

Union Calendar No. 433

107TH CONGRESS
2^D SESSION

H. R. 4125

[Report No. 107-700]

To make improvements in the operation and administration of the Federal courts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2002

Mr. COBLE (for himself and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

SEPTEMBER 30, 2002

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 italic]

[For text of introduced bill, see copy of bill as introduced on April 10, 2002]

A BILL

To make improvements in the operation and administration of the Federal courts, 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; TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
5 *“Federal Courts Improvement Act of 2002”.*

1 **(b) TABLE OF CONTENTS.**—*The table of contents of this*
 2 *Act is as follows:*

Section 1. Short title; table of contents.

TITLE I—JUDICIAL PROCESS IMPROVEMENTS

Sec. 101. Bankruptcy administrator authority to appoint trustees, examiners, and committee of creditors.

Sec. 102. Change in composition of divisions of Eastern District of Texas.

Sec. 103. Conditions of probation and supervised release.

Sec. 104. Reporting of wiretap orders.

Sec. 105. Clarifying the scope of diversity of citizenship for resident aliens.

Sec. 106. Authority of district courts regarding jurors.

Sec. 107. Deletion of automatic excuse from jury service for members of the Armed Forces, members of fire and police departments, and public officers.

Sec. 108. Elimination of the public drawing requirements for selection of juror wheels.

Sec. 109. Supplemental attendance fee for petit jurors serving on lengthy trials.

Sec. 110. Change in composition of divisions in Western District of Tennessee.

Sec. 111. Place of holding court in the Southern District of Ohio.

Sec. 112. Place of holding court in the Northern District of New York.

TITLE II—JUDICIAL PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

Sec. 201. Disability retirement and cost-of-living adjustments of annuities for territorial judges.

Sec. 202. Federal Judicial Center personnel matters.

Sec. 203. Annual leave limit for judicial branch executives.

Sec. 204. Supplemental benefits program.

Sec. 205. Inclusion of judicial branch personnel in organ donor leave program.

Sec. 206. Maximum amounts of compensation for attorneys.

Sec. 207. Maximum amounts of compensation for services other than counsel.

Sec. 208. Protection against malicious recording of fictitious liens against Federal judges.

Sec. 209. Appointing authority for circuit librarians.

TITLE III—ADDITIONAL PROVISIONS

Sec. 301. Monitoring of communications of officers and employees of judicial branch.

1 **TITLE I—JUDICIAL PROCESS**
2 **IMPROVEMENTS**

3 **SEC. 101. BANKRUPTCY ADMINISTRATOR AUTHORITY TO**
4 **APPOINT TRUSTEES, EXAMINERS, AND COM-**
5 **MITTEE OF CREDITORS.**

6 (a) *APPOINTMENT OF TRUSTEES.*—Until the amend-
7 ments made by subtitle A of title II of the Bankruptcy
8 Judges, United States Trustees, and Family Farmer Bank-
9 ruptcy Act of 1986 (28 U.S.C. 581 note; Public Law 99–
10 554; 100 Stat. 3123) become effective in a judicial district
11 and apply to a case, a bankruptcy administrator appointed
12 to serve in the district pursuant to section 302(d)(3)(I) of
13 that Act, as amended by section 317(a) of the Federal
14 Courts Study Committee Implementation Act of 1990 (Pub-
15 lic Law 101–650; 104 Stat 5115), shall appoint the trustees,
16 examiners, and standing trustees subject to the provisions
17 set forth in sections 701, 1104, 1202, and 1302 of title 11,
18 United States Code.

19 (b) *STANDING TRUSTEES.*—The Director of the Ad-
20 ministrative Office of the United States Courts, in consulta-
21 tion with the bankruptcy administrator referred to in sub-
22 section (a), shall fix the maximum annual compensation
23 and percentage fee for the standing trustees appointed
24 under subsection (a) notwithstanding the references in those

1 *sections of title 11, United States Code, to the court's au-*
2 *thority to fix them.*

3 (c) *SERVICE AS TRUSTEE.*—A bankruptcy adminis-
4 *trator may serve as and perform the duties of a trustee in*
5 *a case under chapter 7 of title 11, United States Code, if*
6 *none of the members of the panel of private trustees is disin-*
7 *terested and willing to serve as trustee in the case. A bank-*
8 *ruptcy administrator may serve as and perform the duties*
9 *of a trustee or standing trustee in cases under chapter 12*
10 *or chapter 13 of title 11, United States Code, if necessary.*

11 (d) *APPOINTMENT OF COMMITTEES.*—Until the
12 *amendments made by subtitle A of title II of the Bank-*
13 *ruptcy Judges, United States Trustees, and Family Farmer*
14 *Bankruptcy Act of 1986 become effective in a judicial dis-*
15 *trict and apply to a case, the bankruptcy administrator ap-*
16 *pointed to serve in the district shall appoint the committees*
17 *of creditors and equity security holders provided in section*
18 *1102 of title 11, United States Code. On request of a party*
19 *in interest, the court may order the appointment of addi-*
20 *tional committees of creditors or of equity security holders*
21 *if necessary to assure adequate representation of creditors*
22 *or equity security holders. The bankruptcy administrator*
23 *shall appoint any such committee. On request of a party*
24 *in interest in a case in which the debtor is a small business*

1 *and for cause, the court may order that a committee of*
2 *creditors not be appointed.*

3 **SEC. 102. CHANGE IN COMPOSITION OF DIVISIONS OF EAST-**
4 **ERN DISTRICT OF TEXAS.**

5 *(a) IN GENERAL.—Section 124(c) of title 28, United*
6 *States Code, is amended—*

7 *(1) in paragraph (3)—*

8 *(A) by striking “Denton, and Grayson” and*
9 *inserting “Delta, Denton, Fannin, Grayson,*
10 *Hopkins, and Lamar”; and*

11 *(B) by inserting “and Plano” after “held at*
12 *Sherman”;*

13 *(2) by striking paragraph (4) and redesignating*
14 *paragraphs (5) through (7) as paragraphs (4)*
15 *through (6), respectively; and*

16 *(3) in paragraph (5), as so redesignated, by in-*
17 *serting “Red River,” after “Franklin,”.*

18 *(b) TEXARKANA.—Sections 83(b)(1) and 124(c)(5) (as*
19 *redesignated by subsection (a) of this section) of title 28,*
20 *United States Code, are each amended by inserting after*
21 *“held at Texarkana” the following: “, and may be held any-*
22 *where within the Federal courthouse in Texarkana that is*
23 *located astride the State line between Texas and Arkansas”.*

24 *(c) EFFECTIVE DATE.—*

1 *any other condition it considers to be appropriate, except*
2 *that a condition set forth in subsection 3563(b)(10) shall*
3 *be imposed only for a violation of a condition of supervised*
4 *release in accordance with subsection (e)(2) of this section*
5 *and only when facilities are available.”.*

6 (c) *CONFORMING AMENDMENT.—Section 3563(b)(10)*
7 *of title 18, United States Code, is amended by inserting*
8 *“or supervised release” after “probation”.*

9 **SEC. 104. REPORTING OF WIRETAP ORDERS.**

10 *Paragraph (1) of section 2519 of title 18, United*
11 *States Code, is amended by striking all that precedes “(a)”*
12 *and inserting the following:*

13 *“(1) In January of each year, any judge who has*
14 *issued an order (or extension thereof) under section 2518*
15 *which expired during the preceding year or who has denied*
16 *approval of an interception during that year, shall report*
17 *to the Administrative Office of the United States*
18 *Courts—”.*

19 **SEC. 105. CLARIFYING THE SCOPE OF DIVERSITY OF CITI-**
20 **ZENSHIP FOR RESIDENT ALIENS.**

21 *Section 1332(a) of title 28, United States Code, is*
22 *amended by striking the last sentence and inserting the fol-*
23 *lowing: “The district courts shall not have original jurisdic-*
24 *tion under paragraph (2) or (3) where the matter in con-*
25 *troversy is between a citizen of a State and a citizen or*

1 *subject of a foreign state admitted to the United States for*
2 *permanent residence and domiciled in the same State.”.*

3 **SEC. 106. AUTHORITY OF DISTRICT COURTS REGARDING**
4 **JURORS.**

5 *Section 1866(g) of title 28, United States Code, is*
6 *amended in the first sentence—*

7 *(1) by striking “shall” and inserting “may”;*

8 *and*

9 *(2) by striking “his” and inserting “the”.*

10 **SEC. 107. DELETION OF AUTOMATIC EXCUSE FROM JURY**
11 **SERVICE FOR MEMBERS OF THE ARMED**
12 **FORCES, MEMBERS OF FIRE AND POLICE DE-**
13 **PARTMENTS, AND PUBLIC OFFICERS.**

14 *(a) REMOVAL OF EXEMPTION.—Section 1863(b) of*
15 *title 28, United States Code, is amended by striking para-*
16 *graph (6) and redesignating paragraphs (7) and (8) as*
17 *paragraphs (6) and (7), respectively.*

18 *(b) CONFORMING AMENDMENTS.—(1) Section 1865(a)*
19 *of title 28, United States Code, is amended in the first sen-*
20 *tence by striking “, or exempt,”.*

21 *(2) Section 1866 of title 28, United States Code, is*
22 *amended—*

23 *(A) in the first sentence of subsection (a), by*
24 *striking “exempt or”;*

25 *(B) in the first sentence of subsection (c)—*

1 (i) by striking “or (6)”; and

2 (ii) by striking “excused, or exempt” and
3 inserting “or excused”; and

4 (C) in subsection (d), by striking “exempt.”

5 (3) Section 1869 of title 28, United States Code, is
6 amended—

7 (A) in the first sentence of subsection (h), by
8 striking “or exempted”; and

9 (B) by repealing subsection (i).

10 (c) *DISCRETIONARY EXEMPTION FROM SERVICE.*—(1)

11 Section 982 of title 10, United States Code, is amended—

12 (A) by amending the section heading to read as
13 follows:

14 **“§982. Members: service on Federal, State, and local**
15 **juries”;**

16 and

17 (B) by striking “State or” and inserting “Fed-
18 eral, State, or”.

19 (2) The item relating to section 982 in the table of
20 sections for chapter 49 of title 10, United States Code, is
21 amended to read as follows:

“982. Members: service on Federal, State, and local juries.”.

22 **SEC. 108. ELIMINATION OF THE PUBLIC DRAWING REQUIRE-**
23 **MENTS FOR SELECTION OF JUROR WHEELS.**

24 (a) *DRAWING OF NAMES FROM JURY WHEEL.*—Sec-
25 tion 1864(a) of title 28, United States Code, is amended—

1 (1) *in the first sentence, by striking “publicly”;*
2 *and*

3 (2) *by inserting after the first sentence the fol-*
4 *lowing new sentence: “The clerk or jury commission*
5 *shall post a general notice for public review in the*
6 *clerk’s office explaining the process by which names*
7 *are periodically and randomly drawn.”.*

8 (b) *SELECTION AND SUMMONING OF JURY PANELS.—*
9 *Section 1866(a) of title 28, United States Code, is amend-*
10 *ed—*

11 (1) *in the second sentence, by striking “pub-*
12 *licly”;* *and*

13 (2) *by inserting after the second sentence the fol-*
14 *lowing new sentence: “The clerk or jury commission*
15 *shall post a general notice for public review in the*
16 *clerk’s office explaining the process by which names*
17 *are periodically and randomly drawn.”.*

18 (c) *CONFORMING AMENDMENT.—Section 1869(k) of*
19 *title 28, United States Code, is repealed.*

20 **SEC. 109. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT JU-**
21 **RORS SERVING ON LENGTHY TRIALS.**

22 *Section 1871(b)(2) of title 28, United States Code, is*
23 *amended by striking “thirty” each place it appears and in-*
24 *serting “five”.*

1 **SEC. 110. CHANGE IN COMPOSITION OF DIVISIONS IN WEST-**
2 **ERN DISTRICT OF TENNESSEE.**

3 (a) *IN GENERAL.*—Section 123(c) of title 28, United
4 States Code, is amended—

5 (1) *in paragraph (1)*—

6 (A) *by inserting “Dyer,” after “Decatur,”;*

7 *and*

8 (B) *in the last sentence, by inserting “and*

9 *Dyersburg” after “Jackson”; and*

10 (2) *in paragraph (2)*—

11 (A) *by striking “Dyer,”; and*

12 (B) *in the second sentence, by striking “and*

13 *Dyersburg”.*

14 (b) *EFFECTIVE DATE.*—

15 (1) *IN GENERAL.*—*This section and the amend-*
16 *ments made by this section shall take effect on the*
17 *date of the enactment of this Act.*

18 (2) *PENDING CASES NOT AFFECTED.*—*This sec-*
19 *tion and the amendments made by this section shall*
20 *not affect any action commenced before the effective*
21 *date of this section and pending in the United States*
22 *District Court for the Western District of Tennessee*
23 *on such date.*

24 (3) *JURIES NOT AFFECTED.*—*This section and*
25 *the amendments made by this section shall not affect*
26 *the composition, or preclude the service, of any grand*

1 *be paid, while performing such duties, the same compensa-*
2 *tion (in lieu of the annuity payable under this section) and*
3 *the same allowances for travel and other expenses as a judge*
4 *on active duty with the court being served.”;*

5 (2) *by amending subsection (e) to read as fol-*
6 *lows:*

7 “(e)(1) *Any judge of the District Court of Guam, the*
8 *District Court of the Northern Mariana Islands, or the Dis-*
9 *trict Court of the Virgin Islands who is not reappointed*
10 *(as judge of such court) shall be entitled, upon attaining*
11 *the age of sixty-five years or upon relinquishing office if*
12 *the judge is then beyond the age of sixty-five years—*

13 “(A) *if the judicial service of such judge, contin-*
14 *uous or otherwise, aggregates fifteen years or more, to*
15 *receive during the remainder of such judge’s life an*
16 *annuity equal to the salary received when the judge*
17 *left office; or*

18 “(B) *if such judicial service, continuous or other-*
19 *wise, aggregated less than fifteen years, to receive dur-*
20 *ing the remainder of such judge’s life an annuity*
21 *equal to that proportion of such salary which the ag-*
22 *gregate number of such judge’s years of service bears*
23 *to fifteen.*

24 “(2) *Any judge of the District Court of Guam, the Dis-*
25 *trict Court of the Northern Mariana Islands, or the District*

1 *Court of the Virgin Islands who has served at least five*
2 *years, continuously or otherwise, and who retires or is re-*
3 *moved upon the sole ground of mental or physical dis-*
4 *ability, shall be entitled to receive during the remainder of*
5 *such judge's life an annuity equal to 40 percent of the sal-*
6 *ary received when the judge left office or, in the case of a*
7 *judge who has served at least ten years, continuously or oth-*
8 *erwise, an annuity equal to that proportion of such salary*
9 *which the aggregate number of such judge's years of judicial*
10 *service bears to fifteen.”; and*

11 *(3) by amending subsection (g) to read as fol-*
12 *lows:*

13 *“(g) Any retired judge who is entitled to receive an*
14 *annuity under this section shall be entitled to a cost-of-liv-*
15 *ing adjustment in the amount computed as specified in sec-*
16 *tion 8340(b) of title 5, except that in no case may the annu-*
17 *ity payable to such retired judge, as increased under this*
18 *subsection, exceed the salary of a judge in regular active*
19 *service with the court on which the retired judge served be-*
20 *fore retiring.”.*

21 **SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MAT-**
22 **TERS.**

23 *Section 625 of title 28, United States Code, is amend-*
24 *ed—*

25 *(1) in subsection (b)—*

1 (A) by striking “, United States Code,”;

2 (B) by striking “pay rates, section 5316,
3 title 5, United States Code” and inserting
4 “under section 5316 of title 5, except that the Di-
5 rector may fix the compensation of 4 positions of
6 the Center at a level not to exceed the annual
7 rate of pay in effect for level IV of the Executive
8 Schedule under section 5315 of title 5”; and

9 (C) by striking “the Civil Service” and all
10 that follows through “Code” and inserting “sub-
11 chapter III of chapter 83 of title 5 shall be ad-
12 justed pursuant to the provisions of section 8344
13 of such title, and the salary of a reemployed an-
14 nuitant under chapter 84 of title 5 shall be ad-
15 justed pursuant to the provisions of section 8468
16 of such title”;

17 (2) in subsection (c), by striking “, United
18 States Code,”; and

19 (3) in subsection (d)—

20 (A) by striking “United States Code,”; and

21 (B) by striking “, section 5332, title 5,
22 United States Code” and inserting “under sec-
23 tion 5332 of title 5”.

1 **SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH EX-**
2 **ECUTIVES.**

3 *Section 6304(f)(1) of title 5, United States Code, is*
4 *amended—*

5 *(1) in subparagraph (D), by striking “or”;*

6 *(2) in subparagraph (E), by striking the period*
7 *and inserting “; or”; and*

8 *(3) by adding at the end the following:*

9 *“(F) the Judicial Branch designated as a court*
10 *unit executive position by the Judicial Conference of*
11 *the United States or designated as an executive posi-*
12 *tion in the Federal Judicial Center by the Board of*
13 *the Federal Judicial Center.”.*

14 **SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.**

15 *Section 604(a) of title 28, United States Code, is*
16 *amended—*

17 *(1) by redesignating paragraphs (6) through (24)*
18 *as paragraphs (7) through (25), respectively; and*

19 *(2) by inserting after paragraph (5) the fol-*
20 *lowing:*

21 *“(6) In the Director’s discretion, establish a pro-*
22 *gram of benefits, in addition to those otherwise pro-*
23 *vided by law, for officers and employees of the judi-*
24 *cial branch, including justices and judges of the*
25 *United States;”.*

1 **SEC. 205. INCLUSION OF JUDICIAL BRANCH PERSONNEL IN**
2 **ORGAN DONOR LEAVE PROGRAM.**

3 *Section 6327(a) of title 5, United States Code, is*
4 *amended by inserting “or an entity of the judicial branch”*
5 *after “An employee in or under an Executive agency”.*

6 **SEC. 206. MAXIMUM AMOUNTS OF COMPENSATION FOR AT-**
7 **TORNEYS.**

8 *Paragraph (2) of subsection (d) of section 3006A of*
9 *title 18, United States Code, is amended—*

- 10 *(1) by striking “5,200” and inserting “7,000”;*
11 *(2) by striking “1,500” and inserting “2,000”;*
12 *(3) by striking “3,700” and inserting “5,000”;*
13 *(4) by striking “1,200” each place it appears*
14 *and inserting “1,500”; and*
15 *(5) by striking “3,900” and inserting “5,000”.*

16 **SEC. 207. MAXIMUM AMOUNTS OF COMPENSATION FOR**
17 **SERVICES OTHER THAN COUNSEL.**

18 *Subsection (e) of section 3006A of title 18, United*
19 *States Code, is amended—*

- 20 *(1) in paragraph (2)—*
21 *(A) in subparagraph (A), by striking*
22 *“\$300” and inserting “\$500”; and*
23 *(B) in subparagraph (B), by striking*
24 *“\$300” and inserting “\$500”; and*
25 *(2) in paragraph (3), by striking “\$1,000” and*
26 *inserting “\$1,600”.*

1 **SEC. 208. PROTECTION AGAINST MALICIOUS RECORDING**
2 **OF FICTITIOUS LIENS AGAINST FEDERAL**
3 **JUDGES.**

4 (a) *IN GENERAL.*—Chapter 73 of title 18, United
5 States Code, is amended by adding at the end thereof the
6 following:

7 **“§ 1521. Retaliating against a Federal judge by false**
8 **claim or slander of title**

9 “(a) *Whoever files or attempts to file, in any public*
10 *record or in any private record which is generally available*
11 *to the public, any lien, encumbrance, civil claim, or other*
12 *document against a Federal Judge or against the real or*
13 *personal property of a Federal Judge, knowing or having*
14 *reason to know that such claim, lien, encumbrance, or docu-*
15 *ment is false or contains any materially false, fictitious,*
16 *or fraudulent statement or representation, shall be fined*
17 *under this title or imprisoned for not more than five years,*
18 *or both. In the case of an offense under this subsection which*
19 *was committed after the defendant had previously been con-*
20 *victed of an earlier offense under this subsection, the defend-*
21 *ant shall be fined under this title or imprisoned for not*
22 *more than ten years, or both.*

23 “(b) *As used in this section, the term ‘Federal Judge’*
24 *means a justice or judge of the United States as defined*
25 *in section 451 of title 28, a judge of the United States Court*
26 *of Federal Claims, a United States bankruptcy judge, a*

1 *United States magistrate judge, and a judge of the United*
 2 *States Court of Appeals for the Armed Forces, United States*
 3 *Court of Appeals for Veterans Claims, United States Tax*
 4 *Court (including any special trial judge appointed under*
 5 *section 7443A of the Internal Revenue Code of 1986), Dis-*
 6 *trict Court of Guam, District Court of the Northern Mar-*
 7 *iana Islands, or District Court of the Virgin Islands.”.*

8 (b) *CLERICAL AMENDMENT.*—*The table of sections at*
 9 *the beginning of chapter 73 of title 18, United States Code,*
 10 *is amended by adding at the end the following new item:*
 “1521. *Retaliating against a Federal judge by false claim or slander of title.*”.

11 **SEC. 209. APPOINTING AUTHORITY FOR CIRCUIT LIBRAR-**
 12 **IANs.**

13 *Section 713 of title 28, United States Code, is amend-*
 14 *ed—*

15 (1) *in subsection (a)—*

16 (A) *by striking “Each court of appeals”*
 17 *and inserting “The judicial council of each cir-*
 18 *cuit”; and*

19 (B) *by striking “the court” and inserting*
 20 *“the judicial council”; and*

21 (2) *in subsection (b), by striking “court” each*
 22 *place it appears and inserting “judicial council”.*

1 **TITLE III—ADDITIONAL**
2 **PROVISIONS**

3 **SEC. 301. MONITORING OF COMMUNICATIONS OF OFFICERS**
4 **AND EMPLOYEES OF JUDICIAL BRANCH.**

5 *Section 604 of title 28, United States Code, is amended*
6 *by adding at the end the following:*

7 “(i)(1) *The Judicial Conference should take such steps*
8 *as it deems necessary and appropriate to safeguard the pri-*
9 *vacy of officers and employees of the judicial branch by en-*
10 *suring that—*

11 “(A) *the Director does not intercept electronic*
12 *communications of any such officer or employee (in-*
13 *cluding any electronic communication consisting of*
14 *an electronic mail message or a transfer of informa-*
15 *tion by means of the World Wide Web or the Internet)*
16 *between or among computers, or hire or enter into a*
17 *contract with another entity to monitor or intercept*
18 *such communications, except pursuant to—*

19 “(i) *a law enforcement investigation;*

20 “(ii) *prior authorization by the Judicial*
21 *Conference or its Executive Committee; or*

22 “(iii) *a policy adopted by the Judicial Con-*
23 *ference setting forth the procedures under which*
24 *the interception of such communications may be*
25 *authorized; and*

1 “(B) any information obtained pursuant to
2 interception of communications authorized under sub-
3 paragraph (A) is used solely for the purposes for
4 which the interception is authorized.

5 “(2) In this subsection—

6 “(A) the term ‘electronic communication’ has the
7 meaning given that term in section 2510 of title 18;

8 “(B) the terms ‘by means of the World Wide
9 Web’ and ‘Internet’ have the meanings given those
10 terms in section 231(e) of the Communications Act of
11 1934 (47 U.S.C. 231(e)); and

12 “(C) the term ‘computer’ has the meaning given
13 that term in section 1030(e) of title 18.”.

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