

Union Calendar No. 275

105TH CONGRESS
2D Session

H. R. 1252

[Report No. 105-478]

A BILL

To modify the procedures of the Federal courts in certain matters, and for other purposes.

APRIL 1, 1998

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 1997

Mr. HYDE (for himself, Mr. COBLE, Mr. CANADY of Florida, Mr. BONO, Mr. BRYANT, and Mr. GOODLATTE) introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 1, 1998

Additional sponsors: Mr. MANZULLO, Mr. RIGGS, and Mr. SENSENBRENNER

APRIL 1, 1998

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on April 9, 1997]

A BILL

To modify the procedures of the Federal courts in certain
matters, 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 assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Judicial Reform Act*
3 *of 1998”.*

4 **SEC. 2. 3-JUDGE COURT FOR ANTICIPATORY RELIEF.**

5 *(a) REQUIREMENT OF 3-JUDGE COURT.—Any appli-*
6 *cation for anticipatory relief against the enforcement, oper-*
7 *ation, or execution of a State law adopted by referendum*
8 *shall not be granted by a United States district court or*
9 *judge thereof upon the ground that the State law is repug-*
10 *nant to the Constitution, treaties, or laws of the United*
11 *States unless the application for anticipatory relief is heard*
12 *and determined by a court of 3 judges in accordance with*
13 *section 2284 of title 28, United States Code. Any appeal*
14 *of a determination on such application shall be to the Su-*
15 *preme Court. In any case to which this section applies, the*
16 *additional judges who will serve on the 3-judge court shall*
17 *be designated under section 2284(b)(1) of title 28, United*
18 *States Code, as soon as practicable, and the court shall ex-*
19 *pedite the consideration of the application for anticipatory*
20 *relief.*

21 *(b) DEFINITIONS.—As used in this section—*

22 *(1) the term “State” means each of the several*
23 *States and the District of Columbia;*

24 *(2) the term “State law” means the constitution*
25 *of a State, or any statute, rule, regulation, or other*

1 *made within 10 days after the entry of the court's deter-*
2 *mination relating to the class action. Application for an*
3 *appeal under this paragraph shall not stay proceedings in*
4 *the district court unless the district judge or the court of*
5 *appeals or a judge thereof shall so order.”.*

6 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
7 *section (a) applies to any action commenced on or after*
8 *the date of the enactment of this Act.*

9 **SEC. 4. PROCEEDINGS ON COMPLAINTS AGAINST JUDICIAL**
10 **CONDUCT.**

11 (a) *REFERRAL OF PROCEEDINGS TO ANOTHER JUDI-*
12 *CIAL CIRCUIT OR COURT.*—*Section 372(c) of title 28,*
13 *United States Code, is amended—*

14 (1) *in paragraph (1) by adding at the end the*
15 *following: “In the case of a complaint so identified,*
16 *the chief judge shall notify the clerk of the court of ap-*
17 *peals of the complaint, together with a brief statement*
18 *of the facts underlying the complaint.”;*

19 (2) *in paragraph (2) in the second sentence by*
20 *inserting “or statement of facts underlying the com-*
21 *plaint (as the case may be)” after “copy of the com-*
22 *plaint”;*

23 (3) *in paragraph (3)—*

24 (A) *by inserting “(A)” after “(3)”;*

1 (B) by striking “may—” and all that fol-
2 lows through the end of subparagraph (B) and
3 inserting the following: “may dismiss the com-
4 plaint if the chief judge finds it to be—

5 “(i) not in conformity with paragraph (1);

6 “(ii) directly related to the merits of a decision
7 or procedural ruling; or

8 “(iii) frivolous.”; and

9 (C) by adding at the end the following:

10 “(B) If the chief judge does not enter an order under
11 subparagraph (A), then the complaint or (in the case of a
12 complaint identified under paragraph (1)) the statement of
13 facts underlying the complaint shall be referred to the chief
14 judge of another judicial circuit for proceedings under this
15 subsection (hereafter in this subsection referred to as the
16 ‘chief judge’), in accordance with a system established by
17 rule by the Judicial Conference, which prescribes the cir-
18 cuits to which the complaints will be referred. The Judicial
19 Conference shall establish and submit to the Congress the
20 system described in the preceding sentence not later than
21 180 days after the date of the enactment of the Judicial
22 Reform Act of 1998.

23 “(C) After expeditiously reviewing the complaint, the
24 chief judge may, by written order explaining the chief
25 judge’s reasons, conclude the proceeding if the chief judge

1 *finds that appropriate corrective action has been taken or*
2 *that action on the complaint is no longer necessary because*
3 *of intervening events.”;*

4 (4) *in paragraph (4)—*

5 (A) *by striking “paragraph (3)” and insert-*
6 *ing “paragraph (3)(C)”;* and

7 (B) *in subparagraph (A) by inserting “(to*
8 *which the complaint or statement of facts under-*
9 *lying the complaint is referred)” after “the cir-*
10 *cuit”;*

11 (5) *in paragraph (5)—*

12 (A) *in the first sentence by inserting “to*
13 *which the complaint or statement of facts under-*
14 *lying the complaint is referred” after “the cir-*
15 *cuit”;* and

16 (B) *in the second sentence by striking “the*
17 *circuit” and inserting “that circuit”;*

18 (6) *in the first sentence of paragraph (15) by in-*
19 *serting before the period at the end the following: “in*
20 *which the complaint was filed or identified under*
21 *paragraph (1)”;* and

22 (7) *by amending paragraph (18) to read as fol-*
23 *lows:*

24 “(18) *The Judicial Conference shall prescribe rules,*
25 *consistent with the preceding provisions of this subsection—*

1 “(A) establishing procedures for the filing of
2 complaints with respect to the conduct of any judge
3 of the United States Court of Federal Claims, the
4 Court of International Trade, or the Court of Appeals
5 for the Federal Circuit, and for the investigation and
6 resolution of such complaints; and

7 “(B) establishing a system for referring com-
8 plaints filed with respect to the conduct of a judge of
9 any such court to any of the first eleven judicial cir-
10 cuits or to another court for investigation and resolu-
11 tion.

12 *The Judicial Conference shall establish and submit to the*
13 *Congress the system described in subparagraph (B) not*
14 *later than 180 days after the date of the enactment of the*
15 *Judicial Reform Act of 1998.”.*

16 (b) *DISCLOSURE OF INFORMATION.*—Section
17 *372(c)(14) of title 28, United States Code, is amended—*

18 (1) *in subparagraph (B) by striking “or” after*
19 *the semicolon;*

20 (2) *in subparagraph (C) by striking the period*
21 *at the end and inserting “; or”;* and

22 (3) *by adding after subparagraph (C) the follow-*
23 *ing:*

24 “(D) *such disclosure is made to another agency*
25 *or instrumentality of any governmental jurisdiction*

1 *within or under the control the United States for a*
2 *civil or criminal law enforcement activity authorized*
3 *by law.”.*

4 (c) *EFFECTIVE DATE.*—*The amendments made by sub-*
5 *section (a) apply to complaints filed on or after the 180th*
6 *day after the date of the enactment of this Act.*

7 **SEC. 5. LIMITATION ON COURT-IMPOSED TAXES.**

8 (a) *LIMITATION.*—*Chapter 85 of title 28, United States*
9 *Code, is amended by adding at the end the following new*
10 *section:*

11 **“§ 1369. Limitation on Federal court remedies**

12 “(a) *LIMITATION ON COURT-IMPOSED TAXES.*—(1) *No*
13 *district court may enter any order or approve any settle-*
14 *ment that requires any State, or political subdivision of a*
15 *State, to impose, increase, levy, or assess any tax, unless*
16 *the court finds by clear and convincing evidence, that—*

17 “(A) *there are no other means available to rem-*
18 *edy the deprivation of a right under the Constitution*
19 *of the United States;*

20 “(B) *the proposed imposition, increase, levying,*
21 *or assessment is narrowly tailored to remedy the spe-*
22 *cific deprivation at issue so that the remedy imposed*
23 *is directly related to the harm caused by the depriva-*
24 *tion;*

1 “(C) *the tax will not contribute to or exacerbate*
2 *the deprivation intended to be remedied;*

3 “(D) *plans submitted to the court by State and*
4 *local authorities will not effectively redress the depri-*
5 *vations at issue;*

6 “(E) *the interests of State and local authorities*
7 *in managing their affairs are not usurped, in viola-*
8 *tion of the Constitution, by the proposed imposition,*
9 *increase, levying, or assessment; and*

10 “(F) *the proposed tax will not result in the loss*
11 *or depreciation of property values of the taxpayers*
12 *who are affected.*

13 “(2) *The limitation contained in paragraph (1) shall*
14 *apply only to any order or settlement which—*

15 “(A) *expressly directs any State, or political sub-*
16 *division of a State, to impose, increase, levy, or assess*
17 *any tax; or*

18 “(B) *will necessarily require a State, or political*
19 *subdivision of a State, to impose, increase, levy, or*
20 *assess any tax.*

21 “(3) *If the court finds that the conditions set forth in*
22 *paragraph (1) have been satisfied, it shall enter an order*
23 *incorporating that finding, and that order shall be subject*
24 *to immediate interlocutory de novo review.*

1 “(4) A remedy permitted under paragraph (1) shall
2 not extend beyond the case or controversy before the court.

3 “(5)(A) Notwithstanding any law or rule of procedure,
4 any person or entity whose tax liability would be directly
5 affected by the imposition of a tax under paragraph (1)
6 shall have the right to intervene in any proceeding concern-
7 ing the imposition of the tax, except that the court may
8 deny intervention if it finds that the interest of that person
9 or entity is adequately represented by existing parties.

10 “(B) A person or entity that intervenes pursuant to
11 subparagraph (A) shall have the right to—

12 “(i) present evidence and appear before the court
13 to present oral and written testimony; and

14 “(ii) appeal any finding required to be made by
15 this section, or any other related action taken to im-
16 pose, increase, levy, or assess the tax that is the sub-
17 ject of the intervention.

18 “(b) *TERMINATION OF ORDERS.*—Notwithstanding
19 any law or rule of procedure, any order of, or settlement
20 approved by, a district court requiring the imposition, in-
21 crease, levy, or assessment of a tax pursuant to subsection
22 (a)(1) shall automatically terminate or expire on the date
23 that is—

24 “(1) 1 year after the date of the imposition of the
25 tax; or

1 “(2) an earlier date, if the court determines that
2 the deprivation of rights that is addressed by the
3 order or settlement has been cured to the extent prac-
4 ticable.

5 Any new such order or settlement relating to the same issue
6 is subject to all the requirements of this section.

7 “(c) *PREEMPTION*.—This section shall not be construed
8 to preempt any law of a State or political subdivision there-
9 of that imposes limitations on, or otherwise restricts the im-
10 position of, a tax, levy, or assessment that is imposed in
11 response to a court order or settlement referred to in sub-
12 section (b).

13 “(d) *ADDITIONAL RESTRICTIONS ON COURT ACTION*.—
14 (1) Except as provided in paragraph (2), nothing in this
15 section may be construed to allow a Federal court to, for
16 the purpose of funding the administration of an order or
17 settlement referred to in subsection (b), use funds acquired
18 by a State or political subdivision thereof from a tax im-
19 posed by the State or political subdivision thereof.

20 “(2) Paragraph (1) does not apply to any tax, levy,
21 or assessment that may, in accordance with applicable
22 State or local law, be used to fund the actions of a State
23 or political subdivision thereof in meeting the requirements
24 of an order or settlement referred to in subsection (b).

1 “(e) *NOTICE TO STATES.*—*The court shall provide*
2 *written notice to a State or political subdivision thereof*
3 *subject to an order or settlement referred to in subsection*
4 *(b) with respect to any finding required to be made by the*
5 *court under subsection (a). Such notice shall be provided*
6 *before the beginning of the next fiscal year of that State*
7 *or political subdivision occurring after the order or settle-*
8 *ment is issued.*

9 “(f) *SPECIAL RULES.*—*For purposes of this section—*
10 “(1) *the District of Columbia shall be considered*
11 *to be a State; and*
12 “(2) *any Act of Congress applicable exclusively*
13 *to the District of Columbia shall be considered to be*
14 *a statute of the District of Columbia.*”

15 “(b) *CONFORMING AMENDMENT.*—*The table of contents*
16 *for chapter 85 of title 28, United States Code, is amended*
17 *by adding after the item relating to section 1368 the follow-*
18 *ing new item:*

 “1369. *Limitation on Federal court remedies.*”

19 “(c) *STATUTORY CONSTRUCTION.*—*Nothing contained*
20 *in this section or the amendments made by this section shall*
21 *be construed to make legal, validate, or approve the imposi-*
22 *tion of a tax, levy, or assessment by a United States district*
23 *court or a spending measure required by a United States*
24 *district court.*

1 (d) *EFFECTIVE DATE.*—*This section and the amend-*
2 *ments made by this section shall apply with respect to any*
3 *action or other proceeding in a Federal court that is pend-*
4 *ing on, or commenced on or after, the date of the enactment*
5 *of this Act, and the 1-year limitation set forth in subsection*
6 *(b) of section 1369 of title 28, United States Code, as added*
7 *by this section, shall apply to any court order or settlement*
8 *described in subsection (a)(1) of such section 1369, that is*
9 *in effect on the date of the enactment of this Act.*

10 **SEC. 6. REASSIGNMENT OF CASE AS OF RIGHT.**

11 (a) *IN GENERAL.*—*Chapter 21 of title 28, United*
12 *States Code, is amended by adding at the end the following:*

13 **“§464. Reassignment of cases upon motion by a party**

14 “(a) *UPON MOTION.*—(1) *If all parties on one side of*
15 *a civil case to be tried in a United States district court*
16 *described in subsection (e) bring a motion to reassign the*
17 *case, the case shall be reassigned to another appropriate ju-*
18 *dicial officer. Each side shall be entitled to one reassign-*
19 *ment without cause as a matter of right.*

20 “(2) *If any question arises as to which parties should*
21 *be grouped together as a side for purposes of this section,*
22 *the chief judge of the court of appeals for the circuit in*
23 *which the case is to be tried, or another judge of the court*
24 *of appeals designated by the chief judge, shall determine*
25 *that question.*

1 “(b) *REQUIREMENTS FOR BRINGING MOTION.*—(1)
2 *Subject to paragraph (2), a motion to reassign under this*
3 *section shall not be entertained unless it is brought, not*
4 *later than 20 days after notice of the original assignment*
5 *of the case, to the judicial officer to whom the case is as-*
6 *signed for the purpose of hearing or deciding any matter.*
7 *Such motion shall be granted if—*

8 “(A) *it is presented before trial or hearing begins*
9 *and before the judicial officer to whom it is presented*
10 *has ruled on any substantial issue in the case, or*

11 “(B) *it is presented by consent of the parties on*
12 *all sides.*

13 “(2) *Notwithstanding paragraph (1)—*

14 “(A) *a party joined in a civil action after the*
15 *initial filing may, with the concurrence of the other*
16 *parties on the same side, bring a motion under this*
17 *section within 20 days after the service of the com-*
18 *plaint on that party;*

19 “(B) *a party served with a supplemental or*
20 *amended complaint or a third-party complaint in a*
21 *civil action may, with the concurrence of the other*
22 *parties on the same side, bring a motion under this*
23 *section within 20 days after service on that party of*
24 *the supplemental, amended, or third-party complaint;*
25 *and*

1 “(C) rulings in a case by the judicial officer on
2 any substantial issue before a party who has not been
3 found in default enters an appearance in the case
4 shall not be grounds for denying an otherwise timely
5 and appropriate motion brought by that party under
6 this section.

7 “(3) No motion under this section may be brought by
8 the party or parties on a side in a case if any party or
9 parties on that side have previously brought a motion to
10 reassign under this section in that case.

11 “(c) COSTS OF TRAVEL TO NEW LOCATION.—(1) If a
12 motion to reassign brought under this section requires a
13 change in location for purposes of appearing before a newly
14 assigned judicial officer, the party or parties bringing the
15 motion shall pay the reasonable costs incurred by the par-
16 ties on different sides of the case in travelling to the new
17 location for all matters associated with the case requiring
18 an appearance at the new location. In a case in which both
19 sides bring a motion to reassign under this section that re-
20 quires a change in location, the party or parties bringing
21 the motions on both sides shall split the travelling costs re-
22 ferred to in the preceding sentence.

23 “(2) For parties financially unable to obtain adequate
24 representation, the Government shall pay the reasonable
25 costs under paragraph (1).

1 “(d) *DEFINITION.*—As used in this section, the term
2 ‘appropriate judicial officer’ means—

3 “(1) a United States magistrate judge in a case
4 referred to such a magistrate judge; and

5 “(2) a United States district court judge in any
6 other case before a United States district court.

7 “(e) *DISTRICT COURTS THAT MAY AUTHORIZE REAS-*
8 *SIGNMENT.*—The district courts referred to in subsection (a)
9 are the district courts for the 21 judicial districts for which
10 the President is directed to appoint the largest numbers of
11 permanent judges.

12 “(f) *3-JUDGE COURT CASES EXCLUDED.*—This section
13 shall not apply to any civil action required to be heard
14 and determined by a district court of 3 judges.”.

15 (b) *CLERICAL AMENDMENT.*—The table of contents for
16 chapter 21 of title 28, United States Code, is amended by
17 adding at the end the following new item:

“464. Reassignment of cases upon motion by a party.”.

18 (c) *MONITORING.*—The Federal Judicial Center shall
19 monitor the use of the right to bring a motion to reassign
20 a case under section 464 of title 28, United States Code,
21 as added by subsection (a) of this section, and shall report
22 annually to the Congress its findings on the basis of such
23 monitoring.

24 (d) *SUNSET.*—Effective 5 years after the date of the
25 enactment of this Act, section 464 of title 28, United States

1 Code, and the item relating to that section in the table of
2 contents for chapter 21 of such title, are repealed, except
3 that such repeal shall not affect civil cases reassigned under
4 such section 464 before the date of repeal.

5 **SEC. 7. RANDOM ASSIGNMENT OF HABEAS CORPUS CASES.**

6 Section 2241 of title 28, United States Code, is amend-
7 ed by adding at the end the following:

8 “(e) Applications for writs of habeas corpus received
9 in or transferred to a district court shall be randomly as-
10 signed to the judges of that court.”.

11 **SEC. 8. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA**

12 **COVERAGE OF APPELLATE COURT PROCEED-**
13 **INGS.**

14 (a) *AUTHORITY OF APPELLATE COURTS.*—Notwith-
15 standing any other provision of law, the presiding judge
16 of an appellate court of the United States may, in his or
17 her discretion, permit the photographing, electronic record-
18 ing, broadcasting, or televising to the public of court pro-
19 ceedings over which that judge presides.

20 (b) *AUTHORITY OF DISTRICT COURTS.*—Notwithstand-
21 ing any other provision of law, any presiding judge of a
22 district court of the United States may, in his or her discre-
23 tion, permit the photographing, electronic recording, broad-
24 casting, or televising to the public of court proceedings over
25 which that judge presides.

1 (c) *ADVISORY GUIDELINES.*—*The Judicial Conference*
2 *of the United States is authorized to promulgate advisory*
3 *guidelines to which a presiding judge, in his or her discre-*
4 *tion, may refer in making decisions with respect to the*
5 *management and administration of photographing, record-*
6 *ing, broadcasting, or televising described in subsections (a)*
7 *and (b).*

8 (d) *DEFINITIONS.*—*As used in this section:*

9 (1) *PRESIDING JUDGE.*—*The term “presiding*
10 *judge” means the judge presiding over the court pro-*
11 *ceeding concerned. In proceedings in which more than*
12 *one judge participates, the presiding judge shall be the*
13 *senior active judge so participating or, in the case of*
14 *a circuit court of appeals, the senior active circuit*
15 *judge so participating, except that—*

16 (A) *in en banc sittings of any United States*
17 *circuit court of appeals, the presiding judge shall*
18 *be the chief judge of the circuit whenever the*
19 *chief judge participates; and*

20 (B) *in en banc sittings of the Supreme*
21 *Court of the United States, the presiding judge*
22 *shall be the Chief Justice whenever the Chief Jus-*
23 *tice participates.*

24 (2) *APPELLATE COURT OF THE UNITED*
25 *STATES.*—*The term “appellate court of the United*

1 *States” means any United States circuit court of ap-*
2 *peals and the Supreme Court of the United States.*

3 *(e) SUNSET.—The authority under subsection (b) shall*
4 *terminate on the date that is 3 years after the date of the*
5 *enactment of this Act.*

6 **SEC. 9. ADJUSTMENT OF SALARIES OF FEDERAL JUDGES.**

7 *(a) FUTURE ADJUSTMENTS.—Section 461(a) of title*
8 *28, United States Code, is amended to read as follows:*

9 *“(a) Effective as of the first day of the applicable pay*
10 *period beginning on or after the date on which an adjust-*
11 *ment takes effect under section 5303 of title 5 in the rates*
12 *of basic pay under the General Schedule (or under any*
13 *other provision of law in lieu thereof), each salary rate*
14 *which is subject to an adjustment under this section shall*
15 *be adjusted by an amount equal to the percentage of the*
16 *adjustment under such section 5303, rounded to the nearest*
17 *multiple of \$100 (or if midway between multiples of \$100,*
18 *to the next higher multiple of \$100).”.*

19 *(b) REPEAL.—Section 140 of Public Law 97–92 (95*
20 *Stat. 1200; 28 U.S.C. 461 note) is repealed.*

21 *(c) PAY FOR ADMINISTRATIVE LAW JUDGES.—*

22 *(1) IN GENERAL.—Section 5372 of title 5,*
23 *United States Code, is amended—*

24 *(A) by redesignating subsection (c) as sub-*
25 *section (d); and*

1 (B) by inserting after subsection (b) the fol-
2 lowing:

3 “(c)(1) Any reference in this section to the rate of basic
4 pay for level IV of the Executive Schedule shall be consid-
5 ered a reference to the greater of—

6 “(A) the rate of basic pay then currently in effect
7 under section 5315; or

8 “(B) the rate of basic pay in effect under section
9 5315 on the effective date of this subsection, as ad-
10 justed under paragraph (2).

11 “(2) Each time that rates of pay for the General Sched-
12 ule are adjusted, whether under section 5303 or another pro-
13 vision of law in lieu thereof, the rate under paragraph
14 (1)(B) (as last adjusted under this paragraph) shall be ad-
15 justed by the same percentage, and as of the same date, as
16 are the rates of pay for the General Schedule.”.

17 (2) CONFORMING AMENDMENT.—Subsection (a)
18 of section 5372 of title 5, United States Code, is
19 amended to read as follows:

20 “(a) For the purposes of this section—

21 “(1) the term ‘administrative law judge’ means
22 an administrative law judge appointed under section
23 3105; and

1 “(2) the term ‘the rate of basic pay for level IV
2 of the Executive Schedule’ is used as described in sub-
3 section (c).”.

4 **SEC. 10. MULTIPARTY, MULTIFORUM JURISDICTION OF DIS-**
5 **TRICT COURTS.**

6 (a) *BASIS OF JURISDICTION.*—

7 (1) *IN GENERAL.*—Chapter 85 of title 28, United
8 States Code, is amended by adding at the end the fol-
9 lowing new section:

10 **“§ 1370. Multiparty, multiforum jurisdiction**

11 “(a) *IN GENERAL.*—The district courts shall have
12 original jurisdiction of any civil action involving minimal
13 diversity between adverse parties that arises from a single
14 accident, where at least 25 natural persons have either died
15 or incurred injury in the accident at a discrete location
16 and, in the case of injury, the injury has resulted in dam-
17 ages which exceed \$50,000 per person, exclusive of interest
18 and costs, if—

19 “(1) a defendant resides in a State and a sub-
20 stantial part of the accident took place in another
21 State or other location, regardless of whether that de-
22 fendant is also a resident of the State where a sub-
23 stantial part of the accident took place;

1 “(2) *any two defendants reside in different*
2 *States, regardless of whether such defendants are also*
3 *residents of the same State or States; or*

4 “(3) *substantial parts of the accident took place*
5 *in different States.*

6 “(b) *SPECIAL RULES AND DEFINITIONS.—For pur-*
7 *poses of this section—*

8 “(1) *minimal diversity exists between adverse*
9 *parties if any party is a citizen of a State and any*
10 *adverse party is a citizen of another State, a citizen*
11 *or subject of a foreign state, or a foreign state as de-*
12 *finied in section 1603(a) of this title;*

13 “(2) *a corporation is deemed to be a citizen of*
14 *any State, and a citizen or subject of any foreign*
15 *state, in which it is incorporated or has its principal*
16 *place of business, and is deemed to be a resident of*
17 *any State in which it is incorporated or licensed to*
18 *do business or is doing business;*

19 “(3) *the term ‘injury’ means—*

20 “(A) *physical harm to a natural person;*
21 *and*

22 “(B) *physical damage to or destruction of*
23 *tangible property, but only if physical harm de-*
24 *scribed in subparagraph (A) exists;*

1 “(4) the term ‘accident’ means a sudden acci-
2 dent, or a natural event culminating in an accident,
3 that results in death or injury incurred at a discrete
4 location by at least 25 natural persons; and

5 “(5) the term ‘State’ includes the District of Co-
6 lumbia, the Commonwealth of Puerto Rico, and any
7 territory or possession of the United States.

8 “(c) *INTERVENING PARTIES.*—In any action in a dis-
9 trict court which is or could have been brought, in whole
10 or in part, under this section, any person with a claim aris-
11 ing from the accident described in subsection (a) shall be
12 permitted to intervene as a party plaintiff in the action,
13 even if that person could not have brought an action in
14 a district court as an original matter.

15 “(d) *NOTIFICATION OF JUDICIAL PANEL ON MULTIDIS-*
16 *TRICT LITIGATION.*—A district court in which an action
17 under this section is pending shall promptly notify the judi-
18 cial panel on multidistrict litigation of the pendency of the
19 action.”.

20 “(2) *CONFORMING AMENDMENT.*—The table of sec-
21 tions at the beginning of chapter 85 of title 28,
22 United States Code, is amended by adding at the end
23 the following new item:

“1370. *Multiparty, multiform jurisdiction.*”.

24 “(b) *VENUE.*—Section 1391 of title 28, United States
25 Code, is amended by adding at the end the following:

1 “(g) *A civil action in which jurisdiction of the district*
2 *court is based upon section 1370 of this title may be brought*
3 *in any district in which any defendant resides or in which*
4 *a substantial part of the accident giving rise to the action*
5 *took place.*”.

6 (c) *MULTIDISTRICT LITIGATION.*—Section 1407 of title
7 28, United States Code, is amended by adding at the end
8 *the following:*

9 “(i)(1) *In actions transferred under this section when*
10 *jurisdiction is or could have been based, in whole or in part,*
11 *on section 1370 of this title, the transferee district court*
12 *may, notwithstanding any other provision of this section,*
13 *retain actions so transferred for the determination of liabil-*
14 *ity and punitive damages. An action retained for the deter-*
15 *mination of liability shall be remanded to the district court*
16 *from which the action was transferred, or to the State court*
17 *from which the action was removed, for the determination*
18 *of damages, other than punitive damages, unless the court*
19 *finds, for the convenience of parties and witnesses and in*
20 *the interest of justice, that the action should be retained for*
21 *the determination of damages.*

22 “(2) *Any remand under paragraph (1) shall not be*
23 *effective until 60 days after the transferee court has issued*
24 *an order determining liability and has certified its inten-*
25 *tion to remand some or all of the transferred actions for*

1 *the determination of damages. An appeal with respect to*
2 *the liability determination and the choice of law determina-*
3 *tion of the transferee court may be taken during that 60-*
4 *day period to the court of appeals with appellate jurisdic-*
5 *tion over the transferee court. In the event a party files such*
6 *an appeal, the remand shall not be effective until the appeal*
7 *has been finally disposed of. Once the remand has become*
8 *effective, the liability determination and the choice of law*
9 *determination shall not be subject to further review by ap-*
10 *peal or otherwise.*

11 “(3) *An appeal with respect to determination of puni-*
12 *tive damages by the transferee court may be taken, during*
13 *the 60-day period beginning on the date the order making*
14 *the determination is issued, to the court of appeals with*
15 *jurisdiction over the transferee court.*

16 “(4) *Any decision under this subsection concerning re-*
17 *mand for the determination of damages shall not be review-*
18 *able by appeal or otherwise.*

19 “(5) *Nothing in this subsection shall restrict the au-*
20 *thority of the transferee court to transfer or dismiss an ac-*
21 *tion on the ground of inconvenient forum.”.*

22 (d) *REMOVAL OF ACTIONS.*—Section 1441 of title 28,
23 *United States Code, is amended—*

24 (1) *in subsection (e) by striking “(e) The court*
25 *to which such civil action is removed” and inserting*

1 “(f) *The court to which a civil action is removed*
2 *under this section*”; and

3 (2) *by inserting after subsection (d) the following*
4 *new subsection:*

5 “(e)(1) *Notwithstanding the provisions of subsection*
6 *(b) of this section, a defendant in a civil action in a State*
7 *court may remove the action to the district court of the*
8 *United States for the district and division embracing the*
9 *place where the action is pending if—*

10 “(A) *the action could have been brought in a*
11 *United States district court under section 1370 of this*
12 *title, or*

13 “(B) *the defendant is a party to an action which*
14 *is or could have been brought, in whole or in part,*
15 *under section 1370 in a United States district court*
16 *and arises from the same accident as the action in*
17 *State court, even if the action to be removed could not*
18 *have been brought in a district court as an original*
19 *matter.*

20 *The removal of an action under this subsection shall be*
21 *made in accordance with section 1446 of this title, except*
22 *that a notice of removal may also be filed before trial of*
23 *the action in State court within 30 days after the date on*
24 *which the defendant first becomes a party to an action*
25 *under section 1370 in a United States district court that*

1 *arises from the same accident as the action in State court,*
2 *or at a later time with leave of the district court.*

3 “(2) *Whenever an action is removed under this sub-*
4 *section and the district court to which it is removed or*
5 *transferred under section 1407(i) has made a liability de-*
6 *termination requiring further proceedings as to damages,*
7 *the district court shall remand the action to the State court*
8 *from which it had been removed for the determination of*
9 *damages, unless the court finds that, for the convenience of*
10 *parties and witnesses and in the interest of justice, the ac-*
11 *tion should be retained for the determination of damages.*

12 “(3) *Any remand under paragraph (2) shall not be*
13 *effective until 60 days after the district court has issued*
14 *an order determining liability and has certified its inten-*
15 *tion to remand the removed action for the determination*
16 *of damages. An appeal with respect to the liability deter-*
17 *mination and the choice of law determination of the district*
18 *court may be taken during that 60-day period to the court*
19 *of appeals with appellate jurisdiction over the district*
20 *court. In the event a party files such an appeal, the remand*
21 *shall not be effective until the appeal has been finally dis-*
22 *posed of. Once the remand has become effective, the liability*
23 *determination and the choice of law determination shall not*
24 *be subject to further review by appeal or otherwise.*

1 “(4) Any decision under this subsection concerning re-
2 mand for the determination of damages shall not be review-
3 able by appeal or otherwise.

4 “(5) An action removed under this subsection shall be
5 deemed to be an action under section 1370 and an action
6 in which jurisdiction is based on section 1368 of this title
7 for purposes of this section and sections 1407, 1660, 1697,
8 and 1785 of this title.

9 “(6) Nothing in this subsection shall restrict the au-
10 thority of the district court to transfer or dismiss an action
11 on the ground of inconvenient forum.”.

12 (e) CHOICE OF LAW.—

13 (1) DETERMINATION BY THE COURT.—Chapter
14 111 of title 28, United States Code, is amended by
15 adding at the end the following new section:

16 **“§1660. Choice of law in multiparty, multiform ac-**
17 **tions**

18 “(a) FACTORS.—In an action which is or could have
19 been brought, in whole or in part, under section 1370 of
20 this title, the district court in which the action is brought
21 or to which it is removed shall determine the source of the
22 applicable substantive law, except that if an action is trans-
23 ferred to another district court, the transferee court shall
24 determine the source of the applicable substantive law. In
25 making this determination, a district court shall not be

1 bound by the choice of law rules of any State, and the fac-
2 tors that the court may consider in choosing the applicable
3 law include—

4 “(1) the place of the injury;

5 “(2) the place of the conduct causing the injury;

6 “(3) the principal places of business or domiciles
7 of the parties;

8 “(4) the danger of creating unnecessary incen-
9 tives for forum shopping; and

10 “(5) whether the choice of law would be reason-
11 ably foreseeable to the parties.

12 The factors set forth in paragraphs (1) through (5) shall
13 be evaluated according to their relative importance with re-
14 spect to the particular action. If good cause is shown in
15 exceptional cases, including constitutional reasons, the
16 court may allow the law of more than one State to be ap-
17 plied with respect to a party, claim, or other element of
18 an action.

19 “(b) *ORDER DESIGNATING CHOICE OF LAW.*—The dis-
20 trict court making the determination under subsection (a)
21 shall enter an order designating the single jurisdiction
22 whose substantive law is to be applied in all other actions
23 under section 1370 arising from the same accident as that
24 giving rise to the action in which the determination is
25 made. The substantive law of the designated jurisdiction

1 *shall be applied to the parties and claims in all such actions*
 2 *before the court, and to all other elements of each action,*
 3 *except where Federal law applies or the order specifically*
 4 *provides for the application of the law of another jurisdic-*
 5 *tion with respect to a party, claim, or other element of an*
 6 *action.*

7 “(c) *CONTINUATION OF CHOICE OF LAW AFTER RE-*
 8 *MAND.—In an action remanded to another district court*
 9 *or a State court under section 1407(i)(1) or 1441(e)(2) of*
 10 *this title, the district court’s choice of law under subsection*
 11 *(b) shall continue to apply.”.*

12 (2) *CONFORMING AMENDMENT.—The table of sec-*
 13 *tions at the beginning of chapter 111 of title 28,*
 14 *United States Code, is amended by adding at the end*
 15 *the following new item:*

“1660. *Choice of law in multiparty, multiforum actions.*”.

16 (f) *SERVICE OF PROCESS.—*

17 (1) *OTHER THAN SUBPOENAS.—(A) Chapter 113*
 18 *of title 28, United States Code, is amended by adding*
 19 *at the end the following new section:*

20 **“§ 1697. *Service in multiparty, multiforum actions***

21 “*When the jurisdiction of the district court is based*
 22 *in whole or in part upon section 1370 of this title, process,*
 23 *other than subpoenas, may be served at any place within*
 24 *the United States, or anywhere outside the United States*
 25 *if otherwise permitted by law.*”.

1 (B) *The table of sections at the beginning of*
2 *chapter 113 of title 28, United States Code, is amend-*
3 *ed by adding at the end the following new item:*

“1697. Service in multiparty, multiform actions.”.

4 (2) *SERVICE OF SUBPOENAS.—(A) Chapter 117*
5 *of title 28, United States Code, is amended by adding*
6 *at the end the following new section:*

7 **“§ 1785. Subpoenas in multiparty, multiform actions**

8 *“When the jurisdiction of the district court is based*
9 *in whole or in part upon section 1370 of this title, a sub-*
10 *poena for attendance at a hearing or trial may, if author-*
11 *ized by the court upon motion for good cause shown, and*
12 *upon such terms and conditions as the court may impose,*
13 *be served at any place within the United States, or any-*
14 *where outside the United States if otherwise permitted by*
15 *law.”.*

16 (B) *The table of sections at the beginning of*
17 *chapter 117 of title 28, United States Code, is amend-*
18 *ed by adding at the end the following new item:*

“1785. Subpoenas in multiparty, multiform actions.”.

19 (g) *EFFECTIVE DATE.—The amendments made by this*
20 *section shall apply to a civil action if the accident giving*
21 *rise to the cause of action occurred on or after the 90th*
22 *day after the date of the enactment of this Act.*

1 **SEC. 11. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.**

2 (a) *APPEALS.*—Section 7703 of title 5, United States
3 Code, is amended—

4 (1) in subsection (b)(1), by striking “30” and in-
5 sserting “60”; and

6 (2) in the first sentence of subsection (d), by in-
7 sserting after “filing” the following: “, within 60 days
8 after the date the Director received notice of the final
9 order or decision of the Board,”.

10 (b) *EFFECTIVE DATE.*—The amendments made by sub-
11 section (a) take effect on the date of the enactment of this
12 Act and apply to any administrative or judicial proceeding
13 pending on that date or commenced on or after that date.