

109TH CONGRESS
1ST SESSION

S. 1634

To allow United States courts to conduct business during emergency conditions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2005

Mr. FRIST (for Mr. VITTER) (for himself, Ms. LANDRIEU, Mr. SPECTER, Mr. LEAHY, Mr. COCHRAN, Mr. CORNYN, Mr. HATCH, Mr. LOTT, Mr. SESSIONS, Mr. GRASSLEY, and Mr. KYL) introduced the following bill; which was read twice, considered, read the third time, and passed

A BILL

To allow United States courts to conduct business during emergency conditions, 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 (a) SHORT TITLE.—This Act may be cited as the
5 “Federal Judiciary Emergency Special Sessions Act of
6 2005”.

1 **SEC. 2. EMERGENCY AUTHORITY TO CONDUCT COURT PRO-**
 2 **CEEDINGS OUTSIDE THE TERRITORIAL JU-**
 3 **RISDICTION OF THE COURT.**

4 (a) CIRCUIT COURTS.—Section 48 of title 28, United
 5 States Code, is amended by adding at the end the fol-
 6 lowing:

7 “(e) Each court of appeals may hold special sessions
 8 at any place within the United States outside the circuit
 9 as the nature of the business may require and upon such
 10 notice as the court orders, upon a finding by either the
 11 chief judge of the court of appeals (or, if the chief judge
 12 is unavailable, the most senior available active judge of
 13 the court of appeals) or the judicial council of the circuit
 14 that, because of emergency conditions, no location within
 15 the circuit is reasonably available where such special ses-
 16 sions could be held. The court may transact any business
 17 at a special session outside the circuit which it might
 18 transact at a regular session.

19 “(f) If a court of appeals issues an order exercising
 20 its authority under subsection (e), the court—

21 “(1) through the Administrative Office of the
 22 United States Courts, shall—

23 “(A) send notice of such order, including
 24 the reasons for the issuance of such order, to
 25 the Committee on the Judiciary of the Senate

1 and the Committee on the Judiciary of the
2 House of Representatives; and

3 “(B) not later than 180 days after the ex-
4 piration of such court order submit a brief re-
5 port to the Committee on the Judiciary of the
6 Senate and the Committee on the Judiciary of
7 the House of Representatives describing the im-
8 pact of such order, including—

9 “(i) the reasons for the issuance of
10 such order;

11 “(ii) the duration of such order;

12 “(iii) the impact of such order on liti-
13 gants; and

14 “(iv) the costs to the judiciary result-
15 ing from such order; and

16 “(2) shall provide reasonable notice to the
17 United States Marshals Service before the com-
18 mencement of any special session held pursuant to
19 such order.”.

20 (b) DISTRICT COURTS.—Section 141 of title 28,
21 United States Code, is amended—

22 (1) by inserting “(a)(1)” before “Special”;

23 (2) by inserting “(2)” before “Any”; and

24 (3) by adding at the end the following:

1 “(b)(1) Special sessions of the district court may be
2 held at such places within the United States outside the
3 district as the nature of the business may require and
4 upon such notice as the court orders, upon a finding by
5 either the chief judge of the district court (or, if the chief
6 judge is unavailable, the most senior available active judge
7 of the district court) or the judicial council of the circuit
8 that, because of emergency conditions, no location within
9 the district is reasonably available where such special ses-
10 sions could be held.

11 “(2) Pursuant to this subsection, any business which
12 may be transacted at a regular session of a district court
13 may be transacted at a special session conducted outside
14 the district, except that a criminal trial may not be con-
15 ducted at a special session outside of the State in which
16 the crime has been committed unless the defendant con-
17 sents to such a criminal trial.

18 “(3) Notwithstanding any other provision of law, in
19 any case in which a special session is conducted pursuant
20 to this subsection, the district court may summon jurors—

21 “(A) in civil proceedings, from any part of the
22 district in which the court ordinarily conducts busi-
23 ness or the district in which the court is holding a
24 special session; and

1 “(B) in criminal trials, from any part of the
2 district in which the crime has been committed and,
3 if a defendant so consents, from any district in
4 which the court is conducting business pursuant to
5 this subsection.

6 “(4) If a district court issues an order exercising its
7 authority under paragraph (1), the court—

8 “(A) through the Administrative Office of the
9 United States Courts, shall—

10 “(i) send notice of such order, including
11 the reasons for the issuance of such order, to
12 the Committee on the Judiciary of the Senate
13 and the Committee on the Judiciary of the
14 House of Representatives; and

15 “(ii) not later than 180 days after the ex-
16 piration of such court order submit a brief re-
17 port to the Committee on the Judiciary of the
18 Senate and the Committee on the Judiciary of
19 the House of Representatives describing the im-
20 pact of such order, including—

21 “(I) the reasons for the issuance of
22 such order;

23 “(II) the duration of such order;

24 “(III) the impact of such order on liti-
25 gants; and

1 “(IV) the costs to the judiciary result-
2 ing from such order; and

3 “(B) shall provide reasonable notice to the
4 United States Marshals Service before the com-
5 mencement of any special session held pursuant to
6 such order.”.

7 (c) BANKRUPTCY COURTS.—Section 152(c) of title
8 28, United States Code, is amended—

9 (1) by inserting “(1)” after “(c)”;

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

11 “(2)(A) Bankruptcy judges may hold court at
12 such places within the United States outside the ju-
13 dicial district as the nature of the business of the
14 court may require, and upon such notice as the
15 court orders, upon a finding by either the chief
16 judge of the bankruptcy court (or, if the chief judge
17 is unavailable, the most senior available bankruptcy
18 judge) or by the judicial council of the circuit that,
19 because of emergency conditions, no location within
20 the district is reasonably available where the bank-
21 ruptcy judges could hold court.

22 “(B) Bankruptcy judges may transact any busi-
23 ness at special sessions of court held outside the dis-
24 trict pursuant to this paragraph that might be
25 transacted at a regular session.

1 “(C) If a bankruptcy court issues an order ex-
2 ercising its authority under subparagraph (A), the
3 court—

4 “(i) through the Administrative Office of
5 the United States Courts, shall—

6 “(I) send notice of such order, includ-
7 ing the reasons for the issuance of such
8 order, to the Committee on the Judiciary
9 of the Senate and the Committee on the
10 Judiciary of the House of Representatives;
11 and

12 “(II) not later than 180 days after
13 the expiration of such court order submit
14 a brief report to the Committee on the Ju-
15 diciary of the Senate and the Committee
16 on the Judiciary of the House of Rep-
17 resentatives describing the impact of such
18 order, including—

19 “(aa) the reasons for the
20 issuance of such order;

21 “(bb) the duration of such order;

22 “(cc) the impact of such order on
23 litigants; and

24 “(dd) the costs to the judiciary
25 resulting from such order; and

1 “(ii) shall provide reasonable notice to the
2 United States Marshals Service before the com-
3 mencement of any special session held pursuant
4 to such order.”.

5 (d) UNITED STATES MAGISTRATE JUDGES.—Section
6 636 of title 28, United States Code, is amended in sub-
7 section (a) by striking “territorial jurisdiction prescribed
8 by his appointment—” and inserting “district in which
9 sessions are held by the court that appointed the mag-
10 istrate judge, at other places where that court may func-
11 tion, and elsewhere as authorized by law—”.

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