



## CRS Report for Congress

# Procedural Analysis of Private Laws Enacted: 1986-2007

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### Summary

Between 1986 and 2007 (99<sup>th</sup>-109<sup>th</sup> Congresses), 167 private laws were enacted. As of this writing, no private laws have been enacted in the 110<sup>th</sup> Congress. Most private laws during this period dealt with immigration issues or claims against the government. Of these measures, 66% originated in the House, 9% had cosponsors, and 23% had companion bills. Most were enacted without amendment or need to resolve differences with the other house. This report examines the broad distinctions among these measures in terms of their subject matter, introduction, sponsorship and cosponsorship, referral, method of consideration, amendment, and reconciling of differences between the chambers' versions of the bill. It will be updated as necessary.

Unlike public law, which applies to public matters and deals with individuals only by classes, the provisions of private law apply to "one or several specified persons, corporations, [or] institutions."<sup>1</sup> Private legislation is premised on the idea that general law cannot cover all situations equitably, and sometimes Congress must approve legislation to address unique problems that public law either created or overlooked. Private legislation has its foundation in the right to "petition the government for a redress of grievances"<sup>2</sup> guaranteed to all citizens by the First Amendment to the U.S. Constitution. While once much more common, in modern practice private laws are rare and designed to grant relief in those few situations where no other legal or administrative remedies are available to a petitioner.

Between 1986 and 2007 (99<sup>th</sup>-109<sup>th</sup> Congresses), 167 private laws were enacted. This report examines the broad distinctions that appear among these 167 measures in terms of their subject matter, introduction, sponsorship and cosponsorship, referral,

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<sup>1</sup> Asher C. Hinds, *Hinds' Precedents of the House of Representatives of the United States* (Washington: GPO, 1917), vol. 4, §3285.

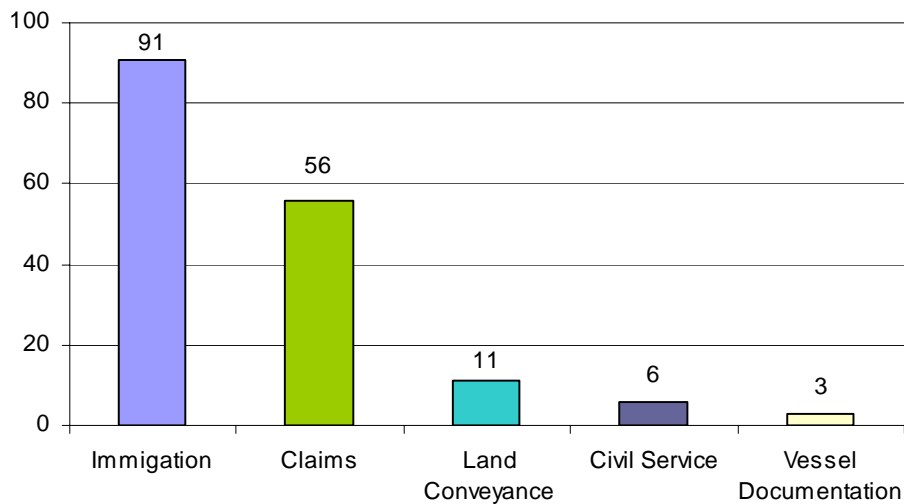
<sup>2</sup> U.S. Congress, *Constitution, Jefferson's Manual, and Rules of the House of Representatives*, H.Doc. 108-241, 108<sup>th</sup> Cong., 2<sup>nd</sup> sess. (Washington: GPO, 2005), §208, p. 90.

method of consideration in each chamber, amendment, and ways in which any differences between the chambers' versions of the bill were reconciled. As of this writing, no private laws have been enacted in the 110<sup>th</sup> Congress (2007-2008).

## Subject Matter of Private Laws

As the chart below demonstrates, from 1986 to 2007, the subject matter of private laws enacted fell into five broad categories. The largest subject category, immigration, is composed primarily of measures that confer lawful permanent resident (LPR) status on a petitioner “by waiving a general law provision which prevents the granting or maintenance” of such status.<sup>3</sup> The second category includes a broad variety of claims against the government. The remaining private laws during the period studied are divided among three smaller categories: the conveyance of public lands, civil service issues, and vessel documentation.

**Figure 1. Subject of Private Laws: 1986-2007**



**Source:** Legislation Information System (LIS) of the U.S. Congress.

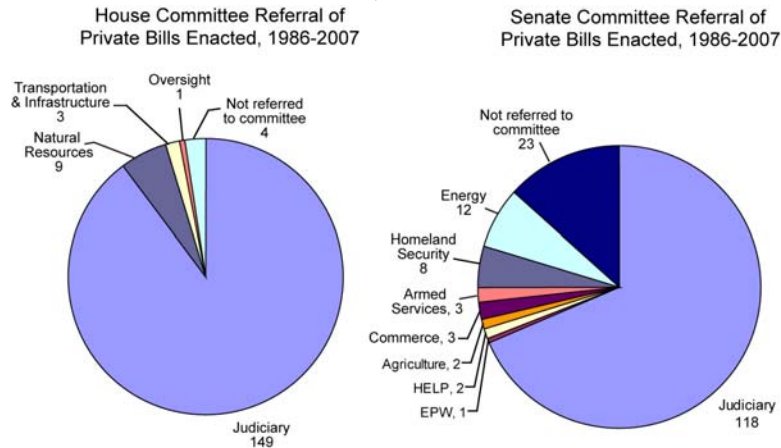
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<sup>3</sup> CRS Report, CRS Report RL33024, *Private Immigration Legislation*, by Margaret Mikyung Lee.

## Introduction Stage

**Chamber of Origin.** Of the 167 private laws enacted between 1986 and 2007, 56 (34%) originated in the Senate, and 111 (66%) originated in the House of Representatives.

**Figure 2. Committee Referrals for Private Bills Enacted, 1986-2007**



**Source:** Legislation Information System (LIS) of the U.S. Congress.

**Party Sponsorship.** It is generally accepted that Congress acts on significantly more measures sponsored by majority party members than by minority party members. For example, over the past nine Congresses, between 71% and 88% of the measures passing the House under the Suspension of the Rules procedure were authored by majority party members.<sup>4</sup>

An examination of the 167 private laws enacted since the 99<sup>th</sup> Congress, however, reveals a more balanced breakdown by party affiliation. Over the 20-year period, 73 private laws were sponsored by Republican Members of Congress and 94 by Democratic Members. As **Table 1** shows, both parties sponsored substantial percentages of private bills that became law. This is true not only during periods of split party control of Congress, but also during times when one party held the majority in both chambers.

**Table 1. Party Sponsorship of Private Laws: 1986-2007**

Congressional Majority	Republican Sponsored Private Laws	Democratic Sponsored Private Laws
Democratic	38%	62%
Republican	56%	44%
Chambers Split	43%	57%

**Source:** Legislation Information System (LIS) of the U.S. Congress.

<sup>4</sup> CRS Report 97-901, *Suspension of Rules in the House, Measure Sponsorship By Party*, by Thomas P. Carr.

The data suggest that party membership is not the exclusive factor in determining whether a private measure is successful or not. **Table 1** tends to show higher proportions of measures both for Democratic in comparison with Republican majorities and for Democratic in comparison with Republican minorities. This effect, however, may arise simply because, during the period studied, both the Democratic majorities and minorities that occurred tended to be larger than the corresponding Republican ones.

**Geographic Sponsorship.** The geographic distribution of the sponsorship of private laws from the 99<sup>th</sup> to the 109<sup>th</sup> Congress reveals, not surprisingly, that Members from the most populous states collectively authored the most private laws. The nation's four most populous states — California, Texas, New York, and Florida<sup>5</sup> — were also the top four states in which Members sponsored private laws during this period. Members from Alaska and Wyoming — the 47<sup>th</sup> and 50<sup>st</sup> ranked states in population — each sponsored four private laws, however, more than Members from significantly larger states, such as Ohio, Illinois, and New Jersey. These data suggest that the state or region of a sponsor is not a major factor in whether a private measure is enacted.

**Cosponsors.** Under House Rule XIII, private bills may not be cosponsored.<sup>6</sup> Notwithstanding this prohibition, one House measure that subsequently became law in the period examined did have cosponsors.<sup>7</sup> The Senate places no limits on the cosponsorship of private measures. Of the 167 private laws examined, 14 Senate bills had cosponsors.

**Companion Bills.** Just 23% of the 167 bills that became private laws enacted between 1986 and 2007 had companion measures introduced in the other chamber during the Congress they were enacted. This, along with the cosponsorship statistics noted above, suggests that, in contrast with public policy measures, private bills sponsors view it as less necessary to build formal coalitions in advance in support of passage of a private measure, perhaps because the measure will be judged on the merit of the case and the relatively narrow precedents for the consideration of such requests for relief.

## Committee Referral

Historically, most private legislation introduced in Congress was either considered by various claims committees established in each chamber<sup>8</sup> or by committees overseeing

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<sup>5</sup> U.S. Census Bureau, 2006 Population Estimates, available at [<http://www.census.gov/popest/estimates.php>].

<sup>6</sup> William Holmes Brown and Charles W. Johnson, *House Practice, A Guide to the Rules, Precedents and Procedures of the House* (Washington: GPO, 2003), ch. 6, §15, p. 179.

<sup>7</sup> H.R. 2032, 100<sup>th</sup> Congress. Legislative Information System (LIS) U.S. Library of Congress.

<sup>8</sup> David T. Canon, Garrison Nelson, Charles Stewart III, *Committees in the U.S. Congress, 1789-1946, vol. 1* (Washington: CQ Press, 2002), pp. VI-XXXV.

immigration.<sup>9</sup> The 1946 Legislative Reorganization Act,<sup>10</sup> however, transferred jurisdiction over both immigration and claims bills to the Committees on the Judiciary. Since 1947, only a small fraction of private measures dealing with matters such as public lands, vessel documentation, military awards, veterans' benefits, and tax and tariffs, have been referred to committees other than the Committees on the Judiciary.

As **Figure 2** demonstrates, while other committees have been referred a small percentage of private measures subsequently enacted, the House and Senate Judiciary Committees have processed the largest percentage of private laws over the past 20 years. Five bills were referred to more than one Senate committee and were counted multiple times in the corresponding table. (For purposes of clarity, the table identifies the relevant House and Senate committees by their current name and jurisdiction, even if some might have had a different name or jurisdiction at various points over the period studied.)

## Method of Consideration

**House.** The House has special procedures for considering private measures through a call of its Private Calendar.<sup>11</sup> Of the 167 private laws enacted between the 99<sup>th</sup> and 109<sup>th</sup> Congress, 150 were considered under these procedures. Eleven bills were considered by unanimous consent. Five were considered under the Suspension of the Rules procedure, and one passed under the call of the Consent Calendar (which has since been abolished.)

**Senate.** Unlike the House, the Senate does not have special procedures for the consideration of private measures; they are dealt with in the same way as public bills. All 167 private measures enacted between the 99<sup>th</sup> and 109<sup>th</sup> Congress were considered in the Senate by unanimous consent.

## Bills Passed Over in the House

In the House, on the special days set aside for the call of the Private Calendar, bills are acted upon in the order listed on the calendar. A bill may be, by unanimous consent, passed over "without prejudice," however, meaning that it does not lose its place on the calendar even though it is not being acted upon.<sup>12</sup> Of the private laws examined, seven were passed over at least once before finally gaining House passage. One private claims bill, H.R. 1598 from the 99<sup>th</sup> Congress, was passed over without prejudice 16 times before being approved by the House.<sup>13</sup>

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<sup>9</sup> U.S. Congress, House Committee on the Judiciary, *History of the Committee on the Judiciary of the House of Representatives*, committee print, 92<sup>nd</sup> Cong. 2<sup>nd</sup> sess. (Washington: GPO, 1972), p. 5.

<sup>10</sup> P.L. 79-601, 60 Stat. 812.

<sup>11</sup> See CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

<sup>12</sup> *Deschler's Precedents of the U.S. House of Representatives* (Washington: GPO, 1977), ch. 22 §12.4-12.6.

<sup>13</sup> News reports suggest that House consideration was likely delayed while bill supporters worked to convince the President to withdraw a veto threat of the measure. See James Hannah, "Law Helps Ohio Man, Deformed at Birth, Seek Damages," *The Associated Press*, October 22, 1986.

## Amendments to Private Bills

As with public legislation, committees of jurisdiction exercise judgment not only over whether a private bill merits consideration by their chamber, but also over the content of the bill; simply put, committees don't always accept the remedy suggested by the author of an introduced private measure. As such, private bills are sometimes amended either in committee or on the floor.

**House.** Of the 167 private laws enacted between 1986 and 2007:

- 11 were reported from House committee with an amendment in the nature of a substitute;
- 25 were reported from committee with perfecting amendments; and
- 12 were amended on the House floor.

**Senate.** Of the 167 private laws enacted between 1986 and 2007:

- 9 were reported from Senate committee with an amendment in the nature of a substitute;
- 2 were reported from Senate committee with perfecting amendments; and
- 14 private bills were amended on the Senate floor.

## Resolving Differences

Only 13% of the private laws enacted between 1986 and 2007 were amended by the second chamber, thus requiring the two chambers resolve differences. Of this 13%, none were resolved by conference committee. In every instance, an exchange of amendments between the House and Senate was used to come into agreement.

## Time to Enactment

Like public bills, a private bill must be enacted within the Congress in which it was introduced, and if not adopted by adjournment, it dies and must be reintroduced in the next Congress. This often happens in private bill cases, where the time for Congress to deal with a particular case may be longer than a single Congress. Between 1986 and 2007, the average time from the first introduction of private legislation in Congress requesting relief to resolution of the case by enactment of a private law was two years, nine months, a period roughly equal to one and a half Congresses.

During the same period, the longest case took over 8,934 days — over 24 years — from the first introduction of a private bill to enactment of a private law resolving the claim.<sup>14</sup> The shortest time from first introduction of a private bill to enactment of a law resolving the case was 29 days.<sup>15</sup>

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<sup>14</sup> See S. 2042, 108<sup>th</sup> Congress.

<sup>15</sup> See H.R. 2731 and H.R. 2732, 105<sup>th</sup> Congress.