

COURT REFORM AND ACCESS TO JUSTICE ACT OF 1988

AUGUST 26, 1988.—Ordered to be printed

Mr. KASTENMEIER, from the Committee on the Judiciary,
submitted the following

REPORT

[To accompany H.R. 4807]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4807) to amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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

TITLE IV—FEDERAL JUDICIAL CENTER

SEC. 401. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) **ESTABLISHMENT.**—Chapter 42 is amended by adding at the end the following new section:

“§ 629. Federal Judicial Center Foundation

“(a) **ESTABLISHMENT AND PURPOSE.**—There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the ‘Foundation’) and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except for gifts that are designated for the support of specific projects previously approved by the Board of the Center. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

“(b) **BOARD OF THE FOUNDATION.**—The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be five years, except that the initial terms shall be five years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, three years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

“(c) **USE OF GIFTS BY THE CENTER.**—The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

“(d) **DEPOSIT OF GIFTS IN THE TREASURY; DISBURSEMENTS.**—Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

“(e) **ANNUAL REPORTS.**—The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the Senate and the House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

“(f) **TREATMENT OF GIFTS FOR PURPOSES OF TAX LAWS.**—For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.”

(b) **CONFORMING AMENDMENT.**—The item relating to section 629 in the table of sections for chapter 42 is amended to read as follows:

“629. Federal Judicial Center Foundation.”

SEC. 402. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

- (1) by striking out “and” at the end of paragraph (5);
- (2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof “; and”; and
- (3) by adding at the end the following new paragraph:

TITLE IV—FEDERAL JUDICIAL CENTER AMENDMENTS

BACKGROUND

The Subcommittee on Courts, Civil Liberties, and the Administration of Justice has a long history of interest in and support for the Federal Judicial Center. The Center is an independent agency in the judicial branch of government responsible for providing education and training services to all judicial personnel, as well as research and systems development services to the courts, to the Judicial Conference of the United States and its committees, and to the Congress. The Center is governed by an eight-member board chaired by the Chief Justice of the United States. The other board members consist of the Director of the Administrative Office of the United States Courts who serves ex-officio and six judges—two circuit, three district, and one bankruptcy—who are elected to four-year terms by the Judicial Conference.⁴⁵

In the course of the 1985 oversight hearing, Mr. Kastenmeier noted that some years had passed since the Center was created and asked whether the Center might benefit from some amendment of the governing statute.⁴⁶ In response, the Board of the Center reviewed the operations of the Center and approved four proposed amendments to authorize the receipt of gifts by the Center through a private nonprofit corporation, to establish a history program for the Judicial Branch, to permit training of individuals other than judicial branch employees under certain circumstances, and to make the Deputy Director of the Center a statutory position and to fix the compensation of the Deputy Director. These recommendations were submitted to the Congress on May 7, 1987, on behalf of the Board in an omnibus Judicial Branch improvements measure and introduced as separate legislation by Congressman Kastenmeier on May 19, 1987, as H.R. 2467. On May 20, hearings were held on the proposals as a part of oversight hearings before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice.⁴⁷ Subsequently, Congressman Kastenmeier incorporated these proposals into H.R. 3152 and, in due course, into the current measure as title IV.

Title IV, therefore, accomplishes several objectives regarding the Federal Judicial Center. First, it creates a Federal Judicial Center Foundation to accept and receive gifts to be used by the Federal Judicial Center for the purpose of aiding or facilitating the work of the Center. In deciding to confer gift acceptance legislation on the Center, it is necessary to safeguard both the independence and the appearance of the independence of the Federal Judiciary branch. It is the view of the Committee that the judiciary's independence would not be compromised if the Center were permitted to utilize gifts of personal property, such as books or papers from judges' or scholars' collections, or gifts of services from scholars or other experts who wished to donate their time. It would also be proper to

⁴⁵ See generally, Chapter 42, title 28, United States Code, reproduced in *Federal Judicial Center Oversight Hearing*, *supra* note 14 at 13-16.

⁴⁶ *Id.* at 1,6.

⁴⁷ Hearing on Federal Judicial Center/State Justice Institute, *supra* note 14 at 36-41, 43-46, 81-99.

utilize gift funds that would not be used to augment the Center's appropriation, but to support specific programs or projects for which appropriated funds are not available. Second, Title IV contains provisions relating to historical preservation in the Federal judiciary, training of non-governmental personnel, and the salary of the Center's Deputy Director.

SECTION-BY-SECTION ANALYSIS

Section 401

Section 401(a) amends chapter 42 of title 28, United States Code, by adding a new section 629 at the end thereof, entitled "Federal Judicial Center Foundation."

Subsection (a) of the new section establishes a "private nonprofit corporation" to be known as the Federal Judicial Center Foundation. The purpose of the foundation is to have sole authority to accept and receive gifts of property, both real and personal, and services made for the purpose of aiding or facilitating the work of the Center. The foundation is not authorized to accept conditional gifts, but gifts could be accepted to support specific projects previously approved by the Board of the Center. The Foundation has no authority beyond acceptance and receipt of gifts.

Subsection (b) primarily deals with the composition, appointment, and tenure of the Foundation Board. The Board would consist of seven members, including a chairman. The Chief Justice would appoint three of the members, including the Chairman; the President Pro Tempore of the Senate and the Speaker of the House would each appoint two members. The basic term of office is five years, with the initial terms staggered to prevent turnover of the whole Board at the same time. No Federal or State judge, in regular active service or otherwise eligible to perform judicial duties, is eligible for membership on the Board. The members of the Board will serve without compensation, but may be reimbursed for necessary expenses. Administrative support and facilities will be furnished by the Center.

Subsection (c) provides authority for the Center to administer and utilize gifts received by the Foundation. The Board of the Center is vested with sole authority to determine the manner in which gifts will be used.

Subsection (d) provides for money gifts and proceeds from the sale of property gifts to be deposited in and disbursed from a separate fund in the Treasury of the United States by order of the Director of the Center in accordance with policies established by the Board of the Center.

Subsection (e) provides that the Foundation prepare an annual report to Congress on gift activity of the Foundation. Similarly, the Center is required to report on the use of gifts in its annual report.

Subsection (f) provides that gifts under this section receive the same treatment for purposes of Federal income, estate, and gift taxes as other gifts to or for the use of the United States.

Section 401(b)

Section 401(b) amends the table of sections at the beginning of chapter 42 to reflect the new section.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 25, 1988.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 4807, the Court Reform and Access to Justice Act of 1988.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

X. CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: H.R. 4807.
2. Bill title: Court Reform and Access to Justice Act of 1988.
3. Bill status: As ordered reported by the House Committee on the Judiciary, August 2, 1988.
4. Bill purpose: H.R. 4807 would make a number of changes with respect to the federal judiciary. The main features of the bill include:

Title I would amend the statutory provisions that establish the framework for the federal judiciary's role in the promulgation of rules of practice and procedure and rules of evidence in the federal court system.

Title II would authorize the use of arbitration in civil actions in an additional 13 districts for a period of five years.

Title III would provide federal jurisdiction for civil actions involving minimal diversity between adverse parties that arise from a single event involving either death or injury (resulting in damages that exceed \$50,000 per person) to at least 25 persons. This title would also increase the amount in controversy for federal jurisdiction of diversity of citizenship case from \$10,000 to \$50,000.

Title IV would establish a Federal Judicial Central Foundation to accept and receive gifts of real and personal property and services made to facilitate the work of the Federal Judicial Center. The bill would also require that the Federal Judicial Center implement a history program relating to the judicial branch of the United States government.

Title V would abolish the Temporary Emergency Court of Appeals as of September 30, 1989 and transfer jurisdiction to the United States Court of Appeals for the Federal Circuit.

Title VI would give the United States Court of Appeals for the Federal Circuit exclusive jurisdiction of appeals from interlocutory orders of district courts on motions to transfer actions to the United States claims Court.

Title VII would reauthorize the State Justice Institute for fiscal year 1989.

Title VII—the Court Interpreter Amendments Act of 1988—would require that the Director of the Administrative Office of

cial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts.

* * * * *

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