DISTRICT COURTS.—

12 “(1) IN GENERAL.—In the event of a natural
13 disaster or other emergency situation requiring the
14 closure of courts or rendering it impracticable for
15 the United States Government or a class of litigants
16 to comply with deadlines imposed by any Federal or
17 State law or rule that applies in the courts of the
18 United States, the chief judge of a district court
19 that has been affected may exercise emergency au-
20 thority in accordance with this section.

21 “(2) SCOPE OF AUTHORITY.—(A) The chief
22 judge may enter such order or orders as may be ap-
23 propriate to delay, toll, or otherwise grant relief
24 from the time deadlines imposed by otherwise appli-
25 cable laws or rules for such period as may be appro-
26 priate for any class of cases pending or thereafter

1 filed in the district court or bankruptcy court of the
2 district.

3 “(B) Except as provided in subparagraph (C),
4 the authority conferred by this section extends to all
5 laws and rules affecting criminal and juvenile pro-
6 ceedings (including, prearrest, post-arrest, pretrial,
7 trial, and post-trial procedures), civil actions, bank-
8 ruptcy proceedings, and the time for filing and per-
9 fecting an appeal.

10 “(C) The authority conferred by this section
11 does not include the authority to extend—

12 “(i) any statute of limitation for a criminal
13 action; or

14 “(ii) any statute of limitation for a civil ac-
15 tion, if—

16 “(I) the claim arises under the laws of
17 a State; and

18 “(II) extending the limitations period
19 would be inconsistent with the governing
20 State law.

21 “(3) UNAVAILABILITY OF CHIEF JUDGE.—If
22 the chief judge of the district is unavailable, the au-
23 thority conferred by this section may be exercised by
24 the district judge in regular active service who is
25 senior in commission or, if no such judge is avail-

1 able, by the chief judge of the circuit that includes
2 the district.

3 “(4) HABEAS CORPUS UNAFFECTED.—Nothing
4 in this section shall be construed to authorize sus-
5 pension of the writ of habeas corpus.

6 “(b) CRIMINAL CASES.—In exercising the authority
7 under subsection (a) for criminal cases, the court shall
8 consider the ability of the United States Government to
9 investigate, litigate, and process defendants during and
10 after the emergency situation, as well as the ability of
11 criminal defendants as a class to prepare their defenses.

12 “(c) TOLLING IN COURTS OF APPEALS.—

13 “(1) IN GENERAL.—In the event of a natural
14 disaster or other emergency situation requiring the
15 closure of courts or rendering it impracticable for
16 the United States Government or a class of litigants
17 to comply with deadlines imposed by any federal or
18 States law or rule that applies in the courts of the
19 United States, the chief judge of a court of appeals
20 that has been affected or that includes a district
21 court so affected may exercise emergency authority
22 in accordance with this section.

23 “(2) SCOPE OF AUTHORITY.—The chief judge
24 may enter such order or orders as may be appro-
25 priate to delay, toll, or otherwise grant relief from

1 the time deadlines imposed by otherwise applicable
2 laws or rules for such period as may be appropriate
3 for any class of cases pending in the court of ap-
4 peals.

5 “(3) UNAVAILABILITY OF CHIEF JUDGE.—If
6 the chief judge of the circuit is unavailable, the au-
7 thority conferred by this section may be exercised by
8 the circuit judge in regular active service who is sen-
9 ior in commission.

10 “(4) HABEAS CORPUS UNAFFECTED.—Nothing
11 in this section shall be construed to authorize sus-
12 pension of the writ of habeas corpus.

13 “(d) ISSUANCE OF ORDERS.—The Attorney General
14 or the Attorney General’s designee may request issuance
15 of an order under this section, or the chief judge of a dis-
16 trict or of a circuit may act on his or her own motion.

17 “(e) DURATION OF ORDERS.—An order entered
18 under this section may not toll or extend a time deadline
19 for a period of more than 14 days, except that, if the chief
20 judge (whether of a district or of a circuit) determines that
21 an emergency situation requires additional extensions of
22 the period during which deadlines are tolled or extended,
23 the chief judge may, with the consent of the judicial coun-
24 cil of the circuit, enter additional orders under this section
25 in order to further toll or extend such time deadline.

1 “(f) NOTICE.—A court issuing an order under this
2 section—

3 “(1) shall make all reasonable efforts to pub-
4 licize the order, including announcing the order on
5 the web sites of all affected courts and the web site
6 of the Federal judiciary; and

7 “(2) shall, through the Director of the Adminis-
8 trative Office of the United States Courts, send no-
9 tice of the order, including the reasons for the
10 issuance of the order, to the Committee on the Judi-
11 ciary of the Senate and the Committee on the Judi-
12 ciary of the House of Representatives.

13 “(g) REQUIRED REPORTS.—A court issuing one or
14 more orders under this section relating to an emergency
15 situation shall, not later than 180 days after the date on
16 which the last extension or tolling of a time period made
17 by the order or orders ends, submit a brief report to the
18 Committee on the Judiciary of the Senate, the Committee
19 on the Judiciary of the House of Representatives, and the
20 Judicial Conference of the United States describing the
21 orders, including—

22 “(1) the reasons for issuing the orders;

23 “(2) the duration of the orders;

24 “(3) the effects of the orders on litigants; and

1 “(4) the costs to the judiciary resulting from
2 the orders.

3 “(h) EXCEPTIONS.—The notice under subsection
4 (f)(2) and the report under subsection (g) are not required
5 in the case of an order that tolls or extends a time deadline
6 for a period of less than 14 days.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 111 of title 28, United States
9 Code, is amended by adding at the end the following new
10 item:

“1660. Emergency authority to delay or toll judicial deadlines.”.

Passed the House of Representatives July 17, 2006.

Attest:

KAREN L. HAAS,

Clerk.