

September 12, 2018

The Honorable Bob Goodlatte, Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

The Honorable Jerrold Nadler
Ranking Member
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Goodlatte and Ranking Member Nadler:

Re: Groups Strongly Oppose H.R. 3487 (diversity jurisdiction); H.R. 6730 (nationwide injunctions); H.R. 6754 (Ninth Circuit re-structuring); and H.R. 6755 (miscellaneous federal court changes).

On September 13, 2018, the Committee will consider a series of bills, including four major pieces of legislation that would transform federal court jurisdiction, power and practice. The undersigned organizations strongly oppose these four bills, three of which were introduced less than a week ago. Moreover, the fact that the Committee would even consider sweeping legislation of this sort without holding a single legislative hearing on any of the bills is an outrage.

H.R. 3487, Diversity Jurisdiction.

This is an extreme bill that radically changes the law of diversity jurisdiction—the standard governing when a federal court may hear a case—from complete diversity to minimal diversity. This bill would end up forcing a vast number of state cases into federal court, thus depriving states of jurisdiction over claims they should properly hear. It is essentially a corporate forum-shopping bill since corporate defendants prefer to litigate in federal court. That usually results in less diverse jurors, more expensive proceedings, longer wait times for trials, and stricter limits on discovery. For plaintiffs, who are supposed to be able to choose their forums, this legislation would result in additional time, expense, and inconvenience for the plaintiff and witnesses.

H.R. 6730, “Injunctive Authority Clarification Act of 2018.”

This bill would prevent national injunctions in most cases. When a government policy concerns an urgent issue such as voting rights, toxic pollution, health care, or immigration, nationwide injunctions may be the only way to prevent widespread and irreparable harm caused by a government policy. This is especially true when policies take effect and risk damage very quickly. The option of a nationwide injunction must be available to courts to prevent immediate harm from occurring. To the extent more procedures might be useful to guide the courts, they should be developed by the federal courts themselves, not by Congress. But clearly, nationwide injunctions can serve important purposes and should not be banned, as this bill would do in most cases.

H.R. 6754, “Court Imbalance Restructure Concerning Updates to Impacted Tribunals Act of 2018” or the “CIRCUIT Act of 2018.”

This bill would completely restructure the Ninth Judicial Circuit. As the American Bar Association (ABA) noted in 2017 testimony before the Senate Subcommittee on Privacy, Technology and the Law, the ABA “undertook a reexamination of the functioning of the Ninth Judicial Circuit” and found “no compelling empirical evidence of adjudicative or administrative dysfunction that warrants restructuring.” It also noted, “In the past, Congress has agreed that the views of the affected legal community carry great weight and has refrained from using its power to restructure a circuit unless there was overwhelming consensus within Congress and the affected legal community that it was necessary and there was agreement over how best to reconfigure the Circuit.” Not only does such consensus not exist, but also the ABA is “confident” that judges who do *not* want to reconfigure the Ninth Circuit vastly outnumber those who do. Moreover, [i]mportantly, the past three chief judges of the Ninth Circuit, spanning back to 2000, have been categorical in their opposition to division of the Ninth Circuit and vocal in their support for the benefits derived from the Circuit’s size.” We agree with the ABA and strongly oppose this bill.

H.R. 6755, the “Judiciary Reforms, Organization and Operational Modernization Act of 2018” or the “Judiciary ROOM Act of 2018.”

This bill contains a vast number of changes to federal court structure and procedures, from medical examinations and codes of conduct for judges, to internet streaming and television broadcasts. There has not been a single hearing on any of these ideas, much less on all of these complex issues combined. We strongly urge the committee not to proceed with this bill before, at a minimum, properly examining the bill's vast array of issues in an open and public hearing.

These four bills would make vast changes to the federal judiciary and in most cases, would make it more difficult for Americans to enforce their legal rights. We strongly urge the committee to reject them.

For more information, please contact Joanne Doroshow, Center for Justice & Democracy at New York Law School, joanned@centerjcd.org. Thank you for your time and consideration.

Very sincerely,

A New Way of Life Re-Entry Project
Alliance for Justice
American Association for Justice
Center for Biological Diversity
Center for Justice & Democracy
Consumers for Auto Reliability and Safety
Earthjustice
Food & Water Watch
Georgia Watch
Impact Fund
NAACP
National Association of Consumer Advocates

National Consumer Law Center (on behalf of its
low income clients)
National Consumers League
National Employment Lawyers Association
National Latino Farmers & Ranchers Trade
Association
People For the American Way
Public Citizen
Public Justice Center
Texas Watch
Workplace Fairness