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July 9, 1990

MEMORANDUM TO: MR. MECHAM
MR. MACKLIN

THRU: RAYMOND KARAM ~~19~~

SUBJECT: Judicial Impact Statement for S. 2648, The Judicial
Improvements Act of 1990

Attached for your information is the revised Judicial Impact Statement for an amendment to Title 1, of the United States Code, S. 2648, the Judicial Improvements Act of 1990. This proposed legislation requires the courts to take a number of significant steps in identifying and reducing delays in adjudicating civil cases. The impact statement addresses the requirements of S. 2648 that are beyond the requirements of the Judicial Conference 14-Point Program.

The following revisions have been made:

1. The wording has been modified to reflect that the committee reporters for the advisory groups would be law professors rather than "court" reporters. The cost for this provision remains the same.
2. The automation costs were revised downward to reflect additional analyses undertaken by the Assistant Director for Automation and Technology to identify the cost of the 14-Point Program. Overlapping costs were deleted and the narrative was changed to reflect the new assumptions. Potential "optional" costs were mentioned in the narrative, but not included in the summary totals in an effort to minimize total costs for this bill.
3. The narrative was revised to strongly emphasize that the estimates presented are for the "worst case."

4. The estimates for the alternative dispute resolution (ADR) programs were modified downward to reflect the belief that each court would adopt one ADR program. This revision resulted in the manpower requirements being reduced by 54 FTEs with a resulting annual savings of \$2.9 million.

Please note, again, that the terms used within the bill are somewhat vague, and the courts will have some discretion in the level of resources that can be applied to meet the requirements of the bill. Because a precise level of activity could not be developed, these estimates assume all courts implement a maximum level of activity. The estimates of the level of court activity were developed by the Court Administration Division in consultation with Rich Leonard, Chair of the District Clerks Advisory Subcommittee on Legislation and Rules. Given these limitations, the bill would annually cost the Judiciary \$33.5 million and 237 staff years or FTEs. This compares to a first-year cost of \$111 million and 764 FTEs for the original draft Civil Justice Reform Act S. 2027.



Nancy Potok

Attachment

cc: Peter McCabe	Dewey Heising
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Karen Siegel ✓	Charlotte Peddicord
Bob Feidler	Abel Mattos

JUDICIAL IMPACT STATEMENT

S. 2648

JUDICIAL IMPROVEMENTS ACT OF 1990

PREPARED BY:

THE ADMINISTRATIVE OFFICE OF THE
U.S. COURTS

**JUDICIAL IMPACT STATEMENT
JUDICIAL IMPROVEMENTS ACT OF 1990 S. 2648**

Title I of S. 2648 addresses the delay in the processing of civil cases in the United States District Courts and requires that the courts take a number of significant steps in identifying and reducing the delays. Several of the requirements of the proposed legislation were recently addressed by the Judicial Conference of the United States through the adoption of a 14-Point Program designed to improve civil case management in the trial courts. To the extent that the 14-Point Program mandates actions similar to the requirements of S. 2648, the impact of the proposed legislation has been minimized. However, this bill requires several activities not required by the 14-Point Program that may have a financial impact on the Judiciary. These items include: (1) a detailed review and classification of cases at the time of filing; (2) a requirement that judicial officers be involved in the pretrial process and other significant events occurring in the pretrial period; (3) scheduling discovery-case management conferences for complex cases; (4) an authorization to refer appropriate cases to alternative dispute resolution programs; and (5) accelerating new automation activities.

Impact on the Judiciary

To implement S. 2648, the Judiciary could be required to expend up to \$33.5 million and 237 staff years or full-time equivalents (FTEs) per year. This estimate includes the cost for committee reporters; however, future annual cost for committee reporters could be less since they will be working periodically as required. The details of each significant provision that require a resource commitment by the Judiciary are shown below. These resources represent a "worst case" scenario in which all courts implement a maximum level of activity.

<u>Provisions</u>	<u>\$ in M</u>	<u>FTEs</u>
District Court Judges.....	10.3	19
Magistrates.....	14.4	35
Support Staff (JSP-11).....	8.1	181
Administrative Staff (GS-7/9).....	.1	2
Committee Reporters.....	<u>.6</u>	<u>0</u>
Totals	33.5	237

Analytical Assumptions

The impact of the proposed legislation will vary according to the extent to which the courts are already engaging in the practices and procedures contained in the bill and the final interpretations given by each District to the bill's

requirements. This analysis did not attempt to quantify current resource expenditures for those courts which are now engaging in the activities specified in the proposed legislation. Therefore, the actual cost could be lower than those projections made within this analysis.

The cost figures assume that no new judges or magistrates would be authorized, appointed or hired. However, both judges and magistrates are now working at full capacity, and their time would necessarily be diverted from other work, which would be deferred, in order to handle the additional workload. If new judgeships were established to handle the increased workload created by the bill, the costs would far exceed those estimated in this analysis due to the high cost of establishing new judgeships. The salary estimates used for both judges and magistrates are based on the levels that become effective in 1991. Staff costs for court support personnel and committee reporters are based on 1990 salary rates.

The current Long Range Plan for Automation in the U.S. Courts calls for a rate of orderly expansion of 30 District courts per year for the next two years with the remainder being completed in 1993. If it becomes necessary to accelerate the implementation of the Civil Case Management System in the courts and the automation equipment is purchased within the first year of implementation of the proposed legislation, several impacts would occur. These include: (1) disruption of current procurement contracts for hardware; (2) a probable reduction in the ability to service existing court users because of the need to focus on acceleration; (3) the possible need of bypassing procurement regulations to allow sole source purchases in order to meet procurement schedules; and (4) revising the Long Range Plan for Automation in the U.S. Courts, which may be contrary to Congress' intent when it established the Judiciary Automation Fund.

Assuming the rate of expansion in the Long Range Plan (e.g., no acceleration of the Civil Case Management System), the cost is the same for meeting the requirements of both S. 2648 and the 14-Point Program of the Judicial Conference, namely \$5.7 million and 9 FTEs. These positions and funding will be necessary to provide technical support for the creation of new reports, more frequent reporting, and more participation from the chambers.

However, S. 2648 contains an option for early implementation of the Civil Justice Expense and Delay Reduction Plan. The one-time cost to the Judiciary for each court that exercises its option for early implementation under this bill will be \$40,000 for the purchase of computer hardware, software, and inter- and intra-site communications equipment and services. It is estimated that as many as 33 District Courts could exercise the option for early implementation of the Long Range Plan. This

would translate into an additional unanticipated one-time expenditure of \$1,320,000 which would be over and above the cost of the 14-Point Program. In addition, early implementation would also increase staff cost with the need of hiring 3 temporary analysts for up to 2 years, for approximately \$170,000 for each year. However, since these early implementation costs are optional, the summary did not include them.

DETAILED COST ASSUMPTIONS ON THE IMPACT OF S. 2648

The following summary details the significant annual costs of S. 2648. All costs are anticipated to reoccur annually.

Provision: Differential treatment of civil cases

This section requires a detailed review and classification of cases at the time of filing. It is assumed this function will be performed by deputy clerks who are skilled in case management at the JSP-11 level. This estimate does not include the extra work of classifying cases in divisional offices when there is only one employee assigned to the task in the District. If this factor is to be considered, it may be necessary to fund additional positions to meet the requirements of divisional offices.

	<u>\$ in M</u>	<u>FTEs</u>
Support Staff (JSP-11).....	1.5	33

Provision: Additional pretrial procedures

Judicial officers and support staff would be required to be involved in the additional pretrial proceedings and other significant events occurring during the pretrial period. Current estimates suggest that 65 percent of the judicial officers' new workload will be performed by Magistrates and the remainder by District Court Judges. It is assumed that an 1/2 hour of extra judicial officers' time could be required on those types of civil cases that involve discovery. This estimate excludes such cases as Social Security, loan collection and prisoner's partition.

	<u>\$ in M</u>	<u>FTEs</u>
District Court Judges.....	8.7	16
Magistrates.....	11.9	29
Support Staff (JSP-11).....	2.0	45
Subtotals	22.6	90

Provision: Discovery-case management conference

Complex cases would require at least one discovery-case management conference, which would require the time of both judicial officers and courtroom deputies. Current estimates suggest that 65 percent of the judicial officers' new workload will be performed by Magistrates and the remainder by District Court Judges.

	<u>\$ in M</u>	<u>FTEs</u>
District Court Judges.....	1.6	3
Magistrates.....	2.5	6
Support Staff (JSP-11).....	.4	9
Subtotals	4.5	18

Provision: Alternative dispute resolution programs

Currently, it is believed that each court would adopt one alternative dispute resolution (ADR) program. This activity would require 94 additional FTEs for the new ADR activities associated with scheduling, coordination, tracking, recruiting, monitoring and other related functions. This estimate excludes the 10 courts which currently possess an arbitration program and the expansion plan for 10 additional courts for this program in the near future.

	<u>\$ in M</u>	<u>FTEs</u>
Support Staff (JSP-11).....	4.2	94

Provision: Periodic District Court assessment

This provision requires that each District Court assess the delay reduction effort at least once every two years while the Judicial Conference Plan requires an assessment once every three years. This proposed legislation will require one additional assessment every six years. This section will have a minimal resource impact on the Judiciary.

Provision: Advisory groups

The proposed legislation differs from the Judicial Conference Plan's requirements that an advisory group be formed in that it requires the services of a committee reporter (e.g., a law professor) for each District. Since the advisory group would meet for only short periods during the year, a full-time reporter would not be required. The most cost effective means of implementing this provision would be hiring committee reporters on a part time contractual basis.

Committee Reporters..... \$ in M .6

General: Administrative support

Implementation of the proposed legislation would require on-going administrative support to hire and maintain the additional employees required by the bill.

	<u>\$ in M</u>	<u>FTEs</u>
Admin. Staff (GS-7/9)...	.1	2