

Statement of

# The Honorable Patrick Leahy

United States Senator  
Vermont  
October 23, 2003

Opening Statement of Senator Patrick Leahy  
Executive Business Meeting of the Senate Judiciary Committee  
October 23, 2003

This week the Committee is considering a number of presidential nominations. Yesterday, the Committee held its 20th judicial confirmation hearing this year. In our 17 months in the majority, Democrats worked hard to confirm 100 judges, and in a little over 15 months, the Republican majority has confirmed 66. They are clearly working harder than during the years President Clinton was in office and the Republican majority held an average of only eight hearings a year, as compared to the 20 already this year. So far this year this Committee has considered 76 nominees in hearings and the Senate has confirmed 66, as compared to the 38 per year average when there was a Democrat in the White House. At yesterday's hearing number 20 we heard from another controversial nominee, Janice Rogers Brown, nominated to the U.S. Court of Appeals for the D.C. Circuit. With our confirmation earlier this year of Judge John Roberts, we have already confirmed more judges for the D.C. Circuit than Republicans were willing to consider in the last three years of the Clinton Administration. Today on the agenda we have another of the more than two dozen judicial nominees by the President who have received peer reviews from the ABA that include a "not qualified" or partial "not qualified" rating. The nomination of Judge Dora Irizarry has not been without controversy or negative editorial opinion from New York papers.

We finally have on the agenda a nominee to a bipartisan commission, the U.S. Sentencing Commission selected in a bipartisan manner. Senator Hatch and I wrote jointly to the President to recommend the reappointment of Judge Sessions to the Commission.

Before us today is also the DREAM Act, an initiative that Senator Durbin and Senator Hatch have championed and many members of the Committee have supported, and one that deserves to be reported out. Also on the agenda is a matter on which Senators Levin and Schumer have been working for some time to provide background checks on private security guards.

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Statement of Senator Patrick Leahy  
Ranking Member, Senate Judiciary Committee  
S. 1545, Development, Relief, and Education for Alien Minors Act of 2003  
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As a strong supporter and cosponsor of S. 1545, the Hatch/Durbin Development, Relief, and Education for Alien Minors Act of 2003, I am very pleased that the Committee has reported this bill today. I would have preferred the original bill to the version we have approved today, but no one should doubt that the amended bill will cause a major improvement in the lives of many young people in America. Senators Durbin and Hatch deserve enormous credit for shepherding this bill through the committee, and I applaud them for their fine work.

In the 1996 Illegal Immigration Reform and Immigrant Responsibility Act, Congress dictated to the States that they could not offer post-secondary educational benefits to unauthorized alien students, unless the States offered the same benefits to all U.S. citizens. That provision, section 505 of the Act, attempted to prevent States from offering in-state tuition to undocumented alien residents. This substitute amendment will repeal that section and free the States to set their own higher education policy.

In addition to allowing States to decide whether to provide in-state tuition for undocumented aliens, this bill will allow an alien child to become a legal permanent resident if he or she: (a) entered the United States before his or her 16th birthday and has been in the country for at least five years; (b) is a person of good moral character; and (c) is not inadmissible on criminal, security, or certain other specified grounds; (d) has been admitted to an institution of higher education or received a high school or equivalent degree; and (e) has never been ordered removed from the country from the age of 16. This important provision will free students from constantly fearing deportation, and allow them to work so they can afford to pay for college.

I have heard Senators Durbin and Hatch speak with passion - both at last week's markup and in previous years - about the fine high school students they have known who have been harmed by the 1996 law. Even before that law, undocumented alien students were barred from receiving Federal financial aid, and most States barred them from receiving State aid. The bar to in-state tuition was the final nail in the coffin for the hopes of many alien children who came to the United States as young children.

Some have said that these children should not benefit from the American educational system because they are here illegally. I disagree. First, these children did not make the choice to enter the United States illegally. They were brought here and do not deserve to be punished for that. Second, denying these children a college education is shortsighted. Only a small fraction of people who are here illegally are deported. Most of the rest continue to work and live here. It can only benefit American society and our economy to have this substantial population receive an education, and to provide these children with an avenue to remain here. Finally, as I pointed out last week, the Supreme Court has ruled that illegal aliens are entitled to elementary and secondary public education. It is perverse to erect a roadblock to higher education once we have devoted so many resources to providing the educational basics.

I urge the Senate to pass this bill as promptly as possible.

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Statement of Senator Patrick Leahy  
Ranking Member, Senate Judiciary Committee  
S. 1194, The Mentally Ill Offender Treatment and Crime Reduction Act of 2003  
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The Mentally Ill Offender Treatment and Crime Reduction Act is a good bipartisan bill that would help state and local governments deal effectively with a serious law enforcement and mental health problem - the extent to which mentally ill individuals commit crimes and recidivate without ever receiving appropriate attention from the mental health, law enforcement, or corrections systems. The New York Times reported just yesterday on a Human Rights Watch report discussing the fact "that jails and prisons have become the nation's default mental health system." The first recommendation in the report was for Congress to enact this bill.

I have been pleased to work on this bill with Senator DeWine, who has shown real commitment and leadership on this issue. I am also pleased that Senators Hatch, Durbin, and Grassley are cosponsors of this bill.

All too often, people with mental illness rotate repeatedly between the criminal justice system and the streets of our communities, committing a series of minor offenses. The ever scarcer time of our law

enforcement officers is being occupied by these offenders, who divert them from more urgent responsibilities. Meanwhile, offenders find themselves in prisons or jails, where little or no appropriate medical care is available for them. This bill gives state and local governments the tools to break this cycle, for the good of law enforcement, corrections officers, the public safety, and mentally ill offenders themselves.

I held a Judiciary Committee hearing last June on the criminal justice system and mentally ill offenders. At that hearing, we heard from state mental health officials, law enforcement officers, corrections officials, and the representative of counties around our nation. All of our witnesses agreed that people with untreated mental illness are more likely to commit crimes, and that our state mental health systems, prisons and jails do not have the resources they need to treat the mentally ill, and prevent crime and recidivism. We know that more than 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness, that about 20 percent of youth in the juvenile justice system have serious mental health problems, and that up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives. We know these things, but we have not done enough about them at the Federal level, and our state and local officials need our help.

The bill does not mandate a "one size fits all" approach to addressing this issue. Rather, it allows grantees to use the funding authorized under the bill for mental health courts or other court-based programs, for training for criminal justice and mental health system personnel, and for better mental health treatment in our communities and within the corrections system. The funding is also generous enough to make a real difference, with \$100 million authorized for each of the next two fiscal years. This is an area where government spending can not only do good but can also save money in the long run - a dollar spent today to get mentally ill offenders effective medical care can save many dollars in law enforcement costs in the long run.

This bill has brought law enforcement officers and mental health professionals together, as we have seen at both of the hearings the Committee has held on this issue. I hope it also brings together the members of this Committee.