

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

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

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IN THE SENATE OF THE UNITED STATES

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

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**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.”.