108TH CONGRESS
1ST SESSION

H. R. 1033

To amend chapter 3 of title 28, United States Code, to divide the Ninth
Judicial Circuit of the United States into two circuits, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 27, 2003

Mr. SIMPSON (for himself, Mr. WALDEN of Oregon, Mr. NETHERCUTT, and
Mr. OTTER) introduced the following bill; which was referred to the Com-
mittee on the Judiciary

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A BILL

To amend chapter 3 of title 28, United States Code, to
divide the Ninth Judicial Circuit of the United States
into two circuits, and for other purposes.

1   *Be it enacted by the Senate and House of Representa-*

2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4   This Act may be cited as the "Ninth Circuit Court

5 of Appeals Reorganization Act of 2003".

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

7   Section 41 of title 28, United States Code, is amend-

8 ed—

1   (1) in the matter before the table, by striking

2   "thirteen" and inserting "fourteen"; and

3   (2) in the table—

4   (A) by striking the item relating to the

5   ninth circuit and inserting the following:

"Ninth .... California, Nevada.";

6   (B) by striking the item relating to the

7   tenth circuit and inserting the following:

"Tenth .... Arizona, Colorado, Kansas, New Mexico, Oklahoma,
Utah, Wyoming.";

8   (C) by inserting between the last 2 items

9   the following:

"Twelfth .... Alaska, Guam, Hawaii, Idaho, Montana, Northern
Mariana Islands, Oregon, Washington.".

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

11   (a) The table in section 44(a) of title 28, United

12   States Code, is amended—

13   (1) by striking the item relating to the ninth

14   circuit and inserting the following:

"Ninth .... 20";

15   and

16   (2) by inserting between the last 2 items the

17   following:

"Twelfth .... 8".

18   (b) As of February 1, 2005, the table in section 44(a)

19   of title 28, United States Code is further amended—

1   (1) by striking the item amended pursuant to

2   subsection (a)(1) and inserting the following:

"Ninth .... 25";

3   (2) by striking the item amended pursuant to

4   subsection (a)(2) and inserting:

"Twelfth .... 10";

5   and

6   (3) by striking the item relating to the tenth

7   circuit and inserting the following:

"Tenth .... 14".

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

9   The table in section 48(a) of title 28, United States

10 Code, is amended—

11   (1) by striking the item relating to the ninth

12   circuit and inserting the following:

"Ninth ....   San Francisco, Los Angeles.";

13   and

14   (2) by inserting between the last 2 items at the

15   end the following:

"Twelfth ....   Portland, Seattle.".

16 **SEC. 5. ELECTION OF ASSIGNMENT BY CIRCUIT JUDGES.**

17   (a) Except as provided in subsection (b) and notwith-

18 standing 22 U.S.C. § 44(c), each circuit judge who is in

19 regular active service, and each judge who is a senior

20 judge, of the former ninth circuit on the day before the

21 effective date of this Act may elect to be assigned to the

1 new ninth circuit or to the twelfth circuit and shall notify
2 the Director of the Administrative Office of the United
3 States Courts of such election.

4 　(b) Each circuit judge who is in regular active service,
5 and each judge who is a senior judge, of the former ninth
6 circuit and whose official station on the effective date of
7 this Act is in Arizona may, notwithstanding 22 U.S.C.
8 § 44(c), elect to be assigned to the new ninth circuit or
9 to the tenth circuit and shall notify the Director of the
10 Administrative Office of the United States Courts of such
11 election.

12 **SEC. 6. SENIORITY OF JUDGES.**

13 　The seniority of each judge who elects to be assigned
14 under section 5 of this Act shall run from the date of com-
15 mission of such judge as a judge of the former ninth cir-
16 cuit.

17 **SEC. 7. APPLICATION TO CASES.**

18 　(a) The provisions of the following paragraphs of this
19 subsection apply to any case other than a case arising
20 from the United States District Court for the District of
21 Arizona in which, on the day before the effective date of
22 this Act, an appeal or other proceeding has been filed with
23 the former ninth circuit:

24 　　(1) If the matter has been submitted for deci-
25 　　sion, further proceedings in respect of the matter

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

2 effect as if this Act had not been enacted.

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

4 cision, the appeal or proceeding, together with the

5 original papers, printed records, and record entries

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

7 ferred to the court to which the matter would have

8 been submitted had this Act been in full force and

9 effect at the time such appeal was taken or other

10 proceeding commenced, and further proceedings in

11 respect of the case shall be had in the same manner

12 and with the same effect as if the appeal or other

13 proceeding had been filed in such court.

14   (3) A petition for rehearing or a petition for re-

15 hearing en banc in a matter decided before the effec-

16 tive date of this Act, or submitted before the effec-

17 tive date of this Act and decided on or after the ef-

18 fective date as provided in paragraph (1), shall be

19 treated in the same manner and with the same effect

20 as though this Act had not been enacted. If a peti-

21 tion for rehearing en banc is granted, the matter

22 shall be reheard by a court comprised as though this

23 Act had not been enacted.

24   (b) Any appeal of any case pending in the United

25 States District Court for the District of Arizona on the

1 day before the effective date of this Act, and any further
2 proceeding in respect of any case arising from the District
3 Court in which an appeal or other proceeding has been
4 filed with the former ninth circuit on such day, shall be
5 had in the new ninth circuit.

6 **SEC. 8. DEFINITIONS.**

7   In this Act, the term—

8   (1) "former ninth circuit" means the ninth ju-
9   dicial circuit of the United States as in existence on
10   the day before the effective date of this Act;

11   (2) "new ninth circuit" means the ninth judicial
12   circuit of the United States established by the
13   amendment made by section 2(2)(A); and

14   (3) "twelfth circuit" means the twelfth judicial
15   circuit of the United States established by the
16   amendment made by section 2(2)(C).

17 **SEC. 9. ADMINISTRATION.**

18   (a) The former ninth circuit and the tenth circuit as
19 constituted on the day before the effective date of this Act
20 may take such administrative actions as may be required
21 to carry out this Act and the amendments made by this
22 Act.

23   (b) The former ninth circuit shall cease to exist for
24 administrative purposes on July 1, 2005.

1   (c) During the ten years following the date of enact-

2 ment of this Act, the new ninth circuit and the twelfth

3 circuit may meet in either circuit's jurisidiction.

4 **SEC. 10. EFFECTIVE DATE.**

5   This Act and the amendments made by this Act shall

6 become effective on October 1, 2003.

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