

The Judicial Conference’s Bankruptcy Judgeship Recommendation

Conversion of 14 Existing Temporary Bankruptcy Judgeships

In its March 2019 bankruptcy judgeship recommendation to Congress, the Judicial Conference recommended converting ten temporary bankruptcy judgeships to permanent status. On April 28, 2020, after reviewing the judiciary’s legislative priorities in light of the COVID-19 pandemic, the Judicial Conference submitted to Congress a legislative package, including the ten conversions sought in the March 2019 Judicial Conference position, along with conversion of four temporary judgeships authorized by Congress in 2017 that the judiciary originally requested to be additional permanent judgeships. The request for conversion of 14 temporary judgeships to permanent status is as follows:

District	Conversion Request	Weighted Filings as of December 31, 2019	Weighted Filings Minus One Judgeship	Weighted Filings Minus Two Judgeships
District of Delaware	7	1,864	2,130	2,485
District of Puerto Rico	2	997	1,329	1,994
Eastern District of Michigan	2	1,182	1,419	1,774
Middle District of Florida	1	1,276	1,435	N/A
Southern District of Florida	1	1,324	1,545	N/A
District of Maryland ¹	1	886	1,010	1,212

Each of the districts in which the judiciary has asked that a temporary bankruptcy judgeship be converted to permanent status demonstrated—long before the COVID-19 crisis—a critical need for additional judicial resources. As discussed below, when evaluating requests for conversion or extension of a temporary judgeship, the Judicial Conference considers weighted filings per authorized judgeship minus one to reflect the impact that the loss of the temporary judgeship would have on weighted filings in that district, shown in the “Weighted Filings Minus One Judgeship” column. In the districts for which the Judicial Conference has requested conversion of more than one temporary judgeship to permanent status, the Conference evaluates the impact of the loss of a second (or, in the case of the District of Delaware, more) temporary judgeship, shown in the “Weighted Filings Minus Two Judgeships” column.

These requests do not account for the anticipated impact of COVID-19 on bankruptcy filings and bankruptcy court operations. Bankruptcy filings are expected to increase significantly during the recovery from COVID-19 and result in substantial workload increases in bankruptcy courts nationwide, placing an even greater burden on bankruptcy courts included in the judiciary’s requests, districts which already carry among the nation’s highest judicial workloads (weighted caseloads) per authorized judgeship.

¹ The District of Maryland currently has three temporary bankruptcy judgeships. Two have passed their lapse date and are expected to be lost upon the next retirement, resignation, removal, or death that occurs in that district. The recommendation to convert the third temporary judgeship assumes that those judgeships will be lost. Thus, the relevant weighted filings are 1,212 (the District of Maryland’s weighted filings per authorized judgeship with the remaining five judgeships) and 1,515 (weighted filings if the third temporary judgeship were lost).

Extension of One Existing Temporary Bankruptcy Judgeship

In addition to the conversion of the 14 temporary bankruptcy judgeships, the Judicial Conference requests an extension of a temporary bankruptcy judgeship in the Eastern District of Tennessee for an additional five years, to prevent that judgeship from being lost. The Eastern District of Tennessee currently has four authorized bankruptcy judgeships (one of which is a temporary bankruptcy judgeship), with duty stations in Chattanooga (2), Knoxville, and Greeneville. The Judicial Conference recently learned of the planned retirement of a judge in that district effective September 30, 2020. Unless the lapse date for this judgeship is extended, the resulting vacancy cannot be filled, and the bankruptcy judgeship will be lost. If the temporary judgeship is lost upon the judge's retirement, the district's weighted caseload will increase to 1,060, exceeding the standard of 1,000 weighted filings the Judicial Conference uses to justify a continuing need. If this temporary judgeship is lost, no bankruptcy judge will be stationed in Greeneville, and the judges from either Chattanooga (181 miles away) or Knoxville (70 miles away) will need to travel to Greeneville to preside over those cases. The Judicial Conference respectfully requests that legislation extending the temporary judgeship be enacted prior to September 30, 2020.

Bankruptcy Case Weights

Bankruptcy case weighting studies are conducted by the Federal Judicial Center (FJC), the judiciary's research and education agency, in consultation with the Judicial Conference Committee on the Administration of the Bankruptcy System (Bankruptcy Committee). GAO has repeatedly evaluated the bankruptcy case weighting process found the Judicial Conference's process and methodology for developing bankruptcy case weights to be reasonable.

The case weighting formula translates the annual caseload of a bankruptcy court into a weighted caseload representing the judicial workload associated with the cases filed. The total weighted caseload is then divided by the number of authorized bankruptcy judgeships (permanent and temporary) in that district to determine the district's weighted caseload per authorized judgeship. It is expected that a district should have a weighted caseload per authorized judgeship of at least 1,500 to justify requesting an additional judgeship. To justify requesting conversion of a temporary judgeship, a district should have a weighted caseload of at least 1,500 per authorized judgeship, when computed using currently authorized judgeship minus one (i.e., the weighted caseload if the temporary judgeship were to lapse and not be filled upon retirement, resignation, removal, or death of a bankruptcy judge in the district). Requests for extension of a temporary judgeship are evaluated using a lower threshold: a district with a temporary judgeship whose weighted caseload exceed 1,000 per authorized judgeship if the temporary judgeship were to lapse is deemed to have a continuing need for that judgeship and justifies seeking an extension from Congress.

In addition to weighted caseload, the Judicial Conference considers other factors in making its bankruptcy judgeship recommendations to Congress, including the nature and mix of the district's caseload; historical caseload data and filing trends; geographic, economic, and demographic factors in the district; the effectiveness of case management efforts by the court; the availability of alternative solutions and resources for handling the district's work load; the impact that approval of requested additional resources would have on the district's per judgeship caseload (for additional judgeship requests only); and any other pertinent factors.

Like the process for recommending additional Article III judgeships, Judicial Conference policy is to consider requests for additional judgeships or for extension or conversion of temporary judgeships only for those districts that request them, and only with the support of the relevant circuit judicial council. Thus, the Judicial Conference would not request an additional judgeship or extension or conversion of a temporary judgeship in a district that meets the threshold, but that did not submit a request endorsed by its circuit.