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HEADLINE: SPLIT OF AREA'S U.S. COURTS INTO CIVIL, CRIMINAL BRANCHES
URGED

BYLINE: By HENRY WEINSTEIN, TIMES STAFF WRITER

A blue-ribbon commission proposed Monday that the federal courts in Los Angeles and Santa Ana, which annually have the most civil filings in the nation, split into civil and criminal divisions "as an important step toward easing cost and calendar burdens."

If the recommendation is adopted by Central District of California trial judges, the district would become the first federal court system in the nation to have such a division.

The 23 trial judges in the district "are stretched too thin over too many cases, and civil litigants cannot look to the court to achieve expedient, just resolution of legitimate disputes," said Donald C. Smaltz, a Los Angeles lawyer and the commission's chairman.

The 25-member commission of Southern California lawyers was appointed two years ago by the district's chief judge, Manuel Real, to consider how to reduce costs and delays as required under the Civil Justice Reform Act of 1990, authored by Sen. Joseph R. Biden Jr. (D-Del.), chairman of the Senate Judiciary Committee.

The recommendation to split into civil and criminal divisions is the most controversial of a lengthy set of proposed reforms announced by the commission Monday.

Its report says that the Central District -- which includes seven Southern California counties stretching from Riverside to San Luis Obispo -- is managing its caseload relatively well but that danger signs are on the horizon. These include a significant growth in civil cases that are not resolved within three years.

Other key recommendations include: setting and adhering to firm trial dates, adopting a tracking system for cases that would limit pretrial discovery, requiring a mandatory settlement conference before a civil case goes to trial, using special masters to resolve more pretrial discovery disputes and conducting more pretrial hearings by telephone conference to save time and expense.

"Our recommendations . . . significantly depart from the 'comfort zone' of judges and their longstanding judicial practices," Smaltz said in a letter to Real that was released with the report.

"No doubt (some judges) will reject these proposed changes as heretical," Smaltz wrote.

Real's secretary said he was reading the report and would have no immediate comment. All of the nation's federal district courts are required to report back to the Judiciary Committee by the end of the year with proposals on how to reduce clogged calendars and cut costs.

Ironically, the report contends that Senate inaction on filling judicial vacancies is part of the problem in Southern California's federal courts. Four of the district's 27 judgeships have remained vacant since 1990.

"Filling judicial vacancies promptly is the single most important step that Congress could take to reduce unnecessary delays and costs in litigation before the Central District," the report said.

The commission proposes that six of the Central District's 23 judges serve one-year terms handling criminal matters. Although these judges would retain their pending civil cases and handle pretrial matters in the cases, they would hear only criminal trials during the one-year period.

While state courts across the country, including California's, are divided into civil and criminal divisions, no federal trial court district has such a division.

The report contends that such a change is necessary because it has become more difficult to get civil cases to trial because of the growth in criminal trials. In 1990, for the first time in the Central District's history, there were more criminal trials than civil, even though there were considerably more civil than criminal filings.

Under the Speedy Trial Act, criminal defendants are entitled to have their cases heard within a set period of time, a right not guaranteed for civil litigants. This means, said the commission report, that judges are under pressure to push criminal cases ahead of civil ones.

More than 77% of the Central District's judges said the need to move criminal trials forward because of the Speedy Trial Act "contributed significantly" to delays in processing civil cases, according to a questionnaire distributed by the commission.

Gerald Uelmen, dean of Santa Clara University Law School, said such a division might work well because the Central District has more residents than any other federal judicial district. But he said it would not be a long-term solution.

"You can't finesse the problem just by juggling assignments," Uelmen said, suggesting that more judges are needed.