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# Calendar No. 527

110TH CONGRESS
1ST SESSION

# S. 1946

**[Report No. 110–239]**

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

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IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2007

Mr. LEAHY (for himself, Mr. CORNYN, and Mr. SESSIONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

DECEMBER 10, 2007

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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# A BILL

To help Federal prosecutors and investigators combat public corruption by strengthening and clarifying the law.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

~~**SECTION 1. SHORT TITLE.**~~

~~This Act may be cited as the "Public Corruption Prosecution Improvements Act".~~

**~~SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.~~**

~~(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:~~

**~~"§ 3299A. Corruption offenses~~**

~~"Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—~~

~~"(1) section 201 or 666;~~

~~"(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;~~

~~"(3) section 1951, if the offense involves extortion under color of official right;~~

~~"(4) section 1952, to the extent that the unlawful activity involves bribery; or~~

~~"(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a~~

~~scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.''.~~

~~(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:~~

~~''3299A. Corruption offenses.''.~~

~~(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.~~

**~~SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES TO LICENCES AND OTHER INTANGIBLE RIGHTS.~~**

~~Sections 1341 and 1343 of title 18, United States Code, are each amended by striking ''money or property'' and inserting ''money, property, or any other thing of value''.~~

**~~SEC. 4. VENUE FOR FEDERAL OFFENSES.~~**

~~(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: ''or in any district in which an act in furtherance of the offense is committed''.~~

(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

**"§ 3237. Offense taking place in more than one district".**

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

"3237. Offense taking place in more than one district.".

**SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.**

Section 666(a) of title 18, United States Code, is amended—

(1) in paragraph (1)(B), by—

(A) striking "anything of value" and inserting "any thing or things of value"; and

(B) striking "of $5,000 or more" and inserting "of $1,000 or more";

(2) by amending paragraph (2) to read as follows:

"(2) corruptly gives, offers, or agrees to give any thing or things of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any busi-

~~ness, transaction, or series of transactions of such organization, government, or agency involving anything of value of $1,000 or more;''; and~~

~~(3) in the matter following paragraph (2), by striking ''ten years'' and inserting ''15 years''.~~

**~~SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.~~**

~~Section 641 of title 18, United States Code, is amended by striking ''ten years'' and inserting ''15 years''.~~

**~~SEC. 7. PENALTY FOR SECTION 201(B) VIOLATIONS.~~**

~~Section 201(b) of title 18, United States Code, is amended by striking ''fifteen years'' and inserting ''20 years''.~~

**~~SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.~~**

~~(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a) of title 18, United States Code, is amended by striking ''three years'' and inserting ''10 years''.~~

~~(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.~~

~~(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking ''one year'' and inserting ''10 years''.~~

~~(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking "three years" and inserting "10 years".~~

~~(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking "3 years" and inserting "10 years".~~

~~(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking "three years" and inserting "10 years".~~

**~~SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.~~**

~~Section 641 of title 18, United States Code, is amended by inserting "the District of Columbia or" before "the United States" each place that term appears.~~

**~~SEC. 10. ADDITIONAL RICO PREDICATES.~~**

~~Section 1961(1) of title 18, United States Code, is amended—~~

~~(1) by inserting "section 641 (relating to embezzlement or theft of public money, property, or records," after "473 (relating to counterfeiting),"; and~~

~~(2) by inserting "section 666 (relating to theft or bribery concerning programs receiving Federal funds)," after "section 664 (relating to embezzlement from pension and welfare funds),".~~

**~~SEC. 11. ADDITIONAL WIRETAP PREDICATES.~~**

~~Section 2516(1)(C) of title 18, United States Code, is amended by inserting "section 641 (relating to embezzlement or theft of public money, property, or records, section 666 (relating to theft or bribery concerning programs receiving Federal funds)," after "section 224 (relating to bribery in sporting contests),".~~

**~~SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATUITIES.~~**

~~Section 201(c)(1) of title 18, United States Code, is amended—~~

~~(1) by striking the matter before subparagraph (A) and inserting "otherwise than as provided by law for the proper discharge of official duty, or by regulation—";~~

~~(2) in subparagraph (A), by inserting after ", or person selected to be a public official," the following: "for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such public official,~~

former public official, or person selected to be a public official''; and

(3) in subparagraph (B), by striking all after '', anything of value personally,'' and inserting ''for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such official or person;''.

**SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.**

Section 201(a)(3) of title 18, United States Code, is amended to read as follows:

''(3) the term 'official act' means any action within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit. An official act can be a single act, more than one act, or a course of conduct.''.

**SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIBERY.**

Section 201 of title 18, United States Code, is amended—

~~(1) in subsection (b), by striking "anything of value" each place it appears and inserting "any thing or things of value"; and~~

~~(2) in subsection (c), by striking "anything of value" each place it appears and inserting "any thing or things of value".~~

**~~SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.~~**

~~(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended by striking "A prosecution under this section or section 1503" and inserting "A prosecution under this chapter".~~

~~(b) PERJURY.—~~

~~(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:~~

**~~"§ 1624. Venue~~**

~~"A prosecution under this chapter may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.".~~

~~(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18,~~

~~United States Code, is amended by adding at the end the following:~~

~~"1624. Venue.".~~

**~~SEC. 16. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.~~**

~~There are authorized to be appropriated to the Offices of the Inspectors General and the Department of Justice, including the United States Attorneys' Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2008, 2009, 2010, and 2011, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346, and 1951 of title 18, United States Code.~~

**~~SEC. 17. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.~~**

~~(a) DIRECTIVE TO SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend its guidelines and its policy statements applicable to persons convicted of an offense under sections 201, 641, and 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties be increased~~

~~in comparison to those currently provided by the guidelines and policy statements.~~

~~(b) REQUIREMENTS.—In carrying out this section, the Commission shall—~~

~~(1) ensure that the sentencing guidelines and policy statements reflect Congress' intent that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;~~

~~(2) consider the extent to which the guidelines may or may not appropriately account for—~~

~~(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;~~

~~(B) the level of sophistication and planning involved in the offense;~~

~~(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;~~

~~(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;~~

~~(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and~~

~~(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;~~

~~(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;~~

~~(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;~~

~~(5) make any necessary conforming changes to the sentencing guidelines; and~~

~~(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.~~

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the "Public Corruption Prosecution Improvements Act".*

***SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.***

*(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:*

***"§ 3299A. Corruption offenses***

*"Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—*

*"(1) section 201 or 666;*

*"(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;*

*"(3) section 1951, if the offense involves extortion under color of official right;*

*"(4) section 1952, to the extent that the unlawful activity involves bribery; or*

*"(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section*

*1951, if the offense involves extortion under color of official right.".*

*(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following:*

*"3299A. Corruption offenses.".*

*(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.*

***SEC. 3. APPLICATION OF MAIL AND WIRE FRAUD STATUTES TO LICENCES AND OTHER INTANGIBLE RIGHTS.***

*Sections 1341 and 1343 of title 18, United States Code, are each amended by striking "money or property" and inserting "money, property, or any other thing of value".*

***SEC. 4. VENUE FOR FEDERAL OFFENSES.***

*(a) IN GENERAL.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: "or in any district in which an act in furtherance of the offense is committed".*

*(b) SECTION HEADING.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:*

***"§ 3237. Offense taking place in more than one district".***

*(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:*

*"3237. Offense taking place in more than one district.".*

***SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.***

*Section 666(a) of title 18, United States Code, is amended—*

*(1) in paragraph (1)(B), by—*

*(A) striking "anything of value" and inserting "any thing or things of value"; and*

*(B) striking "of $5,000 or more" and inserting "of $1,000 or more";*

*(2) by amending paragraph (2) to read as follows:*

*"(2) corruptly gives, offers, or agrees to give any thing or things of value to any person, with intent to influence or reward an agent of an organization or of a State, local or Indian tribal government, or any agency thereof, in connection with any business, transaction, or series of transactions of such organization, government, or agency involving anything of value of $1,000 or more;"; and*

*(3) in the matter following paragraph (2), by striking "ten years" and inserting "15 years".*

***SEC. 6. PENALTY FOR SECTION 641 VIOLATIONS.***

*Section 641 of title 18, United States Code, is amended by striking "ten years" and inserting "15 years".*

***SEC. 7. PENALTY FOR SECTION 201(b) VIOLATIONS.***

*Section 201(b) of title 18, United States Code, is amended by striking "fifteen years" and inserting "20 years".*

***SEC. 8. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.***

*(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—Section 602(a) of title 18, United States Code, is amended by striking "three years" and inserting "10 years".*

*(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking "one year" and inserting "10 years".*

*(c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 601(a) of title 18, United States Code, is amended by striking "one year" and inserting "10 years".*

*(d) INTIMIDATION TO SECURE POLITICAL CONTRIBUTIONS.—Section 606 of title 18, United States Code, is amended by striking "three years" and inserting "10 years".*

*(e) SOLICITATION AND ACCEPTANCE OF CONTRIBUTIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title 18, United States Code, is amended by striking "3 years" and inserting "10 years".*

*(f) COERCION OF POLITICAL ACTIVITY BY FEDERAL EMPLOYEES.—Section 610 of title 18, United States Code, is amended by striking "three years" and inserting "10 years".*

***SEC. 9. ADDITION OF DISTRICT OF COLUMBIA TO THEFT OF PUBLIC MONEY OFFENSE.***

*Section 641 of title 18, United States Code, is amended by inserting "the District of Columbia or" before "the United States" each place that term appears.*

***SEC. 10. ADDITIONAL RICO PREDICATES.***

*(a) IN GENERAL.—Section 1961(1) of title 18, United States Code, is amended—*

*(1) by inserting "section 641 (relating to embezzlement or theft of public money, property, or records)," after "473 (relating to counterfeiting),"; and*

*(2) by inserting "section 666 (relating to theft or bribery concerning programs receiving Federal funds)," after "section 664 (relating to embezzlement from pension and welfare funds),".*

*(b) CONFORMING AMENDMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—*

*(1) by striking "section 641 (relating to public money, property, or records),"; and*

*(2) by striking "section 666 (relating to theft or bribery concerning programs receiving Federal funds),".*

***SEC. 11. ADDITIONAL WIRETAP PREDICATES.***

*Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds)," after "section 224 (bribery in sporting contests),".*

***SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATUITIES.***

*Section 201(c)(1) of title 18, United States Code, is amended—*

*(1) by striking the matter before subparagraph (A) and inserting "otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation—";*

*(2) in subparagraph (A), by inserting after ", or person selected to be a public official," the following: "for or because of the official's or person's official po-*

*sition, or for or because of any official act performed or to be performed by such public official, former public official, or person selected to be a public official"; and*

*(3) in subparagraph (B), by striking all after ", anything of value personally," and inserting "for or because of the official's or person's official position, or for or because of any official act performed or to be performed by such official or person;".*

***SEC. 13. CLARIFICATION OF DEFINITION OF OFFICIAL ACT.***

*Section 201(a)(3) of title 18, United States Code, is amended to read as follows:*

*"(3) the term 'official act' means any action within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official's official capacity or in such official's place of trust or profit. An official act can be a single act, more than one act, or a course of conduct.".*

***SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIBERY.***

*Section 201 of title 18, United States Code, is amended—*

*(1) in subsection (b), by striking "anything of value" each place it appears and inserting "any thing or things of value"; and*

*(2) in subsection (c), by striking "anything of value" each place it appears and inserting "any thing or things of value".*

***SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.***

*(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended by striking "A prosecution under this section or section 1503" and inserting "A prosecution under this chapter".*

*(b) PERJURY.—*

*(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:*

***"§ 1624. Venue***

*"A prosecution under this chapter may be brought in the district in which the oath, declaration, certificate, verification, or statement under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.".*

*(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18,*

*United States Code, is amended by adding at the end the following:*

*"1624. Venue.".*

***SEC. 16. AUTHORIZATION FOR ADDITIONAL PERSONNEL TO INVESTIGATE AND PROSECUTE PUBLIC CORRUPTION OFFENSES.***

*There are authorized to be appropriated to the Offices of the Inspectors General and the Department of Justice, including the United States Attorneys' Offices, the Federal Bureau of Investigation, and the Public Integrity Section of the Criminal Division, $25,000,000 for each of the fiscal years 2008, 2009, 2010, and 2011, to increase the number of personnel to investigate and prosecute public corruption offenses including sections 201, 203 through 209, 641, 654, 666, 1001, 1341, 1343, 1346, and 1951 of title 18, United States Code.*

***SEC. 17. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.***

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*to those currently provided by the guidelines and policy statements.*

*(b) REQUIREMENTS.—In carrying out this section, the Commission shall—*

*(1) ensure that the sentencing guidelines and policy statements reflect Congress' intent that the guidelines and policy statements reflect the serious nature of the offenses described in subsection (a), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;*

*(2) consider the extent to which the guidelines may or may not appropriately account for—*

*(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;*

*(B) the level of sophistication and planning involved in the offense;*

*(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;*

*(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;*

*(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and*

*(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;*

*(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;*

*(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;*

*(5) make any necessary conforming changes to the sentencing guidelines; and*

*(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.*

**Calendar No. 527**

110TH CONGRESS
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# S. 1946

**[Report No. 110–239]**

# A BILL

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DECEMBER 10, 2007

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