

CRS Report for Congress

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Legislative Initiatives to Temporarily Relocate Federal Courts Interrupted by Natural or Man-made Disasters, 109th Congress

R. Eric Petersen
Analyst in American National Government
Government and Finance Division

Summary

Following the current disruption of operations in several courts in Gulf Coast states due to Hurricane Katrina, one of the issues raised is whether Congress might consider legislation authorizing courts affected by natural and man-made disasters to meet outside the geographic boundaries of their circuits or districts. In emergency conditions created due to a natural or man-made disaster, 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 within the district. The Judicial Conference of the United States, which makes policy for the federal courts, asked Congress in June 2005 to pass emergency legislation to allow courts to shift court proceedings temporarily into adjacent judicial districts when emergency circumstances require it and again in September following Hurricane Katrina. The proposed legislation is similar to language contained in section 15 of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. The Subcommittee on Crime, Terrorism, and Homeland Security forwarded H.R. 1751, with amendments to the House Committee on the Judiciary on June 30, 2005. H.R. 3650, which would allow U.S. courts to conduct business during emergency conditions was introduced on September 6, was passed by the House on September 7. This report will be updated as events warrant.

As a result of the current disruption of operations in several courts in Alabama, Louisiana, and Mississippi due to Hurricane Katrina, one of the issues raised is whether Congress might consider legislation authorizing courts affected by natural and man-made disasters to meet outside the geographic boundaries of their circuits or districts. The aftermath of the hurricane, and ongoing efforts to secure court facilities following earlier attacks on court facilities and judges, judicial branch policymakers and administrators, have given renewed attention to crisis response, emergency planning, and continuity of operations (COOP) issues. In the federal judiciary, COOP planning is an extension of

court emergency preparedness plans designed to safeguard lives and property during emergencies.¹

Currently, federal courthouses in New Orleans, Louisiana; Mobile, Alabama; and Gulfport, Mississippi are inoperable due to the effects of the storm. One of the New Orleans courthouses is the John Minor Wisdom U.S. Courthouse, primary home of the U.S. Court of Appeals for the Fifth Circuit, which handles appellate cases from Louisiana, Texas, and Mississippi. As of September 7, 2005, plans were announced to relocate and reopen the court on or about September 14, 2005, at a facility in Houston, Texas. After three months it is expected that the court will relocate to Baton Rouge, Louisiana.²

Also closed in New Orleans indefinitely are the courthouses that are home to the U.S. District Court for the Eastern District of Louisiana, and the Hale Boggs Federal Building, which houses the U.S. Bankruptcy Court for the Eastern District of Louisiana. Any of the courts may sit anywhere within its boundaries if its usual facilities are currently unavailable, but the District Court is currently working to relocate to three sites within the Eastern District of Louisiana.³ Due to the devastation of the New Orleans area, and within the affected judicial district resulting from the widespread flooding, destruction, or lack of functional facilities, however, it is unclear whether it will be possible for the district or bankruptcy courts to sit in the Eastern District. It has been announced that judges and staff working in the Eastern District Court are relocating to three sites — Houma in the Eastern District, Baton Rouge in the Central District, and Lafayette in the Western District. The Bankruptcy Court will share space with the bankruptcy Court that sits for the Middle District. Under current law, neither district nor bankruptcy courts are authorized to conduct business outside the geographic boundaries of their districts. Federal courthouses for the Southern District of Mississippi, in Gulfport, and the Southern District of Alabama, in Mobile, remain closed. No alternative plans for those courts have been announced.⁴

In emergency conditions created due to a natural or man-made disaster, 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 within the district. In the aftermath of Hurricane Katrina, the Judicial Conference of the United States, which makes policy for the federal courts, asked Congress to pass emergency legislation to allow courts to temporarily shift court proceedings into adjacent judicial districts when emergency circumstances require it. The proposed legislation is similar to language

¹ An overview of emergency planning and COOP activities in the federal judiciary is available in CRS Report RL31978, *Emergency Preparedness and Continuity of Operations (COOP) Planning in the Federal Judiciary*, by R. Eric Petersen.

² “Federal Courts Regrouping After Hurricane Katrina,” U.S. Courts website, Sept. 7, 2005, at [<http://www.uscourts.gov/newsroom/hurricane090605.html>]; and United States Court of Appeals for the Fifth Circuit, “Court Information,” at [<http://www.ca5.uscourts.gov/news/news/CourtInformation-09022005.htm>], visited Sept. 7, 2005.

³ United States District Court for the Eastern District of Louisiana website at [<http://www.laed.uscourts.gov/>]; and United States Bankruptcy Court, Eastern District of Louisiana website at [<http://www.laeb.uscourts.gov/>].

⁴ “Federal Courts Closed by Hurricane Katrina,” U.S. Courts website, Sept. 2, 2005, at [<http://www.uscourts.gov/newsroom/hurricane090205.html>], visited Sept. 6, 2005.

contained in section 15 of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. H.R. 1751 is similar to a proposal that was transmitted by the Judicial Conference to Congress on June 2, 2005. The Judicial Conference reports that a companion court security bill is expected to be introduced in the Senate in September.⁵ H.R. 3650, the Federal Judiciary Emergency Special Sessions Act of 2005, was introduced by Representative James Sensenbrenner, chairman of the Committee on the Judiciary, on September 6, 2005. The measure, which would allow U.S. courts to conduct business during emergency conditions was passed by the House on September 7.

H.R. 1751 was introduced by Representative Louie Gohmert on April 21, 2005, and was referred to the House Committee on the Judiciary. Like the most recent Judicial Conference proposal, H.R. 1751 would authorize circuit, district, and bankruptcy courts to conduct special sessions outside their respective geographic boundaries upon a finding by the court's chief judge, or the most senior active judge available, or the judicial council of the circuit, that , due to emergency conditions, no locations within the boundaries of those courts are reasonably available where such special sessions could be held. The Judiciary Committee referred the measure to the Subcommittee on Crime, Terrorism, and Homeland Security. The subcommittee held a hearing and a mark up of the proposal. H.R. 1751, as amended by the subcommittee, was forwarded by the subcommittee to the Judiciary Committee on June 30. No further action has been taken at the time of this writing.

⁵ United States, Judicial Conference, "Emergency Authority Proposal Approved by the Judicial Conference of the United States," undated, at [http://www.uscourts.gov/newsroom/EMERGENCYAUTHORITYPROPOSAL_billtext8305.pdf], visited Sep 6, 2005.