

STATE OF ALASKA  
THE LEGISLATURE

1999

Source  
CSHJR 29(JUD)

Legislative  
Resolve No.  
25



Relating to the division of the Ninth Circuit Court of Appeals.

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**BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**WHEREAS** the State of Alaska is within the jurisdiction of the United States Court of Appeals for the Ninth Circuit; and

**WHEREAS** the Court of Appeals for the Ninth Circuit consists of the States of Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington, and Guam, and the Commonwealth of the Northern Marianas Islands; and

**WHEREAS** United States Senators Murkowski of Alaska and Gorton of Washington have introduced S. 253, a bill that would amend Title 28 of the United States Code to divide the Court of Appeals for the Ninth Circuit into three regional divisions and a fourth circuit division, and that has the short title of the "Federal Ninth Circuit Reorganization Act of 1999"; and

**WHEREAS** S. 253 proposes to place the states of Alaska, Idaho, Montana, Oregon, and Washington within one regional division of the Court of Appeals for the Ninth Circuit and to place the other states and territories, possessions, and protectorates into two other regional divisions; and

**WHEREAS** S. 253 proposes to adopt the recommendations of a Congressionally

mandated commission, chaired by retired Supreme Court Justice Byron R. White, that studied the realignment of the federal courts of appeal; the recommendations were made in a report issued in December 1998; and

**WHEREAS** the membership of the Court of Appeals for the Ninth Circuit is heavily weighted toward the State of California and the court seems to concern itself predominately with issues arising out of California and the southwestern United States; and

**WHEREAS** the Court of Appeals for the Ninth Circuit's case filings are consistently either greater than any other federal circuit or among the greatest; and

**WHEREAS** the Court of Appeals for the Ninth Circuit is the largest of the 13 circuit courts of appeal, spanning 1,400,000 square miles, and is larger than the First, Second, Third, Fourth, Fifth, Sixth, Seventh, and Eleventh Circuits combined; and

**WHEREAS** the Court of Appeals for the Ninth Circuit serves a population of more than 49,000,000 people, almost 60 percent more than any other federal circuit; and

**WHEREAS** members of the Court of Appeals for the Ninth Circuit have shown a surprising lack of understanding of Alaska's people and geography; and

**WHEREAS**, in the so-called "Katie John" subsistence case, which is of tremendous importance to the people of the State of Alaska, even though the Court of Appeals for the Ninth Circuit granted expedited consideration of that case, the court did not issue its decision for over 13 months; and

**WHEREAS** the Court of Appeals for the Ninth Circuit consistently ranks at or near the bottom of the circuits in time from the filing of a case in the district court to final disposition in the court appeals; and

**WHEREAS** Attorney General Bruce Botelho has estimated that there are more than 200 Alaska cases currently pending before the Court of Appeals for the Ninth Circuit; and

**WHEREAS**, previously, the Attorneys General of the States of Idaho, Montana, Oregon, and Washington have also found that similar issues of unnecessary delay concerning, lack of understanding of, and lack of consideration for cases and issues by the Court of Appeals for the Ninth Circuit exist in regard to those states; and

**WHEREAS** the division of the Court of Appeals for the Ninth Circuit into regions would benefit the States of Alaska, Idaho, Montana, Oregon, and Washington by providing speedier and more consistent rulings by jurists who have a greater familiarity with the social,

geographical, political, and economic life of the region, especially if those jurists were required to be residents of that region;

**BE IT RESOLVED** that the Alaska State Legislature strongly supports S. 253 and the division of the Court of Appeals for the Ninth Circuit into three regional divisions with one region consisting of the States of Alaska, Idaho, Montana, Oregon, and Washington headquartered in the Pacific Northwest; and be it

**FURTHER RESOLVED** that the Alaska State Legislature questions the need for a fourth circuit division and urges the sponsors of S. 253 and the United States Congress to inquire into the need for a fourth circuit division; and be it

**FURTHER RESOLVED** that the Alaska State Legislature urges the sponsors of S. 253 to consider including a requirement that judges assigned to one of the three regional divisions must reside in that regional division and urges the United States Congress to amend S. 253 to address this concern; and be it

**FURTHER RESOLVED** that the Alaska State Legislature believes that a reorganization of the Court of Appeals for the Ninth Circuit is long overdue and urges the United States Congress to expeditiously consider and enact S. 253.

**COPIES** of this resolution shall be sent to the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Strom Thurmond, President Pro Tempore of the U.S. Senate; the Honorable J. Dennis Hastert, Speaker of the U.S. House of Representatives; the Honorable Trent Lott, Majority Leader of the U.S. Senate; the Honorable Dick Armey, Majority Leader of the U.S. House of Representatives; the Honorable Thomas Daschle, Minority Leader of the U.S. Senate; the Honorable Richard A. Gephardt, Minority Leader of the U.S. House of Representatives; the Honorable Orrin G. Hatch, Chair of the U.S. Senate Committee on the Judiciary; the Honorable Henry J. Hyde, Chair of the U.S. House Committee on the Judiciary; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.