

# Calendar No. 107

110TH CONGRESS }  
1st Session }

SENATE

{ REPORT  
{ 110-042

## THE COURT SECURITY ACT OF 2007

MARCH 29, 2007.—Ordered to be printed

Mr. LEAHY, Chairman of the Committee on the Judiciary,  
submits the following

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany S. 378]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to which was referred the bill (S. 378) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill (as amended) do pass.

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#### I. PURPOSE OF THE COURT SECURITY IMPROVEMENT ACT OF 2007

The February 2005 murder of the mother and husband of Judge Joan Lefkow of Chicago in her home provided a tragic reminder of the threats faced by federal judges and their families. That tragedy lent an increased urgency to efforts to enhance judicial security.

The shooting last summer of a State judge in Nevada provided another terrible reminder of the vulnerable position of the Nation's state and federal judges. The Court Security Improvement Act of 2007 arose not only from concerns about violence and the threat of violence for the men and women of the federal judiciary, but also for the independence of the judiciary.

Our Nation's founders knew that without an independent judiciary to protect individual rights from the political branches of government, those rights and privileges would not be preserved. The courts are the ultimate check and balance in our system of government in times of heated political rhetoric. This bill helps ensure that the dedicated women and men of our judiciary have the resources, security, and independence necessary to fulfill their crucial responsibilities. Our independent judiciary is the envy of the world, and we must take care to protect it.

## II. HISTORY OF THE BILL AND COMMITTEE CONSIDERATION

### A. HEARINGS

#### 1. *May 18, 2005*

After the murder of Judge Lefkow's mother and husband, the Judiciary Committee held a hearing on May 18, 2005, entitled "Protecting the Judiciary at Home and in the Courthouse." Judge Lefkow was the key witness at this hearing, occurring less than two months after the tragedy. Other witnesses included: Judge Samuel Alba, U.S. Magistrate Judge for the District of Utah; Benigno Reyna, Director of the U.S. Marshals Service; Judge Jane Roth of the Court of Appeals for the Third Circuit, Chair of the Committee on Security and Facilities of the Judicial Conference of the United States; and Kim Widup, U.S. Marshal, Northern District of Illinois. Senator Barack Obama also attended the hearing. The hearing focused on judicial security away from the courthouse, questions about whether the judges have a sufficient voice in their protection, the resources needed by the U.S. Marshals, and the danger of irresponsible rhetoric used to attack judicial decisions and the judiciary.

#### 2. *February 14, 2007*

Supreme Court Justice Anthony M. Kennedy was the sole witness at the Judiciary Committee's February 14, 2007 hearing on "Judicial Security and Independence." The topic of the hearing was the varied threats to judges' independence, from threats to physical and institutional security to those posed by inadequate compensation. Justice Kennedy's testimony was a reminder of the need to provide resources and protections crucial to the preservation of the independence of our federal judiciary so that it can continue to serve as a bulwark, protecting individual rights and liberty.

### B. LEGISLATION

The Court Security Improvement Act of 2007 is a bipartisan measure introduced on January 24, 2007, by Chairman Leahy, Senator Specter, the Majority Leader, Senator Durbin, Senator Cornyn, Senator Kennedy, Senator Hatch, Senator Schumer, and Senator Collins. Senator Cardin also joined the bill as a co-sponsor.

House Judiciary Chairman Conyers introduced an identical measure on January 24, 2007, also with bipartisan support.

The Court Security Improvement Act of 2007 is a bipartisan bill that builds on work begun with the introduction of S. 1968 by Senators Specter and Leahy in the 109th Congress. The core provisions of S. 1968 passed the Senate twice, first as an amendment to a Department of Defense measure. Then, a few months later, the court security legislation passed by unanimous consent as a substitute amendment offered by Senators Specter and Leahy to H.R. 1751, but was not taken up and passed by the House. This bill responds to the needs expressed by the federal judiciary for a greater voice in working with the U.S. Marshals Service to determine security needs. It would enact new criminal penalties for the protections of judges, their families, and others performing official duties; expand resources available to state courts for their security; and provide additional protections for law enforcement officers. Included are provisions that have passed the Senate several times extending and expanding to family members the authority of the Judicial Conference of the United States to redact certain information from a federal judge's mandatory financial disclosure for security purposes. This expired redaction authority was used in circumstances in which the release of the information could endanger the filer.

The bill was listed on the Judiciary Committee's agenda for the first time on February 15, 2007. During Committee debate over the bill on March 1, Senator Brownback offered an amendment to make permanent a temporary judgeship in Kansas and Senator Kyl offered an amendment, co-sponsored by Senator Feinstein, to reduce by one the number of judgeships in the Court of Appeals for the D.C. Circuit and increase by one the number of judgeships in the Court of Appeals for the Ninth Circuit. Senator Brownback withdrew his amendment after the Chairman objected and committed to working to address Kansas' federal judgeship requirements this Congress in a judgeship bill. The Chairman objected to Senator Kyl's amendment because it was an inappropriate place to consider the creation of new judgeships. The Chairman suggested that such measures should be considered as part of a comprehensive bill that would address judicial needs nationwide. Senator Kyl's amendment was adopted over the Chairman's objection. By unanimous consent, the Committee ordered S. 378 to be reported favorably.

### III. SECTION-BY-SECTION SUMMARY OF THE BILL

#### Title I—Judicial Security Improvements and Funding

Section 101: This section enhances the ability of the Judicial Conference of the United States to participate in determining the security needs of the judicial branch by requiring the Director of the U.S. Marshals Service (USMS) to consult with the Judicial Conference on an ongoing basis regarding the security requirements of the judicial branch.

Section 102: This section provides the Judicial Conference express authority to grant redactions of statutorily required information from federal judges' financial disclosure reports to include redaction of information concerning family members of covered individuals.

Section 103: This section extends the authority of the Judicial Conference to grant redactions of statutorily required information from federal judges' financial disclosure reports until 2009 and adds information to be reported. This provision reestablishes and extends for four years the "sunset clause" in the section that grants the Judicial Conference of the United States authority to redact information from a judge's mandatory financial disclosure in circumstances in which it is determined that the release of the information could endanger the filer or the filer's family. The Judicial Conference's authority to do so expired at the end of 2005.

Section 104: This section authorizes the USMS to provide for the security of the Tax Court where criminal intimidation impedes the functioning of the judicial process or other official proceeding.

Section 105: This section authorizes an additional \$20,000,000 for the USMS to protect the judiciary. This new funding is specified to be used for: (1) hiring entry-level deputy marshals for providing judicial security, which would increase staffing levels of the USMS tasked with providing security for judges; (2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant U.S. attorneys, which would help staff the kinds of off-site security that has garnered more attention since the Lefkow tragedy, and (3) hiring senior-level deputy marshals, program analysts and secure computer systems, which would help to improve the threat assessment capabilities of the USMS.

#### Title II—Criminal Law Enhancements To Protect Judges, Family Members and Witnesses

Section 201: This section creates a federal criminal offense with a maximum penalty of a fine, imprisonment for not more than 10 years, or both, for whoever files, conspires to file or attempts to file a false lien or encumbrance against the real or personal property of a federal employee, on account of the performance of official duties, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement.

Section 202: This section creates a federal criminal offense to knowingly make restricted personal information about a covered official or a family member of that covered official publicly available (1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official or a member of his family; or (2) with the intent and knowledge that such restricted personal information be used to threaten to commit a crime of violence against, facilitate a crime of violence against or intimidate that covered official or a member of the immediate family of that covered official. The offense provides a maximum penalty of a fine, imprisonment of not more than five years, or both.

Section 203: This section amends 18 U.S.C. § 930(e) of the United States Code, regarding the offense of knowingly carrying or causing to be present a firearm in a federal court facility, or attempting to do so, by expanding it to include other dangerous weapons in addition to firearms.

Section 204: This section clarifies that a prosecution under 18 U.S.C. § 1513 for retaliation against a witness may be brought in the district in which the official proceeding intended to be affected

was, regardless of whether the original action was pending, about to be instituted or was completed, or in the district in which the conduct constituting the alleged offense occurred.

Section 205: This section increases statutory maximums under 18 U.S.C. § 1512 for tampering with a witness, victim, or an informant.

Section 206: This section increases statutory maximums under 18 U.S.C. § 1513 for retaliating against a witness, victim, or an informant.

Section 207: This section increases statutory maximums under 18 U.S.C. § 1112(b) for manslaughter from 10 to 20 years for voluntary manslaughter and from 6 to 10 years for involuntary manslaughter.

#### Title III—Protecting State and Local Judges and Related Grant Programs

Section 301: This section amends § 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. § 13862) to expand the permissible uses of Community-Based Justice Grants to state, Indian tribal, or local governments to include the creation and expansion of witness protection programs and authorizes \$20,000,000 annually through 2010 for this purpose.

Section 302: This section would make state and local courts eligible for correctional options grants and armored vest grants.

#### Title IV—Law Enforcement Officers

Section 401: This section directs the Attorney General to submit to the House and Senate Judiciary Committees a report on the security of assistant U.S. attorneys and other federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, white supremacists, and those who commit fraud and other white collar offenses.

#### Title V—Miscellaneous

Section 501: This section permits the U.S. Sentencing Commission to enter into multi-year contracts for acquisition of goods and services, or contracts that span more than one year, to the same extent as executive agencies and to make advance, partial, progress, or other payments for property or services to the same extent as executive agencies.

Section 502: This section enables bankruptcy, magistrate, and territorial court judges to receive the same life insurance benefits that are provided to all Article III judges and Article I judges of the Court of Federal Claims.

Section 503: This section amends 28 U.S.C. § 296 to expressly grant a senior judge designated to the court on which he traditionally sat all the powers of a judge or justice of that court, including participation in the appointment of court officers and magistrates, rulemaking, governance and administrative matters.

Section 504: This section permits a senior judge designated and assigned to the court to which he was appointed the power to participate in the selection of magistrates.

Section 505: This section reauthorizes the Office of Government Ethics until 2011.

Section 506: This section, adopted in Committee by an amendment offered by Senator Kyl, reduces the number of judgeships in the Court of Appeals for the D.C. Circuit from 12 to 11 and increases the number of judgeships in the Court of Appeals for the Ninth Circuit from 28 to 29.

#### IV. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

The Committee sets forth, with respect to the bill, S. 378, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, March 23, 2007.*

Hon. PATRICK J. LEAHY,  
*Chairman, Committee on the Judiciary,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 378, the Court Security Improvement Act of 2007.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Daniel Hoople.

Sincerely,

PETER R. ORSZAG,  
*Director.*

Enclosure.

#### *S. 378—Court Security Improvement Act of 2007*

Summary: S. 378 would authorize the appropriation of \$160 million over the 2008–2011 period to provide additional staff to the U.S. Marshals Service and to provide grants to state and local governments to improve court security and protect victims and witnesses. Additionally, the bill would reauthorize operations of the Office of Government Ethics (OGE) through fiscal year 2011. S. 378 also would amend sentencing requirements for crimes committed against certain federal employees and their families. Moreover, the bill would renew provisions of law preventing the release of financial information if disclosure could endanger federal judges or their families. CBO estimates that implementing S. 378 would cost \$30 million in 2008 and \$179 million over the 2008–2012 period, subject to the appropriation of the authorized and necessary amounts.

The bill also would direct the Administrative Office of the United States Courts (AOUSC) to pay increases in the cost of life insurance premiums that were implemented after 1999 for certain judges. CBO estimates that enacting this provision would increase direct spending by about \$1 million over the 2008–2017 period. Other provisions would have no significant impact on direct spending or revenues.

S. 378 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA); any costs to state, local, or tribal governments would be included voluntarily as a condition of receiving federal assistance.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 378 is shown in the following table. The cost of this legislation falls within budget functions 750 (administration of justice) and 800 (general government).

	By fiscal year, in millions of dollars—				
	2008	2009	2010	2011	2012
CHANGES IN SPENDING SUBJECT TO APPROPRIATION <sup>1</sup>					
U.S. Marshals Service:					
Authorization Level .....	20	20	20	20	0
Estimated Outlays .....	18	20	20	20	2
Grants to Witness and Victim Protection Programs:					
Authorization Level .....	20	20	20	20	0
Estimated Outlays .....	2	8	13	17	12
Office of Government Ethics:					
Estimated Authorization Level .....	11	11	12	13	0
Estimated Outlays .....	10	11	12	13	1
Total Proposed Changes:					
Estimated Authorization Level .....	51	51	52	53	0
Estimated Outlays .....	30	39	45	50	15

<sup>1</sup> In addition to the amounts shown above, enacting S. 378 also would affect revenues and direct spending. CBO estimates that any such effects would not be significant in any year and would increase direct spending by about \$1 million over the 2008–2017 period.

**Basis of estimate:** For this estimate, CBO assumes that the bill will be enacted before the end of fiscal year 2007) that the amounts authorized by the bill will be appropriated for each year, and that spending will follow historical patterns for current and similar programs.

#### *Spending subject to appropriation*

CBO estimates that implementing S. 378 would cost \$179 million over the 2008–2012 period, assuming appropriation of amounts authorized and estimated to be necessary.

**U.S. Marshals Service.** Section 105 would authorize the appropriation of \$20 million annually over the 2008–2011 period for the U.S. Marshals Service to provide additional protection for the judiciary. The agency would use the funds to hire additional Deputy Marshals, investigators, and intelligence officers. Assuming appropriation of the specified amounts, CBO estimates that implementing this provision would cost \$18 million in 2008 and \$80 million over the 2008–2012 period.

Section 104 would authorize the U.S. Marshals Service to provide security for the U.S. Tax Court. Under current law, such protection cannot be provided, although temporary security has been available upon request. Based on information from the U.S. Marshals, CBO expects that additional protection provided to the U.S. Tax Court under this bill would not require a significant increase in staff. Thus, CBO estimates that implementing this provision would have no significant cost.

**Grants to Witness and Victim Protection Programs and Court Security.** Section 301 would authorize the appropriation of an additional \$20 million annually over the 2008–2011 period to make Community-Based Justice Grants for Prosecutors. Those funds would be used to make grants for witness and victim protection programs. Assuming appropriation of the specified amounts, CBO estimates that implementing this provision would cost \$2 million in 2008 and \$52 million over the 2008–2012 period.

In addition, section 302 would authorize the Bureau of Justice Assistance to make grants to improve the security of state and local courts. The bill would reduce funding for grants made to programs that offer alternatives to traditional incarceration by 10 percent to fund this new activity. As such, CBO estimates that implementing those provisions would have no net impact on the federal budget.

Office of Government Ethics. Section 505 would reauthorize the operations of the Office of Government Ethics for fiscal years 2008 through 2011. The authorization for OGE expired in 2006, but the office received an appropriation of \$11 million in 2007. Based on the fiscal year 2007 appropriation and assuming adjustments for anticipated inflation, CBO estimates that implementing this section would cost \$10 million in 2008 and \$47 million over the 2008–2012 period, assuming the appropriation of the necessary amounts.

Federal Prison System. Title II would make it a separate crime to knowingly file a false claim against a federal judge, law enforcement officer, or family member on account of performance of duties. It would also make it a crime to make restricted information about federal judges, officers, jurors, witnesses, or their families publicly available. Under current law, such actions may be prosecuted under other federal statutes in certain cases. Title II also would increase the maximum sentences for certain existing crimes against witnesses, victims, and informants. CBO estimates that the longer prison sentences required under the bill would not have a significant impact on prison populations over the 2008–2012 period, and thus, would not impose any significant costs over that period.

Other Provisions Affecting Federal Judges. Other sections would extend provisions of the Ethics in Government Act through 2009 which prevent public access to certain personal financial information if disclosure could endanger a federal judge or family member. Based on information from the AOUSC, CBO expects that the agency would exercise this authority rarely and any additional reporting requirements would therefore be minimal and would have no significant cost.

In addition, section 502 would direct the AOUSC to pay for increases in the cost of Federal Employees' Group Life Insurance (FEGLI) implemented by the Office of Personnel Management after April 1999 for magistrates and territorial district court judges. Such payments are currently made for all Article III judges as well as judges of the Court of Federal Claims. Based on information from the AOUSC, CBO estimates that additional costs related to the payment of FEGLI increases would have no significant effect on the federal budget.

#### *Direct spending and receipts*

S. 378 would subject individuals to penalties for various crimes against judges, federally funded public safety officers, and their families. Thus, the federal government might collect additional fines if the bill is enacted. Collections of criminal fines are deposited in the Crime Victims Fund and later spent. As such, CBO expects that any additional revenues and direct spending would not be significant.

In addition, section 502 would direct AOUSC to pay increases in FEGLI implemented after April 1999 for bankruptcy judges. Any

increase to the salaries and benefits of bankruptcy judges is considered a change in direct spending, and thus the additional premium payment for life insurance for bankruptcy judges would result in an increase in direct spending. Based on information from AOUSC, CBO estimates that any increase in direct spending that results from enacting this provision would be insignificant in any one year and would total about \$1 million over the 2008–2017 period.

Intergovernmental and private-sector impact: S. 378 contains no intergovernmental or private-sector mandates as defined in UMRA. It would authorize the appropriation of \$80 million for fiscal years 2008 through 2011 for grants to states to increase security of the court system and make other safety improvements. Any costs to those governments would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Costs: Daniel Hoople and Matthew Pickford. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### V. REGULATORY IMPACT EVALUATION

In compliance with rule XXVI of the Standing Rules of the Senate, the Committee finds that no significant regulatory impact will result from the enactment of S. 378.

## VI. ADDITIONAL VIEWS

### ADDITIONAL VIEWS OF SENATORS FEINSTEIN AND KYL

Section 506 of this bill transfers a judgeship from the U.S. Court of Appeals for the District of Columbia Circuit to the U.S. Court of Appeals for the Ninth Circuit. Once this provision is enacted into law, the Ninth Circuit will have 29 judgeships and the D.C. Circuit will have 11.

Section 506 will help to ease the backlog of pending cases in the Ninth Circuit, where more judgeships are sorely needed. At the same time, it will eliminate a judgeship on the D.C. Circuit that many Senators—including both Democrats and Republicans on this committee—have indicated that they believe to be unnecessary.

The numbers tell a striking story. According to the Administrative Office of the United States Courts, 107 appeals per judge were filed in the D.C. Circuit in 2006. By contrast, in the Ninth Circuit, the filings were nearly five times higher—a total of 523 filings per judge in 2006. Filings per judge in the Ninth Circuit are also substantially higher than the national average of 399 filings per judge. The D.C. Circuit's rate of filings, by contrast, falls far below the national average.

The merits of transferring a judgeship from the D.C. Circuit to the Ninth Circuit are also brought into relief by considering the total number of appeals left pending in each circuit at the end of the 2006 reporting cycle. In the Ninth Circuit, 1,853 appeals were pending at the end of this period. This was the *highest* total for any circuit in the nation. By contrast, in the D.C. Circuit, only 387 appeals were pending at the end of the 2006 period. This was the *lowest* total for any circuit in the nation.

The backlog of cases in the Ninth Circuit is not merely a problem for lawyers and judges. It injures ordinary people who have to wait longer to have their cases resolved. Plaintiffs who have been injured, criminal defendants seeking review of their convictions, and victims waiting for justice—for all of these people, justice delayed is justice denied.

It just makes sense to take a judgeship from where it is needed least, and to transfer it to where it is needed most.

California is hit hardest by the inadequate number of judgeships on the Ninth Circuit. In 2005, 10,000 federal appeals—70% of the circuit's total docket—were filed in California. On February 14, during his testimony before this Committee, even U.S. Supreme Court Justice Anthony Kennedy commented on the overloaded docket of the Central District of California. Yet of the Ninth Circuit's 28 judgeships, only 14 are assigned to California.

California needs more judges. Transferring a judgeship from the D.C. Circuit to the Ninth Circuit in California would be a first step toward correcting this deficiency.

The D.C. Circuit, by contrast, has seen its caseload decline in recent years. In fact, filings in that circuit dropped by 7.1% in 2006 alone. Removal of the 12th judgeship would only modestly increase filings per judge in that circuit to 115—a figure still well below half the national average for U.S. courts of appeals. And in any event, the burden on that court of removing a seat is largely hypothetical. The 12th seat on the D.C. Circuit was created in 1984 and has remained vacant for most of the intervening years, including all of the last decade. On the other hand, adding one seat to the Ninth Circuit would reduce filings per judge on that court to 503—still a heavy burden on the justice system of the Western States.

Section 506 is a reasonable step toward the solution of a pressing problem in the administration of United States courts. We are pleased to see it made part of this bill.

DIANNE FEINSTEIN.  
JON KYL.

VII. CHANGES TO EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 378, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**28 U.S.C. § 566—adding a new subsection**

**§ 566. Powers and duties**

(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals [and the Court of International Trade], *the Court of International Trade, and any other court, as provided by law.*

\* \* \* \* \*

*(i) The Director of the United States Marshals Service shall consult with the Judicial Conference of the United States on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.*

**28 U.S.C. § 331**

**§ 331. Judicial Conference of the United States**

The Chief Justice of the United States shall summon annually the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit as he may designate. He shall preside at such conference which shall be known as the Judicial Conference of the United States. Special sessions of the Conference may be called by the Chief Justice at such times and places as he may designate.

\* \* \* \* \*

*The Judicial Conference shall consult with the Director of United States Marshals Service on a continuing basis regarding the security requirements for the judicial branch of the United States Government, to ensure that the views of the Judicial Conference regarding the security requirements for the judicial branch of the Federal Government are taken into account when determining staffing levels, setting priorities for programs regarding judicial security, and allocating judicial security resources. In this paragraph, the term 'judicial security' includes the security of buildings housing the judiciary, the personal security of judicial officers, the assessment of threats made to judicial officers, and the protection of all other judicial personnel. The United States Marshals Service retains final authority regarding security requirements for the judicial branch of the Federal Government.*

## **Ethics in Government Act of 1978 §105**

### **§ 105. Custody of and public access to reports**

\* \* \* \* \*

(b)(3)(E) This paragraph shall expire on December 31, [2005] 2009, and apply to filings through calendar year [2005] 2009.

(b)(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act [sections 109(8) or 109(10) of Appendix 4 of this title] if a finding is made by the Judicial Conference, in consultation with United States Marshall [sic] Service, that revealing personal and sensitive information could endanger that individual or a family member of that individual.

\* \* \* \* \*

(C) The Administrative Office of the United States Courts shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate an annual report with respect to the operation of this paragraph including—

(i) the total number of reports redacted pursuant to this paragraph;

(ii) the total number of individuals whose reports have been redacted pursuant to this paragraph; [and]

(iii) the types of threats against individuals whose reports are redacted, if appropriate[.];

(iv) *the nature or type of information redacted;*

(v) *what steps or procedures are in place to ensure that sufficient information is available to litigants to determine if there is a conflict of interest;*

(vi) *principles used to guide implementation of redaction authority; and*

(vii) *any public complaints received in regards to redaction.*

**Internal Revenue Code of 1986—26 U.S.C.  
§ 7456**

**§ 7456. Administration of oaths and procurement of testimony**

(c) INCIDENTAL POWERS.—The Tax Court and each division thereof shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority, and none other, as—

\* \* \* \* \*

(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command[.] *and may otherwise provide for the security of the Tax Court, including the personal protection of Tax Court judges, court officers, witnesses, and other threatened person in the interests of justice, where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding.*

**Title 18, Chapter 73—adding a new section**

**§ 1521. Retaliating against a Federal Judge or Federal law enforcement officer by false claim or slander of title.**

*Whoever files, attempts to file, or conspires to file, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in section 1114, on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation, shall be fined under this title or imprisoned for not more than 10 years, or both.*

**Title 18, Chapter 7—adding a new section**

**§ 118. Protection of individuals performing certain official duties.**

(a) IN GENERAL.—*Whoever knowingly makes restricted personal information about a covered official, or a member of the immediate family of that covered official, publicly available—*

*(1) with the intent to threaten, intimidate, or incite the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official; or*

*(2) with the intent and knowledge that the restricted personal information will be used to threaten, intimidate, or facilitate the commission of a crime of violence against that covered official, or a member of the immediate family of that covered official,*

*shall be fined under this title, imprisoned not more than 5 years, or both.*

(b) DEFINITIONS.—*In this section—*

(1) the term “restricted personal information” means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual;

(2) the term “covered official” means—

(A) an individual designated in section 1114; or

(B) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate;

(3) the term “crime of violence” has the meaning given the term in section 16; and

(4) the term “immediate family” has the meaning given the term in section 115(c)(2).

**18 U.S.C. § 930(e)(1)**

**§ 930. Possession of firearms and dangerous weapons in Federal facilities**

\* \* \* \* \*

(e)(1) Except as provided in paragraph (2), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal court facility, or attempts to do so, shall be fined under this title, imprisoned not more than 2 years, or both.

**18 U.S.C. § 1513—adding a new section**

**§ 1513. Retaliating against a witness, victim, or an informant**

(a)(1) Whoever kills or attempts to kill another person with intent to retaliate against any person for—

(A) the attendance of a witness or party at an official proceeding, or any testimony given or any record, document, or other object produced by a witness in an official proceeding; or

(B) providing to a law enforcement officer any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, [ ] parole, or release pending judicial proceedings,

shall be punished as provided in paragraph (2).

(2) The punishment for an offense under this subsection is—

(A) in the case of a killing, the punishment provided in sections 1111 and 1112; and

(B) in the case of an attempt, imprisonment for not more than [20 years] 30 years.

(b) \* \* \*

\* \* \* \* \*

(2) any information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, [ ] parole, or release pending ju-

dicial proceedings given by a person to a law enforcement officer; or attempts to do so, shall be fined under this title or imprisoned not more than [ten years] 20 years, or both.

[(e)] (f) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

(g) A prosecution under this section may be brought in the district in which the official proceeding (whether pending, about to be instituted, or completed) was intended to be affected, or in which the conduct constituting the alleged offense occurred.

**18 U.S.C. § 1512**

**§ 1512. Tampering with a witness, victim, or an informant**

(a) \* \* \*

\* \* \* \* \*

(3) The punishment for an offense under this subsection is—

(A) in the case of [murder (as defined in section 1111), the death penalty or imprisonment for life, and in the case of any other killing, the punishment provided in section 1112;] a killing, the punishment provided in sections 1111 and 1112;

(B) in the case of—

(ii) the use or attempted use of physical force against any person; imprisonment for not more than [20 years] 30 years; and

(C) in the case of the threat of use of physical force against any person, imprisonment for not more than [10 years] 20 years.

(b) Whoever knowingly uses intimidation, threatens, or corruptly persuades another person, or attempts to do so, or engages in misleading conduct toward another person, with intent to—

\* \* \* \* \*

shall be fined under this title or imprisoned not more than [ten years] 20 years, or both.

(d) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from—

\* \* \* \* \*

or attempts to do so, shall be fined under this title or imprisoned not more than [one year] 3 years, or both.

**18 U.S.C. § 1112**

**§ 1112. Manslaughter**

\* \* \* \* \*

(b) Within the special maritime and territorial jurisdiction of the United States,

Whoever is guilty of voluntary manslaughter, shall be fined under this title or imprisoned not more than ~~ten years~~ *20 years*, or both;

Whoever is guilty of involuntary manslaughter, shall be fined under this title or imprisoned not more than ~~six years~~ *10 years*, or both.

## **Violent Crime Control and Law Enforcement Act of 1994—42 U.S.C. § 13862**

### **§ 13862. Use of funds**

Grants made by the Attorney General under this section shall be used—

\* \* \* \* \*

(3) to fund programs that coordinate criminal justice resources with educational, social service, and community resources to develop and deliver violence prevention programs, including mediation and other conflict resolution methods, treatment, counseling, educational, and recreational programs that create alternatives to criminal activity; ~~and~~

(4) in rural States (as defined in section 3796bb(b) of this title), to fund cooperative efforts between State and local prosecutors, victim advocacy and assistance groups, social and community service providers, and law enforcement agencies to investigate and prosecute child abuse cases, treat youthful victims of child abuse, and work in cooperation with the community to develop education and prevention strategies directed toward the issues with which such entities are concerned~~].and~~

*(5) by a State, unit of local government, or Indian tribe to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.*

## **42 U.S.C. § 13867**

### **§ 13867. Authorization of Appropriations**

~~There are authorized to be appropriated to carry out this part—~~

~~[(1) \$7,000,000 for fiscal year 1996;~~

~~[(2) \$10,000,000 for fiscal year 1997;~~

~~[(3) \$10,000,000 for fiscal year 1998;~~

~~[(4) \$11,000,000 for fiscal year 1999; and~~

~~[(5) \$12,000,000 for fiscal year 2000.]~~

#### **SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.**

*There are authorized to be appropriated \$20,000,000 for each of the fiscal years 2007 through 2011 to carry out this subtitle.*

**Omnibus Crime Control and Safe Streets  
Act of 1968—42 U.S.C. §§ 3762a & 3762b**

**§ 3762a. Correctional options grants**

(a) AUTHORITY TO MAKE GRANTS.—

\* \* \* \* \*

(2) grants to private nonprofit organizations—

\* \* \* \* \*

in connection with a correctional option (excluding the cost of construction); [and]

\* \* \* \* \*

(3) grants to public agencies to establish, operate, and support boot camp prisons[.]; and

(4) grants to State courts to improve security for State and local court systems.

(b) SELECTION OF GRANTEEES.—The selection of applicants to receive grants under paragraphs (1) and (2) of subsection (a) of this section shall be based on their potential for developing or testing various innovative alternatives to traditional modes of incarceration and offender release programs. In selecting the applicants to receive grants under subsection (a)(3) of this section, the Director shall—

(1) consider the overall quality of an applicant's shock incarceration program, including the existence of substance abuse treatment, drug testing, counseling literacy education, vocational education, and job training programs during incarceration or after release; and

(2) give priority to public agencies that clearly demonstrate that the capacity of their correctional facilities is inadequate to accommodate the number of individuals who are convicted of offenses punishable by a term of imprisonment exceeding 1 year.

*Priority shall be given to State court applicants under subsection (a)(4) that have the greatest demonstrated need to provide security in order to administer justice.*

**§ 3762b. Allocation of Funds; administrative provisions**

(a) ALLOCATION OF FUNDS.—Of the total amount appropriated for this subpart in any fiscal year, [80] 70 percent shall be used to make grants under section 3762a(a)(1) of this title, 10 percent shall be used to make grants under section 3762a(a)(2) of this title, [and 10] 10 percent shall be used to make grants under section 3762a(a)(3) of this title, and 10 percent for section 515(a)(4).

**42 U.S.C. § 3796ll**

**§ 3796ll. Program authorized**

(a) IN GENERAL.—The Director of the Bureau of Justice Assistance is authorized to make grants to States, units of local government, and Indian tribes to purchase armor vests for use by State,

local, and tribal law enforcement officers *and State and local court officers.*

(b) USES OF FUNDS.—Grants awarded under this section shall be—

- (1) distributed directly to the State, unit of local government, *State or local court*, or Indian tribe; and

## **28 U.S.C. § 995—adding a new subsection**

### **§ 995. Powers of the Commission**

\* \* \* \* \*

(f) *THE COMMISSION MAY.*—

(1) *use available funds to enter into contracts for the acquisition of severable services for a period that begins in 1 fiscal year and ends in the next fiscal year, to the same extent as executive agencies may enter into such contracts under the authority of section 303L of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253l);*

(2) *enter into multi-year contracts for the acquisition of property or services to the same extent as executive agencies may enter into such contracts under the authority of section 304B of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254c); and*

(3) *make advance, partial, progress, or other payments under contracts for property or services to the same extent as executive agencies may make such payments under the authority of section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).*

## **28 U.S.C. § 604**

### **§ 604. Duties of Director generally**

(a)(5) Fix the compensation of clerks of court, deputies, librarians, criers, messengers, law clerks, secretaries, stenographers, clerical assistants, and other employees of the courts whose compensation is not otherwise fixed by law, and, notwithstanding any other provision of law, pay on behalf of Justices and judges of the United States appointed to hold office during good behavior, *bankruptcy judges appointed under section 152 of this title, magistrate judges appointed under section 631 of this title, and territorial district court judges appointed under section 24 of the Organic Act of Guam (48 U.S.C. 1424(b)), section 1(b) of the Act of November 8, 1877 (48 U.S.C. 1821), or section 24(a) of the Revised Organic Act of the Virgin Islands (48 U.S.C. 1614(a))*, aged 65 or over, any increases in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the Judicial Conference of the United States;

## 28 U.S.C. § 296

### § 296 Powers upon designation and assignment

\* \* \* \* \*

Such justice or judge shall have all the powers of a judge of the court, circuit or district to which he is designated and assigned, except the power to appoint any person to a statutory position or to designate permanently a depository of funds or a newspaper for publication of legal notices. *However, a judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed, shall have all the powers of a judge of that court, including participation in appointment of court officers and magistrates, rule-making, governance, and administrative matters.*

## 28 U.S.C. § 631

### § 631. Appointment and tenure

(a) The judges of each United States district court and the district courts of the Virgin Islands, Guam, and the ~~【Northern Mariana Islands】~~ *Northern Mariana Islands (including any judge in regular active service and any judge who has retired from regular active service under section 371(b) of this title, when designated and assigned to the court to which such judge was appointed* shall appoint United States magistrate judges in such numbers and to serve at such locations within the judicial districts as the Judicial Conference may determine under this chapter. In the case of a magistrate judge appointed by the district court of the Virgin Islands, Guam, or the Northern Mariana Islands, this chapter shall apply as though the court appointing such a magistrate judge were a United States district court. Where there is more than one judge of a district court, the appointment, whether an original appointment or a reappointment, shall be by the concurrence of a majority of all the judges of such district court, and when there is no such concurrence, then by the chief judge. Where the conference deems it desirable, a magistrate judge may be designated to serve in one or more districts adjoining the district for which he is appointed. Such a designation shall be made by the concurrence of a majority of the judges of each of the district courts involved and shall specify the duties to be performed by the magistrate judge in the adjoining district or districts.

## 5 U.S.C. App. 4 § 405

### § 405. Authorization of appropriations

(The current provision provides: “There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal year 2007.” However, when S. 378 was drafted, this provision of the Code was slightly different and had an end date of 2006. The intent in drafting this provision of S. 378 was to expand the end date, affected every fiscal year and changing the end date from

2006 to 2011. We aim to make this technical change by unanimous consent to reflect the intervening amendment to the relevant provision in the United States Code.)

**28 U.S.C. § 44**

**§ 44. Appointment, tenure, residence and salary of circuit judges**

(a) The President shall appoint, by and with the advice and consent of the Senate, circuit judges for the several circuits as follows:

<i>Circuits</i>	<i>Number of Judges</i>
District of Columbia .....	[12] 11
* * * * *	
Ninth .....	[28] 29

VIII. CONCLUSION

Passage and enactment of the Court Security Improvement Act of 2007, S. 378, is long overdue. This bipartisan legislation strengthens and expands protections for judges and their families in the wake of increasing, violent threats. Its much-needed protections include new criminal penalties for threatening judges and their families as well as additional resources for keeping judges and law enforcement officers safe.

