

109<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 317

To establish the District Court of the Virgin Islands as a court under article III of the United States Constitution.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2005

Mrs. CHRISTENSEN introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To establish the District Court of the Virgin Islands as a court under article III of the United States Constitution.

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 “Judicial District of  
5 the Virgin Islands Act of 2005”.

6 **SEC. 2. ESTABLISHMENT OF DISTRICT COURT OF THE VIR-**  
7 **GIN ISLANDS AS AN ARTICLE III COURT.**

8       (a) ESTABLISHMENT.—

1 (1) IN GENERAL.—Chapter 5 of title 28, United  
2 States Code, is amended by inserting after section  
3 126 the following new section:

4 **“§ 126A. Virgin Islands**

5 “The Virgin Islands constitutes one judicial district  
6 comprising two divisions.

7 “(1) The Saint Croix Division comprises the Is-  
8 land of Saint Croix and adjacent islands and cays.

9 “Court for the Saint Croix Division shall be  
10 held at Christiansted.

11 “(2) The Saint Thomas and Saint John Divi-  
12 sion comprises the Islands of Saint Thomas and  
13 Saint John and adjacent islands and cays.

14 “Court for the Saint Thomas and Saint John  
15 Division shall be held at Charlotte-Amalie.”.

16 (2) CONFORMING AMENDMENT.—The table of  
17 contents for chapter 5 of title 28, United States  
18 Code, is amended by inserting after the item relating  
19 to section 126 the following:

“126A. Virgin Islands.”.

20 (3) NUMBER OF JUDGES.—The table contained  
21 in section 133(a) of title 28, United States Code, is  
22 amended by inserting after the item relating to  
23 Vermont the following:

“Virgin Islands ..... 2”.

1 (b) REVISED ORGANIC ACT OF THE VIRGIN IS-  
2 LANDS.—

3 (1) REPEALS.—Sections 25, 26, and 27 of the  
4 Revised Organic Act of the Virgin Islands (48  
5 U.S.C. 1615, 1616, and 1617) are repealed.

6 (2) BILL OF RIGHTS.—Section 3 of the Revised  
7 Organic Act of the Virgin Islands (48 U.S.C. 1561)  
8 is amended in the 23d undesignated paragraph—

9 (A) by inserting “article III;” after “sec-  
10 tion 9, clauses 2 and 3;” and

11 (B) by striking “: *Provided, however*” and  
12 all that follows through the end of the para-  
13 graph and inserting the following: “; except  
14 that all offenses under the laws of the Virgin  
15 Islands which are prosecuted in the courts es-  
16 tablished by local law shall continue to be pros-  
17 ecuted by information, except those that are re-  
18 quired by local law to be prosecuted by indict-  
19 ment by grand jury.”.

20 (3) JURISDICTION OF LOCAL COURTS.—Section  
21 21 of the Revised Organic Act of the Virgin Islands  
22 (48 U.S.C. 1611) is amended to read as follows:

1 **“SEC. 21. JURISDICTION OF COURTS OF THE VIRGIN IS-**  
2 **LANDS.**

3 “(a) JURISDICTION OF THE COURTS OF THE VIRGIN  
4 ISLANDS.—The judicial power of the Virgin Islands shall  
5 be vested in such appellate court and lower local courts  
6 as may have been or may hereafter be established by local  
7 law. The courts of the Virgin Islands established by local  
8 law shall have jurisdiction over all causes of action in the  
9 Virgin Islands over which any court established by the  
10 Constitution and laws of the United States does not have  
11 exclusive jurisdiction.

12 “(b) PRACTICE AND PROCEDURE.—The rules gov-  
13 erning the practice and procedure of the courts established  
14 by local law and those prescribing the qualifications and  
15 duties of the judges and officers thereof, oaths and bonds,  
16 and the times and places of holding court shall be gov-  
17 erned by local law or the rules promulgated by those  
18 courts.”.

19 (4) JURISDICTION OVER CRIMINAL MATTERS  
20 AND INCOME TAX.—Section 22 of the Revised Or-  
21 ganic Act of the Virgin Islands (48 U.S.C. 1612) is  
22 amended to read as follows:

23 **“SEC. 22. JURISDICTION OVER INCOME TAX.**

24 “The United States District Court for the District  
25 of the Virgin Islands shall have exclusive jurisdiction over  
26 all criminal and civil proceedings in the Virgin Islands

1 with respect to the income tax laws applicable to the Vir-  
2 gin Islands, regardless of the degree of the offense or of  
3 the amount involved, except the ancillary laws relating to  
4 the income tax enacted by the legislature of the Virgin  
5 Islands. Any act or failure to act with respect to the in-  
6 come tax laws applicable to the Virgin Islands which would  
7 constitute a criminal offense described in chapter 75 of  
8 the Internal Revenue Code of 1986 shall constitute an of-  
9 fense against the government of the Virgin Islands and  
10 may be prosecuted in the name of the government of the  
11 Virgin Islands by appropriate officers thereof in the  
12 United States District Court for the District of the Virgin  
13 Islands without the request or consent of the United  
14 States attorney for the Virgin Islands.”.

15           (5) RELATIONS BETWEEN UNITED STATES  
16 COURTS AND LOCAL COURTS.—Section 23 of the Re-  
17 vised Organic Act of the Virgin Islands (48 U.S.C.  
18 1613) is amended to read as follows:

19 **“SEC. 23. RELATIONS BETWEEN COURTS OF THE UNITED**  
20 **STATES AND LOCAL COURTS.**

21           “(a) IN GENERAL.—The relations between the courts  
22 established by the Constitution or laws of the United  
23 States (including the United States District Court for the  
24 District of the Virgin Islands) and the courts established  
25 by local law with respect to appeals, certiorari, removal

1 of causes, the issuance of writs of habeas corpus, and  
2 other matters or proceedings shall be governed by the laws  
3 of the United States pertaining to the relations between  
4 the courts of the United States, including the Supreme  
5 Court of the United States, and the courts of the several  
6 States in such matters and proceedings, except that for  
7 the first 15 years following the establishment of the appel-  
8 late court authorized by section 21(a) of this Act, the  
9 United States Court of Appeals for the Third Circuit shall  
10 have jurisdiction to review by writ of certiorari all final  
11 decisions of the highest court of the Virgin Islands from  
12 which a decision could be had.

13       “(b) REPORTS TO CONGRESS.—The Judicial Council  
14 of the Third Circuit shall submit reports to the Committee  
15 on Energy and Natural Resources of the Senate and the  
16 Committee on Resources of the House of Representatives  
17 at intervals of 5 years following the establishment of the  
18 appellate court authorized by section 21(a) of this Act as  
19 to whether that court has developed sufficient institutional  
20 traditions to justify direct review by the Supreme Court  
21 of the United States from all final decisions of the highest  
22 court of the Virgin Islands.

23       “(c) RULES.—The United States Court of Appeals  
24 for the Third Circuit shall have jurisdiction to promulgate

1 rules necessary to carry out the provisions of this sec-  
2 tion.”.

3 (6) APPELLATE JURISDICTION OF DISTRICT  
4 COURT.—Section 23A of the Revised Organic Act of  
5 the Virgin Islands (48 U.S.C. 1613a) is amended by  
6 striking “District Court of the Virgin Islands” each  
7 place it appears and inserting “United States Dis-  
8 trict Court for the District of the Virgin Islands”.

9 (7) ASSIGNMENT OF ADDITIONAL JUDGES TO  
10 THE COURT.—Section 24 of the Revised Organic Act  
11 of the Virgin Islands (48 U.S.C. 1614) is amended  
12 to read as follows:

13 **“SEC. 24. ASSIGNMENT OF ADDITIONAL JUDGES TO THE**  
14 **COURT.**

15 “Whenever it appears to be necessary for the proper  
16 dispatch of the business of the United States District  
17 Court for the District of the Virgin Islands—

18 “(1) the chief judge of the Third Judicial Cir-  
19 cuit of the United States may assign—

20 “(A) a judge of a court of record of the  
21 Virgin Islands established by local law,

22 “(B) a circuit or district judge of the  
23 Third Judicial Circuit, or

24 “(C) a recalled senior judge of the District  
25 Court of the Virgin Islands, or

1           “(2) the Chief Justice of the United States may  
2           assign any other United States circuit or district  
3           judge, with the consent of that judge and the chief  
4           judge of the circuit from which the judge is as-  
5           signed,  
6           to serve temporarily as a judge of the United States Dis-  
7           trict Court for the District of the Virgin Islands. After  
8           the establishment of the appellate court authorized by sec-  
9           tion 21(a) of this Act, no judge described in paragraph  
10          (1)(A) may be assigned to the district court under this  
11          section.”.

12          (c) PLEADINGS AND PROCEEDINGS IN ENGLISH.—  
13          All pleadings and proceedings in the United States Dis-  
14          trict Court for the District of the Virgin Islands shall be  
15          conducted in the English language.

16          (d) SAVINGS PROVISIONS.—

17                 (1) PENDING CASES.—With respect to any com-  
18                 plaint or proceeding pending in the District Court of  
19                 the Virgin Islands on the day before the effective  
20                 date of this Act, such complaint or proceeding may,  
21                 on and after such effective date, be pursued to final  
22                 determination in the United States District Court  
23                 for the District of the Virgin Islands, the United  
24                 States Court of Appeals for the Third Circuit, and  
25                 the United States Supreme Court.

1           (2) EXISTING OFFICERS OF THE COURT.—Any  
2 individual who, on the effective date of this Act, is  
3 serving as the United States Attorney for the Virgin  
4 Islands, or the United States marshal for the Virgin  
5 Islands, may continue in such office until a suc-  
6 cessor is appointed pursuant to the provisions of  
7 title 28, United States Code.

8 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

9           (a) JUDICIAL COMPARISONS.—Section 333 of title  
10 28, United States Code, is amended by striking “, the Dis-  
11 trict Court of the Virgin Islands,”.

12           (b) RETIREMENT AND SURVIVORS’ ANNUITIES.—

13           (1) RETIREMENT.—Section 373 of title 28,  
14 United States Code, is amended in subsections (a)  
15 and (e) by striking “, the District Court of the  
16 Northern Mariana Islands, or the District Court of  
17 the Virgin Islands” and inserting “or the District  
18 Court of the Northern Mariana Islands”.

19           (2) SURVIVORS’ ANNUITIES.—Section 376(a) of  
20 title 28, United States Code, is amended in para-  
21 graphs (1)(B) and (2)(B) by inserting “(as in effect  
22 before the effective date of the Judicial District of  
23 the Virgin Islands Act of 2005)” after “the District  
24 Court of the Virgin Islands”.

1           (3) CALCULATION OF SERVICE AS A JUDGE.—

2           In the case of a judge of a district court retiring  
3           under section 371 of title 28, United States Code,  
4           after the effective date of this Act, service by the  
5           judge as a judge of the District Court of the Virgin  
6           Islands before the effective date of this Act shall be  
7           included in calculating service under section 371(c)  
8           of such title.

9           (4) RIGHTS OF EXISTING RETIREES NOT AF-  
10          FFECTED.—Nothing in this Act shall be construed to  
11          affect the rights of any judge who has retired as a  
12          judge of the District Court of the Virgin Islands be-  
13          fore the effective date of this Act.

14          (c) COURTS DEFINED.—Section 610 of title 28,  
15          United States Code, is amended by striking “the United  
16          States District Court for the District, the Canal Zone,”  
17          and by striking “the District Court of the Virgin Is-  
18          lands,”.

19          (d) MAGISTRATE JUDGES.—Section 631(a) of title  
20          28, United States Code, is amended—

21                 (1) in the first sentence, by striking “Virgin Is-  
22                 lands, Guam, and” and inserting “Guam and”; and

23                 (2) in the second sentence, by striking “Virgin  
24                 Islands, Guam, or” and inserting “Guam or”.

1 (e) INVESTIGATIONS BY ATTORNEY GENERAL.—Sec-  
2 tion 526(a)(2) of title 28, United States Code, is amended  
3 by striking “and of the district court of the Virgin Is-  
4 lands”.

5 (f) COURTS OF APPEALS.—

6 (1) Section 1291 of title 28, United States  
7 Code, is amended by striking “, the United States  
8 District Court for the District of the Canal Zone,”  
9 and all that follows through “Virgin Islands” and in-  
10 sserting “and the District Court of Guam”.

11 (2) Section 1292 of title 28, United States  
12 Code, is amended—

13 (A) in subsection (a)(1), by striking “, the  
14 United States District Court for the District of  
15 the Canal Zone” and all that follows through  
16 “Virgin Islands,” and inserting “and the Dis-  
17 trict Court of Guam,”; and

18 (B) in subsection (d)(4)(A), by striking  
19 “the District Court of the Virgin Islands,”.

20 (3) Section 1294 of title 28, United States  
21 Code, is amended by striking paragraphs (2) and (3)  
22 and redesignating paragraph (4) as paragraph (2).

23 (g) COURT OF APPEALS FOR THE FEDERAL CIR-  
24 CUIT.—Section 1295(a) of title 28, United States Code,  
25 is amended in paragraphs (1) and (2) by striking “the

1 United States District Court for the District of the Canal  
2 Zone” and all that follows through “Virgin Islands,” and  
3 inserting “the District Court of Guam,”.

4 (h) FEDERAL TORT CLAIMS.—Section 1346(b)(1) of  
5 title 28, United States Code, is amended by striking “,  
6 together with” and all that follows through “Virgin Is-  
7 lands,”.

8 (i) COURT REPORTERS.—Section 753(a) of title 28,  
9 United States Code, is amended in the first paragraph by  
10 striking “, the United States District Court for the Dis-  
11 trict of the Canal Zone” and all that follows through “Vir-  
12 gin Islands” and inserting “and the District Court of  
13 Guam”.

14 (j) REPRESENTATION OF CERTAIN DEFENDANTS.—  
15 Section 3006A(j) of title 18, United States Code, is  
16 amended by striking “the District Court of the Virgin Is-  
17 lands,”.

18 (k) VENUE.—Sections 1404(d) and 1406(e) of title  
19 28, United States Code, are each amended by striking “,  
20 the District Court for the Northern Mariana Islands, and  
21 the District Court of the Virgin Islands,” and inserting  
22 “and the District Court for the Northern Mariana Is-  
23 lands,”.

24 (l) BANKRUPTCY JUDGES.—The table contained in  
25 section 152(a)(2) of title 28, United States Code, is

1 amended by inserting after the item relating to Vermont  
 2 the following new item:

“Virgin Islands ..... 2”.

3 (m) OTHER TITLE 18 AMENDMENTS.—(1) Section  
 4 23 of title 18, United States Code, is amended—

5 (A) by striking “Guam, the” and inserting  
 6 “Guam and”; and

7 (B) by striking “, and the District Court of the  
 8 Virgin Islands”.

9 (2) Section 6001(4) of title 18, United States Code,  
 10 is amended by striking “the District Court of the Virgin  
 11 Islands,”.

12 **SEC. 4. ADDITIONAL REFERENCES.**

13 Any reference in any provision of law to the District  
 14 Court of the Virgin Islands shall, after the effective date  
 15 of this Act, be deemed to be a reference to the United  
 16 States District Court for the District of the Virgin Is-  
 17 lands.

18 **SEC. 5. EFFECTIVE DATE.**

19 This Act and the amendments made by this Act shall  
 20 take effect at the end of the 90-day period beginning on  
 21 the date of the enactment of this Act.

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