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Senate

FOSTER CARE INDEPENDENCE ACT

● Ms. SNOWE. Mr. President, I rise today to support the Foster Care Independence Act. I am a cosponsor of the foster care bill that was originally introduced in the Senate by our colleague, the late Senator John Chafee. Mr. President, this bill is an enormously important piece of legislation. It provides the means for States to support some of our most vulnerable children—teens who are facing the tenuous position of being dropped from foster care support for the simple reason that they are turning 18.

For many young people, the transition to adulthood is an exciting time of newfound independence. These young people navigate this challenging time with the help and support of their parents and family, secure in the knowledge that a ''safety net'' awaits them at home.

This momentous transition can be much more daunting, however, for the 20,000 foster children who make the difficult shift from foster care to independence and adulthood. Research has shown that these children—who average four homes in the final 7 years of their foster care—face many challenges when their benefits end and they are left on their own at the age of 18.

Today, there are more than 500,000 children in foster care throughout the United States—young people wrenched from the security of their homes by death, abuse, or other tragedy. For these children, foster parents offer the only support they know, and the abrupt end of care can make transition to adulthood all the more important. We are asking these teens to move out of their foster care and immediately become productive members of society—yet we forget that older foster kids face the same growing pains faced by teens in more stable homes. They are struggling with growing up, struggling with establishing their independence, and struggling to mature and develop their personal identity. But this struggle is made exponentially more difficult when the teens must also face the struggle of housing, poverty, and unemployment.

In 1986, Congress created the Independent Living Program to address the transitional needs of foster children as they reach the age when they are asked to live independently. Studies of teens who are forced to abruptly leave foster care have found that they have a significantly higher-than-normal rate of school dropouts, out-of-wedlock births, homelessness, health and mental health problems, poverty, and unemployment. One 1998 study of former foster care youth by researchers at the University of Wisconsin-Madison found that more than 40 percent of interviewed youth had been homeless, incarcerated, or had received public assistance since leaving State care. This same study found that during the 12- to 18-month period after leaving care, 44 percent of former care youths had difficulty obtaining medical care due to a lack of medical insurance and the high cost of care.

These foster children deserve a safe, stable, and nurturing environment in order for them to become productive, self-sufficient members of society. The Foster Care Independence Act will expand Independent Living Program services to provide this support for foster children who are 18 to 21 years old and are still learning valuable life skills. This bill will enable teens between the ages of 18 and 21 to successfully shift from foster families into independent adulthood. This bill will help teens during this important transition by doubling Independent Living Program funding and expanding access to Medicaid health care and mental health services through their 21st birthday.

Foster children frequently lack a sense of permanency and the skills that are essential to becoming self-reliant and productive adults. Through State-administered Independent Living Programs, foster children will be able to obtain mentoring and personal support. The expanded program will assist older foster care adolescents in obtaining a high school diploma and/or secondary education; career exploration; and preventative health services. They may also use this program to develop vital daily living skills such as budgeting, locating and maintaining housing, and financial planning.

We expect much of our youth because they are the future of our Nation. In turn, we must be willing to give them the support they need to learn, grow, and transition to productive and stable adult lives. The Foster Care Independence Act provides these crucial services for America's older foster children. As Congress works to conclude the first session of the 106th Congress, it is essential that the Senate echo the broad, bipartisan support given to this bill by the U.S. House of Representatives—which recently passed a companion bill by a large majority—and give these older foster children the stability they deserve.

Mr. President, we have all heard the old adage ''an ounce of prevention is worth a pound a cure.'' Surely this rings true for helping our older foster children in their transition to adulthood. I can think of no better tribute to Senator Chafee, in tribute to his memory and to his life's work as an advocate of America's children, to name this bill in honor of him. And for this reason I rise today in support of the bill and I ask my colleagues to vote for this tremendously important piece of legislation.●

CONTINUED REPORTING OF INTERCEPTED WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS ACT

● Mr. LEAHY. Mr. President, I am pleased that the Senate is today considering H.R. 3111 to exempt from automatic elimination and sunset certain reports submitted to Congress that are useful and helpful in informing the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Congress and the public about the activities of federal agencies in the enforcement of federal law. Senator HATCH and I offer as an amendment to H.R. 3111 the text of a bill, S. 1769, which I introduced with Chairman HATCH on October 22, 1999 and which passed the Senate on November 5, 1999. This amendment will continue and enhance the current reporting requirements for the Administrative Office of the Courts and the Attorney General on the eavesdropping and surveillance activities of our federal and state law enforcement agencies.

For many years, the Administrative Office (AO) of the Courts has complied with the statutory requirement, in 18 U.S.C. §2519(3), to report to Congress annually the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral or electronic communications. By letter dated September 3, 1999, the AO advised that it would no longer submit this report because ''as of December 21, 1999, the report will no longer be required pursuant to the Federal Reports Elimination and Sunset Act of 1995.'' I commend the AO for alerting Congress that their responsibility for the wiretap reports would lapse at the end of this year, and for doing so in time for Congress to take action.

The AO has done an excellent job of preparing the wiretap reports. We need to continue the AO's objective work in a consistent manner. If another agency took over this important task at this juncture and the numbers came out in a different format, it would immediately generate questions and concerns over the legitimacy and accuracy of the contents of that report.

In addition, it would create difficulties in comparing statistics from prior years going back to 1969 and complicate the job of congressional oversight. Furthermore, transferring this reporting duty to another agency might create delays in issuance of the report since no other agency has the methodology in place. Finally, federal, state and local agencies are well accustomed to the reporting methodology developed by the AO. Notifying all these agencies that the reporting standards and agency have changed would inevitably create more confusion and more expense as law enforcement agencies across the country are forced to learn a new system and develop a liaison with a new agency.

The system in place now has worked well and we should avoid any disruptions. We know how quickly law enforcement may be subjected to criticism over their use of these surreptitious surveillance tools and we should avoid aggravating these sensitivities by changing the reporting agency and methodology on little to no notice. I appreciate, however, the AO's interest in transferring the wiretap reporting requirement to another entity. Any such transfer must be accomplished with a minimum of disruption to the collection and reporting of information and with complete assurances that any new entity is able to fulfill this important job as capably as the AO has done.

The amendment would update the reporting requirements currently in place with one additional reporting requirement. Specifically, the amendment would require the wiretap reports prepared beginning in calendar year 2000 to include information on the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order.

Encryption technology is critical to protect sensitive computer and online information. Yet, the same technology poses challenges to law enforcement when it is exploited by criminals to hide evidence or the fruits of criminal activities. A report by the U.S. Working Group on Organized Crime titled, ''Encryption and Evolving Technologies: Tools of Organized Crime and Terrorism,'' released in 1997, collected anecdotal case studies on the use of encryption in furtherance of criminal activities in order to estimate the future impact of encryption on law enforcement. The report noted the need for ''an ongoing study of the affect of encryption and other information technologies on investigations, prosecutions, and intelligence operations.'' As part of this study, ''a database of case information from federal and local law enforcement and intelligence agencies should be established and maintained.'' Adding a requirement that reports be furnished on the number of occasions when encryption is encountered by law enforcement is a far more reliable basis than anecdotal evidence on which to assess law enforcement needs and make sensible policy in this area.

The final section of this amendment would codify the information that the Attorney General already provides on pen register and trap and trace device orders, and require further information on where such orders are issued and the types of facilities—telephone, computer, pager or other device—to which the order relates. Under the Electronic Communications Privacy Act (''ECPA'') of 1986, P.L. 99–508, codified at 18 U.S.C. 3126, the Attorney General of the United States is required to report annually to the Congress on the number of pen register orders and orders for trap and trace devices applied for by law enforcement agencies of the Department of Justice. As the original sponsor of ECPA, I believed that adequate oversight of the surveillance activities of federal law enforcement could only be accomplished with reporting requirements such as the one included in this law.

The reports furnished by the Attorney General on an annual basis compile information from five components of the Department of Justice: the Federal Bureau of Investigation, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service and the Office of the Inspector General. The report contains information on the number of original and extension orders made to the courts for authorization to use both pen register and trap and trace devices, information concerning the number of investigations involved, the offenses on which the applications were predicted and the number of people whose telephone facilities were affected.

These specific categories of information are useful, and the amendment would direct the Attorney General to continue providing these specific categories of information. In addition, the amendment would direct the Attorney General to include information on the identity, including the district, of the agency making the application and the person authorizing the order. In this way, the Congress and the public will be informed of those jurisdictions using this surveillance technique—information which is currently not included in the Attorney General's annual reports.

The requirement for preparation of the wiretap reports will soon lapse so I am delighted to see the Senate take prompt action on this legislation to continue the requirement for submission of the wiretap reports and to update the reporting requirements for both the wiretap reports submitted by the AO and the pen register and trap and trace reports submitted by the Attorney General.●

DIGITAL THEFT DETERRENCE AND COPYRIGHT DAMAGES IMPROVEMENT ACT OF 1999

● Mr. LEAHY. Mr. President, the Senate is today passing an important bill, H.R. 3456, which is the Hatch-Leahy-Schumer ''Digital Theft Deterrence and Copyright Damages Improvement Act of 1999.'' This legislation should help our copyright industries, which in turn helps both those who are employed in those industries and those who enjoy the wealth of consumer products, including books, magazines, movies, and computer software, that makes the vibrant culture of this country the envy of the world.

This legislation has already traveled an unnecessarily bumpy road to get to this stage of final passage, and it should be sent promptly to the President's desk.

On July 1, 1999, the Senate passed four intellectual property bills, which Senator HATCH and I had joined in introducing and which the Judiciary Committee had unanimously reported. Each of these bills (S. 1257, the text of which is considered today as H.R. 3456; S. 1258, the ''Patent Fee Integrity and Innovation Protection Act''; S. 1259, the ''Trademark Amendments Act''; and S. 1260, the ''Copyright Act Technical Corrections Act'') make important improvements to our intellectual

property laws, and I congratulate Senator HATCH for his leadership in moving these bills promptly through the Committee and the Senate.

Three of those four bills then passed the House without amendment and were signed by the President on August 5, 1999. The House sent back to the Senate S. 1257, the ''Digital Theft Deterrence and Copyright Damages Improvement Act,'' with two modifications which I will describe below. Working with Senator HATCH and our colleagues in the House, we agreed upon additional revisions in the bill, which was then introduced as H.R. 3456 and passed by the House yesterday in time for Senate consideration before the end of this congressional session.

I have long been concerned about reducing the levels of software piracy in this country and around the world. The theft of digital copyrighted works and, in particular, of software, results in lost jobs to American workers, lost taxes to Federal and State governments, and lost revenue to American companies. A recent report released by the Business Software Alliance estimates that worldwide theft of copyrighted software in 1998 amounted to nearly $11 billion. According to the report, if this ''pirated software has instead been legally purchased, the industry would have been able to employ 32,700 more people. In 2008, if software piracy remains at its current rate, 52,700 jobs will be lost in the core software industry.'' This theft also reflects losses of $991 million in tax revenue in the United States.

These statistics about the harm done to our economy by the theft of copyrighted software alone, prompted me to introduce the ''Criminal Copyright Improvement Act'' in both the 104th and 105th Congresses, and to work for passage of this legislation, which was finally enacted as the ''No Electronic Theft Act of 1997,'' Pub. L. 105–147. The current rates of software piracy show that we need to do better to combat this theft, both with enforcement of our current copyright laws and with strengthened copyright laws to deter potential infringes.

The Hatch-Leahy-Schumer ''Digital Theft Deterrence and Copyright Damages Improvement Act'' would help provide additional deterrence by amending the Copyright Act, 17 U.S.C. §504(c), to increase the amounts of statutory damages recoverable for copyright infringements. These amounts were last increased in 1988 when the United States acceded to the Berne Convention. Specifically, the bill would increase the cap on statutory damages by 50 percent, raising the minimum from $500 to $750 and raising the maximum from $20,000 to $30,000. In addition, the bill would raise from $100,000 to $150,000 the amount of statutory damages for willful infringements.

Courts determining the amount of statutory damages in any given case would have discretion to impose damages within these statutory ranges at just and appropriate levels, depending on the harm caused, ill-gotten profits obtained and the gravity of the offense. The bill preserves provisions of the current law allowing the court to reduce the award of statutory damages to as little as $200 in cases of innocent infringement and requiring the court to remit damages in certain cases involving nonprofit educational institutions, libraries, archives, or public broadcasting entities.

Finally, the bill provides authority for the Sentencing Commission expeditiously to fulfill its responsibilities under the ''No Electronic Theft Act,'' which directed the Commission to ensure that the guidelines provide for consideration of the retail value and quantity of the items with respect to which the intellectual property offense was committed. Since the time that this law became effective, the Sentencing Commission has not had a full slate of Commissioners serving. In fact, we have had no Commissioners since October, 1998. This situation was corrected on November 10th with the confirmation of seven new Commissioners.

As I noted, the House amended the version of S. 1257 that the Senate passed in July in two ways. First, the original House version of this legislation, H.R. 1761, contained a new proposed enhanced penalty for infringers who engage in a repeated pattern of infringement, but without any scienter requirement. I shared the concerns raised by the Copyright Office that this provision, absent a willfulness scienter requirement, would permit imposition of the enhanced penalty even against person who negligently, albeit repeatedly, engaged in acts of infringement. Consequently, the Hatch-Leahy-Schumer bill, S. 1257, that we sent to the House in July avoided casting such a wide net, which could chill legitimate fair uses of copyrighted works. Instead, the bill we sent to the House would have created a new tier of statutory damages allowing a court to award damages in the amount of $250,000 per infringed work where the infringement is part of a willful and repeated pattern or practice of infringement. The entire ''pattern and practice'' provision, which originated in the House, was removed from the version of S. 1257 sent back to the Senate.

Second, the original House version of this legislation provided a direction to the Sentencing Commission to amend the guidelines to provide an enhancement based upon the retail price of the legitimate items that are infringed and the quantity of the infringing items. I was concerned that this direction would require the Commission and, ultimately, sentencing judges to treat similarly a wide variety of infringement crimes, no matter the type and magnitude of harm. This was a problem we avoided in the carefully crafted Sentencing Commission directive originally passed as part of the ''No Electronic Theft Act.'' Consequently, the version of S. 1257 passed by the Senate in July did not include the directive to the Sentencing Commission. Nevertheless, the House returned S. 1257 to the Senate with the same problematic directive to the Sentencing Commission.

I appreciate that my House colleagues and interested stakeholders have worked over the past months to address my concerns over the breadth of the proposed directive to the Sentencing Commission, and to find a better definition of the categories of cases in which it would be appropriate to compute the applicable sentencing guideline based upon the retail value of the infringed upon item. A better solution than the one contained in the ''No Electronic Theft Act'' remains elusive, however.

For example, one recent proposal sought to add to S. 1257 a direction to the Sentencing Commission to enhance the guideline offense level for copyright and trademark infringements based upon the retail price of the legitimate products multiplied by the quantity of the infringing products, except where ''the infringing products are substantially inferior to the infringed upon products and there is substantial price disparity between the legitimate products and the infringing products.'' This proposed direction appears to be under-inclusive since it would not allow a guideline enhancement in cases where fake goods are passed off as the real item to unsuspecting consumers, even though this is clearly a situation in which the Commission may decide to provide an enhancement.

In view of the fact that the full Sentencing Commission has not had an opportunity for the past two years to consider and implement the original direction in the ''No Electronic Theft Act,'' passing a new and flawed directive appears to be both unnecessary and unwise. This is particularly the case since the new Commissioners have already indicated a willingness to consider this issue promptly. In response to questions posed at their confirmation hearings, each of the nominated Sentencing Commissioners indicated that they would make this issue a priority. For example, Judge William Sessions of the District of Vermont specifically noted that:

> If confirmed, our first task must be to address Congress' longstanding directives, including implementation of the guidelines pursuant to the NET Act. Congress directed the Sentencing Commission to fashion guidelines under the NET Act that are sufficiently severe to deter such criminal activity. I personally favor addressing penalties under this statute expeditiously.

I fully concur in the judgment of Chairman HATCH that the Sentencing Commission directive provision added by the House should be stricken. The House addressed these concerns by doing just that in the new version of the bill, H.R. 3456, which was introduced and passed by the House yesterday in time for Senate consideration before the end of this session.

This bill represents an improvement in current copyright law, and I commend its final passage.●

ZACHARY FISHER TRIBUTE

● Mr. CLELAND. Mr. President, I come before my colleagues today to pay tribute to a great American and dear friend, Mr. Zachary Fisher. Zach led an extraordinary life that included service to his fellow man and to our country. He was a major philanthropic benefactor for the men and women of the United States Armed Forces. His generosity was shared with numerous nonprofit organizations and foundations including causes such as Alzheimer's Disease, military retiree housing, and educational benefits for our men and women in uniform.

When the United States entered World War II in 1941, Zach was ineligible to serve in the armed forces due to a serious knee injury sustained in a construction accident. ''I could have cried,'' he said, recalling the day he was told he did not pass the Marine Corps physical. ''I wanted to go defend my country.''

Nevertheless, determined to do his part, he aided the U.S. Army Corps of Engineers in building coastal fortifications at home. Following the war, Zach, along with his brothers, earned an international reputation as a leader in the construction industry. Zach spent the rest of his life doing good deeds for his country, turning the wealth he earned as a developer into good will for the men and women of the armed services.

In 1978, Zach founded the Intrepid Museum Foundation to save the historic and battle-scarred aircraft carrier *Intrepid*. Through his efforts the vessel became the home of the Intrepid Sea Air Space Museum, which opened in New York City in 1982. Zach went on to contribute more than $25 million for the establishment and operation of the Museum, a tribute to the thousands of military men and women who have served and continue to serve our country.

In addition to founding the Intrepid Museum, Zach and his wife Elizabeth also formed the Fisher Armed Services Foundation to provide contributions to families who survive the death of a loved one in the armed service. Since then, the Foundation has supported hundreds of families of military personnel.

The Foundation also provides scholarship funds to active duty and former service members as well as their families. Since 1987, hundreds of students have received significant scholarships to further their education. In 1990, the Fishers began the Fisher House Program, dedicating more than $15 million to the construction of housing for families of hospitalized military personnel. The houses are designed to provide all the comforts of home and allow families to support one another through their difficult times.

The Presidential Medal of Freedom Award, the highest honor that can be awarded a United States citizen, was presented to Zachary Fisher by President Clinton in 1998. Fisher was awarded the Medal for his steadfast and generous support of the U.S. military. His support of the military was also recognized this year as legislation, which I had the honor of sponsoring in the Senate designating Zachary Fisher as an honorary veteran of the United States Armed Forces. Zach was only the second person ever to receive such a designation. In addition, Zach was also awarded the Congressional Medal of Freedom.

Sadly, Zach lost his long battle with cancer on June 4, 1999. Zach was truly the friend of the everyday soldier. He will be dearly missed and remembered for his selfless devotion to United States service members and their families. Zachary Fisher was a great man who leaves behind a legacy that will continue to better the lives of American men and women for years to come.●

GEORGIA BOARD OF REGENTS

● Mr. CLELAND. Mr. President, I rise before you today to recognize the outstanding achievements and hard work of the Georgia Board of Regents. This dedicated group of men and women has committed itself to improving higher education in the state of Georgia and I am proud of their accomplishments. As John F. Kennedy said, ''Our progress as a nation can be no swifter than our progress in education.''

Over the past five years, the Regents have developed a commitment to bring the Georgia higher education system into the new millennium through strategic planning and sweeping vision. In October of 1994, just as Dr. Stephen Porch was officially inaugurated as the University System's ninth Chancellor, the Board adopted the first step of a new program, ''Access to Academic Excellence for the New Millennium.'' The Board called for Georgia's public colleges and universities to be recognized for first-rate education, leading edge research and committed public service. The Board's new statement took into account input from various student groups, University and Regent presidents, and leaders in the education community.

Later that same year, the Regents adopted a new set of guiding principles to serve as the foundation for future policy making and modified the affiliated graduate degree structure. This cleared the way for institutions throughout the state to offer graduate programs autonomously, collectively, or under shared authority.

In March of 1995, Chancellor Porch introduced another new policy direction to address the need for ''co-reform'' of public education in the state. This reform was an effort to recognize that all sectors of education are fundamentally linked and that improvement in one sector requires a comprehensive effort of all sectors. Governor Miller's support of this initiative became a critical element in its success and he appointed a statewide Council to implement the directive.

Throughout 1995, the Board of Regents continued to see successes in its effort to improve the delivery of education throughout Georgia. In June, the Board introduced a new admissions policy with the goal of breaking the cycle of low admissions expectations and inadequate college preparation. The new admissions policy aimed to make such changes in two ways: fostering more effective preparation of students before they are accepted for admission; and broadening the admissions evaluation process to look beyond single quantitative measures such as standardized test scores.

In 1996, the Board approved the framework for a new core curriculum, just eight months after the first meeting of the Advisory Committee meeting. The committee was charged with redesigning the original core curriculum—a redesign that focused on a multidisciplinary effort that maximizes the resources of a particular institution.

All of these efforts came together in December of 1997 when the Board gave final approval on the University System's new admissions policy. This approval included policy on admissions for students without a high school diploma and outlines specific courses that fulfill the College Preparatory Curriculum requirements.

In August of 1998, Chancellor Porch began a tour of all 34 System institutions. He travelled to update faculty, staff, students and elected officials as well as local communities on the progress the University System had made over the past four years, and the work that remains to be done to create a more educated Georgia.

By this fall, the members of the Georgia Board of Regents saw the fruits of their labor. SAT scores of students entering the University System were up, and a survey of state business leaders showed their satisfaction with the quality of the University had increased from two years prior. Plans to increase access to technology were drafted, and an effort to be even more responsive to the educational, economic and fiscal needs of the state was committed. As Ben Franklin once said, ''An investment in knowledge always pays the best interest.'' How true that is.

I once heard Marian Wright Edelman of the Children's Defense Fund say that ''service is the rent each of us pays for living.'' I want to thank the men and women of the Georgia Board of Regents for their service and dedication to the higher educational system in the great state of Georgia. We will all benefit from your efforts.

At this point, I would ask to include in the RECORD the names and hometowns of the distinguished Georgians who have served on the state's Board of Regents from January 1993 to the present.

The material follows:

Thomas F. Allgood, Sr. of Augusta; Shannon L. Amos of Columbus; John Henry Anderson, Jr. of Hawkinsville; David H. (Hal) Averitt of Statesboro; Juanita Powell Baranco of Lithonia; James E. Brown of Dalton; Kenneth W. Cannestra of Atlanta;

Connie Carter of Macon; John Howard Clark of Moultrie; S. William Clark of Waycross; J. Tom Coleman of Savannah; W. Lamar Cousins of Marietta; Joel Cowan of Peachtree City; A.W. ''Bill'' Dahlberg of Atlanta; Suzanne G. Elson of Palm Beach, FL; Dwight Evans of Gulfport, MS; Elsie B. Hand of Pelham; Joe Frank Harris of Cartersville; Hilton H. Howell, Jr. of Atlanta; George Hunt of Tifton; Edgar Jenkins of Jasper; Warren Y. Jobe of Atlanta; Charles H. Jones of Macon; Donald M. Leebern, Jr. of Columbus; Elridge W. McMillian of Atlanta; Martin W. NeSmith of Claxton; Barry Phillips of Atlanta; Edgar L. Rhodes of Bremen; William B. Turner of Columbus; Glenn S. White of Buford; Virgil R. Williams of Stone Mountain; Joel O. Wooten, Jr. of Columbus; and James D. Yancy of Columbus.●