

2 of 2 DOCUMENTS

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HEADLINE: Plan to unify immigrant appeals;
Sen. Specter's provision to centralize jurisdiction draws fire

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BODY:

Tucked into a wide-ranging immigration bill now before a U.S. Senate committee is a proposal to send all future appeals in deportation and asylum cases to a court in Washington, D.C., where a single judge would have the authority to dismiss them.

The office of Sen. Arlen Specter, R-Pa., the bill's author, says the proposal would make immigration law uniform throughout the nation and relieve the other 12 federal appeals courts — particularly those in San Francisco and New York — of a glut of immigration cases.

But immigration lawyers and the American Civil Liberties Union say the plan is ill-conceived, dangerous and a thinly veiled attack on the Ninth U.S. Circuit Court of Appeals in San Francisco, which now hears about half of the nation's immigration appeals. The critics were joined Friday by the Ninth Circuit's chief judge, Mary Schroeder.

"I don't think this is very constructive," she said in an interview. "I think it will limit representation" by requiring noncitizens to find lawyers who will travel to Washington to argue their cases.

In addition, Schroeder said, the judges on the Federal Circuit Court of Appeals in Washington, where the cases would be heard, "have no background" in immigration.

The change in court jurisdiction is one section of legislation sponsored by Specter, the Senate Judiciary Committee chairman, that also addresses such issues as temporary legalization for undocumented workers, increased border security and foreign visas. It is now undergoing committee review, without public testimony, and could come up for a vote by the end of this week.

Illegal immigrants seeking political asylum or fighting deportation orders now take their cases first to immigration courts, staffed by Justice Department employees. They can appeal unfavorable decisions to the U.S. Court of Appeals in their region, whose judges are appointed by the president and serve for life.

Increased immigration enforcement and limits ordered on immigration court review in 2002 by then-Attorney General John Ashcroft have led to a surge in such cases at the courts of appeals. Schroeder said they now make up 40 percent of the Ninth Circuit caseload, a situation that led to recent meetings with the Justice Department in which she and other judges urged upgrading the immigration court system.

Specter's bill would leave current appeals where they are, but send all such cases in the future to the Federal Circuit, which now handles mostly patent and trademark cases. Its roster of 12 judges, eight of them appointed by Republican presidents, would be increased by three.

The idea, according to Specter's office, is to eliminate regional discrepancies in immigration rulings — and any incentive for illegal immigrants to look for a sympathetic court — and create a single, nationwide set of legal standards.

Plan to unify immigrant appeals; Sen. Specter's provision to centra

Another provision would assign each incoming case to a single judge, who would decide whether the appeal contained an issue that was serious enough to warrant a hearing before a three-judge panel. If not, the judge would dismiss the case, and the immigrant would have no right of further appeal, said Marshall Fitz, director of advocacy for the 10,000-member American Immigration Lawyers Association.

"To try to ram this through as part of a broader immigration reform package ... without any hearings, any expert witnesses weighing in from the judiciary, any legal scholars ... is in my estimation irresponsible," Fitz said.

Among other things, he said, the change would add 10,000 cases to a court that now hears 1,500 cases a year. Specter's office denied that the judges would be overworked.

Tim Sparapani, an attorney with the American Civil Liberties Union, said immigrants already have trouble finding lawyers who will take their cases for free and would have more difficulty if their cases were moved to Washington.

"This would reduce the likelihood that attorneys will take cases on behalf of immigrants or would see them through until the end," Sparapani said.

Both he and Fitz contend the proposal is focusing in large part on the Ninth Circuit, whose liberal rulings and large size have prompted numerous attempts by Republicans over the last two decades to break it into two or three smaller circuits.

Specter's office would not allow any staffer members to be quoted by name, but aides said the senator's motivation was to make the law more uniform and effective, not to take cases away from the Ninth Circuit or any other court.

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