

under chapter 8 of title 5, United States Code, of the final rule of the Department of Labor relating to "Interpretation of the 'Advice' Exemption in Section 203(c) of the Labor-Management Reporting and Disclosure Act".

S. CON. RES. 36

At the request of Mr. NELSON, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a co-sponsor of S. Con. Res. 36, a concurrent resolution expressing support of the goal of ensuring that all Holocaust victims live with dignity, comfort, and security in their remaining years, and urging the Federal Republic of Germany to reaffirm its commitment to that goal through a financial commitment to comprehensively address the unique health and welfare needs of vulnerable Holocaust victims, including home care and other medically prescribed needs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOOKER:

S. 3144. A bill to enforce the Sixth Amendment right to the assistance of effective counsel at all stages of the adversarial process, to confer jurisdiction upon the district courts of the United States to provide declaratory and injunctive relief against systemic violations of such right, and for other purposes; to the Committee on the Judiciary.

Mr. BOOKER. Mr. President, I rise to introduce the Clarence Gideon Full Access to Justice Act, Gideon Act, and the Equal Justice Under Law Act of 2016, two bills aimed at addressing the access to justice crisis. Today, America's broken justice system is riddled with deficiencies in our indigent defense system and gaps in legal services to the poor. To repair those shortcomings, these bills would improve the justice delivery system that serves people who are unable to afford counsel.

Gaps in legal services to the poor exist at all levels of our justice system. To fill in those gaps in the highest court of our land and better balance the scales of justice between the government and the defendants, the Gideon Act would establish an independent federal public defender office charged with representing poor defendants before the United States Supreme Court. To address the indigent defense crisis in the states, the Equal Justice Under Law Act would create a private right of action that allows a class of indigent defendants to sue in federal court when systemic violations of their Sixth Amendment rights to counsel occur.

In 1963, the Nation's highest court ruled that Americans have a Sixth Amendment right to an attorney in a criminal case, even if they cannot afford one. In *Gideon v. Wainwright*, the Supreme Court declared it an "obvious truth" that "any person haled into court, who is too poor to hire a lawyer,

cannot be assured a fair trial unless counsel is provided to him." By clarifying that counsel must not only be present, but be "effective," *Gideon* marked a landmark shift towards creating a justice system that safeguards equal justice under law for all.

Nearly 5 decades after *Gideon*, its promise of equal justice remains unfulfilled. Today, the federal government has no entity dedicated to furnishing legal counsel for criminal defendants in Supreme Court cases. Rather, lawyers in private practice who volunteer their services or public defenders who often have never argued before the High Court are often tasked with delivering competent legal representation to the poor in Supreme Court criminal cases.

The prosecution, however, has highly specialized lawyers from the U.S. Department of Justice who represent its interests. With a small cadre of lawyers from the Solicitor General's Office dedicated solely to Supreme Court litigation, the government amasses considerable appellate experience before the Court. As the most frequent advocate before the Court, the Solicitor General routinely files writs of certiorari and argues criminal cases each term. With this experience, the government has the opportunity, foreclosed to defendants with private attorneys, to establish familiarity and, ultimately, credibility with the Court.

The structural imbalance between prosecutors and defendants at the Supreme Court has a profound impact on our justice system. Without counsel trained and experienced in Supreme Court advocacy, the likelihood that cases are decided against criminal defendants increases. In addition, the development of criminal precedent can far too often tilt in favor of the government and against the civil rights of ordinary Americans seeking justice in criminal cases.

To address these structural deficiencies, I am introducing the Gideon Act. This bill would establish a Federal corporation called the Defender Office for Supreme Court Advocacy, which would be dedicated to Supreme Court advocacy on behalf of criminal defendants. The bill aims to breathe life into the Sixth Amendment's guarantee of effective assistance of counsel and to help level the playing field at the Supreme Court between prosecutors and defendants.

The Gideon Act would empower the office with critical tools to zealously represent indigent defendants at the front end, middle, and back end of the Supreme Court advocacy process.

At the front end, known as the writ of certiorari stage, the office would have authority to monitor noncapital Federal and State cases seeking Supreme Court review for Federal law issues. By allowing the office to file cert petitions in criminal cases, the office could have critical input into which criminal cases the Supreme Court accepts to hear and decide. By

empowering the office to consult with lawyers representing criminal defendants seeking the High Court's review, the office can serve as a resource to lawyers inexperienced in Supreme Court advocacy.

During the middle of the process, known as the merits stage, the office would be empowered to zealously represent the poor. From filing merits and "friend of the court" briefs to responding to the Court's "call for views" on complex criminal law issues to participating at oral argument in criminal cases, the office could provide all forms of advocacy on behalf of the poor. As such, the office would provide a necessary counter-weight for defendants to prosecutors' specialized Supreme Court expertise within Solicitor General's Office. It would also provide a centralized resource for defenders to develop uniformity on federal criminal case law.

On the back end, after a Supreme Court case is completed, the office could help train other defenders throughout the nation on the unique experience of practicing before the Supreme Court. In addition, the office would have the power to participate in appellate advocacy before the highest State courts in our land, if resources permit. This tool is necessary to help develop criminal case law nationwide since most criminal cases that the Supreme Court hears a term come Federal criminal law issues arising from State courts, rather than from Federal courts.

Today, I am also introducing the Senate companion to H.R. 5124, the Equal Justice Under Law Act. This bill aims to address America's public defense crisis, and I thank Rep. PATRICK MALONEY for his leadership on this bill in the House of Representatives.

Today, many State and local governments have failed to provide the funding necessary for public defenders to keep pace with the flood of criminal cases. Without resources, many public defenders lack the staff, training, or time to investigate each case adequately and prepare a robust legal defense. As a result of being underpaid and overworked, they are simply unable to provide the accused with their right to effective assistance of counsel.

Ample evidence exists that shows the state of public defense in America is in crisis. According to the American Bar Association, anywhere from 60 to 90 percent of criminal defendants need publically funded attorneys. Yet, due to a lack of resources, far too many public defenders are unable to meet this demand. In fact, a 2013 report from the Brennan Center for Justice concluded that public defense offices are so overworked and underfunded that clients are not getting the legal representation they need. Citing a funding disparity between the prosecution and public defenders, the report found that State prosecutors' office budgets were \$5.8 billion in 2007, while State and local public defender expenditures were only \$2.3 billion.

Excessive caseloads are another example of how Americans' right to counsel is defective. In 2009, the Constitution Project's National Right to Counsel Committee—comprised of current and former judges, prosecutors, public defenders, and law enforcement officials—released a report entitled "Justice Denied: America's Continuing Neglect of Our Constitutional Right to Counsel." The report found that all too often indigent defendants were provided counsel late or not at all. Even when a public defender represented a defendant, the report showed that lawyers' excessive caseloads made effective representation simply not possible. In conclusion, the report recommended "litigation to remedy such deficiencies should be instituted."

To help fix the indigent defense crisis, the Equal Justice Under Law Act of 2016 would implement this common-sense recommendation into action. The bill would create a federal cause of action that allows indigent criminal defendants to file a lawsuit against states and localities for systemic failures to provide effective assistance of counsel in felony cases. Litigation to be a useful tool to remedy systemic failures when indigent defense systems require defense attorneys to represent more clients than they can competently represent or otherwise fail to assure legal representation in compliance with the Sixth Amendment's right to counsel.

The bill would require states to consult with representatives from the public defender community prior to distributing Byrne JAG funds. Currently, Federal defenders are eligible for Byrne JAG funds. Yet, in practice, Federal defenders may not get the same proportion of these funds as prosecutors and law enforcement. So this provision would ensure that defenders are consulted before critical Federal funds are distributed.

This access to justice legislation has the support of numerous civil rights groups, such as the National Association for the Advancement of Colored People and the Innocence Project.

Our public defender system is broken. It is time we fix it. I am proud to introduce the Gideon Act and the Equal Justice Under Law Act and I urge their speedy passage.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 520—RE-AFFIRMING THE STRONG RELATIONSHIP, BOTH IN DEFENSE AND TRADE, BETWEEN THE UNITED STATES AND THE UNITED KINGDOM

Mr. RUBIO (for himself, Mr. JOHN-SON, and Mr. MCCONNELL) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 520

Whereas the United States and the United Kingdom have a special relationship ground-

ed in the rule of law, democratic principles, a common language, and a strong commitment to peace and security;

Whereas, on August 14, 1941, President Franklin Roosevelt and Prime Minister Winston Churchill issued the Atlantic Charter, which defined American and British war aims and laid the foundation for a post-war international system founded on free trade and freedom of the seas that persists to this day;

Whereas, on March 5, 1946, Winston Churchill delivered his "Iron Curtain Speech" in Fulton, Missouri, stating, "Neither the sure prevention of war, nor the continuous rise of world organization will be gained without what I have called the fraternal association of the English-speaking peoples . . . a special relationship between the British Commonwealth and Empire and the United States";

Whereas the United States and United Kingdom have stood side by side through two World Wars, the Korean War, the Cold War, the Gulf War, and the Global War on Terror with Americans and Britons fighting and dying together to defend our common interests and principles;

Whereas the United States and the United Kingdom have played central roles in the North Atlantic Treaty Organization (NATO) and are critical to maintaining its future strength;

Whereas senior military officers from the United Kingdom have served in advisory or command positions in United States headquarters, including combatant commands such as CENTCOM, and officers from the United States have served in similar roles in the British military;

Whereas the United States and United Kingdom made immense contributions in personnel and resources to the International Security Assistance Force (ISAF), the NATO-led effort to train the Afghan National Security Forces, and to assist the Afghan people in rebuilding their country;

Whereas the Defense Trade Cooperation Treaty between the United States and United Kingdom, which was signed in 2007, ratified by the Senate on September 29, 2010, and entered into force in April 2012, introduces greater cooperation and access in order to meet the requirements of mutual defense frameworks;

Whereas both nations continue a close strategic partnership in developing and maintaining an effective nuclear deterrent, including developing the next-generation of nuclear ballistic missile submarines and the continued deployment and modernization of a submarine-launched ballistic missile;

Whereas the close and expanding economic ties between the United States and United Kingdom, including the world's largest bilateral foreign direct investment partnership, have greatly contributed to the continued prosperity of both nations; and

Whereas, on June 23, 2016, the United Kingdom held a European Union membership referendum, and the British people voted to leave the European Union: Now, therefore, be it

Resolved, That the Senate—

(1) reaffirms that the special relationship between the United States and the United Kingdom will not be affected by the outcome of the June 23, 2016 referendum or by changes to the United Kingdom's relationship with the European Union;

(2) recognizes that continued defense and intelligence cooperation between the United States and United Kingdom is vital to the national security of both countries;

(3) supports the continued political and military leadership displayed by both nations in the North Atlantic Treaty Organiza-

tion (NATO) since it was founded 67 years ago; and

(4) urges the President to commence discussions with the Government of the United Kingdom, at their request, to ensure the continuance of our current bilateral trade relationship and as necessary, negotiations for the development of a free-trade agreement between our two countries.

SENATE RESOLUTION 521—EXPRESSING SUPPORT FOR THE DESIGNATION OF SEPTEMBER 2016 AS NATIONAL OVARIAN CANCER AWARENESS MONTH

Ms. AYOTTE (for herself, Ms. STABENOW, Mr. BROWN, Mr. BURR, Mr. COONS, Mrs. FEINSTEIN, Mr. MENENDEZ, Mr. PETERS, and Mr. RUBIO) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 521

Whereas ovarian cancer is the deadliest of all gynecologic cancers;

Whereas ovarian cancer is the fifth leading cause of cancer deaths among women in the United States;

Whereas in 2016, approximately 22,280 new cases of ovarian cancer will be diagnosed, and 14,240 women will die of ovarian cancer in the United States;

Whereas the mortality rate for ovarian cancer has not significantly decreased since the "War on Cancer" was declared more than 40 years ago;

Whereas a quarter of women will die within 1 year of diagnosis with ovarian cancer and over half will die within 5 years;

Whereas there is the mammogram to detect breast cancer and the Pap smear to detect cervical cancer, there is currently no reliable early detection test for ovarian cancer;

Whereas the lack of an early detection test means that approximately 80 percent of cases of ovarian cancer are detected at an advanced stage;

Whereas all women are at risk for ovarian cancer, and approximately 20 percent of women diagnosed with ovarian cancer have a hereditary disposition for ovarian cancer, which places them at even a higher risk;

Whereas scientists and physicians have uncovered changes in the BRCA genes that some women inherit from their parents, which may make them 30 times more likely to develop ovarian cancer;

Whereas the family history of a woman has been found to play an important role in accurately assessing her risk of developing ovarian cancer and medical experts believe the family history of a woman should be taken into consideration during her annual well woman visit;

Whereas many experts in health prevention now recommend genetic testing for young women with a family history of breast and ovarian cancer;

Whereas women who know they are at high risk of breast and ovarian cancer may undertake prophylactic measures to help reduce the risk of developing these diseases;

Whereas the Society of Gynecologic Oncology now recommends that all women diagnosed with ovarian cancer receive counseling and genetic testing;

Whereas many people are unaware that the symptoms of ovarian cancer often include bloating, pelvic or abdominal pain, difficulty eating or feeling full quickly, urinary symptoms, and several other symptoms that are easily confused with other diseases;