

Recommendation for New U.S. Circuit and District Court Judgeships by the Judicial Conference of the United States (117th Congress)

March 26, 2021

Congress determines, through legislative action, both the size and structure of the federal judiciary. Consequently, the creation of any new permanent or temporary U.S. circuit and district court judgeships must be authorized by Congress. Congress can authorize either permanent or temporary judgeships. A “permanent judgeship,” as the term suggests, permanently increases the number of judgeships for a court, whereas a “temporary judgeship” increases the number of judgeships for a specified amount of time (although Congress can later convert such a judgeship to a permanent one).

Figure 1 shows, for the period 1891 (when Congress established nine courts of appeals, one for each judicial circuit at the time) through 2020, changes in the number of U.S. circuit and district court judgeships authorized by Congress. As the country’s population increased, its geographic boundaries expanded, and federal case law became more complex, the number of judgeships authorized by Congress increased regularly during the 19th and 20th centuries.

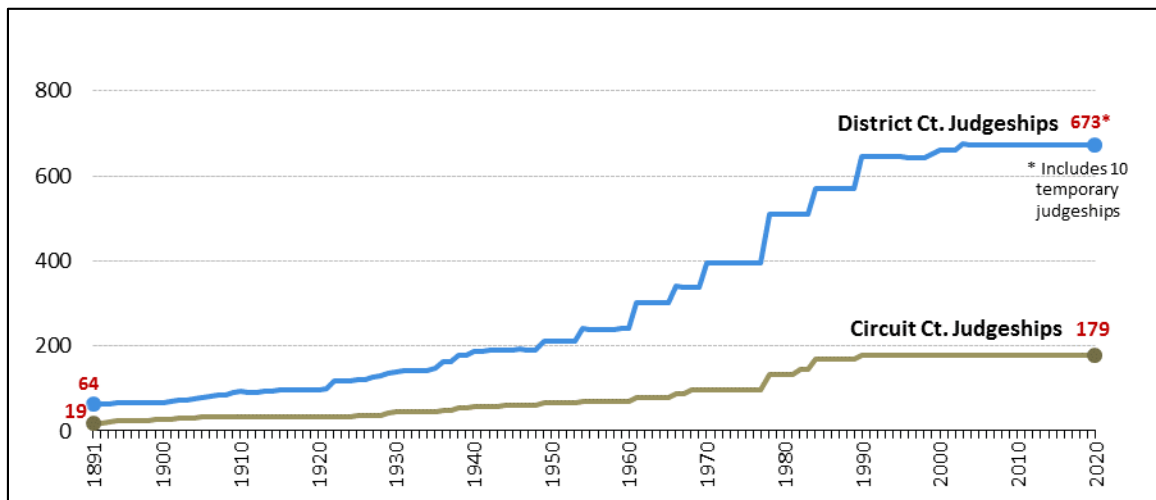
The number of permanent circuit court judgeships increased to 179 in 1990 during the 101st Congress and has remained at that number to the present day. This represents the longest period of time since 1891 that Congress has not authorized any new permanent circuit court judgeships.

The number of permanent district court judgeships increased to 663 in 2003 during the 108th Congress and has remained at that number to the present day. This represents the longest period of time since district courts were established in 1789 that Congress has not authorized any new permanent district court judgeships.

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Figure 1. Number of U.S. Circuit and District Court Judgeships Authorized by Congress (1891-2020)



Source: Congressional Research Service.

The [Judicial Conference of the United States](#), the policymaking body of the federal courts, makes a biennial recommendation to Congress that identifies any circuit and district courts that, according to the conference, require new judgeships to more effectively administer civil and criminal justice in the federal system.

U.S. Circuit Court Judgeships

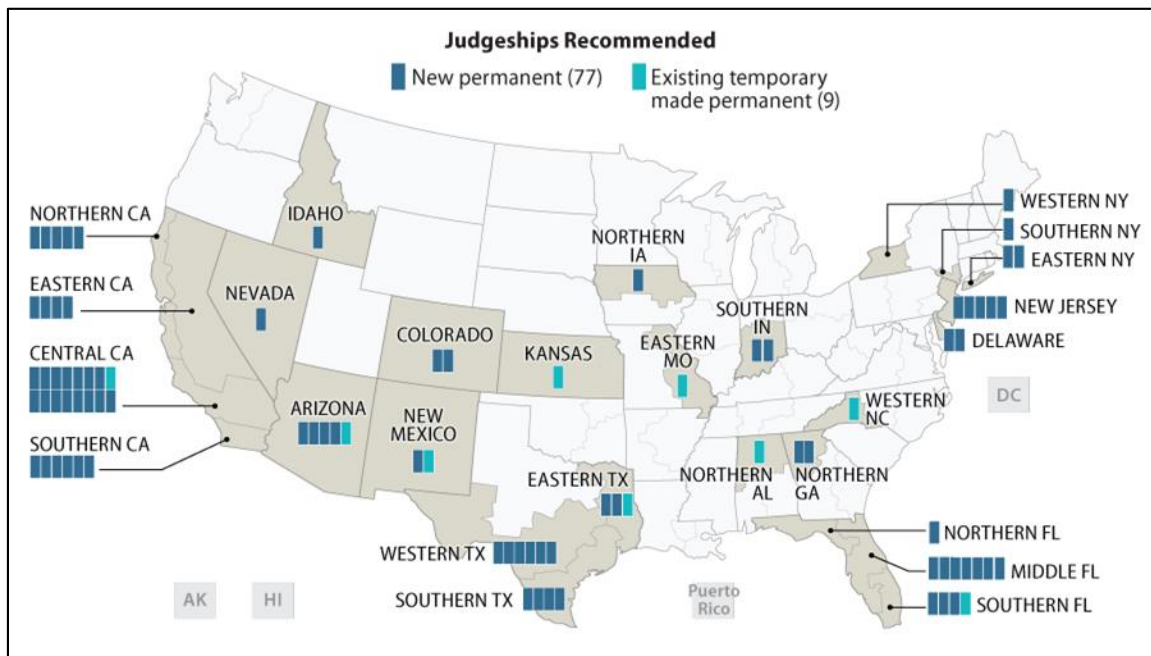
The conference's most recent recommendation, [released in March 2021](#) during the 117th Congress, requests the authorization of 2 new permanent circuit court judgeships for the [U.S. Court of Appeals for the Ninth Circuit](#) (comprised of California, eight other western states, and two U.S. territories). This would bring the number of authorized judgeships for the Ninth Circuit from 29 to 31. The Ninth Circuit is the country's most populous appellate circuit, with a population of approximately 66.9 million.

U.S. District Court Judgeships

The conference also recommends that Congress authorize 86 new permanent U.S. district court judgeships across 26 judicial districts (with more than one new judge being recommended for some district courts). **Figure 2** shows the 26 judicial districts for which the conference has recommended new district court judgeships. Of the 26 districts, the conference recommends the creation of more than one new judgeship in 17, or 65%, of the districts.

The greatest number of new judgeships, 16, was recommended for the [U.S. District Court for the Central District of California](#) (which exercises jurisdiction over Los Angeles County and six other counties). This federal judicial district is the most populous district in the country, with an estimated population of 19.4 million.

Figure 2. New Judgeships Recommended by the Judicial Conference
(March 2021)



Source: Congressional Research Service.

A total of 60 (or 70%) of the new judgeships are recommended for U.S. district courts located in the country's four most populous states—California, Texas, Florida, and New York.

Of the 86 new permanent district court judgeships that the conference recommends be authorized by Congress, 9 (10%) are currently temporary judgeships—each of which was first authorized by Congress in either 1990 or 2002.

Weighted Filings

The Judicial Conference's recommendation as to which lower federal courts need new judgeships is based, in part, upon a comparison across courts of the complexity of different types of cases handled by judges, as well as the amount of time it takes for judges to dispense with such cases. For example, types of civil cases that are generally more complex or time-consuming for judges include environmental, patent, civil rights, antitrust, and Freedom of Information Act actions.

For district courts, the specific statistic used by the Judicial Conference to make its comparison across courts is the number of "[weighted filings](#)" per authorized judgeship in each district. The weighted filings statistic is a mathematical adjustment to the number of case filings for a district court that takes into account the relative complexity of cases and the expected amount of time required for disposition of a court's cases. A similar statistic, not discussed in detail in this Insight, is used for U.S. circuit courts (it is referred to as "adjusted filings per three-judge panel").

Nationally, [for the 12-month period ending September 30, 2020](#), there were on average 681 weighted filings per judgeship across all 91 U.S. district courts (excluding 3 [territorial district courts](#)). In contrast, the numbers of weighted filings per judgeship during the same period for several of the district courts recommended to receive new judgeships included 903 ([District of Delaware](#)), 880 ([Southern District of Indiana](#)), 860 ([District of New Jersey](#)), 830 ([Western District of Texas](#)), and 702 ([Central District of California](#)).

Although the number of weighted filings per judgeship is the primary factor in the Judicial Conference's evaluation of a district court's need for additional judgeships, the conference's recommendations for new judgeships are not based solely upon this particular statistic. Other factors that the conference might consider in making its recommendations include the number of judgeships requested by the district court itself; the availability of senior, visiting, and [magistrate judges](#) to assist in handling a district court's caseload; geographical factors; unusual caseload complexity for a court; and whether a court is experiencing temporary increases or decreases in its caseload.

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