

107TH CONGRESS
1ST SESSION

S. 1315

To make improvements in title 18, United States Code, and safeguard the integrity of the criminal justice system.

IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2001

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

A BILL

To make improvements in title 18, United States Code, and safeguard the integrity of the criminal justice system.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Judicial Improvement
5 and Integrity Act of 2001”.

6 **SEC. 2. INCREASING THE PENALTY FOR USING PHYSICAL**
7 **FORCE TO TAMPER WITH WITNESSES, VIC-**
8 **TIMS, OR INFORMANTS.**

9 (a) IN GENERAL.—Section 1512 of title 18, United
10 States Code, is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (1), by striking “as pro-
3 vided in paragraph (2)” and inserting “as pro-
4 vided in paragraph (3)”;

5 (B) by redesignating paragraph (2) as
6 paragraph (3);

7 (C) by inserting after paragraph (1) the
8 following:

9 “(2) Whoever uses physical force or the threat of
10 physical force against any person, or attempts to do so,
11 with intent to—

12 “(A) influence, delay, or prevent the testimony
13 of any person in an official proceeding;

14 “(B) cause or induce any person to—

15 “(i) withhold testimony, or withhold a
16 record, document, or other object, from an offi-
17 cial proceeding;

18 “(ii) alter, destroy, mutilate, or conceal an
19 object with intent to impair the integrity or
20 availability of the object for use in an official
21 proceeding;

22 “(iii) evade legal process summoning that
23 person to appear as a witness, or to produce a
24 record, document, or other object, in an official
25 proceeding; or

1 “(iv) be absent from an official proceeding
2 to which that person has been summoned by
3 legal process; or

4 “(C) hinder, delay, or prevent the communica-
5 tion to a law enforcement officer or judge of the
6 United States of information relating to the commis-
7 sion or possible commission of a Federal offense or
8 a violation of conditions of probation, supervised re-
9 lease, parole, or release pending judicial proceedings;
10 shall be punished as provided in paragraph (3).”; and

11 (D) in paragraph (3), as redesignated—

12 (i) by striking “and” at the end of
13 subparagraph (A); and

14 (ii) by striking subparagraph (B) and
15 inserting the following:

16 “(B) in the case of—

17 “(i) an attempt to murder; or

18 “(ii) the use or attempted use of physical
19 force against any person;

20 imprisonment for not more than 20 years; and

21 “(C) in the case of the threat of use of physical
22 force against any person, imprisonment for not more
23 than 10 years.”;

24 (2) in subsection (b), by striking “or physical
25 force”; and

1 (3) by adding at the end the following:

2 “(j) Whoever conspires to commit any offense under
3 this section shall be subject to the same penalties as those
4 prescribed for the offense the commission of which was
5 the object of the conspiracy.”.

6 (b) RETALIATING AGAINST A WITNESS.—Section
7 1513 of title 18, United States Code, is amended by add-
8 ing at the end the following:

9 “(e) Whoever conspires to commit any offense under
10 this section shall be subject to the same penalties as those
11 prescribed for the offense the commission of which was
12 the object of the conspiracy.”.

13 (c) CONFORMING AMENDMENTS.—

14 (1) WITNESS TAMPERING.—Section 1512 of
15 title 18, United States Code, is amended in sub-
16 sections (b)(3) and (c)(2) by inserting “supervised
17 release,” after “probation”.

18 (2) RETALIATION AGAINST A WITNESS.—Sec-
19 tion 1513 of title 18, United States Code, is amend-
20 ed in subsections (a)(1)(B) and (b)(2) by inserting
21 “supervised release,” after “probation”.

1 **SEC. 3. CORRECTION OF ABERRANT STATUTES TO PERMIT**
 2 **IMPOSITION OF BOTH A FINE AND IMPRISON-**
 3 **MENT.**

4 (a) IN GENERAL.—Title 18 of the United States
 5 Code is amended—

6 (1) in section 401, by inserting “or both,” after
 7 “fine or imprisonment,”;

8 (2) in section 1705, by inserting “, or both”
 9 after “years”; and

10 (3) in sections 1916, 2234, and 2235, by insert-
 11 ing “, or both” after “year”.

12 (b) IMPOSITION BY MAGISTRATE.—Section 636 of
 13 title 28, United States Code, is amended—

14 (1) in subsection (e)(2), by inserting “, or
 15 both,” after “fine or imprisonment”; and

16 (2) in subsection (e)(3), by inserting “or both,”
 17 after “fine or imprisonment,”.

18 **SEC. 4. REINSTATEMENT OF COUNTS DISMISSED PURSU-**
 19 **ANT TO A PLEA AGREEMENT.**

20 (a) IN GENERAL.—Chapter 213 of title 18, United
 21 States Code, is amended by adding at the end the fol-
 22 lowing:

23 **“§ 3296. Counts dismissed pursuant to a plea agree-**
 24 **ment**

25 “(a) IN GENERAL.—Notwithstanding any other pro-
 26 vision of this chapter, any counts of an indictment or in-

1 formation that are dismissed pursuant to a plea agreement
 2 shall be reinstated by the District Court if—

3 “(1) the counts sought to be reinstated were
 4 originally filed within the applicable limitations pe-
 5 riod;

6 “(2) the counts were dismissed pursuant to a
 7 plea agreement approved by the District Court
 8 under which the defendant pled guilty to other
 9 charges;

10 “(3) the guilty plea was subsequently vacated
 11 on the motion of the defendant; and

12 “(4) the United States moves to reinstate the
 13 dismissed counts within 60 days of the date on
 14 which the order vacating the plea becomes final.

15 “(b) DEFENSES; OBJECTIONS.—Nothing in this sec-
 16 tion shall preclude the District Court from considering any
 17 defense or objection, other than statute of limitations, to
 18 the prosecution of the counts reinstated under subsection
 19 (a).”.

20 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 21 Chapter 213 of title 18, United States Code, is amended
 22 in the table of sections by adding at the end the following
 23 new item:

“3296. Counts dismissed pursuant to a plea agreement.”.

1 **SEC. 5. APPEALS FROM CERTAIN DISMISSALS.**

2 Section 3731 of title 18, United States Code, is
 3 amended by inserting “, or any part thereof” after “as
 4 to any one or more counts”.

5 **SEC. 6. CLARIFICATION OF LENGTH OF SUPERVISED RE-**
 6 **LEASE TERMS IN CONTROLLED SUBSTANCE**
 7 **CASES.**

8 (a) DRUG ABUSE PENALTIES.—Subparagraphs (A),
 9 (B), (C), and (D) of section 401(b)(1) of the Controlled
 10 Substances Act (21 U.S.C. 841(b)(1)) are amended by
 11 striking “Any sentence” and inserting “Notwithstanding
 12 section 3583 of title 18, any sentence”.

13 (b) PENALTIES FOR DRUG IMPORT AND EXPORT.—
 14 Section 1010(b) of the Controlled Substances Import and
 15 Export Act (21 U.S.C. 960(b)) is amended—

16 (1) in paragraphs (1), (2), and (3), by striking
 17 “Any sentence” and inserting “Notwithstanding sec-
 18 tion 3583 of title 18, any sentence”; and

19 (2) in paragraph (4), by inserting “notwith-
 20 standing section 3583 of title 18,” before “in addi-
 21 tion to such term of imprisonment”.

1 **SEC. 7. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF**
 2 **PROBATION OR SUPERVISED RELEASE WHEN**
 3 **REDUCING A SENTENCE OF IMPRISONMENT**
 4 **IN CERTAIN CASES.**

5 Section 3582(c)(1)(A) of title 18, United States
 6 Code, is amended by inserting “(and may impose a sen-
 7 tence of probation or supervised release with or without
 8 conditions)” after “may reduce the term of imprison-
 9 ment”.

10 **SEC. 8. CLARIFICATION THAT MAKING RESTITUTION IS A**
 11 **PROPER CONDITION OF SUPERVISED RE-**
 12 **LEASE.**

13 Subsections (c) and (e) of section 3583 of title 18,
 14 United States Code, are amended by striking “and (a)(6)
 15 and inserting “(a)(6), and (a)(7)”.

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