

One Hundred First Congress of the United States of America

AT THE SECOND SESSION

*Began and held at the City of Washington on Tuesday, the twenty-third day of January,
one thousand nine hundred and ninety*

An Act

To provide for the appointment of additional Federal circuit and district judges, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Improvements Act of 1990".

TITLE I—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

SEC. 101. SHORT TITLE.

This title may be cited as the "Civil Justice Reform Act of 1990".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) The problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters.

(2) The courts, the litigants, the litigants' attorneys, and the Congress and the executive branch, share responsibility for cost and delay in civil litigation and its impact on access to the courts, adjudication of cases on the merits, and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties.

(3) The solutions to problems of cost and delay must include significant contributions by the courts, the litigants, the litigants' attorneys, and by the Congress and the executive branch.

(4) In identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system.

(5) Evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling hearings, trials, and other litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process; and

(D) utilization of alternative dispute resolution programs in appropriate cases.

(6) Because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

SEC. 101. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) **CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.**—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

“CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

“Sec.

- *471. Requirement for a district court civil justice expense and delay reduction plan.**
- *472. Development and implementation of a civil justice expense and delay reduction plan.**
- *473. Content of civil justice expense and delay reduction plans.**
- *474. Review of district court action.**
- *475. Periodic district court assessment.**
- *476. Enhancement of judicial information dissemination.**
- *477. Model civil justice expense and delay reduction plan.**
- *478. Advisory groups.**
- *479. Information on litigation management and cost and delay reduction.**
- *480. Training programs.**
- *481. Automated case information.**
- *482. Definitions.**

***§ 471. Requirement for a district court civil justice expense and delay reduction plan**

“There shall be implemented by each United States district court, in accordance with this title, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

***§ 472. Development and implementation of a civil justice expense and delay reduction plan**

“(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 478 of this title.

“(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

“(1) an assessment of the matters referred to in subsection (c)(1);

“(2) the basis for its recommendation that the district court develop a plan or select a model plan;

“(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473 of this title.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources;

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation; and

"(D) examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the courts.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) of this section to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 473. Content of civil justice expense and delay reduction plans

"(a) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within eighteen months after the filing of the complaint, unless a judicial officer certifies that—

"(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

"(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

"(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

"(D) setting, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

"(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

"(A) explores the parties' receptivity to, and the propriety of, settlement or proceeding with the litigation;

"(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

"(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

"(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

"(ii) phase discovery into two or more stages; and

"(D) sets, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

"(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

"(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; and

"(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

"(A) have been designated for use in a district court; or

"(B) the court may make available, including mediation, minitrial, and summary jury trial.

"(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following litigation management and cost and delay reduction techniques:

"(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

"(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a) of this title.

"(c) Nothing in a civil justice expense and delay reduction plan relating to the settlement authority provisions of this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, or any delegation of the Attorney General.

"§ 474. Review of district court action

"(a)(1) The chief judges of each district court in a circuit and the chief judge of the court of appeals for such circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d) of this title; and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a court of appeals and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1) of this subsection.

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d) of this title; and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

"§ 475. Periodic district court assessment

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 478 of this title.

"§ 476. Enhancement of judicial information dissemination

"(a) The Director of the Administrative Office of the United States Courts shall prepare a semiannual report, available to the public, that discloses for each judicial officer—

"(1) the number of motions that have been pending for more than six months and the name of each case in which such motion has been pending;

"(2) the number of bench trials that have been submitted for more than six months and the name of each case in which such trials are under submission; and

"(3) the number and names of cases that have not been terminated within three years after filing.

"(b) To ensure uniformity of reporting, the standards for categorization or characterization of judicial actions to be prescribed in accordance with section 481 of this title shall apply to the semi-annual report prepared under subsection (a).

"§ 477. Model civil justice expense and delay reduction plan

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice expense and delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473 of this title.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

"§ 478. Advisory groups

"(a) Within ninety days after the date of the enactment of this chapter, the advisory group required in each United States district court in accordance with section 472 of this title shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) Subject to subsection (d), in no event shall any member of the advisory group serve longer than four years.

"(d) Notwithstanding subsection (c), the United States Attorney for a judicial district, or his or her designee, shall be a permanent member of the advisory group for that district court.

"(e) The chief judge of a United States district court may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

"(f) The members of an advisory group of a United States district court and any person designated as a reporter for such group shall be considered as independent contractors of such court when in the performance of official duties of the advisory group and may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before such court.

“§ 479. Information on litigation management and cost and delay reduction

“(a) Within four years after the date of the enactment of this chapter, the Judicial Conference of the United States shall prepare a comprehensive report on all plans received pursuant to section 472(d) of this title. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report to the Judicial Conference during the preparation of the report. The Judicial Conference shall transmit copies of the report to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives.

“(b) The Judicial Conference of the United States shall, on a continuing basis—

“(1) study ways to improve litigation management and dispute resolution services in the district courts; and

“(2) make recommendations to the district courts on ways to improve such services.

“(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual.

“(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 of this title, the demonstration program conducted under section 104 of the Civil Justice Reform Act of 1990, and the pilot program conducted under section 105 of the Civil Justice Reform Act of 1990.

“(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

“§ 480. Training programs

“The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

“§ 481. Automated case information

“(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

“(b)(1) In carrying out subsection (a), the Director shall prescribe—

"(A) the information to be recorded in district court automated systems; and

"(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

"(2) The uniform standards prescribed under paragraph (1)(B) of this subsection shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

"(c) Each United States district court shall record information as prescribed pursuant to subsection (b) of this section.

"§ 482. Definitions

"As used in this chapter, the term 'judicial officer' means a United States district court judge or a United States magistrate."

(b) **IMPLEMENTATION.**—(1) Except as provided in section 105 of this Act, each United States district court shall, within three years after the date of the enactment of this title, implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a).

(2) The requirements set forth in sections 471 through 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.

(c) **EARLY IMPLEMENTATION DISTRICT COURTS.**—

(1) Any United States district court that, no earlier than June 30, 1991, and no later than December 31, 1991, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a), shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may provide such resources out of funds appropriated pursuant to section 106(a).

(3) Within 18 months after the date of the enactment of this title, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such district courts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a); and

(C) the report prepared in accordance with paragraph (3) of this subsection.

(d) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof the following:

"21. Civil justice expense and delay reduction plans _____ 471".

SEC. 104. DEMONSTRATION PROGRAM.

(a) **IN GENERAL.**—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 103(c).

(b) **PROGRAM REQUIREMENT.**—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) **STUDY OF RESULTS.**—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) **REPORT.**—Not later than December 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 105. PILOT PROGRAM.

(a) **IN GENERAL.**—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a pilot program in accordance with subsection (b).

(2) A district court participating in the pilot program shall be designated as an Early Implementation District Court under section 103(c).

(b) **PROGRAM REQUIREMENTS.**—(1) Ten district courts (in this section referred to as "Pilot Districts") designated by the Judicial Conference of the United States shall implement expense and delay reduction plans under chapter 23 of title 28, United States Code (as added by section 103(a)), not later than December 31, 1991. In addition to complying with all other applicable provisions of chapter 23 of title 28, United States Code (as added by section 103(a)), the expense and delay reduction plans implemented by the Pilot Districts shall include the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(2) At least 5 of the Pilot Districts designated by the Judicial Conference shall be judicial districts encompassing metropolitan areas.

(3) The expense and delay reduction plans implemented by the Pilot Districts shall remain in effect for a period of 3 years. At the end of that 3-year period, the Pilot Districts shall no longer be required to include, in their expense and delay reduction plans, the

6 principles and guidelines of litigation management and cost and delay reduction described in paragraph (1).

(c) PROGRAM STUDY REPORT.—(1) Not later than December 31, 1995, the Judicial Conference shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the pilot program under this section that includes an assessment of the extent to which costs and delays were reduced as a result of the program. The report shall compare those results to the impact on costs and delays in ten comparable judicial districts for which the application of section 473(a) of title 28, United States Code, had been discretionary. That comparison shall be based on a study conducted by an independent organization with expertise in the area of Federal court management.

(2)(A) The Judicial Conference shall include in its report a recommendation as to whether some or all district courts should be required to include, in their expense and delay reduction plans, the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(B) If the Judicial Conference recommends in its report that some or all district courts be required to include such principles and guidelines in their expense and delay reduction plans, the Judicial Conference shall initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

(C) If in its report the Judicial Conference does not recommend an expansion of the pilot program under subparagraph (A), the Judicial Conference shall identify alternative, more effective cost and delay reduction programs that should be implemented in light of the findings of the Judicial Conference in its report, and the Judicial Conference may initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

SEC. 106. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than \$15,000,000 for fiscal year 1991 to carry out the resource and planning needs necessary for the implementation of section 103(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than \$5,000,000 for fiscal year 1991 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than \$5,000,000 for fiscal year 1991 to carry out the provisions of section 104.

TITLE II—FEDERAL JUDGESHIPS

SECTION 201. SHORT TITLE.

This title may be cited as the "Federal Judgeship Act of 1990".

SEC. 202. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF APPEALS.

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

- (1) 2 additional circuit judges for the third circuit court of appeals;

- (2) 4 additional circuit judges for the fourth circuit court of appeals;
- (3) 1 additional circuit judge for the fifth circuit court of appeals;
- (4) 1 additional circuit judge for the sixth circuit court of appeals;
- (5) 1 additional circuit judge for the eighth circuit court of appeals; and
- (6) 2 additional circuit judges for the tenth circuit court of appeals.

(b) TABLES.—In order that the table contained in section 44(a) of title 28, United States Code, will, with respect to each judicial circuit, reflect the changes in the total number of permanent circuit judgeships authorized as a result of subsection (a) of this section, such table is amended to read as follows:

Circuits	Number of Judges
District of Columbia.....	12
First.....	6
Second.....	13
Third.....	14
Fourth.....	15
Fifth.....	17
Sixth.....	16
Seventh.....	11
Eighth.....	11
Ninth.....	28
Tenth.....	12
Eleventh.....	12
Federal.....	12."

SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.

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

- (1) 1 additional district judge for the western district of Arkansas;
- (2) 2 additional district judges for the northern district of California;
- (3) 5 additional district judges for the central district of California;
- (4) 1 additional district judge for the southern district of California;
- (5) 2 additional district judges for the district of Connecticut;
- (6) 2 additional district judges for the middle district of Florida;
- (7) 1 additional district judge for the northern district of Florida;
- (8) 1 additional district judge for the southern district of Florida;
- (9) 1 additional district judge for the middle district of Georgia;
- (10) 1 additional district judge for the northern district of Illinois;
- (11) 1 additional district judge for the southern district of Iowa;
- (12) 1 additional district judge for the western district of Louisiana;
- (13) 1 additional district judge for the district of Maine;

- (14) 1 additional district judge for the district of Massachusetts;
 - (15) 1 additional district judge for the southern district of Mississippi;
 - (16) 1 additional district judge for the eastern district of Missouri;
 - (17) 1 additional district judge for the district of New Hampshire;
 - (18) 3 additional district judges for the district of New Jersey;
 - (19) 1 additional district judge for the district of New Mexico;
 - (20) 1 additional district judge for the southern district of New York;
 - (21) 3 additional district judges for the eastern district of New York;
 - (22) 1 additional district judge for the middle district of North Carolina;
 - (23) 1 additional district judge for the southern district of Ohio;
 - (24) 1 additional district judge for the northern district of Oklahoma;
 - (25) 1 additional district judge for the western district of Oklahoma;
 - (26) 1 additional district judge for the district of Oregon;
 - (27) 3 additional district judges for the eastern district of Pennsylvania;
 - (28) 1 additional district judge for the middle district of Pennsylvania;
 - (29) 1 additional district judge for the district of South Carolina;
 - (30) 1 additional district judge for the eastern district of Tennessee;
 - (31) 1 additional district judge for the western district of Tennessee;
 - (32) 1 additional district judge for the middle district of Tennessee;
 - (33) 2 additional district judges for the northern district of Texas;
 - (34) 1 additional district judge for the eastern district of Texas;
 - (35) 5 additional district judges for the southern district of Texas;
 - (36) 3 additional district judges for the western district of Texas;
 - (37) 1 additional district judge for the district of Utah;
 - (38) 1 additional district judge for the eastern district of Washington;
 - (39) 1 additional district judge for the northern district of West Virginia;
 - (40) 1 additional district judge for the southern district of West Virginia; and
 - (41) 1 additional district judge for the district of Wyoming.
- (b) EXISTING JUDGESHIPS.—(1) The existing district judgeships for the western district of Arkansas, the northern district of Illinois, the northern district of Indiana, the district of Massachusetts, the western district of New York, the eastern district of North Carolina, the northern district of Ohio, and the western district of Washington authorized by section 202(b) of the Bankruptcy Amendments and

Federal Judgeship Act of 1984 (Public Law 98-353, 98 Stat. 847-848) shall, as of the effective date of this title, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(2)(A) The existing 2 district judgeships for the eastern and western districts of Arkansas (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be district judgeships for the eastern district of Arkansas only, and the incumbents of such judgeships shall hold the offices under section 133 of title 28, United States Code, as amended by this title.

(B) The existing district judgeship for the northern and southern districts of Iowa (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) shall be a district judgeship for the northern district of Iowa only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(C) The existing district judgeship for the northern, eastern, and western districts of Oklahoma (provided by section 133 of title 28, United States Code, as in effect on the day before the effective date of this title) and the occupant of which has his or her official duty station at Oklahoma City on the date of the enactment of this title, shall be a district judgeship for the western district of Oklahoma only, and the incumbent of such judgeship shall hold the office under section 133 of title 28, United States Code, as amended by this title.

(c) **TEMPORARY JUDGESHIPS.**—The President shall appoint, by and with the advice and consent of the Senate—

- (1) 1 additional district judge for the northern district of Alabama;
- (2) 1 additional district judge for the eastern district of California;
- (3) 1 additional district judge for the district of Hawaii;
- (4) 1 additional district judge for the central district of Illinois;
- (5) 1 additional district judge for the southern district of Illinois;
- (6) 1 additional district judge for the district of Kansas;
- (7) 1 additional district judge for the western district of Michigan;
- (8) 1 additional district judge for the eastern district of Missouri;
- (9) 1 additional district judge for the district of Nebraska;
- (10) 1 additional district judge for the northern district of New York;
- (11) 1 additional district judge for the northern district of Ohio;
- (12) 1 additional district judge for the eastern district of Pennsylvania; and
- (13) 1 additional district judge for the eastern district of Virginia.

The first vacancy in the office of district judge in each of the judicial districts named in this subsection, occurring 5 years or more after the effective date of this title, shall not be filled.

(d) **TABLES.**—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent

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district judgeships authorized as a result of subsections (a) and (b) of this section, such table is amended to read as follows:

Districts	Judges
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	3
Arkansas:	
Eastern	5
Western	3
California:	
Northern	14
Eastern	6
Central	27
Southern	3
Colorado	7
Connecticut	3
Delaware	4
District of Columbia	15
Florida:	
Northern	4
Middle	11
Southern	16
Georgia:	
Northern	11
Middle	4
Southern	3
Hawaii	3
Idaho	2
Illinois:	
Northern	22
Central	3
Southern	3
Indiana:	
Northern	5
Southern	5
Iowa:	
Northern	2
Southern	3
Kansas	5
Kentucky:	
Eastern	4
Western	4
Eastern and Western	1
Louisiana:	
Eastern	13
Middle	2
Western	7
Maine	3
Maryland	10
Massachusetts	13
Michigan:	
Eastern	15
Western	4
Minnesota	7
Mississippi:	
Northern	3
Southern	6
Missouri:	
Eastern	6
Western	5
Eastern and Western	2
Montana	3
Nebraska	3
Nevada	4
New Hampshire	3
New Jersey	17

New Mexico	5
New York:	
Northern	4
Southern	28
Eastern	15
Western	4
North Carolina:	
Eastern	4
Middle	4
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	8
Oklahoma:	
Northern	3
Eastern	1
Western	6
Northern, Eastern, and Western	1
Oregon	6
Pennsylvania:	
Eastern	22
Middle	6
Western	10
Puerto Rico	7
Rhode Island	3
South Carolina	9
South Dakota	3
Tennessee:	
Eastern	5
Middle	4
Western	5
Texas:	
Northern	12
Southern	18
Eastern	7
Western	10
Utah	5
Vermont	2
Virginia:	
Eastern	9
Western	4
Washington:	
Eastern	4
Western	7
West Virginia:	
Northern	3
Southern	5
Wisconsin:	
Eastern	4
Western	2
Wyoming	2.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this title.

SEC. 205. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) **IN GENERAL.**—The Comptroller General of the United States shall review the policies, procedures, and methodologies used by the Judicial Conference of the United States in recommending to the Congress the creation of additional Federal judgeships. In conducting such review the Comptroller General shall, at a minimum, determine the extent to which such policies, procedures, and methodologies—

- (1) provide an accurate measure of the workload of existing judges;
- (2) are applied consistently to the various circuit courts of appeals and district courts; and
- (3) provide an accurate indicator of the need for additional judgeships.

(b) **REPORT TO CONGRESS.**—The Comptroller General shall, not later than 18 months after the date of the enactment of this Act, report the results of the review conducted under subsection (a) to the Committees on the Judiciary of the House of Representatives and the Senate. The report shall include such recommendations as the Comptroller General considers appropriate for revisions of the policies, procedures, and methodologies used by the Judicial Conference that were reviewed in the report.

SEC. 206. EFFECTIVE DATE.

This title shall take effect on the date of the enactment of this title.

TITLE III—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Courts Study Committee Implementation Act of 1990".

SEC. 302. STUDY OF INTERCIRCUIT CONFLICTS AND STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS BY FEDERAL JUDICIAL CENTER.

(a) **INTERCIRCUIT CONFLICTS.**—The Board of the Federal Judicial Center is requested to conduct a study and submit to the Congress a report by January 1, 1992, on the number and frequency of conflicts among the judicial circuits in interpreting the law that remain unresolved because they are not heard by the Supreme Court.

(b) **FACTORS TO CONSIDER IN STUDY.**—In conducting such a study, the Center should consider, to the extent feasible, all relevant factors, such as whether the conflict—

- (1) imposes economic costs or other harm on persons engaging in interstate commerce;
- (2) encourages forum shopping among circuits;
- (3) creates unfairness to litigants in different circuits, as in allowing Federal benefits in one circuit that are denied in other circuits; or
- (4) encourages nonacquiescence by Federal agencies in the holdings of the courts of appeals for different circuits,

but is unlikely to be resolved by the Supreme Court.

(c) **STRUCTURAL ALTERNATIVES FOR THE COURTS OF APPEALS.**—The Board of the Federal Judicial Center is requested to study the full range of structural alternatives for the Federal Courts of Appeals and submit a report on the study to the Congress and the Judicial Conference of the United States, no later than 2 years after the date of the enactment of this Act.

SEC. 303. EFFECT OF APPOINTMENT OF JUDGE AS DIRECTOR OF CERTAIN JUDICIAL BRANCH AGENCIES.

Section 133 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The President"; and

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

"(b)(1) In any case in which a judge of the United States (other than a senior judge) assumes the duties of a full-time office of Federal judicial administration, the President shall appoint, by and with the advice and consent of the Senate, an additional judge for the court on which such judge serves. If the judge who assumes the duties of such full-time office leaves that office and resumes the duties as an active judge of the court, then the President shall not appoint a judge to fill the first vacancy which occurs thereafter in that court.

"(2) For purposes of paragraph (1), the term 'office of Federal judicial administration' means a position as Director of the Federal Judicial Center, Director of the Administrative Office of the United States Courts, or administrative assistant to the Chief Justice."

SEC. 304. EXTENSION OF TERMS OF OFFICE OF BANKRUPTCY JUDGES.

Section 152(a)(1) of title 28, United States Code, is amended by inserting after the third sentence the following: "However, upon the expiration of the term, a bankruptcy judge may, with the approval of the judicial council of the circuit, continue to perform the duties of the office until the earlier of the date which is 180 days after the expiration of the term or the date of the appointment of a successor."

SEC. 305. APPEALS OF JUDGMENTS, ORDERS, AND DECREES OF BANKRUPTCY COURTS.

Section 158(b) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and

(2) by inserting after paragraph (1) the following:

"(2) If authorized by the Judicial Conference of the United States, the judicial councils of 2 or more circuits may establish a joint bankruptcy appellate panel comprised of bankruptcy judges from the districts within the circuits for which such panel is established, to hear and determine, upon the consent of all the parties, appeals under subsection (a) of this section."

SEC. 306. RETIREMENT SYSTEM FOR CLAIMS COURT JUDGES.

(a) **NEW RETIREMENT SYSTEM.**—(1) Chapter 7 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 178. Retirement of judges of the Claims Court

"(a) A judge of the United States Claims Court who retires from office after attaining the age and meeting the service requirements, whether continuously or otherwise, of this subsection shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service. The age and service requirements for retirement under this subsection are as follows:

*Attained Age:	Years of Service:
65.....	15
66.....	14
67.....	13
68.....	12
69.....	11
70.....	10.

"(b) A judge of the Claims Court who is not reappointed following the expiration of the term of office of such judge, and who retires upon the completion of such term shall, subject to subsection (f), be entitled to receive, during the remainder of such judge's lifetime, an annuity equal to the salary payable to Claims Court judges in regular active service, if—

"(1) such judge has served at least 1 full term as judge of the Claims Court, and

"(2) not earlier than 9 months before the date on which the term of office of such judge expired, and not later than 6 months before such date, such judge advised the President in writing that such judge was willing to accept reappointment as a judge of the Claims Court.

"(c) A judge of the Claims Court who has served at least 5 years, whether continuously or otherwise, as such a judge, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's lifetime—

"(1) an annuity equal to 50 percent of the salary payable to Claims Court judges in regular active service, if before retirement such judge served less than 10 years, or

"(2) an annuity equal to the salary payable to Claims Court judges in regular active service, if before retirement such judge served at least 10 years.

"(d) A judge who retires under subsection (a) or (b) may, at or after such retirement, be called upon by the chief judge of the Claims Court to perform such judicial duties with the Claims Court as may be requested of the retired judge for any period or periods specified by the chief judge, except that in the case of any such judge—

"(1) the aggregate of such periods in any one calendar year shall not (without his or her consent) exceed 90 calendar days; and

"(2) he or she shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a Claims Court judge in regular active service. Any individual performing judicial duties pursuant to this subsection shall receive the allowances for official travel and other expenses of a judge in regular active service.

"(e)(1) Any judge who retires under the provisions of subsection (a) or (b) of this section shall be designated 'senior judge'.

"(2) Any judge who retires under this section shall not be counted as a judge of the Claims Court for purposes of the number of judgeships authorized by section 171 of this title.

"(f)(1) A judge shall be entitled to an annuity under this section if the judge elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts in writing. Such an election—

“(A) may be made only while an individual is a judge of the Claims Court (except that in the case of an individual who fails to be reappointed as judge at the expiration of a term of office, such election may be made at any time before the day after the day on which his or her successor takes office); and

“(B) once made, shall, subject to subsection (k), be irrevocable.

“(2) A judge who elects to receive an annuity under this section shall not be entitled to receive—

“(A) any annuity to which such judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84, of title 5, for service performed as a judge or otherwise;

“(B) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

“(C) retired pay under section 7447 of the Internal Revenue Code of 1986; or

“(D) retired pay under section 4096 of title 38.

“(g) For purposes of calculating the years of service of an individual under subsections (a) and (c), only those years of service as a judge of the Claims Court or a commissioner of the United States Court of Claims shall be credited, and that portion of the aggregate number of years of such service that is a fractional part of 1 year shall not be credited if it is less than 6 months, and shall be credited if it is 6 months or more.

“(h) An annuity under this section shall be payable at the times and in the same manner as the salary of a Claims Court judge in regular active service. Such annuity shall begin to accrue on the day following the day on which the annuitant's salary as a judge in regular active service ceases to accrue.

“(j)(1) Payments under this section which would otherwise be made to a judge of the Claims Court based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

“(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

“(3) As used in this subsection, the term ‘court’ means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or court of Indian offense.

“(j)(1) Subject to paragraph (2), any judge of the Claims Court who retires under this section and who thereafter in the practice of law represents (or supervises or directs the representation of) a client in making any civil claim against the United States or any agency thereof shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he so practices law.

"(2) If a judge of the Claims Court who retires under this section fails during any calendar year to perform judicial duties required of such judge by subsection (d), such judge shall forfeit all rights to an annuity under this section for the 1-year period which begins on the first day on which he or she so fails to perform such duties.

"(3) If a judge of the Claims Court who retires under this section accepts compensation for civil office or employment under the Government of the United States (other than the performance of judicial duties under subsection (d)), such judge shall forfeit all rights to an annuity under this section for the period for which such compensation is received.

"(4)(A) If a judge makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and subsection (d)) shall not apply to such judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such judge is entitled on the day before such effective date.

"(B) An election under subparagraph (A)—

"(i) may be made by a judge only if such judge meets the age and service requirements for retirement under subsection (a),

"(ii) may be made only during the period during which such judge may make an election to receive an annuity under this section or while the judge is receiving an annuity under this section, and

"(iii) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

"(C) Any election under this paragraph shall take effect on the first day of the first month following the month in which the election is made.

"(k)(1) Notwithstanding subsection (f)(1)(B), an individual who has filed an election under subsection (f) to receive an annuity may revoke such election at any time before the first day on which such annuity would (but for such revocation) begin to accrue with respect to such individual.

"(2) Any revocation under this subsection shall be made by filing a notice thereof in writing with the Director of Administrative Office of the United States Courts.

"(3) In the case of any revocation under this subsection—

"(A) for purposes of this section, the individual shall be treated as not having filed an election under subsection (f) to receive an annuity,

"(B) for purposes of section 376 of this title—

"(i) the individual shall be treated as not having filed an election under section 376(a)(1), and

"(ii) section 376(g) shall not apply, and the amount credited to such individual's account (together with interest at 3 percent per annum, compounded on December 31 of each year to the date on which the revocation is filed) shall be returned to such individual,

"(C) no credit shall be allowed for any service as a judge of the Claims Court or as a commissioner of the United States Court of Claims unless with respect to such service either there has been deducted and withheld the amount required by chapter 83 or 84 (as the case may be) of title 5 or there has been deposited in the

Civil Service Retirement and Disability Fund an amount equal to the amount so required, with interest,

"(D) the Claims Court shall deposit in the Civil Service Retirement and Disability Fund an amount equal to the additional amount it would have contributed to such Fund but for the election under subsection (f), and

"(E) if subparagraph (D) is complied with, service on the Claims Court or as a commissioner of the United States Court of Claims shall be treated as service with respect to which deductions and contributions had been made during the period of service.

"(1X1) There is established in the Treasury a fund which shall be known as the 'Claims Court Judges Retirement Fund'. The Fund is appropriated for the payment of annuities and other payments under this section.

"(2) The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Claims Court Judges Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3XA) There are authorized to be appropriated to the Claims Court Judges Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Claims Court Judges Retirement Fund, over the balance in the Fund as of the date the unfunded liability is determined. In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph."

(2) The table of sections at the beginning of chapter 7 of title 28, United States Code, is amended by adding at the end the following new item:

"178. Retirement of judges of the Claims Court."

(b) JUDICIAL SURVIVORS' ANNUITIES.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "or" at the end of subparagraph (E);

(B) by adding "or" at the end of subparagraph (F);

(C) by inserting after subparagraph (F) the following:

"(G) a judge of the United States Claims Court;";

(D) by striking out "or (v)" and inserting in lieu thereof "(v)"; and

(E) by inserting before the semicolon at the end thereof the following: ", or (vi) the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990, in the case of a full-time judge of the Claims Court in active service on that date".

(2) Subsection (a)(2) is amended—

(A) by striking out "and" at the end of subparagraph (E);

(B) by adding "and" at the end of subparagraph (F); and

(C) by adding at the end thereof the following:

“(G) in the case of a judge of the United States Claims Court, an annuity paid under section 178 of this title;”.

(3) Subsection (b) is amended in the last sentence by striking out “section 377” each place it appears and inserting in each such place “section 178 or 377”.

(c) CIVIL SERVICE RETIREMENT SYSTEM.—(1) Section 8331 of title 5, United States Code, is amended—

(A) by striking out “and” at the end of paragraph (24);

(B) by striking out the period at the end of paragraph (25) and inserting in lieu thereof “; and”; and

(C) by adding at the end thereof the following new paragraph:

“(26) ‘Claims Court judge’ means a judge of the United States Claims Court who is appointed under chapter 7 of title 28 or who has served under section 167 of the Federal Courts Improvement Act of 1982.”.

(2) Section 8334 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by inserting “a Claims Court judge,” after “Member,”; and

(B) in subsection (c), by inserting at the end of the table the following:

“Claims Court Judge.....	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to September 30, 1988.
	8	After September 30, 1988.”.

(3) Section 8336(k) of title 5, United States Code, is amended to read as follows:

“(k) A bankruptcy judge, United States magistrate, or Claims Court judge who is separated from service, except by removal, after becoming 62 years of age and completing 5 years of civilian service, or after becoming 60 years of age and completing 10 years of service as a bankruptcy judge, United States magistrate, or Claims Court judge, is entitled to an annuity.”.

(4) Section 8339(n) of title 5, United States Code, is amended to read as follows:

“(n) The annuity of an employee who is a Claims Court judge, bankruptcy judge, or United States magistrate is computed, with respect to service as a Claims Court judge, as a commissioner of the Court of Claims, as a referee in bankruptcy, as a bankruptcy judge, as a United States magistrate, and as a United States commissioner and with respect to the military service of any such individual (not exceeding 5 years) creditable under section 8332 of this title, by multiplying 2½ percent of the individual’s average pay by the years of that service.”.

(d) THRIFT SAVINGS PLAN.—(1) Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following:

"§ 8440b. Claims Court judges

"(a)(1) A judge of the United States Claims Court who is covered by section 178 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to Claims Court judges who make contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) The amount contributed by a Claims Court judge for any pay period shall not exceed 5 percent of basic pay for such pay period.

"(3) No contributions shall be made under section 8432(c) of this title for the benefit of a Claims Court judge making contributions under subsection (a) of this section.

"(4)(A) Section 8433(b) of this title applies to a Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an annuity under section 178 of title 28 (including a disability annuity under subsection (d) of such section).

"(B) Section 8433(d) of this title applies to any Claims Court judge who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an annuity under section 178 of title 28.

"(5) With respect to Claims Court judges to whom this section applies, retirement under section 178 of title 28 is a separation from service for purposes of this subchapter and subchapter VII.

"(6) For purposes of this section, the terms 'retirement' and 'retire' include removal from office under section 178(c) of title 28 on the sole ground of mental or physical disability.

"(7) Sums contributed pursuant to this section by Claims Court judges, as well as all previous contributions to the Thrift Savings Fund by those judges, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(8) In the case of a Claims Court judge who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 178 of title 28, such annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity."

(2) The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following:

"8440b. Claims Court judges."

(e) **TECHNICAL AND CONFORMING AMENDMENTS.—**(1)(A) Section 402(1) of the Judicial Improvements and Access to Justice Act (102 Stat. 4650) is amended by striking out "redesignating paragraph (18)" and inserting in lieu thereof "redesignating paragraph (19)".

(B) Section 604(a) of title 28, United States Code, (relating to the duties of the Director of the Administrative Office of the United

States Courts), as amended pursuant to the amendment made by subparagraph (A) of this paragraph, is amended—

(i) in paragraph (7) by inserting "judges of the United States Claims Court," after "judges of the United States,";

(ii) by redesignating paragraph (23) as paragraph (24); and

(iii) by inserting after paragraph (22) the following:

"(23) Regulate and pay annuities to judges of the United States Claims Court in accordance with section 178 of this title; and".

(2) Section 8334(i) of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, a judge of the United States Claims Court who is covered by section 178 of title 28 shall not be subject to deductions and contributions to the Fund if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge shall be entitled to a lump-sum credit under section 8342(a) of this title."

(3) Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(g) A judge of the United States Claims Court who is covered by section 178 of title 28 shall be excluded from the operation of this chapter, other than subchapters III and VII of such chapter if the judge notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such election, the judge shall be entitled to a lump-sum credit under section 8424 of this title."

(f) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to judges of, and senior judges in active service with, the United States Claims Court on or after the date of the enactment of this Act.

SEC. 307. APPOINTMENT OF DIRECTOR AND DEPUTY DIRECTOR OF THE ADMINISTRATIVE OFFICE.

Section 601 of title 28, United States Code, is amended in the second sentence by striking out "Supreme Court" and inserting in lieu thereof "Chief Justice of the United States, after consulting with the Judicial Conference".

SEC. 308. MAGISTRATES.

(a) CONSENT TO TRIAL IN CIVIL ACTIONS.—Section 636(c)(2) of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "their right to consent to the exercise of" and inserting in lieu thereof "the availability of a magistrate to exercise"; and

(2) by striking out the third sentence and inserting in lieu thereof the following: "Thereafter, either the district court judge or the magistrate may again advise the parties of the availability of the magistrate, but in so doing, shall also advise the parties that they are free to withhold consent without adverse substantive consequences."

(b) EXTENSION OF TERMS OF OFFICE OF MAGISTRATES.—Section 631(f) of title 28, United States Code, is amended by striking out "60" and inserting in lieu thereof "180".

SEC. 309. APPEAL OF CERTAIN DETERMINATIONS RELATING TO BANKRUPTCY CASES.

(a) **ABSTENTION DETERMINATIONS UNDER TITLE 11, UNITED STATES CODE.**—Section 305(c) of title 11, United States Code, is amended by inserting before the period the following: “by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title”.

(b) **ABSTENTION DETERMINATIONS UNDER TITLE 28, UNITED STATES CODE.**—The second sentence of section 1334(c)(2) of title 28, United States Code, is amended—

- (1) by inserting “or not to abstain” after “to abstain”, and
- (2) by inserting the following before the period: “by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title”.

(c) **REMAND DETERMINATIONS UNDER TITLE 28, UNITED STATES CODE.**—The second sentence of section 1452(b) of title 28, United States Code, is amended by inserting the following before the period: “by the court of appeals under section 158(d), 1291, or 1292 of this title or by the Supreme Court of the United States under section 1254 of this title”.

SEC. 310. SUPPLEMENTAL JURISDICTION.

(a) **GRANT OF JURISDICTION.**—Chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 1367. Supplemental jurisdiction

“(a) Except as provided in subsections (b) and (c) or as expressly provided otherwise by Federal statute, in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.

“(b) In any civil action of which the district courts have original jurisdiction founded solely on section 1332 of this title, the district courts shall not have supplemental jurisdiction under subsection (a) over claims by plaintiffs against persons made parties under Rule 14, 19, 20, or 24 of the Federal Rules of Civil Procedure, or over claims by persons proposed to be joined as plaintiffs under Rule 19 of such rules, or seeking to intervene as plaintiffs under Rule 24 of such rules, when exercising supplemental jurisdiction over such claims would be inconsistent with the jurisdictional requirements of section 1332.

“(c) The district courts may decline to exercise supplemental jurisdiction over a claim under subsection (a) if—

- “(1) the claim raises a novel or complex issue of State law,
- “(2) the claim substantially predominates over the claim or claims over which the district court has original jurisdiction,
- “(3) the district court has dismissed all claims over which it has original jurisdiction, or
- “(4) in exceptional circumstances, there are other compelling reasons for declining jurisdiction.

"(d) The period of limitations for any claim asserted under subsection (a), and for any other claim in the same action that is voluntarily dismissed at the same time as or after the dismissal of the claim under subsection (a), shall be tolled while the claim is pending and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

"(e) As used in this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States."

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end thereof the following new item:

"1367. Supplemental jurisdiction."

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to civil actions commenced on or after the date of the enactment of this Act.

SEC. 311. VENUE.

Section 1391 of title 28, United States Code, is amended—

(1) in subsection (a), by striking out "the judicial district" and all that follows through "arose" and inserting in lieu thereof the following: "(1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which the defendants are subject to personal jurisdiction at the time the action is commenced";

(2) in subsection (b), by striking out "may be brought" and all that follows through "law" and inserting in lieu thereof the following: "may, except as otherwise provided by law, be brought only if (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought";

(3) in subsection (e) by striking out "or (2)" and all that follows through "(4)", and inserting in lieu thereof "(2) a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3)".

SEC. 312. REMOVAL OF SEPARATE AND INDEPENDENT CLAIMS.

Section 1441(c) of title 28, United States Code, is amended—

(1) by striking out "which would be removable if sued upon alone" and inserting in lieu thereof "within the jurisdiction conferred by section 1331 of this title"; and

(2) by striking out "remand all matters not otherwise within its original jurisdiction" and inserting in lieu thereof "may remand all matters in which State law predominates".

SEC. 313. STATUTE OF LIMITATIONS.

(a) **IN GENERAL.**—Chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following:

“§ 1658. Time limitations on the commencement of civil actions arising under Acts of Congress

“Except as otherwise provided by law, a civil action arising under an Act of Congress enacted after the date of the enactment of this section may not be commenced later than 4 years after the cause of action accrues.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end thereof the following new item:

“1658. Time limitations on the commencement of civil actions arising under Acts of Congress.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply with respect to causes of action accruing on or after the date of the enactment of this Act.

SEC. 314. WITNESS AND JUROR FEES.

(a) **WITNESS FEES.**—Section 1821(b) of title 28, United States Code, is amended by striking out “\$30” and inserting in lieu thereof “\$40”.

(b) **JUROR FEES.**—Section 1871(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking out “\$30” and inserting in lieu thereof “\$40”;

(2) in paragraph (2) by striking out “\$5” and inserting in lieu thereof “\$10”; and

(3) in paragraph (3) by striking out “\$5” and inserting in lieu thereof “\$10”.

SEC. 315. POWER OF SUPREME COURT TO DEFINE FINAL DECISION FOR PURPOSES OF SECTION 1291 OF TITLE 28, UNITED STATES CODE.

Section 2072 of title 28, United States Code, is amended by adding at the end thereof the following:

“(c) Such rules may define when a ruling of a district court is final for the purposes of appeal under section 1291 of this title.”.

SEC. 316. EXTENSION OF LIFE OF PAROLE COMMISSION.

For the purposes of section 235(b) of Public Law 98-473 as it relates to chapter 311 of title 18, United States Code, and the United States Parole Commission, each reference in such section to “five years” or a “five-year period” shall be deemed a reference to “ten years” or a “ten-year period”, respectively.

SEC. 317. BANKRUPTCY ADMINISTRATOR PROGRAM.

(a) **EXTENSION.**—Section 302(d)(3) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554; 28 U.S.C. 581 note) is amended—

(1) in subparagraph (A)(ii), by striking out “October 1, 1992” and inserting in lieu thereof “October 1, 2002”;

(2) in subparagraph (F)(i)(II), by striking out “October 1, 1992” and inserting in lieu thereof “October 1, 2002”;

(3) in subparagraph (F)(i), by striking out “October 1, 1993” and inserting in lieu thereof “October 1, 2003”; and

(4) in subparagraph (F)(ii), by striking out “October 1, 1993” and inserting in lieu thereof “October 1, 2003”.

(b) **STANDING.**—A bankruptcy administrator may raise and may appear and be heard on any issue in any case under title 11, United

States Code, but may not file a plan pursuant to section 1121(c) of such title.

(c) **POWER OF THE COURT.**—Section 302(d)(3)(A)(ii) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, as amended by subsection (a), is further amended by inserting before the period at the end thereof the following: “, except that the amendment to section 105(a) of title 11, United States Code, shall become effective as of the date of the enactment of the Federal Courts Study Committee Implementation Act of 1990”.

SEC. 318. STUDY OF FEDERAL DEFENDER PROGRAM.

(a) **STUDY REQUIRED.**—The Judicial Conference of the United States shall conduct a study of the Federal defender program under the Criminal Justice Act of 1964, as amended (enacting section 3006A of title 18, United States Code).

(b) **ASSESSMENT OF PROGRAM.**—In conducting the study, the Judicial Conference shall assess the effectiveness of the Federal defender program, including the following:

(1) The impact of judicial involvement in the selection and compensation of the Federal public defenders and the independence of Federal defender organizations, including the establishment and termination of Federal defender organizations and the Federal public defender and the community defender options.

(2) Equal employment and affirmative action procedures in the various Federal defender programs.

(3) Judicial involvement in the appointment and compensation of panel attorneys and experts.

(4) Adequacy of compensation for legal services provided under the Criminal Justice Act of 1964.

(5) The quality of the Criminal Justice Act of 1964 representation.

(6) The adequacy of administrative support for defender services programs.

(7) Maximum amounts of compensation for attorneys with regard to appeals of habeas corpus proceedings.

(8) Contempt, sanctions, and malpractice representation of panel attorneys.

(9) Appointment of counsel in multidefendant cases.

(10) Early appointment of counsel in general, and prior to the pretrial services interview in particular.

(11) The method and source of payment of the fees and expenses of fact witnesses for defendants with limited funds.

(12) The provisions of services or funds to financially eligible arrested but unconvicted persons for noncustodial transportation and subsistence expenses, including food and lodging, both prior to and during judicial proceedings.

(c) **REPORT.**—No later than March 31, 1992, the Judicial Conference shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the results of the study required under subsection (a). The report shall include—

(1) any recommendations for legislation that the Judicial Conference finds appropriate;

(2) a proposed formula for the compensation of Federal defender program counsel that includes an amount to cover reasonable overhead and a reasonable hourly fee; and

(3) a discussion of any procedural or operational changes that the Judicial Conference finds appropriate for implementation by the courts of the United States.

SEC. 319. AMENDMENTS TO THE ETHICS IN GOVERNMENT ACT OF 1978.

Section 502 of the Ethics in Government Act of 1978 (5 U.S.C. App.), as amended by the Ethics Reform Act of 1989, is amended—

(1) by inserting "(a) LIMITATIONS.—" before the first sentence;

and

(2) by adding at the end thereof the following new subsection:

"(b) SENIOR JUDGES TEACHING COMPENSATION.—Any compensation for teaching received by a senior judge (as designated under section 294(b) of title 28, United States Code) approved under subsection (a)(5) of this section shall not be treated as outside earned income for the purpose of the limitation under section 501(a)."

SEC. 320. BIENNIAL CIRCUIT JUDICIAL CONFERENCE.

The first paragraph of section 833 of title 28, United States Code, is amended—

(1) in the first sentence, by striking out "annually" and inserting "biennially, and may summon annually,"; and

(2) in the last sentence—

(A) by striking out "the United States District Court for the District of the Canal Zone,"; and

(B) by striking out "and the District Court of the Virgin Islands shall also be summoned annually" and inserting in lieu thereof "the District Court of the Virgin Islands, and the District Court of the Northern Mariana Islands shall also be summoned biennially, and may be summoned annually,".

SEC. 321. CHANGE OF NAME OF UNITED STATES MAGISTRATES.

After the enactment of this Act, each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge, and any reference to any United States magistrate or magistrate that is contained in title 28, United States Code, in any other Federal statute, or in any regulation of any department or agency of the United States in the executive branch that was issued before the enactment of this Act, shall be deemed to refer to a United States magistrate judge appointed under section 631 of title 28, United States Code.

SEC. 322. LENGTH OF SERVICE REQUIRED FOR ELIGIBILITY UNDER THE JUDICIAL SURVIVORS' ANNUITIES ACT.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Section 876(h)(1) of title 28, United States Code, is amended—

(1) in the matter preceding subparagraph (A)—

(A) by inserting "(A)" before "after having completed"; and

(B) by inserting after "have actually been made" the following: ", or (B) if the death of such judicial official was by assassination, before having satisfied the requirements of clause (A) if, for the period of such service, the deductions provided by subsection (b) or, in lieu thereof, the deposits required by subsection (d) have actually been made";

(2) by redesignating existing subparagraph (A) as clause (i);

(3) in existing subparagraph (B)—

- (A) by striking out "(B)" and inserting in lieu thereof "(ii)";
- (B) by striking out "(i)" and inserting in lieu thereof "(I)"; and
- (C) by striking out "(ii)" and inserting in lieu thereof "(II)";
- (4) in existing subparagraph (C)—
- (A) by striking out "(C)" and inserting in lieu thereof "(iii)";
- (B) in clause (i)—
- (i) by striking out "(i)" and inserting in lieu thereof "(I)";
- (ii) by striking out "subparagraph (1)(A) of this subsection" and inserting in lieu thereof "clause (i) of this paragraph";
- (iii) by striking out "(ii)" and inserting in lieu thereof "(II)"; and
- (iv) by striking out "(iii)" and inserting in lieu thereof "(III)"; and
- (5) by adding at the end of subsection (h) the following:
- "(6) In the case of the survivor or survivors of a judicial official to whom paragraph (1)(B) applies, there shall be deducted from the annuities otherwise payable under this section an amount equal to the amount of salary deductions that would have been made if such deductions had been made for 18 months prior to the judicial official's death."
- (b) DEFINITION OF ASSASSINATION.—Section 376(a) of title 28, United States Code, is amended—
- (1) in paragraph (5)(C) by striking out "and" after the semicolon;
- (2) in paragraph (6) by striking out the period and inserting in lieu thereof "; and"; and
- (3) by inserting at the end the following new paragraph:
- "(7) 'assassinated' and 'assassination' mean the killing of a judicial official described in paragraph (1) (A), (B), (F), or (G) of this subsection that is motivated by the performance by that judicial official of his or her official duties."
- (c) DETERMINATION OF ASSASSINATION BY DIRECTOR.—Section 376(i) of title 28, United States Code, is amended—
- (1) by inserting "(1)" after "(i)"; and
- (2) by adding at the end thereof the following:
- "(2) The Director of the Administrative Office of the United States Courts shall determine whether the killing of a judicial official was an assassination, subject to review only by the Judicial Conference of the United States. The head of any Federal agency that investigates the killing of a judicial official shall provide information to the Director that would assist the Director in making such determination."
- (d) COMPUTATION OF WIDOW'S AND WIDOWER'S ANNUITY.—Section 376(1)(1)(ii) of title 28, United States Code, is amended by striking out "but more than eighteen months,".
- (e) REFUND OF CONTRIBUTIONS TO FUND.—Section 376(o) of title 28, United States Code, is amended—
- (1) by inserting "(1)" after "(o)";
- (2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(3) in subparagraph (A) as so redesignated, by inserting "subject to paragraph (2) of this subsection," before "before having completed"; and

(4) by adding at the end thereof the following new paragraph:
"(2) In cases in which a judicial official dies as a result of assassination and leaves a survivor or survivors who are entitled to receive the annuity benefits provided by subsection (h) or (t) of this section, paragraph (1)(A) of this subsection shall not apply."

(f) OTHER BENEFITS.—Section 376 of title 28, United States Code, is amended by adding at the end thereof the following:

"(u) In the case of a judicial official who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of title 5 for any year would exceed the current salary for that year of the office of the judicial official."

(g) EFFECTIVE DATE AND TRANSITION.—

(1) EFFECTIVE DATE.—Subject to paragraph (2), the amendments made by this Act shall apply to all judicial officials assassinated on or after May 28, 1979.

(2) RULES FOR RETROACTIVE APPLICATION.—(A) In the case of a judicial official who was assassinated on or after May 28, 1979, and before the date of the enactment of this Act, if the salary deductions provided by subsection (b) of section 376 of title 28, United States Code, or the deposits required by subsection (d) of such section, have been withdrawn pursuant to subsection (c) of such section, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount so withdrawn, with interest on the amount withdrawn at 8 percent per annum compounded on December 31 of each year.

(B) In the case of the survivor or survivors of a judicial official to whom this paragraph applies who had less than 18 months of service before being assassinated, there shall be deducted from the annuities otherwise payable to the survivor or survivors of such judicial official, and the payment authorized by subparagraph (C) of this paragraph, an amount equal to the amount of salary deductions that would have been made if such deductions been made for 18 months before the judicial official's death, plus interest as described in subparagraph (A).

(C) Subject to subparagraphs (A) and (B), the survivor or survivors of a judicial official to whom this paragraph applies shall be entitled to the payment of annuities they would have received under section 376 of title 28, United States Code, for the period beginning on the date such judicial official was assassinated and ending the date of the enactment of this Act. The Secretary of the Treasury shall pay into the Judicial Survivors' Annuities fund, out of any money in the Treasury not otherwise appropriated, the amount of the annuities to which the survivor or survivors are entitled under this subparagraph.

(3) DEFINITION.—For purposes of this subsection, the term—

(A) "assassinated" has the meaning given that term in section 376(a)(7) of title 28, United States Code, as added by this section; and

"15. Appeals."

and inserting in lieu thereof

"15. Inapplicability of the Act of State doctrine.

"16. Appeals."

(b) TITLE 28, UNITED STATES CODE.—Title 28, United States Code, is amended as follows:

(1) Section 332(f)(1) is amended by striking out "(5 U.S.C. 5316)" and inserting in lieu thereof "under section 5315 of title 5".

(2) Section 375(a)(1) is amended by striking out "377 of title" and inserting in lieu thereof "377 of this title".

(3) Section 377 is amended—

(A) in subsection (f) by striking out "any annuity to which" and all that follows through the end of the subsection and inserting in lieu thereof the following:

"(1) any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, for service performed as such a judge or magistrate or otherwise;

"(2) an annuity or salary in senior status or retirement under section 371 or 372 of this title;

"(3) retired pay under section 7447 of the Internal Revenue Code of 1986; or

"(4) retired pay under section 4096 of title 38."; and

(B) in subsection (h) by striking out "in or after" and inserting in lieu thereof "on or after".

(4) Section 602(b) is amended by striking out "604(a)(15)(B)" and inserting in lieu thereof "604(a)(16)(B)".

(5) Section 995(a)(22) is amended by striking out "and" after the semicolon.

(6) Section 996(b) is amended by striking out "89 (Health Insurance), and 91 (Conflicts of Interest)" and inserting in lieu thereof "and 89 (Health Insurance)".

(7) Section 1499 is amended by inserting "and Safety" after "Hours".

(8) Section 1605(a)(6) is amended by striking out "State" and inserting in lieu thereof "state".

(9) Section 1610 is amended—

(A) in subsection (a)(6) by striking out "State" and inserting in lieu thereof "state"; and

(B) in subsection (e) by striking out "State" and inserting in lieu thereof "state".

(c) OTHER PROVISIONS OF LAW.—(1) Section 1011 of the Judicial Improvements and Access to Justice Act (102 Stat. 4668) is amended—

(A) by striking out "inserting a comma in lieu of the semicolon at the end thereof and adding thereafter" and inserting in lieu thereof "at the end"; and

(B) by striking out " : Provided, That" and inserting in lieu thereof " , except that".

(2) Section 204(b)(5)(A)(ii) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (102 Stat. 2201) is amended by striking out "whichever, occurs later," and inserting in lieu thereof "whichever occurs later,".

TITLE IV—JUDICIAL DISCIPLINE AND JUDICIAL REMOVAL

SEC. 401. SHORT TITLE.

This title may be cited as the "Judicial Discipline and Removal Reform Act of 1990".

Subtitle I—Judicial Discipline

SEC. 402. AMENDMENTS TO JUDICIAL COUNCILS REFORM AND JUDICIAL CONDUCT AND DISABILITY ACT OF 1980.

(a) IDENTIFICATION OF COMPLAINTS BY CHIEF JUDGE.—Paragraph (1) of section 372(c) of title 28, United States Code, is amended by adding at the end thereof the following: "In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this subsection and thereby dispense with filing of a written complaint."

(b) MEMBERSHIP OF SPECIAL INVESTIGATIVE COMMITTEES.—Paragraph (4) of section 372(c) of such title is amended by adding at the end thereof the following: "A judge appointed to a special committee under this paragraph may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45 of this title. If a judge appointed to a committee under this paragraph dies, or retires from office under section 371(a) of this title, while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee."

(c) PUBLIC AVAILABILITY OF IMPEACHMENT RECOMMENDATION.—(1) Paragraph (8) of section 372(c) of such title is amended by adding at the end thereof the following sentence: "Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination."

(2) Paragraph (14) of such section is amended—

(A) by striking out "All" and inserting in lieu thereof "Except as provided in paragraph (8), all";

(B) by striking out "unless" and inserting in lieu thereof "except to the extent that";

(C) in subparagraph (B) by inserting "such disclosure is" before "authorized";

(D) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(E) by inserting the following new subparagraph (A) immediately before subparagraph (B) (as so redesignated):

"(A) the judicial council of the circuit in its discretion releases a copy of a report of a special investigative committee under paragraph (5) to the complainant whose complaint initiated the investigation by that special committee and to the judge or magistrate whose conduct is the subject of the complaint;"

SEC. 415. REPORT.

The Commission shall submit to each House of Congress, the Chief Justice of the United States, and the President a report not later than one year after the date of its first meeting. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislative or administrative action as it considers appropriate.

SEC. 416. TERMINATION.

The Commission shall cease to exist on the date 80 days after the date it submits its report to the President and the Congress under section 415.

SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated the sum of \$750,000 to carry out the provisions of this subtitle.

SEC. 418. EFFECTIVE DATE.

This subtitle shall take effect on the date of the enactment of this Act.

TITLE V—TELEVISION PROGRAM IMPROVEMENT

SEC. 501. TELEVISION PROGRAM IMPROVEMENT.

(a) **SHORT TITLE.**—This section may be cited as the "Television Program Improvement Act of 1990".

(b) **DEFINITIONS.**—For purposes of this section—

(1) the term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition;

(2) the term "person in the television industry" means a television network, any entity which produces programming (including theatrical motion pictures) for telecasting or telecasts programming, the National Cable Television Association, the Association of Independent Television Stations, Incorporated, the National Association of Broadcasters, the Motion Picture Association of America, the Community Antenna Television Association, and each of the networks' affiliate organizations, and shall include any individual acting on behalf of such person; and

(3) the term "telecast" means—

- (A) to broadcast by a television broadcast station; or
- (B) to transmit by a cable television system or a satellite television distribution service.

(c) **EXEMPTION.**—The antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement by or among persons in the television industry for the purpose of, and limited to, developing and disseminating voluntary guidelines designed to alleviate the negative impact of violence in telecast material.

(d) **LIMITATIONS.**—(1) The exemption provided in subsection (c) shall not apply to any joint discussion, consideration, review, action, or agreement which results in a boycott of any person.

(d) **IMPEACHMENT RECOMMENDATIONS WITH RESPECT TO CONVICTED JUDGES.**—Section 372(c) of such title is further amended in paragraph (8)—

(1) by inserting "(A)" after "(8)"; and

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

"(B) If a judge or magistrate has been convicted of a felony and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under paragraph (7), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary."

(e) **RULES BY JUDICIAL CONFERENCE AND JUDICIAL COUNCILS.**—Paragraph (11) of section 372(c) of such title is amended by adding at the end thereof the following: "No rule promulgated under this subsection may limit the period of time within which a person may file a complaint under this subsection."

(f) **CONCLUSION OF PROCEEDINGS BY CHIEF JUDGE.**—Paragraph (3)(B) of section 372(c) of such title is amended by inserting before the period the following: "or that action on the complaint is no longer necessary because of intervening events".

(g) **DISMISSAL OF COMPLAINTS BY JUDICIAL COUNCILS.**—Paragraph (6) of section 372(c) of such title is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D);

and

(3) by inserting after subparagraph (B) the following:

"(C) may dismiss the complaint; and".

(h) **REIMBURSEMENT FOR EXPENSES AND ATTORNEYS' FEES.**—Section 372(c) of such title is further amended—

(1) by redesignating paragraphs (16) and (17) as paragraphs (17) and (18); and

(2) by inserting after paragraph (15) the following new paragraph:

"(16) Upon the request of a judge or magistrate whose conduct is the subject of a complaint under this subsection, the judicial council may, if the complaint has been finally dismissed under paragraph (6)(C), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys' fees, incurred by that judge or magistrate during the investigation which would not have been incurred but for the requirements of this subsection."

(i) **TECHNICAL CORRECTIONS.**—(1) Paragraph (7)(B) of section 372(c) of such title is amended—

(A) by striking out "has engaged in conduct" and inserting in lieu thereof "may have engaged in conduct"; and

(B) in clause (i) by striking out "article I" and inserting in lieu thereof "article II".

(2) Paragraph (14)(C) of such section, as redesignated by subsection (c)(2)(D) of this section, is amended by striking out "subject to the complaint" and inserting in lieu thereof "subject of the complaint".

SEC. 403. CONTEMPT POWER FOR CIRCUIT COUNCILS.

Section 332(d)(2) of title 28, United States Code, is amended by adding at the end thereof the following: "In the case of failure to comply with an order made under this subsection or a subpoena issued under section 372(c) of this title, a judicial council or a special committee appointed under section 372(c)(4) of this title may institute a contempt proceeding in any district court in which the judicial officer or employee of the circuit who fails to comply with the order made under this subsection shall be ordered to show cause before the court why he or she should not be held in contempt of court."

SEC. 404. AMENDMENT TO OATH OF JUSTICES AND JUDGES.

Section 453 of title 28, United States Code, is amended by striking out "according to the best of my abilities and understanding, agreeably to" and inserting "under".

SEC. 405. AMENDMENT TO ETHICS IN GOVERNMENT ACT.

Section 104(b) of the Ethics in Government Act of 1978 (5 U.S.C. App. 104(b)) is amended by adding at the end thereof the following: "Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral."

SEC. 406. ADVISORY COMMITTEES FOR JUDICIAL DISCIPLINE RULES.

Section 2077(b) of title 28, United States Code, is amended by inserting before the period at the end of the first sentence the following: "and, in the case of an advisory committee appointed by a court of appeals, of the rules of the judicial council of the circuit".

SEC. 407. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect 90 days after the date of the enactment of this Act.

Subtitle II—National Commission on Judicial Impeachment

SEC. 408. SHORT TITLE.

This subtitle may be cited as the "National Commission on Judicial Discipline and Removal Act".

SEC. 409. ESTABLISHMENT.

There is hereby established a commission to be known as the "National Commission on Judicial Discipline and Removal" (hereafter in this subtitle referred to as the "Commission").

SEC. 410. DUTIES OF COMMISSION.

The duties of the Commission are—

(1) to investigate and study the problems and issues involved in the tenure (including discipline and removal) of an article III judge;

(2) to evaluate the advisability of proposing alternatives to current arrangements with respect to such problems and issues, including alternatives for discipline or removal of judges that would require amendment to the Constitution; and

(3) to prepare and submit to the Congress, the Chief Justice of the United States, and the President a report in accordance with section 415.

SEC. 411. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT.**—The Commission shall be composed of 13 members as follows:

(1) Three appointed by the President pro tempore of the Senate.

(2) Three appointed by the Speaker of the House of Representatives.

(3) Three appointed by the Chief Justice of the United States.

(4) Three appointed by the President.

(5) One appointed by the Conference of Chief Justices of the States of the United States.

(b) **TERM.**—Members of the Commission shall be appointed for the life of the Commission.

(c) **QUORUM.**—Six members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(d) **CHAIRMAN.**—The members of the Commission shall select one of the members to be the Chairman.

(e) **APPOINTMENT DEADLINE.**—The first appointments made under subsection (a) shall be made within 60 days after the date of the enactment of this Act.

(f) **FIRST MEETING.**—The first meeting of the Commission shall be called by the Chairman and shall be held within 90 days after the date of the enactment of this Act.

(g) **VACANCY.**—A vacancy on the Commission resulting from the death or resignation of a member shall not affect its powers and shall be filled in the same manner in which the original appointment was made.

(h) **CONTINUATION OF MEMBERSHIP.**—If any member of the Commission who was appointed to the Commission as a Member of Congress or as an officer or employee of a government leaves that office, or if any member of the Commission who was appointed from persons who are not officers or employees of a government becomes an officer or employee of a government, the member may continue as a member of the Commission for not longer than the 90-day period beginning on the date the member leaves that office or becomes such an officer or employee, as the case may be.

SEC. 412. COMPENSATION OF THE COMMISSION.

(a) **PAY.**—(1) Except as provided in paragraph (2), each member of the Commission who is not otherwise employed by the United States Government shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which he or she is engaged in the actual performance of duties as a member of the Commission.

(2) A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation.

(b) **TRAVEL.**—All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 413. DIRECTOR AND STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) **DIRECTOR.**—The Commission shall, without regard to section 5311(b) of title 5, United States Code, have a Director who shall be appointed by the Chairman and who shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

(b) **STAFF.**—The Chairman of the Commission may appoint and fix the pay of such additional personnel as the Chairman finds necessary to enable the Commission to carry out its duties. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid 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, except that the annual rate of pay for any individual so appointed may not exceed a rate equal to the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of such title.

(c) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services of experts and consultants under section 3109(b) of title 5, United States Code.

SEC. 414. POWERS OF COMMISSION.

(a) **HEARINGS AND SESSIONS.**—The Commission or, on authorization of the Commission, a member of the Commission may, for the purpose of carrying out this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(b) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department, agency, or entity within the executive or judicial branch of the Federal Government information necessary to enable it to carry out this subtitle. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **FACILITIES AND SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission to assist the Commission in carrying out its duties under this subtitle.

(d) **EXPENDITURES AND CONTRACTS.**—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or member considers appropriate for the purposes of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in appropriation Acts.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) **GIFTS.**—The Commission may accept, use, and dispose of gifts or donations of services or property.

Appendix A

PUBLIC LAW 101-650 [H.R. 5316]; December 1, 1990

JUDICIAL IMPROVEMENTS ACT OF 1990

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Judicial Improvements Act of 1990".

TITLE I—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

SEC. 101. SHORT TITLE.

This title may be cited as the "Civil Justice Reform Act of 1990".

SEC. 102. FINDINGS.

The Congress makes the following findings:

(1) The problems of cost and delay in civil litigation in any United States district court must be addressed in the context of the full range of demands made on the district court's resources by both civil and criminal matters.

(2) The courts, the litigants, the litigants' attorneys, and the Congress and the executive branch, share responsibility for cost and delay in civil litigation and its impact on access to the courts, adjudication of cases on the merits, and the ability of the civil justice system to provide proper and timely judicial relief for aggrieved parties.

(3) The solutions to problems of cost and delay must include significant contributions by the courts, the litigants, the litigants' attorneys, and by the Congress and the executive branch.

(4) In identifying, developing, and implementing solutions to problems of cost and delay in civil litigation, it is necessary to achieve a method of consultation so that individual judicial officers, litigants, and litigants' attorneys who have developed techniques for litigation management and cost and delay reduction can effectively and promptly communicate those techniques to all participants in the civil justice system.

(5) Evidence suggests that an effective litigation management and cost and delay reduction program should incorporate several interrelated principles, including—

(A) the differential treatment of cases that provides for individualized and specific management according to their needs, complexity, duration, and probable litigation careers;

(B) early involvement of a judicial officer in planning the progress of a case, controlling the discovery process, and scheduling hearings, trials, and other litigation events;

(C) regular communication between a judicial officer and attorneys during the pretrial process; and

(D) utilization of alternative dispute resolution programs in appropriate cases.

(6) Because the increasing volume and complexity of civil and criminal cases imposes increasingly heavy workload burdens on judicial officers, clerks of court, and other court personnel, it is necessary to create an effective administrative structure to ensure ongoing consultation and communication regarding effective litigation management and cost and delay reduction principles and techniques.

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

(a) **CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS.**—Title 28, United States Code, is amended by inserting after chapter 21 the following new chapter:

“CHAPTER 23—CIVIL JUSTICE EXPENSE AND DELAY REDUCTION PLANS

“Sec.

“471. Requirement for a district court civil justice expense and delay reduction plan.

“472. Development and implementation of a civil justice expense and delay reduction plan.

“473. Content of civil justice expense and delay reduction plans.

“474. Review of district court action.

“475. Periodic district court assessment.

“476. Enhancement of judicial information dissemination.

“477. Model civil justice expense and delay reduction plan.

“478. Advisory groups.

“479. Information on litigation management and cost and delay reduction.

“480. Training programs.

“481. Automated case information.

“482. Definitions.

“§ 471. Requirement for a district court civil justice expense and delay reduction plan

“There shall be implemented by each United States district court, in accordance with this title, a civil justice expense and delay reduction plan. The plan may be a plan developed by such district court or a model plan developed by the Judicial Conference of the United States. The purposes of each plan are to facilitate deliberate adjudication of civil cases on the merits, monitor discovery, improve litigation management, and ensure just, speedy, and inexpensive resolutions of civil disputes.

“§ 472. Development and implementation of a civil justice expense and delay reduction plan

“(a) The civil justice expense and delay reduction plan implemented by a district court shall be developed or selected, as the case may be, after consideration of the recommendations of an advisory group appointed in accordance with section 478 of this title.

“(b) The advisory group of a United States district court shall submit to the court a report, which shall be made available to the public and which shall include—

“(1) an assessment of the matters referred to in subsection (c)(1);

“(2) the basis for its recommendation that the district court develop a plan or select a model plan;

“(3) recommended measures, rules and programs; and

"(4) an explanation of the manner in which the recommended plan complies with section 473 of this title.

"(c)(1) In developing its recommendations, the advisory group of a district court shall promptly complete a thorough assessment of the state of the court's civil and criminal dockets. In performing the assessment for a district court, the advisory group shall—

"(A) determine the condition of the civil and criminal dockets;

"(B) identify trends in case filings and in the demands being placed on the court's resources;

"(C) identify the principal causes of cost and delay in civil litigation, giving consideration to such potential causes as court procedures and the ways in which litigants and their attorneys approach and conduct litigation; and

"(D) examine the extent to which costs and delays could be reduced by a better assessment of the impact of new legislation on the courts.

"(2) In developing its recommendations, the advisory group of a district court shall take into account the particular needs and circumstances of the district court, litigants in such court, and the litigants' attorneys.

"(3) The advisory group of a district court shall ensure that its recommended actions include significant contributions to be made by the court, the litigants, and the litigants' attorneys toward reducing cost and delay and thereby facilitating access to the courts.

"(d) The chief judge of the district court shall transmit a copy of the plan implemented in accordance with subsection (a) and the report prepared in accordance with subsection (b) of this section to—

"(1) the Director of the Administrative Office of the United States Courts;

"(2) the judicial council of the circuit in which the district court is located; and

"(3) the chief judge of each of the other United States district courts located in such circuit.

"§ 473. Content of civil justice expense and delay reduction plans

"(a) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following principles and guidelines of litigation management and cost and delay reduction:

"(1) systematic, differential treatment of civil cases that tailors the level of individualized and case specific management to such criteria as case complexity, the amount of time reasonably needed to prepare the case for trial, and the judicial and other resources required and available for the preparation and disposition of the case;

"(2) early and ongoing control of the pretrial process through involvement of a judicial officer in—

"(A) assessing and planning the progress of a case;

"(B) setting early, firm trial dates, such that the trial is scheduled to occur within eighteen months after the filing of the complaint, unless a judicial officer certifies that—

"(i) the demands of the case and its complexity make such a trial date incompatible with serving the ends of justice; or

“(ii) the trial cannot reasonably be held within such time because of the complexity of the case or the number or complexity of pending criminal cases;

“(C) controlling the extent of discovery and the time for completion of discovery, and ensuring compliance with appropriate requested discovery in a timely fashion; and

“(D) setting, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

“(3) for all cases that the court or an individual judicial officer determines are complex and any other appropriate cases, careful and deliberate monitoring through a discovery-case management conference or a series of such conferences at which the presiding judicial officer—

“(A) explores the parties’ receptivity to, and the propriety of, settlement or proceeding with the litigation;

“(B) identifies or formulates the principal issues in contention and, in appropriate cases, provides for the staged resolution or bifurcation of issues for trial consistent with Rule 42(b) of the Federal Rules of Civil Procedure;

“(C) prepares a discovery schedule and plan consistent with any presumptive time limits that a district court may set for the completion of discovery and with any procedures a district court may develop to—

“(i) identify and limit the volume of discovery available to avoid unnecessary or unduly burdensome or expensive discovery; and

“(ii) phase discovery into two or more stages; and

“(D) sets, at the earliest practicable time, deadlines for filing motions and a time framework for their disposition;

“(4) encouragement of cost-effective discovery through voluntary exchange of information among litigants and their attorneys and through the use of cooperative discovery devices;

“(5) conservation of judicial resources by prohibiting the consideration of discovery motions unless accompanied by a certification that the moving party has made a reasonable and good faith effort to reach agreement with opposing counsel on the matters set forth in the motion; and

“(6) authorization to refer appropriate cases to alternative dispute resolution programs that—

“(A) have been designated for use in a district court; or

“(B) the court may make available, including mediation, minitrial, and summary jury trial.

“(b) In formulating the provisions of its civil justice expense and delay reduction plan, each United States district court, in consultation with an advisory group appointed under section 478 of this title, shall consider and may include the following litigation management and cost and delay reduction techniques:

“(1) a requirement that counsel for each party to a case jointly present a discovery-case management plan for the case at the initial pretrial conference, or explain the reasons for their failure to do so;

“(2) a requirement that each party be represented at each pretrial conference by an attorney who has the authority to bind that party regarding all matters previously identified by the court for discussion at the conference and all reasonably related matters;

"(3) a requirement that all requests for extensions of deadlines for completion of discovery or for postponement of the trial be signed by the attorney and the party making the request;

"(4) a neutral evaluation program for the presentation of the legal and factual basis of a case to a neutral court representative selected by the court at a nonbinding conference conducted early in the litigation;

"(5) a requirement that, upon notice by the court, representatives of the parties with authority to bind them in settlement discussions be present or available by telephone during any settlement conference; and

"(6) such other features as the district court considers appropriate after considering the recommendations of the advisory group referred to in section 472(a) of this title.

"(c) Nothing in a civil justice expense and delay reduction plan relating to the settlement authority provisions of this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, or any delegation of the Attorney General.

"§ 474. Review of district court action

"(a)(1) The chief judges of each district court in a circuit and the chief judge of the court of appeals for such circuit shall, as a committee—

"(A) review each plan and report submitted pursuant to section 472(d) of this title; and

"(B) make such suggestions for additional actions or modified actions of that district court as the committee considers appropriate for reducing cost and delay in civil litigation in the district court.

"(2) The chief judge of a court of appeals and the chief judge of a district court may designate another judge of such court to perform the chief judge's responsibilities under paragraph (1) of this subsection.

"(b) The Judicial Conference of the United States—

"(1) shall review each plan and report submitted by a district court pursuant to section 472(d) of this title; and

"(2) may request the district court to take additional action if the Judicial Conference determines that such court has not adequately responded to the conditions relevant to the civil and criminal dockets of the court or to the recommendations of the district court's advisory group.

"§ 475. Periodic district court assessment

"After developing or selecting a civil justice expense and delay reduction plan, each United States district court shall assess annually the condition of the court's civil and criminal dockets with a view to determining appropriate additional actions that may be taken by the court to reduce cost and delay in civil litigation and to improve the litigation management practices of the court. In performing such assessment, the court shall consult with an advisory group appointed in accordance with section 478 of this title.

"§ 476. Enhancement of judicial information dissemination

"(a) The Director of the Administrative Office of the United States Courts shall prepare a semiannual report, available to the public, that discloses for each judicial officer—

"(1) the number of motions that have been pending for more than six months and the name of each case in which such motion has been pending;

"(2) the number of bench trials that have been submitted for more than six months and the name of each case in which such trials are under submission; and

"(3) the number and names of cases that have not been terminated within three years after filing.

"(b) To ensure uniformity of reporting, the standards for categorization or characterization of judicial actions to be prescribed in accordance with section 481 of this title shall apply to the semi-annual report prepared under subsection (a).

"§ 477. Model civil justice expense and delay reduction plan

"(a)(1) Based on the plans developed and implemented by the United States district courts designated as Early Implementation District Courts pursuant to section 103(c) of the Civil Justice Reform Act of 1990, the Judicial Conference of the United States may develop one or more model civil justice expense and delay reduction plans. Any such model plan shall be accompanied by a report explaining the manner in which the plan complies with section 473 of this title.

"(2) The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations to the Judicial Conference regarding the development of any model civil justice expense and delay reduction plan.

"(b) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives copies of any model plan and accompanying report.

"§ 478. Advisory groups

"(a) Within ninety days after the date of the enactment of this chapter, the advisory group required in each United States district court in accordance with section 472 of this title shall be appointed by the chief judge of each district court, after consultation with the other judges of such court.

"(b) The advisory group of a district court shall be balanced and include attorneys and other persons who are representative of major categories of litigants in such court, as determined by the chief judge of such court.

"(c) Subject to subsection (d), in no event shall any member of the advisory group serve longer than four years.

"(d) Notwithstanding subsection (c), the United States Attorney for a judicial district, or his or her designee, shall be a permanent member of the advisory group for that district court.

"(e) The chief judge of a United States district court may designate a reporter for each advisory group, who may be compensated in accordance with guidelines established by the Judicial Conference of the United States.

"(f) The members of an advisory group of a United States district court and any person designated as a reporter for such group shall be considered as independent contractors of such court when in the performance of official duties of the advisory group and may not, solely by reason of service on or for the advisory group, be prohibited from practicing law before such court.

"§ 479. Information on litigation management and cost and delay reduction

"(a) Within four years after the date of the enactment of this chapter, the Judicial Conference of the United States shall prepare a comprehensive report on all plans received pursuant to section 472(d) of this title. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding such report to the Judicial Conference during the preparation of the report. The Judicial Conference shall transmit copies of the report to the United States district courts and to the Committees on the Judiciary of the Senate and the House of Representatives.

"(b) The Judicial Conference of the United States shall, on a continuing basis—

"(1) study ways to improve litigation management and dispute resolution services in the district courts; and

"(2) make recommendations to the district courts on ways to improve such services.

"(c)(1) The Judicial Conference of the United States shall prepare, periodically revise, and transmit to the United States district courts a Manual for Litigation Management and Cost and Delay Reduction. The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts may make recommendations regarding the preparation of and any subsequent revisions to the Manual.

"(2) The Manual shall be developed after careful evaluation of the plans implemented under section 472 of this title, the demonstration program conducted under section 104 of the Civil Justice Reform Act of 1990, and the pilot program conducted under section 105 of the Civil Justice Reform Act of 1990.

"(3) The Manual shall contain a description and analysis of the litigation management, cost and delay reduction principles and techniques, and alternative dispute resolution programs considered most effective by the Judicial Conference, the Director of the Federal Judicial Center, and the Director of the Administrative Office of the United States Courts.

"§ 480. Training programs

"The Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts shall develop and conduct comprehensive education and training programs to ensure that all judicial officers, clerks of court, courtroom deputies, and other appropriate court personnel are thoroughly familiar with the most recent available information and analyses about litigation management and other techniques for reducing cost and expediting the resolution of civil litigation. The curriculum of such training programs shall be periodically revised to reflect such information and analyses.

"§ 481. Automated case information

"(a) The Director of the Administrative Office of the United States Courts shall ensure that each United States district court has the automated capability readily to retrieve information about the status of each case in such court.

"(b)(1) In carrying out subsection (a), the Director shall prescribe—

“(A) the information to be recorded in district court automated systems; and

“(B) standards for uniform categorization or characterization of judicial actions for the purpose of recording information on judicial actions in the district court automated systems.

“(2) The uniform standards prescribed under paragraph (1)(B) of this subsection shall include a definition of what constitutes a dismissal of a case and standards for measuring the period for which a motion has been pending.

“(c) Each United States district court shall record information as prescribed pursuant to subsection (b) of this section.

“§ 482. Definitions

“As used in this chapter, the term ‘judicial officer’ means a United States district court judge or a United States magistrate.”

(b) IMPLEMENTATION.—(1) Except as provided in section 105 of this Act, each United States district court shall, within three years after the date of the enactment of this title, implement a civil justice expense and delay reduction plan under section 471 of title 28, United States Code, as added by subsection (a).

(2) The requirements set forth in sections 471 through 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.

(c) EARLY IMPLEMENTATION DISTRICT COURTS.—

(1) Any United States district court that, no earlier than June 30, 1991, and no later than December 31, 1991, develops and implements a civil justice expense and delay reduction plan under chapter 23 of title 28, United States Code, as added by subsection (a), shall be designated by the Judicial Conference of the United States as an Early Implementation District Court.

(2) The chief judge of a district so designated may apply to the Judicial Conference for additional resources, including technological and personnel support and information systems, necessary to implement its civil justice expense and delay reduction plan. The Judicial Conference may provide such resources out of funds appropriated pursuant to section 106(a).

(3) Within 18 months after the date of the enactment of this title, the Judicial Conference shall prepare a report on the plans developed and implemented by the Early Implementation District Courts.

(4) The Director of the Administrative Office of the United States Courts shall transmit to the United States district courts and to the Committees on the Judiciary of the Senate and House of Representatives—

(A) copies of the plans developed and implemented by the Early Implementation District Courts;

(B) the reports submitted by such district courts pursuant to section 472(d) of title 28, United States Code, as added by subsection (a); and

(C) the report prepared in accordance with paragraph (3) of this subsection.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by adding at the end thereof the following:

“23. Civil justice expense and delay reduction plans..... 471”.

SEC. 104. DEMONSTRATION PROGRAM.

(a) **IN GENERAL.**—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a demonstration program in accordance with subsection (b).

(2) A district court participating in the demonstration program may also be an Early Implementation District Court under section 103(c).

(b) **PROGRAM REQUIREMENT.**—(1) The United States District Court for the Western District of Michigan and the United States District Court for the Northern District of Ohio shall experiment with systems of differentiated case management that provide specifically for the assignment of cases to appropriate processing tracks that operate under distinct and explicit rules, procedures, and timeframes for the completion of discovery and for trial.

(2) The United States District Court for the Northern District of California, the United States District Court for the Northern District of West Virginia, and the United States District Court for the Western District of Missouri shall experiment with various methods of reducing cost and delay in civil litigation, including alternative dispute resolution, that such district courts and the Judicial Conference of the United States shall select.

(c) **STUDY OF RESULTS.**—The Judicial Conference of the United States, in consultation with the Director of the Federal Judicial Center and the Director of the Administrative Office of the United States Courts, shall study the experience of the district courts under the demonstration program.

(d) **REPORT.**—Not later than December 31, 1995, the Judicial Conference of the United States shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report of the results of the demonstration program.

SEC. 105. PILOT PROGRAM.

(a) **IN GENERAL.**—(1) During the 4-year period beginning on January 1, 1991, the Judicial Conference of the United States shall conduct a pilot program in accordance with subsection (b).

(2) A district court participating in the pilot program shall be designated as an Early Implementation District Court under section 103(c).

(b) **PROGRAM REQUIREMENTS.**—(1) Ten district courts (in this section referred to as "Pilot Districts") designated by the Judicial Conference of the United States shall implement expense and delay reduction plans under chapter 23 of title 28, United States Code (as added by section 103(a)), not later than December 31, 1991. In addition to complying with all other applicable provisions of chapter 23 of title 28, United States Code (as added by section 103(a)), the expense and delay reduction plans implemented by the Pilot Districts shall include the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(2) At least 5 of the Pilot Districts designated by the Judicial Conference shall be judicial districts encompassing metropolitan areas.

(3) The expense and delay reduction plans implemented by the Pilot Districts shall remain in effect for a period of 3 years. At the end of that 3-year period, the Pilot Districts shall no longer be required to include, in their expense and delay reduction plans, the

6 principles and guidelines of litigation management and cost and delay reduction described in paragraph (1).

(c) PROGRAM STUDY REPORT.—(1) Not later than December 31, 1995, the Judicial Conference shall submit to the Committees on the Judiciary of the Senate and House of Representatives a report on the results of the pilot program under this section that includes an assessment of the extent to which costs and delays were reduced as a result of the program. The report shall compare those results to the impact on costs and delays in ten comparable judicial districts for which the application of section 473(a) of title 28, United States Code, had been discretionary. That comparison shall be based on a study conducted by an independent organization with expertise in the area of Federal court management.

(2)(A) The Judicial Conference shall include in its report a recommendation as to whether some or all district courts should be required to include, in their expense and delay reduction plans, the 6 principles and guidelines of litigation management and cost and delay reduction identified in section 473(a) of title 28, United States Code.

(B) If the Judicial Conference recommends in its report that some or all district courts be required to include such principles and guidelines in their expense and delay reduction plans, the Judicial Conference shall initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

(C) If in its report the Judicial Conference does not recommend an expansion of the pilot program under subparagraph (A), the Judicial Conference shall identify alternative, more effective cost and delay reduction programs that should be implemented in light of the findings of the Judicial Conference in its report, and the Judicial Conference may initiate proceedings for the prescription of rules implementing its recommendation, pursuant to chapter 131 of title 28, United States Code.

SEC. 106. AUTHORIZATION.

(a) EARLY IMPLEMENTATION DISTRICT COURTS.—There is authorized to be appropriated not more than \$15,000,000 for fiscal year 1991 to carry out the resource and planning needs necessary for the implementation of section 103(c).

(b) IMPLEMENTATION OF CHAPTER 23.—There is authorized to be appropriated not more than \$5,000,000 for fiscal year 1991 to implement chapter 23 of title 28, United States Code.

(c) DEMONSTRATION PROGRAM.—There is authorized to be appropriated not more than \$5,000,000 for fiscal year 1991 to carry out the provisions of section 104.

TITLE II—FEDERAL JUDGESHIPS

SECTION 201. SHORT TITLE.

This title may be cited as the "Federal Judgeship Act of 1990".

SEC. 202. CIRCUIT JUDGES FOR THE CIRCUIT COURT OF APPEALS.

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

(1) 2 additional circuit judges for the third circuit court of appeals;

Appendix B

1. Case Types

The case type categories used in this analysis are derived from a more detailed taxonomy of nature-of-suit codes employed by the Administrative Office in its data collection and reporting. The table below shows exactly which nature-of-suit codes were included within each category.

Category	Nature-of-Suit Code and Description	
Asbestos	368	Asbestos
Bankruptcy Matters	420	Bankruptcy Trustee
	421	Bankruptcy Transfer
	422	Bankruptcy Appeals Rule 801
	423	Withdrawal
Banks and Banking	430	Banks and Banking
Civil Rights	440	Civil Rights: Other
	441	Civil Rights: Voting
	442	Civil Rights: Jobs
	443	Civil Rights: Accommodations
	444	Civil Rights: Welfare
Commerce: ICC Rates, etc.	450	Commerce: ICC Rates, etc.
Contract	110	Contract: Insurance
	120	Contract: Marine
	130	Contract: Miller Act
	140	Contract: Negotiable Instrument
	190	Other Contract
	195	Contract Product Liability
Copyright, Patent, Trademark	820	Copyright
	830	Patent
	840	Trademark
ERISA	791	ERISA
Forfeiture & Penalty (excl. drug)	610	Forfeiture and Penalty: Agriculture
	620	Forfeiture and Penalty: Food and Drug
	630	Forfeiture and Penalty: Liquor
	640	Forfeiture and Penalty: Railroad and Trucks
	690	Miscellaneous Forfeiture and Penalty
Fraud, Truth in Lending	370	Fraud
	371	Truth in Lending
Labor	710	Fair Labor Standards Act
	720	Labor Management Relations
	730	Labor Management Reporting and Disclosure
	740	Railway Labor Act
	790	Other Labor Litigation

Category	Nature-of-Suit Code and Description	
Land Condemnation, Foreclosure	210	Land Condemnation
	220	Foreclosure
Personal Injury	310	Airplane Personal Injury
	315	Airplane Product Liability
	330	Federal Employers Liability
	340	Marine Personal Injury
	345	Marine Product Liability
	350	Motor Vehicle
	355	Motor Vehicle Product Liability
	360	Other Personal Injury
	362	Medical Malpractice
	365	Personal Injury Product Liability
Prisoner	530	Habeas Corpus
	535	Death Penalty Habeas Corpus
	540	Mandamus and Other: Prisoner
	550	Civil Rights: Prisoner
RICO	470	RICO
Securities, Commodities	850	Securities, Commodities Exchange
Social Security	860	Social Security-General
	861	Social Security-HIA
	862	Social Security-Black Lung
	863	Social Security-DIWC
	864	Social Security-SSID
	865	Social Security-RSI
Student Loan and Veteran's	152	Recovery of Defaulted Student Loans
	153	Recovery of Veteran's Benefit Overpayment
Tax	870	Taxes
	871	Internal Revenue Service-Third Party
	875	Tax Challenge
Other	150	Contract: Recovery, Enforcement
	151	Contract: Medicare Recovery
	160	Contract: Stockholder Suits
	230	Rent, Lease, and Ejectment
	240	Torts to Land
	245	Real Property Product Liability
	290	All Other Real Property
	320	Assault, Libel and Slander
	380	Other Personal Property Damage
	385	Property Damage-Product Liability
	400	State reapportionment
	410	Antitrust
460	Deportation	
510	Vacate Sentence	

(continued)

Category	Nature-of-Suit Code and Description
Other (continued)	520 Parole Board Review
	625 Drug-Related Property Forfeiture
	650 Air Line Regulations
	660 Occupational Safety/Health
	810 Selective Service
	890 Other Statutory Actions
	891 Agricultural Acts
	892 Economic Stabilization Act
	893 All Environmental Matters
	894 Energy Allocation Act
	895 Freedom of Information Act
	900 Equal Access to Justice Act Appeal of Fee Determination
	910 Local Question: Domestic Relations
	920 Local Question: Insanity
	930 Local Question: Probate
	950 Constitutionality of State Statutes
	970 NARA
990 Miscellaneous Local Matters	
992 Local Question: Local Appeal	

2. Case weights for certain case categories

Where we refer to case weights, we use weights from a 1979 study in which judges kept records of time expended on all cases worked on during a three-month period. Results of this study showed that the average time across all case types in all districts was about 3.9 hours for a weight of 1.0. For comparison, the weight for an automobile personal injury case is 0.87, or about 3.4 judge-hours. Three prominent categories of cases were not separately identified at the time of the 1979 study. Weights subsequently assigned to these categories are those of the most similar category identified in the 1979 study. Asbestos cases were assigned the same weight as other personal injury product liability cases: 1.43, representing an average of about 5.6 hours of judge time per case. The two other prominent categories not separately identified in the 1979 study are student loan and recovery of overpayments of veteran's benefits, both of which are assigned a weight of 0.03.

It is important to understand that these weights are derived by dividing all terminated cases of a certain type into all judge time expended on that type. That means that cases requiring no judge action were included in the divisor. Accordingly, among cases that required any judge time, the average weight will be considerably higher than the weight for all cases.

3. Life expectancy computation

Life expectancy was calculated as follows. Case filing and termination dates and age at termination were computed to exact months. For each district and each month within the statistical year, counts were made of the number of cases pending at each age (from 0 through 99, and 100 or more months of age) and the number that were terminated at that age. For each

age, both pending and termination counts were totalled across the twelve months of the statistical year. The ratio of termination total to pending total then gives a precise estimate of the probability that a case reaching a given "birthday" (from the "0th," which is birth itself, to the 100th month) will terminate before reaching its next birthday. These probabilities were then used in standard life expectancy computations, wherein a constant filing rate is broken down according to the probabilities of termination or survival ($1 - m_i$, where m_i is the probability of termination at age i). The standard computation proceeds as follows: for constant filings of F , $F \cdot (1 - m_0)$ cases survive to age 1 month. In turn, $(1 - m_1)$ of these survive to age 2 months, and so on. At each age, the average at death is calculated at $i + 0.495$ (it is not precisely at the $1/2$ month point, since slightly more cases terminate between ages i and $i + .5$ than the number that terminate between ages $i + .5$ and $i + 1$). The average age at termination for all cases that ensues from the constant filing rate is then the life expectancy (at case filing) for the statistical year.

4. Indexed average lifespan (IAL) computation

IAL is computed in a two-step process. First, an expected average lifespan is computed for the cases terminated in a given year. Each terminated case is assigned an expected lifespan, which is simply the average age at termination observed among all cases of the same case type in all districts over the past ten years. For instance, the average age at termination for the nearly 73,000 automobile personal injury actions terminated in the last ten years was 11.8 months. Summing the expected lifespans for all cases terminated in the district in the relevant year and dividing by the total number of cases produces the expected average lifespan (EAL). It suggests what the actual average lifespan of these cases would have been if, for each case type, the average age at termination was the same as it had been among all cases of the same type in all districts in the last ten years. In that sense, EAL suggests what the average age at termination would be in an "average" district that had exactly the same mix of cases as the district in question.

Second, we compute the actual average lifespan (AAL) for the cases disposed of in the district in the year. The indexed average lifespan is $12 \times \text{AAL} / \text{EAL}$ (the "index" of 12 is chosen because the overall average age at termination among civil cases is about 12 months). If the actual average lifespan for cases terminated in the district is 13 months, but the expected average lifespan is 15 months, then IAL is $12 \times 13 / 15$, or about 10.4. It is lower than 12, suggesting that the average lifespan for the district was lower than "expected" and thus that the district's cases appear to be disposed of more quickly than is typical among all districts.