

May 20, 2003

The Honorable Edward M. Kennedy
United States Senate
Washington, D.C. 20510

Dear Senator Kennedy:

The undersigned organizations write to express our strong support for the JUDGES Act. Under the guise of addressing crimes against children, the recently enacted PROTECT Act (S. 151) effected broad and ill-considered changes to our federal sentencing system. In repealing those provisions that are not limited to child-related and sexual offenses, the JUDGES Act would help restore judicial discretion to impose just sentences in most federal cases.

Enacted without hearings or meaningful debate, Title IV of the PROTECT Act (the "Feeney Amendment") represents the most dramatic change to federal sentencing law since passage of the Sentencing Reform Act of 1984. It threatens to deprive judges of discretion to impose individualized sentences and transform the federal sentencing guidelines into a near-mandatory minimum sentencing system. As with mandatory minimum sentences, Title IV will increase unwarranted sentencing disparities and disproportionate sentences, and erode public confidence in our federal justice system.

No reliable evidence was offered to justify this curtailment of judicial discretion. On the contrary, statistics indicate that the overwhelming majority of sentences, other than those requested by the government to reward defendants for assisting in the prosecution of others, are within the range specified by the sentencing guidelines. Significantly, nearly 80% of all downward departures are requested by the government to reward assistance to the government or to manage the high volume of immigration cases in certain border districts.

These statistics solidly discredit Title IV's most disastrous provision **C** Section 401(m), which orders the Sentencing Commission to amend the guidelines so as to substantially reduce the number of departures. The JUDGES Act repeals that provision in favor of a neutral study of departures by the Sentencing Commission.

In carefully considering and enacting the Sentencing Reform Act of 1984 and eventually approving the Sentencing Guidelines, Congress struck a careful balance between sentencing uniformity and judicial discretion. Title IV of the PROTECT Act upsets this balance without justification and without due consideration for the opposing views of the

federal judiciary, the Sentencing Commission, the bar and many diverse groups from the left and right.

We appreciate your leadership in this area, and we look forward to working with you in support of the JUDGES Act.

Leadership Conference on Civil Rights
National Association of Criminal Defense Lawyers
National Legal Aid and Defender Association
National Association of Federal Defenders
Families Against Mandatory Minimums

May 22, 2003

The Honorable John Conyers, Jr.
House of Representatives
Washington, D.C. 20515

Dear Mr. Conyers:

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Leadership Conference on Civil Rights

National Association for the Advancement of Colored People (NAACP)

National Association of Criminal Defense Lawyers

National Legal Aid and Defender Association

National Association of Federal Defenders

Families Against Mandatory Minimums