



Federal Bar Association
OFFICE OF THE PRESIDENT

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The Honorable Patrick Leahy
Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

The Honorable Arlen Specter
Ranking Minority Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Re: S. 1729, Enhanced Financial Recovery and Equitable Retirement Treatment Act

Dear Chairman Leahy and Senator Specter:

I write on behalf of the 16,000 members of the Federal Bar Association to endorse S. 1729, the Enhanced Financial Recovery and Equitable Retirement Treatment Act of 2007.

This legislation will improve the Federal Government's capacity to collect unpaid judgments and restitution owed to the United States and the victims of crime, as well as strengthen the retirement benefits of Assistant United States Attorneys. The Federal Bar Association, the foremost national association of private and government lawyers who practice before the federal courts and federal agencies, urges the Committee's prompt efforts to mark-up this important measure.

We endorse S. 1729 and urge its passage for two fundamental reasons. First, the measure will ensure the collection of greater civil and criminal monetary judgments due the United States and the victims of crime than are currently collected. At the present time, the criminal and civil debt collection efforts of United States Attorney Offices result in billions of dollars that are turned over to Federal agencies and crime victims. Nonetheless, as the Government Accountability Office has noted, additional billions of dollars remain to be collected for various reasons, including the lack of sufficient incentives to compel the most financially able of defendants to promptly pay what they owe. S. 1729 addresses this shortcoming by improving the process by which Assistant United States Attorneys collect criminal and civil debts owed to the United States and the victims of crime. The legislation's reforms will incentivize financially able defendants to pay judgments and restitution sooner and more completely, as well as provide greater resources to Assistant United States Attorney Offices to aid in collection efforts.

Second, we endorse S. 1729 because it will strengthen the retirement benefits of Assistant United States Attorneys and thereby increase the government's retention of skilled and sophisticated prosecutors. The retention of top-notch Assistant United States Attorneys is increasingly critical in the success of the Department of Justice's prosecutorial efforts against terrorism, white collar crime, drug smuggling, money laundering, gun crimes, gangs and other crimes that threaten the safety of Americans. Unfortunately the average period of employment by an Assistant United

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States Attorney is only eight years, and far less in the largest United States Attorney Offices in the most populous and metropolitan areas of the country. That is a “brain drain” that federal law enforcement can ill afford. S. 1729 will strengthen the Government’s capacity to retain greater numbers of federal prosecutors by encouraging them to remain in public service. Specifically, S. 1729 will bring the retirement benefits of AUSAs into line with those of all other Federal law enforcement officers with whom AUSAs work, including those employed by the FBI, Secret Service, DEA, U.S. Marshals Service, and Bureau of Prisons.

Though the legislation technically does not confer retirement benefits to Assistant United States Attorneys *per se* as law enforcement officer, it should not go unrecognized that AUSAs bear many of the same dangers to personal safety as their law enforcement colleagues. Indeed, by some measures, they are exposed to even greater danger than are other law enforcement officials already covered by the LEO retirement system. While FBI agents and most other federal law enforcement officers often toil in relative anonymity, prosecutors are generally the most visible representatives of the government in the criminal justice system. They appear in open court and are named in all papers that they file; thus, their identities are well known to defendants. Prosecutors thereby become obvious targets for intimidation, threats, and reprisals by the associates, family and friends of those they have prosecuted. Assistant United States Attorneys are among the most frequently-threatened members of the federal law enforcement community; and assaults and threats against them are on the rise. All have one thing in common: They endanger themselves – and their loved ones – just by doing their jobs.

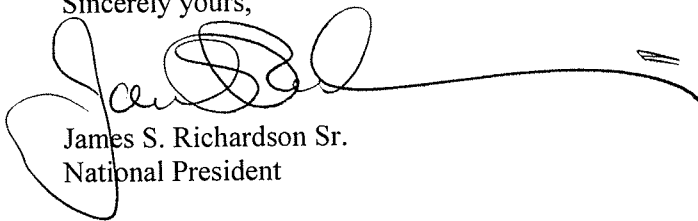
As Deputy Attorney General Larry Thompson noted during his testimony before the House Subcommittee on Crime, Terrorism and Homeland Securing at its November 1 hearing on H.R. 2878, the House companion bill to S. 1729:

“I believe it is crucial that there be the greatest equity possible regarding retirement benefits throughout the federal law enforcement community. The legislation under consideration today will recognize Assistant United States Attorneys for the key role they play in enforcing our nation’s laws, and provide a well-deserved boost to their morale. An improved Assistant United States Attorney retirement benefit will assist United States Attorney Offices to more effectively recruit and retain skilled prosecutors, thereby developing the talent in its ranks more effectively. Such an outcome would undoubtedly strengthen their ability to perform their mission.”

Assistant United States Attorneys play a crucial role in preserving the safety of all Americans. S. 1729 ensures that they have the tools to do their job and promotes the retention of the very best Assistant United States Attorneys in public service. By making civil and criminal monetary judgments entered in favor of the United States and the victims of crime more collectible, and by improving the retention of Assistant United States Attorneys through a more equitable retirement benefit, Congress will have improved key aspects of the federal law enforcement mission.

Thank you for your attention to these comments, and for your leadership in ensuring that the Congress enacts S. 1729 in a speedy fashion.

Sincerely yours,

A handwritten signature in black ink, appearing to read "James S. Richardson Sr.", with a long horizontal flourish extending to the right.

James S. Richardson Sr.
National President