

Public Law 100-702
100th Congress

An Act

Nov. 19, 1988
[H.R. 4807]

To amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes.

Judicial
Improvements
and Access to
Justice Act.

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 "Judicial Improvements and Access to Justice Act".

28 USC 1 note.

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

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Federal Courts
Study Act.
28 USC 331 note.

TITLE I—FEDERAL COURTS STUDY COMMITTEE

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Act".

SEC. 102. ESTABLISHMENT AND PURPOSES.

(a) **ESTABLISHMENT.**—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal judiciary (hereafter referred to as the "Committee").

(b) **PURPOSES.**—The purposes of the Committee are to—

(1) examine problems and issues currently facing the courts of the United States;

(2) develop a long-range plan for the future of the Federal judiciary, including assessments involving—

(A) alternative methods of dispute resolution;

(B) the structure and administration of the Federal court system;

(C) methods of resolving intracircuit and intercircuit conflicts in the courts of appeals; and

(D) the types of disputes resolved by the Federal courts; and

(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable.

Reports.

SEC. 103. MEMBERSHIP OF THE COMMITTEE.

(a) **APPOINTMENTS.**—The Committee shall be composed of fifteen members to be appointed by the Chief Justice of the United States, within ten days after the effective date of this title.

(b) **SELECTION.**—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

(c) **TERM OF OFFICE.**—The Committee members shall serve at the pleasure of the Chief Justice.

(d) **RULES OF PROCEDURE.**—Rules of procedure shall be promulgated by vote of a majority of the Committee.

SEC. 104. POWERS OF THE COMMITTEE.

(a) **HEARINGS.**—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

(b) **INFORMATION AND ASSISTANCE.**—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the Committee may reasonably deem necessary to carry out its func-

tions under this title, consistent with other applicable provisions of law governing the release of such information.

(c) **PERSONNEL.**—(1) Subject to such rules and regulations as may be adopted by the Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

(2) Section 5108(c)(1) of title 5, United States Code, is amended by striking out "15" and inserting in lieu thereof "17".

(d) **ADVISORY PANELS.**—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

SEC. 105. FUNCTIONS AND DUTIES.

The Committee shall—

(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title;

Reports.

(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

(3) develop a long-range plan for the judicial system; and

(4) make such other recommendations and conclusions it deems advisable.

SEC. 106. COMPENSATION OF MEMBERS.

(a) **EMPLOYEES OF THE GOVERNMENT.**—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

(b) **PRIVATE SECTOR.**—A member of the Committee who is from the private sector shall receive \$200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the maximum amounts authorized under section 456 of title 28.

SEC. 107. EXPIRATION OF THE COMMITTEE.

The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this title there are authorized to be appropriated \$300,000 for each of the fiscal years 1989 and 1990.

SEC. 109. EFFECTIVE DATE.

This title shall become effective on January 1, 1989.

TITLE II—FEDERAL JURISDICTION— DIVERSITY REFORM

SEC. 201. AMOUNT IN CONTROVERSY IN DIVERSITY CASES.

(a) INCREASE IN AMOUNT IN CONTROVERSY TO \$50,000.—Subsections (a) and (b) of section 1332 are each amended by striking out “\$10,000” and inserting in lieu thereof “\$50,000”.

28 USC 1332
note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the 180th day after the date of enactment of this title.

SEC. 202. DIVERSITY IN CASES INVOLVING MULTISTATE CORPORATIONS OR REPRESENTATIVE PARTIES.

(a) IN GENERAL.—Section 1332(c) is amended to read as follows:

Insurance.

“(c) For the purposes of this section and section 1441 of this title—

“(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and

“(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.”

28 USC 1332
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced in or removed to a United States district court on or after the 180th day after the date of enactment of this title.

SEC. 203. CITIZENSHIP OF PERMANENT RESIDENT ALIEN.

(a) PERMANENT RESIDENT ALIEN CITIZENSHIP FOR DIVERSITY PURPOSES.—Section 1332(a) is amended by adding at the end thereof the following: “For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.”

28 USC 1332
note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims in civil actions commenced in or removed to the United States district courts on or after the 180th day after the date of enactment of this title.

TITLE III—FEDERAL JUDICIAL CENTER

SEC. 301. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) ESTABLISHMENT.—Chapter 42 is amended by adding at the end the following new section:

“§ 629. Federal Judicial Center Foundation

“(a) There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the ‘Foundation’) and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except gifts that are designated for the support of specific projects previously approved by the Board of the Center may be accepted. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

Establishment.
District of
Columbia.

Gifts and
property.
Real property.

“(b) The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be 5 years, except that the initial terms shall be 5 years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, 3 years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

“(c) The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

Gifts and
property.

“(d) Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

Gifts and
property.

“(e) The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the United States Senate and House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

Reports.

“(f) For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.”

Taxes.

(b) CONFORMING AMENDMENT.—The item relating to section 629 in the table of sections for chapter 42, is amended to read as follows:

"629. Federal Judicial Center Foundation."

SEC. 302. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

- (1) by striking out "and" at the end of paragraph (5);
- (2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and
- (3) by adding at the end the following new paragraph:
 "(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government."

SEC. 303. AUTHORITY TO PROVIDE FOR TRAINING FOR PERSONS OUTSIDE THE JUDICIAL BRANCH.

Section 620(b)(3) is amended to read as follows:

"(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government and other persons whose participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;"

SEC. 304. APPOINTMENT AND COMPENSATION OF THE DEPUTY DIRECTOR OF THE CENTER.

(a) **APPOINTMENT BY THE BOARD.**—Section 624(1) is amended by inserting "and the Deputy Director" after "Director".

(b) **COMPENSATION.**—

(1) Section 626 is amended—

(A) by adding at the end the following new sentence: "The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts."; and

(B) by amending the section heading to read as follows:

"§ 626. Compensation of the Director and Deputy Director".

(2) The item relating to section 626 in the table of sections for chapter 42 is amended to read as follows:

"626. Compensation of the Director and Deputy Director."

28 USC 626 note.

(c) **BUDGET ACT COMPLIANCE.**—The amendment made by subsection (b) shall be effective for fiscal years beginning on or after October 1, 1988.

TITLE IV—RULES ENABLING ACT

SEC. 401. RULES ENABLING ACT AMENDMENTS.

(a) **IN GENERAL.**—Chapter 131 is amended by striking out section 2072 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

“(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

“§ 2073. Rules of procedure and evidence; method of prescribing

“(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

“(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

“(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

“(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting.

Public
information.

“(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

“(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views.

Reports.

“(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

“§ 2074. Rules of procedure and evidence; submission to Congress; effective date

“(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings

would not be feasible or would work injustice, in which event the former rule applies.

“(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.”.

(b) **ADVISORY COMMITTEES FOR COURTS.**—Section 2077(b) is amended—

(1) by striking out “of appeals” the first place it appears and inserting in lieu thereof “, except the Supreme Court, that is authorized to prescribe rules of the conduct of such court’s business under section 2071 of this title”; and

(2) by striking out “the court of appeals” and inserting in lieu thereof “such court”.

(c) **REPEALER.**—Section 2076 is repealed.

(d) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

“2072. Rules of procedure and evidence; power to prescribe.

“2073. Rules of procedure and evidence; method of prescribing.

“2074. Rules of procedure and evidence; submission to Congress; effective date.

“2075. Bankruptcy rules.”.

SEC. 402. COMPILATION AND REVIEW OF LOCAL RULES.

(a) **COMPILATION.**—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (23); and

(2) by inserting after paragraph (18) the following:

“(19) Periodically compile—

“(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

“(B) the rules which are prescribed under section 372(c)(11) of this title; and

“(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;”.

(b) **REVIEW.**—Section 331 is amended by inserting after the fifth paragraph the following:

“The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.”.

SEC. 403. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) **RULES BY CERTAIN COURTS.**—(1) Section 2071 is amended—

(A) by inserting “(a)” before “The”;

(B) by striking out “by the Supreme Court” and inserting in lieu thereof “under section 2072 of this title”; and

(C) by adding at the end the following:

“(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

Records.

Public
information.

“(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

“(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

“(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public.

Public
information

“(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

“(f) No rule may be prescribed by a district court other than under this section.”

(2) Section 332(d) is amended by adding at the end the following new paragraph:

“(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.”

(b) **ORDERS BY CIRCUIT JUDICIAL COUNCILS.**—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: “Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.”

Public
information.

(c) **RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.**—Section 372(c)(11) is amended by inserting before “Any rule promulgated” the following new sentence: “Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.”

SEC. 404. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) **CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.**—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) **CONFORMING AMENDMENTS RELATING TO MAGISTRATES.**—(1) Section 636(d) is amended by striking out “section 3402 of title 18, United States Code” and inserting in lieu thereof “section 2072 of this title”.

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) **CROSS REFERENCE TECHNICAL AMENDMENT.**—Section 9 of the Act entitled “An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes” approved October 8, 1964 (Public

Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

28 USC 2071
note.

SEC. 405. TAX COURT RULE MAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

28 USC 2071
note.

SEC. 406. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

28 USC 2071
note.

SEC. 407. EFFECTIVE DATE.

This title shall take effect on December 1, 1988.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

SEC. 501. INTERLOCUTORY APPEALS.

Section 1292(d) is amended by adding at the end the following new paragraph:

Territories, U.S.

"(4)(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court under section 1631 of this title.

"(B) When a motion to transfer an action to the Claims Court is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court pursuant to the motion shall be carried out."

28 USC 1292
note.

SEC. 502. EFFECTIVE DATE.

The amendment made by section 501 shall apply to any action commenced in the district court on or after the date of enactment of this title.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

SEC. 601. RULE MAKING.

Section 203(f) of the State Justice Institute Act of 1984 (42 U.S.C. 10702(f)) is amended—

(1) by striking out “, at least thirty days prior to their effective date,”; and

(2) by adding at the end the following: “The publication of a substantive rule shall be made not less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.”.

SEC. 602. CIVIL SERVICE RETIREMENT.

Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by striking out “chapter 83” and inserting in lieu thereof “chapters 83 and 84”.

SEC. 603. USE OF FUNDS UNDER GRANTS AND CONTRACTS.

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

- (1) in paragraph (3) by inserting “judicial and” after “using”;
- (2) by striking out paragraph (4); and
- (3) by redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

SEC. 604. UNIT OF STATE OR LOCAL GOVERNMENT MATCHING FUNDS.

Section 206(d) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(d)) is amended by striking out “judicial system” and inserting in lieu thereof “court (or other unit of State or local government)”.

SEC. 605. INTERIM FUNDING.

Section 207(a) of the State Justice Institute Act of 1984 (42 U.S.C. 10706(a)) is amended—

- (1) in paragraph (1)(B) by adding “and” after the semicolon;
- (2) in paragraph (2) by striking out “; and” and inserting in lieu thereof a period; and
- (3) by striking out paragraph (3).

SEC. 606. PROCEDURES FOR SUSPENSION OF FUNDING; RESTRICTIONS ON DISCLOSURE OF INFORMATION.

Section 209 of the State Justice Institute Act of 1984 (42 U.S.C. 10708) is amended to read as follows:

“ADMINISTRATIVE PROVISIONS

“SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

“(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under this title, may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.”.

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (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 \$15,000,000 for each of the fiscal years 1989 and 1990. Amounts appropriated under this section may remain available until expended.”

Court
Interpreter
Amendments
Act of 1988.

TITLE VII—COURT INTERPRETERS AMENDMENTS

28 USC 1 note.

SEC. 701. SHORT TITLE.

This title may be cited as the “Court Interpreter Amendments Act of 1988”.

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

“(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.”

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

“(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

Regulations.

“(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities."

Records.
Reports.

SEC. 704. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request.

Records.

Public
information.

"(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses."

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

- (1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
- (2) inserting "(1)" after "(d)"; and
- (3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used."

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:
 "(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this

section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services."

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3)."

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) The term 'judicial proceedings instituted by the United States' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title."

SEC. 709. SIMULTANEOUS INTERPRETATION.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer's motion or on the motion

of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.”

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out “competent” and inserting in lieu thereof “qualified”;

(2) by striking out “any criminal” and all that follows through “relator”) and inserting in lieu thereof “judicial proceedings instituted by the United States”; and

(3) by striking out “such action” and inserting in lieu thereof “such judicial proceedings”.

(b) Section 1827(e)(2) is amended by striking out “criminal or civil action in a United States district court” and inserting in lieu thereof “judicial proceedings instituted by the United States”.

SEC. 711. IMPACT ON EXISTING PROGRAMS.

Nothing in this title shall be construed to terminate or diminish existing programs for the certification of interpreters.

28 USC 1827
note.

SEC. 712. EFFECTIVE DATE.

This title shall become effective upon the date of enactment.

28 USC 1827
note.

TITLE VIII—JURY SELECTION AND SERVICE

SEC. 801. EXCUSE OF JURORS.

Section 1866(c)(1) is amended to read as follows: “(1) excused by the court, or by the clerk under supervision of the court if the court’s jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court’s jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or”.

SEC. 802. JURY SELECTION PLAN.

(a) **CLERK DEFINED FOR PURPOSES OF FUNCTIONS UNDER PLAN.**—Section 1869(a) is amended to read as follows:

“(a) ‘clerk’ and ‘clerk of the court’ shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;”.

(b) **OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.**—Paragraph (5) of section 1863(b)(5) is amended—

(1) by inserting “(A) except as provided in subparagraph (B),” after “(5)”, and

(2) by adding at the end the following:

“(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term ‘volunteer safety personnel’ means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of

1968) in an official capacity, without compensation, as fire-fighters or members of a rescue squad or ambulance crew.”.

(c) PERSONS EXEMPTED FROM JURY SERVICE.—Paragraph (6) of section 1863(b) is amended to read as follows:

Armed Forces.
Firemen.
Policemen.

“(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.”.

SEC. 803. MASTER JURY WHEEL.

Classified
information.

(a) ALPHABETICAL LIST NOT MANDATORY.—Strike out the second sentence of section 1864(a) and insert the following: “The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title.”.

(b) CONFORMING AMENDMENT.—The second sentence of section 1865(a) is amended by striking out “the alphabetical” and inserting in lieu thereof “in any alphabetical”.

SEC. 804. TECHNICAL AMENDMENT.

Section 1869(f) is amended to read as follows:

“(f) ‘district court of the United States’, ‘district court’, and ‘court’ shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;”.

SEC. 805. EXPERIMENTAL USE OF NEW JURY SELECTION PROCEDURES.

(a) SECTION 1878.—Chapter 121 is amended by adding at the end thereof the following:

“§ 1878. Experimental use of a one-step summoning and qualification procedure

“(a) The Judicial Conference of the United States is hereby authorized to develop and conduct an experiment in which jurors serving in a limited number of United States district courts shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by this chapter. The Judicial Conference shall designate the district courts to participate in this experiment, but in no event shall the number of courts participating exceed ten. An experiment may be conducted pursuant to this section for a period not to exceed 2 years. The Judicial Conference shall ensure that an experiment conducted pursuant to this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title, and shall terminate the experiment immediately if it determines that these policies and objectives

are being violated or whenever in its judgment good cause for such termination exists.

“(b) Jury selection conducted pursuant to 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 an experiment conducted pursuant to this section.”

(b) TECHNICAL.—The table of sections for chapter 121 is amended by adding at the end thereof the following new item:

“1878. Experimental use of a one-step summoning and qualification procedure.”

TITLE IX—ARBITRATION

SEC. 901. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

“CHAPTER 44—ARBITRATION

“Sec.

“651. Authorization of arbitration.

“652. Jurisdiction.

“653. Powers of arbitrator; arbitration hearing.

“654. Arbitration award and judgment.

“655. Trial de novo.

“656. Certification of arbitrators.

“657. Compensation of arbitrators.

“658. District courts that may authorize arbitration.

“§ 651. Authorization of arbitration

“(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. A district court described in section 658(1) may refer any such action to arbitration as set forth in section 652(a). A district court described in section 658(2) may refer only such actions to arbitration as are set forth in section 652(a)(1)(A).

“(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

“§ 652. Jurisdiction

“(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, and section 901(c) of the Judicial Improvements and Access to Justice Act, a district court that authorizes arbitration under section 651 may—

“(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

“(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of \$100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

“(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of \$100,000 unless counsel certifies that damages exceed such amount.

“(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

“(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

“(2) if jurisdiction is based in whole or in part on section 1343 of this title.

“(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

“(1) because the case involves complex or novel legal issues,

“(2) because legal issues predominate over factual issues, or

“(3) for other good cause.

“(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

“(1) consent to arbitration is freely and knowingly obtained, and

“(2) no party or attorney is prejudiced for refusing to participate in arbitration.

“§ 653. Powers of arbitrator; arbitration hearing

“(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

“(1) to conduct arbitration hearings,

“(2) to administer oaths and affirmations, and

“(3) to make awards.

“(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

“(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

“§ 654. Arbitration award and judgment

“(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment

shall not be subject to review in any other court by appeal or otherwise.

“(b) **SEALING OF ARBITRATION AWARD.**—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

“(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

“(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

“(3) except for purposes of preparing the report required by section 903(b) of the Judicial Improvements and Access to Justice Act.

“(c) **TAXATION OF COSTS.**—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

“§ 655. **Trial de novo**

“(a) **TIME FOR DEMAND.**—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

“(b) **RESTORATION TO COURT DOCKET.**—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

“(c) **LIMITATION ON ADMISSION OF EVIDENCE.**—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

“(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

“(2) the parties have otherwise stipulated.

“(d) **TAXATION OF ARBITRATOR FEES AS COST.**—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

“(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

“(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

“(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

“(B) the court determines that the demand for the trial de novo was made for good cause.

“(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

“(4) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

“(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

“(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

“(2) the court determines that the party’s conduct in seeking a trial de novo was in bad faith.

“§ 656. Certification of arbitrators

“(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

“(1) shall take the oath or affirmation described in section 453, and

“(2) shall be subject to the disqualification rules of section 455.

“(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

“§ 657. Compensation of arbitrators

“(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

“(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

“§ 658. District courts that may authorize arbitration

“The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

“(1) Northern District of California, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Western District of Texas.

“(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.”.

State listing.

(b) **CONFORMING AMENDMENT.**—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

“44. Arbitration 651”.

(c) **EXCEPTION TO LIMITATION ON MONEY DAMAGES.**—Notwithstanding section 652 (as added by subsection (a) of this section), establishing a limitation of \$100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than \$150,000, may continue to apply the higher limitation.

28 USC 652 note.

SEC. 902. MODEL PROCEDURES.

28 USC 651 note.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 903. REPORTS.

28 USC 651 note.

(a) **ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.**—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3), statistical information about the implementation of chapter 44, as added by section 901 of this Act.

(b) **REPORT BY FEDERAL JUDICIAL CENTER.**—Not later than 5 years after the date of enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

SEC. 904. EFFECT ON JUDICIAL RULE MAKING POWERS.

28 USC 651 note.

Nothing in this title, or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

28 USC 651 note. **SEC. 905. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated for the fiscal year ending September 30, 1989, and for each of the succeeding 4 fiscal years, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 906 of this Act.

28 USC 651 note. **SEC. 906. REPEAL.**

Effective 5 years after the date of the enactment of this Act, chapter 44, as added by section 901 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 907. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

TITLE X—MISCELLANEOUS PROVISIONS**SEC. 1001. DIVISIONAL VENUE IN CIVIL CASES.**

(a) **REPEAL.**—Section 1393, relating to divisional venue in civil cases, and the item relating to section 1393 in the table of sections at the beginning of chapter 87, are repealed.

28 USC 1393
note.

(b) **EFFECTIVE DATE.**—The amendments made by this section take effect 90 days after the date of enactment of this Act.

SEC. 1002. REGISTRATION OF FOREIGN JUDGMENTS.

(a) **JUDGMENTS OF DISTRICT COURTS AND COURT OF INTERNATIONAL TRADE.**—Section 1963 is amended by amending the first sentence to read as follows: "A judgment in an action for the recovery of money or property entered in any district court or in the Court of International Trade may be registered by filing a certified copy of such judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown."

(b) **CONFORMING AMENDMENTS.**—(1) The section caption for section 1963 is amended to read as follows:

"§ 1963. Registration of judgments of the district courts and the Court of International Trade".

(2) Section 1963A is repealed.

(3)(A) The item relating to section 1963 in the table of sections at the beginning of chapter 125 is amended to read as follows:

"1963. Registration of judgments of the district courts and the Court of International Trade."

(B) The table of sections at the beginning of chapter 125 is amended by repealing the item relating to section 1963A.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this title.

28 USC 1963
note.

SEC. 1003. BANKRUPTCY JUDGE, MAGISTRATE AND LAW CLERK EXEMPTION FROM FEDERAL LEAVE ACT.

(a) AMENDMENTS TO SECTIONS 153, 156, 631, 634, 712, 752, AND 794.—

(1) Section 153 is amended by adding at the end thereof the following:

“(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.”

(2) Section 631 is amended by adding at the end thereof the following:

“(1) A United States magistrate appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.”

(3) Sections 156(a), 712, 752, and 794 are each amended by adding at the end thereof the following:

“A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.”

(4) Section 634(c) is amended by adding at the end thereof the following: “A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.”

(b) TRANSITION PROVISIONS.—(1) If an individual who is exempted from the Leave Act by operation of amendments under this section and who was previously subject to the provisions of subchapter I of chapter 63 of title 5, United States Code, without a break in service, again becomes subject to this subchapter on completion of his service as an exempted officer, the unused annual leave and sick leave standing to his credit when he was exempted from this subchapter is deemed to have remained to his credit.

28 USC 153 note.

(2) In computing an annuity under section 8339 of title 5, United States Code, the total service of a person specified in paragraph (1) of this subsection who retired on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of title 5, United States Code, the days of unused sick leave standing to his credit when he was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

SEC. 1004. COST-OF-LIVING ADJUSTMENT OF ANNUITIES PAYABLE UNDER SECTIONS 611 AND 627.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—Sections 611 and 627 are amended by adding at the end thereof a new paragraph denominated as subsection (e) of section 611 and subsection (f) of section 627, to read as follows:

“Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.”

28 USC 611 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to cost-of-living increases that go into effect on or after the date of enactment of this title with respect to any annuity being paid or becoming payable on or after such date.

SEC. 1005. MILITARY RETIREMENT PAY FOR SENIOR OR RETIRED JUDGES.

(a) **AMENDMENTS TO SECTION 371.**—Section 371 is amended by adding at the end thereof the following new subsection:

Uniformed services.

“(e) Notwithstanding subsection (c) of section 5532 of title 5, if a regular or reserve member or former member of a uniformed service who is receiving retired or retainer pay becomes employed as a justice or judge of the United States, as defined by section 451, or becomes eligible therefor while so employed, such retired or retainer pay shall not be paid during regular active service as a justice or judge, but shall be resumed or commenced without reduction upon retirement from the judicial office or from regular active service (into senior status) as such justice or judge.”

28 USC 371 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to a justice or judge who retires, or has retired, from the judicial office or from regular active service (into senior status) as such justice or judge of the United States on or after the effective date of section 5532(c) of title 5, and to whom section 5532(c) would otherwise be applicable.

SEC. 1006. AMENDMENTS TO CONFORM SECTIONS 611 AND 627 TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) **AMENDMENTS TO SECTIONS 611 AND 627.**—

(1) Section 611(a) is amended to read as follows:

“(a) The Director may, by written election filed with the Chief Justice of the United States within 6 months after the date on which he takes office, waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and bring himself within the purview of this section. A Director who elects coverage under this section shall be deemed an ‘employee’ for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84. Waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.”

(2) Section 627(b) is amended, following the words “*Provided, however,*”, to read as follows:

“That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retire-

ment System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: *And provided further*, That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5."

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to persons holding the offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on the date of enactment of this title.

28 USC 611 note.

SEC. 1007. JUDICIAL DISQUALIFICATION AMENDMENT.

Section 455 is amended by adding at the end thereof the following:

"(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification."

SEC. 1008. INCENTIVE AWARDS.

Section 604(a), as amended by this Act, is further amended—

(1) by redesignating the second paragraph (14) through paragraph (19) as paragraphs (15) through (20); and

(2) by inserting after paragraph (20) the following:

"(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;"

SEC. 1009. WAIVER OF CLAIMS FOR OVERPAYMENT OF JUDICIAL PAY AND ALLOWANCES.

(a) **AMENDMENTS TO TITLE 5, UNITED STATES CODE.**—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”; and

(C) by adding at the end thereof the following new paragraph:

“(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than \$10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28.”; and

(2) in subsection (g)—

(A) by striking out “and” at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new paragraph:

“(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.”

5 USC 5584 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to any claim arising before the date of the enactment of this Act which is pending on such date, and to any claim which arises on or after such date of enactment.

SEC. 1010. COURT SECURITY.

Section 604(a) is further amended by inserting the following new paragraph before paragraph (23), as redesignated by this Act:

“(22) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities.”

SEC. 1011. TRAVEL REIMBURSEMENT.

Section 604(a)(7) is amended by inserting a comma in lieu of the semicolon at the end thereof and adding thereafter the following: “without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5: *Provided*, That the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;”.

SEC. 1012. CLAIMS COURT FEES.

(a) **INCREASE IN CLAIMS COURT FILING FEES.**—(1) Section 2520 is amended by striking out “\$60” and inserting in lieu thereof “\$120”.

(2) The amendment made by this subsection shall take effect 30 days after the date of enactment of this title.

(b) **REPORT ON OTHER FEES.**—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United

Effective date.
28 USC 2520
note.

States shall submit a report to the Congress on the actual costs of filing actions in the district courts of the United States.

SEC. 1013. CORPORATE VENUE.

(a) **IN GENERAL.**—Section 1391(c) is amended to read as follows:

“(c) For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.”

(b) **EFFECTIVE DATE.**—The amendment made by this section takes effect 90 days after the date of enactment of this title.

28 USC 1391
note.

SEC. 1014. METHOD OF RECORDING.

Paragraph (7) of section 636(c) is amended to read as follows:

“(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.”

SEC. 1015. LOCATION OF CHAMBERS OF CIRCUIT JUDGES.

Section 462(c) is amended by striking out “where Federal facilities are available” and inserting in lieu thereof “within the circuit other than where regular sessions of court are authorized by law to be held.”

SEC. 1016. IMPROVEMENTS IN REMOVAL PROCEDURE.

(a) **ACTIONS REMOVABLE GENERALLY.**—Section 1441(a) is amended by adding at the end thereof the following new sentence: “For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.”

(b) **PROCEDURE FOR REMOVAL.**—Section 1446 is amended—

(1) by amending subsection (a) to read as follows:

“(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.”;

(2) in subsection (b)—

(A) by striking out “petition for removal” each place it appears and inserting in lieu thereof “notice of removal”; and

(B) in the second paragraph by striking out the period at the end thereof and inserting in lieu thereof “, except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action.”; and

(3) by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) **PROCEDURE AFTER REMOVAL GENERALLY.**—Section 1447 is amended—

(1) by amending subsection (c) to read as follows:

“(c) A motion to remand the case on the basis of any defect in removal procedure must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case.”; and

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

“(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.”.

SEC. 1017. COST-OF-LIVING ADJUSTMENTS FOR JUDICIAL SURVIVORS' ANNUITIES.

(a) **IN GENERAL.**—Section 376(m) is amended to read as follows:

“(m) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, each annuity payable from the Judicial Survivors' Annuities Fund shall be increased at the same time by the same percentage by which annuities are increased under that section.”.

28 USC 376 note.

(b) **INCREASE FOR EXISTING ANNUITANTS.**—Each annuity payable from the Judicial Survivors' Annuities Fund under section 376 of title 28, United States Code, on the date of the enactment of this title shall be increased by 10 percent, effective on such date of enactment.

28 USC 376 note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to increases in annuities which are made under section 8340(b) of title 5, United States Code, on or after the date of enactment of this title.

SEC. 1018. ELIMINATION OF CIRCUIT EXECUTIVE BOARD OF CERTIFICATION PROCEDURE.

Section 332 is amended—

(1) in subsection (e) by striking out “executive from among persons who shall be certified by the Board of Certification.” and inserting in lieu thereof “executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training.”; and

(2) in subsection (f) by striking out the first paragraph and by designating the remaining paragraphs as paragraphs (1), (2), (3), and (4), respectively.

SEC. 1019. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) **IN GENERAL.**—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

“§ 15. Appeals

“(a) An appeal may be taken from—

“(1) an order—

“(A) refusing a stay of any action under section 3 of this title,

“(B) denying a petition under section 4 of this title to order arbitration to proceed,

“(C) denying an application under section 206 of this title to compel arbitration,

“(D) confirming or denying confirmation of an award or partial award, or

“(E) modifying, correcting, or vacating an award;

“(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

“(3) a final decision with respect to an arbitration that is subject to this title.

“(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

“(1) granting a stay of any action under section 3 of this title;

“(2) directing arbitration to proceed under section 4 of this title;

“(3) compelling arbitration under section 206 of this title; or

“(4) refusing to enjoin an arbitration that is subject to this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“15. Appeals.”.

SEC. 1020. MISCELLANEOUS TECHNICAL AMENDMENTS.

Copyrights.

(a) AMENDMENTS TO TITLE 28.—

(1) Section 332(c) is amended by striking out “semiannually” and inserting in lieu thereof “semiannual”.

(2) Section 604(a)(2) is amended by striking out “quarterly” and inserting in lieu thereof “semiannually”.

(3) Section 1295(a)(1) is amended by inserting “, exclusive rights in mask works,” after “copyrights”.

(4)(A) Section 1338 is amended by adding at the end the following:

“(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.”.

(B) The section heading for section 1338 is amended to read as follows:

“§ 1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition”.

(5) Section 1400(a) is amended by inserting “or exclusive rights in mask works” after “copyrights”.

(6) Section 1498 is amended by adding at the end the following:

“(e) Subsections (b) and (c) of this section apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.”.

(7) The table of sections at the beginning of chapter 85 is amended—

(A) in the item relating to section 1330 by striking out “Action” and inserting in lieu thereof “Actions”;

(B) in the item relating to section 1331 by inserting a period after “question”;

(C) by amending the item relating to section 1338 to read as follows:

“1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition.”;

and

(D) by amending the item relating to section 1343 to read as follows:

“1343. Civil rights and elective franchise.”.

(8) The item relating to section 1914 in the table of sections at the beginning of chapter 123 is amended by striking out “courts” and inserting in lieu thereof “court”.

(9) The table of sections for chapter 17 is amended by amending the item relating to section 376 to read as follows:

“376. Annuities for survivors of certain judicial officials of the United States.”.

(b) **OTHER AMENDMENTS.**—Section 912 of title 17, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1021. CONFIGURATION OF FLORIDA DISTRICTS.

(a) **MIDDLE AND SOUTHERN DISTRICTS.**—Section 89 is amended—

(1) in subsection (b)—

(A) by inserting “Collier,” after “Clay,”;

(B) by inserting “Glades,” after “Flagler,”; and

(C) by inserting “Hendry,” after “Hardee,”; and

(2) in subsection (c) by striking “Collier,” “Glades,” and “Hendry,”.

28 USC 89 note.

(b) **EFFECTIVE DATE.**—(1) The amendments made by this section shall take effect 90 days after the date of enactment of this title.

(2) The amendments made by subsection (a) shall apply to any action commenced in the United States District Court for the Middle District of Florida, or in the United States District Court for the Southern District of Florida, on or after the effective date of this title, and shall not affect any action pending in either such court on such effective date.

28 USC 89 note.

(c) **JURIES.**—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of this title.

SEC. 1022. SERVICE OF ARTICLE III JUDGES ON TERRITORIAL COURTS.

Chapter 13 is amended by—

(1) adding at the end thereof the following:

“§ 297. Assignment of judges to courts of the freely associated compact states

“(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so

assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

“(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection.”; and

Reports.

(2) amending the table of sections by adding at the end thereof the following:

“297. Assignment of judges to courts of the freely associated compact states.”.

SEC. 1023. SALARIES OF UNITED STATES CLAIMS COURT JUDGES.

Section 172(b) is amended to read as follows:

“(b) Each judge shall receive a salary at the rate of pay, and in the same manner, as judges of the district courts of the United States.”.

Approved November 19, 1988.

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