

110TH CONGRESS
1ST SESSION

S. 977

To amend chapter 11 of title 18, United States Code, to ensure United States attorneys are able to act impartially, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 23, 2007

Mr. SALAZAR introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend chapter 11 of title 18, United States Code, to ensure United States attorneys are able to act impartially, 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 “Furthering the Inde-
5 pendence of Federal Prosecutors Act of 2007”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to ensure that “The United
8 States Attorney is the representative not of an ordinary
9 party to a controversy, but of a sovereignty whose obliga-
10 tion to govern impartially is as compelling as its obligation

1 to govern at all”, as stated by the Supreme Court of the
2 United States in *Berger v. United States* 295 U.S. 78,
3 88 (1935).

4 **SEC. 3. UNITED STATES ATTORNEYS.**

5 (a) IN GENERAL.—Chapter 11 of title 18, United
6 States Code, is amended by inserting after section 219 the
7 following:

8 **“§ 220. United States attorneys**

9 “(a) IN GENERAL.—It shall be unlawful to inten-
10 tionally coerce, pressure, or attempt to influence the deci-
11 sion of a United States attorney regarding whether to con-
12 duct a criminal investigation or pursue a prosecution of
13 any person based on that person’s race, religion, sex, na-
14 tional origin, political activities, or political beliefs.

15 “(b) PENALTY.—Any person who violates subsection
16 (a) shall be fined not more than \$50,000, imprisoned for
17 not more than 1 year, or both.

18 “(c) ENFORCEMENT.—

19 “(1) IN GENERAL.—This section may be en-
20 forced only by a special prosecutor appointed under
21 paragraph (2).

22 “(2) PROCEDURES.—The Director of the Ad-
23 ministrative Office of the United States Courts shall
24 establish procedures that—

1 “(A) upon the request of a United States
 2 attorney, authorize a district court of the
 3 United States to appoint a United States attor-
 4 ney as a special prosecutor to investigate an al-
 5 leged violation of this section and prosecute a
 6 violation of this section;

7 “(B) require that any United States attor-
 8 ney appointed under subparagraph (A) was not
 9 involved in any conduct relating to that alleged
 10 violation of this section; and

11 “(C) provide for the oversight of an inves-
 12 tigation or prosecution by a United States at-
 13 torney appointed under subparagraph (A) by
 14 the district court making that appointment.”.

15 (b) **TECHNICAL AND CONFORMING AMENDMENT.**—
 16 The table of sections at the beginning of chapter 11 of
 17 title 18, United States Code, is amended by inserting after
 18 the item relating to section 219 the following:

“220. United States attorneys.”.

19 **SEC. 4. INITIATING AND DECLINING CHARGES; IMPERMIS-**
 20 **SIBLE CONSIDERATIONS.**

21 (a) **IN GENERAL.**—In determining whether to com-
 22 mence or recommend a prosecution or take other action
 23 against a person relating to a criminal investigation or
 24 prosecution, an attorney for the Government shall not con-
 25 sider—

1 (1) the race, religion, sex, national origin, or
2 political association, activities or beliefs of that per-
3 son;

4 (2) the personal feelings of that attorney con-
5 cerning that person, associates of that person, or the
6 victim; or

7 (3) the possible effect of the decision on the
8 professional or personal circumstances of that attor-
9 ney.

10 (b) CHARACTERISTICS PERTINENT TO OFFENSE.—If
11 a characteristic listed in subsection (a)(1) is pertinent to
12 an offense, the attorney for the Government may consider
13 that characteristic for the purpose intended by the Con-
14 gress.

15 (c) COMPLIANCE.—The Attorney General of the
16 United States shall ensure compliance with this section.

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