

ADMINISTRATIVE OFFICE OF THE
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JUDGES ADDRESS CIVIL REFORM--JUDGESHIP NEEDS

Two federal judges testified before Congress today in support of the creation of new judgeships as well as efforts to improve civil case management in the trial courts.

However, the judges questioned if pending legislation addressing these issues establishes sufficient judgeships to meet the growing workload and whether it is necessary to impose new civil case management procedures on the courts.

"The federal judiciary has long been committed, unequivocally to the values and concerns that inspire this proposed legislation," said Judge Robert F. Peckham, Chairman of the Judicial Conference's subcommittee on the Civil Justice Reform Act of 1990. In sponsoring the bill Senator Joseph Biden has performed a valuable service in raising the awareness of the courts to these real concerns in civil litigation, he said.

Title I of S. 2648, introduced on May 17 by Senator Biden as a substitute to his S. 2027, would require each district court to develop and implement a civil justice expense and delay reduction plan.

While endorsing the principle behind the legislation, Judge Peckham told the Senate Judiciary Committee that it duplicates much of a program recently adopted by the Judicial Conference and would circumvent the use of the existing Rules Enabling Act. Further, Judge Peckham testified that the mandatory nature and rigidity of some of the provisions in the bill would impair judges' ability to manage their dockets most effectively and might intrude on procedural matters that are properly the province of the Judiciary. As a result, the Executive Committee of the Conference has said that it cannot endorse Title I of the bill.

Judge Peckham told the Committee that recent actions taken by the Judicial Conference in response to the original S. 2027 has resulted in implementation of many of the positive suggestions proposed by Senator Biden. At its March 1990 meeting the Conference adopted a statement of its intensified commitment to individualized case management as well as a recommendation that each district court convene an advisory group to help isolate causes of cost and delay and recommend possible solutions.

The following month the Conference approved a 14-point program designed to assess and address cost and delay in every district court in the country.

The Conference supports Title II of S. 2648, which would create 77 additional federal judgeships.

"Absent meaningful cuts in the federal courts' jurisdiction, the additional judicial positions added by this bill are essential to the operation of justice and the federal judiciary. said Judge Walter T. McGovern, Chairman of the Judicial Conference's Committee on Judicial Resources.

However, Judge McGovern noted that the legislation was based on out-dated workload data. On June 6, 1990 the Conference approved recommendations for 96 judgeships, a figure that takes into account the steady growth in the Judiciary's workload using the most current statistics available.

Since the last judgeships were authorized in 1984, the number of criminal cases filed in the district courts has grown by nearly 30 percent, Judge McGovern said. Drug cases alone have increased nearly 130 percent, and now represent approximately 30 percent of all criminal cases.

The situation in the courts of appeals is similar. In 1984 appeals of drug cases represented only 6 percent of all appeals. Since that time drug appeals have grown by more than 120 percent and now represent more than 12 percent of the appeals filed. Projections indicate that the steady growth in trial and appellate courts is expected to continue.

Judge McGovern concluded by reiterating the support of the Judicial Conference for legislation authorizing additional judgeships.

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