

105TH CONGRESS  
2D SESSION

# H. R. 1252

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IN THE SENATE OF THE UNITED STATES

APRIL 24, 1998

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

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## AN ACT

To modify the procedures of the Federal courts in certain  
matters, 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,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Judicial Reform Act  
3 of 1998”.

4 **SEC. 2. 3-JUDGE COURT FOR ANTICIPATORY RELIEF.**

5       (a) **REQUIREMENT OF 3-JUDGE COURT.**—Any appli-  
6 cation for anticipatory relief against the enforcement, op-  
7 eration, or execution of a State law adopted by referendum  
8 shall not be granted by a United States district court or  
9 judge thereof upon the ground that the State law is repug-  
10 nant to the Constitution, treaties, or laws of the United  
11 States unless the application for anticipatory relief is  
12 heard and determined by a court of 3 judges in accordance  
13 with section 2284 of title 28, United States Code. Any  
14 appeal of a determination on such application shall be to  
15 the Supreme Court. In any case to which this section ap-  
16 plies, the additional judges who will serve on the 3-judge  
17 court shall be designated under section 2284(b)(1) of title  
18 28, United States Code, as soon as practicable, and the  
19 court shall expedite the consideration of the application  
20 for anticipatory relief.

21       (b) **DEFINITIONS.**—As used in this section—

22               (1) the term “State” means each of the several  
23 States and the District of Columbia;

24               (2) the term “State law” means the constitu-  
25 tion of a State, or any statute, rule, regulation, or

1 other measure of a State that has the force of law,  
2 and any amendment thereto;

3 (3) the term “referendum” means the submis-  
4 sion to popular vote, by the voters of the State, of  
5 a measure passed upon or proposed by a legislative  
6 body or by popular initiative; and

7 (4) the term “anticipatory relief” means an in-  
8 terlocutory or permanent injunction or a declaratory  
9 judgment.

10 (c) EFFECTIVE DATE.—This section applies to any  
11 application for anticipatory relief that is filed on or after  
12 the date of the enactment of this Act.

13 **SEC. 3. INTERLOCUTORY APPEALS OF COURT ORDERS RE-**  
14 **LATING TO CLASS ACTIONS.**

15 (a) INTERLOCUTORY APPEALS.—Section 1292(b) of  
16 title 28, United States Code, is amended—

17 (1) by inserting “(1)” after “(b)”; and

18 (2) by adding at the end the following:

19 “(2) A party to an action in which the district court  
20 has made a determination of whether the action may be  
21 maintained as a class action may make application for ap-  
22 peal of that determination to the court of appeals which  
23 would have jurisdiction of an appeal of that action. The  
24 court of appeals may, in its discretion, permit the appeal  
25 to be taken from such determination if the application is

1 made within 10 days after the entry of the court’s deter-  
 2 mination relating to the class action. Application for an  
 3 appeal under this paragraph shall not stay proceedings in  
 4 the district court unless the district judge or the court of  
 5 appeals or a judge thereof shall so order.”.

6 (b) EFFECTIVE DATE.—The amendment made by  
 7 subsection (a) applies to any action commenced on or after  
 8 the date of the enactment of this Act.

9 **SEC. 4. PROCEEDINGS ON COMPLAINTS AGAINST JUDICIAL**  
 10 **CONDUCT.**

11 (a) REFERRAL OF PROCEEDINGS TO ANOTHER JUDI-  
 12 CIAL CIRCUIT OR COURT.—Section 372(c) of title 28,  
 13 United States Code, is amended—

14 (1) in paragraph (1) by adding at the end the  
 15 following: “In the case of a complaint so identified,  
 16 the chief judge shall notify the clerk of the court of  
 17 appeals of the complaint, together with a brief state-  
 18 ment of the facts underlying the complaint.”;

19 (2) in paragraph (2) in the second sentence by  
 20 inserting “or statement of facts underlying the com-  
 21 plaint (as the case may be)” after “copy of the com-  
 22 plaint”;

23 (3) in paragraph (3)—

24 (A) by inserting “(A)” after “(3)”;

1 (B) by striking “may—” and all that fol-  
2 lows through the end of subparagraph (B) and  
3 inserting the following: “may dismiss the com-  
4 plaint if the chief judge finds it to be—

5 “(i) not in conformity with paragraph (1);

6 “(ii) directly related to the merits of a decision  
7 or procedural ruling; or

8 “(iii) frivolous.”; and

9 (C) by adding at the end the following:

10 “(B) If the chief judge does not enter an order under  
11 subparagraph (A), then the complaint or (in the case of  
12 a complaint identified under paragraph (1)) the statement  
13 of facts underlying the complaint shall be referred to the  
14 chief judge of another judicial circuit for proceedings  
15 under this subsection (hereafter in this subsection referred  
16 to as the ‘chief judge’), in accordance with a system estab-  
17 lished by rule by the Judicial Conference, which prescribes  
18 the circuits to which the complaints will be referred. The  
19 Judicial Conference shall establish and submit to the Con-  
20 gress the system described in the preceding sentence not  
21 later than 180 days after the date of the enactment of  
22 the Judicial Reform Act of 1998.

23 “(C) After expeditiously reviewing the complaint, the  
24 chief judge may, by written order explaining the chief  
25 judge’s reasons, conclude the proceeding if the chief judge

1 finds that appropriate corrective action has been taken or  
2 that action on the complaint is no longer necessary be-  
3 cause of intervening events.”;

4 (4) in paragraph (4)—

5 (A) by striking “paragraph (3)” and in-  
6 serting “paragraph (3)(C)”; and

7 (B) in subparagraph (A) by inserting “(to  
8 which the complaint or statement of facts un-  
9 derlying the complaint is referred)” after “the  
10 circuit”;

11 (5) in paragraph (5)—

12 (A) in the first sentence by inserting “to  
13 which the complaint or statement of facts un-  
14 derlying the complaint is referred” after “the  
15 circuit”; and

16 (B) in the second sentence by striking “the  
17 circuit” and inserting “that circuit”;

18 (6) in the first sentence of paragraph (15) by  
19 inserting before the period at the end the following:  
20 “in which the complaint was filed or identified under  
21 paragraph (1)”; and

22 (7) by amending paragraph (18) to read as fol-  
23 lows:

1       “(18) The Judicial Conference shall prescribe rules,  
2 consistent with the preceding provisions of this sub-  
3 section—

4           “(A) establishing procedures for the filing of  
5 complaints with respect to the conduct of any judge  
6 of the United States Court of Federal Claims, the  
7 Court of International Trade, or the Court of Ap-  
8 peals for the Federal Circuit, and for the investiga-  
9 tion and resolution of such complaints; and

10          “(B) establishing a system for referring com-  
11 plaints filed with respect to the conduct of a judge  
12 of any such court to any of the first eleven judicial  
13 circuits or to another court for investigation and res-  
14 olution.

15 The Judicial Conference shall establish and submit to the  
16 Congress the system described in subparagraph (B) not  
17 later than 180 days after the date of the enactment of  
18 the Judicial Reform Act of 1998.”.

19       (b) DISCLOSURE OF INFORMATION.—Section  
20 372(c)(14) of title 28, United States Code, is amended—

21           (1) in subparagraph (B) by striking “or” after  
22 the semicolon;

23           (2) in subparagraph (C) by striking the period  
24 at the end and inserting “; or”; and

1           (3) by adding after subparagraph (C) the fol-  
2       lowing:

3           “(D) such disclosure is made to another agency  
4       or instrumentality of any governmental jurisdiction  
5       within or under the control the United States for a  
6       civil or criminal law enforcement activity authorized  
7       by law.”.

8       (c) EFFECTIVE DATE.—The amendments made by  
9       subsection (a) apply to complaints filed on or after the  
10      180th day after the date of the enactment of this Act.

11   **SEC. 5. RANDOM ASSIGNMENT OF HABEAS CORPUS CASES.**

12      Section 2241 of title 28, United States Code, is  
13      amended by adding at the end the following:

14      “(e) Applications for writs of habeas corpus received  
15      in or transferred to a district court shall be randomly as-  
16      signed to the judges of that court.”.

17   **SEC. 6. AUTHORITY OF PRESIDING JUDGE TO ALLOW**  
18                   **MEDIA COVERAGE OF COURT PROCEEDINGS.**

19      (a) AUTHORITY OF APPELLATE COURTS.—Notwith-  
20      standing any other provision of law, the presiding judge  
21      of an appellate court of the United States may, in his or  
22      her discretion, permit the photographing, electronic re-  
23      cording, broadcasting, or televising to the public of court  
24      proceedings over which that judge presides.

25      (b) AUTHORITY OF DISTRICT COURTS.—



1           (1) IN GENERAL.—Notwithstanding any other  
2       provision of law, any presiding judge of a district  
3       court of the United States may, in his or her discre-  
4       tion, permit the photographing, electronic recording,  
5       broadcasting, or televising to the public of court pro-  
6       ceedings over which that judge presides.

7           (2) OBSCURING OF WITNESSES.—(A) Upon the  
8       request of any witness in a trial proceeding other  
9       than a party, the court shall order the face and voice  
10      of the witness to be disguised or otherwise obscured  
11      in such manner as to render the witness unrecogniz-  
12      able to the broadcast audience of the trial proceed-  
13      ing.

14          (B) The presiding judge in a trial proceeding  
15      shall inform each witness who is not a party that the  
16      witness has the right to request that his or her  
17      image and voice be obscured during the witness' tes-  
18      timony.

19          (c) ADVISORY GUIDELINES.—The Judicial Con-  
20      ference of the United States is authorized to promulgate  
21      advisory guidelines to which a presiding judge, in his or  
22      her discretion, may refer in making decisions with respect  
23      to the management and administration of photographing,  
24      recording, broadcasting, or televising described in sub-  
25      sections (a) and (b).

1 (d) DEFINITIONS.—As used in this section:

2 (1) PRESIDING JUDGE.—The term “presiding  
3 judge” means the judge presiding over the court  
4 proceeding concerned. In proceedings in which more  
5 than one judge participates, the presiding judge  
6 shall be the senior active judge so participating or,  
7 in the case of a circuit court of appeals, the senior  
8 active circuit judge so participating, except that—

9 (A) in en banc sittings of any United  
10 States circuit court of appeals, the presiding  
11 judge shall be the chief judge of the circuit  
12 whenever the chief judge participates; and

13 (B) in en banc sittings of the Supreme  
14 Court of the United States, the presiding judge  
15 shall be the Chief Justice whenever the Chief  
16 Justice participates.

17 (2) APPELLATE COURT OF THE UNITED  
18 STATES.—The term “appellate court of the United  
19 States” means any United States circuit court of ap-  
20 peals and the Supreme Court of the United States.

21 (e) SUNSET.—The authority under subsection (b)  
22 shall terminate on the date that is 3 years after the date  
23 of the enactment of this Act.

1 **SEC. 7. MULTIPARTY, MULTIFORUM JURISDICTION OF DIS-**  
2 **TRICT COURTS.**

3 (a) BASIS OF JURISDICTION.—

4 (1) IN GENERAL.—Chapter 85 of title 28,  
5 United States Code, is amended by adding at the  
6 end the following new section:

7 **“§ 1370. Multiparty, multiform jurisdiction**

8 “(a) IN GENERAL.—The district courts shall have  
9 original jurisdiction of any civil action involving minimal  
10 diversity between adverse parties that arises from a single  
11 accident, where at least 25 natural persons have either  
12 died or incurred injury in the accident at a discrete loca-  
13 tion and, in the case of injury, the injury has resulted in  
14 damages which exceed \$50,000 per person, exclusive of in-  
15 terest and costs, if—

16 “(1) a defendant resides in a State and a sub-  
17 stantial part of the accident took place in another  
18 State or other location, regardless of whether that  
19 defendant is also a resident of the State where a  
20 substantial part of the accident took place;

21 “(2) any two defendants reside in different  
22 States, regardless of whether such defendants are  
23 also residents of the same State or States; or

24 “(3) substantial parts of the accident took place  
25 in different States.

1       “(b) SPECIAL RULES AND DEFINITIONS.—For pur-  
2 poses of this section—

3           “(1) minimal diversity exists between adverse  
4 parties if any party is a citizen of a State and any  
5 adverse party is a citizen of another State, a citizen  
6 or subject of a foreign state, or a foreign state as  
7 defined in section 1603(a) of this title;

8           “(2) a corporation is deemed to be a citizen of  
9 any State, and a citizen or subject of any foreign  
10 state, in which it is incorporated or has its principal  
11 place of business, and is deemed to be a resident of  
12 any State in which it is incorporated or licensed to  
13 do business or is doing business;

14           “(3) the term ‘injury’ means—

15               “(A) physical harm to a natural person;  
16 and

17               “(B) physical damage to or destruction of  
18 tangible property, but only if physical harm de-  
19 scribed in subparagraph (A) exists;

20           “(4) the term ‘accident’ means a sudden acci-  
21 dent, or a natural event culminating in an accident,  
22 that results in death or injury incurred at a discrete  
23 location by at least 25 natural persons; and

1           “(5) the term ‘State’ includes the District of  
2           Columbia, the Commonwealth of Puerto Rico, and  
3           any territory or possession of the United States.

4           “(c) INTERVENING PARTIES.—In any action in a dis-  
5           trict court which is or could have been brought, in whole  
6           or in part, under this section, any person with a claim  
7           arising from the accident described in subsection (a) shall  
8           be permitted to intervene as a party plaintiff in the action,  
9           even if that person could not have brought an action in  
10          a district court as an original matter.

11          “(d) NOTIFICATION OF JUDICIAL PANEL ON MULTI-  
12          DISTRICT LITIGATION.—A district court in which an ac-  
13          tion under this section is pending shall promptly notify  
14          the judicial panel on multidistrict litigation of the pend-  
15          ency of the action.”.

16          (2) CONFORMING AMENDMENT.—The table of  
17          sections at the beginning of chapter 85 of title 28,  
18          United States Code, is amended by adding at the  
19          end the following new item:

“1370. Multiparty, multiforum jurisdiction.”.

20          (b) VENUE.—Section 1391 of title 28, United States  
21          Code, is amended by adding at the end the following:

22          “(g) A civil action in which jurisdiction of the district  
23          court is based upon section 1370 of this title may be  
24          brought in any district in which any defendant resides or

1 in which a substantial part of the accident giving rise to  
2 the action took place.”.

3 (c) MULTIDISTRICT LITIGATION.—Section 1407 of  
4 title 28, United States Code, is amended by adding at the  
5 end the following:

6 “(i)(1) In actions transferred under this section when  
7 jurisdiction is or could have been based, in whole or in  
8 part, on section 1370 of this title, the transferee district  
9 court may, notwithstanding any other provision of this  
10 section, retain actions so transferred for the determination  
11 of liability and punitive damages. An action retained for  
12 the determination of liability shall be remanded to the dis-  
13 trict court from which the action was transferred, or to  
14 the State court from which the action was removed, for  
15 the determination of damages, other than punitive dam-  
16 ages, unless the court finds, for the convenience of parties  
17 and witnesses and in the interest of justice, that the action  
18 should be retained for the determination of damages.

19 “(2) Any remand under paragraph (1) shall not be  
20 effective until 60 days after the transferee court has  
21 issued an order determining liability and has certified its  
22 intention to remand some or all of the transferred actions  
23 for the determination of damages. An appeal with respect  
24 to the liability determination and the choice of law deter-  
25 mination of the transferee court may be taken during that

1 60-day period to the court of appeals with appellate juris-  
2 diction over the transferee court. In the event a party files  
3 such an appeal, the remand shall not be effective until the  
4 appeal has been finally disposed of. Once the remand has  
5 become effective, the liability determination and the choice  
6 of law determination shall not be subject to further review  
7 by appeal or otherwise.

8 “(3) An appeal with respect to determination of puni-  
9 tive damages by the transferee court may be taken, during  
10 the 60-day period beginning on the date the order making  
11 the determination is issued, to the court of appeals with  
12 jurisdiction over the transferee court.

13 “(4) Any decision under this subsection concerning  
14 remand for the determination of damages shall not be re-  
15 viewable by appeal or otherwise.

16 “(5) Nothing in this subsection shall restrict the au-  
17 thority of the transferee court to transfer or dismiss an  
18 action on the ground of inconvenient forum.”.

19 (d) REMOVAL OF ACTIONS.—Section 1441 of title 28,  
20 United States Code, is amended—

21 (1) in subsection (e) by striking “(e) The court  
22 to which such civil action is removed” and inserting  
23 “(f) The court to which a civil action is removed  
24 under this section”; and

1           (2) by inserting after subsection (d) the follow-  
2           ing new subsection:

3           “(e)(1) Notwithstanding the provisions of subsection  
4           (b) of this section, a defendant in a civil action in a State  
5           court may remove the action to the district court of the  
6           United States for the district and division embracing the  
7           place where the action is pending if—

8           “(A) the action could have been brought in a  
9           United States district court under section 1370 of  
10          this title; or

11          “(B) the defendant is a party to an action  
12          which is or could have been brought, in whole or in  
13          part, under section 1370 in a United States district  
14          court and arises from the same accident as the ac-  
15          tion in State court, even if the action to be removed  
16          could not have been brought in a district court as  
17          an original matter.

18          The removal of an action under this subsection shall be  
19          made in accordance with section 1446 of this title, except  
20          that a notice of removal may also be filed before trial of  
21          the action in State court within 30 days after the date  
22          on which the defendant first becomes a party to an action  
23          under section 1370 in a United States district court that  
24          arises from the same accident as the action in State court,  
25          or at a later time with leave of the district court.



1       “(2) Whenever an action is removed under this sub-  
2 section and the district court to which it is removed or  
3 transferred under section 1407(i) has made a liability de-  
4 termination requiring further proceedings as to damages,  
5 the district court shall remand the action to the State  
6 court from which it had been removed for the determina-  
7 tion of damages, unless the court finds that, for the con-  
8 venience of parties and witnesses and in the interest of  
9 justice, the action should be retained for the determination  
10 of damages.

11       “(3) Any remand under paragraph (2) shall not be  
12 effective until 60 days after the district court has issued  
13 an order determining liability and has certified its inten-  
14 tion to remand the removed action for the determination  
15 of damages. An appeal with respect to the liability deter-  
16 mination and the choice of law determination of the dis-  
17 trict court may be taken during that 60-day period to the  
18 court of appeals with appellate jurisdiction over the dis-  
19 trict court. In the event a party files such an appeal, the  
20 remand shall not be effective until the appeal has been  
21 finally disposed of. Once the remand has become effective,  
22 the liability determination and the choice of law deter-  
23 mination shall not be subject to further review by appeal  
24 or otherwise.

1 “(4) Any decision under this subsection concerning  
 2 remand for the determination of damages shall not be re-  
 3 viewable by appeal or otherwise.

4 “(5) An action removed under this subsection shall  
 5 be deemed to be an action under section 1370 and an ac-  
 6 tion in which jurisdiction is based on section 1368 of this  
 7 title for purposes of this section and sections 1407, 1660,  
 8 1697, and 1785 of this title.

9 “(6) Nothing in this subsection shall restrict the au-  
 10 thority of the district court to transfer or dismiss an ac-  
 11 tion on the ground of inconvenient forum.”.

12 (e) CHOICE OF LAW.—

13 (1) DETERMINATION BY THE COURT.—Chapter  
 14 111 of title 28, United States Code, is amended by  
 15 adding at the end the following new section:

16 **“§ 1660. Choice of law in multiparty, multiform ac-**  
 17 **tions**

18 “(a) FACTORS.—In an action which is or could have  
 19 been brought, in whole or in part, under section 1370 of  
 20 this title, the district court in which the action is brought  
 21 or to which it is removed shall determine the source of  
 22 the applicable substantive law, except that if an action is  
 23 transferred to another district court, the transferee court  
 24 shall determine the source of the applicable substantive  
 25 law. In making this determination, a district court shall

1 not be bound by the choice of law rules of any State, and  
2 the factors that the court may consider in choosing the  
3 applicable law include—

4 “(1) the place of the injury;

5 “(2) the place of the conduct causing the in-  
6 jury;

7 “(3) the principal places of business or  
8 domiciles of the parties;

9 “(4) the danger of creating unnecessary incen-  
10 tives for forum shopping; and

11 “(5) whether the choice of law would be reason-  
12 ably foreseeable to the parties.

13 The factors set forth in paragraphs (1) through (5) shall  
14 be evaluated according to their relative importance with  
15 respect to the particular action. If good cause is shown  
16 in exceptional cases, including constitutional reasons, the  
17 court may allow the law of more than one State to be ap-  
18 plied with respect to a party, claim, or other element of  
19 an action.

20 “(b) ORDER DESIGNATING CHOICE OF LAW.—The  
21 district court making the determination under subsection  
22 (a) shall enter an order designating the single jurisdiction  
23 whose substantive law is to be applied in all other actions  
24 under section 1370 arising from the same accident as that  
25 giving rise to the action in which the determination is

1 made. The substantive law of the designated jurisdiction  
 2 shall be applied to the parties and claims in all such ac-  
 3 tions before the court, and to all other elements of each  
 4 action, except where Federal law applies or the order spe-  
 5 cifically provides for the application of the law of another  
 6 jurisdiction with respect to a party, claim, or other ele-  
 7 ment of an action.

8 “(c) CONTINUATION OF CHOICE OF LAW AFTER RE-  
 9 MAND.—In an action remanded to another district court  
 10 or a State court under section 1407(i)(1) or 1441(e)(2)  
 11 of this title, the district court’s choice of law under sub-  
 12 section (b) shall continue to apply.”.

13 (2) CONFORMING AMENDMENT.—The table of  
 14 sections at the beginning of chapter 111 of title 28,  
 15 United States Code, is amended by adding at the  
 16 end the following new item:

“1660. Choice of law in multiparty, multiform actions.”.

17 (f) SERVICE OF PROCESS.—

18 (1) OTHER THAN SUBPOENAS.—(A) Chapter  
 19 113 of title 28, United States Code, is amended by  
 20 adding at the end the following new section:

21 **“§ 1697. Service in multiparty, multiform actions**

22 “When the jurisdiction of the district court is based  
 23 in whole or in part upon section 1370 of this title, process,  
 24 other than subpoenas, may be served at any place within

1 the United States, or anywhere outside the United States  
 2 if otherwise permitted by law.”.

3 (B) The table of sections at the beginning of  
 4 chapter 113 of title 28, United States Code, is  
 5 amended by adding at the end the following new  
 6 item:

“1697. Service in multiparty, multiform actions.”.

7 (2) SERVICE OF SUBPOENAS.—(A) Chapter 117  
 8 of title 28, United States Code, is amended by add-  
 9 ing at the end the following new section:

10 **“§ 1785. Subpoenas in multiparty, multiform actions**

11 “When the jurisdiction of the district court is based  
 12 in whole or in part upon section 1370 of this title, a sub-  
 13 poena for attendance at a hearing or trial may, if author-  
 14 ized by the court upon motion for good cause shown, and  
 15 upon such terms and conditions as the court may impose,  
 16 be served at any place within the United States, or any-  
 17 where outside the United States if otherwise permitted by  
 18 law.”.

19 (B) The table of sections at the beginning of  
 20 chapter 117 of title 28, United States Code, is  
 21 amended by adding at the end the following new  
 22 item:

“1785. Subpoenas in multiparty, multiform actions.”.

23 (g) EFFECTIVE DATE.—The amendments made by  
 24 this section shall apply to a civil action if the accident giv-

1 ing rise to the cause of action occurred on or after the  
2 90th day after the date of the enactment of this Act.

3 **SEC. 8. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.**

4 (a) APPEALS.—Section 7703 of title 5, United States  
5 Code, is amended—

6 (1) in subsection (b)(1), by striking “30” and  
7 inserting “60”; and

8 (2) in the first sentence of subsection (d), by in-  
9 serting after “filing” the following: “, within 60 days  
10 after the date the Director received notice of the  
11 final order or decision of the Board,”.

12 (b) EFFECTIVE DATE.—The amendments made by  
13 subsection (a) take effect on the date of the enactment  
14 of this Act and apply to any administrative or judicial pro-  
15 ceeding pending on that date or commenced on or after  
16 that date.

17 **SEC. 9. EXTENSION OF JUDICIARY INFORMATION TECH-**  
18 **NOLOGY FUND.**

19 Section 612 of title 28, United States Code, is  
20 amended—

21 (1) by striking “equipment” each place it ap-  
22 pears and inserting “resources”;

23 (2) by striking subsection (f) and redesignating  
24 subsequent subsections accordingly;

1           (3) in subsection (g), as so redesignated, by  
2       striking paragraph (3); and

3           (4) in subsection (i), as so redesignated—

4               (A) by striking “Judiciary” each place it  
5       appears and inserting “judiciary”;

6               (B) by striking “subparagraph (c)(1)(B)”  
7       and inserting “subsection (c)(1)(B)”; and

8               (C) by striking “under (c)(1)(B)” and in-  
9       serting “under subsection (c)(1)(B)”.

10 **SEC. 10. OFFSETTING RECEIPTS.**

11       For fiscal year 1999 and thereafter, any portion of  
12 miscellaneous fees collected as prescribed by the Judicial  
13 Conference of the United States pursuant to sections  
14 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28,  
15 United States Code, exceeding the amount of such fees  
16 in effect on September 30, 1998, shall be deposited into  
17 the special fund of the Treasury established under section  
18 1931 of title 28, United States Code.

19 **SEC. 11. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.**

20       Section 332(a) of title 28, United States Code, is  
21 amended—

22           (1) by striking paragraph (1) and inserting the  
23       following:

24       “(1) The chief judge of each judicial circuit shall call  
25       and preside at a meeting of the judicial council of the cir-

1 cuit at least twice in each year and at such places as he  
 2 or she may designate. The council shall consist of an equal  
 3 number of circuit judges (including the chief judge of the  
 4 circuit) and district judges, as such number is determined  
 5 by majority vote of all such judges of the circuit in regular  
 6 active service.”;

7 (2) by striking paragraph (3) and inserting the  
 8 following:

9 “(3) Except for the chief judge of the circuit, either  
 10 judges in regular active service or judges retired from reg-  
 11 ular active service under section 371(b) of this title may  
 12 serve as members of the council.”; and

13 (3) by striking “retirement,” in paragraph (5)  
 14 and inserting “retirement under section 371(a) or  
 15 section 372(a) of this title,”.

16 **SEC. 12. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY**  
 17 **REDUCTION PLANS.**

18 Section 103(b)(2)(A) of the Civil Justice Reform Act  
 19 of 1990 (Public Law 101–650; 104 Stat. 5096; 28 U.S.C.  
 20 471 note), as amended by Public Law 105–53 (111 Stat.  
 21 1173), is amended by inserting “471,” after “sections”.



1 **SEC. 13. CREATION OF CERTIFYING OFFICERS IN THE JUDI-**  
2 **CIAL BRANCH.**

3 (a) APPOINTMENT OF DISBURSING AND CERTIFYING  
4 OFFICERS.—Chapter 41 of title 28, United States Code,  
5 is amended by adding at the end the following new section:

6 **“§ 613. Disbursing and certifying officers**

7 “(a) DISBURSING OFFICERS.—The Director may  
8 designate in writing officers and employees of the judicial  
9 branch of the Government, including the courts as defined  
10 in section 610 other than the Supreme Court, to be dis-  
11 burasing officers in such numbers and locations as the Di-  
12 rector considers necessary. Such disbursing officers  
13 shall—

14 “(1) disburse moneys appropriated to the judi-  
15 cial branch and other funds only in strict accordance  
16 with payment requests certified by the Director or in  
17 accordance with subsection (b);

18 “(2) examine payment requests as necessary to  
19 ascertain whether they are in proper form, certified,  
20 and approved; and

21 “(3) be held accountable for their actions as  
22 provided by law, except that such a disbursing offi-  
23 cer shall not be held accountable or responsible for  
24 any illegal, improper, or incorrect payment resulting  
25 from any false, inaccurate, or misleading certificate

1       for which a certifying officer is responsible under  
2       subsection (b).

3       “(b) CERTIFYING OFFICERS.—(1) The Director may  
4       designate in writing officers and employees of the judicial  
5       branch of the Government, including the courts as defined  
6       in section 610 other than the Supreme Court, to certify  
7       payment requests payable from appropriations and funds.  
8       Such certifying officers shall be responsible and account-  
9       able for—

10           “(A) the existence and correctness of the facts  
11       recited in the certificate or other request for pay-  
12       ment or its supporting papers;

13           “(B) the legality of the proposed payment  
14       under the appropriation or fund involved; and

15           “(C) the correctness of the computations of cer-  
16       tified payment requests.

17       “(2) The liability of a certifying officer shall be en-  
18       forced in the same manner and to the same extent as pro-  
19       vided by law with respect to the enforcement of the liabil-  
20       ity of disbursing and other accountable officers. A certify-  
21       ing officer shall be required to make restitution to the  
22       United States for the amount of any illegal, improper, or  
23       incorrect payment resulting from any false, inaccurate, or  
24       misleading certificates made by the certifying officer, as  
25       well as for any payment prohibited by law or which did

1 not represent a legal obligation under the appropriation  
2 or fund involved.

3 “(c) RIGHTS.—A certifying or disbursing officer—

4 “(1) has the right to apply for and obtain a de-  
5 cision by the Comptroller General on any question of  
6 law involved in a payment request presented for cer-  
7 tification; and

8 “(2) is entitled to relief from liability arising  
9 under this section in accordance with title 31,  
10 United States Code.

11 “(d) OTHER AUTHORITY NOT AFFECTED.—Nothing  
12 in this section affects the authority of the courts with re-  
13 spect to moneys deposited with the courts under chapter  
14 129 of this title.”.

15 (b) CONFORMING AMENDMENT.—The table of sec-  
16 tions for chapter 41 of title 28, United States Code, is  
17 amended by adding at the end the following item:

“613. Disbursing and certifying officers.”.

18 (c) DUTIES OF DIRECTOR.—Paragraph (8) of sub-  
19 section (a) of section 604 of title 28, United States Code,  
20 is amended to read as follows:

21 “(8) Disburse appropriations and other funds  
22 for the maintenance and operation of the courts;”.

1 **SEC. 14. LIMITATION ON PRISONER RELEASE ORDERS.**

2 (a) IN GENERAL.—Chapter 99 of title 28, United  
3 States Code, is amended by adding at the end the follow-  
4 ing new section:

5 **“§ 1632. Limitation on prisoner release orders**

6 “(a) LIMITATION.—Notwithstanding section  
7 3626(a)(3) of title 18 or any other provision of law, in  
8 a civil action with respect to prison conditions, no court  
9 of the United States or other court listed in section 610  
10 shall have jurisdiction to enter or carry out any prisoner  
11 release order that would result in the release from or non-  
12 admission to a prison, on the basis of prison conditions,  
13 of any person subject to incarceration, detention, or ad-  
14 mission to a facility because of a conviction of a felony  
15 under the laws of the relevant jurisdiction, or a violation  
16 of the terms or conditions of parole, probation, pretrial  
17 release, or a diversionary program, relating to the commis-  
18 sion of a felony under the laws of the relevant jurisdiction.

19 “(b) DEFINITIONS.—As used in this section—

20 “(1) the terms ‘civil action with respect to pris-  
21 on conditions’, ‘prisoner’, ‘prisoner release order’,  
22 and ‘prison’ have the meanings given those terms in  
23 section 3626(g) of title 18; and

24 “(2) the term ‘prison conditions’ means condi-  
25 tions of confinement or the effects of actions by gov-

1       ernment officials on the lives of persons confined in  
2       prison.

3       (b) CONFORMING AMENDMENT.—The table of sec-  
4       tions for chapter 99 of title 28, United States Code, is  
5       amended by adding at the end the following new item:

“1632. Limitation on prisoner release orders.”.

6       (c) CONSENT DECREES.—

7               (1) TERMINATION OF EXISTING CONSENT DE-  
8       CREES.—Any consent decree that was entered into  
9       before the date of the enactment of the Prison Liti-  
10      gation Reform Act of 1995, that is in effect on the  
11      day before the date of the enactment of this Act,  
12      and that provides for remedies relating to prison  
13      conditions shall cease to be effective on the date of  
14      the enactment of this Act.

15              (2) DEFINITIONS.—As used in this sub-  
16      section—

17                      (A) the term “consent decree” has the  
18                      meaning given that term in section 3626(g) of  
19                      title 18, United States Code; and

20                      (B) the term “prison conditions” has the  
21                      meaning given that term in section 1632(c) of

- 1 title 28, United States Code, as added by sub-
- 2 section (a) of this section.

Passed the House of Representatives April 23, 1998.

Attest: ROBIN H. CARLE,  
*Clerk.*