

118TH CONGRESS
1ST SESSION

H. R. 642

To reform the Supreme Court of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2023

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

A BILL

To reform the Supreme Court of the United States, 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 “Restoring Judicial Sep-
5 aration of Powers Act”.

6 **TITLE I—ORGANIZATION OF**
7 **COURTS**

8 **SEC. 101. SUPREME COURT JURISDICTION.**

9 Section 1251 of title 28, United States Code, is
10 amended to read as follows:

1 **“§ 1251. Original and exclusive jurisdiction**

2 “The Supreme Court shall have original and exclusive
3 jurisdiction of the following:

4 “(1) All actions or proceedings concerning trea-
5 ties of the United States.

6 “(2) All actions or proceedings to which ambas-
7 sadors, other public ministers, consuls, or vice con-
8 suls of foreign states are parties.

9 “(3) All actions or proceedings concerning ad-
10 miralty practice or the maritime jurisdiction of the
11 United States.

12 “(4) All actions or proceedings to which a State
13 is a party.”.

14 **SEC. 102. DIRECT APPEALS.**

15 (a) IN GENERAL.—Section 1253 of title 28, United
16 States Code, is amended to read as follows:

17 **“§ 1253. Direct appeals from decisions of three-judge
18 courts**

19 “Except as otherwise provided by law, any party may
20 appeal to the United States Court of Appeals for the Dis-
21 trict of Columbia Circuit from an order granting or deny-
22 ing, after notice and hearing, an interlocutory or perma-
23 nent injunction in any civil action, suit or proceeding re-
24 quired by any Act of Congress to be heard and determined
25 by a district court of three judges.”.

1 **SEC. 103. COURTS OF APPEALS REVIEW.**

2 Section 1254 of title 28, United States Code, is
3 amended to read as follows:

4 **“§ 1254. Courts of appeals; certiorari; certified ques-**
5 **tions**

6 “Cases in the courts of appeals may be reviewed by
7 the United States Court of Appeals for the District of Co-
8 lumbia Circuit by the following methods:

9 “(1) By writ of certiorari granted upon the pe-
10 tition of any party to any civil or criminal case, be-
11 fore or after rendition of judgment or decree.

12 “(2) By certification at any time by a court of
13 appeals of any question of law in any civil or crimi-
14 nal case as to which instructions are desired, and
15 upon such certification the United States Court of
16 Appeals for the District of Columbia Circuit may
17 give binding instructions or require the entire record
18 to be sent up for decision of the entire matter in
19 controversy.”.

20 **SEC. 104. FINAL DECISIONS OF DISTRICT COURTS.**

21 Section 1291 of title 28, United States Code, is
22 amended by striking “in the Supreme Court” and insert-
23 ing “in the United States Court of Appeals for the District
24 of Columbia Circuit”.

1 **SEC. 105. JURISDICTION FOR THE UNITED STATES COURT**
2 **OF APPEALS FOR THE DISTRICT OF COLUM-**
3 **BIA CIRCUIT.**

4 (a) IN GENERAL.—Chapter 83 of title 28, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 1297. Multi-circuit panel of United States Court of**
8 **Appeals for the District of Columbia Cir-**
9 **cuit**

10 “(a) CONVENING MULTI-CIRCUIT PANEL.—Each
11 year the chief judge of the United States Court of Appeals
12 for the District of Columbia Circuit shall convene a multi-
13 circuit panel of 13 judges consisting of each of the fol-
14 lowing:

15 “(1) ASSOCIATE JUDGES.—The multi-circuit
16 panel shall consist of 1 judge to be randomly se-
17 lected from each of the following circuit courts of
18 appeals:

19 “(A) United States Court of Appeals for
20 the District of Columbia Circuit.

21 “(B) United States Court of Appeals for
22 the First Circuit.

23 “(C) United States Court of Appeals for
24 the Second Circuit.

25 “(D) United States Court of Appeals for
26 the Third Circuit.

1 “(E) United States Court of Appeals for
2 the Fourth Circuit.

3 “(F) United States Court of Appeals for
4 the Fifth Circuit.

5 “(G) United States Court of Appeals for
6 the Sixth Circuit.

7 “(H) United States Court of Appeals for
8 the Seventh Circuit.

9 “(I) United States Court of Appeals for
10 the Eighth Circuit.

11 “(J) United States Court of Appeals for
12 the Ninth Circuit.

13 “(K) United States Court of Appeals for
14 the Tenth Circuit.

15 “(L) United States Court of Appeals for
16 the Eleventh Circuit.

17 “(2) CHIEF JUDGE.—The multi-circuit panel
18 shall consist of 1 chief judge to be randomly selected
19 from the circuit courts of appeals described in para-
20 graph (1).

21 “(b) JURISDICTION.—The chief judge of the United
22 States Court of Appeals for the District of Columbia Cir-
23 cuit shall assign to the multi-circuit panel any case in
24 which the United States or a Federal agency is a party,
25 or a case concerning constitutional interpretation, statu-

1 tory interpretation of Federal law, or the function or ac-
2 tions of an Executive order.

3 “(c) DURATION OF SERVICE.—Each judge of the
4 multi-circuit panel shall serve on the panel during the pe-
5 riod beginning at 10 a.m. (Eastern Time Zone) on the
6 first Monday in October and ending at 9:59 a.m. (Eastern
7 Time Zone) on the first Monday in October of the fol-
8 lowing year.

9 “(d) ACTS OF CONGRESS.—A supermajority of not
10 less than 70 percent of judges of the multi-circuit panel
11 described in subsection (a) shall be required to affirm any
12 decision which holds that any Act of Congress is, in whole
13 or in part, unconstitutional, unlawful, or otherwise in-
14 valid.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 for chapter 83 of title 28, United States Code, is amended
17 by inserting after the item relating to section 1296 the
18 following:

“1297. Multi-circuit panel of United States Court of Appeals for the District
of Columbia Circuit.”.

19 **SEC. 106. EFFECTIVE DATE.**

20 This title, and the amendments made by this title,
21 shall apply in October of the year following the date of
22 enactment of this Act.

1 **TITLE II—INJUNCTIONS AND**
2 **COURT DOCKETS**

3 **SEC. 201. ANTI-NATIONWIDE INJUNCTION.**

4 (a) IN GENERAL.—Chapter 155 of title 28, United
5 States Code, is amended by adding at the end the fol-
6 lowing:

7 **“§ 2285. Nationwide injunction**

8 “(a) IN GENERAL.—Whenever any action before a
9 court of the United States seeks injunctive relief restrain-
10 ing the enforcement of any Federal statute, regulation, or
11 order against a nonparty, the court shall, upon a motion
12 of a party to the action made not later than 30 days after
13 an initial filing requesting such relief, transfer such action
14 to the United States Court of Appeals for the District of
15 Columbia Circuit.

16 “(b) CONSOLIDATION.—The Court shall have the
17 power to consolidate several cases concerning the same
18 matter into a single case under Rule 42 of the Federal
19 Rules of Civil Procedure.”.

20 (b) CLERICAL AMENDMENT.—The table of sections
21 for chapter 155 of title 28, United States Code, is amend-
22 ed by inserting after the item relating to section 2284 the
23 following:

“2285. Nationwide injunction.”.

1 **SEC. 202. SHADOW DOCKET LIMITATION; APPLICATION TO**
2 **UNITED STATES COURT OF APPEALS FOR**
3 **THE DISTRICT OF COLUMBIA CIRCUIT.**

4 (a) IN GENERAL.—Section 2101 of title 28, United
5 States Code, is amended—

6 (1) in the section heading, by striking “**Su-**
7 **preme Court; time for appeal**” and inserting
8 **“Time for appeal”**;

9 (2) in subsection (a), by inserting “, the United
10 States Court of Appeals for the District of Columbia
11 Circuit, or a multi-circuit panel described in section
12 1297” after “Supreme Court” the first place it ap-
13 pears;

14 (3) in subsection (b), by inserting “, the United
15 States Court of Appeals for the District of Columbia
16 Circuit, or a multi-circuit panel described in section
17 1297” after “Supreme Court”;

18 (4) in subsection (c)—

19 (A) by inserting “, the United States
20 Court of Appeals for the District of Columbia
21 Circuit, or a multi-circuit panel described in
22 section 1297” after “Supreme Court” the first
23 place it appears; and

24 (B) by striking “A justice of the Supreme
25 Court” and inserting “A justice or judge of the
26 relevant court”;

1 (5) in subsection (e), by inserting “, the United
2 States Court of Appeals for the District of Columbia
3 Circuit, or a multi-circuit panel described in section
4 1297” after “Supreme Court”;

5 (6) in subsection (f)—

6 (A) by inserting “, the United States
7 Court of Appeals for the District of Columbia
8 Circuit, or a multi-circuit panel described in
9 section 1297” after “review by the Supreme
10 Court”;

11 (B) by striking “from the Supreme Court”
12 and inserting “from the court”; and

13 (C) by striking “in the Supreme Court”
14 and inserting “in the court”; and

15 (7) by adding at the end the following:

16 “(h) No order reversing a decision of a court on ap-
17 peals before the Supreme Court, the United States Court
18 of Appeals for the District of Columbia Circuit, or a multi-
19 circuit panel described in section 1297, shall issue unless
20 such court provides to the parties a written explanation
21 supporting such reversal, which shall be published on the
22 website of such court.”.

23 (b) CLERICAL AMENDMENT.—The table of sections
24 for chapter 133 of title 28, United States Code, is amend-

1 ed by striking the item related to section 2101 and insert-
2 ing the following:

“2101. Time for appeal of certiorari; docketing; stay.”.

3 **SEC. 203. EFFECTIVE DATE.**

4 This title, and the amendments made by this title,
5 shall take effect on the date of enactment of this Act.

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