

110TH CONGRESS  
1ST SESSION

# S. 1289

To amend title 38, United States Code, to modify the salary and terms of judges of the United States Court of Appeals for Veterans Claims, to modify authorities for the recall of retired judges of such court, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 3, 2007

Mr. CRAIG introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, to modify the salary and terms of judges of the United States Court of Appeals for Veterans Claims, to modify authorities for the recall of retired judges of such court, and for other purposes.

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 “Veterans’ Justice As-  
5       surance Act of 2007”.

1 **SEC. 2. REPEAL OF TERM LIMITS FOR JUDGES OF THE**  
2 **UNITED STATES COURT OF APPEALS FOR**  
3 **VETERANS CLAIMS.**

4 (a) IN GENERAL.—Section 7253(c) of title 38,  
5 United States Code, is amended to read as follows:

6 “(c) TERM OF OFFICE.—(1) Except as provided in  
7 paragraph (2), judges of the Court shall hold office during  
8 good behavior.

9 “(2) In the case of an individual who is serving a  
10 term of office as a judge of the Court on the date of the  
11 enactment of the Veterans’ Justice Assurance Act of  
12 2007, such term shall be 15 years. A judge who is nomi-  
13 nated by the President for appointment to an additional  
14 term on the Court without a break in service and whose  
15 term of office expires while that nomination is pending be-  
16 fore the Senate may continue in office for up to 1 year  
17 while that nomination is pending.”.

18 (b) CONFORMING AMENDMENT.—Section 7296(b)(2)  
19 of such title is amended by striking “A judge who” and  
20 inserting “A judge who was appointed before the date of  
21 the enactment of the Veterans’ Justice Assurance Act of  
22 2007 and who”.

1 **SEC. 3. INCREASED SALARY FOR CHIEF JUDGE OF UNITED**  
 2 **STATES COURT OF APPEALS FOR VETERANS**  
 3 **CLAIMS.**

4 Section 7253(e) of title 38, United States Code, is  
 5 amended—

6 (1) by inserting “(1)” before “Each judge”;

7 and

8 (2) by adding at the end the following new  
 9 paragraph:

10 “(2) The annual salary rate under paragraph (1) for  
 11 a judge shall be increased by \$7,000 during any period  
 12 that such judge is serving as chief judge of the Court.”.

13 **SEC. 4. PROVISIONS RELATING TO RECALL OF RETIRED**  
 14 **JUDGES OF THE UNITED STATES COURT OF**  
 15 **APPEALS FOR VETERANS CLAIMS.**

16 (a) **ELIMINATION OF LIMIT ON SERVICE OF RETIRED**  
 17 **JUDGES WHO VOLUNTARILY SERVE MORE THAN 90**  
 18 **DAYS.**—Section 7257(b)(2) of title 38, United States  
 19 Code, is amended by striking “or for more than a total  
 20 of 180 days (or the equivalent) during any calendar year”.

21 (b) **NEW JUDGES RECALLED AFTER RETIREMENT**  
 22 **RECEIVE PAY OF CURRENT JUDGES ONLY DURING PERI-**  
 23 **ODS OF RECALL.**—

24 (1) **IN GENERAL.**—Section 7296(c) of such title  
 25 is amended by striking paragraph (1) and inserting  
 26 the following:

1       “(1)(A) Except as provided in subparagraph (B), in  
2 the case of a judge who retires under subsection (b) of  
3 this section and elects under subsection (d) of this section  
4 to receive retired pay under this subsection, the retired  
5 pay of the judge shall (except as provided in paragraph  
6 (2) of this subsection and section 7257(d)(2) of this title)  
7 be the rate of pay applicable to that judge at the time  
8 of retirement (disregarding any increase in salary provided  
9 in accordance with section 7253(e)(2) of this title).

10       “(B) A judge who was appointed before the date of  
11 the enactment of the Veterans’ Justice Assurance Act of  
12 2007 and who retires under subsection (b) of this section  
13 and elects under subsection (d) of this section to receive  
14 retired pay under this subsection shall (except as provided  
15 in paragraph (2) of this subsection) receive retired pay  
16 as follows:

17               “(i) In the case of a judge who is a recall-eli-  
18 ble retired judge under section 7257 of this title or  
19 who was a recall-eligible retired judge under that  
20 section and was removed from recall status under  
21 subsection (b)(4) of that section by reason of dis-  
22 ability, the retired pay of the judge shall be the pay  
23 of a judge of the court.

24               “(ii) In the case of a judge who at the time of  
25 retirement did not provide notice under section 7257

1 of this title of availability for service in a recalled  
2 status, the retired pay of the judge shall be the rate  
3 of pay applicable to that judge at the time of retire-  
4 ment.

5 “(iii) In the case of a judge who was a recall-  
6 eligible retired judge under section 7257 of this title  
7 and was removed from recall status under subsection  
8 (b)(3) of that section, the retired pay of the judge  
9 shall be the pay of the judge at the time of the re-  
10 moval from recall status.”.

11 (2) PAY DURING PERIOD OF RECALL.—Section  
12 7257(d) of such title is amended to read as follows:

13 “(d)(1) The pay of a recall-eligible retired judge to  
14 whom section 7296(c)(1)(B) of this title applies is the pay  
15 specified in that section.

16 “(2) A judge who is recalled under this section who  
17 retired under chapter 83 or 84 of title 5 or to whom sec-  
18 tion 7296(c)(1)(A) of this title applies shall be paid, dur-  
19 ing the period for which the judge serves in recall status,  
20 pay at the rate of pay in effect under section 7253(e) of  
21 this title for a judge performing active service, less the  
22 amount of the judge’s annuity under the applicable provi-  
23 sions of chapter 83 or 84 of title 5 or the judge’s annuity  
24 under section 7296(c)(1)(A) of this title, whichever is ap-  
25 plicable.”.

1           (3) NOTICE.—The last sentence of section  
 2       7257(a)(1) of such title is amended to read as fol-  
 3       lows: “Such a notice provided by a retired judge to  
 4       whom section 7296(c)(1)(B) of this title applies is  
 5       irrevocable.”.

6       (c) LIMITATION ON INVOLUNTARY RECALLS.—Sec-  
 7       tion 7257(b)(3) of such title is amended by adding at the  
 8       end the following new sentence: “This paragraph shall not  
 9       apply to—

10           “(A) a judge to whom section 7296(c)(1)(A) of  
 11       this title applies; or

12           “(B) a judge to whom section 7296(c)(1)(B) of  
 13       this title applies and who has, in the aggregate,  
 14       served at least five years (or the equivalent) of re-  
 15       called service on the Court under this section.”.

16       (d) ESTABLISHMENT OF CASELOAD THRESHOLDS  
 17       FOR DETERMINING WHEN TO RECALL RETIRED  
 18       JUDGES.—Section 7257(b) of such title is amended by  
 19       adding at the end the following new paragraph:

20           “(5) For purposes of paragraph (1), the chief judge  
 21       shall establish guidelines for determining whether recall-  
 22       eligible retired judges should be recalled on either a vol-  
 23       untary or involuntary basis, taking into account such fac-  
 24       tors as the number of active judges, temporary or pro-  
 25       longed increases or decreases in caseload, and the com-

1 plexity of the caseload. In establishing such guidelines, the  
 2 chief judge shall, to the extent practicable, consult with  
 3 the following:

4           “(A) Organizations recognized by the Secretary  
 5       for the representation of veterans under section  
 6       5902 of this title.

7           “(B) The bar association of the Court.

8           “(C) The Secretary.

9           “(D) Such persons or entities the chief judge  
 10       considers appropriate.”.

11 **SEC. 5. ADDITIONAL DISCRETION IN IMPOSITION OF PRAC-**  
 12 **TICE AND REGISTRATION FEES.**

13       Section 7285(a) of title 38, United States Code, is  
 14 amended—

15           (1) in the first sentence, by inserting “reason-  
 16       able” after “impose a”;

17           (2) in the second sentence, by striking “, except  
 18       that such amount may not exceed \$30 per year”;  
 19       and

20           (3) in the third sentence, by inserting “reason-  
 21       able” after “impose a”.

1 **SEC. 6. ANNUAL REPORTS ON WORKLOAD OF UNITED**  
2 **STATES COURT OF APPEALS FOR VETERANS**  
3 **CLAIMS.**

4 (a) IN GENERAL.—Subchapter III of chapter 72 of  
5 title 38, United States Code, is amended by adding at the  
6 end the following new section:

7 **“§ 7288. Annual report**

8 “(a) IN GENERAL.—The chief judge of the Court  
9 shall submit annually to the appropriate committees of  
10 Congress a report summarizing the workload of the Court  
11 for the last fiscal year that ended before the submission  
12 of such report. Such report shall include, with respect to  
13 such fiscal year, the following information:

14 “(1) The number of appeals filed.

15 “(2) The number of petitions filed.

16 “(3) The number of applications filed under  
17 section 2412 of title 28.

18 “(4) The number and type of dispositions.

19 “(5) The median time from filing to disposition.

20 “(6) The number of oral arguments.

21 “(7) The number and status of pending appeals  
22 and petitions and of applications described in para-  
23 graph (3).

24 “(8) A summary of any service performed by  
25 recalled retired judges during the fiscal year and an  
26 analysis of whether any of the caseload guidelines



1 established under section 7257(b)(5) of this title  
 2 were met during the fiscal year.

3 “(b) APPROPRIATE COMMITTEES OF CONGRESS DE-  
 4 FINED.—In this section, the term ‘appropriate committees  
 5 of Congress’ means the Committee on Veterans’ Affairs  
 6 of the Senate and the Committee on Veterans’ Affairs of  
 7 the House of Representatives.”.

8 (b) CLERICAL AMENDMENT.—The table of sections  
 9 at the beginning of chapter 72 of such title is amended  
 10 by inserting after the item related to section 7287, the  
 11 following new item:

“7288. Annual report.”.

12 **SEC. 7. REPORT ON EXPANSION OF FACILITIES FOR**  
 13 **UNITED STATES COURT OF APPEALS FOR**  
 14 **VETERANS CLAIMS.**

15 (a) FINDINGS.—Congress finds the following:

16 (1) The United States Court of Appeals for  
 17 Veterans Claims is currently located in the District  
 18 of Columbia in a commercial office building that is  
 19 also occupied by other Federal tenants.

20 (2) In February 2006, the General Services Ad-  
 21 ministration provided Congress with a preliminary  
 22 feasibility analysis of a dedicated Veterans Court-  
 23 house and Justice Center that would house the  
 24 Court and other entities that work with the Court.

1           (3) In February 2007, the Court notified Con-  
2       gress that the “most cost-effective alternative ap-  
3       pears to be leasing substantial additional space in  
4       the current location”, which would “require relo-  
5       cating other current government tenants” from that  
6       building.

7           (4) The February 2006 feasibility report of the  
8       General Services Administration does not include an  
9       analysis of whether it would be feasible or desirable  
10      to locate a Veterans Courthouse and Justice Center  
11      at the current location of the Court.

12      (b) SENSE OF CONGRESS.—It is the sense of Con-  
13      gress that—

14           (1) the United States Court of Appeals for Vet-  
15      erans Claims should be provided with appropriate of-  
16      fice space to meet its needs, as well as to provide the  
17      image, security, and stature befitting a court that  
18      provides justice to the veterans of the United States;  
19      and

20           (2) in providing that space, Congress should  
21      avoid undue disruption, inconvenience, or cost to  
22      other Federal entities.

23      (c) REPORT.—

24           (1) IN GENERAL.—Not later than 180 days  
25      after the date of the enactment of this Act, the Ad-

1        administrator of General Services shall submit to the  
2        Committee on Veterans' Affairs of the Senate and  
3        the Committee on Veterans' Affairs of the House of  
4        Representatives a report on the feasibility of—

5                (A) leasing additional space for the United  
6                States Court of Appeals for Veterans Claims  
7                within the building where the Court was located  
8                on the date of the enactment of this Act; and

9                (B) using the entirety of such building as  
10               a Veterans Courthouse and Justice Center.

11               (2) CONTENTS.—The report required by para-  
12               graph (1) shall include a detailed analysis of the fol-  
13               lowing:

14               (A) The impact that the matter analyzed  
15               in accordance with paragraph (1) would have  
16               on Federal tenants of the building used by the  
17               Court.

18               (B) Whether it would be feasible to relo-  
19               cate such Federal tenants into office space that  
20               offers similar or preferable cost, convenience,  
21               and usable square footage.

22               (C) If relocation of such Federal tenants is  
23               found to be feasible and desirable, an analysis  
24               of what steps should be taken to convert the

1 building into a Veterans Courthouse and Jus-  
2 tice Center and a time line for such conversion.

3 (3) COMMENT PERIOD.—The Administrator  
4 shall provide an opportunity to such Federal ten-  
5 ants—

6 (A) before the completion of the report re-  
7 quired by paragraph (1), to comment on the  
8 subject of the report required by such para-  
9 graph; and

10 (B) before the Administrator submits the  
11 report required by paragraph (1) to the con-  
12 gressional committees specified in such para-  
13 graph, to comment on a draft of such report.

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