

107TH CONGRESS  
2D SESSION

# H. R. 4125

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

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## 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

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## 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”.

6 (b) **TABLE OF CONTENTS.**—The table of contents of  
7 this 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. Place of holding court in the 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.

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 services other than counsel.  
 Sec. 207. Protection against malicious recording of fictitious liens against Fed-  
           eral judges.

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  
 9 Bankruptcy Act of 1986 (28 U.S.C. 581 note; Public Law  
 10 99–554; 100 Stat. 3123) become effective in a judicial dis-  
 11 trict and apply to a case, a bankruptcy administrator ap-  
 12 pointed to serve in the district pursuant to section  
 13 302(d)(3)(I) of that Act, as amended by section 317(a)  
 14 of the Federal Courts Study Committee Implementation

1 Act of 1990 (Public Law 101–650; 104 Stat 5115), shall  
2 appoint the trustees, examiners, and standing trustees  
3 subject to the provisions set forth in sections 701, 1104,  
4 1202, and 1302 of title 11, United States Code.

5 (b) STANDING TRUSTEES.—The Director of the Ad-  
6 ministrative Office of the United States Courts, in con-  
7 sultation with the bankruptcy administrator referred to in  
8 subsection (a), shall fix the maximum annual compensa-  
9 tion and percentage fee for the standing trustees ap-  
10 pointed under subsection (a) notwithstanding the ref-  
11 erences in those sections of title 11, United States Code,  
12 to the court’s authority to fix them.

13 (c) APPOINTMENT OF COMMITTEES.—Until the  
14 amendments made by subtitle A of title II of the Bank-  
15 ruptcy Judges, United States Trustees, and Family Farm-  
16 er Bankruptcy Act of 1986 become effective in a judicial  
17 district and apply to a case, the bankruptcy administrator  
18 appointed to serve in the district shall appoint the commit-  
19 tees of creditors and equity security holders provided in  
20 section 1102 of title 11, United States Code. On request  
21 of a party in interest, the court may order the appoint-  
22 ment of additional committees of creditors or of equity se-  
23 curity holders if necessary to assure adequate representa-  
24 tion of creditors or equity security holders. The bank-  
25 ruptcy administrator shall appoint any such committee.

1 On request of a party in interest in a case in which the  
2 debtor is a small business and for cause, the court may  
3 order that a committee of creditors not be appointed.

4 **SEC. 102. PLACE OF HOLDING COURT IN THE EASTERN DIS-**  
5 **TRICT OF TEXAS.**

6 Section 124(c) of title 28, United States Code, is  
7 amended—

8 (1) in paragraph (3)—

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

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

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

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

19 **SEC. 103. CONDITIONS OF PROBATION AND SUPERVISED**  
20 **RELEASE.**

21 (a) **CONDITIONS OF PROBATION.**—Section  
22 3563(a)(2) of title 18, United States Code, is amended  
23 by striking “(b)(2), (b)(3), or (b)(13),” and inserting  
24 “(b)(2) or (b)(12)”.

1           (b) SUPERVISED RELEASE AFTER IMPRISONMENT.—  
2 Section 3583(d) of title 18, United States Code, is amend-  
3 ed by striking “section 3563(b)(1)” and all that follows  
4 through “appropriate.” and inserting “section 3563(b)  
5 and any other condition it considers to be appropriate, ex-  
6 cept that a condition set forth in subsection 3563(b)(10)  
7 shall be imposed only for a violation of a condition of su-  
8 pervised release in accordance with subsection (e)(2) of  
9 this section and only when facilities are available.”.

10           (c)           CONFORMING           AMENDMENT.—Section  
11 3563(b)(10) of title 18, United States Code, is amended  
12 by inserting “or supervised release” after “probation”.

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

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

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

1 **SEC. 105. CLARIFYING THE SCOPE OF DIVERSITY OF CITI-**  
2 **ZENSHIP FOR RESIDENT ALIENS.**

3 Section 1332(a) of title 28, United States Code, is  
4 amended by striking the last sentence and inserting the  
5 following: “The district courts shall not have original ju-  
6 risdiction under paragraph (2) or (3) where the matter  
7 in controversy is between a citizen of a State and a citizen  
8 or subject of a foreign state admitted to the United States  
9 for permanent residence and domiciled in the same  
10 State.”.

11 **SEC. 106. AUTHORITY OF DISTRICT COURTS REGARDING**  
12 **JURORS.**

13 Section 1866(g) of title 28, United States Code, is  
14 amended in the first sentence—

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

16 and

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

18 **SEC. 107. DELETION OF AUTOMATIC EXCUSE FROM JURY**  
19 **SERVICE FOR MEMBERS OF THE ARMED**  
20 **FORCES, MEMBERS OF FIRE AND POLICE DE-**  
21 **PARTMENTS, AND PUBLIC OFFICERS.**

22 (a) REMOVAL OF EXEMPTION.—Section 1863(b) of  
23 title 28, United States Code, is amended by striking para-  
24 graph (6) and redesignating paragraphs (7) and (8) as  
25 paragraphs (6) and (7), respectively.

1 (b) CONFORMING AMENDMENTS.—(1) Section  
2 1865(a) of title 28, United States Code, is amended in  
3 the first sentence by striking “, or exempt,”.

4 (2) Section 1866 of title 28, United States Code, is  
5 amended—

6 (A) in the first sentence of subsection (a), by  
7 striking “exempt or”;

8 (B) in the first sentence of subsection (c)—

9 (i) by striking “or (6)”;

10 (ii) by striking “excused, or exempt” and  
11 inserting “or excused”;

12 (C) in the first sentence of subsection (d), by  
13 striking “exempt,”.

14 (3) Section 1869 of title 28, United States Code, is  
15 amended—

16 (A) in the first sentence of subsection (h), by  
17 striking “or exempted”;

18 (B) by repealing subsection (i).

19 (c) DISCRETIONARY EXEMPTION FROM SERVICE.—

20 (1) Section 982 of title 10, United States Code, is  
21 amended—

22 (A) by amending the section heading to read as  
23 follows:

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

3 and

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

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

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

9 **SEC. 108. ELIMINATION OF THE PUBLIC DRAWING RE-**  
10 **QUIREMENTS FOR SELECTION OF JUROR**  
11 **WHEELS.**

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

14 (1) in the first sentence, by striking “publicly”;

15 and

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

21 (b) SELECTION AND SUMMONING OF JURY PAN-  
22 ELS.—Section 1866(a) of title 28, United States Code, is  
23 amended—

24 (1) in the second sentence, by striking “pub-  
25 licly”; and

1           (2) by inserting after the second sentence the  
2 following new sentence: “The clerk or jury commis-  
3 sion shall post a general notice for public review in  
4 the clerk’s office explaining the process by which  
5 names are periodically and randomly drawn.”.

6           (c) CONFORMING AMENDMENT.—Section 1869(k) of  
7 title 28, United States Code, is repealed.

8 **SEC. 109. SUPPLEMENTAL ATTENDANCE FEE FOR PETIT**  
9 **JURORS SERVING ON LENGTHY TRIALS.**

10          Section 1871(b)(2) of title 28, United States Code,  
11 is amended by striking “thirty” each place it appears and  
12 inserting “five”.

13 **SEC. 110. CHANGE IN COMPOSITION OF DIVISIONS IN WEST-**  
14 **ERN DISTRICT OF TENNESSEE.**

15          (a) IN GENERAL.—Section 123(c) of title 28, United  
16 States Code, is amended—

17           (1) in paragraph (1)—

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

19           and

20               (B) in the last sentence, by inserting “and  
21 Dyersburg” after “Jackson”; and

22           (2) in paragraph (2)—

23               (A) by striking “Dyer,”; and

24               (B) in the last sentence, by striking “and  
25 Dyersburg”.

1 (b) EFFECTIVE DATE.—

2 (1) IN GENERAL.—This section and the amend-  
3 ments made by this section shall take effect on the  
4 date of the enactment of this Act.

5 (2) PENDING CASES NOT AFFECTED.—This sec-  
6 tion and the amendments made by this section shall  
7 not affect any action commenced before the effective  
8 date of this section and pending in the United  
9 States District Court for the Western District of  
10 Tennessee on such date.

11 (3) JURIES NOT AFFECTED.—This section and  
12 the amendments made by this section shall not af-  
13 fect the composition, or preclude the service, of any  
14 grand or petit jury summoned, impaneled, or actu-  
15 ally serving in the Western Judicial District of Ten-  
16 nessee on the effective date of this section.

17 **TITLE II—JUDICIAL PERSONNEL**  
18 **ADMINISTRATION, BENEFITS,**  
19 **AND PROTECTIONS**

20 **SEC. 201. DISABILITY RETIREMENT AND COST-OF-LIVING**  
21 **ADJUSTMENTS OF ANNUITIES FOR TERRI-**  
22 **TORIAL JUDGES.**

23 Section 373 of title 28, United States Code, is  
24 amended—

1           (1) by amending subsection (c)(4) to read as  
2 follows:

3           “(4) Any senior judge performing judicial duties pur-  
4 suant to recall under paragraph (2) of this subsection  
5 shall be paid, while performing such duties, the same com-  
6 pensation (in lieu of the annuity payable under this sec-  
7 tion) and the same allowances for travel and other ex-  
8 penses as a judge on active duty with the court being  
9 served.”;

10           (2) by amending subsection (e) to read as fol-  
11 lows:

12           “(e)(1) Any judge of the District Court of Guam, the  
13 District Court of the Northern Mariana Islands, or the  
14 District Court of the Virgin Islands who is not reappointed  
15 (as judge of such court) shall be entitled, upon attaining  
16 the age of sixty-five years or upon relinquishing office if  
17 the judge is then beyond the age of sixty-five years—

18           “(A) if the judicial service of such judge, con-  
19 tinuous or otherwise, aggregates fifteen years or  
20 more, to receive during the remainder of such  
21 judge’s life an annuity equal to the salary received  
22 when the judge left office; or

23           “(B) if such judicial service, continuous or oth-  
24 erwise, aggregated less than fifteen years, to receive  
25 during the remainder of such judge’s life an annuity

1 equal to that proportion of such salary which the ag-  
2 gregate number of such judge's years of service  
3 bears to fifteen.

4 “(2) Any judge of the District Court of Guam, the  
5 District Court of the Northern Mariana Islands, or the  
6 District Court of the Virgin Islands who has served at  
7 least five years, continuously or otherwise, and who retires  
8 or is removed upon the sole ground of mental or physical  
9 disability, shall be entitled to receive during the remainder  
10 of such judge's life an annuity equal to 40 percent of the  
11 salary received when the judge left office or, in the case  
12 of a judge who has served at least ten years, continuously  
13 or otherwise, an annuity equal to that proportion of such  
14 salary which the aggregate number of such judge's years  
15 of judicial service bears to fifteen.”; and

16 (3) by amending subsection (g) to read as fol-  
17 lows:

18 “(g) Any retired judge who is entitled to receive an  
19 annuity under this section shall be entitled to a cost-of-  
20 living adjustment in the amount computed as specified in  
21 section 8340(b) of title 5, except that in no case may the  
22 annuity payable to such retired judge, as increased under  
23 this subsection, exceed the salary of a judge in regular  
24 active service with the court on which the retired judge  
25 served before retiring.”.

1 **SEC. 202. FEDERAL JUDICIAL CENTER PERSONNEL MAT-**  
2 **TERS.**

3 Section 625 of title 28, United States Code, is  
4 amended—

5 (1) in subsection (b)—

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

7 (B) by striking “pay rates, section 5316,  
8 title 5, United States Code” and inserting  
9 “under section 5316 of title 5, except that the  
10 Director may fix the compensation of 4 posi-  
11 tions of the Center at a level not to exceed the  
12 annual rate of pay in effect for level IV of the  
13 Executive Schedule under section 5315 of title  
14 5”; and

15 (C) by striking “the Civil Service” and all  
16 that follows through “Code” and inserting  
17 “subchapter III of chapter 83 of title 5 shall be  
18 adjusted pursuant to the provisions of section  
19 8344 of such title, and the salary of a reem-  
20 ployed annuitant under chapter 84 of title 5  
21 shall be adjusted pursuant to the provisions of  
22 section 8468 of such title”;

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

25 (3) in subsection (d)—

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

1 (B) by striking “, section 5332, title 5,  
2 United States Code” and inserting “under sec-  
3 tion 5332 of title 5”.

4 **SEC. 203. ANNUAL LEAVE LIMIT FOR JUDICIAL BRANCH**  
5 **EXECUTIVES.**

6 Section 6304(f)(1) of title 5, United States Code, is  
7 amended—

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

9 (2) in subparagraph (E), by striking the period  
10 and inserting “; or”; and

11 (3) by adding at the end the following:

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

17 **SEC. 204. SUPPLEMENTAL BENEFITS PROGRAM.**

18 Section 604(a) of title 28, United States Code, is  
19 amended—

20 (1) by redesignating paragraphs (6) through  
21 (24) as paragraphs (7) through (25), respectively;

22 and

23 (2) by inserting after paragraph (5) the fol-  
24 lowing:



1 **SEC. 207. 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 **“§ 1519. 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 doc-  
15 ument 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  
19 which was committed after the defendant had previously  
20 been convicted of an earlier offense under this subsection,  
21 the defendant shall be fined under this title or imprisoned  
22 for not 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  
26 Court of Federal Claims, a United States bankruptcy

1 judge, a United States magistrate judge, and a judge of  
2 the United States Court of Appeals for the Armed Forces,  
3 United States Court of Appeals for Veterans Claims,  
4 United States Tax Court, District Court of Guam, District  
5 Court of the Northern Mariana Islands, or District Court  
6 of the Virgin Islands.”.

7 (b) CLERICAL AMENDMENT.—The table of sections  
8 at the beginning of chapter 73 of title 18, United States  
9 Code, is amended by adding at the end the following new  
10 item:

“1519. Retaliating against a Federal judge by false claim or slander of title.”.

