

**Legislative Provisions Improving the Security of the Federal Courts and
Federal Judicial Personnel**

SEC. 1. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) Ensuring consultation and coordination with the Administrative Office of the United States Courts.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

“(i) The United States Marshals Service shall consult and coordinate with the Administrative Office of the United States Courts on a continuing basis regarding the security requirements for the Judicial Branch and shall, 180 days after the day of enactment, jointly submit to the Judiciary Committees of Congress a report delineating the security needs of the federal judiciary and the process by which those needs shall be addressed.”

(B) Conforming Amendment.—Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating existing paragraph (24) as paragraph (25);

(2) by striking “and” at the end of paragraph (23); and

(3) by inserting after paragraph (23) the following:

(24) Consult and coordinate with the United States Marshals Service on a continuing basis regarding the security requirements for the Judicial Branch; and shall, 180 days after the day of enactment, jointly submit to the Judiciary Committee of Congress a report delineating the security needs of the federal judiciary and the process by which those needs shall be addressed.

SEC. 2. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

(a) In General. —Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following:

“§ 1521. Retaliating against a federal judge by false claim or slander of title

“(a) Whoever files or attempts 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 a Federal Judge, 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 five years, or both. In the case of an offense under this subsection which was committed after the defendant had previously been convicted of an earlier offense under this subsection, the defendant shall be fined under this title or imprisoned for not more than ten years, or both.

(b) As used in this section, the term “Federal Judge” means a justice or judge of the United States as defined in 28 U.S.C. §451, a judge of the United States Court of Federal Claims, a United States bankruptcy judge, a United States magistrate judge, and a judge of the United States Court of Appeals for the Armed Forces, United States Court of Appeals for Veterans Claims, United States Tax Court, District Court of Guam, District Court of the Northern Mariana Islands, or District Court of the Virgin Islands.”.

(c) CLERICAL AMENDMENT. —The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

“1521. Retaliating against a federal judge by false claim or slander of title.”.

SEC. 3. JUDGES FIREARMS TRAINING.

(a) IN GENERAL. — Chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following new section:

“§ 464. Carrying of firearms by judicial officers

“(a) A judicial officer of the United States is authorized to carry a firearm, whether concealed or not, under regulations promulgated by the Judicial Conference of the United States. The authority granted by this section shall extend only to (1) those states in which the carrying of firearms by judicial officers of the state is permitted by state law, or (2) regardless of state law, to any place where the judicial officer of the United States sits, resides, or is present on official travel status.

“(b) IMPLEMENTATION

“(1) The regulations promulgated by the Judicial Conference under subsection (a) shall—

“(A) require a demonstration of a judicial officer’s proficiency in the use and safety of firearms as a prerequisite to the carrying of firearms under the authority of this section; and

“(B) ensure that the carrying of a firearm by a judicial officer under the protection of the United States Marshals Service while away from United States courthouses is consistent with Marshals Service policy on the carrying of firearms by persons receiving such protection.

“(2) ASSISTANCE BY OTHER AGENCIES.—At the request of the Judicial Conference, the Department of Justice and appropriate law enforcement components of the Department shall assist the Judicial Conference in developing and providing training to assist ~~judicial officers in securing the proficiency referred to in subsection (b)(1).~~

“(c) DEFINITION. — For purposes of this section, the term “judicial officer of the United States” means—

“(1) a justice or judge of the United States as defined in section 451 of this title in regular active service or retired from regular active service;

“(2) a justice or judge of the United States who has retired from the judicial office under section 371(a) of this title for—

“(A) a 1-year period following such justice’s or judge’s retirement; or

“(B) a longer period of time if approved by the Judicial Conference of the United States when exceptional circumstances warrant;

“(3) a United States bankruptcy judge;

“(4) a full-time or part-time United States magistrate judge;

“(5) a judge of the United States Court of Federal Claims;

“(6) a judge of the United States District Court of Guam;

“(7) a judge of the United States District Court for the Northern Mariana Islands;

“(8) a judge of the United States District Court of the Virgin Islands; or

“(9) an individual who is retired from one of the judicial positions described under paragraphs (3) through (8) to the extent provided for in regulations of the Judicial Conference of the United States.

“(d) EXCEPTION. — Notwithstanding section 46303(c)(1) of title 49, nothing in this section authorizes a judicial officer of the United States to carry a dangerous weapon on an aircraft or other common carrier.”

“(e) TECHNICAL AND CONFORMING AMENDMENT. — The table of sections for chapter 21 of title 28, United States Code, is amended by adding at the end thereof the following:

“464. Carrying of firearms by judicial officers.”.

“(f) EFFECTIVE DATE. — The amendments made by this section shall take effect upon the earlier of the promulgation of regulations by the Judicial Conference under this section or one year after the date of the enactment of this Act.”.

SEC. 4. EMERGENCY AUTHORITY TO CONDUCT COURT PROCEEDINGS OUTSIDE THE TERRITORIAL JURISDICTION OF THE COURT.

(a) CIRCUIT COURTS— Section 48 of title 28, United States Code, is amended by adding at the end the following new section:

“(e) Each court of appeals may hold special sessions at any place outside the circuit as the nature of the business may require and upon such notice as the court orders, upon a finding by either the chief judge of the court of appeals (or, if the chief judge is unavailable, the most senior available active judge of the court of appeals) or the judicial council of the circuit that, because of emergency conditions, no location within the circuit is reasonably available where such special sessions could be held. The court may transact any business at a special session outside the circuit which it might transact at a regular session.”

(b) DISTRICT COURTS— Section 141 of title 28, United States Code, is amended -----

(1) by re-designating the section as section 141(a), and

(2) by adding the following as section 141(b):

“Special sessions of the district court may be held at such places outside the district as the nature of the business may require and upon such notice as the court orders, upon a finding by

either the chief judge of the district court (or, if the chief judge is unavailable, the most senior available active judge of the district court) or the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where such special sessions could be held. Any business may be transacted at a special session outside the district which might be transacted at a regular session. The district court may summon jurors from within the district to serve in any case in which special sessions are conducted outside the district pursuant to the provisions of this section.”

(c) BANKRUPTCY COURTS— Section 152(c) of title 28, United States Code, is amended ----

(1) by re-designating the section as 152(c)(1), and

(2) by adding the following as section 152(c)(2):

“Bankruptcy judges may hold court at such places outside the judicial district as the nature of the business of the court may require, and upon such notice as the court orders, upon a finding by either the chief judge of the bankruptcy court (or, if the chief judge is unavailable, the most senior available bankruptcy judge) or by the judicial council of the circuit that, because of emergency conditions, no location within the district is reasonably available where the bankruptcy judges could hold court. Bankruptcy judges may transact any business at special sessions of court held outside the district that might be transacted at a regular session.”

SEC. 5. REPEAL OF SUNSET CLAUSE.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is repealed.

Section-by-Section Analysis

SEC. 1. JUDICIAL BRANCH SECURITY REQUIREMENTS.

This section would enhance the ability of the Judicial Conference to determine the security required for the protection of judges, court employees, law enforcement officers, jurors and other members of the public who are regularly in federal courthouses and other buildings used by the Judicial Branch. The judiciary has the ability to make a determination of its requirements in all other areas of operations. Only in security, perhaps the most critical area, does the judiciary lack the authority to determine basic requirements.

Currently, the U.S. Marshals Service (USMS) and the Department of Homeland Security (DHS) have the responsibility for judiciary security. In recent years, the judiciary has been transferring to the USMS increasing amounts of funding for court security officers and courthouse security equipment from the judiciary court security appropriation. Yet, the Judicial Conference currently lacks sufficient information from the USMS to fully participate in assessing the effectiveness of the overall security program upon which the judiciary so heavily depends.

The judiciary seeks to work cooperatively with the USMS in setting security requirements, as required by statute. In order for the judiciary to participate in the determination of security requirements, the judiciary will need information from the USMS including, for example, the current security standards, the allocation of personnel, analyses regarding equipment, and resource needs. This information is necessary to help the judiciary determine weaknesses and potential improvements in its security. It will also help the judiciary to provide support for the USMS budget throughout each funding cycle.

This section would not alter the responsibility of the USMS for protection of the judiciary in buildings occupied by the courts, pursuant to a 2004 memorandum of understanding between DHS, the Department of Justice, and the Administrative Office of the U.S. Courts, under which authority has been delegated to the USMS for the security of federal courthouses. The USMS would still be responsible for the security of the judges and the court facilities. Examples of security requirements which the judiciary could determine include the need for deputy marshals in certain proceedings and whether electronic devices should be allowed into courthouses.

This section includes a provision which requires the judiciary and the USMS to jointly submit a report to the Judiciary Committees of Congress that sets out the security needs of the federal courts and the process by which they will be addressed. This report shall be submitted 180 days after the date of enactment and its intended purpose is to assist the Congress in providing the necessary oversight needed to ensure that judicial security requirements are being met.

SEC. 2. PROTECTION AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST FEDERAL JUDGES.

In recent years, members of the federal judiciary have been victimized by persons seeking to intimidate or harass them by the filing of false liens against the judge's real or personal property. These liens are usually filed in an effort to harass a judge who has presided over a criminal or civil case involving the filer, or who has otherwise acted against the interests or perceived interests of the filer, his family, or his acquaintances. These liens are also filed to harass a judge against whom a civil action has been initiated by the individual who has filed the lien. Often, such liens are placed on the property of judges based on the allegation that the property is at issue in the lawsuit. While the incidences of filing such liens have occurred in all regions of the country, they are most prevalent in Washington and other western states.

The responsibility to initiate legal action to remove these liens typically falls upon Assistant United States Attorneys ("AUSA"), who represent the judges. The forms of response vary according to the state law and the circumstances. It is sometimes necessary for the AUSA to bring action in state court for the removal of liens. In some circumstances, an action to remove the liens may be brought in federal court, and in others, state court proceedings are commenced and removed to federal court under the provisions of 28 U.S.C. § 1452. In some cases, the AUSA may seek an injunction against further filing of liens by the litigant. All of these methods are difficult and time consuming.

The pendency of these liens prior to their removal has caused some judges great inconvenience and personal financial difficulty. There is no current federal statute under which persons engaging in this tactic may be prosecuted. Thus, a new federal criminal sanction is needed to deter the practice. This proposal would create a new provision in the federal criminal code, punishing any person who files a false lien or encumbrance against the property of any federal judge. The new statute would provide a maximum sentence on the first offense of up to five years.

SEC. 3. JUDGES FIREARMS TRAINING.

Threats against federal judges continue at a disturbing rate. The U.S. Marshals Service provides security for judges inside all U.S. courthouses, and personal 24 hour guard details for judges in certain circumstances. However, these two circumstances aside, security of judges is a personal matter. For that reason, many judges carry concealed firearms. The laws of forty-two states permit this.

The Judicial Conference does not believe it is prudent for judges who carry firearms to do so without effective professional training, or without regular certification of proficiency as a condition precedent for carrying a weapon. All state and federal law enforcement officers receive such training and certification. Federal judges should be required to do so as well.