

118TH CONGRESS
1ST SESSION

S. 1758

To address the rising trend of venue-shopping in Federal courts.

IN THE SENATE OF THE UNITED STATES

MAY 30, 2023

Mr. WYDEN introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To address the rising trend of venue-shopping in Federal
courts.

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 “Fair Courts Act of
5 2023”.

6 **SEC. 2. REINSTATING 3-JUDGE REQUIREMENT FOR SUITS**
7 **SEEKING NATIONWIDE RELIEF.**

8 (a) IN GENERAL.—Chapter 155 of title 28, United
9 States Code, is amended by inserting before section 2283
10 the following:

1 **“§ 2282. Nationwide relief; three-judge court required**

2 “(a) DEFINITION.—In this section, the term ‘nation-
3 wide relief’ means—

4 “(1) an interlocutory or permanent injunction
5 restraining the Federal Government or a Federal of-
6 ficer with respect to any person other than the plain-
7 tiff;

8 “(2) any order that vacates a Federal regula-
9 tion on a nationwide basis; and

10 “(3) a stay of execution of a judgment granting
11 relief described in paragraph (1) or (2).

12 “(b) REQUIREMENT.—

13 “(1) IN GENERAL.—A court of the United
14 States or judge thereof may not grant any form of
15 nationwide relief unless the application therefor is
16 heard and determined by a district court of 3 judges
17 under section 2284.

18 “(2) EXCEPTIONS.—Paragraph (1) shall not
19 apply to the Supreme Court of the United States or
20 a court of appeals of the United States.

21 “(3) RULE OF CONSTRUCTION.—Nothing in
22 this section shall be construed to expand or limit the
23 forms of relief that the courts of the United States
24 may grant.”.

25 (b) TECHNICAL AND CONFORMING AMENDMENT.—

26 The table of sections for chapter 155 of title 28, United

1 States Code, is amended by inserting before the item relat-
 2 ing to section 2283 the following:

“2282. Nationwide relief; three-judge court required.”.

3 **SEC. 3. RANDOM ASSIGNMENT OF CASES.**

4 (a) DIVISION OF BUSINESS AMONG DISTRICT
 5 JUDGES.—Section 137 of title 28, United States Code, is
 6 amended—

7 (1) by redesignating subsection (b) as sub-
 8 section (c); and

9 (2) by inserting after subsection (a) the fol-
 10 lowing:

11 “(b) RANDOM ASSIGNMENT OF CASES.—

12 “(1) IN GENERAL.—In establishing rules for
 13 the division of business among district judges, a dis-
 14 trict court shall ensure that the probability that an
 15 action, suit, or proceeding is assigned to any par-
 16 ticular judge does not exceed 25 percent.

17 “(2) EXCEPTIONS.—Paragraph (1) shall not
 18 apply to—

19 “(A) a criminal proceeding;

20 “(B) an action, suit, or proceeding that is
 21 related to another action, suit, or proceeding
 22 pending before a judge of the district court;

23 “(C) an application for a writ of habeas
 24 corpus under section 2242 or any related pro-
 25 ceeding; or

1 “(D) a motion to vacate, set aside, or cor-
2 rect a sentence under section 2252 or any re-
3 lated proceeding.

4 “(3) LOW-POPULATION DISTRICTS.—

5 “(A) DEFINITION.—In this paragraph, the
6 term ‘low-population district’ means a district
7 that does not have enough judges to ensure
8 that the probability that an action, suit, or pro-
9 ceeding is assigned to any particular judge does
10 not exceed 25 percent, as required under para-
11 graph (1).

12 “(B) USE OF JUDGES FROM ADJACENT
13 DISTRICTS.—The chief judge of the circuit in
14 which a low-population district is located may
15 assign 1 or more judges from 1 or more dis-
16 tricts that are adjacent to, and in the same
17 State as, the low-population district to serve in
18 the low-population district as necessary to en-
19 sure that the probability that an action, suit, or
20 proceeding is assigned to any particular judge
21 does not exceed 25 percent, as required under
22 paragraph (1).

23 “(C) EXCEPTION.—Notwithstanding para-
24 graph (1), if there are no adjacent districts
25 within the same State as a low-population dis-

1 trict, the probability that an action, suit, or
 2 proceeding is assigned to any particular judge
 3 in the low-population district may not be great-
 4 er than the percentage obtained by dividing the
 5 number 1 by the number of judges within the
 6 low-population district.”.

7 (b) **THREE-JUDGE COURTS.**—Section 2284(b)(1) of
 8 title 28, United States Code, is amended—

9 (1) in the first sentence, by striking “designate
 10 two” and inserting “randomly designate three”; and

11 (2) in the second sentence, by striking “, and
 12 the judge to whom the request was presented,”.

13 **SEC. 4. PUBLICATION OF DIVISION ORDERS.**

14 Section 137 of title 28, United States Code, as
 15 amended by section 3, is amended by adding at the end
 16 the following:

17 “(d) **PUBLICATION OF DIVISION ORDERS.**—A district
 18 court shall publish any order for the division of business
 19 among district judges with other standing orders on the
 20 website of the district.”.

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