

FEDERAL COURTS ADMINISTRATION ACT OF 1992

OCTOBER 3, 1992.—Ordered to be printed

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

R E P O R T

[To accompany H.R. 5933]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 5933) to implement the recommendations of the Federal Courts Study Committee, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Courts Administration Act of 1992".

**TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS**

**SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.**

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d)."

**SEC. 102. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.**

(a) **APPEALS UNDER ECONOMIC STABILIZATION ACT.**—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking subsections (b) through (h) and inserting the following:

**SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.**

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period “, if there is no district in which the action may otherwise be brought”.

**SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.**

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101-650) is amended by striking “the reports” and inserting “summaries of the reports”.

**SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.**

(a) **IN GENERAL.**—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon “and the United States Court of Veterans Appeals”.

(b) **APPLICATION TO PENDING CASES.**—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit.

(c) **FEE AGREEMENTS.**—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant’s attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant’s attorney refunds to the claimant the amount of the smaller fee.

(d) **EFFECTIVE DATE.**—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act.

## **TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS**

**SEC. 601. JUDICIAL RETIREMENT MATTERS.**

(a) **JUDICIAL RETIREMENT FUNDS.**—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after “Judicial survivors’ annuities fund (10-8110-0-7-602);” the following:

“Judicial Officers’ Retirement Fund (10-8122-0-7-602);

“Court of Federal Claims Judges’ Retirement Fund (10-8124-0-7-602);”.

(b) **JUDICIARY TRUST FUNDS.**—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after “Payment to civil service retirement and disability fund (24-0200-0-1-805);” the following:

“Payment to Judiciary Trust Funds (10-0941-0-1-752);”.

**SEC. 602. FULL-TIME STATUS OF COURT REPORTERS.**

Section 753(e) of title 28, United States Code, is amended by inserting after the first sentence the following: “For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which the reporter receives a salary at the annual salary rate fixed for a full-time reporter pursuant to the preceding sentence.”.

**SEC. 603. FEDERAL JUDICIAL CENTER.**

(a) **FUNCTIONS.**—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking “and” at the end;

(2) in paragraph (5) by striking the period and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.”.

(b) **CLERICAL COMPENSATION.**—Subsection 625(c) of title 28, United States Code, is amended by striking “competitive service and” and inserting “competitive service without regard to”.

ber 1988 session, recommended the proposed legislative change to define court reporters as "full time" employees for annuity purposes if they are paid full-time salaries.

*Section 603. Federal Judicial Center*

Subsection (a) would specifically authorize the Federal Judicial Center to provide briefings and other assistance to judges and other officials of foreign countries who are referred to it by other Federal agencies, by various private organizations, or by direct contact from the country in question. This assistance requires no resources other than occasional staff time and modest hospitality provided through the Center's representation fund.

Subsection (b) would allow the Federal Judicial Center to adjust the salary schedule for its secretarial and clerical personnel. Under the current statute, the salaries of Center secretarial and clerical personnel are determined by the General Schedule pay rates; the Center's 28 secretarial and clerical employees are the only employees in the entire judicial branch whose salary is so determined. All other Center employees are compensated according to the Center's own salary schedule.

TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

*Section 701. New authority for probation and pretrial services offices*

This section would give Probation and Pretrial Services Officers' specific authority for follow-up services under the Insanity Defense Reform Act.

*Section 702. Government rates of travel for Criminal Justice Act attorneys and experts*

Attorneys appointed under 18 U.S.C. § 3006A work for the Government, but are not Government employees. Similarly, community defender organizations provide services to the Federal courts in the same manner as Federal public defender organizations. This section would allow them access to Government rates for travel and lodging as well as other sources of supply and help to encourage their participation and reduce taxpayers costs.

*Section 703. Technical correction*

This amendment corrects a drafting error.

TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION

*Section 801. Authorization of appropriations*

This section would amend 42 U.S.C. § 10713 to reauthorize the State Justice Institute (SJI) for fiscal years 1993 (\$20 million), 1994 (\$20 million), 1995 (\$25 million) and 1996 (\$25 million). The amendment would also provide that amounts appropriated are to remain available until expended.

*Section 802. Interagency agreements*

The first change in this section strikes the priority order in which SJI is mandated to award contracts. The Committee believes

§ 620. Federal Judicial Center

(a) \* \* \*

(b) The Center shall have the following functions:

(1) \* \* \*

\* \* \* \* \*

(4) insofar as may be consistent with the performance of the other functions set forth in this section, to provide staff, research, and planning assistance to the Judicial Conference of the United States and its committees; [and]

(5) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with the State Justice Institute in the establishment and coordination of research and programs concerning the administration of justice[.]; and

(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.

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625. Director and staff

(a) \* \* \*

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(c) The Director shall appoint and fix the compensation of such secretarial and clerical personnel as he may deem necessary, subject to the provisions of title 5, United States Code, governing appointments in [competitive service and] *competitive service 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.*

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CHAPTER 49—DISTRICT COURTS

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§ 753. Reporters

(a) \* \* \*

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(e) Each reporter shall receive and annual salary to be fixed from time to time by the Judicial Conference of the United States. *For the purposes of subchapter III of chapter 83 of title 5 and chapter 84 of such title, a reporter shall be considered a full-time employee during any pay period for which the reporter receives a salary at the annual salary rate fixed for a full-time reporter pursuant to the pre-*