



SENATE REPUBLICAN

POLICY COMMITTEE

## Legislative Notice

No. 11

April 18, 2007

### **S. 378 – Court Security Improvement Act**

Calendar No. 107

*Reported by unanimous consent by the Senate Judiciary Committee on March 29, 2007, with an amendment. S. Rpt. 110-42, with additional views filed.*

#### **Noteworthy**

- On Wednesday, April 18, 2007, the Senate invoked cloture on the motion to proceed to the Court Security Improvement Act of 2007, S. 378, by a vote of 93-3.
- At the time of publication, there was no unanimous consent agreement limiting the submission of amendments.
- The Court Security Bill takes various steps directed at providing additional resources to protect members of the judiciary and law enforcement officers, such as adjustments to applicable provisions of criminal law, and grant programs to facilitate increased security for the judiciary of the states.
- Section 506 reduces the number of judgeships in the D.C. Circuit from 12 to 11 and increases the number of judgeships in the Ninth Circuit from 28 to 29.
  - Senator Kyl offered an amendment, co-sponsored by Senator Feinstein, to add this measure to the bill.
- A Statement of Administration Policy was not available at the time of publication.
- A similar bill, H.R. 660, is pending in the House.

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## **Background/Overview**

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On Monday, April 16, 2007, Majority Leader Reid filed a cloture petition on the motion to proceed to the Court Security Improvement Act of 2007, S. 378. On Wednesday, April 18, 2007, the Senate invoked cloture on the motion by a vote of 93-3.

The bill takes various steps directed at providing additional resources to protect members of the judiciary and law enforcement officers, such as adjustments to applicable provisions of criminal law, and grant programs to facilitate increased security for the judiciary of the states. It also includes other, unrelated miscellaneous provisions. Of particular note, Section 506 reduces the number of judgeships in the D.C. Circuit from 12 to 11 and increases the number of judgeships in the Ninth Circuit from 28 to 29.

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## **House Action**

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The House companion bill, H.R. 660, has been referred to the Committee on the Judiciary, and additionally to the Committees on Ways and Means, and Oversight and Government Reform.

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## **Bill Provisions**

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### **Section 1 – Short Title**

Section 1 provides that the short title of this bill may be cited as the Court Security Improvement Act of 2007.

## **Title I – Judicial Security Improvements & Funding**

### **Section 101 – Judicial Branch Security Requirements**

Section 101 amends 28 U.S.C. § 566 related to the powers and duties of the U.S. Marshals Service to require the Director to consult with the Judicial Conference<sup>1</sup> on an ongoing basis regarding the security requirements of the judicial branch.

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<sup>1</sup> The Judicial Conference, as provided by 28 U.S.C. § 331, makes policy on the administration of U.S. courts. It is comprised of the Chief Justice of the United States, the chief judge of each judicial circuit, the chief judge of the Court of International Trade, and a district judge from each judicial circuit.

## **Sections 102 & 103 – Protection of Judiciary Members & Their Families**

Section 102 provides express authority to the Judicial Conference to grant redactions of statutorily required information from the financial disclosure forms of federal judges to include redaction of information concerning family members.

Section 103 extends until 2009 the authority of the Judicial Conference to grant this and other redactions.

## **Section 104 – Protection of U.S. Tax Court**

Section 104 authorizes the Marshals Service to provide for the security of the Tax Court.

## **Section 105 – Authorization of Appropriations**

Section 105 authorizes the appropriation of \$20 million annually over the 2008-2011 period for the Marshals Service to provide additional protection for the judiciary. The new funding is to be directed specifically to hiring:

- entry-level deputy marshals for providing judicial security;
- senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and assistant United States attorneys; and
- senior deputy marshals and program analysts at the Office of Protective Intelligence.

## **Title II – Criminal Law Enhancements**

### **Section 201 – Fictitious Liens against the Judiciary or Law Enforcement Officers**

Section 201 of the bill adds a section 1521 to the federal criminal code to make it a crime to knowingly file, or conspire or attempt to file, a false lien or encumbrance against the property of a federal employee, on account of the performance of that employee's official duties. The section creates a maximum penalty of a fine, imprisonment for not more than 10 years, or both.

### **Section 202 – Protection of the Judiciary and Their Families**

Section 202 of the bill adds a section 118 to the federal criminal code to make it a crime 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 or facilitate a crime of violence against, or intimidate, that covered official or a member of the immediate family of that covered official.
- Restricted personal information includes such information as a social security number, home address, or personal email.

- A covered official is an employee of the United States, or a juror or witness in a court proceeding.
- The offense provides a maximum penalty of a fine, imprisonment of not more than five years, or both.

### **Section 203 – Weapons in Federal Court Facilities**

18 U.S.C. § 930(e) makes it a crime to possess a firearm in a federal court facility. Section 203 of the bill expands that provision to capture “other dangerous weapon[s].”

### **Section 204 – Prosecution Forum for Witness Retaliation**

18 U.S.C. § 1513 makes it a crime to retaliate against a witness or informant, namely by killing or harming the witness or informant. This section of the bill clarifies that the prosecution may be brought either in the district in which the official proceeding intended to be affected was taking place or in the district in which the conduct constituting the alleged offense occurred.

### **Sections 205 and 206 – Tampering with/Retaliation against Victims, or Informants**

Sections 205 and 206 increase the statutory maximums for tampering with, or retaliating against, witnesses, victims, or informants.

### **Section 207 – Manslaughter Penalties**

Section 207 increases the statutory maximums under 18 U.S.C. § 1112(b) for voluntary and involuntary manslaughter. It increases the maximum for voluntary manslaughter from 10 to 20 years, and from 6 to 10 years for involuntary manslaughter.

## **Title III – State & Local Grant Programs**

### **Section 301 – Grants to Protect Witnesses and Victims**

Section 301 expands the use of community-based justice grants for prosecutors to include the creation and expansion of witness protection programs. \$20 million is specifically authorized annually through 2011 for this purpose.

### **Section 302 – Eligibility of State Courts for Certain Federal Grants**

Section 302 makes state courts eligible for grants to improve security for state and local court systems.

## **Title IV – Law Enforcement Officers**

Title IV directs the Attorney General to submit a report on the security of assistant United States attorneys and other federal attorneys arising from various prosecutions, such as the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, and other criminal cases.

## **Title V – Miscellaneous**

### **Section 501 – Sentencing Commission Procurement Authority**

Section 501 authorizes the U.S. Sentencing Commission to enter into multi-year contracts for the acquisition of goods and services to the same extent as executive agencies.

### **Section 502 – Bankruptcy/Magistrate/Territorial Court Judges Life Insurance**

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

### **Section 503 – Powers of Senior Judges**

Section 503 amends 28 U.S.C. § 296 to grant a senior judge designated to the court on which he traditionally sat all the powers of a judge or justice of that court.

### **Section 504 – Power of Senior Judges to Select Magistrates**

Section 504 amends 28 U.S.C. § 631(a) with the purpose to provide a senior judge the power to participate in the selection of magistrate judges.

### **Section 505 – Office of Government Ethics**

Section 505 reauthorizes the Office of Government Ethics until 2011.

### **Section 506 – Move Seat from D.C. Circuit to Ninth Circuit**

Section 506 reduces the number of judgeships in the D.C. Circuit from 12 to 11 and increases the number of judgeships in the Ninth Circuit from 28 to 29. Senator Kyl offered an amendment, co-sponsored by Senator Feinstein, to add this measure to the bill. They also published Additional Views in the Committee Report to express support for this section.

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## **Administration Position**

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A Statement of Administration Policy was not available at the time of publication.

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## **Cost**

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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.

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## **Other Views**

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Senators Kyl and Feinstein published an Additional View to express their support of Section 506.

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## **Possible Amendments**

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As of the publication of this notice, there is no unanimous consent agreement limiting the submission of amendments.