

FEDERAL COURTS IMPROVEMENT ACT OF 1998

MARCH 12, 1998.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. COBLE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2294]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2294) to make improvements in the operation and administration of the Federal courts, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Courts Improvement Act of 1998.”

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—JUDICIAL FINANCIAL ADMINISTRATION

Sec. 101. Reimbursement of judiciary for civil and criminal forfeiture expenses.
 Sec. 102. Transfer of retirement funds.
 Sec. 103. Extension of Judiciary Information Technology Fund.
 Sec. 104. Bankruptcy fees.
 Sec. 105. Disposition of miscellaneous fees.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

Sec. 201. Extension of statutory authority for magistrate judge positions to be established in the district courts of Guam and the Northern Mariana Islands.
 Sec. 202. Magistrate judge contempt authority.
 Sec. 203. Consent to magistrate judge authority in petty offense cases and magistrate judge authority in misdemeanor cases involving juvenile defendants.
 Sec. 204. Savings and loan data reporting requirements.
 Sec. 205. Place of holding court in the Eastern District of Texas.
 Sec. 206. Federal substance abuse treatment program reauthorization.
 Sec. 207. Membership in circuit judicial councils.
 Sec. 208. Sunset of civil justice expense and delay reduction plans.
 Sec. 209. Repeal of Court of Federal Claims filing fee.
 Sec. 210. Technical bankruptcy correction.
 Sec. 211. Renumbering of bankruptcy court fee schedule.

TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 301. Judicial retirement matters.
 Sec. 302. Disability retirement and cost-of-living adjustments of annuities for territorial judges.
 Sec. 303. Federal Judicial Center personnel matters.
 Sec. 304. Judicial administrative officials retirement matters.
 Sec. 305. Judges’ firearms training.
 Sec. 306. Exemption from jury service.
 Sec. 307. Expanded workers’ compensation coverage for jurors.
 Sec. 308. Property damage, theft, and loss claims of jurors.
 Sec. 309. Annual leave limit for court unit executives.
 Sec. 310. Transfer of county to Middle District of Pennsylvania.
 Sec. 311. Creation of two divisions in Eastern District of Louisiana.
 Sec. 312. District judges for the Florida district courts.
 Sec. 313. Change in composition of divisions in Western District of Tennessee.
 Sec. 314. Payments to military survivors benefits plan.
 Sec. 315. Creation of certifying officers in the judicial branch.
 Sec. 316. Authority to prescribe fees for technology resources in the courts.

TITLE IV—CRIMINAL JUSTICE ACT AMENDMENTS

Sec. 401. Maximum amounts of compensation for attorneys.
 Sec. 402. Maximum amounts of compensation for services other than counsel.
 Sec. 403. Tort Claims Act amendment relating to liability of Federal public defenders.

TITLE I—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 101. REIMBURSEMENT OF JUDICIARY FOR CIVIL AND CRIMINAL FORFEITURE EXPENSES.

(a) Section 524(c) of title 28, United States Code, is amended—

(1) by inserting after paragraph (11) the following paragraph (12):

“(12)(A) In the fiscal year subsequent to the fiscal year in which this paragraph is enacted and each fiscal year thereafter, an amount as specified in subparagraph (B) shall be transferred annually to the judiciary into the fund established under section 1931 of this title, for expenses incurred in—

“(i) adjudication of civil and criminal forfeiture proceedings that result in deposits into the Fund (except the expense of salaries of judges);

“(ii) representation, pursuant to the provisions of section 3006A of title 18, section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) of offenders whose assets have been seized in such forfeiture proceedings, to the extent that such expenses of representation could have been recovered through an order for payment or for reimbursement of the Defender Services appropriation pursuant to section 3006A(f) of title 18; and

“(iii) supervision by United States probation officers of offenders under home detention or other forms of confinement outside of Bureau of Prison facilities.

“(B) The amount to be transferred—

“(i) shall be a portion of the total amount to be transferred from the combined fiscal year deposits into both the Fund and the Department of the Treasury Asset Forfeiture Fund established by section 9703 of title 31, United States Code (hereafter referred to as ‘both Funds’), which total shall not exceed the statement of costs incurred by the Judiciary in providing the services identified in subparagraph (A), as set forth by the Director of the Administrative Office of the United States Courts in a report to the Attorney General and the Secretary of the Treasury no later than 90 days after the end of the fiscal year in which the expenses were incurred except that—

“(I) the total amount to be transferred from both Funds shall not exceed \$50,000,000, or 10 percent of the total combined deposits into both Funds, whichever is less;

“(II) the proportion of the amount transferred from the Fund to the total amount to be transferred shall be equal to the proportion of the fiscal year deposits into the Fund to the combined fiscal year deposits in both Funds; and

“(III) the total amount to be transferred from both Funds may exceed the limits set out in this subparagraph, subject to the discretion of the Attorney General and the Secretary of the Treasury.

“(ii) shall be paid from revenues deposited into the Fund during the fiscal year in which the expenses were incurred and are not required to be specified in appropriations Acts.”

(b) Section 9703 of title 31, United States Code, is amended—

(1) by redesignating subsection (p) as subsection (q); and

(2) by inserting after subsection (o) the following new subsection:

“(p) TRANSFER TO THE FEDERAL JUDICIARY.—In the fiscal year subsequent to the fiscal year in which this subsection is enacted and each fiscal year thereafter, an amount necessary to meet the transfer requirements of section 524(c)(9) of title 28 shall be transferred to the Judiciary, and shall be subject to the same limitations, terms, and conditions specified in that section for transfers to the Judiciary from the Department of Justice Asset Forfeiture Fund.”

(c) Section 1931(a) of title 28, United States Code, is amended by inserting “or other judicial services including services provided pursuant to section 3006A of title 18 or section 409(q) of the Controlled Substances Act (21 U.S.C. 848(q))” after “courts of the United States”.

SEC. 102. TRANSFER OF RETIREMENT FUNDS.

Section 377 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(p) Upon election by a bankruptcy judge or a magistrate judge under subsection (f) of this section, all of the accrued employer contributions and accrued interest on those contributions made on behalf of the bankruptcy judge or magistrate judge to the Civil Service Retirement and Disability Fund as defined under section 8348 of title 5, shall be transferred to the fund established under section 1931 of this title, that if the bankruptcy judge or magistrate judge elects under section 2(c) of the Retirement and Survivor’s Annuities for Bankruptcy Judges and Magistrates Act of 1988 (Public Law No. 100–659), to receive a retirement annuity under both this section and title 5, only the accrued employer contributions and accrued interest on such contributions made on behalf of the bankruptcy judge or magistrate judge for service credited under this section may be transferred.”

SEC. 103. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

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

(1) by striking “equipment” each place it appears and inserting “resources”;

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

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

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

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

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

(C) by striking “under (c)(1)(B)” and inserting “under subsection (c)(1)(B)”.

SEC. 104. BANKRUPTCY FEES.

Subsection (a) of section 1930 of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(7) In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.”.

SEC. 105. DISPOSITION OF MISCELLANEOUS FEES.

For fiscal year 1997 and thereafter, any portion of miscellaneous fees collected as prescribed by the Judicial Conference of the United States pursuant to section 1913, 1914(b), 1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such fees established on the date of the enactment of this Act shall be deposited into the special fund of the Treasury established under section 1931 of title 28, United States Code.

TITLE II—JUDICIAL PROCESS IMPROVEMENTS

SEC. 201. EXTENSION OF STATUTORY AUTHORITY FOR MAGISTRATE JUDGE POSITIONS TO BE ESTABLISHED IN THE DISTRICT COURTS OF GUAM AND THE NORTHERN MARIANA ISLANDS.

Section 631 of title 28, United States Code, is amended—

(1) by striking the first two sentences of subsection (a) and inserting the following: “The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court.”; and

(2) by inserting in the first sentence of paragraph (1) of subsection (b) after “Commonwealth of Puerto Rico,” the following: “the Territory of Guam, the Commonwealth of the Northern Mariana Islands,”.

SEC. 202. MAGISTRATE JUDGE CONTEMPT AUTHORITY.

Section 636(e) of title 28, United States Code is amended to read as follows:

“(e) CONTEMPT AUTHORITY.—

“(1) IN GENERAL.—A United States magistrate judge serving under this chapter shall have within the territorial jurisdiction prescribed by his or her appointment the power to exercise contempt authority as set forth in this section.

“(2) SUMMARY CRIMINAL CONTEMPT AUTHORITY.—A magistrate judge shall have the power to punish summarily by fine or imprisonment such contempt of his or her authority constituting misbehavior of any person in the magistrate judge’s presence so as to obstruct the administration of justice. The order of contempt shall be issued pursuant to the Federal Rules of Criminal Procedure.

“(3) ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge shall have the power to punish by fine or imprisonment such criminal contempt constituting disobedience or resistance to the magistrate judge’s lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing pursuant to the Federal Rules of Criminal Procedure.

“(4) CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This subsection shall not be construed to limit the authority of a magistrate judge to order sanctions pursuant to any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

“(5) CRIMINAL CONTEMPT PENALTIES.—The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

“(6) CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT.—Upon the commission of any such act—

“(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

“(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where—

“(i) the act committed in the magistrate judge’s presence may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

“(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge, or

“(iii) the act constitutes a civil contempt,

the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served upon any person whose behavior is brought into question under this paragraph an order requiring such person to appear before a district judge upon a day certain to show cause why he or she should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

“(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS.—The appeal of an order of contempt pursuant to this section shall be made to the court of appeals in cases proceeding under subsection (c) of this section. In any other proceeding in which a United States magistrate judge presides under subsection (a) or (b) of this section, section 3401 of title 18, or any other statute, the appeal of a magistrate judge’s summary contempt order shall be made to the district court.”.

SEC. 203. CONSENT TO MAGISTRATE JUDGE AUTHORITY IN PETTY OFFENSE CASES AND MAGISTRATE JUDGE AUTHORITY IN MISDEMEANOR CASES INVOLVING JUVENILE DEFENDANTS.

(a) AMENDMENTS TO TITLE 18.—

(1) Section 3401(b) of title 18, United States Code, is amended by striking “that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,” after “petty offense”.

(2) Section 3401(g) of title 18, United States Code, is amended—

(A) by striking the first sentence and inserting the following: “The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.”;

(B) in the second sentence by striking the phrase “other class B or C misdemeanor case” and inserting “misdemeanor, other than a petty offense.”; and

(C) by striking the last sentence.

(b) AMENDMENTS TO TITLE 28.—Section 636(a) of title 28, United States Code, is amended by striking paragraphs (4) and (5) and inserting the following:

“(4) the power to enter a sentence for a petty offense; and

“(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.”.

SEC. 204. SAVINGS AND LOAN DATA REPORTING REQUIREMENTS.

Section 604 of title 28, United States Code, is amended in subsection (a) by striking the second paragraph designated (24).

SEC. 205. PLACE OF HOLDING COURT IN THE EASTERN DISTRICT OF TEXAS.

(a) TEXAS.—The second sentence of section 124(c)(3) of title 28, United States Code, is amended by inserting “and Plano” after “held at Sherman”.

(b) TEXARKANA.—Sections 83(b)(1) and 124(c)(6) of title 28, United States Code, are each amended by adding before the period at the end of the last sentence the following: “, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas”.

SEC. 206. FEDERAL SUBSTANCE ABUSE TREATMENT PROGRAM REAUTHORIZATION.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Treatment Act of 1978 (Public Law 95–537; 92 Stat. 2038; 18 U.S.C. 3672 note) is

amended by striking all that follows “there are authorized to be appropriated” and inserting “for fiscal year 1998 and each fiscal year thereafter such sums as may be necessary to carry out this Act.”.

SEC. 207. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.

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

(1) by striking paragraph (1) and inserting the following:
 “(1) The chief judge of each judicial circuit shall call and preside at a meeting of the judicial council of the circuit at least twice in each year and at such places as he or she may designate. The council shall consist of an equal number of circuit judges (including the chief judge of the circuit) and district judges, as such number is determined by majority vote of all such judges of the circuit in regular active service.”;

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

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

(3) by striking “retirement,” in paragraph (5) and inserting “retirement pursuant to section 371(a) or section 372(a) of this title.”.

SEC. 208. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.

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

SEC. 209. REPEAL OF COURT OF FEDERAL CLAIMS FILING FEE.

Section 2520 of title 28, United States Code, and the item relating to such section in the table of contents for chapter 165 of such title, are repealed.

SEC. 210. TECHNICAL BANKRUPTCY CORRECTION.

Section 1228 of title 11, United States Code, is amended by striking “1222(b)(10)” each place it appears and inserting “1222(b)(9)”.

SEC. 211. RENUMBERING OF BANKRUPTCY COURT FEE SCHEDULE.

Section 406(b) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1990 (Public Law 101-162; 103 Stat. 1016; 28 U.S.C. 1931 note) is amended in the first sentence by striking “for any service enumerated after item 18” and inserting “for any fee implemented after November 21, 1989”.

TITLE III—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 301. JUDICIAL RETIREMENT MATTERS.

Section 371 of title 28, United States Code, is amended—

- (1) in subsection (a) by inserting “(1)” after “subsection (c)”;
- (2) in subsection (b)(1) by inserting “(2)” after “subsection (c)”;
- (3) in subsection (c)—
 - (A) by inserting “(1)” after “(c)”;
 - (B) by striking “this section” and inserting “subsection (a)”;
 - (C) by adding at the end the following new paragraph:

“(2) The age and service requirements for retirement under subsection (b)(1) are as follows:

“Attained age:	Years of Service:
60	20
61	19
62	18
63	17
64	16
65	15
66	14
67	13
68	12
69	11
70	10”.

SEC. 302. DISABILITY RETIREMENT AND COST-OF-LIVING ADJUSTMENTS OF ANNUITIES FOR TERRITORIAL JUDGES.

Section 373 of title 28, United States Code, is amended—

- (1) by amending subsection (c)(4) to read as follows:

“(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.”;

(2) by amending subsection (e) to read as follows:

“(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of 65 years or upon relinquishing office if the judge is then beyond the age of 65 years—

“(A) if the judicial service of such judge, continuous or otherwise, aggregates 15 years or more, to receive during the remainder of such judge’s life an annuity equal to the salary received when the judge left office; or

“(B) if such judicial service, continuous or otherwise, aggregated less than 15 years, to receive during the remainder of such judge’s life an annuity equal to that proportion of such salary which the aggregate number of such judge’s years of service bears to 15.

“(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge’s life an annuity equal to 40 percent of the salary received when the judge left office, or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge’s years of judicial service bears to 15.”; and

(3) amending subsection (g) to read as follows:

“(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.”.

SEC. 303. FEDERAL JUDICIAL CENTER PERSONNEL MATTERS.

Section 625 of title 28, United States Code, is amended—

(1) in subsection (b)—

(A) by striking “, United States Code,”;

(B) by striking “pay rates, section 5316, title 5, United States Code” and inserting “under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5”; and

(C) by striking “the Civil Service” and all that follows through “Code” and inserting “subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a re-employed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title”; and

(2) in subsection (c) by striking “, United States Code,” each place it appears.

SEC. 304. JUDICIAL ADMINISTRATIVE OFFICIALS RETIREMENT MATTERS.

(a) DIRECTOR OF ADMINISTRATIVE OFFICE.—Section 611 of title 28, United States Code, is amended—

(1) in subsection (d), by inserting “a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representative,” after “Congress,”;

(2) in subsection (b)—

(A) by striking “who has served at least fifteen years and” and inserting “who has at least fifteen years of service and has”;

(B) in the first undesignated paragraph, by striking “who has served at least ten years,” and inserting “who has at least ten years of service,”; and

(3) in subsection (c)—

(A) by striking “served at least fifteen years,” and inserting “at least fifteen years of service,”; and

(B) by striking “served less than fifteen years,” and inserting “less than fifteen years of service,”.

(b) DIRECTOR OF THE FEDERAL JUDICIAL CENTER.—Section 627 of title 28, United States Code, is amended—

(1) in subsection (e), by inserting “a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representative,” after “Congress,”;

(2) in subsection (c)—

(A) by striking “who has served at least fifteen years and” and inserting “who has at least fifteen years of service and has”;

(B) in the first undesignated paragraph, by striking “who has served at least ten years,” and inserting “who has at least ten years of service,”; and

(3) in subsection (d)—

(A) by striking “served at least fifteen years,” and inserting “at least fifteen years of service,”; and

(B) by striking “served less than fifteen years,” and inserting “less than fifteen years of service,”.

SEC. 305. JUDGES’ FIREARMS TRAINING.

(a) IN GENERAL.—Chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 464. Carrying of firearms by judicial officers

“(a) AUTHORITY.—A judicial officer of the United States is authorized to carry a firearm, whether concealed or not, under regulations promulgated by the Judicial Conference of the United States. The authority granted by this section shall extend only to—

“(1) those States in which the carrying of firearms by judicial officers of the State is permitted by State law, and

“(2) regardless of State law, to any place where the judicial officer of the United States sits, resides, or is present on official travel status.

“(b) IMPLEMENTATION.—

“(1) REGULATIONS.—The regulations promulgated by the Judicial Conference under subsection (a) shall—

“(A) require a demonstration of a judicial officer’s proficiency in the use and safety of firearms as a prerequisite to the carrying of firearms under the authority of this section; and

“(B) ensure that the carrying of a firearm by a judicial officer under the protection of the United States Marshals Service while away from United States courthouses is consistent with the policy of the Marshals Service on the carrying of firearms by persons receiving such protection.

“(2) ASSISTANCE BY OTHER AGENCIES.—At the request of the Judicial Conference, the Department of Justice and appropriate law enforcement components of the Department shall assist the Judicial Conference in developing and providing training to assist judicial officers in securing the proficiency referred to in subsection (b)(1).

“(c) DEFINITION.—For purposes of this section, the term, ‘judicial officer of the United States’ means—

“(1) a justice or judge of the United States as defined in section 451 in regular active service or retired from regular active service;

“(2) a justice or judge of the United States who has retired from the judicial office under section 371(a) for—

“(A) a 1-year period following such justice’s or judge’s retirement; or

“(B) a longer period of time if approved by the Judicial Conference of the United States when exceptional circumstances warrant;

“(3) a United States bankruptcy judge;

“(4) a full-time or part-time United States magistrate judge;

“(5) a judge of the United States Court of Federal Claims;

“(6) a judge of the United States District Court of Guam;

“(7) a judge of the United States District Court for the Northern Mariana Islands;

“(8) a judge of the United States District Court of the Virgin Islands; or

“(9) an individual who is retired from one of the judicial positions described under paragraphs (3) through (8) to the extent provided for in regulations of the Judicial Conference of the United States.

“(d) EXCEPTION.—Notwithstanding section 46303(c)(1) of title 49, nothing in this section authorizes a judicial officer of the United States to carry a dangerous weapon on an aircraft or other common carrier.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following:

“464. Carrying of firearms by judicial officers.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect upon the earlier of the promulgation of regulations by the Judicial Conference under the amendments made by this section or one year after the date of the enactment of this Act.

SEC. 306. EXEMPTION FROM JURY SERVICE.

(a) **MEMBERS OF THE ARMED FORCES.**—Paragraph (6) of section 1863(b) of title 28, United States Code, is amended to read as follows:

“(6) specify that members in active service in the Armed Forces of the United States are barred from jury service on the ground that they are exempt.”.

(b) **CONFORMING AMENDMENT.**—Section 1869 of title 28, United States Code, is amended by repealing subsection (i).

SEC. 307. EXPANDED WORKERS’ COMPENSATION COVERAGE FOR JURORS.

Paragraph (2) of section 1877(b) of title 28, United States Code, is amended—

- (1) by striking “or” at the end of clause (C); and
- (2) by inserting “, or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court” before the period at the end of clause (D).

SEC. 308. PROPERTY DAMAGE, THEFT, AND LOSS CLAIMS OF JURORS.

Section 604 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

“(i) The Director may pay a claim by a person summoned to serve or serving as a grand juror or petit juror for loss of, or damage to, personal property that occurs incident to that person’s performance of duties in response to the summons or at the direction of an officer of the court. With respect to claims, the Director shall have the authority granted to the head of an agency by section 3721 of title 31 for consideration of employees’ personal property claims. The Director shall prescribe guidelines for the consideration of claims under this subsection.”.

SEC. 309. ANNUAL LEAVE LIMIT FOR COURT UNIT EXECUTIVES.

Section 6304(f)(1) of title 5, United States Code, is amended by adding at the end thereof the following:

“(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States.”.

SEC. 310. TRANSFER OF COUNTY TO MIDDLE DISTRICT OF PENNSYLVANIA.

(a) **TRANSFER.**—Section 118 of title 28, United States Code, is amended—

- (1) in subsection (a) by striking “Philadelphia, and Schuylkill” and inserting “and Philadelphia”; and
- (2) in subsection (b) by inserting “Schuylkill,” after “Potter.”.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) **PENDING CASES NOT AFFECTED.**—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Pennsylvania.

(3) **JURIES NOT AFFECTED.**—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 311. CREATION OF TWO DIVISIONS IN EASTERN DISTRICT OF LOUISIANA.

(a) **CREATION OF TWO DIVISIONS.**—Section 98(a) of title 28, United States Code, is amended to read as follows:

“(a) The Eastern District comprises two divisions.

“(1) The New Orleans Division comprises the parishes of Jefferson, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint John the Baptist, Saint Tammany, Tangipahoa, and Washington.

“Court for the New Orleans Division shall be held at New Orleans.

“(2) The Houma Division comprises the parishes of Assumption, Lafourche, Saint James, and Terrebonne.

“Court for the Houma Division shall be held at Houma.”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect 180 days after the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending on such date in the United States District Court for the Eastern District of Louisiana or in the United States District Court for the Western District of Louisiana.

(3) JURIES NOT AFFECTED.—This section and the amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, impaneled, or actually serving on the effective date of this section.

SEC. 312. DISTRICT JUDGES FOR THE FLORIDA DISTRICT COURTS.

(a) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 3 additional district judges for the middle district of Florida; and
- (2) 2 additional district judges for the southern district of Florida.

(b) TEMPORARY JUDGESHIP.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional district judge for the middle district of Florida.

(2) FIRST VACANCY NOT FILLED.—The first vacancy in the office of district judge in the middle district of Florida, occurring 7 years or more after the confirmation date of the judge named to fill a temporary judgeship created by this subsection, shall not be filled.

(c) TABLES.—In order that the table contained in section 133 of title 28, United States Code, reflects the changes in the total number of permanent district judgeships authorized by subsection (a) of this section, the item relating to Florida in such table is amended to read as follows:

“Florida:

Northern	4
Middle	14
Southern	18”.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

(e) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 313. CHANGE IN COMPOSITION OF DIVISIONS IN WESTERN DISTRICT OF TENNESSEE.

(a) IN GENERAL.—Section 123(c) of title 28, United States Code, is amended—

- (1) in paragraph (1) by inserting “Dyer,” after “Decatur,”; and
- (2) in paragraph (2) by striking “Dyer,”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—This section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) PENDING CASES NOT AFFECTED.—This section and the amendments made by this section shall not affect any action commenced before the effective date of this section and pending in the United States District Court for the Western District of Tennessee on such date.

(3) JURIES NOT AFFECTED.—This section and 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 in the Western Judicial District of Tennessee on the effective date of this section.

SEC. 314. PAYMENTS TO MILITARY SURVIVORS BENEFITS PLAN.

Section 371(e) of title 28, United States Code, is amended by inserting after “such retired or retainer pay” the following: “, except such pay as is deductible from the retired or retainer pay as a result of participation in any survivor’s benefits plan in connection with the retired pay,”.

SEC. 315. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL BRANCH.

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

“§ 613. Disbursing and certifying officers

“(a) DISBURSING OFFICERS.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary. These disbursing officers shall—

“(1) disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);

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

“(3) be held accountable for their actions as provided by law, except such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).

“(b) CERTIFYING OFFICERS.—(1) The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. These certifying officers shall be responsible and accountable for—

“(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

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

“(C) the correctness of the computations of certified payment requests.

“(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

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

“(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

“(2) is entitled to relief from liability arising under this section in accordance with title 31.

“(d) OTHER AUTHORITY NOT AFFECTED.—Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.”

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

“613. Disbursing and certifying officers.”

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

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

SEC. 316. AUTHORITY TO PRESCRIBE FEES FOR TECHNOLOGY RESOURCES IN THE COURTS.

(a) IN GENERAL.—Chapter 41 of title 28, United States Code, is amended by adding at the end the following:

“§ 614. Authority to prescribe fees for technology resources in the courts

“The Judicial Conference is authorized to prescribe reasonable fees pursuant to sections 1913, 1914, 1926, 1930, and 1932, for collection by the courts for use of information technology resources provided by the judiciary for remote access to the courthouse by litigants and the public, and to facilitate the electronic presentation of cases. Fees under this section may be collected only to cover the costs of making such information technology resources available for the purposes set forth in this section. Such fees shall not be required of persons financially unable to pay them. All fees collected under this section shall be deposited in the Judiciary Information Technology Fund and be available to the Director without fiscal year limitation to be expended on information technology resources developed or acquired to advance the purposes set forth in this section.”

(b) CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following new item:

“614. Authority to prescribe fees for technology resources in the courts.”.

TITLE IV—CRIMINAL JUSTICE ACT AMENDMENTS

SEC. 401. MAXIMUM AMOUNTS OF COMPENSATION FOR ATTORNEYS.

Paragraph (2) of subsection (d) of section 3006A of title 18, United States Code, is amended—

- (1) in the first sentence—
 - (A) by striking “3,500” and inserting “5,000”;
 - (B) by striking “1,000” and inserting “1,500”;
- (2) in the second sentence by striking “2,500” and inserting “3,600”;
- (3) in the third sentence—
 - (A) by striking “750” and inserting “1,100”;
 - (B) by striking “2,500” and inserting “3,600”;
- (4) inserting after the second sentence the following new sentence: “For representation of a petitioner in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a United States magistrate or the district court, or both. For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court.”; and
- (5) in the last sentence by striking “750” and inserting “1,100”.

SEC. 402. MAXIMUM AMOUNTS OF COMPENSATION FOR SERVICES OTHER THAN COUNSEL.

Section 3006A(e) of title 18, United States Code, is amended—

- (1) in paragraph (2)—
 - (A) in subparagraph (A) by striking “300” and inserting “450”; and
 - (B) in subparagraph (B) by striking “300” and inserting “450”; and
- (2) in paragraph (3) in the first sentence by striking “1,000” and inserting “1,500”.

SEC. 403. TORT CLAIMS ACT AMENDMENT RELATING TO LIABILITY OF FEDERAL PUBLIC DEFENDERS.

Section 2671 of title 28, United States Code, is amended in the second undesignated paragraph—

- (1) by inserting “(1)” after “includes”; and
- (2) by striking the period at the end and inserting the following: “, and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18.”.

PURPOSE AND SUMMARY

The Subcommittee on Courts and Intellectual Property exercises the jurisdiction of the Committee on the Judiciary to oversee the operation of the Article III federal judiciary. H.R. 2294, the “Federal Courts Improvement Act of 1997,” contains several provisions that are needed to improve the Federal Court System. It is designed to improve administration and procedures, eliminate operational inefficiencies, and, to the extent prudent, reduce operating expenses.

The bill affects a wide range of judicial branch programs and operations. Provisions affecting the Judiciary Information Technology Fund and the disposition of miscellaneous fees are included. Provisions altering the composition of judicial districts are included. The bill also contains provisions regarding territorial judges and several other personnel matters.

BACKGROUND AND NEED FOR LEGISLATION

The Subcommittee on Courts and Intellectual Property Chairman, Howard Coble, introduced H.R. 2294, the "Federal Courts Improvement Act of 1997," on July 30, 1997. The bill was introduced at the request of the Judicial Conference of the United States.

Periodically, the Judicial Conference submits to Congress a list of recommendations that it believes are necessary to improve the Federal Court System. The Judicial Conference is supported by the Administrative Office of the United States Courts. It is the policy making body of the federal judiciary, and through a committee system evaluates court operations. Also, the circuit judicial councils of the regional districts have statutory responsibility for certain administrative and operational matters. Most of the provisions of H.R. 2294 were developed within the judiciary and approved by the Judicial Conference.

After the hearing held by the Subcommittee on Courts and Intellectual Property on H.R. 2294 on October 9, 1997, the Subcommittee marked up the bill on February 26, 1998. The Subcommittee Chairman, Howard Coble, and the Ranking Member, Barney Frank, offered amendments *en bloc* which removed certain controversial provisions and added proposals from other Members and Subcommittee members, such as altering the composition of judicial districts. The amendments *en bloc* were adopted and the Subcommittee favorably reported H.R. 2294, to the full committee as a single Amendment in the Nature of a Substitute. The provisions contained in H.R. 2294 address administrative, financial, personnel, organizational and technical changes that are needed by the Article III Federal courts and their supporting agencies. These provisions are designed to have a positive impact on the operations of the federal courts and enhance the delivery of justice in the federal system.

HEARINGS

The Committee's Subcommittee on Courts and Intellectual Property held a legislative hearing on H.R. 2294 on October 9, 1997. Testimony was received from Peter R. Steenland, U.S. Department of Justice; the Honorable D. Brock Hornby, Chief Judge, U.S. District Court of Maine; the Honorable Philip M. Pro, U.S. District Court, Chairman, Judicial Conference Committee on Judges; the Honorable Tommy E. Miller, U.S. Magistrate Judge, President, Federal Magistrate Judges Association; Mitchell F. Dolin, Esq., on behalf of the American Bar Association; the Honorable Elizabeth Kovachevich, Chief Judge, United States District Court, Middle District of Florida; and the Honorable Julia Smith Gibbons, Chief Judge, U.S. District Court, Chair, Committee on Judicial Resources.

COMMITTEE CONSIDERATION

On February 26, 1998, the Subcommittee on Courts and Intellectual Property met in open session and ordered reported the bill H.R. 2294, as amended, by voice vote, a quorum being present. On March 3 and 4, 1998, the Committee met in open session and or-

dered reported favorably the bill H.R. 2294, as amended, by voice vote, a quorum being present.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the cost incurred in carrying out H.R. 2294 would be approximately \$800,000.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to Rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article III, section 1 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 101: Reimbursement of Judiciary for Civil and Criminal Forfeiture Expenses

This section amends 28 U.S.C. § 524(c) to authorize reimbursement of the Judicial Branch, out of funds in the Department of Justice Asset Forfeiture Fund and the Department of Treasury Asset Forfeiture Fund, for certain expenses incurred by the Judicial Branch in connection with adjudications of asset forfeitures, the provision of defense services pursuant to the Criminal Justice Act, 18 U.S.C. § 3006A, or pursuant to 21 U.S.C. § 848 (q), to persons whose assets have been forfeited, and the furnishing of home detention services and equipment.

Section 102: Transfer of Retirement Funds

This amendment would allow the judiciary's contribution to the Civil Service Retirement Fund (CSRF) to be paid back to the judiciary when bankruptcy and magistrate judges for whom the contributions were made elect to transfer from the Civil Service Retirement System (CSRS) or the Federal Employees' Retirement System (FERS) to the 28 U.S.C. § 377 retirement program estab-

lished by the provisions of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 (Pub. L. No. 100-659).

Section 103: Extension of the Judiciary Information Technology Fund

This amendment eliminates the provision in the statute authorizing the Judiciary Information Technology Fund, which subjects the activities of this Fund to the management process of the executive branch. It also makes minor clerical corrections.

Section 104: Bankruptcy Fees

This section would authorize the Judicial Conference to implement fees in the bankruptcy administrator program in the judicial districts in the states of Alabama and North Carolina similar to those currently imposed by 28 U.S.C. § 1930(a)(6). In 1986, Congress expanded an 18-Court pilot program of U.S. Trustees into the U.S. Trustee Program, with U.S. Trustees in twenty-one regions throughout the country. Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Public Law 99-554, 100 Stat. 3088 (1986). This act also authorized the Judicial Conference to establish bankruptcy administrators programs, in lieu on the U.S. Trustee program, in six judicial districts in the states of Alabama and North Carolina. Currently, debtors in the U.S. trustee and bankruptcy administrator districts pay the same filing fees when filing, but chapter 11 debtors in bankruptcy administrator districts are not subject to the additional fees on quarterly disbursements that are levied on chapter 11 debtors in U.S. trustee districts.

Section 105: Disposition of Miscellaneous Fees

This provision would allow the judiciary to retain any additional offsetting receipts derived from increases in miscellaneous fees charged in the federal courts of appeals, district courts, bankruptcy courts, the Court of Federal Claims, and the Judicial Panel on Multi-district Litigation. This provision responds to a directive from congressional appropriations committees that the Judiciary identify ways to increase offsetting receipts.

Section 201: Extension of Statutory Authority for Magistrate Judge Positions to be Established in the District courts of Guam and the Northern Mariana Islands

This section is the result of the Judicial Conference's conclusion that it was appropriate to seek an amendment to the Federal Magistrates Act, 28 U.S.C. §§ 631-639 as amended, to extend authority to establish magistrate judge positions to the district courts of Guam and the Northern Mariana Islands. Currently, the Act does not authorize the Judicial Conference to establish magistrate judge positions there.

Section 202: Magistrate Contempt Authority

Section 636(e)(1)—This section provides that a U.S. magistrate judge shall be given the power to exercise contempt authority as

set forth in the other provisions of the amended § 636(e) within the territorial jurisdiction prescribed by his or her appointment.

Section 636(e)(2)—This section provides magistrate judges with summary criminal contempt authority to punish any misbehavior occurring in their presence.

Section 636(e)(3)—This provision gives magistrate judges additional criminal contempt authority in civil consent cases under 28 U.S.C. § 636(c). This section also provides expanded criminal contempt authority to magistrate judges in misdemeanor cases under 18 U.S.C. § 3401.

Section 636(e)(4)—This section authorizes magistrate judges to exercise civil contempt authority in civil consent cases under 28 U.S.C. § 636(c), and in misdemeanor cases under 18 U.S.C. § 3401.

Section 636(e)(5)—This section establishes limits on the penalties magistrate judges may impose for criminal contempts.

Section 636(e)(6)—This section provides that the certification procedure set forth in the current 28 U.S.C. § 636(e) shall remain in tact when conduct is so egregious as to require more severe punishment.

Section 203: Consent to Magistrate Judge Authority in Petty Offense Cases and Magistrate Judge Authority in Misdemeanor Cases Involving Juvenile Defendants

Currently, U.S. Magistrate Judges may try petty offense cases that are Class B misdemeanors charging a motor vehicle offense, Class C misdemeanors, and infractions, without the consent of the defendant. This new section removes the consent requirement in all other petty offense cases involving juvenile defendants.

Section 204: Savings and Loan Data Reporting Requirements

This section would eliminate the Congressional requirement that the Administrative Office report data regarding savings and loan cases.

Section 205: Place of Holding Court in the Eastern District of Texas

This amendment would implement the March 1991 Judicial Conference proposal to designate Plano, Texas as a place of holding court in the Eastern District of Texas. In addition, the provision clarifies that court for the Eastern District of Texas and the Western District of Arkansas may be held anywhere in the Federal Courthouse which sits astride the Texas–Arkansas state line.

Section 206: Federal Substance Abuse Treatment Program Reauthorization

This amendment reauthorizes appropriations for fiscal year 1998 and subsequent years “such sums as may be necessary to carry out” the drug and alcohol aftercare program for federal offenders administered by the Probation and Pretrial Services Division of the Administrative Office of the United States Courts pursuant to the authority granted in the Director of the Administrative Office under 18 U.S.C. § 3672.

Section 207: Membership in Circuit Judicial Councils

This section amends 28 U.S.C. § 332(a) to enhance judge participation in the federal judiciary's internal governance process by equalizing the representation of circuit judges and district judges on circuit judicial councils and establishing the eligibility of senior circuit and district judges to serve as members of those councils.

Section 208: Sunset of Civil Justice Expense and Delay Reduction Plans

The section would make it clear that this provision is not to be extended.

Section 209: Repeal of Court of Federal Claims Filing Fee

This section would repeal § 2520 of title 28 United States Code, which provides for a filing fee for the United States Court of Federal Claims. The statute predates the Judicial Conference's authorization to establish a miscellaneous fee schedule for the Court of Federal Claims under § 1926 of title 28 United States Code, and therefore is no longer necessary.

Section 210: Technical Bankruptcy Correction

This section makes technical corrections to title 11, United States Code.

Section 211: Renumbering of Bankruptcy Court Fee Schedule

This section would allow for the renumbering of the Bankruptcy Fee Schedule that is required due to the repeal of outdated fees, while retaining the current revenue structure.

Section 301: Judicial Retirement Matters

This section would change the "rule of 80" age and service requirements for retirement to senior status by justices and Article II judges under 28 U.S.C. § 371(b) by authorizing justices and judges to retire to senior status as early as age 60 so long as the combined age and years of service equals 80.

Section 302: Disability Retirement and Cost-of Living Adjustments of Annuities for Territorial Judges

This section gives territorial judges in the district courts of Guam, the Northern Mariana Islands, and the Virgin Islands comparable retirement arrangements as other judges.

Section 303: Federal Judicial Center Personnel Matters

This amendment would restore the parity in the salary levels of the Federal Judicial Center's senior staff and that of the Administrative Office of the United States Courts by authorizing the Director of the Center to set the compensation of a limited number of Center professional employees at levels equivalent to Level IV of the Executive Schedule pay rates.

Section 304: Judicial Administrative Officials Retirement Matters

This section allows credit for prior legislative branch service of a comparable rank and responsibility to the Executive Branch service for purposes of retirement by the Directors of the Administra-

tive Office of the United States Courts and the Federal Judicial Center and the Administrative Assistant to the Chief Justice of the United States. Credit would be given for service as an administrative assistant to a Member of Congress or as staff director or chief counsel for a committee or subcommittee.

Section 305: Judges' Firearms Training

This section would create a statute authorizing federal judges (including magistrate judges and bankruptcy judges) to carry firearms for purposes of personal security and to establish a firearms training program.

Section 306: Exemption from Jury Service

This section eliminates two categories of exemptions from jury service: (1) members of state or local fire or police departments; and (2) "public officers" of federal and state governments.

Section 307: Expanded Workers' Compensation Coverage for Jurors

The Jury Act currently extends Federal Employees' Compensation Act coverage to persons summoned for jury duty in the federal courts when they are "(A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, or (D) at a site, by order of the court, for the taking of a view." 28 U.S.C. § 1877(b)(2). This amendment extends FECA protection to jurors while they are traveling to or from court.

Section 308: Property Damage, Theft, and Loss Claims of Jurors

This section would authorize the Director of the Administrative Office of the United States Courts to compensate jurors and prospective jurors for their personal property when it is lost or damaged during their official service.

Section 309: Annual Leave Limit for Court Unit Executives

This section would amend section 6304(f) of title 5, United States Code, in order to exempt court unit executive positions designated by the Judicial Conference of the United States from the provisions of the Leave Act that prevent most Federal employees from carrying over more than 240 hours of annual leave from one year to the next. Instead, it would make applicable to court unit executives the 720 hour maximum carry over amount of annual leave that has already been established for members of the Executive Branch's Senior Executive Services.

Section 310: Transfer of County to Middle District of Pennsylvania

This section will transfer Schuylkill County into the Middle District of Pennsylvania.

Section 311: Creation of Two Divisions in Eastern District of Louisiana

This section will create two divisions in the Eastern District of Louisiana.

Section 312: District Judges for the Florida District Courts

This section directs the President to appoint three additional district judges for the middle district of Florida and two additional judges for the southern district of Florida. It also provides for the appointment of one additional temporary district judge in the middle district of Florida.

Section 313: Change in Composition of Divisions in Western District of Tennessee

This section will transfer Dyer County into the Eastern division of the Western District of Tennessee.

Section 314: Payments to Military Survivors Benefits Plan

This section entitles Article III judges to have contributions made to the Military Survivor Benefit Plan on their behalf from the military retirement fund even though they are ineligible to receive retired pay from that fund while in regular active service. These judges, unlike other former military retirees employed by the federal government, do not have contributions made to the MSBP on their behalf from the military retirement fund, as is provided under the Dual Compensation Act 5 U.S.C. § 5532(c)(2)(B).

Section 315: Creation of Certifying Officers in the Judicial Branch

This section would enable the Director of the Administrative Office of the United States Courts to appoint certifying officials in the various court units who would be responsible for the propriety of payments they request. It would also enable the Director of the AO to appoint disbursing officials in the various court units who would be responsible for ensuring that payment requests are proper, certified and approved.

Section 316: Authority to Prescribe Fees for Technology Resources in the Courts

This section provides the judiciary with the authority to set, collect, and retain fees for the use of information technologies, such as electronic filing, video conferencing, and electronic evidence presentation devices.

Section 401: Maximum Amounts of Compensation

This section would increase the case compensation maximum amounts for attorneys by approximately the rate of inflation since 1986 (43.3%), the last year case compensation maximums were increased. This section would also change the case compensation maximum applicable to counsel representing non-capital habeas corpus petitioners.

Section 402: Maximum Amounts of Compensation for Services Other than Counsel

This section would increase the compensation maximums of investigators, experts, and other service providers by approximately the rate of inflation since 1986 (43.3%), the last year case compensation maximums were increased.

Section 403: Tort Claims Act Amendment Relating to Liability of Federal Public Defenders

The amendment made by this section would exempt federal public defenders from the Tort Claims Act for claims related to representational services and rely instead on the malpractice provisions of 18 U.S.C. § 3006A(g)(3) specifically enacted in 1986 to deal with such claims.

AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, DC, February 25, 1998.

Hon. Howard Coble, *Chairman,*
Subcommittee on Courts and Intellectual Property,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter presents the views of the Department of Justice on H.R. 2294, the "Federal Courts Improvement Act of 1997," and on H.R. 2603, the "Alternative Dispute Resolution and Settlement Encouragement Act." Our views about section 2 of H.R. 2603 are reflected in the testimony of Peter Steenland, Senior Counsel for Alternative Dispute Resolution, offered at the hearing on that bill on October 9, 1997.

H.R. 2294

Section 101: Final Judgments by Bankruptcy Judges in Non-Core Cases

The Department strongly opposes section 101. Section 101 would allow a bankruptcy judge to enter the final judgment in a "non-core" bankruptcy case where a party failed to object timely (and, thus, is "deemed to consent") to the bankruptcy judge's proposed findings of fact and conclusions of law.

Current law requires an Article III district court to enter the final judgment in a non-core case after "considering" a bankruptcy judge's proposed findings of fact and conclusions of law and after "reviewing *de nova*" a party's timely objections. 28 U.S.C. § 157 (c)(1). The Congress crafted the current law in 1984 to cure the constitutional defects found by the Supreme Court in *Northern Pipeline Construction Co. v. Marathon Pipeline Co.*, 458 U.S. 50 (1982). There, the Supreme Court struck down the bankruptcy court system created by the 1978 Bankruptcy Reform Act because it unconstitutionally conferred too much of the Article III judicial power of the United States upon a non-Article III officer. A key feature of Congress' curative legislation was the bifurcation of bankruptcy jurisdiction into two categories: (1) traditional bankruptcy matters, known as "core" cases; and (2) those cases on the periphery of bankruptcy jurisdiction, designated as "non-core." Responding to *Marathon*, Congress required special review of bankruptcy judges, "non-core" decisions by the Article III district court. The special treatment for non-core cases is designed to ensure that the district courts exercise the "essential attributes of judicial power" in such cases. *Id.* at 81-88. *See also United States v. Raddatz*, 447

U.S. 667, 682 (magistrates can constitutionally decide the admissibility of a confession in a criminal case because the authority and responsibility for making a final decision remains with the Article III judge).

By tampering with this feature of the 1984 curative legislation, section 101 threatens to upset the delicate balance struck by Congress in the 1984 amendments. In the Department of Justice's defense of the current bankruptcy court system against Article III-based challenges, it stresses that the bankruptcy judge is an adjunct of the Article III district court, especially in non-core case. Proposed section 101 could hinder our arguments in defending the constitutionality of the current scheme if that scheme were seen as diluting the Article III court's authority to enter the final decision. The Supreme Court has yet to uphold the existing system. In view of the dislocation and hardships that would result if the system were once again found unconstitutional, the limited administrative gains sought through the proposed change are not worth the incremental risks that the change would entail.

Section 201: Reimbursement of Judiciary for Civil and Criminal Forfeiture Expenses

This provision mirrors a provision contained in legislation offered in the 104th Congress which the Department opposed. Although payment of appropriate costs for indigent defense is fundamental to proper operation of the justice system, we do not believe that this provision in an appropriate mechanism and we continue to oppose it strongly.

Section 201 would require an annual transfer from the Justice and Treasury Asset Forfeiture Funds to the Judiciary of an amount stated by the Administrative Office of the United States Courts ("AOUSC") to be the costs to the Judicial branch of processing civil and criminal forfeiture cases, not to exceed the lesser of \$50,000,000 or 10% of deposits into the Funds. This transfer would be to cover the costs of adjudicating civil and criminal forfeiture cases, the costs of providing counsel to indigent defendants in such cases, and certain other costs that are the responsibility of the Judiciary. Proposed 28 U.S.C. § 524(c)(12)(A). These funds would be transferred into a special operating account to offset operating appropriations for the Judicial branch. *See* 28 U.S.C. § 1931.

We have serious reservations about the possibility that the Judicial branch may obtain a pecuniary benefit from judicial decisions forfeiting assets or funds to the United States. The judicial function, unique among governmental functions, should not have even the appearance of taint from a conflict of interest, that is, the possible appearance that the transfer of forfeited funds into the accounts of the Judicial branch could have influenced the judicial decision about the propriety of the forfeiture. *Cf. Ward v. City of Monroe*, 409 U.S. 57 (1972) (pecuniary interest in outcome violates due process).

Section 201 also provides for the recovery of costs for probationary supervision of defendants under home detention or other forms of detainment outside of Bureau of Prison facilities. These costs are unrelated to forfeiture and should be funded through the normal appropriations process. If this proposal is, in fact, one for reim-

bursement of processing costs, this provision should not be included.

Finally, section 201 does not seem to reflect that funds which may have been deposited into the asset forfeiture funds do not necessarily constitute “cash” available for transfer to the courts. First, deposited value may be subject to other legal constraints and assets may have to be sold to create a liquid amount for any transfer. Moreover, funds deposited or other asset forfeitures may be paid to lien holders, victims of the crime committed by the defendant, or others with superior rights.

Section 301: Removal of Cases under the Employee Retirement Income Security Act

Section 301 mirrors a provision contained in legislation introduced in the 104th Congress that the Department supported. We agree with section 301’s provision that cases arising under ERISA need not always be removed to Federal court. Indeed, most such cases can be speedily and fairly tried in State court. This simple provision should end removal of many simple benefit claims from State court to the Federal court merely because they arise under ERISA.

Section 305: Magistrate Judge Contempt Authority

Section 305 would amend the Federal Magistrates Act to vest magistrate judges with criminal contempt authority for contempt committed in the magistrate’s presence and disobedience of the magistrate’s orders in civil consent and misdemeanor cases. In civil consent and misdemeanor cases, it would provide to magistrate judges the civil contempt authority of the district court. We note that giving contempt power to non–Article III judges raises some constitutional concerns.

Although this is an unsettled area of law, we believe that there is a possibility that a magistrate judge’s exercise of contempt authority could be held unconstitutional as an exercise of authority that the Constitution reserves to Article III judges. In upholding the constitutionality of the Federal Magistrate Act provision permitting magistrate judges to try civil cases with the consent of the parties and enter judgment with respect to them, a Federal appellate court found it significant that magistrate judges had *not* been given contempt authority under the Magistrates Act. *Geras v. Lafayette Display Fixtures, Inc.*, 742 F.2d 1037, 1044 (7th Cir. 1984). The court noted that the Act, in placing the criminal contempt power “exclusively in the hands of Article III judicial officers would seem, for present purposes at least, to provide an adequate distinction between such judges and non-Article III officers.” *Id.* The court added that “[t]his clear line also serves to limit the ultimate exercise of judicial power to persons enjoying the constitutional guarantee of independence.” *Id. Accord Bingham v. Ward*, 100 F.3d 653, 657 (9th Cir. 1996) (“The power to hold persons in criminal contempt is not only awesome, but is also an inherent power of Article III judges.”) *cert. den.* 117 S. Ct. 1473 (1997).

These same constitutional concerns are also raised by existing statutory provisions conferring contempt authority on the Court of Veterans Appeals (38 U.S.C. § 7265 (1994)) and the Tax Court (26

U.S.C. § 7456 (c) (1994). *See, e.g., In re Hipp. Inc.*, 895 F.2d 1503, 1513 & n.20 (5th Cir. 1990) (expressing doubt as to the constitutionality of the Tax Court's criminal contempt power); *In re Cox Cotton Co.*, 24 B.R. 930, 947–52 (E.D. Ark. 1982) (same), *vacated on other grounds sub nom. Lindsey v. Ipock*, 732 F.2d 619 (8th Cir.), *cert. denied sub nom., Cryts v. French*, 469 U.S. 881 (1984). *But cf. Freytag v. CIR*, 501 U.S. 868, 891 (1991) (citing the Article I Tax Court's "authority to punish contempts by fine and imprisonment, 26 U.S.C. § 7456(c)" as partial support for statement that the "Tax Court's function and role in the federal judicial scheme closely resembles those of the federal district courts"). The courts of appeals have divided on the statutory and constitutional questions posed when bankruptcy courts enter contempt orders in reliance upon their more general statutory authority to "tak[e] any action . . . necessary or appropriate to enforce or implement court orders or rules." 11 U.S.C. § 105(a) (1994). *Compare, e.g., In re Hipp*, 895 F.2d at 1510–11 (bankruptcy courts lack criminal contempt authority, at least as to contempts not committed in or near their presence; a statute purporting to confer such authority would raise serious constitutional difficulties), *with In re Skinner*, 917 F.2d 444, 449–50 (10th Cir. 1990) (11 U.S.C. § 105 gives bankruptcy courts civil contempt power and does not violate the Constitution). *Cf. Radar v. Ramsay*, 3 F.3d 1174, 1177–79 (8th Cir. 1993) (11 U.S.C. § 105 and the Constitution permit bankruptcy courts "to go at least [as] far" as to enter a contempt order that, by its terms, allows the contemnor to obtain de nova district court review before the order takes effect).

Section 310: Reports Concerning Wire, Oral, or Electronic Communications

This provision would transfer responsibility for reporting to Congress on wiretap activity from the Administrative Office of the United States Courts to the Department of Justice. The Department strongly opposes this provision.

The AOUSC has had the long-standing responsibility for compiling and issuing an annual report to Congress on wiretap activity. The legislative history of the provision, enacted as part of the Omnibus Crime Control and Safe Streets Act of 1968, makes clear that the purpose of the reporting requirement is to allow public evaluation of the "administration of the court order system." The purpose of the public evaluation is to "assure the community that the system of court-order [sic] electronic surveillance is properly administered." S.Rep. No. 1097, 90th Cong., 2d Sess., reprinted in 1968 U.S. Code Cong. & Admin. News 2112, 2196. The legislative history should be viewed as a recognition that such assurance should come from an agency independent of the prosecutorial branches of the Federal and State government. Thus, the AOUSC, an agency of the Judicial branch, is clearly a more appropriate source than would be the Department of Justice, the chief prosecutor for the Federal government.

Additionally, the AOUSC already has in place the mechanisms for collecting and compiling this information. If the Department of Justice were required to assume this responsibility, it would need additional staff and computing facilities. The Department's current

work in compiling this information for the Federal government represents only a fraction of the work necessary for issuing this report, which includes statistical information from State and local governments as well.

Section 405: Judges' Firearms Training

This provision authorizing judges to carry firearms in certain situations reflects an approach to this issue agreeable to the Department, based on discussions with the Judicial Conference. The Department supports section 405 as introduced.

Sections 501 and 502: Maximum Amounts for Compensation

These provisions would provide for an increase in the level of compensation of appointed counsel under the Criminal Justice Act. The Department is reviewing these provisions and does not have a position at this time.

Section 503: Tort Claims Act Amendments Relating to Liability of Federal Public Defenders

This provision would create an exception from the Federal Tort Claims Act ("FTCA") for claims arising from malpractice or negligence of Federal Public Defender employees in providing representational services. However, the language of the bill would not achieve the goal of allowing malpractice suits outside the FTCA.

If the purpose of this provision is to remove claims against Federal Public Defenders from the purview of the FTCA but to allow claims against the Federal Public Defender through other means, this best can be achieved by amending the definition of "employee of the government" in 28 U.S.C. § 2671 to add, after the word "compensation," the phrase "but does not include any officer or employee of a Federal Public Defender Organization in furnishing representational services under section 3006A of Title 18." As drafted, however, the bill would completely bar any common law malpractice claim against Federal Public Defenders, since the effect of section 2680 exceptions is to immunize those described in the exceptions from statutory liability. *United States v. Smith*, 499 U.S. 160 (1991).

H.R. 2603

Section 3: Award of Reasonable Costs and Attorney's Fees in Federal Civil Diversity Litigation After an Offer of Settlement

Section 3 of this bill is designed to promote early resolution of Federal diversity cases through the use of offers of judgment. While this provision obviously is designed to encourage litigants to take settlement offers seriously, it may also discourage parties from pursuing meritorious claims or defenses in Federal diversity actions. For example, under this section, if a final judgment is even slightly less favorable than a prior offer, a party may be subject to a sizable attorney's fees award. In concept, there is little to distinguish this provision from other two-way fee shifting proposals that the Administration has consistently opposed—indeed, this provision is even worse in that it authorizes the imposition of attorney's fees on prevailing parties.

We have concerns about whether such a penalty should be imposed on a prevailing party with a meritorious claim or defense simply because that party guessed wrong about the size of the jury verdict. The specter of such an award could have an especially chilling effect on parties with limited means, coercing such parties into accepting unreasonably low offers or causing such parties to eschew invoking diversity jurisdiction at all. While the provision would allow judges to waive attorney's fees where their imposition "would be manifestly unjust," we doubt that this provision would significantly lessen the chilling effect that a potential attorney's fees award would have on certain parties vindicating their rights in Federal court.

As has been the case with other recent two-way fee shifting proposals, proponents of this section may well argue that it is simply a test of the efficacy of a version of the English Rule (in which a loser pays the prevailing party's attorney's fees and costs). Even if we believed that such a test were warranted, as currently drafted, this section contains neither a sunset provision nor any requirement that a systematic study of its effectiveness be conducted. Moreover, the section appears to apply not only to diversity actions initiated by plaintiffs, but also to those removed by defendants from State courts under 28 U.S.C. § 1441. We therefore cannot support this provision.

PROPOSED ADDITIONAL SECTION

Correction of Aberrant Statutes to Permit Imposition of Both Fines and Imprisonment

Of the thousands of Federal criminal offenses that carry imprisonment as a sanction, virtually all also permit a court to impose a fine in addition to imprisonment. Indeed, in 1984 Congress enacted 18 U.S.C. § 3571, which made uniform the amounts of allowable fines for offenses throughout all titles of the United States Code and authorized the imposition of such fines even if the statute defining an offense was silent as to the availability of a fine.

However, because of a quirk in draftsmanship, six statutes in Title 18 expressly provide for the imposition of imprisonment *or* a fine but do not provide expressly for both. We believe that legislation altering the judicial processes ought to remedy this anomalous and occasionally troublesome feature of these statutes by adding the words "or both" at the appropriate place in each provision. This would allow a court the customary sentencing flexibility to impose both a fine and a prison term where appropriate. The statutes affected are 18 U.S.C. § 401 (criminal contempt), 18 U.S.C. § 1705 (destruction of letter boxes), 18 U. S. C. § 1916 (unauthorized employment or disposition of lapsed appropriations), 18 U.S.C. § 2076 (refusal of clerk of court to perform certain duties required by law), 18 U.S.C. § 2234 (willfully exceeding authority in executing a search warrant), and 18 U.S.C. § 2235 (maliciously procuring and executing a search warrant). Of these, only section 401 has generated case law with respect to the punishment issue.

Although criminal contempt is an offense of extended lineage, dating from the Judiciary Act of 1789, see *Green v. United States*, 356 U.S. 165 (1958), no legislative history or other explanation ap-

parently exists for why the statute is drafted in the disjunctive to permit only a fine or imprisonment but not both. The Senate Judiciary Committee has stated that this feature was probably unintended and in past yearn has proposed to correct it in a comprehensive criminal code reform bill. *See* S. Rep. No. 96–553 (96th Cong., 2d Sess., p. 375).

This statutory quirk has produced occasional windfalls to undeserving defendants and has proved a trap for unwary judges who, being unaware of the statute’s unusual restriction on their sentencing authority, impose an illegal sentence of both a fine and imprisonment. *See. e.g., United States v. Versaallo*, 85 F.3d 943, 945–7 (2d Cir. 1996) (and cases cited). The Supreme Court has held that, in such a case, if the defendant tenders payment of the fine to the clerk before the error is corrected, the sentence is fully satisfied and the imprisonment portion of it must be vacated. *In re Bradley*, 318 U.S. 50 (1943); see also *United States v. Versaglio. supra: United States v. Holmes*. 822 F.2d 481, 486 (5th Cir. 1987) (and cases cited); *United States v. Sampoane*, 533 F.2d 766 (2d Cir. 1976). Presumably, the same result would obtain under the other statutes, which are similarly worded, although no case law exists as to these seldom prosecuted offenses. Since there is no sound reason for limiting a court’s customary sentencing discretion to impose both a fine and imprisonment where the offense so warrants, we recommend modifying either H.R. 2294 or H.R. 2603 to remedy this situation.

Thank you for the opportunity to present our views. The Office of Management and Budget has advised us that from the standpoint of the Administration’s program, there is no objection to submission of this letter. Please do not hesitate to call upon us if we may be of further assistance.

Sincerely,

ANDREW FOIS,
Assistant Attorney General,

cc: Honorable Barney Frank,
Ranking Minority Member.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TITLE 28, UNITED STATES CODE

* * * * *

PART I—ORGANIZATION OF COURTS

* * * * *

CHAPTER 5—DISTRICT COURTS

* * * * *

§ 83. Arkansas

Arkansas is divided into two judicial districts to be known as the Eastern and Western Districts of Arkansas.

Eastern District

(a) * * *

* * * * *

Western District

- (b) The Western District comprises six divisions.
 - (1) The Texarkana Division comprises the counties of Hempstead, Howard, Lafayette, Little River, Miller, Nevada, and Sevier, *and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas.*

* * * * *

§ 98. Louisiana

Louisiana is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Louisiana.

Eastern District

[(a) The Eastern District comprises the parishes of Assumption, Jefferson, Lafourche, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint James, Saint John the Baptist, Saint Tammany, Tangipahoa, Terrebonne, and Washington.

【Court for the Eastern District shall be held at New Orleans, and Houma.】

- (a) *The Eastern District comprises two divisions.*
 - (1) *The New Orleans Division comprises the parishes of Jefferson, Orleans, Plaquemines, Saint Bernard, Saint Charles, Saint John the Baptist, Saint Tammany, Tangipahoa, and Washington.*
Court for the New Orleans Division shall be held at New Orleans.
 - (2) *The Houma Division comprises the parishes of Assumption, Lafourche, Saint James, and Terrebonne.*
Court for the Houma Division shall be held at Houma.

* * * * *

§ 118. Pennsylvania

Pennsylvania is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Pennsylvania.

Eastern District

(a) The Eastern District comprises the counties of Berks, Bucks, Chester, Delaware, Lancaster, Lehigh, Montgomery, Northampton, **Philadelphia, and Schuylkill** and *Philadelphia*.

Court for the Eastern District shall be held at Allentown, Easton, Lancaster, Reading, and Philadelphia.

Middle District

(b) The Middle District comprises the counties of Adams, Bradford, Cameron, Carbon, Centre, Clinton, Columbia, Cumberland, Dauphin, Franklin, Fulton, Huntingdon, Juniata, Lackawanna, Lebanon, Luzerne, Lycoming, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, *Schuylkill*, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming, and York.

Court for the Middle District shall be held at Harrisburg, Lewisburg, Scranton, Wilkes-Barre, and Williamsport.

* * * * *

§ 123. Tennessee

Tennessee is divided into three judicial districts to be known as the Eastern, Middle, and Western Districts of Tennessee.

Eastern District

(a) * * *

* * * * *

Western District

(c) The Western District comprises two divisions.

(1) The Eastern Division comprises the counties of Benton, Carroll, Chester, Crockett, Decatur, *Dyer*, Gibson, Hardeman, Hardin, Haywood, Henderson, Henry, Lake, McNairy, Madison, Obion, Perry, and Weakley.

The Eastern Division also includes the waters of Tennessee River to low-water mark on the eastern shore wherever such river forms the boundary between the western and middle districts from the north line of Alabama north to the point in Henry County, Tennessee, where the south boundary of Kentucky strikes the east bank of the river.

Court for the Eastern Division shall be held at Jackson.

(2) The Western Division comprises the counties of **Dyer,** Fayette, Lauderdale, Shelby, and Tipton.

Court for the Western Division shall be held at Memphis and Dyersburg.

The district judge for the Eastern District in office on November 27, 1940, shall hold court in the Northern and Northeastern Divisions. The other judge of that district shall hold the terms of court in the Southern and Winchester Divisions. Each may appoint and remove all officers and employees of the court whose official headquarters are located in the divisions within which he holds

court and whose appointments are vested by law in a district judge or chief judge of a district.

§ 124. Texas

Texas is divided into four judicial districts to be known as the Northern, Southern, Eastern, and Western Districts of Texas.

Northern District

(a) * * *
 * * * * *

Eastern District

(c) The Eastern District comprises seven divisions.
 (1) * * *
 * * * * *
 (3) The Sherman Division comprises the counties of Collin, Cook, Denton, and Grayson.
 Court for the Sherman Division shall be held at Sherman and Plano.
 * * * * *
 (6) The Texarkana Division comprises the counties of Bowie, Franklin, and Titus.
 Court for the Texarkana Division shall be held at Texarkana, and may be held anywhere within the Federal courthouse in Texarkana that is located astride the State line between Texas and Arkansas.
 * * * * *

§ 133. Appointment and number of district judges

(a) The President shall appoint, by and with the advice and consent of the Senate, district judges for the several judicial districts, as follows:

	Districts	Judges
	* * * * *	
Florida:		
Northern		4
Middle		11
Southern		16]
<i>Florida:</i>		
<i>Northern</i>		<i>4</i>
<i>Middle</i>		<i>14</i>
<i>Southern</i>		<i>18</i>
	* * * * *	

CHAPTER 15—CONFERENCES AND COUNCILS OF JUDGES

* * * * *

§ 332. Judicial councils of circuits

(a) [(1) The chief judge of each judicial circuit shall call, at least twice in each year and at such places as he or she may designate,

a meeting of the judicial council of the circuit, consisting of the chief judge of the circuit, who shall preside, and an equal number of circuit judges and district judges of the circuit, as such number is determined by majority vote of all such judges of the circuit in regular active service.】 (1) *The chief judge of each judicial circuit shall call and preside at a meeting of the judicial council of the circuit at least twice in each year and at such places as he or she may designate. The council shall consist of an equal number of circuit judges (including the chief judge of the circuit) and district judges, as such number is determined by majority vote of all such judges of the circuit in regular active service.*

* * * * *

【(3) Only circuit and district judges in regular active service shall serve as members of the council.】

(3) *Except for the chief judge of the circuit, either judges in regular active service or judges retired from regular active service under section 371(b) of this title may serve as members of the council.*

* * * * *

(5) In the event of the death, resignation, [retirement,] *retirement pursuant to section 371(a) or section 372(a) of this title*, or disability of a member of the council, a replacement member shall be designated to serve the remainder of the unexpired term by the chief judge of the circuit.

* * * * *

CHAPTER 17—RESIGNATION AND RETIREMENT OF JUSTICES AND JUDGES

* * * * *

§ 371. Retirement on salary; retirement in senior status

(a) Any justice or judge of the United States appointed to hold office during good behavior may retire from the office after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c)(1) and shall, during the remainder of his lifetime, receive an annuity equal to the salary he was receiving at the time he retired.

(b)(1) Any justice or judge of the United States appointed to hold office during good behavior may retain the office but retire from regular active service after attaining the age and meeting the service requirements, whether continuous or otherwise, of subsection (c)(2) of this section and shall, during the remainder of his or her lifetime, continue to receive the salary of the office if he or she meets the requirements of subsection (f).

(2) In a case in which a justice or judge who retires under paragraph (1) does not meet the requirements of subsection (f), the justice or judge shall continue to receive the salary that he or she was receiving when he or she was last in active service or, if a certification under subsection (f) was made for such justice or judge, when such a certification was last in effect. The salary of such justice or judge shall be adjusted under section 461 of this title.

(c)(1) The age and service requirements for retirement under **[this section]** subsection (a) are as follows:

(2) *The age and service requirements for retirement under subsection (b)(1) are as follows:*

Attained age:	Years of Service:
60	20
61	19
62	18
63	17
64	16
65	15
66	14
67	13
68	12
69	11
70	10
* * * * *	

(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, *except such pay as is deductible from the retired or retainer pay as a result of participation in any survivor's benefits plan in connection with the retired 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.

* * * * *

§ 373. Judges in territories and possessions

(a) * * *

* * * * *

(c)(1) * * *

* * * * *

[(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under subsection (a) of this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.]

(4) Any senior judge performing judicial duties pursuant to recall under paragraph (2) of this subsection shall be paid, while performing such duties, the same compensation (in lieu of the annuity payable under this section) and the same allowances for travel and other expenses as a judge on active duty with the court being served.

* * * * *

[(e) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is removed by the President of the United States upon the sole ground of mental or physical disability, or who is not reappointed (as judge of such court), shall be entitled, upon

attaining the age of sixty-five years or upon relinquishing office if he is then beyond the age of sixty-five years, (1) if his judicial service, continuous or otherwise, aggregates fifteen years or more, to receive during the remainder of his life an annuity equal to the salary he received when he left office, or (2) if his judicial service, continuous or otherwise, aggregated less than fifteen years but not less than ten years, to receive during the remainder of his life an annuity equal to that proportion of such salary which the aggregate number of his years of his judicial service bears to fifteen.】

(e)(1) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who is not reappointed (as judge of such court) shall be entitled, upon attaining the age of 65 years or upon relinquishing office if the judge is then beyond the age of 65 years—

(A) if the judicial service of such judge, continuous or otherwise, aggregates 15 years or more, to receive during the remainder of such judge’s life an annuity equal to the salary received when the judge left office; or

(B) if such judicial service, continuous or otherwise, aggregated less than 15 years, to receive during the remainder of such judge’s life an annuity equal to that proportion of such salary which the aggregate number of such judge’s years of service bears to 15.

(2) Any judge of the District Court of Guam, the District Court of the Northern Mariana Islands, or the District Court of the Virgin Islands who has served at least five years, continuously or otherwise, and who retires or is removed upon the sole ground of mental or physical disability, shall be entitled to receive during the remainder of such judge’s life an annuity equal to 40 percent of the salary received when the judge left office, or, in the case of a judge who has served at least ten years, continuously or otherwise, an annuity equal to that proportion of such salary which the aggregate number of such judge’s years of judicial service bears to 15.

* * * * *

【(g) Any retired judge who is entitled to receive an annuity under subsection (a) shall be entitled to a cost of living adjustment in the amount payable to him computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed 95 per centum of the salary of a United States district judge in regular active service.】

(g) Any retired judge who is entitled to receive an annuity under this section shall be entitled to a cost-of-living adjustment in the amount computed as specified in section 8340(b) of title 5, except that in no case may the annuity payable to such retired judge, as increased under this subsection, exceed the salary of a judge in regular active service with the court on which the retired judge served before retiring.

* * * * *

§ 377. Retirement of bankruptcy judges and magistrates

(a) * * *

* * * * *

(p) *Upon election by a bankruptcy judge or a magistrate judge under subsection (f) of this section, all of the accrued employer contributions and accrued interest on those contributions made on behalf of the bankruptcy judge or magistrate judge to the Civil Service Retirement and Disability Fund as defined under section 8348 of title 5, shall be transferred to the fund established under section 1931 of this title, that if the bankruptcy judge or magistrate judge elects under section 2(c) of the Retirement and Survivor's Annuities for Bankruptcy Judges and Magistrates Act of 1988 (Public Law No. 100-659), to receive a retirement annuity under both this section and title 5, only the accrued employer contributions and accrued interest on such contributions made on behalf of the bankruptcy judge or magistrate judge for service credited under this section may be transferred.*

* * * * *

CHAPTER 21—GENERAL PROVISIONS APPLICABLE TO COURTS AND JUDGES

Sec.

451. Definitions.

* * * * *

464. *Carrying of firearms by judicial officers.*

* * * * *

§ 464. Carrying of firearms by judicial officers

(a) *AUTHORITY.*—A judicial officer of the United States is authorized to carry a firearm, whether concealed or not, under regulations promulgated by the Judicial Conference of the United States. The authority granted by this section shall extend only to—

(1) *those States in which the carrying of firearms by judicial officers of the State is permitted by State law, and*

(2) *regardless of State law, to any place where the judicial officer of the United States sits, resides, or is present on official travel status.*

(b) *IMPLEMENTATION.*—

(1) *REGULATIONS.*—The regulations promulgated by the Judicial Conference under subsection (a) shall—

(A) *require a demonstration of a judicial officer's proficiency in the use and safety of firearms as a prerequisite to the carrying of firearms under the authority of this section; and*

(B) *ensure that the carrying of a firearm by a judicial officer under the protection of the United States Marshals Service while away from United States courthouses is consistent with the policy of the Marshals Service on the carrying of firearms by persons receiving such protection.*

(2) *ASSISTANCE BY OTHER AGENCIES.*—At the request of the Judicial Conference, the Department of Justice and appropriate law enforcement components of the Department shall assist the

Judicial Conference in developing and providing training to assist judicial officers in securing the proficiency referred to in subsection (b)(1).

(c) *DEFINITION.—For purposes of this section, the term, “judicial officer of the United States” means—*

(1) *a justice or judge of the United States as defined in section 451 in regular active service or retired from regular active service;*

(2) *a justice or judge of the United States who has retired from the judicial office under section 371(a) for—*

(A) *a 1-year period following such justice’s or judge’s retirement; or*

(B) *a longer period of time if approved by the Judicial Conference of the United States when exceptional circumstances warrant;*

(3) *a United States bankruptcy judge;*

(4) *a full-time or part-time United States magistrate judge;*

(5) *a judge of the United States Court of Federal Claims;*

(6) *a judge of the United States District Court of Guam;*

(7) *a judge of the United States District Court for the Northern Mariana Islands;*

(8) *a judge of the United States District Court of the Virgin Islands; or*

(9) *an individual who is retired from one of the judicial positions described under paragraphs (3) through (8) to the extent provided for in regulations of the Judicial Conference of the United States.*

(d) *EXCEPTION.—Notwithstanding section 46303(c)(1) of title 49, nothing in this section authorizes a judicial officer of the United States to carry a dangerous weapon on an aircraft or other common carrier.*

* * * * *

PART II—DEPARTMENT OF JUSTICE

* * * * *

CHAPTER 31—THE ATTORNEY GENERAL

* * * * *

§ 524. Availability of appropriations

(a) * * *

* * * * *

(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the “Fund”) which shall be available to the Attorney General without fiscal year limitation for the following law enforcement purposes—

(A) * * *

* * * * *

(12)(A) *In the fiscal year subsequent to the fiscal year in which this paragraph is enacted and each fiscal year thereafter, an*

amount as specified in subparagraph (B) shall be transferred annually to the judiciary into the fund established under section 1931 of this title, for expenses incurred in—

(i) adjudication of civil and criminal forfeiture proceedings that result in deposits into the Fund (except the expense of salaries of judges);

(ii) representation, pursuant to the provisions of section 3006A of title 18, section 408(q) of the Controlled Substances Act (21 U.S.C. 848(q)) of offenders whose assets have been seized in such forfeiture proceedings, to the extent that such expenses of representation could have been recovered through an order for payment or for reimbursement of the Defender Services appropriation pursuant to section 3006A(f) of title 18; and

(iii) supervision by United States probation officers of offenders under home detention or other forms of confinement outside of Bureau of Prison facilities.

(B) The amount to be transferred—

(i) shall be a portion of the total amount to be transferred from the combined fiscal year deposits into both the Fund and the Department of the Treasury Asset Forfeiture Fund established by section 9703 of title 31, United States Code (hereafter referred to as “both Funds”), which total shall not exceed the statement of costs incurred by the Judiciary in providing the services identified in subparagraph (A), as set forth by the Director of the Administrative Office of the United States Courts in a report to the Attorney General and the Secretary of the Treasury no later than 90 days after the end of the fiscal year in which the expenses were incurred except that—

(I) the total amount to be transferred from both Funds shall not exceed \$50,000,000, or 10 percent of the total combined deposits into both Funds, whichever is less;

(II) the proportion of the amount transferred from the Fund to the total amount to be transferred shall be equal to the proportion of the fiscal year deposits into the Fund to the combined fiscal year deposits in both Funds; and

(III) the total amount to be transferred from both Funds may exceed the limits set out in this subparagraph, subject to the discretion of the Attorney General and the Secretary of the Treasury.

(ii) shall be paid from revenues deposited into the Fund during the fiscal year in which the expenses were incurred and are not required to be specified in appropriations Acts.

* * * * *

PART III—COURT OFFICERS AND EMPLOYEES

* * * * *

CHAPTER 41—ADMINISTRATIVE OFFICE OF UNITED STATES COURTS

Sec.
601. Creation; Director and Deputy Director.

* * * * *

613. *Disbursing and certifying officers.*
614. *Authority to prescribe fees for technology resources in the courts.*

* * * * *

§ 604. Duties of Director generally

(a) The Director shall be the administrative officer of the courts, and under the supervision and direction of the Judicial Conference of the United States, shall:

(1) * * *

* * * * *

[(8) Disburse, directly or through the several United States marshals, moneys appropriated for the maintenance and operation of the courts;]

(8) Disburse appropriations and other funds for the maintenance and operation of the courts;

* * * * *

(24) Perform such other duties as may be assigned to him by the Supreme Court or the Judicial Conference of the United States.

[(24) Lay before Congress, annually, statistical tables that will accurately reflect the business imposed on the Federal courts by the savings and loan crisis.]

* * * * *

(i) The Director may pay a claim by a person summoned to serve or serving as a grand juror or petit juror for loss of, or damage to, personal property that occurs incident to that person's performance of duties in response to the summons or at the direction of an officer of the court. With respect to claims, the Director shall have the authority granted to the head of an agency by section 3721 of title 31 for consideration of employees' personal property claims. The Director shall prescribe guidelines for the consideration of claims under this subsection.

* * * * *

§ 611. Retirement of Director

(a) * * *

(b) Upon the retirement of a Director who has elected coverage under this section and [who has served at least fifteen years and] *who has at least fifteen years of service and has* attained the age of sixty-five years the Administrative Office of the United States Courts shall pay him an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement.

Upon the retirement of a Director who has elected coverage under this section and [who has served at least ten years,] *who has at least ten years of service,* but who is not eligible to receive an annuity under the first paragraph of this subsection, the Administrative Office of the United States Courts shall pay him an annuity for life equal to that proportion of 80 per centum of the salary of the office at the time of his retirement that the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of sixty-five at the time of separation from service.

(c) A Director who has elected coverage under this section and who becomes permanently disabled to perform the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement if he has [served at least fifteen years,] *at least fifteen years of service*, or equal to that proportion of 80 per centum of such salary that the aggregate number of years of his service bears to fifteen if he has [served less than fifteen years,] *less than fifteen years of service*, but in no event less than 50 per centum of such salary.

(d) For the purpose of this section, “service” means service, whether or not continuous, as Director of the Administrative Office of the United States Courts, and any service, not to exceed five years, as a judge of the United States, a Senator or Representative in Congress, *a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representative*, or a civilian official appointed by the President, by and with the advice and consent of the Senate.

* * * * *

§ 612. Judiciary Information Technology Fund

(a) ESTABLISHMENT AND AVAILABILITY OF FUND.—There is hereby established in the Treasury of the United States a special fund to be known as the “Judiciary Information Technology Fund” (hereafter in this section referred to as the “Fund”). Moneys in the Fund shall be available to the Director without fiscal year limitation for the procurement (by lease, purchase, exchange, transfer, or otherwise) of information technology [equipment] *resources* for program activities included in the court of appeals, district courts, and other judicial services account of the judicial branch of the United States. The Fund shall also be available for expenses, including personal services, support personnel in the courts and in the Administrative Office of the United States Courts, and other costs, for the effective management, coordination, operation, and use of information technology [equipment] *resources* purchased by the Fund. In addition, all agencies of the judiciary may make deposits into the Fund to meet their information technology needs in accordance with subsections (b) and (c)(2).

(b) PLAN FOR MEETING INFORMATION TECHNOLOGY NEEDS.—

(1) DEVELOPMENT OF PLAN.—The Director shall develop and annually revise, with the approval of the Judicial Conference of the United States, a long range plan for meeting the information technology [equipment] *resources* needs of the activities funded under subsection (a) and shall include an annual estimate of any fees that may be collected under section 404 of the Judiciary Appropriations Act, 1991 (Public Law 101–515; 104 Stat. 2133). Such plan and revisions shall be submitted to Congress.

(2) EXPENDITURES CONSISTENT WITH PLAN.—The Director may use amounts in the Fund to procure information technology [equipment] *resources* for the activities funded under

subsection (a) only in accordance with the plan developed under paragraph (1).

(c) DEPOSITS INTO FUND.—

(1) * * *

(2) ADVANCES AND REIMBURSEMENTS.—Whenever the Director procures information technology **[equipment]** *resources* for any entity in the judicial branch other than the courts or the Administrative Office, that entity shall advance or reimburse the Fund, whichever the Director considers appropriate, for the costs of the information technology **[equipment]** *resources*, from appropriations available to that entity.

* * * * *

(e) CONTRACT AUTHORITY.—

(1) FOR EACH FISCAL YEAR.—In fiscal year 1990, and in each succeeding fiscal year, the Director may enter into contracts for the procurement of information technology **[equipment]** *resources* in amounts which, in the aggregate, do not exceed amounts estimated to be collected under subsection (c) for that fiscal year in advance of the availability of amounts in the Fund for such contracts.

(2) MULTIYEAR CONTRACTS.—In conducting activities under subsection (a), the Director is authorized to enter into multiyear contracts for information technology **[equipment]** *resources* for periods of not more than five years for any contract, if—

(A) funds are available and adequate for payment of the costs of such contract for the first fiscal year and for payment of any costs of cancellation or termination of the contract;

(B) such contract is awarded on a fully competitive basis; and

(C) the Director determines that—

(i) the need for the information technology **[equipment]** *resources* being provided will continue over the period of the contract; and

* * * * *

[(f) APPLICABILITY OF PROCUREMENT STATUTE.—The procurement of information technology equipment under this section shall be conducted in compliance with the provisions of law, policies, and regulations applicable to executive agencies under division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.).**]**

[(g) (f) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—Nothing in this section shall be construed to limit the authority of the Administrator of General Services under section 201 of the Federal Property and Administrative Services Act of 1949 (. 40 U.S.C. 481).

[(h) (g) ANNUAL REPORT.—

(1) IN GENERAL.—The Director shall submit to the Congress an annual report on the operation of the Fund, including on the inventory, use, and acquisition of information technology **[equipment]** *resources* from the Fund and the consistency of such acquisition with the plan prepared under sub-

section (b). The report shall set forth the amounts deposited into the Fund under subsection (c).

* * * * *

[(3) REPORT IN YEAR OF TERMINATION OF AUTHORITY.—The annual report submitted under this subsection for any year in which the authority for this section is to terminate under subsection (m), shall be submitted no later than 9 months before the date of such termination.]

[(i) (h) REPROGRAMMING.—The Director of the Administrative Office of the United States Courts, under the supervision of the Judicial Conference of the United States, may transfer amounts up to \$1,000,000 from the Fund into the account to which the funds were originally appropriated. Any amounts transferred from the Fund in excess of \$1,000,000 in any fiscal year may only be transferred by following reprogramming procedures in compliance with section 606 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2227).

[(j) (i) APPROPRIATIONS INTO THE FUND.—If the budget request of the [Judiciary] *judiciary* is appropriated in full, the amount deposited into the Fund during any fiscal year under the authority of [subparagraph] *subsection* (c)(1)(B) will be the same as the amount of funds requested by the [Judiciary] *judiciary* for activities described in subsection (a). If an amount to be deposited is not specified in statute by Congress and if the full request is not appropriated, the amount to be deposited under *subsection* (c)(1)(B) will be set by the spending priorities established by the Judicial Conference.

[(k) (j) LONG RANGE MANAGEMENT AND BUSINESS PLANS.—The Director of the Administrative Office of the United States Court shall—

(1) * * *

* * * * *

§613. Disbursing and certifying officers

(a) *DISBURSING OFFICERS.—The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to be disbursing officers in such numbers and locations as the Director considers necessary. These disbursing officers shall—*

(1) *disburse moneys appropriated to the judicial branch and other funds only in strict accordance with payment requests certified by the Director or in accordance with subsection (b);*

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

(3) *be held accountable for their actions as provided by law, except such a disbursing officer shall not be held accountable or responsible for any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificate for which a certifying officer is responsible under subsection (b).*

(b) *CERTIFYING OFFICERS.*—(1) *The Director may designate in writing officers and employees of the judicial branch of the Government, including the courts as defined in section 610 other than the Supreme Court, to certify payment requests payable from appropriations and funds. These certifying officers shall be responsible and accountable for—*

(A) the existence and correctness of the facts recited in the certificate or other request for payment or its supporting papers;

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

(C) the correctness of the computations of certified payment requests.

(2) *The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.*

(c) *RIGHTS.*—*A certifying or disbursing officer—*

(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

(2) is entitled to relief from liability arising under this section in accordance with title 31.

(d) *OTHER AUTHORITY NOT AFFECTED.*—*Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.*

§ 614. Authority to prescribe fees for technology resources in the courts

The Judicial Conference is authorized to prescribe reasonable fees pursuant to sections 1913, 1914, 1926, 1930, and 1932, for collection by the courts for use of information technology resources provided by the judiciary for remote access to the courthouse by litigants and the public, and to facilitate the electronic presentation of cases. Fees under this section may be collected only to cover the costs of making such information technology resources available for the purposes set forth in this section. Such fees shall not be required of persons financially unable to pay them. All fees collected under this section shall be deposited in the Judiciary Information Technology Fund and be available to the Director without fiscal year limitation to be expended on information technology resources developed or acquired to advance the purposes set forth in this section.

* * * * *

CHAPTER 42—FEDERAL JUDICIAL CENTER

* * * * *

§ 625. Director and staff

(a) * * *

(b) The Director shall appoint and fix the compensation of such additional professional personnel as the Board may deem necessary, without regard to the provisions of title 5【, United States Code,】 governing appointments in competitive service, or the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates: Provided, however, That the compensation of any person appointed under this subsection shall not exceed the annual rate of basic pay of level V of the Executive Schedule 【pay rates, section 5316, title 5, United States Code】 *under section 5316 of title 5, except that the Director may fix the compensation of 4 positions of the Center at a level not to exceed the annual rate of pay in effect for level IV of the Executive Schedule under section 5315 of title 5: And provided further, That the salary of a reemployed annuitant under 【the Civil Service Retirement Act shall be adjusted pursuant to the provisions of section 8344, title 5, United States Code】 subchapter III of chapter 83 of title 5 shall be adjusted pursuant to the provisions of section 8344 of such title, and the salary of a reemployed annuitant under chapter 84 of title 5 shall be adjusted pursuant to the provisions of section 8468 of such title.*

(c) The Director shall appoint and fix the compensation of such secretarial and clerical personnel as he may deem necessary, subject to the provisions of title 5【, United States Code,】 governing appointments in competitive service without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

* * * * *

§ 627. Retirement; employee benefits

(a) * * *

* * * * *

(c) Upon the retirement of a Director who has elected coverage under this section and 【who has served at least fifteen years and】 *who has at least fifteen years of service and has* attained the age of sixty-five years the Director of the Administrative Office of the United States Courts shall pay him an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement.

Upon the retirement of a Director who has elected coverage under this section and 【who has served at least ten years,】 *who has at least ten years of service,* but who is not eligible to receive an annuity under the first paragraph of this subsection, the Administrative Office of the United States Courts shall pay him an annuity for life equal to that proportion of 80 per centum of the salary of the office at the time of his retirement that the number of years of his service bears to fifteen, reduced by one-quarter of 1 per centum for each full month, if any, he is under the age of sixty-five at the time of separation from service.

(d) A Director who has elected coverage under this section and who becomes permanently disabled to perform the duties of his office shall be retired and shall receive an annuity for life equal to 80 per centum of the salary of the office at the time of his retirement if he has 【served at least fifteen years,】 *at least fifteen years of service,* or equal to that proportion of 80 per centum of such sal-

ary that the aggregate number of years of his service bears to fifteen if he has ~~【served less than fifteen years,】~~ *less than fifteen years of service*, but in no event less than 50 per centum of such salary.

(e) For the purpose of this section, “service” means service, whether or not continuous, as Director of the Federal Judicial Center, and any service, not to exceed five years, as a judge of the United States, a Senator or Representative in Congress, *a congressional employee in the capacity of primary administrative assistant to a Member of Congress or in the capacity of staff director or chief counsel for the majority or the minority of a committee or subcommittee of the Senate or House of Representative*, or a civilian official appointed by the President, by and with the advice and consent of the Senate.

* * * * *

CHAPTER 43—UNITED STATES MAGISTRATES

* * * * *

§ 631. Appointment and tenure

(a) ~~【The judges of each United States district court and the district court of the Virgin Islands shall appoint United States magistrates in such numbers and to serve at such locations within the judicial district as the conference may determine under this chapter. In the case of a magistrate appointed by the district court of the Virgin Islands, this chapter shall apply as though the court appointing such magistrate were a United States district court.】~~ *The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the Northern Mariana Islands shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court.* Where there is more than one judge of a district court, the appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge. Where the conference deems it desirable, a magistrate may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate in the adjoining district or districts.

(b) No individual may be appointed or reappointed to serve as a magistrate under this chapter unless:

- (1) He has been for at least five years a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, *the Territory of Guam, the Commonwealth of the Northern Mariana Islands*, or the Virgin Islands of the United States, except that an indi-

vidual who does not meet the bar membership requirements of this paragraph may be appointed and serve as a part-time magistrate if the appointing court or courts and the conference find that no qualified individual who is a member of the bar is available to serve at a specific location;

* * * * *

§ 636. Jurisdiction, powers, and temporary assignment

(a) Each United States magistrate serving under this chapter shall have within the territorial jurisdiction prescribed by his appointment—

(1) * * *

* * * * *

[(4) the power to enter a sentence for a petty offense that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction; and

[(5) the power to enter a sentence for a class A misdemeanor, or a class B or C misdemeanor not covered by paragraph (4), in a case in which the parties have consented.]

(4) the power to enter a sentence for a petty offense; and

(5) the power to enter a sentence for a class A misdemeanor in a case in which the parties have consented.

* * * * *

[(e) In a proceeding before a magistrate, any of the following acts or conduct shall constitute a contempt of the district court for the district wherein the magistrate is sitting: (1) disobedience or resistance to any lawful order, process, or writ; (2) misbehavior at a hearing or other proceeding, or so near the place thereof as to obstruct the same; (3) failure to produce, after having been ordered to do so, any pertinent document; (4) refusal to appear after having been subpoenaed or, upon appearing, refusal to take the oath or affirmation as a witness, or, having taken the oath or affirmation, refusal to be examined according to law; or (5) any other act or conduct which if committed before a judge of the district court would constitute contempt of such court. Upon the commission of any such act or conduct, the magistrate shall forthwith certify the facts to a judge of the district court and may serve or cause to be served upon any person whose behavior is brought into question under this section an order requiring such person to appear before a judge of that court upon a day certain to show cause why he should not be adjudged in contempt by reason of the facts so certified. A judge of the district court shall thereupon, in a summary manner, hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a judge of the court, or commit such person upon the conditions applicable in the case of defiance of the process of the district court or misconduct in the presence of a judge of that court.]

(e) CONTEMPT AUTHORITY.—

(1) IN GENERAL.—A United States magistrate judge serving under this chapter shall have within the territorial jurisdiction

prescribed by his or her appointment the power to exercise contempt authority as set forth in this section.

(2) *SUMMARY CRIMINAL CONTEMPT AUTHORITY.*—A magistrate judge shall have the power to punish summarily by fine or imprisonment such contempt of his or her authority constituting misbehavior of any person in the magistrate judge's presence so as to obstruct the administration of justice. The order of contempt shall be issued pursuant to the Federal Rules of Criminal Procedure.

(3) *ADDITIONAL CRIMINAL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.*—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge shall have the power to punish by fine or imprisonment such criminal contempt constituting disobedience or resistance to the magistrate judge's lawful writ, process, order, rule, decree, or command. Disposition of such contempt shall be conducted upon notice and hearing pursuant to the Federal Rules of Criminal Procedure.

(4) *CIVIL CONTEMPT AUTHORITY IN CIVIL CONSENT AND MISDEMEANOR CASES.*—In any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, and in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, the magistrate judge may exercise the civil contempt authority of the district court. This subsection shall not be construed to limit the authority of a magistrate judge to order sanctions pursuant to any other statute, the Federal Rules of Civil Procedure, or the Federal Rules of Criminal Procedure.

(5) *CRIMINAL CONTEMPT PENALTIES.*—The sentence imposed by a magistrate judge for any criminal contempt provided for in paragraphs (2) and (3) shall not exceed the penalties for a Class C misdemeanor as set forth in sections 3581(b)(8) and 3571(b)(6) of title 18.

(6) *CERTIFICATION OF OTHER CONTEMPTS TO THE DISTRICT COURT.*—Upon the commission of any such act—

(A) in any case in which a United States magistrate judge presides with the consent of the parties under subsection (c) of this section, or in any misdemeanor case proceeding before a magistrate judge under section 3401 of title 18, that may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

(B) in any other case or proceeding under subsection (a) or (b) of this section, or any other statute, where—

(i) the act committed in the magistrate judge's presence may, in the opinion of the magistrate judge, constitute a serious criminal contempt punishable by penalties exceeding those set forth in paragraph (5) of this subsection, or

(ii) the act that constitutes a criminal contempt occurs outside the presence of the magistrate judge, or

(iii) the act constitutes a civil contempt, the magistrate judge shall forthwith certify the facts to a district judge and may serve or cause to be served upon any person whose behavior is brought into question under this paragraph an order requiring such person to appear before a district judge upon a day certain to show cause why he or she should not be adjudged in contempt by reason of the facts so certified. The district judge shall thereupon hear the evidence as to the act or conduct complained of and, if it is such as to warrant punishment, punish such person in the same manner and to the same extent as for a contempt committed before a district judge.

(7) APPEALS OF MAGISTRATE JUDGE CONTEMPT ORDERS.—The appeal of an order of contempt pursuant to this section shall be made to the court of appeals in cases proceeding under subsection (c) of this section. In any other proceeding in which a United States magistrate judge presides under subsection (a) or (b) of this section, section 3401 of title 18, or any other statute, the appeal of a magistrate judge’s summary contempt order shall be made to the district court.

* * * * *

PART V—PROCEDURE

* * * * *

CHAPTER 121—JURIES; TRIAL BY JURY

* * * * *

§ 1863. Plan for random jury selection

(a) * * *

(b) Among other things, such plan shall—

(1) * * *

* * * * *

[(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.]

(6) specify that members in active service in the Armed Forces of the United States are barred from jury service on the ground that they are exempt.

* * * * *

§ 1869. Definitions

For purposes of this chapter—

(a) * * *

* * * * *

[(i) “public officer” shall mean a person who is either elected to public office or who is directly appointed by a person elected to public office;]

* * * * *

§ 1877. Protection of jurors

(a) * * *

(b) In administering this section with respect to a juror covered by this section—

(1) * * *

(2) performance of duty as a juror includes that time when a juror is (A) in attendance at court pursuant to a summons, (B) in deliberation, (C) sequestered by order of a judge, [or] (D) at a site, by order of the court, for the taking of a view, or (E) traveling to or from the courthouse pursuant to a jury summons or sequestration order, or as otherwise necessitated by order of the court.

* * * * *

CHAPTER 123—FEES AND COSTS

* * * * *

§ 1930. Bankruptcy fees

(a) Notwithstanding section 1915 of this title, the parties commencing a case under title 11 shall pay to the clerk of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to section 156(b) of this title, the following filing fees:

(1) * * *

* * * * *

(6) In addition to the filing fee paid to the clerk, a quarterly fee shall be paid to the United States trustee, for deposit in the Treasury, in each case under chapter 11 of title 11 for each quarter (including any fraction thereof) until the case is converted or dismissed, whichever occurs first. The fee shall be \$250 for each quarter in which disbursements total less than \$15,000; \$500 for each quarter in which disbursements total \$15,000 or more but less than \$75,000; \$750 for each quarter in which disbursements total \$75,000 or more but less than \$150,000; \$1,250 for each quarter in which disbursements total \$150,000 or more but less than \$225,000; \$1,500 for each quarter in which disbursements total \$225,000 or more but less than \$300,000; \$3,750 for each quarter in which disbursements total \$300,000 or more but less than \$1,000,000; \$5,000 for each quarter in which disbursements total \$1,000,000 or more but less than \$2,000,000; \$7,500 for each quarter in which disbursements total \$2,000,000 or more but less than \$3,000,000; \$8,000 for each quarter in which disbursements total

\$3,000,000 or more but less than \$5,000,000; \$10,000 for each quarter in which disbursements total \$5,000,000 or more. The fee shall be payable on the last day of the calendar month following the calendar quarter for which the fee is owed.

(7) *In districts that are not part of a United States trustee region as defined in section 581 of this title, the Judicial Conference of the United States may require the debtor in a case under chapter 11 of title 11 to pay fees equal to those imposed by paragraph (6) of this subsection. Such fees shall be deposited as offsetting receipts to the fund established under section 1931 of this title and shall remain available until expended.*

An individual commencing a voluntary case or a joint case under title 11 may pay such fee in installments. For converting, on request of the debtor, a case under chapter 7, or 13 of title 11, to a case under chapter 11 of title 11, the debtor shall pay to the clerk of the district court or the clerk of the bankruptcy court, if one has been certified pursuant to section 156(b) of this title, a fee of \$400.

* * * * *

§ 1931. Disposition of filing fees

(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, \$90 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States or other judicial services including services provided pursuant to section 3006A of title 18 or section 409(q) of the Controlled Substances Act (21 U.S.C. 848(q)).

* * * * *

PART VI—PARTICULAR PROCEEDINGS

* * * * *

CHAPTER 165—UNITED STATES COURT OF FEDERAL CLAIMS PROCEDURE

Sec.
2501. Time for filing suit.

* * * * *

[2520. Fees.]

* * * * *

[§ 2520. Fees

] The United States Court of Federal Claims shall by rules impose a fee not exceeding \$120, for the filing of any petition.]

* * * * *

CHAPTER 171—TORT CLAIMS PROCEDURE

* * * * *

§ 2671. Definitions

As used in this chapter and sections 1346(b) and 2401(b) of this title, the term "Federal agency" includes the executive departments, the judicial and legislative branches, the military departments, independent establishments of the United States, and corporations primarily acting as instrumentalities or agencies of the United States, but does not include any contractor with the United States.

"Employee of the government" includes (1) officers or employees of any Federal agency, members of the military or naval forces of the United States, members of the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, and persons acting on behalf of a Federal agency in an official capacity, temporarily or permanently in the service of the United States, whether with or without compensation[.], and (2) any officer or employee of a Federal public defender organization, except when such officer or employee performs professional services in the course of providing representation under section 3006A of title 18.

"Acting within the scope of his office or employment", in the case of a member of the military or naval forces of the United States or a member of the National Guard as defined in section 101(3) of title 32, means acting in line of duty.

* * * * *

SECTION 9703 OF TITLE 31, UNITED STATES CODE

§ 9703. Department of the Treasury Forfeiture Fund

(a) * * *

* * * * *

(p) TRANSFER TO THE FEDERAL JUDICIARY.—In the fiscal year subsequent to the fiscal year in which this subsection is enacted and each fiscal year thereafter, an amount necessary to meet the transfer requirements of section 524(c)(9) of title 28 shall be transferred to the Judiciary, and shall be subject to the same limitations, terms, and conditions specified in that section for transfers to the Judiciary from the Department of Justice Asset Forfeiture Fund.

[(p)] (q) DEFINITIONS.—For purposes of this section—

(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term "Department of the Treasury law enforcement organization" means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

TITLE 18, UNITED STATES CODE

* * * * *

PART II—CRIMINAL PROCEDURE

* * * * *

CHAPTER 201—GENERAL PROVISIONS

* * * * *

§ 3006A. Adequate representation of defendants

(a) * * *

* * * * *

(d) PAYMENT FOR REPRESENTATION.—

(1) * * *

(2) MAXIMUM AMOUNTS.—For representation of a defendant before the United States magistrate or the district court, or both, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$3,500 \$5,000 for each attorney in a case in which one or more felonies are charged, and \$1,000 1,500 for each attorney in a case in which only misdemeanors are charged. For representation of a defendant in an appellate court, the compensation to be paid to an attorney or to a bar association or legal aid agency or community defender organization shall not exceed \$2,500 3,600 for each attorney in each court. For representation of a petitioner in a non-capital habeas corpus proceeding, the compensation for each attorney shall not exceed the amount applicable to a felony in this paragraph for representation of a defendant before a United States magistrate or the district court, or both. For representation of such petitioner in an appellate court, the compensation for each attorney shall not exceed the amount applicable for representation of a defendant in an appellate court. For representation of an offender before the United States Parole Commission in a proceeding under section 4106A of this title, the compensation shall not exceed \$750 1,100 for each attorney in each proceeding; for representation of an offender in an appeal from a determination of such Commission under such section, the compensation shall not exceed \$2,500 3,600 for each attorney in each court. For any other representation required or authorized by this section, the compensation shall not exceed \$750 1,100 for each attorney in each proceeding.

* * * * *

(e) SERVICES OTHER THAN COUNSEL.—

(1) * * *

(2) WITHOUT PRIOR REQUEST.—(A) Counsel appointed under this section may obtain, subject to later review, investigative, expert, and other services without prior authorization if necessary for adequate representation. Except as provided in subparagraph (B) of this paragraph, the total cost of services obtained without prior au-

thorization may not exceed \$[300] 450 and expenses reasonably incurred.

(B) The court, or the United States magistrate (if the services were rendered in a case disposed of entirely before the United States magistrate), may, in the interest of justice, and upon the finding that timely procurement of necessary services could not await prior authorization, approve payment for such services after they have been obtained, even if the cost of such services exceeds \$[300] 450.

(3) MAXIMUM AMOUNTS.—Compensation to be paid to a person for services rendered by him to a person under this subsection, or to be paid to an organization for services rendered by an employee thereof, shall not exceed \$[1,000] 1,500, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court, or by the United States magistrate if the services were rendered in connection with a case disposed of entirely before him, as necessary to provide fair compensation for services of an unusual character or duration, and the amount of the excess payment is approved by the chief judge of the circuit. The chief judge of the circuit may delegate such approval authority to an active circuit judge.

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CHAPTER 219—TRIAL BY UNITED STATES MAGISTRATES

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§ 3401. Misdemeanors; application of probation laws

(a) * * *

(b) Any person charged with a misdemeanor, other than a petty offense [that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction,] may elect, however, to be tried before a district judge for the district in which the offense was committed. The magistrate judge shall carefully explain to the defendant that he has a right to trial, judgment, and sentencing by a district judge and that he may have a right to trial by jury before a district judge or magistrate judge. The magistrate judge may not proceed to try the case unless the defendant, after such explanation, expressly consents to be tried before the magistrate judge and expressly and specifically waives trial, judgment, and sentencing by a district judge. Any such consent and waiver shall be made in writing or orally on the record.

* * * * *

(g) [The magistrate judge may, in a petty offense case involving a juvenile, that is a class B misdemeanor charging a motor vehicle offense, a class C misdemeanor, or an infraction, exercise all powers granted to the district court under chapter 403 of this title.] *The magistrate judge may, in a petty offense case involving a juvenile, exercise all powers granted to the district court under chapter 403 of this title.* The magistrate judge may, in any [other class B or C misdemeanor case] *misdemeanor, other than a petty offense, involving a juvenile in which consent to trial before a magistrate judge has been filed under subsection (b), exercise all powers granted to the district court under chapter 403 of this title.* For

purposes of this subsection, proceedings under chapter 403 of this title may be instituted against a juvenile by a violation notice or complaint, except that no such case may proceed unless the certification referred to in section 5032 of this title has been filed in open court at the arraignment. [No term of imprisonment shall be imposed by the magistrate in any such case.]

* * * * *

SECTION 4 OF THE CONTRACT SERVICES FOR DRUG DEPENDENT FEDERAL OFFENDERS TREATMENT ACT OF 1978

SEC. 4. (a) To carry out the purposes of this Act and the 7th paragraph of section 3672 of title 18, United States Code, there are authorized to be appropriated [sums not to exceed \$3,500,000 for the fiscal year ending September 30, 1980; \$3,645,000 for the fiscal year ending September 30, 1981; \$3,750,000 for the fiscal year ending September 30, 1982; \$5,000,000 for the fiscal year ending September 30, 1984; \$5,500,000 for the fiscal year ending September 30, 1985; \$6,500,000 for the fiscal year ending September 30, 1986; \$12,000,000 for the fiscal year ending September 30, 1987; \$24,000,000 for the fiscal year ending September 30, 1988; \$26,000,000 for the fiscal year ending September 30, 1989; \$30,000,000 for the fiscal year ending September 30, 1990; \$40,000,000 for the fiscal year ending September 30, 1991; and \$45,000,000 for the fiscal year ending September 30, 1992.] *for fiscal year 1998 and each fiscal year thereafter such sums as may be necessary to carry out this Act.*

* * * * *

SECTION 103 OF THE CIVIL JUSTICE REFORM ACT OF 1990

SEC. 103. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

- (a) * * *
- (b) IMPLEMENTATION.—(1) * * *
- (2)(A) The requirements set forth in sections 471, 472, 473, 474, 475, 477, and 478 of title 28, United States Code, as added by subsection (a), shall remain in effect for seven years after the date of the enactment of this title.

* * * * *

SECTION 1228 OF TITLE 11, UNITED STATES CODE

SEC. 1228. DISCHARGE.

(a) As soon as practicable after completion by the debtor of all payments under the plan, other than payments to holders of allowed claims provided for under section 1222(b)(5) or [1222(b)(10)] 1222(b)(9) of this title, unless the court approves a written waiver

of discharge executed by the debtor after the order for relief under this chapter, the court shall grant the debtor a discharge of all debts provided for by the plan allowed under section 503 of this title or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1222(b)(5) or **1222(b)(10)** of this title; or

* * * * *

(c) A discharge granted under subsection (b) of this section discharges the debtor from all unsecured debts provided for by the plan or disallowed under section 502 of this title, except any debt—

(1) provided for under section 1222(b)(5) or **1222(b)(10)** of this title; or

* * * * *

SECTION 406 OF THE DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES APPROPRIATIONS ACT, 1990

SEC. 406. (a) * * *

(b) All fees as shall be hereafter collected **for any service enumerated after item 18** *for any fee implemented after November 21, 1989* of the bankruptcy miscellaneous fee schedule prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931 and shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts, and other Judicial Services and the Administrative Office of the United States Courts. The Judicial Conference shall report to the Committees on Appropriations of the House of Representatives and the Senate on a quarterly basis beginning on the first day of each fiscal year regarding the sums deposited in said fund.

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SECTION 6304 OF TITLE 5, UNITED STATES CODE

§ 6304. Annual leave; accumulation

(a) * * *

* * * * *

(f)(1) This subsection applies with respect to annual leave accrued by an individual while serving in a position in—

(A) * * *

* * * * *

(F) the judicial branch designated as a court unit executive position by the Judicial Conference of the United States.

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