

105TH CONGRESS
1ST SESSION

H. R. 691

To provide for a 3-judge division of the court to determine whether cases alleging breach of secret Government contracts should be tried in court.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 1997

Mr. TRAFICANT introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide for a 3-judge division of the court to determine whether cases alleging breach of secret Government contracts should be tried in court.

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. ASSIGNMENT OF JUDGES TO 3-JUDGE DIVI-**
4 **SION.**

5 (a) ASSIGNMENT OF JUDGES.—The Chief Justice of
6 the United States shall assign 3 circuit court judges or
7 justices (which may include senior judges or retired jus-
8 tices) to a division of the United States Court of Appeals
9 for the District of Columbia for the purpose of determin-
10 ing whether an action brought by a person, including a

1 foreign national, in a court of the United States of com-
2 petent jurisdiction for compensation for services per-
3 formed for the United States pursuant to a secret Govern-
4 ment contract may be tried by the court. The division of
5 the court may not determine that the case cannot be heard
6 solely on the basis of the nature of the services to be pro-
7 vided under the contract.

8 (b) ASSIGNMENT AND TERMS.—Not more than 1 jus-
9 tice or judge or senior or retired judge may be assigned
10 to the division of the court from a particular court. Judges
11 and justices shall be assigned to the division of the court
12 for periods of 2 years each, the first of which shall com-
13 mence on the date of the enactment of this Act.

14 (c) FACTORS IN DIVISION’S DELIBERATIONS.—In de-
15 ciding whether an action described in subsection (a)
16 should be tried by the court, the division of the court shall
17 determine whether the information that would be disclosed
18 in adjudicating the action would do serious damage to the
19 national security of the United States or would com-
20 promise the safety and security of intelligence sources in-
21 side or outside the United States. If the division of the
22 court determines that the case may be heard, the division
23 may prescribe steps that the court in which the case is
24 to be heard shall take to protect the national security of

1 the United States and intelligence sources and methods,
2 which may include holding the proceedings in camera.

3 (d) REFERRAL OF CASES.—In any case in which an
4 action described in subsection (a) is brought and otherwise
5 complies with applicable procedural and statutory require-
6 ments, the court shall forthwith refer the case to the divi-
7 sion of the court.

8 (e) EFFECT OF DIVISION’S DETERMINATION.—If the
9 division of the court determines under this section that
10 an action should be tried by the court, that court shall
11 proceed with the trial of the action, notwithstanding any
12 other provision of law.

13 (f) OTHER JUDICIAL ASSIGNMENTS NOT BARRED.—
14 Assignment of a justice or judge to the division of the
15 court under subsection (a) shall not be a bar to other judi-
16 cial assignments during the 2-year term of such justice
17 or judge.

18 (g) VACANCIES.—Any vacancy in the division of the
19 court shall be filled only for the remainder of the 2-year
20 period within which such vacancy occurs and in the same
21 manner as the original appointment was made.

22 (h) SUPPORT SERVICES.—The Clerk of the United
23 States Court of Appeals for the District of Columbia Cir-
24 cuit shall serve as the clerk of the division of the court

1 and shall provide such services as are needed by the divi-
2 sion of the court.

3 (i) DEFINITIONS.—For purposes of this section—

4 (1) the term “secret Government contract”
5 means a contract, whether express or implied, that
6 is entered into with a member of the intelligence
7 community, to perform activities subject to the re-
8 porting requirements of title V of the National Secu-
9 rity Act of 1947 (50 U.S.C. 413 and following); and
10 (2) the term “member of the intelligence com-
11 munity” means any entity in the intelligence com-
12 munity as defined in section 3(4) of the National Se-
13 curity Act of 1947 (50 U.S.C. App. 401a(4)).

14 **SEC. 2. APPLICABILITY.**

15 (a) IN GENERAL.—Section 1 applies to claims arising
16 on or after December 1, 1976.

17 (b) WAIVER OF STATUTE OF LIMITATIONS.—With
18 respect to any claim arising before the enactment of this
19 Act which would be barred because of the requirements
20 of section 2401 or 2501 of title 28, United States Code,
21 those sections shall not apply to an action brought on such
22 claim within 2 years after the date of the enactment of
23 this Act.

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