

Calendar No. 119

112TH CONGRESS
1ST SESSION

S. 401

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 17, 2011

Mr. LEAHY (for himself, Mr. CORNYN, Mr. KIRK, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Mrs. FEINSTEIN, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JULY 28, 2011

Reported by Mr. LEAHY, with an amendment

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

A BILL

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

1 SECTION 1. SHORT TITLE.

- 2 This Act may be cited as the “Public Corruption
3 ~~Prosecution Improvements Act~~”.

1 **SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SE-**
 2 **RIOUS PUBLIC CORRUPTION OFFENSES.**

3 (a) **IN GENERAL.**—Chapter 213 of title 18, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“§ 3299A. Corruption offenses**

7 “Unless an indictment is returned or the information
 8 is filed against a person within 6 years after the commis-
 9 sion of the offense, a person may not be prosecuted, tried,
 10 or punished for a violation of, or a conspiracy or an at-
 11 tempt to violate the offense in—

12 “(1) section 201 or 666;

13 “(2) section 1341 or 1343, when charged in
 14 conjunction with section 1346 and where the offense
 15 involves a scheme or artifice to deprive another of
 16 the intangible right of honest services of a public of-
 17 ficial;

18 “(3) section 1951, if the offense involves extor-
 19 tion under color of official right;

20 “(4) section 1952, to the extent that the unlaw-
 21 ful activity involves bribery; or

22 “(5) section 1962, to the extent that the racket-
 23 eering activity involves bribery chargeable under
 24 State law, involves a violation of section 201 or 666,
 25 section 1341 or 1343, when charged in conjunction
 26 with section 1346 and where the offense involves a

1 scheme or artifice to deprive another of the intan-
 2 gible right of honest services of a public official, or
 3 section 1951, if the offense involves extortion under
 4 color of official right.”.

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

“3299A. Corruption offenses.”.

8 (c) APPLICATION OF AMENDMENT.—The amend-
 9 ments made by this section shall not apply to any offense
 10 committed before the date of enactment of this Act.

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

14 Sections 1341 and 1343 of title 18, United States
 15 Code, are each amended by striking “money or property”
 16 and inserting “money, property, or any other thing of
 17 value”.

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

19 (a) IN GENERAL.—The second undesignated para-
 20 graph of section 3237(a) of title 18, United States Code,
 21 is amended by adding before the period at the end the
 22 following: “or in any district in which an act in further-
 23 ance of the offense is committed”.

1 (b) SECTION HEADING.—The heading for section
 2 3237 of title 18, United States Code, is amended to read
 3 as follows:

4 **“§ 3237. Offense taking place in more than one dis-**
 5 **trict”.**

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

“3237. Offense taking place in more than one district.”.

10 **SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RE-**
 11 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

12 Section 666 of title 18, United States Code, is
 13 amended—

14 (1) in subsection (a)—

15 (A) in paragraph (1)(B), by—

16 (i) striking “anything of value” and
 17 inserting “any thing or things of value”;
 18 and

19 (ii) striking “of \$5,000 or more” and
 20 inserting “of \$1,000 or more”;

21 (B) by amending paragraph (2) to read as
 22 follows:

23 “(2) corruptly gives, offers, or agrees to give
 24 any thing or things of value to any person, with in-
 25 tent to influence or reward an agent of an organiza-

1 tion or of a State, local or Indian tribal government,
2 or any agency thereof, in connection with any busi-
3 ness, transaction, or series of transactions of such
4 organization, government, or agency involving any-
5 thing of value of \$1,000 or more;” and

6 (C) in the matter following paragraph (2),
7 by striking “ten years” and inserting “15
8 years”; and

9 (2) in subsection (c)—

10 (A) by striking “This section does not
11 apply to”; and

12 (B) by inserting before “bona fide salary”
13 the following: “The term ‘anything of value’
14 that is corruptly solicited, demanded, accepted
15 or agreed to be accepted in subsection (a)(1)(B)
16 or corruptly given, offered, or agreed to be
17 given in subsection (a)(2) shall not include”.

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

19 Section 641 of title 18, United States Code, is
20 amended by striking “ten years” and inserting “15
21 years”.

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

23 Section 201(b) of title 18, United States Code, is
24 amended by striking “fifteen years” and inserting “20
25 years”.

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

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

6 (b) **PROMISE OF EMPLOYMENT FOR POLITICAL AC-**
7 **TIVITY.—**Section 600 of title 18, United States Code, is
8 amended by striking “one year” and inserting “10 years”.

9 (c) **DEPRIVATION OF EMPLOYMENT FOR POLITICAL**
10 **ACTIVITY.—**Section 601(a) of title 18, United States
11 Code, is amended by striking “one year” and inserting
12 “10 years”.

13 (d) **INTIMIDATION TO SECURE POLITICAL CON-**
14 **TRIBUTIONS.—**Section 606 of title 18, United States
15 Code, is amended by striking “three years” and inserting
16 “10 years”.

17 (e) **SOLICITATION AND ACCEPTANCE OF CONTRIBU-**
18 **TIONS IN FEDERAL OFFICES.—**Section 607(a)(2) of title
19 18, United States Code, is amended by striking “3 years”
20 and inserting “10 years”.

21 (f) **COERCION OF POLITICAL ACTIVITY BY FEDERAL**
22 **EMPLOYEES.—**Section 610 of title 18, United States
23 Code, is amended by striking “three years” and inserting
24 “10 years”.

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

3 Section 641 of title 18, United States Code, is
 4 amended by inserting “the District of Columbia or” before
 5 “the United States” each place that term appears.

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

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

9 (1) by inserting “section 641 (relating to em-
 10 bezzlement or theft of public money, property, or
 11 records),” after “473 (relating to counterfeiting),”;
 12 and

13 (2) by inserting “section 666 (relating to theft
 14 or bribery concerning programs receiving Federal
 15 funds),” after “section 664 (relating to embezzle-
 16 ment from pension and welfare funds),”.

17 (b) **CONFORMING AMENDMENTS.**—Section
 18 1956(e)(7)(D) of title 18, United States Code, is amend-
 19 ed—

20 (1) by striking “section 641 (relating to public
 21 money, property, or records),”; and

22 (2) by striking “section 666 (relating to theft
 23 or bribery concerning programs receiving Federal
 24 funds),”.

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

2 Section 2516(1)(e) of title 18, United States Code,
 3 is amended by inserting “section 641 (relating to embez-
 4 zlement or theft of public money, property, or records),
 5 section 666 (relating to theft or bribery concerning pro-
 6 grams receiving Federal funds),” after “section 224 (brib-
 7 ery in sporting contests),”.

8 **SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATU-**
 9 **ITIES.**

10 (a) DEFINITION.—Section 201(a) of title 18, United
 11 States Code, is amended—

12 (1) in paragraph (2), by striking “and” after
 13 the semicolon;

14 (2) in paragraph (3), by striking the period and
 15 inserting “; and”, and

16 (3) by inserting at the end the following:

17 “(4) the term ‘rule or regulation’ means a Fed-
 18 eral regulation or a rule of the House of Representa-
 19 tives and the Senate, including those rules and regu-
 20 lations governing the acceptance of campaign con-
 21 tributions.”.

22 (b) CLARIFICATION.—Section 201(e)(1) of title 18,
 23 United States Code, is amended—

24 (1) by striking the matter before subparagraph

25 (A) and inserting “otherwise than as provided by

1 law for the proper discharge of official duty, or by
2 rule or regulation—”;

3 (2) in subparagraph (A), by inserting after “,
4 or person selected to be a public official,” the fol-
5 lowing: “for or because of the official’s or person’s
6 official position, or for or because of any official act
7 performed or to be performed by such public official,
8 former public official, or person selected to be a pub-
9 lic official”; and

10 (3) in subparagraph (B)—

11 (A) by striking “otherwise than as pro-
12 vided by law for the proper discharge of official
13 duty,”; and

14 (B) by striking all after “anything of value
15 personally” and inserting “for or because of the
16 official’s or person’s official position, or for or
17 because of any official act performed or to be
18 performed by such official or person;”.

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

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

22 “(3) the term ‘official act’ means any action
23 within the range of official duty, and any decision or
24 action on any question, matter, cause, suit, pro-
25 ceeding or controversy, which may at any time be

1 pending, or which may by law be brought before any
 2 public official, in such public official's official capac-
 3 ity or in such official's place of trust or profit. An
 4 official act can be a single act, more than one act,
 5 or a course of conduct.”.

6 **SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIB-**
 7 **ERY.**

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

10 (1) in subsection (b), by striking “anything of
 11 value” each place it appears and inserting “any
 12 thing or things of value”; and

13 (2) in subsection (c), by striking “anything of
 14 value” each place it appears and inserting “any
 15 thing or things of value”.

16 **SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUC-**
 17 **TION OF JUSTICE PROCEEDINGS.**

18 (a) **IN GENERAL.**—Section 1512(i) of title 18, United
 19 States Code, is amended to read as follows:

20 “(i) A prosecution under section 1503, 1504, 1505,
 21 1508, 1509, 1510, or this section may be brought in the
 22 district in which the conduct constituting the alleged of-
 23 fense occurred or in which the official proceeding (whether
 24 or not pending or about to be instituted) was intended
 25 to be affected.”.

1 (b) PERJURY.—

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

5 **“§ 1624. Venue**

6 “A prosecution under section 1621(1), 1622 (in re-
7 gard to subornation of perjury under 1621(1)), or 1623
8 of this title may be brought in the district in which the
9 oath, declaration, certificate, verification, or statement
10 under penalty of perjury is made or in which a proceeding
11 takes place in connection with the oath, declaration, cer-
12 tificate, verification, or statement.”.

13 (2) CLERICAL AMENDMENT.—The table of sec-
14 tions at the beginning of chapter 79 of title 18,
15 United States Code, is amended by adding at the
16 end the following:

“1624. Venue.”.

17 **SEC. 16. AMENDMENT OF THE SENTENCING GUIDELINES**

18 **RELATING TO CERTAIN CRIMES.**

19 (a) DIRECTIVE TO SENTENCING COMMISSION.—Pur-
20 suant to its authority under section 994(p) of title 28,
21 United States Code, and in accordance with this section,
22 the United States Sentencing Commission shall review and
23 amend its guidelines and its policy statements applicable
24 to persons convicted of an offense under sections 201, 641,
25 and 666 of title 18, United States Code, in order to reflect

1 the intent of Congress that such penalties be increased
2 in comparison to those currently provided by the guide-
3 lines and policy statements.

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

6 (1) ensure that the sentencing guidelines and
7 policy statements reflect Congress' intent that the
8 guidelines and policy statements reflect the serious
9 nature of the offenses described in subsection (a);
10 the incidence of such offenses; and the need for an
11 effective deterrent and appropriate punishment to
12 prevent such offenses;

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

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

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

20 (C) whether the offense was committed for
21 purposes of commercial advantage or private fi-
22 nancial benefit;

23 (D) whether the defendant acted with in-
24 tent to cause either physical or property harm
25 in committing the offense;

1 ~~(E)~~ the extent to which the offense rep-
2 resented an abuse of trust by the offender and
3 was committed in a manner that undermined
4 public confidence in the Federal, State, or local
5 government; and

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

10 ~~(3)~~ assure reasonable consistency with other
11 relevant directives and with other sentencing guide-
12 lines;

13 (4) account for any additional aggravating or
14 mitigating circumstances that might justify excep-
15 tions to the generally applicable sentencing ranges;

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

18 (6) assure that the guidelines adequately meet
19 the purposes of sentencing as set forth in section
20 3553(a)(2) of title 18, United States Code.

1 **SEC. 17. PERMITTING THE DISCLOSURE OF INFORMATION**
 2 **REGARDING POTENTIAL CRIMINAL ACTIVITY**
 3 **TO APPROPRIATE LAW ENFORCEMENT AU-**
 4 **THORITIES.**

5 Section 360(a) of title 28, United States Code, is
 6 amended—

7 (1) in paragraph (2), by striking “or” after the
 8 semicolon;

9 (2) in paragraph (3), by striking the period and
 10 inserting “; or”; and

11 (3) by inserting after paragraph (3) the fol-
 12 lowing:

13 “(4) disclosure of information regarding a po-
 14 tential criminal offense may be made to the United
 15 States Department of Justice, a Federal, State, or
 16 local grand jury, or Federal, State, or local law en-
 17 forcement agents.”.

18 **SECTION 1. SHORT TITLE.**

19 *This Act may be cited as the “Public Corruption Pros-*
 20 *ecution Improvements Act”.*

21 **SEC. 2. EXTENSION OF STATUTE OF LIMITATIONS FOR SE-**
 22 **RIOUS PUBLIC CORRUPTION OFFENSES.**

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

1 **“§ 3299A. Corruption offenses**

2 *“Unless an indictment is returned or the information*
3 *is filed against a person within 6 years after the commis-*
4 *sion of the offense, a person may not be prosecuted, tried,*
5 *or punished for a violation of, or a conspiracy or an at-*
6 *tempt to violate the offense in—*

7 *“(1) section 201 or 666;*

8 *“(2) section 1341 or 1343, when charged in con-*
9 *junction with section 1346 and where the offense in-*
10 *volves a scheme or artifice to deprive another of the*
11 *intangible right of honest services of a public official;*

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

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

16 *“(5) section 1962, to the extent that the racket-*
17 *eering activity involves bribery chargeable under*
18 *State law, involves a violation of section 201 or 666,*
19 *section 1341 or 1343, when charged in conjunction*
20 *with section 1346 and where the offense involves a*
21 *scheme or artifice to deprive another of the intangible*
22 *right of honest services of a public official, or section*
23 *1951, if the offense involves extortion under color of*
24 *official right.”.*

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

“3299A. *Corruption offenses.*”.

4 (c) *APPLICATION OF AMENDMENT.*—*The amendments*
 5 *made by this section shall not apply to any offense com-*
 6 *mitted before the date of enactment of this Act.*

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

10 *Sections 1341 and 1343 of title 18, United States Code,*
 11 *are each amended by striking “money or property” and in-*
 12 *serting “money, property, or any other thing of value”.*

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

14 (a) *IN GENERAL.*—*The second undesignated para-*
 15 *graph of section 3237(a) of title 18, United States Code,*
 16 *is amended by adding before the period at the end the fol-*
 17 *lowing: “or in any district in which an act in furtherance*
 18 *of the offense is committed”.*

19 (b) *SECTION HEADING.*—*The heading for section 3237*
 20 *of title 18, United States Code, is amended to read as fol-*
 21 *lows:*

22 **“§3237. Offense taking place in more than one dis-**
 23 **trict”.**

24 (c) *TABLE OF SECTIONS.*—*The table of sections at the*
 25 *beginning of chapter 211 of title 18, United States Code,*

1 *is amended so that the item relating to section 3237 reads*
 2 *as follows:*

“3237. Offense taking place in more than one district.”.

3 **SEC. 5. THEFT OR BRIBERY CONCERNING PROGRAMS RE-**
 4 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

5 *Section 666 of title 18, United States Code, is amend-*
 6 *ed—*

7 *(1) in subsection (a)—*

8 *(A) in paragraph (1)(B), by—*

9 *(i) striking “anything of value” and*
 10 *inserting “any thing or things of value”;*
 11 *and*

12 *(ii) striking “of \$5,000 or more” and*
 13 *inserting “of \$1,000 or more”;*

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

16 *“(2) corruptly gives, offers, or agrees to give any*
 17 *thing or things of value to any person, with intent to*
 18 *influence or reward an agent of an organization or*
 19 *of a State, local or Indian tribal government, or any*
 20 *agency thereof, in connection with any business,*
 21 *transaction, or series of transactions of such organiza-*
 22 *tion, government, or agency involving any thing or*
 23 *things of value of \$1,000 or more;”;* and

1 (C) in the matter following paragraph (2),
2 by striking “ten years” and inserting “20
3 years”; and

4 (2) in subsection (c)—

5 (A) by striking “This section does not apply
6 to”; and

7 (B) by inserting before “bona fide salary”
8 the following: “The term ‘any thing or things of
9 value’ that is corruptly solicited, demanded, ac-
10 cepted or agreed to be accepted in subsection
11 (a)(1)(B) or corruptly given, offered, or agreed to
12 be given in subsection (a)(2) shall not include”.

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

14 Section 641 of title 18, United States Code, is amended
15 by striking “ten years” and inserting “20 years”.

16 **SEC. 7. PENALTY FOR SECTION 201 VIOLATIONS.**

17 Section 201 of title 18, United States Code, is amend-
18 ed—

19 (1) in subsection (b), by striking “fifteen years”
20 and inserting “20 years”; and

21 (2) in subsection (c), by striking “two years”
22 and inserting “5 years”.

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

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

6 (b) *PROMISE OF EMPLOYMENT FOR POLITICAL ACTIV-*
7 *ITY.*—*Section 600 of title 18, United States Code, is amend-*
8 *ed by striking “one year” and inserting “10 years”.*

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

13 (d) *INTIMIDATION TO SECURE POLITICAL CONTRIBU-*
14 *TIONS.*—*Section 606 of title 18, United States Code, is*
15 *amended by striking “three years” and inserting “10*
16 *years”.*

17 (e) *SOLICITATION AND ACCEPTANCE OF CONTRIBU-*
18 *TIONS IN FEDERAL OFFICES.*—*Section 607(a)(2) of title 18,*
19 *United States Code, is amended by striking “3 years” and*
20 *inserting “10 years”.*

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

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

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

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

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

9 *(1) by inserting “section 641 (relating to embez-*
 10 *zlement or theft of public money, property, or*
 11 *records),” after “473 (relating to counterfeiting),”;*

12 *(2) by inserting “section 666 (relating to theft or*
 13 *bribery concerning programs receiving Federal*
 14 *funds),” after “section 664 (relating to embezzlement*
 15 *from pension and welfare funds),”; and*

16 *(3) by inserting “section 1031 (relating to major*
 17 *fraud against the United States),” before “section*
 18 *1084”.*

19 *(b) CONFORMING AMENDMENTS.—Section*
 20 *1956(c)(7)(D) of title 18, United States Code, is amended—*

21 *(1) by striking “section 641 (relating to public*
 22 *money, property, or records),”; and*

23 *(2) by striking “section 666 (relating to theft or*
 24 *bribery concerning programs receiving Federal*
 25 *funds),”.*

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

2 *Section 2516(1)(c) of title 18, United States Code, is*
 3 *amended—*

4 *(1) by inserting “section 641 (relating to embez-*
 5 *zlement or theft of public money, property, or*
 6 *records), section 666 (relating to theft or bribery con-*
 7 *cerning programs receiving Federal funds),” after*
 8 *“section 224 (bribery in sporting contests),”; and*

9 *(2) by inserting “section 1031 (relating to major*
 10 *fraud against the United States),” before “section*
 11 *1032”.*

12 **SEC. 12. CLARIFICATION OF CRIME OF ILLEGAL GRATU-**
 13 **ITIES.**

14 *(a) DEFINITION.—Section 201(a) of title 18, United*
 15 *States Code, is amended—*

16 *(1) in paragraph (2), by striking “and” after the*
 17 *semicolon;*

18 *(2) in paragraph (3), by striking the period and*
 19 *inserting “; and”; and*

20 *(3) by inserting at the end the following:*

21 *“(4) the term ‘rule or regulation’ means a Fed-*
 22 *eral regulation or a rule of the House of Representa-*
 23 *tives or the Senate, including those rules and regula-*
 24 *tions governing the acceptance of gifts and campaign*
 25 *contributions.”.*

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

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

7 (2) *in subparagraph (A), by inserting after “, or*
8 *person selected to be a public official,” the following:*
9 *“for or because of the official’s or person’s official po-*
10 *sition, or for or because of any official act performed*
11 *or to be performed by such public official, former pub-*
12 *lic official, or person selected to be a public official”;*
13 *and*

14 (3) *in subparagraph (B)—*

15 (A) *by striking “otherwise than as provided*
16 *by law for the proper discharge of official duty,”;*
17 *and*

18 (B) *by striking all after “anything of value*
19 *personally” and inserting “for or because of the*
20 *official’s or person’s official position, or for or*
21 *because of any official act performed or to be*
22 *performed by such official or person;”.*

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

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

1 “(3) the term ‘official act’ means any action
 2 within the range of official duty, and any decision or
 3 action on any question, matter, cause, suit, pro-
 4 ceeding or controversy, which may at any time be
 5 pending, or which may by law be brought before any
 6 public official, in such public official’s official capac-
 7 ity or in such official’s place of trust or profit. An
 8 official act can be a single act, more than one act, or
 9 a course of conduct.”.

10 **SEC. 14. CLARIFICATION OF COURSE OF CONDUCT BRIB-**
 11 **ERY.**

12 Section 201 of title 18, United States Code, is amend-
 13 ed—

14 (1) in subsection (b), by striking “anything of
 15 value” each place it appears and inserting “any
 16 thing or things of value”; and

17 (2) in subsection (c), by striking “anything of
 18 value” each place it appears and inserting “any
 19 thing or things of value”.

20 **SEC. 15. EXPANDING VENUE FOR PERJURY AND OBSTRUC-**
 21 **TION OF JUSTICE PROCEEDINGS.**

22 (a) *IN GENERAL.*—Section 1512(i) of title 18, United
 23 States Code, is amended to read as follows:

24 “(i) A prosecution under section 1503, 1504, 1505,
 25 1508, 1509, 1510, or this section may be brought in the

1 *district in which the conduct constituting the alleged offense*
 2 *occurred or in which the official proceeding (whether or not*
 3 *pending or about to be instituted) was intended to be af-*
 4 *fecte*.”.

5 (b) *PERJURY*.—

6 (1) *IN GENERAL*.—Chapter 79 of title 18, United
 7 States Code, is amended by adding at the end the fol-
 8 lowing:

9 **“§ 1624. Venue**

10 “A prosecution under section 1621(1), 1621(2), 1622
 11 (in regard to subornation of perjury under 1621(1)), or
 12 1623 of this title may be brought in the district in which
 13 the oath, declaration, certificate, verification, or statement
 14 under penalty of perjury is made or in which a proceeding
 15 takes place in connection with the oath, declaration, certifi-
 16 cate, verification, or statement.”.

17 (2) *CLERICAL AMENDMENT*.—The table of sec-
 18 tions at the beginning of chapter 79 of title 18,
 19 United States Code, is amended by adding at the end
 20 the following:

“1624. Venue.”.

21 **SEC. 16. AMENDMENT OF THE SENTENCING GUIDELINES**
 22 **RELATING TO CERTAIN CRIMES.**

23 (a) *DIRECTIVE TO SENTENCING COMMISSION*.—Pursu-
 24 ant to its authority under section 994(p) of title 28, United
 25 States Code, and in accordance with this section, the United

1 *States Sentencing Commission shall review and amend its*
2 *guidelines and its policy statements applicable to persons*
3 *convicted of an offense under sections 201, 641, and 666*
4 *of title 18, United States Code, in order to reflect the intent*
5 *of Congress that such penalties be increased in comparison*
6 *to those currently provided by the guidelines and policy*
7 *statements.*

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

10 (1) *ensure that the sentencing guidelines and*
11 *policy statements reflect Congress' intent that the*
12 *guidelines and policy statements reflect the serious*
13 *nature of the offenses described in subsection (a), the*
14 *incidence of such offenses, and the need for an effec-*
15 *tive deterrent and appropriate punishment to prevent*
16 *such offenses;*

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

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

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

1 (C) whether the offense was committed for
2 purposes of commercial advantage or private fi-
3 nancial benefit;

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

7 (E) the extent to which the offense rep-
8 resented an abuse of trust by the offender and
9 was committed in a manner that undermined
10 public confidence in the Federal, State, or local
11 government; and

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

16 (3) assure reasonable consistency with other rel-
17 evant directives and with other sentencing guidelines;

18 (4) account for any additional aggravating or
19 mitigating circumstances that might justify excep-
20 tions to the generally applicable sentencing ranges;

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

23 (6) assure that the guidelines adequately meet
24 the purposes of sentencing as set forth in section
25 3553(a)(2) of title 18, United States Code.

1 **SEC. 17. PERMITTING THE DISCLOSURE OF INFORMATION**
 2 **REGARDING POTENTIAL CRIMINAL ACTIVITY**
 3 **TO APPROPRIATE LAW ENFORCEMENT AU-**
 4 **THORITIES.**

5 *Section 360(a) of title 28, United States Code, is*
 6 *amended—*

7 *(1) in paragraph (2), by striking “or” after the*
 8 *semicolon;*

9 *(2) in paragraph (3), by striking the period and*
 10 *inserting “; or”; and*

11 *(3) by inserting after paragraph (3) the fol-*
 12 *lowing:*

13 *“(4) such disclosure of information regarding a*
 14 *potential criminal offense is made to the United*
 15 *States Department of Justice, a Federal, State, or*
 16 *local grand jury, or Federal, State, or local law en-*
 17 *forcement agents.”.*

18 **SEC. 18. DEFINITION OF “SCHEME OR ARTIFICE TO DE-**
 19 **FRAUD”.**

20 *(a) IN GENERAL.—Chapter 63 of title 18, United*
 21 *States Code, is amended by inserting after section 1346 the*
 22 *following:*

23 **“§ 1346A. Additional definition of ‘scheme or artifice**
 24 **to defraud’**

25 *“(a) IN GENERAL.—For purposes of this chapter, the*
 26 *term ‘scheme or artifice to defraud’ also includes a scheme*

1 *or artifice by a public official to engage in undisclosed self-*
2 *dealing.*

3 “(b) *DEFINITIONS.—In this section—*

4 “(1) *the term ‘material information’ includes in-*
5 *formation—*

6 “(A) *regarding a financial interest de-*
7 *scribed in clauses (i) through (vi) of paragraph*
8 *(3)(A); and*

9 “(B) *regarding the association, connection,*
10 *or dealings by a public official with an indi-*
11 *vidual, business, or organization as described in*
12 *clauses (iii) through (vi) of paragraph (3)(A);*

13 “(2) *the term ‘official act’—*

14 “(A) *includes any act within the range of*
15 *official duty, and any decision or action on any*
16 *question, matter, cause, suit, proceeding, or con-*
17 *troversy, which may at any time be pending, or*
18 *which may by law be brought before any public*
19 *official, in such public official’s official capacity*
20 *or in such official’s place of trust or profit; and*

21 “(B) *can be a single act, more than 1 act,*
22 *or a course of conduct;*

23 “(3) *the term ‘public official’ means an officer,*
24 *employee, or elected or appointed representative, or*
25 *person acting for or on behalf of the United States,*

1 *a State, or subdivision of a State, or any department,*
2 *agency, or branch thereof, in any official function,*
3 *under or by authority of any such department, agen-*
4 *cy, or branch of government; and*

5 “(4) the term ‘undisclosed self-dealing’ means—

6 “(A) the performance of an official act by
7 a public official for the purpose, in whole or in
8 material part, of furthering or benefitting a fi-
9 nancial interest of—

10 “(i) the public official;

11 “(ii) the spouse or minor child of the
12 public official;

13 “(iii) a general partner of the public
14 official;

15 “(iv) a business or organization in
16 which the public official is serving as an
17 employee, officer, director, trustee, or gen-
18 eral partner;

19 “(v) an individual, business, or orga-
20 nization with whom the public official is
21 negotiating for, or has any arrangement
22 concerning, prospective employment or fi-
23 nancial compensation; or

24 “(vi) individual, business, or organiza-
25 tion from whom the public official has re-

1 *ceived any thing or things of value, other-*
2 *wise than as provided by law for the proper*
3 *discharge of official duty, or by rule or reg-*
4 *ulation; and*

5 *“(B) the knowing falsification, concealment,*
6 *or covering up of material information by a*
7 *public official that is required to be disclosed by*
8 *any Federal, State, or local statute, rule, regula-*
9 *tion, or charter applicable to the public official,*
10 *or the knowing failure of a public official to dis-*
11 *close material information in a manner that is*
12 *required by any Federal, State, or local statute,*
13 *rule, regulation, or charter applicable to the pub-*
14 *lic official.”.*

15 **(b) TECHNICAL AND CONFORMING AMENDMENT.**—*The*
16 *table of sections for chapter 63 is amended by inserting after*
17 *the item relating to section 1346 the following:*

“1346A. Additional definition of ‘scheme or artifice to defraud’.”.

18 **SEC. 19. CERTIFICATIONS REGARDING APPEALS BY UNITED**
19 **STATES.**

20 *Section 3731 of title 18, United States Code, is amend-*
21 *ed, in the second undesignated paragraph, by inserting*
22 *after “United States attorney” the following: “, Deputy At-*
23 *torney General, Assistant Attorney General, or the Attorney*
24 *General”.*

Calendar No. 119

112TH CONGRESS
1ST Session

S. 401

A BILL

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

JULY 28, 2011

Reported with an amendment