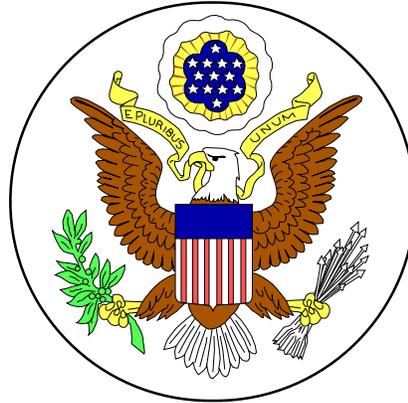

**EMERGENCY AUTHORITY PROPOSAL
APPROVED BY THE
JUDICIAL CONFERENCE OF THE UNITED STATES**



Bill Text and Description Follow

This proposal was transmitted to Congress on June 2, 2005, as Section 101 of the proposed Federal Courts Improvement Act of 2005. It is now pending as Section 15 of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. A companion court security bill is expected to be introduced in the Senate in September. However, given the severe impact of Hurricane Katrina on the federal courts in Louisiana, Alabama, and Mississippi, it is necessary that this proposal be enacted separately by Congress as soon as possible.

**For further information, contact the Office of Legislative Affairs,
Administrative Office of the U.S. Courts (202-502-1700)**

SEC. ____. **EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS
OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.**

(a) COURTS OF APPEALS.—Section 48 of title 28, United States Code, is amended by adding at the end the following new section:

“(e) Each court of appeals may hold special sessions at any place outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could be held. The court may transact any business at a special session outside the circuit that it might transact at a regular session.”.

(b) DISTRICT COURTS.—Section 141 of title 28, United States Code, is amended—

(1) by re-designating the section as section 141(a), and

(2) by adding the following as section 141(b):

“Special sessions of the district court may be held at such places outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held. Any business may be transacted at a special session outside the district that might be transacted at a regular session. The district court may summon jurors from within the district to serve in any case in which special sessions are conducted outside the district pursuant to the provisions of this section.”.

(c) BANKRUPTCY COURTS.—Section 152(c) of title 28, United States Code, is amended—

(1) by re-designating the section as 152(c)(1), and

(2) by adding the following as section 152(c)(2):

“Bankruptcy judges may hold court at such places outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court. Bankruptcy judges may transact any business at such locations outside the district that might be transacted at a regular or special session of the court.”.

(d) UNITED STATES MAGISTRATE JUDGES.—Section 636 of title 28, United States Code, is amended in subsection (a) by striking “territorial jurisdiction prescribed by his appointment” and inserting “district in which sessions are held by the court that appointed the magistrate judge, at other places where that court may function, and elsewhere as authorized by law”.

DESCRIPTION:

This section would authorize circuit, district, and bankruptcy courts to conduct special sessions outside their respective geographic boundaries upon a finding by the respective chief judge (or, if unavailable, the most senior active judge who is available) or the judicial council of the circuit, that, because of emergency conditions, no locations within the boundaries of those courts are reasonably available where such special sessions could be held. United States magistrate judges are currently subject to certain territorial limitations on their powers imposed by the Federal Magistrates Act, 28 U.S.C. § 631, *et seq.* Subsection (d) of this proposed section would make clear that magistrate judges can participate in the emergency extraterritorial sessions of district courts as authorized under subsection (b).

The need for this legislation initially became apparent following the terrorist attacks of September 11, 2001, and the impact of these disasters on court operations, in particular in New York City. In emergency conditions, a federal court facility in an adjoining district (or circuit) might be more readily and safely available to court personnel, litigants, jurors, and the public than a facility at a place of holding court within the district. This is particularly true in major metropolitan areas such as New York, Washington, D.C., Dallas, and Kansas City, where the metropolitan area includes parts of more than one judicial district.

This legislation is also needed to address natural disasters. The recent impact of Hurricane Katrina on the federal courts in Louisiana, Alabama, and Mississippi has increased the urgency of congressional action regarding this proposal. Where court operations cannot be shifted to other divisions within the affected judicial district due to the wide-spread flooding and destruction, judges need to be able to temporarily shift court proceedings into a neighboring judicial district.

The advent of electronic court records systems will facilitate implementation of this authority by providing judges, court staff, and attorneys with remote access to case documents.