

106TH CONGRESS  
1ST SESSION

# S. 1403

To amend chapter 3 of title 28, United States Code, to modify en banc procedures for the Ninth Circuit Court of Appeals, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JULY 20, 1999

Mrs. FEINSTEIN (for herself, Mr. REID, Mrs. BOXER, Mr. BRYAN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend chapter 3 of title 28, United States Code, to modify en banc procedures for the Ninth Circuit Court of Appeals, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ninth Circuit Court  
5 of Appeals En Banc Procedures Act of 1999”.

6 **SEC. 2. NINTH CIRCUIT EN BANC PROCEDURES.**

7 (a) IN GENERAL.—Section 46 of title 28, United  
8 States Code, is amended—

9 (1) in subsection (d)—

1 (A) by striking “paragraph (c)” and in-  
2 serting “subsection (e) or (d)”; and

3 (B) by redesignating subsection (d) as sub-  
4 section (e); and

5 (2) by inserting after subsection (c) the fol-  
6 lowing:

7 “(d)(1) Notwithstanding the first sentence of sub-  
8 section (c), 40 percent or more of the circuit judges of  
9 the Ninth Circuit Court of Appeals who are in regular ac-  
10 tive service may order a hearing or rehearing before the  
11 court en banc for such circuit.

12 “(2) Notwithstanding the second sentence of sub-  
13 section (c) or section 6 of the Act entitled “An Act to  
14 provide for the appointment of additional district and cir-  
15 cuit judges, and for other purposes”, approved October  
16 20, 1978 (28 U.S.C. 41 note; Public Law 95–486; 92  
17 Stat. 1633) a majority of the circuit judges of the Ninth  
18 Circuit Court of Appeals who are in regular active service  
19 shall be required to sit on a court en banc for such circuit.

20 “(3) The Ninth Circuit Court of Appeals shall be or-  
21 ganized in no less than 3 administrative units based on  
22 geographic regions. Each panel of the Ninth Circuit Court  
23 of Appeals shall be assigned to an administrative unit. In  
24 any case or controversy heard by any panel of an adminis-  
25 trative unit of the Ninth Circuit Court of Appeals, at least

1 1 judge of that administrative unit shall be assigned to  
2 that panel.”.

3 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—  
4 Section 6 of the Act entitled “An Act to provide for the  
5 appointment of additional district and circuit judges, and  
6 for other purposes”, approved October 20, 1978 (28  
7 U.S.C. 41 note; Public Law 95–486; 92 Stat. 1933) is  
8 amended by striking “Any court of appeals” and inserting  
9 “Subject to section 46(d)(2) of title 28, United States  
10 Code, any court of appeals”.

11 **SEC. 3. EFFECTIVE DATE.**

12 The amendments made by this Act shall take effect  
13 60 days after the date of enactment of this Act.

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