

who seeks immediate relative status pursuant to the amendment made by paragraph (1) shall file a petition under section 204(a)(1)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(A)(ii)) not later than the date that is 2 years after the date of the enactment of this Act.

(ii) **ALIENS DESCRIBED.**—An alien is described in this clause if—

(I) the alien's United States citizen spouse died before the date of the enactment of this Act;

(II) the alien and the citizen spouse were married for less than 2 years at the time of the citizen spouse's death; and

(III) the alien has not remarried.

(d) **HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.**—

(1) **AMENDMENT.**—Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

“(1) **HUMANITARIAN CONSIDERATION FOR PENDING PETITIONS AND APPLICATIONS.**—

“(1) **IN GENERAL.**—An alien described in paragraph (2) who was the beneficiary or derivative beneficiary of a petition (as defined in section 204, 207, or 208) filed on behalf of the alien or principal beneficiary before the death of the qualifying relative and who continues to reside in the United States shall have such petition and any related or subsequent applications for adjustment of status to that of a person admitted for lawful permanent residence adjudicated as if the death had not occurred, unless the Secretary of Homeland Security determines, in the unreviewable discretion of the Secretary, that approval would not be in the public interest.

“(2) **ALIEN DESCRIBED.**—An alien described in this paragraph is an alien who, immediately prior to the death of his or her qualifying relative, was—

“(A) an immediate relative (as described in section 201(b)(2)(A)(i));

“(B) a family-sponsored immigrant (as described in subsection (a) or (d) of section 203);

“(C) a derivative beneficiary of an employment-based immigrant under section 203(b) (as described in section 203(d));

“(D) a spouse or child of a refugee (as described in section 207(c)(2)); or

“(E) an asylee (as described in section 208(b)(3)).”

(2) **CONSTRUCTION.**—Nothing in the amendment made by paragraph (1) may be construed to limit or waive any ground of removal, basis for denial of petition or application, or other criteria for adjudicating petitions or applications as otherwise provided under the immigration laws of the United States other than ineligibility based solely on the lack of a qualifying family relationship as specifically provided by such amendment.

**SEC. 572.** (a) The amount appropriated under the heading “Firefighter Assistance Grants” under the heading “Federal Emergency Management Agency” under by title III for necessary expenses for programs authorized by the Federal Fire Prevention and Control Act of 1974 is increased by \$10,000,000 for necessary expenses to carry out the programs authorized under section 33 of that Act (15 U.S.C. 2229).

(b) The total amount of appropriations under the heading “Aviation Security” under the heading “Transportation Security Administration” under title II, the amount for screening operations and the amount for explosives detection systems under the first proviso under that heading and the amount for the purchase and installation of explosives detection systems under the second proviso under that heading are reduced by \$4,500,000.

(c) From the unobligated balances of amounts appropriated before the date of enactment of this Act for the appropriations account under the heading “State and Local Programs” under the heading “Federal Emergency Management Agency” for “Trucking Industry Security Grants”, \$5,500,000 are rescinded.

**SEC. 573.** None of the funds made available in this Act for U.S. Customs and Border Protection may be used to prevent an individual not in the business of importing a prescription drug (within the meaning of section 801(g) of the Federal Food, Drug, and Cosmetic Act) from importing a prescription drug from Canada that complies with the Federal Food, Drug, and Cosmetic Act: Provided, That the prescription drug may not be—

#### PROPER AWARDING OF INCENTIVE FEES FOR CONTRACT PERFORMANCE

**SEC. 574.** Notwithstanding any other provision of this Act, none of the funds appropriated or otherwise made available by this Act may be used to pay award or incentive fees for contractor performance that has been judged to be below satisfactory performance or performance that does not meet the basic requirements of a contract.

**SEC. 575.** None of the funds appropriated or otherwise made available by this Act may be used by the Department of Homeland Security to enter into any federal contract unless such contract is entered into in accordance with the requirements of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) or Chapter 137 of title 10, United States Code, and the Federal Acquisition Regulation, unless such contract is otherwise authorized by statute to be entered into without regard to the above referenced statutes.

#### CHECKING THE IMMIGRATION STATUS OF EMPLOYEES

**SEC. 576.** Section 403(a)(3)(A) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 8 U.S.C. 1324a note) is amended—

(1) by striking “The person” and inserting the following:

“(i) **UPON HIRING.**—The person”; and

(2) by adding at the end the following:

“(ii) **EXISTING EMPLOYEES.**—An employer that elects to verify the employment eligibility of existing employees shall verify the employment eligibility of all such employees not later than 10 days after notifying the Secretary of Homeland Security of such election.”

This Act may be cited as the “Department of Homeland Security Appropriations Act, 2010”.

#### DIRECTING THE ARCHITECT OF THE CAPITOL TO ENGRAVE THE PLEDGE OF ALLEGIANCE TO THE FLAG AND THE NATIONAL MOTTO IN THE CAPITOL VISITOR CENTER

Mr. WYDEN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of H. Con. Res. 131 at the desk and just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 131) directing the Architect of the Capitol to engrave the Pledge of Allegiance to the Flag and the National Motto of “In God We Trust” in the Capitol Visitor Center.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WYDEN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 131) was agreed to.

#### DIRECTING THE ARCHITECT OF THE CAPITOL TO PLACE A MARKER IN EMANCIPATION HALL IN THE CAPITOL VISITOR CENTER

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 135 at the desk, just received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 135) directing the Architect of the Capitol to place a marker in Emancipation Hall in the Capitol Visitor Center which acknowledges the role that slave labor played in the construction of the United States Capitol, and for other purposes.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. WYDEN. Mr. President, I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the concurrent resolution be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 135) was agreed to.

The preamble was agreed to.

#### JUVENILE SURVIVORS PROTECTION ACT OF 2009

Mr. WYDEN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 88, S. 1107.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1107) to amend title 28, United States Code, to provide for a limited 6-month period for Federal judges to opt into the Judicial Survivors' Annuities System and begin contributing toward an annuity for their spouse and dependent children upon their death, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. WYDEN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1107) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1107

*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 “Judicial Survivors Protection Act of 2009”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) The term “judicial official” refers to incumbent officials defined under section 376(a) of title 28, United States Code.

(2) The term “Judicial Survivors’ Annuities Fund” means the fund established under section 3 of the Judicial Survivors’ Annuities Reform Act (28 U.S.C. 376 note; Public Law 94-554; 90 Stat. 2611).

(3) The term “Judicial Survivors’ Annuities System” means the program established under section 376 of title 28, United States Code.

**SEC. 3. PERSONS NOT CURRENTLY PARTICIPATING IN THE JUDICIAL SURVIVORS’ ANNUITIES SYSTEM.**

(a) ELECTION OF JUDICIAL SURVIVORS’ ANNUITIES SYSTEM COVERAGE.—An eligible judicial official may elect to participate in the Judicial Survivors’ Annuities System during the open enrollment period specified in subsection (d).

(b) MANNER OF MAKING ELECTIONS.—An election under this section shall be made in writing, signed by the person making the election, and received by the Director of the Administrative Office of the United States Courts before the end of the open enrollment period.

(c) EFFECTIVE DATE FOR ELECTIONS.—Any such election shall be effective as of the first day of the first calendar month following the month in which the election is received by the Director.

(d) OPEN ENROLLMENT PERIOD DEFINED.—The open enrollment period under this section is the 6-month period beginning 30 days after the date of enactment of this Act.

**SEC. 4. JUDICIAL OFFICERS’ CONTRIBUTIONS FOR OPEN ENROLLMENT ELECTION.**

(a) CONTRIBUTION RATE.—Every active judicial official who files a written notification of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period shall be deemed thereby to consent and agree to having deducted from his or her salary a sum equal to 2.75 percent of that salary or a sum equal to 3.5 percent of his or her retirement salary, except that the deduction from any retirement salary—

(1) of a justice or judge of the United States retired from regular active service under section 371(b) or 372(a) of title 28, United States Code;

(2) of a judge of the United States Court of Federal Claims retired under section 178 of title 28, United States Code; or

(3) of a judicial official on recall under section 155(b), 373(c)(4), 375, or 636(h) of title 28, United States Code,

shall be an amount equal to 2.75 percent of retirement salary.

(b) CONTRIBUTIONS TO BE CREDITED TO JUDICIAL SURVIVORS’ ANNUITIES FUND.—Contributions made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

**SEC. 5. DEPOSIT FOR PRIOR CREDITABLE SERVICE.**

(a) LUMP SUM DEPOSIT.—Any judicial official who files a written notification of his or her intention to participate in the Judicial Survivors’ Annuities System during the open enrollment period may make a deposit equaling 2.75 percent of salary, plus 3 percent annual, compounded interest, for the last 18 months of prior service, to receive the credit

for prior judicial service required for immediate coverage and protection of the official’s survivors. Any such deposit shall be made on or before the closure of the open enrollment period.

(b) DEPOSITS TO BE CREDITED TO JUDICIAL SURVIVORS’ ANNUITIES FUND.—Deposits made under subsection (a) shall be credited to the Judicial Survivors’ Annuities Fund.

**SEC. 6. VOLUNTARY CONTRIBUTIONS TO ENLARGE SURVIVORS’ ANNUITY.**

Section 376 of title 28, United States Code, is amended by adding at the end the following:

“(y) For each year of Federal judicial service completed, judicial officials who are enrolled in the Judicial Survivors’ Annuities System on the date of enactment of the Judicial Survivors Protection Act of 2009 may purchase, in 3-month increments, up to an additional year of service credit, under the terms set forth in this section. In the case of judicial officials who elect to enroll in the Judicial Survivors’ Annuities System during the statutory open enrollment period authorized under the Judicial Survivors Protection Act of 2009, for each year of Federal judicial service completed, such an official may purchase, in 3-month increments, up to an additional year of service credit for each year of Federal judicial service completed, under the terms set forth in section 4(a) of that Act.”.

**SEC. 7. EFFECTIVE DATE.**

This Act, including the amendment made by section 6, shall take effect on the date of enactment of this Act.

### FOREIGN EVIDENCE REQUEST EFFICIENCY ACT OF 2009

Mr. WYDEN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 1289, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1289) to improve title 18 of the United States Code.

There being no objection, the Senate proceeded to consider the bill.

Mr. WYDEN. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1289) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1289

*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 “Foreign Evidence Request Efficiency Act of 2009”.

**SEC. 2. IMPROVEMENTS TO TITLE 18.**

Title 18 of the United States Code is amended—

(1) in section 2703—

(A) in subsection (a), by striking “by a court with jurisdiction over the offense under investigation or an equivalent State

warrant” and inserting “(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction”;

(B) in subsection (b)(1)(A), by striking “by a court with jurisdiction over the offense under investigation or an equivalent State warrant” and inserting “(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction”;

(C) in subsection (c)(1)(A), by striking “by a court with jurisdiction over the offense under investigation or an equivalent State warrant” and inserting “(or, in the case of a State court, issued using State warrant procedures) by a court of competent jurisdiction”;

(2) in section 2711(3), by striking “has the meaning assigned by section 3127, and includes any Federal court within that definition, without geographic limitation; and” and inserting the following: “includes—

“(A) any district court of the United States (including a magistrate judge of such a court) or any United States court of appeals that—

“(i) has jurisdiction over the offense being investigated;

“(ii) is in or for a district in which the provider of a wire or electronic communication service is located or in which the wire or electronic communications, records, or other information are stored; or

“(iii) is acting on a request for foreign assistance pursuant to section 3512 of this title; or

“(B) a court of general criminal jurisdiction of a State authorized by the law of that State to issue search warrants; and”;

(3) in section 3127(2)(A), by striking “having jurisdiction over the offense being investigated,” and inserting the following: “that—

“(i) has jurisdiction over the offense being investigated;

“(ii) is in or for a district in which the provider of a wire or electronic communication service is located;

“(iii) is in or for a district in which a landlord, custodian, or other person subject to subsections (a) or (b) of section 3124 of this title is located; or

“(iv) is acting on a request for foreign assistance pursuant to section 3512 of this title;”;

(4) in chapter 223, by adding at the end the following:

### “§3512. Foreign requests for assistance in criminal investigations and prosecutions

“(a) EXECUTION OF REQUEST FOR ASSISTANCE.—

“(1) IN GENERAL.—Upon application, duly authorized by an appropriate official of the Department of Justice, of an attorney for the Government, a Federal judge may issue such orders as may be necessary to execute a request from a foreign authority for assistance in the investigation or prosecution of criminal offenses, or in proceedings related to the prosecution of criminal offenses, including proceedings regarding forfeiture, sentencing, and restitution.

“(2) SCOPE OF ORDERS.—Any order issued by a Federal judge pursuant to paragraph (1) may include the issuance of—

“(A) a search warrant, as provided under Rule 41 of the Federal Rules of Criminal Procedure;

“(B) a warrant or order for contents of stored wire or electronic communications or for records related thereto, as provided under section 2703 of this title;

“(C) an order for a pen register or trap and trace device as provided under section 3123 of this title; or