

FACSIMILE COVER SHEET

DATE: 4-27-90
TIME: P.M.

TO: L. Ralph Mecham
Admin. Off.

786-5393
FAX NUMBER

FROM: J. Diana E. Murphy
c/o CLERK, U. S. DISTRICT COURT
514 U. S. COURTHOUSE
110 SOUTH FOURTH STREET
MINNEAPOLIS, MN. 55401
~~(612) 348-1821~~
~~(FIS) 777-1821~~
FAX(FIS) 777-1820

THIS FACSIMILE MESSAGE CONTAINS A TOTAL OF 5 PAGES,
INCLUDING THIS COVER PAGE.

54

Leides

I asked Kamm to
brief J. Murphy
re: 89 meeting
with Jeff Peck

R

cc - Kamm's
cc - [unclear]
cc - [unclear]

To: FJA File
From: Judge Diana Murphy
Re: S.2027 -- Judicial Concerns

I. In general

- The active federal judiciary and those responsible for administering the federal trial courts were not part of the process which led to the proposed legislation
- The criminal caseload in the federal trial courts is different in 1990 than ever before

In many areas severity of sentencing guidelines and mandatory minimum sentencing statutes have reduced the number of guilty pleas and increased the number of those going to trial

Longer criminal trials common -- months-long trials now common in drug cases; racketeering; and securities, mail and wire fraud cases

Sentencing hearings far more time consuming

Significant increase in law enforcement agents and prosecutors means more criminal cases for overworked judiciary

- Cost to system would be far greater than indicated

Federal court system has finite limits; system can break down if taxed beyond these limits (See Report of Federal Courts Study Committee)

Imposes additional administrative burdens on the district courts, the judicial councils, and the national administrative bodies of the federal judiciary

Each judge could require an additional secretary or clerk to handle additional administrative burden

Total impact on the court system needs to be evaluated in context of the many new responsibilities and procedures already mandated by other legislation or developments

- No showing these procedures are needed or will have the desired effect

Judges learn about case management in their training

on assuming bench; Judge William Schwarzer, the new Director of the Federal Judicial Center, intends to emphasize this area even more

Many judges already use similar procedures so a mandatory process to get to this result is waste of resources and time

- This legislation undermines established procedure for amending procedural rules

Harms morale of those who labor in rules areas

Normal process of rules development brings good results

- Takes responsibility for administering the courts from the judicial branch and delegates part of it to other groups

Legislation requiring the judiciary to design and implement an effective management system would be more appropriate

- Large number and duration of vacancies in judicial positions have a direct and devastating impact on court administration

II. Specific Provisions

- Mandates uniform procedure for all districts and cases

Some judges and districts have current calendars and good results from use of scheduling orders issued without a formal conference

Saves time, effort, and expense, for all concerned and achieves same goal

Some courts use telephone conferences with good results

Nature and size of caseload and personnel differ in various districts

Pilot studies or demonstrations could be implemented in different types of districts -- one with current caseload, one with large backlog, one with other procedures which have proven effective, etc.

- Prohibits use of magistrates for scheduling conferences, discovery, and settlement efforts

District judges frequently tied up in lengthy trials and criminal proceedings

Many magistrates are outstanding in these very tasks

Would waste important resource of courts

- Provision for tracking designation for each case presents significant problems

Clerical personnel don't have the learning or background to make this disposition

Complexity level cannot be determined accurately from complaint alone; answer frequently adds counterclaims or third party complaint

What is rationale behind 3 tracks?

If track designation is determined to be wise, it could be more accurately and appropriately accomplished at the initial conference or by an early judicial scheduling order.

- Administrative costs of bill's reporting requirements outweigh any benefit

Judges already have too little time to think and make wise decisions

No clear benefit from these requirements

Reporting already required for motions and cases pending more than 60 days, 6 months, etc.

- Unclear whether legislation intended to apply to bankruptcy cases; Bankruptcy Judges Association is concerned

- Suggested time parameters unrealistic for many situations

No firm trial date possible for civil cases where criminal caseload has taken over

Twelve month target for disposition of civil cases inappropriate for complex cases or where outside medical, administrative, or other procedures cannot be completed within that period

Legislation does not reflect the variety or complexity of the civil caseload

- Mandatory alternative dispute resolution procedures are unnecessary and could be counterproductive

Not all are equally effective

Effectiveness varies with different courts and bars

Not always productive or cost effective