create a safe area for members of the Tribe to live and rebuild their community.

SEC. 3. DEFINITIONS.

For the purposes of this Act——

(1) the term ''Federal land'' mean the Federal lands described in section 4(c)(2);

(2) the term ''Reservation'' means the reservation of the Hoh Indian Tribe;

(3) the term ''Secretary'' means the Secretary of the Interior; and

(4) the term ''Tribe'' means the Hoh Indian Tribe, a federally recognized Indian tribe.

SEC. 4. TRANSFER OF LANDS TO BE HELD IN TRUST AS PART OF THE TRIBE'S RESERVATION; PLACEMENT OF OTHER LAND INTO TRUST.

(a) IN GENERAL.—The Secretary shall transfer to the Tribe all right, title, and interest of the United States in and to the Federal land. Such land shall be held in trust by the United States for the benefit of the Tribe. Such land shall be excluded from the boundaries of Olympic National Park. At the request of the Tribe, at the time of transfer of the Federal land, the Secretary shall also place into trust for the benefit of the Tribe the non-Federal land owned by the Tribe and described in subsection (c)(1).

(b) RESERVATION.—Land taken into trust for the Tribe pursuant to subsection (a) shall be part of the Reservation.

(c) DESCRIPTION OF LANDS.—The land to be transferred and held in trust under subsection (a) is the land generally depicted on the map titled ''H.R. _____ Hoh Indian Tribe Safe Homelands Act'', and dated _____ and further described as—

(1) the non-Federal land owned by the Hoh Tribe; and

(2) the Federal land administered by the National Park Service, located in Section 20, Township 26N, Range 13W, W.M. South of the Hoh River.

(d) AVAILABILITY OF MAP.—Not later than 120 days after the completion of the land transfer of Federal land under this section, the Secretary shall make the map available to the appropriate agency officials and congressional committees. The map shall be available for public inspection in the appropriate offices of the Secretary.

(e) CONGRESSIONAL INTENT.—It is the intent of Congress that—

(1) the condition of the Federal land at the time of the transfer under this section should be preserved and protected;

(2) that the natural environment existing on the Federal land at the time of the transfer under this section should not be altered, except as described in this Act; and

(3) the Tribe and the National Park Service shall work cooperatively on issues of mutual concern related to this Act.

SEC. 5. PRESERVATION OF EXISTING CONDITION OF FEDERAL LAND; TERMS OF CONSERVATION AND USE IN CONNECTION WITH LAND TRANSFER.

(a) RESTRICTIONS ON USE.—The use of the Federal land transferred pursuant to section 4 is subject to the following conditions:

(1) No commercial, residential, industrial, or other buildings or structures shall be placed on the Federal land being transferred and placed into trust. The existing road may be maintained or improved, but no major improvements or road construction shall occur on the lands.

(2) In order to maintain its use as a natural wildlife corridor and to provide for protection of existing resources, no logging or hunting shall be allowed on the land.

(3) The Tribe may authorize tribal members to engage in ceremonial and other treaty uses of these lands and existing tribal treaty rights are not diminished by this Act.

(4) The Tribe shall survey the boundaries of the Federal land and submit the survey to the National Park Service for review and concurrence.

(b) COOPERATIVE EFFORTS.—Congress urges the Secretary and the Tribe to enter into written agreements on the following:

(1) Upon completion of the Tribe's proposed emergency fire response building, Congress urges the parties to work toward mutual aid agreements.

(2) The National Park Service and the Tribe shall work collaboratively to provide opportunities for the public to learn more about the culture and traditions of the Tribe.

(3) The land may be used for the development of a multi-purpose, non-motorized trail from Highway 101 to the Pacific Ocean. The parties agree to work cooperatively in the development and placement of such trail.

SEC. 6. HOH INDIAN RESERVATION.

All lands taken into trust by the United States under this Act shall be a part of the Hoh Indian Reservation.

SEC. 7. GAMING PROHIBITION.

No land taken into trust for the benefit of the Hoh Indian Tribe under this Act shall be considered Indian lands for the purpose of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.).

By Mr. SPECTER (for himself, Ms. LANDRIEU, Mr. CARPER, Mr. KERRY, Mrs. MCCASKILL, and Mr. COCHRAN):

S. 445. A bill to provide appropriate protection to attorney-client privileged communications and attorney work product; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition today to reintroduce the Attorney-Client Privilege Protection Act of 2009, which is nearly identical to S. 3217, a bill I introduced in July of 2008 under the same name. This legislation continues to address the Department of Justice's corporate prosecution guidelines. Those guidelines, last revised by Deputy Attorney General Mark Filip in August 2008, erode the attorney-client relationship by allowing prosecutors to continue considering the provision of privileged information in order for corporations to receive cooperation credit.

To their credit, the Filip guidelines preclude prosecutors from asking for privilege waivers in nearly all circumstances. However, as evidenced by the numerous versions of the Justice Department's corporate prosecution guidelines over the past decade, the Filip reforms cannot be trusted to remain static. Moreover, unlike Federal law—which requires the assent of both houses and the President's signature or a super-majority in Congress—the Filip guidelines are subject to unilateral executive branch modification. Therefore, to avoid a recurrence of prosecutorial abuses and attorney-client privilege waiver demands, legislation is necessary.

Like my previous bills, this bill will protect the sanctity of the attorney-client relationship by statutorily prohibiting Federal prosecutors and investigators across the executive branch from requesting waiver of attorney-client privilege and attorney work product protections in corporate investigations. The bill would similarly prohibit the government from conditioning charging decisions or any adverse treatment on an organization's payment of employee legal fees, invocation of the attorney-client privilege, or agreement to a joint defense agreement.

The bill makes many subtle improvements over earlier iterations, including defining ''organization'' to make clear that continuing criminal enterprises and terrorist organizations will not benefit from the bill's protections. The bill also clarifies language that the Department of Justice had previously criticized as ambiguous. The bill further makes clear in its findings that its prohibition on informal privilege waiver demands is far from unprecedented. The bill states: ''Congress recognized that law enforcement can effectively investigate without attorney-client privileged information when it banned Attorney General demands for privileged materials in the Racketeer Influenced and Corrupt Organizations Act. See 18 U.S.C. §1968(c)(2).''

Though an improvement over past guidelines, there is no need to wait to see how the Filip guidelines will operate in practice. There is similarly no need to wait for another Department of Justice or executive branch reform that will likely fall short and become the sixth policy in the last 10 years. Any such internal reform may prove fleeting and might not address the privilege waiver policies of other government agencies that refer matters to the Department of Justice, thus allowing in through the window what isn't allowed through the door.

As I said when I introduced my first bill on this subject, the right to counsel is too important to be passed over for prosecutorial convenience or Executive Branch whimsy. It has been engrained in American jurisprudence since the 18th century when the Bill of Rights was adopted. The 6th Amendment is a fundamental right afforded to individuals charged with a crime and guarantees proper representation by counsel throughout a prosecution. However, the right to counsel is largely ineffective unless the confidential communications made by a client to his or her lawyer are protected by law. As the Supreme Court observed in Upjohn Co. v. United States, ''the attorney-client privilege is the oldest of the privileges for confidential communications known to the common law.'' When the Upjohn Court affirmed that attorney-client privilege protections apply to corporate internal legal dialogue, the Court manifested in the law the importance of the attorney-client privilege in encouraging full and frank communication between attorneys and their clients, as well as the broader public interests the privilege serves in fostering the observance of law and the administration of justice. The Upjohn Court also made clear that the value of legal advice and advocacy depends on the lawyer having been fully informed by the client.

In addition to the importance of the right to counsel, it is also fundamental

that the Government has the burden of investigating and proving its own case. Privilege waiver tends to transfer this burden to the organization under investigation. As a former prosecutor, I am well aware of the enormous power and tools a prosecutor has at his or her disposal. The prosecutor has enough power without the coercive tools of the privilege waiver, whether that waiver policy is embodied in the Holder, Thompson, McCallum, McNulty, or Filip memorandum.

As in my prior bills designed to protect the attorney-client privilege, this bill amends title 18 of the United States Code by adding a new section, §3014, that would prohibit any agent or attorney of the U.S. Government in any criminal or civil case to demand or request the disclosure of any communication protected by the attorney-client privilege or attorney work product. The bill would also prohibit government lawyers and agents from basing any charge or adverse treatment on whether an organization pays attorneys' fees for its employees or signs a joint defense agreement.

This legislation is needed to ensure that constitutional protections of the attorney-client relationship are preserved in Federal prosecutions and investigations.

By Mr. SPECTER (for himself, Mr. GRASSLEY, Mr. DURBIN, Mr. SCHUMER, Mr. FEINGOLD, and Mr. CORNYN):

S. 446. A bill to permit the televising of Supreme Court proceedings; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, once more I seek recognition to introduce legislation that will give the public greater access to our Supreme Court. This bill requires the High Court to permit television coverage of its open sessions unless it decides by a majority vote of the Justices that allowing such coverage in a particular case would violate the due process rights of one or more of the parties involved in the matter.

The purpose of this legislation is to open the Supreme Court doors so that more Americans can see the process by which the Court reaches critical decisions of law that affect this country and everyday Americans. The Supreme Court makes pronouncements on Constitutional and Federal law that have a direct impact on the rights of Americans. Those rights would be substantially enhanced by televising the oral arguments of the Court so that the public can see and hear the issues presented to the Court. With this information, the public would have insight into key issues and be better equipped to understand the impact of and reasons for the Court's decisions.

In a very fundamental sense, televising the Supreme Court has been implicitly recognized—perhaps even sanctioned—in a 1980 decision by the Supreme Court of the United States entitled Richmond Newspapers v. Virginia. In this case, the Court noted that a public trial belongs not only to the accused but to the public and the press as well and recognized that people now acquire information on court procedures chiefly through the print and electronic media.

That decision, in referencing the electronic media, appears to anticipate televising court proceedings, although I do not mean to suggest that the Supreme Court is in agreement with this legislation. I should note that the Court could, on its own initiative, televise its proceedings but has chosen not to do so. This presents, in my view, the necessity for legislating on this subject.

When I argued the case of the Navy Yard, Dalton v. Specter, back in 1994, the Court proceedings were illustrated by an artist's drawings—some of which now hang in my office. Today, the public gets a substantial portion, if not most, of its information from television and the internet. While many court proceedings are broadcast routinely on television, the public has little access to the most important and highest court in this country. Although the internet has made the Court's transcripts, and even more recently, audio recordings, more widely accessible, the public is still deprived of the real time transmission of audio and video feeds from the Court. I believe it is vital for the public to see, as well as to hear, the arguments made before the Court and the interplay among the justices. I think the American people will gain a greater respect for the way in which our High Court functions if they are able to see oral arguments.

Justice Felix Frankfurter perhaps anticipated the day when Supreme Court arguments would be televised when he said that he longed for a day when: ''The news media would cover the Supreme Court as thoroughly as it did the World Series, since the public confidence in the judiciary hinges on the public's perception of it, and that perception necessarily hinges on the media's portrayal of the legal system.''

When I spoke in favor of this legislation in September of 2000, I said, ''I do not expect a rush to judgment on this very complex proposition, but I do believe the day will come when the Supreme Court of the United States will be televised. That day will come, and it will be decisively in the public interest so the public will know the magnitude of what the Court is deciding and its role in our democratic process.'' I have continued to reiterate those sentiments in September of 2005 and in January of 2007 when I re-introduced identical bills. Today, I continue to support this legislation because I believe that it is crucial to the public's awareness of Supreme Court proceedings and their impact on the daily lives of all Americans.

I pause to note that it was not until 1955 that the Supreme Court, under the leadership of Chief Justice Warren, first began permitting audio recordings of oral arguments. Between 1955 and 1993, there were apparently over 5,000 recorded arguments before the Supreme Court. That roughly translates to an average of about 132 arguments annually. But audio recordings are simply ill suited to capture the nuance of oral arguments and the sustained attention of the American citizenry. Nor is it any response that people who wish to see open sessions of the Supreme Court should come to the Capital and attend oral arguments. For, according to one source: ''Several million people each year visit Washington, D.C., and many thousands tour the White House and the Capitol. But few have the chance to sit in the Supreme Court chamber and witness an entire oral argument. Most tourists are given just three minutes before they are shuttled out and a new group shuttled in. In cases that attract headlines, seats for the public are scarce and waiting lines are long. And the Court sits in open session less than two hundred hours each year. Television cameras and radio microphones are still banned from the chamber, and only a few hundred people at most can actually witness oral arguments. Protected by a marble wall from public access, the Supreme Court has long been the least understood of the three branches of our Federal Government.''

In light of the increasing public desire for information, it seems untenable to continue excluding cameras from the courtroom of the Nation's highest court. As one legal commentator observes: ''An effective and legitimate way to satisfy America's curiosity about the Supreme Court's holdings, Justices, and modus operandi is to permit broadcast coverage of oral arguments and decision announcements from the courtroom itself.''

Televised court proceedings better enable the public to understand the role of the Supreme Court and its impact on the key decisions of the day. Not only has the Supreme Court invalidated Congressional decisions where there was, in the views of many, simply a difference of opinion as to what is preferable public policy, but the Court determines novel issues such as whether AIDS is a disability under the Americans with Disabilities Act, whether Congress can ban obscenity from the Internet, and whether states can impose term limits upon members of Congress. The current Court, like its predecessors, hands down decisions which vitally affect the lives and liberties of all Americans. Since the Court's historic 1803 decision, Marbury v. Madison, the Supreme Court has the final authority on issues of enormous importance from birth to death. In Roe v. Wade, 1973, the Court affirmed a Constitutional right to abortion in this country and struck down state statutes banning or severely restricting abortion during the first two trimesters on the grounds that they violated a right to privacy inherent in the Due Process Clause of the Fourteenth Amendment.