

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

Memorandum

DATE: June 5, 1990
FROM: *RF* Robert E. Feidler
SUBJECT: Title I of S. 2648
TO: Honorable Robert F. Peckham
Mr. L. Ralph Meham
Mr. James E. Macklin, Jr.
Ms. Karen K. Siegel

Attached is an amended version of Title I of S. 2648 reflecting comments by the Peckham subcommittee and General Counsel's office.

Attachment

Feidler copy

161012.251

*M called up as of
S.L.C. June 5.*

THIS WAS INTRODUCED ON MAY 17, 1990

101ST CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. BIDEN (for himself and Mr. THURMOND) introduced the following bill;
which was read twice and referred to the Committee on _____

A BILL

To amend title 28, United States Code, to provide for civil justice expense and delay reduction plans, authorize additional judicial positions for the courts of appeals and district courts of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assem-*
3 *bled, That this Act may be cited as the "Judicial Improve-*
4 *ments Act of 1990".*

5 **TITLE I—CIVIL JUSTICE EXPENSE**
6 **AND DELAY REDUCTION PLANS**

7 SEC. 101. SHORT TITLE.

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

1 SEC. 102. FINDINGS.

2 The Congress finds that:

3 (1) The problems of cost and delay in civil liti-
4 gation in any United States district court must be ad-
5 dressed in the context of the full range of demands
6 made on the district court's resources by both civil
7 and criminal matters.

8 (2) The court, the litigants, and the litigants' at-
9 torneys share responsibility for cost and delay in
10 civil litigation and its impact on access to the courts
11 and the ability of the civil justice system to provide
12 proper and timely judicial relief for aggrieved par-
13 ties.

14 (3) The solutions to problems of cost and delay
15 must include significant contributions by the court,
16 the litigants, and the litigants' attorneys.

17 (4) In identifying, developing, and implement-
18 ing solutions to problems of cost and delay in civil
19 litigation, it is necessary to achieve a method of con-
20 sultation so that individual judicial officers, litigants,
21 and litigants' attorneys who have developed tech-
22 niques for litigation management and cost and delay
23 reduction can effectively and promptly communicate
24 those techniques to all participants in the civil justice
25 system.

1 (5) Evidence suggests that an effective litigation
2 management and cost and delay reduction program
3 should incorporate several interrelated principles, in-
4 cluding—

5 (A) the differential treatment of cases that
6 provides for individualized and specific man-
7 agement according to their needs and probable
8 litigation careers;

9 (B) early involvement of a judicial officer
10 in planning the progress of a case, controlling
11 the discovery process, and scheduling litigation
12 events;

13 (C) regular communication between a judi-
14 cial officer and attorneys during the pretrial
15 process; and

16 (D) utilization of alternative dispute resolu-
17 tion programs in appropriate cases.

18 (6) Because the increasing volume and com-
19 plexity of civil and criminal cases imposes increas-
20 ingly heavy workload burdens on judicial officers,
21 clerks of court, and other court personnel, it is nec-
22 essary to create an effective administrative structure
23 to ensure ongoing consultation and communication
24 regarding effective litigation management and cost
25 and delay reduction principles and techniques.

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

2 (a) CIVIL JUSTICE EXPENSE AND DELAY REDUCTION
3 PLANS.—Title 28, United States Code, is amended by in-
4 serting after chapter 21 the following new chapter:

5 “CHAPTER 23—CIVIL JUSTICE EXPENSE AND
6 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. Model civil justice expense and delay reduction plan.

“477. Advisory groups.

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

“479. Training programs.

“480. Automated case disposition information.

“481. Definitions.

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

9 “There shall be implemented by each United States
10 district court, in accordance with this title, a civil justice
11 expense and delay reduction plan. The plan may be a plan
12 developed by such district court or a model plan developed
13 by the Judicial Conference of the United States. The pur-
14 poses of each plan are to facilitate deliberate adjudication
15 of civil cases on the merits, monitor discovery, improve
16 litigation management, and ensure just, speedy, and inex-
17 pensive resolutions of civil disputes.

1 “§ 472. Development and implementation of a civil justice ex-
2 pense and delay reduction plan

3 “(a) The civil justice expense and delay reduction
4 plan implemented by a district court shall be developed or
5 selected, as the case may be, after consideration of the rec-
6 ommendations of an advisory group appointed in accord-
7 ance with section 477 of this title.

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

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

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

15 “(3) recommended measures, rules and pro-
16 grams; and

17 “(4) an explanation of the manner in which the
18 recommended plan complies with section 473 of this
19 title.

20 “(c)(1) In developing its recommendations, the advi-
21 sory group of a district court shall promptly complete a
22 thorough assessment of the state of the court’s civil and
23 criminal dockets. In performing the assessment for a dis-
24 trict court, the advisory group shall—

25 “(A) determine the condition of the civil and
26 criminal dockets;

1 “(B) identify trends in case filings and in the
2 demands being placed on the court’s resources; and

3 “(C) identify the principal causes of cost and
4 delay in civil litigation, giving consideration to such
5 potential causes as court procedures and the ways in
6 which litigants and their attorneys approach and con-
7 duct litigation.

8 “(2) In developing its recommendations, the advisory
9 group of a district court shall take into account the particu-
10 lar needs and circumstances of the district court, litigants
11 in such court, and the litigants’ attorneys.

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

17 “(d) The chief judge of the district court shall trans-
18 mit a copy of the plan implemented in accordance with
19 subsection (a) and the report prepared in accordance with
20 subsection (b) of this section to—

21 “(1) the Director of the Administrative Office
22 of the United States Courts;

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

1 “(3) the chief judge of each of the other United
 2 States district courts located in such circuit,
 3 “§ 473. Content of civil justice expense and delay reduction
 4 plans

*for the purpose of
 complying with section 424
 of this title.* OK

5 “(a) A civil justice expense and delay reduction plan
 6 developed and implemented under this chapter shall in-
 7 clude provisions applying the following principles and
 8 guidelines of litigation management and cost and delay re-
 9 duction:

10 “(1) systematic, differential treatment of civil
 11 cases that tailors the level of individualized and case
 12 specific management to such criteria as case com-
 13 plexity, the amount of time reasonably needed to
 14 prepare the case for trial, and the judicial and other
 15 resources required for the preparation and disposition
 16 of the case;

17 “(2) early and ongoing control of the pretrial
 18 process through involvement of a judicial officer
 19 in—

20 “(A) assessing and planning the progress
 21 of a case;

22 ~~“(B) setting early, firm trial dates, such~~
 23 ~~that the trial is scheduled to occur within eight-~~
 24 ~~een months of the filing of the complaint,~~
 25 ~~unless a judicial officer certifies that the trial~~

no

INSERT NEW (B) as follows: “(B) establishing a trial date or a date by which the parties shall be ready for trial, which date shall be as early as is practicable and, should such trial not be commenced within eighteen months of filing, a judicial officer shall certify the reasons why the trial

Agency trial act
or that ends in
judicial oversight
of parties or settles
fairly
no good

1 cannot reasonably be held within such time be-
 2 cause of the complexity of the case or the
 3 number or complexity of pending criminal
 4 cases;

5 “(C) controlling the extent of discovery
 6 and the time for completion of discovery, and
 7 ensuring compliance with ^{appropriate} requested discovery
 8 in a timely fashion; and

9 “(D) setting deadlines for the filing^{and expeditious consideration} of mo-
 10 tions; and ~~target dates for the deciding of mo-~~
 11 tions;

no

12 “(3) for all cases that the court or an individual
 13 judicial officer determines are complex and any
 14 other appropriate cases, careful and deliberate moni-
 15 toring through a discovery-case management confer-
 16 ence or a series of such conferences at which the
 17 presiding judicial officer—

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

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

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

6 “(i) identify and limit the volume of
7 discovery available to avoid unnecessary or
8 unduly burdensome or expensive discov-
9 ery; and

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

12 “(D) establishes deadlines for filing mo-
13 tions and target dates for deciding motions;

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

18 “(5) conservation of judicial resources by pro-
19 hibiting the consideration of discovery motions
20 unless accompanied by a ^{certification} ~~statement~~ that the moving
21 party has made a reasonable and good faith effort to
22 reach agreement with opposing counsel on the mat-
23 ters set forth in the motion;

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

1 “(A) have been designated for use in a dis-
2 trict court; or

3 “(B) the court may make available, includ-
4 ing mediation, minitrial, and summary jury trial;
5 and

6 “(7) enhancement of the ^{information dissemination} ~~accountability of each~~ *OK*
7 judicial officer ~~in a district court~~ through semiannual
8 reports, available to the public, that disclose for each
9 judicial officer the number of motions that have been
10 pending for more than six months, the number of
11 bench trials that have been submitted for more than
12 six months, and the number of cases that have not
13 been terminated within three years of filing.

14 “(b) In formulating the provisions of its civil justice
15 expense and delay reduction plan, each United States dis-
16 trict court, in consultation with an advisory group appoint-
17 ed under section 477 of this title, shall consider adopting
18 the following litigation management and cost and delay re-
19 duction techniques:

20 “(1) a requirement that counsel for each party
21 to a case jointly present a discovery-case manage-
22 ment plan for the case at the initial pretrial confer-
23 ence, or explain the reasons for their failure to do so;

24 “(2) a requirement that each party be represent-
25 ed at each pretrial conference by an attorney who

Is this redundant with Rule 16(a) + (c)? DOJ will also have problems.

At variance w/ Rule 11 which requires only atty's signature.

1 has the authority to bind that party regarding all mat-
2 ters previously identified by the court for discussion
3 at the conference and all reasonably related matters;

4 “(3) a requirement that all requests for exten-
5 sions of deadlines for completion of discovery or for
6 postponement of the trial be signed by the attorney
7 and the party making the request;

8 “(4) a neutral evaluation program for the pres-
9 entation of the legal and factual bases of a case to a
10 neutral court representative at a nonbinding confer-
11 ence conducted early in the litigation;

12 “(5) a requirement that, upon notice by the
13 court, representatives of the parties with authority to
14 bind them in settlement discussions be present or
15 available by telephone during any settlement confer-
16 ence; and

17 “(6) such other features as the district court
18 considers appropriate after considering the recom-
19 mendations of the advisory group referred to in sec-
20 tion 472(a) of this title.

21 **“§ 474. Review of district court action**

22 “(a)(1) The chief judge of a ^{court of appeals} ~~circuit court~~ and the *OK*
23 chief judges of each district court in a circuit shall, as a
24 committee—

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

3 “(B) make such suggestions for additional ac-
4 tions or modified actions of that district court as the
5 committee considers appropriate for reducing cost
6 and delay in civil litigation in the district court.

7 “(2) The chief judge of a ^{court of appeals} circuit court and the chief
8 judge of a district court may designate another judge of
9 such court to perform the chief judge’s responsibilities
10 under paragraph (1) of this subsection.

11 “(b) The Judicial Conference of the United States—

12 “(1) shall review each plan and report submit-
13 ted by a district court pursuant to section 472(d) of
14 this title; and

15 “(2) may request the district court to take addi-
16 tional action if the Judicial Conference determines
17 that such court has not adequately responded to the
18 conditions relevant to the civil and criminal dockets
19 of the court or to the recommendations of the district
20 court’s advisory group.

21 “§ 475. Periodic district court assessment

22 “After developing or selecting a civil justice expense
23 and delay reduction plan, each United States district court
24 shall assess, at least once every two years, the condition of
25 the court’s civil and criminal dockets with a view to deter-

1 mining appropriate additional actions that may be taken by
2 the court to reduce cost and delay in civil litigation and to
3 improve the litigation management practices of the court.
4 In performing such assessment, the court shall consult with
5 an advisory group appointed in accordance with section
6 477 of this title.

7 **“§ 476. Model civil justice expense and delay reduction plan**

8 “(a)(1) Based on the plans developed and implement-
9 ed by the United States district courts designated as Early
10 Implementation District Courts pursuant to section 103(c)
11 of the Civil Justice Reform Act of 1990, the Judicial Con-
12 ference of the United States may develop one or more
13 model civil justice and expense delay reduction plans. Any
14 such model plan shall be accompanied by a report explain-
15 ing the manner in which the plan complies with section
16 473 of this title.

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

22 “(b) The Director of the Administrative Office of the
23 United States Courts shall transmit to the United States
24 district courts and to the Committees on the Judiciary of

1 the Senate and the House of Representatives copies of any
2 model plan and accompanying report.

3 "§ 477. Advisory groups

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

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

Does this need to be included? Why not leave up to each court.

14 "(c) In no event shall any member of the advisory
15 group serve longer than four years.

16 "(d) The chief judge of a United States district court
17 shall designate a reporter for each advisory group, who
18 may be compensated in accordance with guidelines estab-
19 lished by the Judicial Conference of the United States.

may? →

20 ^(e) "§ 478. Information on litigation management and cost and
21 delay reduction

22 "(a) Within four years after the date of the enactment
23 of this chapter, the Judicial Conference of the United
24 States Courts shall prepare a comprehensive report on all
25 plans received pursuant to section 472(d) of this title. The

Advisory group members and reporters shall have the status of independent contractors and shall not be banned for reason of their status as advisory group members from practice OK

1 Director of the Federal Judicial Center and the Director of
2 the Administrative Office of the United States Courts may
3 make recommendations regarding such report.

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

6 “(1) study ways to improve litigation manage-
7 ment and dispute resolution services in the district
8 courts; and

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

11 “(c)(1) The Judicial Conference of the United States
12 shall prepare, periodically revise, and transmit to the
13 United States district courts a Manual for Litigation Man-
14 agement and Cost and Delay Reduction. The Director of
15 the Federal Judicial Center and the Director of the Admin-
16 istrative Office of the United States Courts may make rec-
17 ommendations regarding the preparation of and any subse-
18 quent revisions to the Manual.

19 “(2) The Manual shall be developed after careful
20 evaluation of the plans implemented under section 472 of
21 this title and the litigation management and cost and delay
22 reduction demonstration programs that the Judicial Confer-
23 ence shall conduct under this title.

24 “(3) The Manual shall contain a description and anal-
25 ysis of the litigation management, cost and delay reduction

1 principles and techniques, and alternative dispute resolu-
2 tion programs considered most effective by the Judicial
3 Conference, the Director of the Federal Judicial Center,
4 and the Director of the Administrative Office of the United
5 States Courts.

6 **“§ 479. Training programs**

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

18 **“§ 480. Automated case disposition information**

19 “(a) The Director of the Administrative Office of the
20 United States Courts shall ensure that each United States
21 district court has the automated capability readily to re-
22 trieve information about the status of each case in such
23 court.

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

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

3 “(B) standards for uniform categorization or
4 characterization of judicial actions for the purpose of
5 recording information on judicial actions in the dis-
6 trict court automated systems.

7 “(2) The uniform standards prescribed under para-
8 graph (1)(B) of this subsection shall include a definition of
9 what constitutes a dismissal of a case and standards for
10 measuring the period for which a motion has been pend-
11 ing.

12 “(c) Each United States district court shall record in-
13 formation as prescribed pursuant to subsection (b) of this
14 section.

15 “§ 481. Definitions

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

19 (b) IMPLEMENTATION.—(1) Within three years after
20 the date of the enactment of this title, each United States
21 district court shall implement a civil justice expense and
22 delay reduction plan under section 471 of title 28, United
23 States Code, as added by subsection (a).

24 (2) The requirements set forth in sections 471 through
25 477 of title 28, United States Code, as added by subsection

1 (a), shall remain in effect for seven years after the date of
2 the enactment of this title.

3 (c) EARLY IMPLEMENTATION DISTRICT COURTS.—

4 (1) Any United States district court that, no ear-
5 lier than six months and no later than twelve months
6 after the date of the enactment of this title, develops
7 and implements a civil justice expense and delay re-
8 duction plan under chapter 23 of title 28, United
9 States Code, as added by subsection (a), shall be
10 designated by the Judicial Conference of the United
11 States as an Early Implementation District Court.

12 (2) The chief judge of a district so designated
13 may apply to the ^{Director of the Administrative Office} ~~Judicial Conference~~ for additional
14 resources, including technological and personnel sup-
15 port and information systems, necessary to imple-
16 ment its civil justice expense and delay reduction
17 plan. The ^{Director} ~~Judicial Conference~~ may, ~~in its discretion,~~
18 provide such resources out of funds appropriated
19 pursuant to section 105(a). OK

20 (3) Within eighteen months after the date of the
21 enactment of this title, the Judicial Conference shall
22 prepare a report on the plans developed and imple-
23 mented by the Early Implementation District Courts.

24 (4) The Director of the Administrative Office of
25 the United States Courts shall transmit to the United

1 States district courts and to the Committees on the
2 Judiciary of the Senate and House of Representa-
3 tives—

4 (A) copies of the plans developed and im-
5 plemented by the Early Implementation District
6 Courts;

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

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

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

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

15 **SEC. 104. DEMONSTRATION PROGRAM.**

16 (a) IN GENERAL.—(1) During the four-year period be-
17 ginning on January 1, 1991, the Judicial Conference of the
18 United States shall conduct a demonstration program in ac-
19 cordance with subsection (b).

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

23 (b) PROGRAM REQUIREMENT.—(1) The United States
24 District Court for the Western District of Michigan and the
25 United States District Court for the Northern District of

1 Ohio shall experiment with systems of differentiated case
2 management that provide specifically for the assignment of
3 cases to appropriate processing tracks that operate under
4 distinct and explicit rules, procedures and timeframes for
5 the completion of discovery and for trial.

6 (2) The United States District Court for the Northern
7 District of California, the United States District Court for
8 the Northern District of West Virginia, and the United
9 States District Court for the Western District of Missouri
10 shall experiment with various methods of reducing cost
11 and delay in civil litigation, including alternative dispute
12 resolution, that such district courts and the Judicial Confer-
13 ence of the United States shall select.

14 (c) STUDY OF RESULTS.—The Judicial Conference of
15 the United States, in consultation with the Director of the
16 Federal Judicial Center and the Director of the Administra-
17 tive Office of the United States Courts, shall study the ex-
18 perience of the district courts under the demonstration pro-
19 gram.

20 (d) REPORT.—Not later than March 31, 1995, the Ju-
21 dicial Conference of the United States shall transmit to the
22 Committees on the Judiciary of the Senate and the House
23 of Representatives a report of the results of the demonstra-
24 tion program.

1 SEC. 105. AUTHORIZATION.

2 (a) EARLY IMPLEMENTATION DISTRICT COURTS.—There
3 is authorized to be appropriated not more than \$15,000,000
4 for fiscal year 1990 to carry out the resource and planning
5 needs necessary for the implementation of section 103(c).

6 (b) IMPLEMENTATION OF CHAPTER 23.—There is au-
7 thorized to be appropriated not more than \$5,000,000 for
8 fiscal year 1990 to implement chapter 23 of title 28,
9 United States Code.

10 (c) DEMONSTRATION PROGRAM.—There is authorized
11 to be appropriated not more than \$5,000,000 for fiscal year
12 1990 to carry out the provisions of section 104.

13 **TITLE II—FEDERAL JUDGESHIPS**

14 SECTION 201. SHORT TITLE.

15 This title may be cited as the “Federal Judgeship Act
16 of 1990”.

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

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

20 (1) 2 additional circuit judges for the third cir-
21 cuit court of appeals;

22 (2) 4 additional circuit judges for the fourth cir-
23 cuit court of appeals;

24 (3) 1 additional circuit judge for the fifth circuit
25 court of appeals;

1 (4) 1 additional circuit judge for the sixth cir-
2 cuit court of appeals;

3 (5) 1 additional circuit judge for the eighth cir-
4 cuit court of appeals; and

5 (6) 2 additional circuit judges for the tenth cir-
6 cuit court of appeals.

7 (b) TABLES.—In order that the table contained in sec-
8 tion 44(a) of title 28, United States Code, will, with respect
9 to each judicial circuit, reflect the changes in the total
10 number of permanent circuit judgeships authorized as a
11 result of subsection (a) of this section, such table is amend-
12 ed 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.”.

13 **SEC. 203. DISTRICT JUDGES FOR THE DISTRICT COURTS.**

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

16 (1) 1 additional district judge for the western
17 district of Arkansas;

18 (2) 2 additional district judges for the northern
19 district of California;

- 1 (3) 5 additional district judges for the central
2 district of California;
- 3 (4) 1 additional district judge for the southern
4 district of California;
- 5 (5) 2 additional district judges for the district of
6 Connecticut;
- 7 (6) 2 additional district judges for the middle
8 district of Florida;
- 9 (7) 1 additional district judge for the northern
10 district of Florida;
- 11 (8) 1 additional district judge for the southern
12 district of Florida;
- 13 (9) 1 additional district judge for the middle
14 district of Georgia;
- 15 (10) 1 additional district judge for the northern
16 district of Illinois;
- 17 (11) 1 additional district judge for the southern
18 district of Iowa;
- 19 (12) 1 additional district judge for the western
20 district of Louisiana;
- 21 (13) 1 additional district judge for the district of
22 Maine;
- 23 (14) 1 additional district judge for the district of
24 Massachusetts;

1 (15) 1 additional district judge for the southern
2 district of Mississippi;

3 (16) 1 additional district judge for the eastern
4 district of Missouri;

5 (17) 1 additional district judge for the district of
6 New Hampshire;

7 (18) 3 additional district judges for the district
8 of New Jersey;

9 (19) 1 additional district judge for the district of
10 New Mexico;

11 (20) 1 additional district judge for the southern
12 district of New York;

13 (21) 1 additional district judge for the eastern
14 district of New York;

15 (22) 1 additional district judge for the middle
16 district of North Carolina;

17 (23) 1 additional district judge for the northern
18 district of Oklahoma;

19 (24) 1 additional district judge for the western
20 district of Oklahoma;

21 (25) 1 additional district judge for the district of
22 Oregon;

23 (26) 3 additional district judges for the eastern
24 district of Pennsylvania;

1 (27) 1 additional district judge for the middle
2 district of Pennsylvania;

3 (28) 1 additional district judge for the district of
4 South Carolina;

5 (29) 1 additional district judge for the eastern
6 district of Tennessee;

7 (30) 1 additional district judge for the western
8 district of Tennessee;

9 (31) 1 additional district judge for the northern
10 district of Texas;

11 (32) 3 additional district judges for the southern
12 district of Texas;

13 (33) 1 additional district judge for the western
14 district of Texas;

15 (34) 1 additional district judge for the district of
16 Utah;

17 (35) 1 additional district judge for the eastern
18 district of Washington;

19 (36) 1 additional district judge for the northern
20 district of West Virginia;

21 (37) 1 additional district judge for the southern
22 district of West Virginia; and

23 (38) 1 additional district judge for the district of
24 Wyoming.

1 (b) EXISTING JUDGESHIPS.—(1) The existing district
2 judgeships for the western district of Arkansas, the north-
3 ern district of Illinois, the northern district of Indiana, the
4 district of Massachusetts, the western district of New
5 York, the eastern district of North Carolina, the northern
6 district of Ohio, and the western district of Washington
7 authorized by section 202(b) of the Bankruptcy Amend-
8 ments and Federal Judgeship Act of 1984 (Public Law 98-
9 353, 98 Stat. 347–348) shall, as of the effective date of this
10 title, be authorized under section 133 of title 28, United
11 States Code, and the incumbents in those offices shall hold
12 the office under section 133 of title 28, United States
13 Code, as amended by this title.

14 (2)(A) The existing two district judgeships for the
15 eastern and western districts of Arkansas (provided by sec-
16 tion 133 of title 28, United States Code, as in effect on the
17 day before the effective date of this title) shall be district
18 judgeships for the eastern district of Arkansas only, and
19 the incumbents of such judgeships shall hold the offices
20 under section 133 of title 28, United States Code, as
21 amended by this title.

22 (B) The existing district judgeship for the northern
23 and southern districts of Iowa (provided by section 133 of
24 title 28, United States Code, as in effect on the day before
25 the effective date of this title) shall be a district judgeship

1 for the northern district of Iowa only, and the incumbent of
2 such judgeship shall hold the office under section 133 of
3 title 28, United States Code, as amended by this title.

4 (C) The existing district judgeship for the northern,
5 eastern, and western districts of Oklahoma (provided by
6 section 133 of title 28, United States Code, as in effect on
7 the day before the effective date of this title) and the occu-
8 pant of which has his official duty station at Oklahoma
9 City on the date of enactment of this title, shall be a dis-
10 trict judgeship for the western district of Oklahoma only,
11 and the incumbent of such judgeship shall hold the office
12 under section 133 of title 28, United States Code, as
13 amended by this title.

14 (c) TEMPORARY JUDGESHIPS.—The President shall ap-
15 point, by and with the advice and consent of the Senate—

16 (1) 1 additional district judge for the northern
17 district of Alabama;

18 (2) 1 additional district judge for the eastern
19 district of California;

20 (3) 1 additional district judge for the district of
21 Hawaii;

22 (4) 1 additional district judge for the central dis-
23 trict of Illinois;

24 (5) 1 additional district judge for the southern
25 district of Illinois;

1 (6) 1 additional district judge for the district of
2 Kansas;

3 (7) 1 additional district judge for the western
4 district of Michigan;

5 (8) 1 additional district judge for the eastern
6 district of Missouri;

7 (9) 1 additional district judge for the district of
8 Nebraska;

9 (10) 1 additional district judge for the northern
10 district of New York;

11 (11) 1 additional district judge for the northern
12 district of Ohio;

13 (12) 1 additional district judge for the eastern
14 district of Pennsylvania;

15 (13) 1 additional district judge for the eastern
16 district of Texas; and

17 (14) 1 additional district judge for the eastern
18 district of Virginia.

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

23 (d) TABLES.—In order that the table contained in sec-
24 tion 133 of title 28, United States Code, will, with respect
25 to each judicial district, reflect the changes in the total

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

"DISTRICTS	JUDGES
Alabama:	
Northern	7
Middle	3
Southern	3
Alaska	3
Arizona	8
Arkansas:	
Eastern	5
Western	3
California:	
Northern	14
Eastern	6
Central	27
Southern	8
Colorado	7
Connecticut	8
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	13
Western	4
North Carolina:	
Eastern	4
Middle	4
Western	3
North Dakota	2
Ohio:	
Northern	11
Southern	7
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	3
Western	5
Texas:	
Northern	11
Southern	16
Eastern	6

Western	8
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	3.”.

1 SEC. 204. VIRGIN ISLANDS.

2 (a) IN GENERAL.—The President shall appoint, by and
3 with the advice and consent of the Senate, one additional
4 judge for the District Court of the Virgin Islands, who
5 shall hold office for a term of 10 years and until a succes-
6 sor is chosen and qualified, unless sooner removed by the
7 President for cause.

8 (b) AMENDMENT TO ORGANIC ACT.—In order to reflect
9 the change in the total number of permanent judgeships
10 authorized as a result of subsection (a) of this section, sec-
11 tion 24(a) of the Revised Organic Act of the Virgin Islands
12 (68 Stat. 506; 48 U.S.C. 1614(a)) is amended by striking
13 “two” and inserting “three”.

14 SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

15 There are authorized to be appropriated such sums as
16 may be necessary to carry out the provisions of this title,
17 including such sums as may be necessary to provide ap-

1 appropriate space and facilities for the judicial positions cre-
2 ated by this title.

3 SEC. 206. EFFECTIVE DATE.

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

June 8, 1990
Peck/Peckham
Fiedler

Peck - Peckham, McGovern at witness
table
Brookings Panel (others support)
FJA?

Peckham - helpful to have add'l
members of his subc.
rule-making process sufficient,
don't need legislation
14 points sufficient

Peck - On June 26, will Peckham
Subc or JCUS have an
official position?

Peckham - no ^{official} position now
don't object to those provisions
not reasons w/ 14 pts
and other JCUS policies

1. Reaffirm conviction rulemaking
process should be preserved
2. certain other provisions -
no position
3. 18 mos still important hang-up
some excellent case mgrs
don't support early
burn trial dates

Peck - talk about "early" in common
rpt.; 18 mos principle an
"important one for us"

Peckham. p. 8 - "ends of justice
outweigh" early trial date
e.g., medical problems may not
manifest themselves w/in
18 mos.

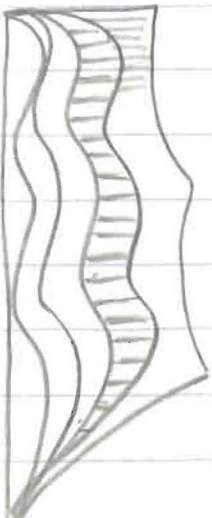
Peck - "ends of justice" more acceptable
than Romler

Peckham - dist working well
plan incorporates what they have
→ compliance

Fear that there be new measures.
Peck - no. 94 dists don't have to
write on a clean plate
add publication requirement
minor changes acceptable

disclosure mandatory - but whether
473(a) or system-wide req.

no possibility of striking
disclosure requirement



Peck: Biden won't agree to expeditions consideration rather than target dates for deciding motions

no free floating fully briefed motions - should be decision in timely manner

Peckham: Broodways people concerned about discovery motions + SJ motions suppose of before pre-trial conf date

Peck - deadline for filing target date for decision

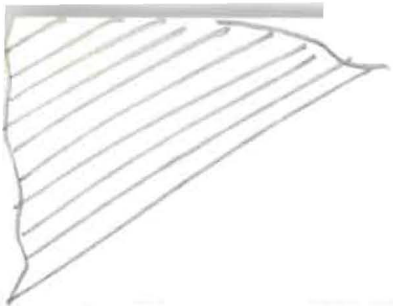
not every date has to be set up front

language accomodates concern

{ dec motions w/in 2 wks, sj motions w/in 45 days w/o good cause


Peckham would this comply?

Yes



compliance - provision in plan
applicable to all cases,
rather than tailored to
each case?

Peck - both ^{case-by-case + generic} OR
"ongoing" on p 7 suggests ^{approaches}
series of conferences



Peck - Biden has gone "the
extra mile" to accommodate
concerns

e.g., sunset
close to final bill re Title I

* expectation is ^{at 6/26/90 hearing} the sub/JCUS
will have official position

Expectation (What is JCUS position on
S. 7648? ~~off~~ Clear
answer to be given.

Peckham lead off - other 3 members
supplement / questions
Peck - Peckham + McGovern

Title III - just add, no witnesses
Heflin / Grassley may not agree

ABA Bd of Govs meeting June 13 -
Peck will require all bar
assns to submit written
statements

Peck - where is JCUS?

Yes on 2 + 3, no on 1 would
go over well. ^{7/4}

Title III - Peck has been ragging
Heflin + Grassley staffs
imp. to have available as
quickly as possible
Biden will not hold up for
Kastnermeier; will
accommodate Heflin/Grassley

Sensitivity of Biden / Thurmond
Hatch - Mechem comments
at Hershey

"We have created more of
a problem than needed to
be created."

Judgeships bill - Biden pleaded
case on merits w/ leadership

Karen
Bob

We need Draft Testimony
to run by the Beckham
and Executive Committees

Keep 'Bob' out of this

rather than politics

Legal Times strike raw nerve

Brazil - difference if rpt available before June 26

Peck - practical impossibility extent of changes demonstrates flexibility, which will continue in report

will work w/ us on a report

Fiedler - Can we take a cut at rpt? ^{Peck} No. On certain provisions, yes, but no point in your preparing outside rpt. "We will control."

Rpt in several weeks. Will circulate to us and Hill staff simultaneously. Isolate certain provisions for us to begin working on.

At a minimum, Subc. + EC should have a position.