

107TH CONGRESS
1ST SESSION

S. 346

To amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2001

Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. BURNS, Mr. CRAIG, Mr. CRAPO, Mr. INHOFE, and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 3 of title 28, United States Code, to divide the Ninth Judicial Circuit of the United States into two circuits, 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 Reorganization Act of 2001”.

6 **SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.**

7 Section 41 of title 28, United States Code, is
8 amended—

1 (1) in the matter before the table, by striking
2 “thirteen” and inserting “fourteen”; and

3 (2) in the table—

4 (A) by striking the item relating to the
5 ninth circuit and inserting the following:

“Ninth Arizona, California, Nevada.”;

6 and

7 (B) by inserting between the last 2 items
8 the following:

“Twelfth Alaska, Guam, Hawaii, Idaho, Mon-
tana, Northern Mariana Islands,
Oregon, Washington.”.

9 **SEC. 3. NUMBER OF CIRCUIT JUDGES.**

10 The table in section 44(a) of title 28, United States
11 Code, is amended—

12 (1) by striking the item relating to the ninth
13 circuit and inserting the following:

“Ninth 20”;

14 and

15 (2) by inserting between the last 2 items the
16 following:

“Twelfth 8”.

17 **SEC. 4. PLACES OF CIRCUIT COURT.**

18 The table in section 48(a) of title 28, United States
19 Code, is amended—

1 (1) by striking the item relating to the ninth
2 circuit and inserting the following:

“Ninth San Francisco, Los Angeles.”;

3 and

4 (2) by inserting between the last 2 items at the
5 end the following:

“Twelfth Portland, Seattle.”.

6 **SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES.**

7 Each circuit judge in regular active service of the
8 former ninth circuit whose official station on the day be-
9 fore the effective date of this Act—

10 (1) is in Arizona, California, or Nevada is as-
11 signed as a circuit judge of the new ninth circuit;
12 and

13 (2) is in Alaska, Guam, Hawaii, Idaho, Mon-
14 tana, Northern Mariana Islands, Oregon, or Wash-
15 ington is assigned as a circuit judge of the twelfth
16 circuit.

17 **SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

18 Each judge who is a senior judge of the former ninth
19 circuit on the day before the effective date of this Act may
20 elect to be assigned to the new ninth circuit or to the
21 twelfth circuit and shall notify the Director of the Admin-
22 istrative Office of the United States Courts of such elec-
23 tion.

1 **SEC. 7. SENIORITY OF JUDGES.**

2 The seniority of each judge—

3 (1) who is assigned under section 5 of this Act;

4 or

5 (2) who elects to be assigned under section 6 of
6 this Act;

7 shall run from the date of commission of such judge as
8 a judge of the former ninth circuit.

9 **SEC. 8. APPLICATION TO CASES.**

10 The provisions of the following paragraphs of this
11 section apply to any case in which, on the day before the
12 effective date of this Act, an appeal or other proceeding
13 has been filed with the former ninth circuit:

14 (1) If the matter has been submitted for deci-
15 sion, further proceedings in respect of the matter
16 shall be had in the same manner and with the same
17 effect as if this Act had not been enacted.

18 (2) If the matter has not been submitted for de-
19 cision, the appeal or proceeding, together with the
20 original papers, printed records, and record entries
21 duly certified, shall, by appropriate orders, be trans-
22 ferred to the court to which the matter would have
23 been submitted had this Act been in full force and
24 effect at the time such appeal was taken or other
25 proceeding commenced, and further proceedings in
26 respect of the case shall be had in the same manner

1 and with the same effect as if the appeal or other
2 proceeding had been filed in such court.

3 (3) A petition for rehearing or a petition for re-
4 hearing en banc in a matter decided before the effec-
5 tive date of this Act, or submitted before the effec-
6 tive date of this Act and decided on or after the ef-
7 fective date as provided in paragraph (1), shall be
8 treated in the same manner and with the same effect
9 as though this Act had not been enacted. If a peti-
10 tion for rehearing en banc is granted, the matter
11 shall be reheard by a court comprised as though this
12 Act had not been enacted.

13 **SEC. 9. DEFINITIONS.**

14 In this Act, the term—

15 (1) “former ninth circuit” means the ninth ju-
16 dicial circuit of the United States as in existence on
17 the day before the effective date of this Act;

18 (2) “new ninth circuit” means the ninth judicial
19 circuit of the United States established by the
20 amendment made by section 2(2); and

21 (3) “twelfth circuit” means the twelfth judicial
22 circuit of the United States established by the
23 amendment made by section 2(3).

1 **SEC. 10. ADMINISTRATION.**

2 The court of appeals for the ninth circuit as con-
3 stituted on the day before the effective date of this Act
4 may take such administrative action as may be required
5 to carry out this Act and the amendments made by this
6 Act. Such court shall cease to exist for administrative pur-
7 poses on July 1, 2003.

8 **SEC. 11. EFFECTIVE DATE.**

9 This Act and the amendments made by this Act shall
10 become effective on October 1, 2001.

○