

104TH CONGRESS
1ST SESSION

S. 853

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

IN THE SENATE OF THE UNITED STATES

MAY 25 (legislative day, MAY 15), 1995

Mr. GORTON (for himself, Mr. BURNS, Mr. MURKOWSKI, Mr. STEVENS, Mr. KEMPTHORNE, Mr. CRAIG, Mr. BAUCUS, Mr. PACKWOOD, and Mr. HATFIELD) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ninth Circuit Court
5 of Appeals Reorganization Act of 1995”.

6 **SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.**

7 Section 41 of title 28, United States Code, is
8 amended—

1 (1) in the matter before the table, by striking
2 out “thirteen” and inserting in lieu thereof “four-
3 teen”;

4 (2) in the table, by striking out the item relat-
5 ing to the ninth circuit and inserting in lieu thereof
6 the following new item:

“Ninth Arizona, California, Hawaii, Nevada,
Guam, Northern Mariana Is-
lands.”;

7 and

8 (3) between the last 2 items of the table, by in-
9 serting the following new item:

“Twelfth Alaska, Idaho, Montana, Oregon,
Washington.”.

10 **SEC. 3. NUMBER OF CIRCUIT JUDGES.**

11 The table in section 44(a) of title 28, United States
12 Code, is amended—

13 (1) by striking out the item relating to the
14 ninth circuit and inserting in lieu thereof the follow-
15 ing new item:

“Ninth 19”;

16 and

17 (2) by inserting between the last 2 items at the
18 end thereof the following new item:

“Twelfth 7”.

19 **SEC. 4. PLACES OF CIRCUIT COURT.**

20 The table in section 48 of title 28, United States
21 Code, is amended—

1 (1) by striking out the item relating to the
2 ninth circuit and inserting in lieu thereof the follow-
3 ing new item:

“Ninth San Francisco, Los Angeles.”;

4 and

5 (2) by inserting between the last 2 items at the
6 end thereof the following new item:

“Twelfth Portland, Seattle.”.

7 **SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES.**

8 Each circuit judge in regular active service of the
9 former ninth circuit whose official station on the day be-
10 fore the effective date of this Act—

11 (1) is in Arizona, California, Hawaii, Nevada,
12 Guam, or the Northern Mariana Islands is assigned
13 as a circuit judge of the new ninth circuit; and

14 (2) is in Alaska, Idaho, Montana, Oregon, or
15 Washington is assigned as a circuit judge of the
16 twelfth circuit.

17 **SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

18 Each judge who is a senior judge of the former ninth
19 circuit on the day before the effective date of this Act may
20 elect to be assigned to the new ninth circuit or to the
21 twelfth circuit and shall notify the Director of the Admin-
22 istrative Office of the United States Courts of such elec-
23 tion.

1 **SEC. 7. SENIORITY OF JUDGES.**

2 The seniority of each judge—

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

4 or

5 (2) who elects to be assigned under section 6 of

6 this Act;

7 shall run from the date of commission of such judge as

8 a judge of the former ninth circuit.

9 **SEC. 8. APPLICATION TO CASES.**

10 The provisions of the following paragraphs of this

11 section apply to any case in which, on the day before the

12 effective date of this Act, an appeal or other proceeding

13 has been filed with the former ninth circuit:

14 (1) If the matter has been submitted for deci-

15 sion, further proceedings in respect of the matter

16 shall be had in the same manner and with the same

17 effect as if this Act had not been enacted.

18 (2) If the matter has not been submitted for de-

19 cision, the appeal or proceeding, together with the

20 original papers, printed records, and record entries

21 duly certified, shall, by appropriate orders, be trans-

22 ferred to the court to which it would have gone had

23 this Act been in full force and effect at the time

24 such appeal was taken or other proceeding com-

25 menced, and further proceedings in respect of the

26 case shall be had in the same manner and with the

1 same effect as if the appeal or other proceeding had
2 been filed in such court.

3 (3) A petition for rehearing or a petition for re-
4 hearing en banc in a matter decided before the effec-
5 tive date of this Act, or submitted before the effec-
6 tive date of this Act and decided on or after the ef-
7 fective date as provided in paragraph (1) of this sec-
8 tion, shall be treated in the same manner and with
9 the same effect as though this Act had not been en-
10 acted. If a petition for rehearing en banc is granted,
11 the matter shall be reheard by a court comprised as
12 though this Act had not been enacted.

13 **SEC. 9. DEFINITIONS.**

14 For purposes of this Act, the term—

15 (1) “former ninth circuit” means the ninth ju-
16 dicial circuit of the United States as in existence on
17 the day before the effective date of this Act;

18 (2) “new ninth circuit” means the ninth judicial
19 circuit of the United States established by the
20 amendment made by section 2(2) of this Act; and

21 (3) “twelfth circuit” means the twelfth judicial
22 circuit of the United States established by the
23 amendment made by section 2(3) of this Act.

1 **SEC. 10. ADMINISTRATION.**

2 The court of appeals for the ninth circuit as con-
3 stituted on the day before the effective date of this Act
4 may take such administrative action as may be required
5 to carry out this Act. Such court shall cease to exist for
6 administrative purposes on July 1, 1997.

7 **SEC. 11. EFFECTIVE DATE.**

8 This Act and the amendments made by this Act shall
9 become effective on October 1, 1995.

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