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Temporary Judgeships: Frequently Asked Questions

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SUMMARY

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Temporary Judgeships: Frequently Asked Questions

This report provides data and analysis related to temporary judgeships authorized for the federal judiciary. A *temporary judgeship* is authorized by Congress to temporarily increase a court's size by adding one or more judgeships to the court for a limited time. The legislation that authorizes a temporary judgeship specifies the period of time after which the first vacancy to occur on the court will not be filled with a new appointee. For example, legislation to establish a temporary judgeship might specify that the first vacancy occurring on a court 10 or more years after a nominee is confirmed to the temporary judgeship will not be filled. When such a vacancy goes unfilled, the number of judgeships on the court returns to the number permanently authorized by Congress.

If Congress determines that a court needs a temporary judgeship beyond the date it would otherwise be eligible to lapse or expire according to its authorizing legislation (referred to in this report as a temporary judgeship's *lapse date*), Congress can either convert it to permanent status or extend its duration. These policy options are discussed below in greater detail.

At present, Congress has authorized 10 temporary U.S. district court judgeships and 29 temporary bankruptcy judgeships. Key findings related to these judgeships include the following:

- Overall, 27 of the 91 judicial districts with Article III judgeships (or 30%) currently have at least one temporary judgeship authorized by Congress.
- Of the 10 existing temporary district court judgeships, 3 have been authorized since 1990 (specifically, one judgeship each for the districts of Hawaii, Kansas, and Eastern Missouri) and 7 have been authorized since 2002 (specifically, one judgeship each for the districts of Northern Alabama, Arizona, Central California, Southern Florida, New Mexico, Western North Carolina, and Eastern Texas).
- Congress has extended the 10 existing temporary district court judgeships multiple times, with each having been extended between 9 and 18 times. Congress has typically extended these temporary judgeships during the annual appropriations process for the federal judiciary.
- If Congress does not extend the 10 temporary judgeships again, each of them will lapse or expire at some point between April 7, 2024, and September 30, 2024. If a temporary judgeship lapses or expires for a particular court, it means that the first vacancy occurring on the court on or after the lapse date will not be filled with a new nominee.
- In its most recent recommendation at the beginning of the 117th Congress, the Judicial Conference recommended converting 9 of the 10 current temporary judgeships to permanent judgeships. The Judicial Conference is likely to release a new recommendation during the 118th Congress after the Conference's next meeting in March 2023.
- The 10 existing temporary district court judgeships represent 10% of the 99 temporary district court judgeships that Congress has authorized since 1898. Of the 89 other temporary judgeships that were authorized in the past, 57 were later made permanent by Congress and 32 expired.
- Of the 29 existing temporary bankruptcy judgeships, Congress first authorized 5 in 1992, 20 in 2005, and 4 in 2017.
- The Bankruptcy Administration Improvement Act of 2020 (P.L. 116-325) extended most of the temporary bankruptcy judgeships for at least several years (with the earliest possible lapse or expiration date for any of the judgeships occurring no earlier than January 2026).

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Introduction

Article III, Section I of the Constitution provides that the "judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish." Consequently, Congress determines the size and structure of the federal judiciary through legislative action. For example, the size of the federal judiciary is determined, in part, by the number of lower federal court judgeships authorized by Congress.[1] At numerous times over the years, Congress has authorized an increase in the number of such judgeships in order to meet the workload-based needs of the federal court system.

In some instances, Congress has authorized temporary judgeships rather than permanent judgeships. Congress might prefer temporary judgeships if a court is dealing with an increased workload deemed to be temporary (e.g., when workload increases as a result of new federal legislation or a recent Supreme Court ruling) or if Congress is uncertain about whether a recent workload increase is temporary or permanent.

At present, there are 10 temporary U.S. district court judgeships and 29 temporary bankruptcy judgeships authorized by Congress.

What Is a Temporary Judgeship?

A *temporary judgeship* is authorized by Congress to temporarily increase a federal court's size by adding one or more judgeships to the court for a limited time.[2] In contrast, congressional authorization of a *permanent judgeship* increases a federal court's size by permanently increasing the number of judgeships on the court.[3]

The legislation authorizing a temporary judgeship specifies the period of time after which the first vacancy to occur on the court will not be filled with a new appointee. When such a vacancy goes unfilled, the number of judgeships on the court returns to the number permanently authorized by Congress.[4]

For example, when Congress authorized a temporary judgeship in 2002 for the Southern District of Florida, the court's size increased by one judgeship (from 17 to 18 judges). In order to eventually reduce the number of judgeships back to 17 (which, at present, is the number of permanent judgeships authorized by Congress for the Southern District of Florida), the legislation authorizing the temporary judgeship specified that the first vacancy occurring 10 or more years after a nominee was confirmed to the temporary judgeship would not be filled. The nominee for the Southern District of Florida's temporary judgeship, James I. Cohn, was confirmed on July 31, 2003. If Congress had not later extended the temporary judgeship, the Southern District of Florida

[1] Other types of federal judgeships are also authorized by Congress, including judgeships for the U.S. Supreme Court, U.S. Court of International Trade, territorial district courts, and the U.S. Court of Federal Claims. Judgeships for these particular courts are outside the scope of this report.

[2] See, for example, P.L. 107-273, §312 (c).

[3] See, for example, P.L. 107-273, §312 (a).

[4] The first vacancy that is not filled on the court can be for *any* of the existing judgeships on the court, not just for the judgeship deemed as "temporary." In this sense, the term "temporary judgeship" arguably is a misnomer. Instead, the authorization of a temporary judgeship may be better thought of as a temporary increase in the size of the court itself. Congress has temporarily increased the size of the court by authorizing an additional judgeship. The court is eventually reduced to its original size by not filling the first vacancy that occurs on or after a specified date in the future.

would have returned to having 17 judgeships on December 15, 2013 (which was the date of the first vacancy on the court to occur 10 or more years after Cohn's confirmation).[5]

A judge appointed to a temporary U.S. district court judgeship is an Article III judge who—as is the case with appointees to permanent judgeships—continues to hold office during "good behavior" (i.e., the appointment is, for practical purposes, for life until the judge retires, assumes senior status, dies, or is removed by Congress through the process of impeachment).[6] In other words, a judge appointed to a temporary judgeship continues to serve even if the judgeship is not made permanent or extended by Congress. The judge continues to serve because, as described above, the first *vacancy* for any of the judgeships on the court will not be filled after a legislatively specified period of time, whether the judge whose departure creates the vacancy was appointed to a permanent or temporary judgeship. When that vacancy is not filled with a new appointee, the court returns to the number of permanent judgeships authorized by Congress.[7]

What Can Happen to a Temporary Judgeship After It Has Been Authorized by Congress?

After Congress first authorizes a temporary judgeship, there are three possible future outcomes as to what can eventually happen to the judgeship. These outcomes are shown in the hypothetical scenario presented in **Figure 1**.

The first possibility is that the temporary judgeship is "lost" because Congress does not either renew it for an additional period of time or convert it to a permanent judgeship.[8] If the judgeship is not renewed or made permanent by Congress, the first vacancy to occur on the court after a legislatively specified period of time will not be filled with a new appointee (i.e., the judgeship will be lost). By not filling the vacancy, the number of judgeships on the court returns to the number of permanent judgeships authorized by Congress.

The second possibility is that Congress legislatively extends the duration of the temporary judgeship for an additional specified period of time. The authorization of the temporary judgeship is extended by changing the date (further into the future) on or after which the first vacancy to occur on the court will not be filled with a new appointee.

If Congress extends a court's temporary judgeship, any vacancies on that court can continue to be filled with new appointees during the period for which the temporary judgeship has been extended. The 10 existing temporary U.S. district court judgeships have been extended numerous times by Congress since first being authorized in either 1990 or 2002.[9]

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[5] December 15, 2013, was the initial lapse, or expiration, date of the temporary judgeship authorized in 2002 for the Southern District of Florida. Congress first extended the temporary judgeship for the Southern District of Florida in 2013, prior to December 15. See P.L. 113-6, March 26, 2013. The option for Congress to extend a temporary judgeship beyond its initial lapse date is discussed further in the subsequent section of the report.

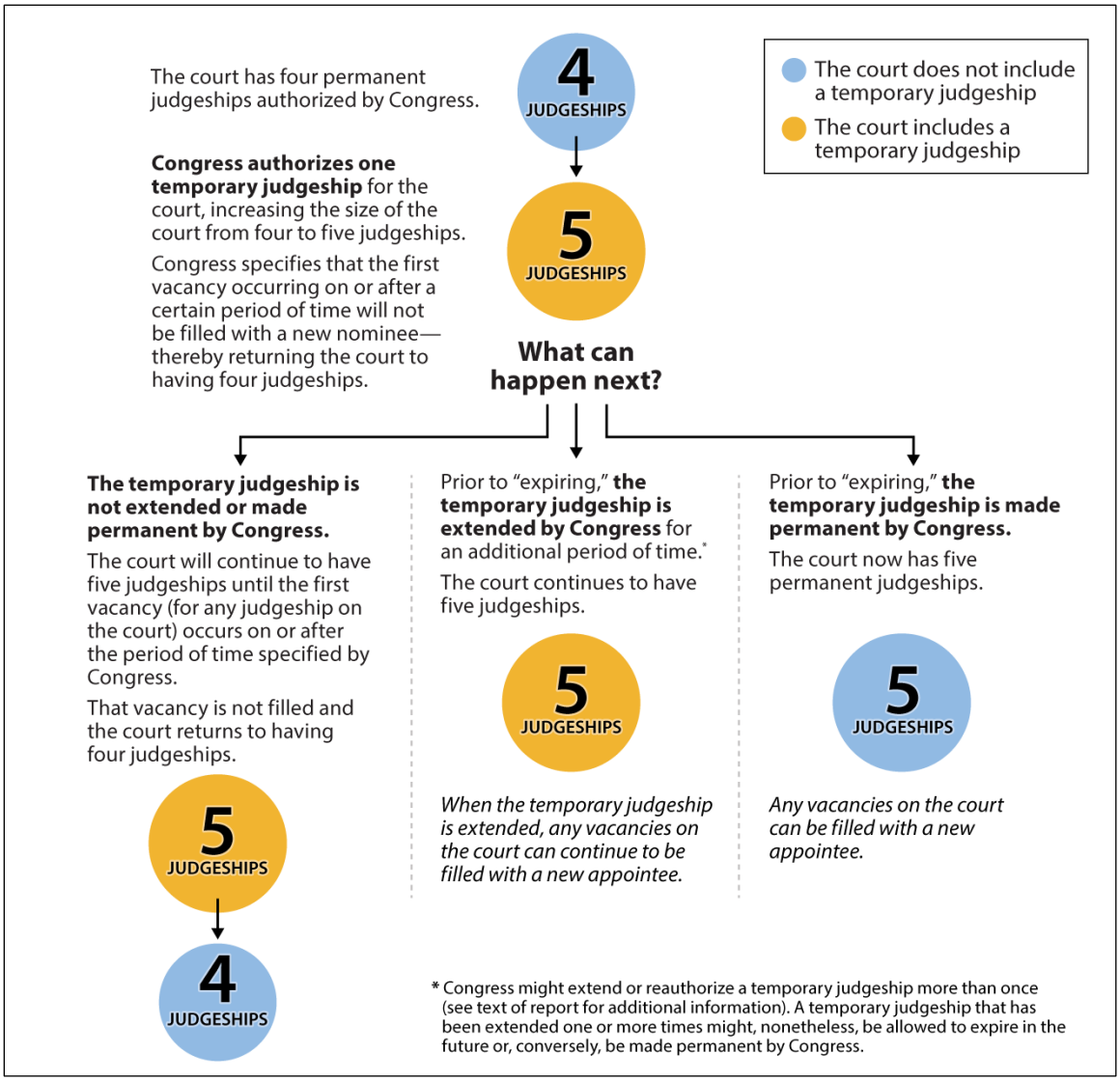
[6] U.S. Constitution, Art. III, §1.

[7] The same process applies to other types of courts with judgeships not authorized under Article III (e.g., bankruptcy courts). The term of office for an appointee to a bankruptcy judgeship is 14 years.

[8] For the purpose of this report, "lapse" and "expire" are used interchangeably to describe what happens to a temporary judgeship if it is not extended or made permanent. The federal judiciary also sometimes uses the term "lost" to describe a temporary judgeship that has not been extended or made permanent.

[9] For example, according to the Administrative Office of the U.S. Courts, the temporary judgeships for the Northern District of Alabama, District of Arizona, Central District of California, Southern District of Florida, District of New Mexico, and Eastern District of Texas have each been extended 11 times since they were first created in 2002.

Figure 1. Hypothetical Scenario Showing the Three Possible Outcomes After Congress Authorizes a Temporary Judgeship



Source: Congressional Research Service.

The third possibility is that Congress converts the temporary judgeship to a permanent judgeship. Converting a temporary judgeship permanently increases the court's size by adding a permanent judgeship to the court. Congress last converted temporary judgeships to permanent judgeships in 2002, when temporary judgeships for the Central District of Illinois, Southern District of Illinois, Northern District of New York, and Eastern District of Virginia were made permanent.[10]

Administrative Office of the U.S. Courts, "Chronological History of Authorized Judgeships—District Courts," at https://www.uscourts.gov/judges-judgeships/authorized-judgeships/chronological-history-authorized-judgeships-district-courts.

[10] The size of both the Central and Southern Districts of Illinois increased from 3 to 4 permanent district court judgeships; the size of the Northern District of New York increased from 4 to 5 permanent judgeships; and the size of the Eastern District of Virginia increased from 10 to 11 permanent judgeships. See P.L. 107-273, §312 (b).

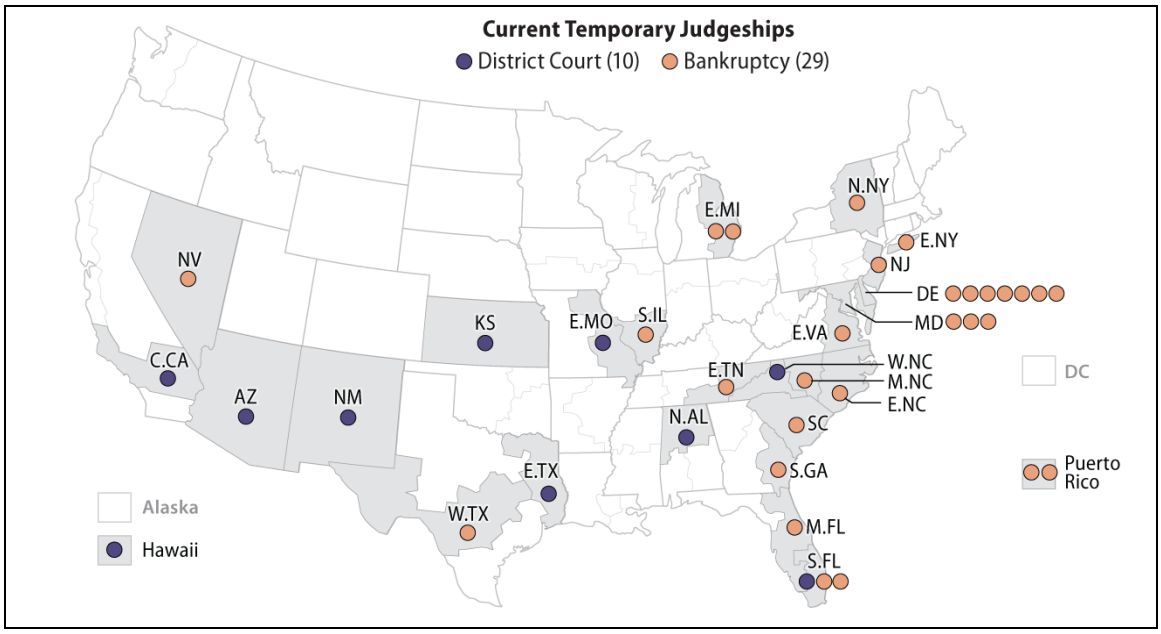
For Which Federal Courts Are Temporary Judgeships Currently Authorized?

At present, there are 10 authorized temporary U.S. district court judgeships and 29 temporary bankruptcy judgeships.[11] **Figure 2** shows the judicial districts where each of these temporary judgeships are located. Overall, 27 of 91 judicial districts with Article III judgeships (or 30%) currently have at least one temporary judgeship authorized by Congress.[12]

Of these 27 judicial districts, the Southern District of Florida is the sole district with both types of temporary judgeships currently authorized by Congress—the district has one temporary U.S. district court judgeship and two temporary bankruptcy judgeships.

Figure 2. Temporary U.S. District Court Judgeships and Temporary Bankruptcy Judgeships by Judicial District

(Authorized as of January 18, 2023)



Source: Congressional Research Service.

Note: Three of the temporary bankruptcy judgeships currently authorized by Congress have never been filled; specifically, judgeships for the Southern District of Illinois, Eastern District of New York, and Western District of Texas.

[11] Three of the 29 temporary bankruptcy judgeships authorized by Congress have yet to be filled (this includes temporary judgeships authorized for the Southern District of Illinois, Eastern District of New York, and Western District of Texas).

[12] This calculation excludes the three judicial districts for Guam, the Northern Mariana Islands, and the U.S. Virgin Islands.

Temporary Judgeships for U.S. District Courts

U.S. district courts are the federal trial courts of general jurisdiction (i.e., these courts determine facts and apply legal principles to resolve disputes).[13] Trials are conducted by a district court judge or, in some cases, a magistrate judge. U.S. district court judges are appointed by the President with the advice and consent of the Senate. Under Article III of the U.S. Constitution, such appointments are considered effective for life—meaning a judge remains in office until the judge dies, assumes senior status, resigns, retires, or is removed by Congress through the process of impeachment.

Congress, by legislation, determines the number of district court judgeships. At present, there are 673 U.S. district court judgeships authorized by Congress (including 663 permanent judgeships and 10 temporary judgeships).[14]

Of the 10 existing temporary district court judgeships, 3 have been authorized since 1990 (specifically, one judgeship each for the districts of Hawaii, Kansas, and Eastern Missouri).[15]

The 1990 legislation that authorized the three temporary judgeships initially set each judgeship's lapse date as the date of the first vacancy that occurred "5 years or more after the effective date" of the legislation.[16] Congress later amended this language to change each judgeship's lapse date to the "first vacancy ... occurring 10 years or more after the confirmation date of the judge named to fill the temporary judgeship."[17]

The other seven temporary U.S. district court judgeships have been authorized since 2002.[18] Congress set the lapse date for each temporary judgeship to the "first vacancy ... occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship."[19]

Congress has extended each of the 10 current temporary judgeships multiple times, typically when it has enacted annual appropriations for the federal judiciary.[20] When Congress extends a temporary judgeship for a district court, it moves the date on or after which the first vacancy to occur on the court will not be filled with a new appointee further into the future.[21]

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[13] Administrative Office of the U.S. Courts, "Court Role and Structure," at https://www.uscourts.gov/about-federal-courts/court-role-and-structure.

[14] This total does not include four permanent territorial district court judgeships authorized by Congress under Article I of the U.S. Constitution.

[15] 104 Stat. 5102, P.L. 101-650, December 1, 1990.

[16] Ibid. at Title II, §203(c).

[17] 111 Stat. 1173, P.L. 105-53, October 6, 1997.

[18] Temporary judgeships created or made permanent by P.L. 107-273 were effective on July 15, 2003.

[19] 116 Stat. 1758, P.L. 107-273, November 2, 2002, §312(c)(2).

[20] For references to the specific legislation that extended the 10 existing temporary judgeships, see Administrative Office of the U.S. Courts, Authorized Judgeships, "Chronological History of Authorized Judgeships—District Courts," at https://www.uscourts.gov/judges-judgeships/authorized-judgeships/chronological-history-authorized-judgeships-district-courts.

[21] For example, the legislative language for the most recent extension of the temporary judgeship for the Central District of California amended the lapse date to be the first vacancy occurring "20 years and 6 months" or more after the confirmation date of the first judge who was appointed to the temporary judgeship. As shown by **Table 1**, this new lapse date—if not again extended by Congress—is April 27, 2024.

When Are Current Temporary District Court Judgeships Eligible to Lapse?

Each of the 10 current temporary judgeships was most recently extended by Congress in 2022 through the enactment of FY2023 appropriations for the federal judiciary.[22] **Table 1** lists, for each judgeship, the date on which the judgeship is eligible to lapse if it is not again extended by Congress. At present, each judgeship is eligible to lapse during the 2024 calendar year. As discussed above, the date on which a temporary judgeship is eligible to lapse (or expire) signifies the date on or after which the first vacancy on the district court will not be filled with a new nominee.

Table 1. Eligible Lapse Dates for Current U.S. District Court Judgeships

(As of January 18, 2023)

Judicial District (Major City in District)	Date Judgeship Eligible to Lapse/Expire
Alabama, Northern (Birmingham)	09/17/2024
Arizona (Phoenix)	07/08/2024
California, Central (Los Angeles)	04/27/2024
Florida, Southern (Miami)	07/31/2024
Hawaii (Honolulu)	04/07/2024
Kansas (Kansas City)	05/21/2024
Missouri, Eastern (St. Louis)	05/20/2024
New Mexico (Albuquerque)	07/14/2024
North Carolina, Western (Charlotte)	04/28/2024
Texas, Eastern (Tyler)	09/30/2024

Source: Administrative Office of the U.S. Courts, Authorized Judgeships, "Authorized Temporary Judgeships," at https://www.uscourts.gov/judges-judgeships/authorized-judgeships.

Note: The date on which a temporary judgeship is eligible to lapse (or expire) signifies the date on or after which the first vacancy on the district court will not be filled with a new nominee.

What Recommendations Has the Judicial Conference Made Related to Current Temporary District Court Judgeships?

The Judicial Conference of the United States, the policymaking body of the federal courts, makes a biennial recommendation to Congress that identifies any circuit and district courts that the Conference determines require new permanent judgeships to appropriately administer civil and criminal justice in the federal court system. This recommendation can include converting existing temporary judgeships to permanent judgeships.

In its most recent recommendation at the beginning of the 117th Congress, the Judicial Conference recommended converting 9 of the 10 current temporary judgeships to permanent judgeships.[23]

The Conference's recommendation can change from one Congress to the next, depending on the Conference's biennial evaluation of whether a district court's workload justifies converting its

[22] P.L. 117-328, December 29, 2022.

[23] Administrative Office of the U.S. Courts, "Additional Judgeships or Conversion of Existing Judgeships Recommended by the Judicial Conference," 2021, at https://www.uscourts.gov/sites/default/files/2021_judicial_conference_recommendations_0.pdf.

temporary judgeship to permanent status. **Table 2** shows, for the 110th through the 117th Congresses, the Conference's recommendations as to whether to convert each of the 10 existing temporary judgeships to a permanent judgeship. The Judicial Conference is likely to release a new recommendation during the 118th Congress after the Conference's next meeting in March 2023.

Table 2. Recommendation by Judicial Conference as to Whether to Convert an Existing Temporary U.S. District Court Judgeship to a Permanent Judgeship

(110th Congress to 117th Congress)

Judicial District (Major City in District)	Congress							
	110	111	112	113	114	115	116	117
Alabama, Northern (Birmingham)	N	N	Y	Y	Y	N	N	Y
Arizona (Phoenix)	Y	Y	Y	Y	Y	Y	Y	Y
California, Central (Los Angeles)	N	N	Y	Y	Y	Y	Y	Y
Florida, Southern (Miami)	N	N	Y	Y	Y	Y	Y	Y
Hawaii (Honolulu)	Y	N	N	N	N	N	N	N
Kansas (Kansas City)	Y	Y	Y	Y	Y	Y	Y	Y
Missouri, Eastern (St. Louis)	Y	Y	Y	Y	Y	Y	Y	Y
New Mexico (Albuquerque)	Y	Y	Y	Y	Y	Y	Y	Y
North Carolina, Western (Charlotte)	N	N	N	N	Y	Y	Y	Y
Texas, Eastern (Tyler)	N	Y	Y	Y	Y	Y	Y	Y

Source: Administrative Office of the U.S. Courts, "Additional Judgeships or Conversion of Existing Judgeships Recommended by the Judicial Conference" for 2007, 2009, 2011, 2013, 2015, 2017, 2019, and 2021, respectively.

Note: "N' indicates "No" (the Conference did not recommend converting the temporary judgeship to permanent status). "Y" indicates "Yes" (the Conference recommended converting the temporary judgeship to permanent status).

At the beginning of each Congress from the 110th through the 117th, the Judicial Conference recommended that 4 of the 10 temporary judgeships be converted to permanent status—those for Arizona, Kansas, the Eastern District of Missouri, and New Mexico.

Three other temporary judgeships have been recommended for permanent status since either the 111th (2009-2010) or 112th Congress (2011-2012)—those for the Central District of California (112th), the Southern District of Florida (112th), and the Eastern District of Texas (111th).

Additionally, as shown by **Table 2**, the Judicial Conference has not recommended that the temporary judgeship for the District of Hawaii be converted to permanent status since the 110th Congress (2007-2008).

Temporary Judgeships for Bankruptcy Courts

Federal courts have exclusive jurisdiction over bankruptcy matters (i.e., a bankruptcy case cannot be filed in state court). Bankruptcy courts are units of federal district courts and exercise jurisdiction over bankruptcy matters as granted by statute and referred to them by their respective

district courts.[24] Bankruptcy judges are non-Article III judges appointed by the court of appeals for the circuit where the bankruptcy court is located. A judge is appointed to a term of 14 years and may be reappointed.

Congress, by legislative action, determines the number of bankruptcy judgeships. As of December 5, 2022, 345 bankruptcy judgeships were authorized by Congress (316 permanent judgeships and 29 temporary judgeships).

The Bankruptcy Administration Improvement Act of 2020 (P.L. 116-325) extended the current temporary bankruptcy judgeships that have been filled for at least several years (with the earliest possible lapse date for any of the judgeships occurring in January 2026).[25]

What Has Happened to Past Temporary Judgeships Authorized by Congress?

U.S. Circuit Courts

Congress has authorized six temporary circuit court judgeships, each of which it later made permanent. Specifically, Congress authorized one temporary judgeship for the Ninth Circuit in 1929 and made it permanent in 1933.[26] Congress later authorized a temporary judgeship for the Third Circuit in 1936 and made it permanent in 1938.[27] Most recently, Congress authorized four temporary judgeships for the Fifth Circuit in 1966 and made them permanent in 1968.[28] Congress has not authorized any additional temporary circuit court judgeships since 1966.

U.S. District Courts

Overall, Congress has authorized 99 temporary district court judgeships (the first was authorized in 1898 for the Northern District of Texas).[29] Of the 99 temporary judgeships, 57 (58%) were later made permanent by Congress, 32 (32%) expired, and 10 (10%) are currently authorized.[30] **Figure 3** displays these 99 judgeships in chronological order by the calendar year in which each judgeship was authorized.

[24] Federal Judicial Center, "U.S. Bankruptcy Courts," at https://www.fjc.gov/history/courts/u.s.-bankruptcy-courts.

[25] Three temporary bankruptcy judgeships, authorized for the Southern District of Illinois, Eastern District of New York, and Western District of Texas, have not yet been filled with an appointee (and, consequently, have not yet needed to be extended).

[26] 70 Cong. Ch. 413 and 73 Cong. Ch. 102, respectively. This increased the size of the court from three to four permanent judgeships.

[27] 74 Cong. Ch. 753 and 75 Cong. Ch. 290, respectively. This increased the size of the court from four to five permanent judgeships.

[28] 80 Stat. 75, P.L. 89-372 and 82 Stat. 184, P.L. 90-347, respectively. This increased the size of the court from 9 to 15 permanent judgeships (when Congress converted the 4 temporary judgeships to permanent status it also authorized 2 additional permanent judgeships). In 1980, the Fifth Circuit was subsequently reorganized into two separate circuits—the new Fifth Circuit (comprising Louisiana, Mississippi, and Texas) and a new Eleventh Circuit (comprising Alabama, Florida, and Georgia).

[29] 55 Cong. Ch. 15. The judgeship expired several months later on April 9, 1898.

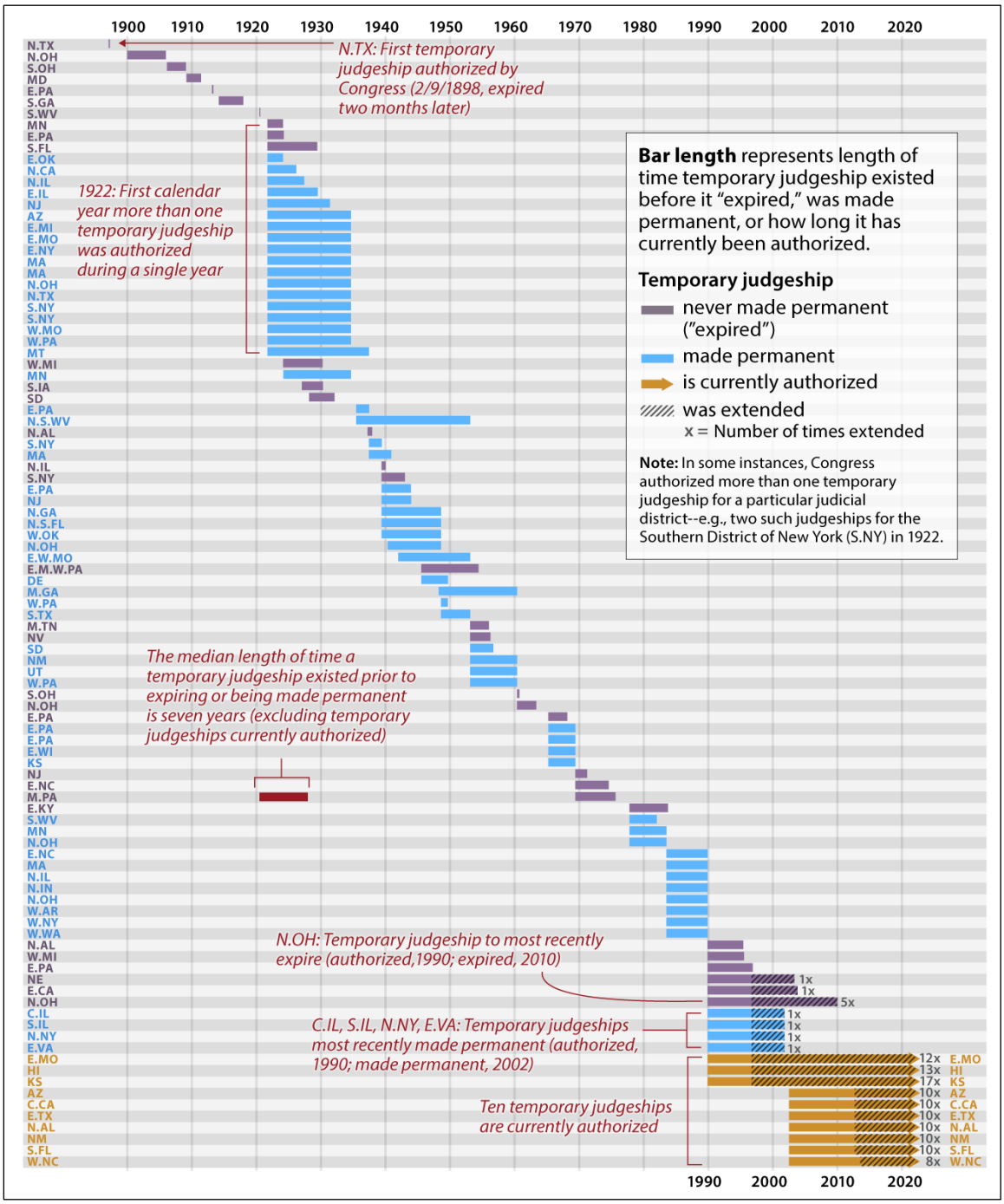
[30] Percentages are rounded to the nearest whole percentage point.

Congress first converted a temporary district court judgeship to permanent status in 1925, and, did so most recently in 2002.[31] During this period, the median length of time a temporary district court judgeship existed prior to being made permanent by Congress was 7.3 years.[32]

[31] 68 Cong. Ch. 233 (February 16, 1925) and P.L. 107-273 (November 2, 2022), respectively.

[32] This calculation excludes the 10 existing temporary district court judgeships.

Figure 3. Temporary U.S. District Court Judgeships Authorized by Congress
(1898-2023)



Source: CRS compilation of data provided by the Administrative Office of the U.S. Courts at https://www.uscourts.gov/sites/default/files/district-temporary-judgeships_0.pdf.

The temporary district court judgeship authorized for the shortest period of time prior to being made permanent by Congress was for the Eastern District of Oklahoma. This judgeship, created in 1922, was authorized for nearly two and a half years before it was made permanent in 1925.[33]

The temporary district court judgeship authorized for the longest period of time prior to being made permanent by Congress was a judgeship authorized to serve both the Northern and Southern Districts of West Virginia. This judgeship, created in 1936, was authorized for over 17 years before it was made permanent in 1954.[34]

The first temporary judgeship to expire was the judgeship authorized for the Northern District of Texas in 1898 (it was authorized for approximately two months).[35] The most recent expiration of a temporary district court judgeship occurred when a judgeship for the Northern District of Ohio, which had been authorized for over 20 years, expired on December 27, 2010.[36] Of the 32 temporary district court judgeships that have expired since 1898, this particular temporary judgeship for the Northern District of Ohio was authorized for the longest period of time prior to expiration.[37]

From 1898 to 2010, the median length of time a temporary district court judgeship existed prior to expiration was 3.4 years.[38]

The temporary district court judgeship authorized for the shortest period of time prior to expiration was for the Southern District of West Virginia, which was authorized for less than two months.[39]

The temporary district court judgeship authorized for the longest period of time prior to expiration was a temporary judgeship for the Northern District of Ohio (discussed above). The temporary judgeship authorized for the second-longest period of time prior to expiration was for the Eastern District of California. This judgeship, created in 1990, was authorized for nearly 14 years before it expired in 2004.[40]

Figure 3 provides additional historical details about the temporary district judgeships authorized by Congress. Congress first authorized more than a single temporary district court judgeship in 1922.[41] Of the 21 temporary judgeships authorized by Congress in 1922, 18 (86%) were later made permanent.[42] In contrast, each of the seven temporary judgeships authorized by Congress prior to 1922 had lapsed.

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[33] 67 Cong. Ch. 306 (September 14, 1922) and 68 Cong. Ch. 233 (February 16, 1925), respectively.

[34] 74 Cong. Ch. 695 (June 22, 1936) and 83 Cong. Ch. 6 (February 10, 1954), respectively.

[35] The judgeship expired on April 9, 1989.

[36] The temporary judgeship had been authorized by P.L. 101-650 (December 1, 1990).

[37] Two other temporary judgeships for the Northern District of Ohio had previously expired on December 22, 1906, and May 2, 1964, respectively.

[38] This calculation excludes the 10 existing temporary district court judgeships.

[39] 67 Cong. Ch. 306 (September 14, 1922) and 68 Cong. Ch. 233 (February 16, 1925), respectively.

[40] The temporary judgeship had been authorized by P.L. 101-650 (December 1, 1990) and expired on November 1, 2004.

[41] The 21 temporary judgeships were authorized by 67 Cong. Ch. 306 (September 14, 1922).

[42] Each of the 18 judgeships was made permanent by Congress at some point between 1925 and 1938. See 68 Cong. Ch. 233 (February 16, 1925), 69 Cong. Ch. 336 (March 3, 1927), 70 Cong. Ch. 882 (May 29, 1928), 71 Cong. Ch. 852 (July 3, 1930), 72 Cong. Ch. 196 (May 20, 1932), 74 Cong. Ch. 558 (August 19, 1935), and 75 Cong. Ch. 290 (May 31, 1938).

Most temporary judgeships were authorized at the same time as at least one other temporary judgeship. Of the 99 temporary judgeships authorized since 1898, 80 (81%) were authorized by the same legislation as at least one other temporary judgeship.[43] The greatest number of temporary judgeships authorized by the same legislation occurred in 1922 (21 judgeships), 1990 (13), 1984 (8), 1940 (7), and 2002 (7).[44]

As also shown by **Figure 3**, the extension of temporary judgeships by Congress is a relatively recent phenomenon. None of the 79 temporary judgeships authorized prior to 1990 were extended by Congress prior to either being made permanent or expiring. Of the 20 temporary judgeships authorized since 1990, 17 (85%) were, or have been, extended at least once.[45]

Bankruptcy Courts

While the Judicial Conference has periodically requested that Congress convert temporary bankruptcy judgeships to permanent judgeships, no temporary bankruptcy judgeship has ever been made permanent by Congress. Overall, a total of 13 temporary bankruptcy judgeships have lapsed or expired since the first temporary bankruptcy judgeships were authorized in 1992.[46]

What Policy Options Are Available to Congress for Current Temporary Judgeships?

As discussed above with the hypothetical accompanying **Figure 1**, Congress has three policy options for the temporary judgeships that are now authorized. These options are as follows:

- **Congress can let a temporary judgeship expire by not extending its current lapse date**. If not extended, each of the 10 temporary district court judgeships will lapse or expire at some point between April 7, 2024, and September 30, 2024. If a temporary judgeship lapses or expires for a particular district court, it means that the first vacancy occurring on the court on or after the lapse date will not be filled with a new nominee. In contrast, the Bankruptcy Administration Improvement Act of 2020 (P.L. 116-325) extended most of the 29 temporary bankruptcy judgeships for at least several years (with the earliest possible lapse or expiration date for any of the judgeships occurring no earlier than January 2026).

[43] Congress was more likely to authorize a single temporary judgeship in a piece of legislation prior to the mid-1950s. Each of the 48 temporary judgeships authorized from 1954 to 2002, were authorized by the same legislation as at least one other temporary judgeship. Of the 51 temporary judgeships authorized prior to 1954, 31 (63%) were authorized by the same legislation as at least one other temporary judgeship.

[44] These judgeships were authorized, respectively, by 67 Cong. Ch. 306 (September 14, 1922), P.L. 101-650 (December 1, 1990), P.L. 98-353 (July 10, 1984), 76 Cong. Ch. 209 (May 24, 1940), and P.L. 107-273 (November 2, 2022).

[45] As discussed above, this includes each of the 10 temporary district court judgeships that are currently authorized.

[46] These expired temporary bankruptcy judgeships had been authorized for the Northern District of Alabama (P.L. 102-361), Central District of California (3 judgeships authorized by P.L. 109-8), Eastern District of California (P.L. 109-8), District of Colorado (P.L. 102-361), Southern District of Mississippi (P.L. 109-8), District of New Hampshire (P.L. 102-361), Southern District of New York (P.L. 109-8), Eastern District of Pennsylvania (P.L. 109-8), Middle District of Pennsylvania (P.L. 109-8), District of South Carolina (P.L. 102-361), and the Western District of Tennessee (P.L. 109-8).

- **Congress can extend a temporary judgeship beyond its current lapse date**. At present, the 10 current temporary district court judgeships have been extended between 9 and 18 times. In recent years, Congress has typically extended each temporary district court judgeship for one additional year during the annual appropriations process for the federal judiciary. Congress could again extend the lapse dates for the 10 temporary judgeships for an additional year, pushing the lapse dates into 2025, or Congress could instead extend one or more of the temporary judgeships for a period of time longer than a single year. For example, the Bankruptcy Administration Improvement Act of 2020 (P.L. 116-325) extended each of the current temporary bankruptcy judgeships for at least the next several years.
- **Congress can pass legislation to convert one or more of the temporary judgeships to permanent status** (thereby increasing the number of permanent judgeships for one or more courts with a temporary judgeship). In its most recent recommendation at the beginning of the 117th Congress, the Judicial Conference recommended converting 9 of the 10 current temporary judgeships to permanent judgeships. The number of permanent district court judgeships increased to 663 in 2003 during the 108th Congress and has remained at that number to the present day. This represents the longest period of time since district courts were established in 1789 that Congress has not authorized any new permanent district court judgeships (including the conversion of temporary judgeships to permanent status). Additionally, while the Judicial Conference has periodically requested that Congress convert temporary bankruptcy judgeships to permanent judgeships, no temporary bankruptcy judgeship has ever been made permanent by Congress.

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