''(3) After first exhausting all available administrative remedies, an individual appointed under subsection (b) may obtain judicial review of final agency action to deny a claim of actual, necessary expenses under this subsection by commencing an action in the United States district court in the district where the individual resides. The decision of the agency shall be affirmed by the district court unless it is unreasonable or without cause based upon the administrative record before the agency.

''(4) The Attorney General shall prescribe procedures to implement this subsection.''.

TITLE XII—GENERAL EFFECTIVE DATE; APPLICATION OF AMENDMENTS

SEC. 1201. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided otherwise in this Act, this Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the effective date of this Act.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,
GEORGE W. GEKAS,
BOB GOODLATTE,
ED BRYANT,
STEVE CHABOT,
RICK BOUCHER,
Managers on the Part of the House.

ORRIN G. HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3150), to amend title 11 of the United States Code, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

Differences between the House and Senate bills on several primary issues were the focus of discussions at the Conference.

MEANS TESTING

The House version contained a pre-filing formula to steer debtors with repayment capacity into Chapter 13 repayment plans. The Senate bill directed bankruptcy judges to consider the repayment capacity of debtors who had filed in Chapter 7 bankruptcy to determine whether they were appropriately filed. The compromise combines the best aspects of both approaches. It adopts the procedural approach of the Senate bill directing bankruptcy judges to consider repayment capacity, while instructing that such repayment capacity shall be presumed by the judge if the individual meets certain bright-line standards for measuring such repayment capacity. This approach preserves the right of a debtor in bankruptcy to have a judge review his or her individual case so that the debtor's unique circumstances could be taken into account.

NON-DISCHARGEABILITY

The House bill contained a provision that any debts incurred within 90 days of declaring bankruptcy, other than reasonably necessary living expenses not exceeding $250, were presumed to be nondischargeable. The House bill capped necessary living expenses at $250. The Senate bill contained a provision that debts other than reasonably necessary living expenses incurred within 90 days of declaring bankruptcy were presumed non-dischargeable. The Senate bill exempted all expenses, whether reasonable or not, up to $400. The Conferees reached a compromise between these provisions that new debts incurred within 90 days of bankruptcy for luxury goods over $250 in value would be presumed non-dischargeable. The compromise provides no limitation for reasonably necessary living expenses.

In addition, the House bill contained a provision that any debt incurred to pay non-dischargeable debt is also non-dischargeable. Under the Senate bill, debts incurred to pay non-dischargeable debts were only non-dischargeable if the debtor intended to discharge the newly created debt in bankruptcy. Under the Committee compromise, only debts incurred within 90 days prior to filing for bankruptcy to pay non-dischargeable debts are non-dischargeable, however, debts incurred prior to 90 days prior to filing for bankruptcy to pay nondischargeable debts are nondischargeable only if the debtor intended to discharge the newly created debt in bankruptcy.

ENHANCED DISCLOSURES AND CREDITOR PENALTIES

The House bill contained disclosure requirements for debtor lawyers who advertise debt relief services to ensure that unwary consumers were not lured into bankruptcy without being fully aware of their alternatives. The Senate bill contained provisions which required certain lenders to make disclosures, regarding minimum monthly payments, total costs, among others. The House bill contained no such provisions on enhanced consumer disclosures for credit extensions. The Conferees agreed to retain the disclosure provisions for debtor attorneys and to direct the Board of Governors of the Federal Reserve to develop appropriate and meaningful additional disclosure requirements for the use of consumers. In addition, several of the Senate bill provisions which assessed stiff fines on creditors who used abusive collection techniques, were adopted in the final Conference Report. The Conference Report also specifies that the new penalties will not give rise to class action liability.

REAFFIRMATIONS

The House bill contained no comparable provision to the Senate bill, which imposed a requirement for a hearing before a judge for certain types of reaffirmations by debtors. The Conference Committee streamlined these judicial procedures by ensuring that every debtor who reaffirms unsecured debt has the opportunity to appear before a judge. Under the compromise an enhanced standard is provided for the review of certain reaffirmation agreements. The judge is now required to determine that the reaffirmation was in the best interest of the debtor, would not impose an undue hardship, and was not the result of coercion.

CRAMDOWNS

The House bill prohibited cramdowns for certain secured debts incurred within 180 days prior to bankruptcy. The Senate bill contained an absolute prohibition on cramdowns in Chapter 13 cases. The Committee compromised by prohibiting cramdowns on debts securing personal property incurred within five years of filing for bankruptcy.

HOMESTEAD EXEMPTION

The House version of the homestead exemption required a one-year residency prior to being able to claim the homestead exemption. The Senate versions capped all homestead exemptions at $100,000. The Committee compromise imposes a two-year residency requirement before a debtor can claim the homestead exemption available in a particular state.

Other differences between the bills that were resolved by the Committee of Conference are apparent from a comparison of the two bills.

CURBING ABUSIVE FILINGS

The conferees have added a new paragraph to section 707(b) to make clear that, among the considerations in applying the ''totality of the circumstances'' test for ''abuse'' is whether an individual debtor seeks to reject a personal services contract and the financial need for such rejection as sought by the debtor. This is intended to remedy problems brought to the attention of Congress involving bankruptcy filings that were motivated in material part in order to reject executory contracts for personal services so that the debtor could negotiate a new and better contract with a different company. This problem was initially addressed in Section 212 of H.R. 3150, and the solution contained in that provision was targeted at this particular form of abuse of the bankruptcy process. With the new standard for ''abuse'' in Section 707(b)(2)(C), the conferees have determined that the specific provisions of Section 212 are no longer necessary, as the bankruptcy court will not have the authority to identify and remedy such abuses. The conferees intend that, under the ''totality of the circumstances'' test, an ''abuse'' of Chapter 7 exists when rejection of the personal services contract was a material reason for commencing the bankruptcy case, and economic rehabilitation of the debtor's finances can be achieved absent rejection of the contract. The conferees also intend that application of the existing judicially-determined ''bad faith'' standard now be used in these circumstances in Chapter 7 cases and in Chapter 11 and Chapter 13 cases, in which the debtor or debtors are parties to a single personal services contract.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
BILL MCCOLLUM,
GEORGE W. GEKAS,
BOB GOODLATTE,
ED BRYANT,
STEVE CHABOT,
RICK BOUCHER,
Managers on the Part of the House.

ORRIN G. HATCH,
CHUCK GRASSLEY,
JEFF SESSIONS,
Managers on the Part of the Senate.

LIMITATION ON CLOSELY RELATED PERSONS SERVING AS FEDERAL JUDGES ON THE SAME COURT

Mr. COBLE. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 1892) to provide that a person closely related to a judge of a court

exercising judicial power under article III of the United States Constitution (other than the Supreme Court) may not be appointed as a judge of the same court, and for other purposes, as amended.

The Clerk read as follows:

S. 1892

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON CLOSELY RELATED PERSONS SERVING AS FEDERAL JUDGES ON THE SAME COURT.

(a) IN GENERAL.—Section 458 of title 28, United States Code, is amended—

(1) by inserting ''(a)(1)'' before ''No person''; and

(2) by adding at the end the following:

''(2) With respect to the appointment of a judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court), subsection (b) shall apply in lieu of this subsection.

''(b)(1) In this subsection, the term—

''(A) 'same court' means—

''(i) in the case of a district court, the court of a single judicial district; and

''(ii) in the case of a court of appeals, the court of appeals of a single circuit; and

''(B) 'member'—

''(i) means an active judge or a judge retired in senior status under section 371(b); and

''(ii) shall not include a retired judge, except as described under clause (i).

''(2) No person may be appointed to the position of judge of a court exercising judicial power under article III of the United States Constitution (other than the Supreme Court) who is related by affinity or consanguinity within the degree of first cousin to any judge who is a member of the same court.''.

(b) EFFECTIVE DATE.—This Act shall take effect on the date of enactment of this Act and shall apply only to any individual whose nomination is submitted to the Senate on or after such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. COBLE) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. COBLE).

GENERAL LEAVE

Mr. COBLE. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

I rise in support of S. 1892, a bill to provide that a person closely related to a judge of Federal court may not be appointed as a judge of the same court. The integrity of our Federal court system is a paramount concern for this Congress, and this bill further insures that a citizen litigant will know that an individual appointed to the bench was done so out of merit and not out of nepotism.

This bill has no known opposition to me and was passed by the Senate unanimously by voice vote. The Senate version we consider today is virtually identical to the House version introduced by the gentlewoman from Washington (Ms. DUNN). I want to commend her on her interest, leadership and diligence in bringing this bill to the floor, and I urge my colleagues to support this legislation.

Madam Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Madam Speaker, I rise today to express my qualified objection to H.R. 3926, S. 1892, another unnecessary piece of legislation that I wish we were not considering at any time, and I understand that this bill is supported by those who decided to extract a change in Federal court procedure in exchange for supporting the nomination of one Federal court candidate, an able one I might add.

I will not call for a vote on this bill, but I do not support it. Rather my silence in not calling for a vote nor objecting more than this statement is my understanding from my years here that sometimes to get something done around here we have to do something we do not like.

Obviously I respect the nominees for this very important bench and understand the circumstances that we face. There have been judicial candidates whose nominations have been pending before the Senate for far too long. I have said over and over again, as a Member of the House Committee on the Judiciary, that we should stop the log jam and pay respect to the President of the United States in respecting the nominees who are long qualified but short on approval from the United States Senate. It is inappropriate as a matter of public policy and politics to hold up nominees because a clock is running out or because they are not affiliated with the right party. I do not approve of that, but it is a fact, and it is happening.

As an opportunity to help break a log jam over one candidate, we are being asked to change the rules, the immediate effect of which would be nil. Although this bill was directed at the situation of a mother and son sitting on the ninth circuit together, if enacted, this bill would not even apply to that situation. So it is a solution in search of a problem.

As I say, I do not think this is a good idea. I am glad, however, for the nominees' progress in moving through the process. I am glad this legislation was not around when I learned when the learned hands brother was appointed to the Southern District of New York or when President Bush appointed Morris Arnold to join his brother, Richard, on the Sixth Circuit.

But the legislation is before us now. It is the price we are being asked to pay for a good candidates's nomination to go forward. So let us get on with it, but, as we get on with it, let us get on with it in the Senate to approve many others who are standing by waiting to be approved to be able to serve their Nation.

Madam Speaker, I thank the chairman in any event for his good works on this matter albeit that I disagree with it, and I do believe that we will solve the problem for the gentleman tomorrow.

I rise today to express my qualified objection to H.R. 3926, another unnecessary piece of legislation that I wish we were not considering at any time. I understand that this bill is supported by those who have decided to extract a change in Federal court procedure in exchange for supporting the nomination of one Federal court candidate. I will not call for a vote on this bill, but I do not support it. Rather, my silence in not calling for a vote, nor objecting more than this statement, is my understanding from my years here that sometimes to get something done around here, you have to do something you don't like.

There have been judicial candidates whose nominations have been pending before the Senate for far too long. It is inappropriate as a matter of public policy, and politics, to hold up nominees because the clock is running out, or because they are not affiliated with the right party. I don't approve of that. But it is a fact. It is happening.

As an opportunity to help break a log jam over one candidate, we are being asked to change the rules on consanguinity, the immediate effect of which would be nil. Although this bill was directed at the situation of a mother and son sitting on the ninth circuit together, if enacted this bill wouldn't even apply to that situation. So, it's a solution in search of a problem. As I say, I don't think this is a good idea. I'm glad this legislation wasn't around when learned Hand's brother was appointed to the Southern District of New York, or when President Bush appointed Morris Arnold to join his brother Richard on the sixth circuit.

But the legislation is before us. It is the price we are being asked to pay for a good candidate's nomination to go forward. Let's get on with it.

Madam Speaker, I reserve the balance of my time.

Mr. COBLE. Madam Speaker, I yield myself such time as I may consume.

Ms. DUNN. Mr. Speaker, today I rise in support of this legislation which will preserve the institutional integrity of the federal court system. This bill will clarify the 1922 anti-nepotism law, which prohibits the employment in any court of individuals who are related within the degree of first cousin.

Currently, there is disagreement about whether this anti-nepotism law applies simply to employees or to the judges themselves.

I believe that the law must apply to both employees and the judges if courts are to remain unbiased. It is the duty of Congress to ensure that the credibility of our judicial branch is not compromised. This is why I am supporting the Judicial Anti-Nepotism Act. This legislation clarifies the intent of the original 1922 law to preclude the appointment of a judge to a court if that person is related with the degree of first cousin to any judge to that same court.

If the law were not to apply to the familial relationship of judges close family members would be able to serve concurrently on the same court, causing litigants to whose confidence in system clearly designed to be objective and impartial. We simply cannot afford to let this happen. We must assure that federal judges are independent from any outside

influence in order the their decisions to be completely just and based only on the laws and facts of the cases.

When going to trial over serious, life changing issues, a litigant must be assured of the right to be treated fairly. When a judge sits in the position to over-turn the decision of another judge who is a close relative sitting on a panel of judges, the litigant clearly is going to question the impartiality and fairness of the final court decision. Preventing close family members from serving on the same court is a small price to pay to avoid the appearance of a loss of credibility of our court system.

This bill passed unanimously out of the Senate yesterday. I encourage my colleagues to support this bill and help uphold the just character and composition of one of our most revered institutions. I want to thank Chairman COBLE for allowing the expeditious consideration of this measure and urge my colleagues to support its passage.

□ 2230

Mr. COBLE. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. WILSON). The question is on the motion offered by the gentleman from Arizona (Mr. COBLE) that the House suspend the rules and pass the Senate bill, S. 1892, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT OF BILLS TO BE CONSIDERED UNDER SUSPENSION OF THE RULES ON THURSDAY, OCTOBER 8, 1998

Mr. MCCOLLUM. Madam Speaker, pursuant to H. Res. 575, I announce the following suspensions to be considered tomorrow:

H. Con. Res. 335, H1–B Technical Corrections;

H. Con. Res. 334, Taiwan World Health Organization;

and H. Con. Res. 302, Recognizing the Importance of Children and Families.

CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Mr. MCCOLLUM. Madam Speaker, I move to suspend the rules and pass the Senate bill (S. 2022) to provide for the improvement of interstate criminal justice identification, information, communications, and forensics, as amended.

The Clerk read as follows:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

Sec. 101. Short title.

Sec. 102. State grant program for criminal justice identification, information, and communication.

TITLE II—NATIONAL CRIMINAL HISTORY ACCESS AND CHILD PROTECTION ACT

Sec. 201. Short title.

Subtitle A—Exchange of Criminal History Records for Noncriminal Justice Purposes

Sec. 211. Short title.
Sec. 212. Findings.
Sec. 213. Definitions.
Sec. 214. Enactment and consent of the United States.
Sec. 215. Effect on other laws.
Sec. 216. Enforcement and implementation.
Sec. 217. National Crime Prevention and Privacy Compact.

OVERVIEW

ARTICLE I—DEFINITIONS

ARTICLE II—PURPOSES

ARTICLE III—RESPONSIBILITIES OF COMPACT PARTIES

ARTICLE IV—AUTHORIZED RECORD DISCLOSURES

ARTICLE V—RECORD REQUEST PROCEDURES

ARTICLE VI—ESTABLISHMENT OF COMPACT COUNCIL

ARTICLE VII—RATIFICATION OF COMPACT

ARTICLE VIII—MISCELLANEOUS PROVISIONS

ARTICLE IX—RENUNCIATION

ARTICLE X—SEVERABILITY

ARTICLE XI—ADJUDICATION OF DISPUTES

Subtitle B—Volunteers for Children Act

Sec. 221. Short title.
Sec. 222. Facilitation of fingerprint checks.

TITLE I—CRIME IDENTIFICATION TECHNOLOGY ACT OF 1998

SEC. 101. SHORT TITLE.

This title may be cited as the ''Crime Identification Technology Act of 1998''.

SEC. 102. STATE GRANT PROGRAM FOR CRIMINAL JUSTICE IDENTIFICATION, INFORMATION, AND COMMUNICATION.

(a) IN GENERAL.—Subject to the availability of amounts provided in advance in appropriations Acts, the Office of Justice Programs relying principally on the expertise of the Bureau of Justice Statistics shall make a grant to each State, in a manner consistent with the national criminal history improvement program, which shall be used by the State, in conjunction with units of local government, State and local courts, other States, or combinations thereof, to establish or upgrade an integrated approach to develop information and identification technologies and systems to—

(1) upgrade criminal history and criminal justice record systems, including systems operated by law enforcement agencies and courts;

(2) improve criminal justice identification;

(3) promote compatibility and integration of national, State, and local systems for—

(A) criminal justice purposes;

(B) firearms eligibility determinations;

(C) identification of sexual offenders;

(D) identification of domestic violence offenders; and

(E) background checks for other authorized purposes unrelated to criminal justice; and

(4) capture information for statistical and research purposes to improve the administration of criminal justice.

(b) USE OF GRANT AMOUNTS.—Grants under this section may be used for programs to establish, develop, update, or upgrade—

(1) State centralized, automated, adult and juvenile criminal history record information systems, including arrest and disposition reporting;

(2) automated fingerprint identification systems that are compatible with standards established by the National Institute of Standards and Technology and interoperable with the Integrated Automated Fingerprint Identification System (IAFIS) of the Federal Bureau of Investigation;

(3) finger imaging, live scan, and other automated systems to digitize fingerprints and to communicate prints in a manner that is compatible with standards established by the National Institute of Standards and Technology and interoperable with systems operated by States and by the Federal Bureau of Investigation;

(4) programs and systems to facilitate full participation in the Interstate Identification Index of the National Crime Information Center;

(5) systems to facilitate full participation in any compact relating to the Interstate Identification Index of the National Crime Information Center;

(6) systems to facilitate full participation in the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note) for firearms eligibility determinations;

(7) integrated criminal justice information systems to manage and communicate criminal justice information among law enforcement agencies, courts, prosecutors, and corrections agencies;

(8) noncriminal history record information systems relevant to firearms eligibility determinations for availability and accessibility to the national instant criminal background check system established under section 103(b) of the Brady Handgun Violence Prevention Act (18 U.S.C. 922 note);

(9) court-based criminal justice information systems that promote—

(A) reporting of dispositions to central State repositories and to the Federal Bureau of Investigation; and

(B) compatibility with, and integration of, court systems with other criminal justice information systems;

(10) ballistics identification and information programs that are compatible and integrated with the National Integrated Ballistics Network (NIBN);

(11) the capabilities of forensic science programs and medical examiner programs related to the administration of criminal justice, including programs leading to accreditation or certification of individuals or departments, agencies, or laboratories, and programs relating to the identification and analysis of deoxyribonucleic acid;

(12) sexual offender identification and registration systems;

(13) domestic violence offender identification and information systems;

(14) programs for fingerprint-supported background checks capability for noncriminal justice purposes, including youth service employees and volunteers and other individuals in positions of responsibility, if authorized by Federal or State law and administered by a government agency;

(15) criminal justice information systems with a capacity to provide statistical and research products including incident-based reporting systems that are compatible with the National Incident-Based Reporting System (NIBRS) and uniform crime reports; and

(16) multiagency, multijurisdictional communications systems among the States to share routine and emergency information among Federal, State, and local law enforcement agencies.

(c) ASSURANCES.—