

Calendar No. 10104TH CONGRESS
1ST SESSION**S. 144**

To amend section 526 of title 28, United States Code, to authorize awards of attorney's fees.

IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. LOTT (for Mr. HATCH) introduced the following bill; which was read the first time

JANUARY 5, 1995

Read the second time and placed on the calendar

A BILL

To amend section 526 of title 28, United States Code, to authorize awards of attorney's fees.

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. AWARDS OF ATTORNEY'S FEES.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Attorney’s Fees Equity Act of 1995”.

1 (b) AWARDS OF ATTORNEY'S FEES.—Section 526 of
2 title 28, United States Code, is amended by adding at the
3 end the following new subsection:

4 “(c)(1)(A) A current or former Department of Jus-
5 tice attorney; agent; or employee who supervises an agent
6 who is the subject of a criminal or disciplinary investiga-
7 tion, instituted on or after the date of enactment of this
8 subsection, arising out of acts performed in the discharge
9 of his or her duties in prosecuting or investigating a crimi-
10 nal matter, who is not provided representation under De-
11 partment of Justice regulations, shall be entitled to reim-
12 bursement of reasonable attorney's fees incurred during
13 and as a result of the investigation if the investigation
14 does not result in adverse action against the attorney,
15 agent, or employee.

16 “(B) A current or former attorney; agent; or em-
17 ployee who supervises an agent employed as or by a Fed-
18 eral public defender who is the subject of a criminal or
19 disciplinary investigation instituted on or after the date
20 of enactment of this subsection, arising out of acts per-
21 formed in the discharge of his or her duties in defending
22 or investigating a criminal matter in connection with the
23 public defender program, who is not provided representa-
24 tion by a Federal public defender or the Administrative
25 Office of the United States Courts is entitled to reim-

1 reimbursement of reasonable attorney's fees incurred during
2 and as a result of the investigation if the investigation
3 does not result in adverse action against the attorney,
4 agent, or employee.

5 “(2) For purposes of paragraph (1), an investigation
6 shall be considered not to result in adverse action against
7 an attorney, agent, or employee if—

8 “(A) in the case of a criminal investigation, the
9 investigation does not result in indictment of, the fil-
10 ing of a criminal complaint against, or the entry of
11 a plea of guilty by the attorney, agent, or super-
12 vising employee; and

13 “(B) in the case of a disciplinary investigation,
14 the investigation does not result in discipline or re-
15 sults in only discipline less serious than a formal let-
16 ter of reprimand finding actual and specific wrong-
17 doing.

18 “(3) The Attorney General shall provide notice in
19 writing of the conclusion and result of an investigation de-
20 scribed in paragraph (1).

21 “(4) An attorney, agent, or supervising employee who
22 was the subject of an investigation described in paragraph
23 (1) may waive his or her entitlement to reimbursement
24 of attorney's fees under paragraph (1) as part of a resolu-
25 tion of a criminal or disciplinary investigation.

1 “(5) An application for attorney fee reimbursement
2 under this subsection shall be made not later than 180
3 days after the attorney, agent, or employee is notified in
4 writing of the conclusion and result of the investigation.

5 “(6) Upon receipt of a proper application under this
6 subsection for reimbursement of attorney’s fees, the Attor-
7 ney General and the Director of the Administrative Office
8 of the United States Courts shall award reimbursement
9 for the amount of attorney’s fees that are found to have
10 been reasonably incurred by the applicant as a result of
11 an investigation.

12 “(7) The official making an award under this sub-
13 section shall make inquiry into the reasonableness of the
14 amount requested, and shall consider—

15 “(A) the sufficiency of the documentation ac-
16 companying the request;

17 “(B) the need or justification for the underlying
18 item;

19 “(C) the reasonableness of the sum requested in
20 light of the nature of the investigation; and

21 “(D) current rates for equal services in the
22 community in which the investigation took place.

23 “(8)(A) Reimbursements of attorney’s fees ordered
24 under this subsection by the Attorney General shall be

1 paid from the appropriation made by section 1304 of title
2 31, United States Code.

3 “(B) Reimbursements of attorney’s fees ordered
4 under this Act by the Director of the Administrative Office
5 of the United States Courts shall be paid from appropria-
6 tions authorized by section 3006A(i) of title 18, United
7 States Code.

8 “(9) The Attorney General and the Director of the
9 Administrative Office of the United States Courts may
10 delegate their powers and duties under this subsection to
11 an appropriate subordinate.”.

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