

117TH CONGRESS
1ST SESSION

S. _____

To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into two judicial circuits, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CRAPO (for himself, Mr. RISCH, Mr. SULLIVAN, and Ms. MURKOWSKI) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To amend title 28, United States Code, to provide for the appointment of additional Federal circuit judges, to divide the Ninth Judicial Circuit of the United States into two judicial 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 “Judicial Reorganiza-
5 tion Act of 2021”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act—

1 (1) the term “former Ninth Circuit” means the
 2 ninth judicial circuit of the United States as in ex-
 3 istence on the day before the effective date of this
 4 Act;

5 (2) the term “new Ninth Circuit” means the
 6 ninth judicial circuit of the United States established
 7 by the amendment made by section 3(2)(A); and

8 (3) the term “Twelfth Circuit” means the
 9 twelfth judicial circuit of the United States estab-
 10 lished by the amendment made by section 3(2)(B).

11 **SEC. 3. NUMBER AND COMPOSITION OF CIRCUITS.**

12 Section 41 of title 28, United States Code, is amend-
 13 ed—

14 (1) in the matter preceding the table, by strik-
 15 ing “thirteen” and inserting “fourteen”; and

16 (2) in the table—

17 (A) by striking the item relating to the
 18 Ninth Circuit and inserting the following:

“Ninth California, Guam, Hawaii.”;

19 and

20 (B) by inserting after the item relating to
 21 the Eleventh Circuit the following:

“Twelfth Alaska, Arizona, Idaho, Montana, Ne-
 vada, Oregon, Washington.”.

22 **SEC. 4. JUDGESHIPS.**

23 (a) NEW JUDGESHIPS.—

1 (1) FOR FORMER NINTH CIRCUIT.—The Presi-
 2 dent shall appoint, by and with the advice and con-
 3 sent of the Senate—

4 (A) 4 additional circuit court judges for
 5 the former Ninth Circuit, whose official duty
 6 station shall be in California, Guam, or Hawaii;
 7 and

8 (B) 1 additional circuit court judge for the
 9 former Ninth Circuit, whose official duty sta-
 10 tion shall be in Alaska, Arizona, Idaho, Mon-
 11 tana, Nevada, Oregon, or Washington.

12 (b) EFFECTIVE DATE.—This section shall take effect
 13 on the date of the enactment of this Act.

14 **SEC. 5. NUMBER OF CIRCUIT JUDGES.**

15 The table contained in section 44(a) of title 28,
 16 United States Code, is amended—

17 (1) by striking the item relating to the Ninth
 18 Circuit and inserting the following:

 “Ninth 21”;

19 and

20 (2) by inserting after the item relating to the
 21 Eleventh Circuit the following:

 “Twelfth 13”.

1 **SEC. 6. PLACES OF CIRCUIT COURT.**

2 The table contained in section 48(a) of title 28,
3 United States Code, is amended—

4 (1) by striking the item relating to the Ninth
5 Circuit and inserting the following:

“Ninth Honolulu, San Francisco, Pasadena.”;

6 and

7 (2) by inserting after the item relating to the
8 Eleventh Circuit the following:

“Twelfth Phoenix, Seattle, Portland.”.

9 **SEC. 7. ASSIGNMENT OF CIRCUIT JUDGES.**

10 (a) IN GENERAL.—Each circuit judge of the former
11 Ninth circuit who is in regular active service and whose
12 official duty station on the day before the effective date
13 of this Act—

14 (1) is in California, Guam, or Hawaii shall be
15 a circuit judge of the new Ninth Circuit as of such
16 effective date; and

17 (2) is in Alaska, Arizona, Idaho, Montana, Ne-
18 vada, Oregon, or Washington shall be a circuit judge
19 of the Twelfth Circuit as of such effective date.

20 **SEC. 8. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

21 Each judge who is a senior circuit judge of the former
22 Ninth Circuit on the day before the effective date of this
23 Act may elect to be assigned to the new Ninth Circuit or
24 to the Twelfth Circuit as of such effective date, and shall

1 notify the Director of the Administrative Office of the
2 United States Courts of such election.

3 **SEC. 9. SENIORITY OF JUDGES.**

4 The seniority of each judge—

5 (1) who is assigned under section 7, or

6 (2) who elects to be assigned under section 8,

7 shall run from the date of commission of such judge as
8 a judge of the former Ninth Circuit.

9 **SEC. 10. APPLICATION TO CASES.**

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

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

17 (2) If the matter has not been submitted for de-
18 cision, the appeal or proceeding, together with the
19 original papers, printed records, and record entries
20 duly certified, shall, by appropriate orders, be trans-
21 ferred to the court to which the matter would have
22 been submitted had this Act been in full force and
23 effect at the time such appeal was taken or other
24 proceeding commenced, and further proceedings with
25 respect to 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 such
7 effective 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. 11. ADMINISTRATION.**

14 The United States Court of Appeals for the Ninth
15 Circuit as constituted on the day before the effective date
16 of this Act may take such administrative action as may
17 be required to carry out this Act and the amendments
18 made by this Act. Such court shall cease to exist for ad-
19 ministrative purposes upon the expiration of the 2-year pe-
20 riod beginning on the effective date of this Act.

21 **SEC. 12. EFFECTIVE DATE.**

22 Except as provided in section 4(b), this Act and the
23 amendments made by this Act shall take effect on the date
24 that is 1 year after the date of enactment of this Act.

1 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as may be necessary to carry out this Act, including funds
4 for additional court facilities.