

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.

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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 \_\_\_\_\_

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**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.