

106TH CONGRESS
2D SESSION

S. 2875

To amend titles 18 and 28, United States Code, with respect to United States magistrate judges.

IN THE SENATE OF THE UNITED STATES

JULY 14, 2000

Mr. SESSIONS (for himself, Mr. HATCH, Mr. LEAHY, Mr. THURMOND, Mr. TORRICELLI, and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend titles 18 and 28, United States Code, with respect to United States magistrate judges.

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 “Magistrate Judge Im-

5 provement Act of 2000”.

6 **SEC. 2. MAGISTRATE JUDGE CONTEMPT AUTHORITY.**

7 Section 636(e) of title 28, United States Code is

8 amended to read as follows:

9 “(e) **MAGISTRATE JUDGE CONTEMPT AUTHORITY.**—

1 “(1) IN GENERAL.—A United States magistrate
2 judge serving under this chapter shall have within
3 the territorial jurisdiction prescribed by his or her
4 appointment the power to exercise contempt author-
5 ity as set forth in this subsection.

6 “(2) SUMMARY CRIMINAL CONTEMPT AUTHOR-
7 ITY.—A magistrate judge shall have the power to
8 punish summarily by fine or imprisonment such con-
9 tempt of the authority of that magistrate judge con-
10 stituting misbehavior of any person in the presence
11 of the magistrate judge so as to obstruct the admin-
12 istration of justice. The order of contempt shall be
13 issued pursuant to Federal Rules of Criminal Proce-
14 dure.

15 “(3) ADDITIONAL CRIMINAL CONTEMPT AU-
16 THORITY IN CIVIL CONSENT AND MISDEMEANOR
17 CASES.—In any case in which a United States mag-
18 istrate judge presides with the consent of the parties
19 under subsection (c) of this section, and in any mis-
20 demeanor case proceeding before a magistrate judge
21 under section 3401 of title 18, the magistrate judge
22 shall have the power to punish by fine or imprison-
23 ment such criminal contempt constituting disobe-
24 dience or resistance to the lawful writ, process,
25 order, rule, decree, or command of the magistrate

1 judge. Disposition of such contempt shall be con-
2 ducted upon notice and hearing pursuant to the
3 Federal Rules of Criminal Procedure.

4 “(4) CIVIL CONTEMPT AUTHORITY IN CIVIL
5 CONSENT AND MISDEMEANOR CASES.—In any case
6 in which a United States magistrate judge presides
7 with the consent of the parties under subsection (c)
8 of this section, and in any misdemeanor case pro-
9 ceeding before a magistrate judge under section
10 3401 of title 18, the magistrate judge may exercise
11 the civil contempt authority of the district court.
12 This paragraph shall not be construed to limit the
13 authority of a magistrate judge to order sanctions
14 pursuant to any other statute, the Federal Rules of
15 Civil Procedure, or the Federal Rules of Criminal
16 Procedure.

17 “(5) CRIMINAL CONTEMPT PENALTIES.—The
18 sentence imposed by a magistrate judge for any
19 criminal contempt set forth in paragraphs (2) and
20 (3) of this subsection shall not exceed the penalties
21 for a class C misdemeanor as set forth in sections
22 3571(b)(6) and 3581(b)(8) of title 18.

23 “(6) CERTIFICATION OF OTHER CONTEMPTS TO
24 THE DISTRICT JUDGE.—

1 “(A) IN GENERAL.—Upon the commission
2 of any act described in subparagraph (B)—

3 “(i) the magistrate judge shall
4 promptly certify the facts to a district
5 judge and may serve or cause to be served
6 upon any person whose behavior is brought
7 into question under this paragraph an
8 order requiring such person to appear be-
9 fore a district judge upon a day certain to
10 show cause why such person should not be
11 adjudged in contempt by reason of the
12 facts so certified; and

13 “(ii) the district judge shall hear the
14 evidence as to the act or conduct com-
15 plained of and, if it is such as to warrant
16 punishment, punish such person in the
17 same manner and to the same extent as
18 for a contempt committed before a district
19 judge.

20 “(B) ACTS DESCRIBED.—An act is de-
21 scribed in this subparagraph if it is—

22 “(i) in any case in which a United
23 States magistrate judge presides with the
24 consent of the parties under subsection (c)
25 of this section, or in any misdemeanor case

1 proceeding before a magistrate judge under
2 section 3401 of title 18, an act that may,
3 in the opinion of the magistrate judge,
4 constitute a serious criminal contempt
5 punishable by penalties exceeding those set
6 forth in paragraph (5) of this subsection;
7 or

8 “(ii) in any other case or proceeding
9 under subsection (a) or (b), or any other
10 statute—

11 “(I) an act committed in the
12 presence of the magistrate judge that
13 may, in the opinion of the magistrate
14 judge, constitute a serious criminal
15 contempt punishable by penalties ex-
16 ceeding those set forth in paragraph
17 (5);

18 “(II) an act that constitutes a
19 criminal contempt that occurs outside
20 the presence of the magistrate judge;
21 or

22 “(III) an act that constitutes a
23 civil contempt.

24 “(7) APPEALS OF MAGISTRATE JUDGE CON-
25 TEMPT ORDERS.—The appeal of an order of con-

1 tempt issued pursuant to this section shall be made
 2 to the court of appeals in any case proceeding under
 3 subsection (c). The appeal of any other order of con-
 4 tempt issued pursuant to this section shall be made
 5 to the district court.”.

6 **SEC. 3. MAGISTRATE JUDGE AUTHORITY IN PETTY OF-**
 7 **FENSE CASES.**

8 (a) TITLE 18, UNITED STATES CODE.—Section
 9 3401(b) of title 18, United States Code, is amended in
 10 the first sentence by striking “that is a class B” and all
 11 that follows through “infraction”.

12 (b) TITLE 28, UNITED STATES CODE.—Section
 13 636(a) of title 28, United States Code, is amended by
 14 striking paragraphs (4) and (5) and inserting the fol-
 15 lowing:

16 “(4) the power to enter a sentence for a petty
 17 offense; and

18 “(5) the power to enter a sentence for a class
 19 A misdemeanor in a case in which the parties have
 20 consented.”.

21 **SEC. 4. MAGISTRATE JUDGE AUTHORITY IN CASES INVOLV-**
 22 **ING JUVENILES.**

23 Section 3401(g) of title 18, United States Code, is
 24 amended—

1 (1) by striking the first sentence and inserting
2 the following: “The magistrate judge may, in a petty
3 offense case involving a juvenile, exercise all powers
4 granted to the district court under chapter 403 of
5 this title.”;

6 (2) in the second sentence by striking “any
7 other class B or C misdemeanor case” and inserting
8 “the case of any misdemeanor, other than a petty
9 offense,”; and

10 (3) by striking the last sentence.

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