

108TH CONGRESS
2D SESSION

S. 2329

To protect crime victims' rights.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2004

Mr. KYL (for himself, Mrs. FEINSTEIN, Mr. HATCH, Mr. LEAHY, Mr. FRIST, Mr. DASCHLE, Mr. McCONNELL, Mr. DURBIN, Mr. GRASSLEY, Mr. KENNEDY, Mr. DEWINE, Mr. FEINGOLD, Mr. CRAIG, Mr. KERRY, Mr. GRAHAM of South Carolina, Mr. SCHUMER, Ms. COLLINS, Mr. BAYH, Mr. LIEBERMAN, Mrs. CLINTON, Mr. PRYOR, Ms. STABENOW, and Mr. NELSON of Florida) introduced the following bill; which was read twice and ordered held at the desk

A BILL

To protect crime victims' rights.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Scott Campbell, Steph-
5 anie Roper, Wendy Preston, Louarna Gillis, and Nila
6 Lynn Crime Victims’ Rights Act”.

1 **SEC. 2. CRIME VICTIMS' RIGHTS.**

2 (a) AMENDMENT TO TITLE 18.—Part II of title 18,
3 United States Code, is amended by adding at the end the
4 following:

5 **“CHAPTER 237—CRIME VICTIMS' RIGHTS**

“Sec.

“3771. Crime victims' rights.

6 **“§ 3771. Crime victims' rights**

7 “(a) RIGHTS OF CRIME VICTIMS.—A crime victim
8 has the following rights:

9 “(1) The right to be reasonably protected from
10 the accused.

11 “(2) The right to reasonable, accurate, and
12 timely notice of any public proceeding involving the
13 crime or of any release or escape of the accused.

14 “(3) The right not to be excluded from any
15 such public proceeding.

16 “(4) The right to be reasonably heard at any
17 public proceeding involving release, plea, or sen-
18 tencing.

19 “(5) The right to confer with the attorney for
20 the Government in the case.

21 “(6) The right to full and timely restitution as
22 provided in law.

23 “(7) The right to proceedings free from unrea-
24 sonable delay.

1 “(8) The right to be treated with fairness and
2 with respect for the victim’s dignity and privacy.

3 “(b) RIGHTS AFFORDED.—In any court proceeding
4 involving an offense against a crime victim, the court shall
5 ensure that the crime victim is afforded the rights de-
6 scribed in subsection (a). The reasons for any decision de-
7 nying relief under this chapter shall be clearly stated on
8 the record.

9 “(c) BEST EFFORTS TO ACCORD RIGHTS.—

10 “(1) GOVERNMENT.—Officers and employees of
11 the Department of Justice and other departments
12 and agencies of the United States engaged in the de-
13 tection, investigation, or prosecution of crime shall
14 make their best efforts to see that crime victims are
15 notified of, and accorded, the rights described in
16 subsection (a).

17 “(2) CONFLICT.—In the event of any material
18 conflict of interest between the prosecutor and the
19 crime victim, the prosecutor shall advise the crime
20 victim of the conflict and take reasonable steps to
21 direct the crime victim to the appropriate legal refer-
22 ral, legal assistance, or legal aid agency.

23 “(3) NOTICE.—Notice of release otherwise re-
24 quired pursuant to this chapter shall not be given if
25 such notice may endanger the safety of any person.

1 “(d) ENFORCEMENT AND LIMITATIONS.—

2 “(1) RIGHTS.—The crime victim, the crime vic-
3 tim’s lawful representative, and the attorney for the
4 Government may assert the rights established in this
5 chapter. A person accused of the crime may not ob-
6 tain any form of relief under this chapter.

7 “(2) MULTIPLE CRIME VICTIMS.—In a case
8 where the court finds that the number of crime vic-
9 tims makes it impracticable to accord all of the
10 crime victims the rights contained in this chapter,
11 the court shall fashion a procedure to give effect to
12 this chapter.

13 “(3) WRIT OF MANDAMUS.—If a Federal court
14 denies any right of a crime victim under this chapter
15 or under the Federal Rules of Criminal Procedure,
16 the Government or the crime victim may apply for
17 a writ of mandamus to the appropriate court of ap-
18 peals. The court of appeals shall take up and decide
19 such application forthwith and shall order such relief
20 as may be necessary to protect the crime victim’s
21 ability to exercise the rights.

22 “(4) ERROR.—In any appeal in a criminal case,
23 the Government may assert as error the district
24 court’s denial of any crime victim’s right in the pro-
25 ceeding to which the appeal relates.

1 “(5) NEW TRIAL.—In no case shall a failure to
2 afford a right under this chapter provide grounds for
3 a new trial.

4 “(6) NO CAUSE OF ACTION.—Nothing in this
5 chapter shall be construed to authorize a cause of
6 action for damages.

7 “(e) DEFINITIONS.—For the purposes of this chap-
8 ter, the term ‘crime victim’ means a person directly and
9 proximately harmed as a result of the commission of a
10 Federal offense. In the case of a crime victim who is under
11 18 years of age, incompetent, incapacitated, or deceased,
12 the legal guardians of the crime victim or the representa-
13 tives of the crime victim’s estate, family members, or any
14 other persons appointed as suitable by the court, may as-
15 sume the crime victim’s rights under this chapter, but in
16 no event shall the defendant be named as such guardian
17 or representative.

18 “(f) PROCEDURES TO PROMOTE COMPLIANCE.—

19 “(1) REGULATIONS.—Not later than 1 year
20 after the date of enactment of this chapter, the At-
21 torney General of the United States shall promul-
22 gate regulations to enforce the rights of crime vic-
23 tims and to ensure compliance by responsible offi-
24 cials with the obligations described in law respecting
25 crime victims.

1 “(2) CONTENTS.—The regulations promulgated
2 under paragraph (1) shall—

3 “(A) establish an administrative authority
4 within the Department of Justice to receive and
5 investigate complaints relating to the provision
6 or violation of the rights of a crime victim;

7 “(B) require a course of training for em-
8 ployees and offices of the Department of Jus-
9 tice that fail to comply with provisions of Fed-
10 eral law pertaining to the treatment of crime
11 victims, and otherwise assist such employees
12 and offices in responding more effectively to the
13 needs of crime victims;

14 “(C) contain disciplinary sanctions, includ-
15 ing suspension or termination from employ-
16 ment, for employees of the Department of Jus-
17 tice who willfully or wantonly fail to comply
18 with provisions of Federal law pertaining to the
19 treatment of crime victims; and

20 “(D) provide that the Attorney General, or
21 the designee of the Attorney General, shall be
22 the final arbiter of the complaint, and that
23 there shall be no judicial review of the final de-
24 cision of the Attorney General by a complain-
25 ant.”.

1 (b) TABLE OF CHAPTERS.—The table of chapters for
 2 part II of title 18, United States Code, is amended by
 3 inserting at the end the following:

“**237. Crime victims’ rights** **3771”.**

4 (c) REPEAL.—Section 502 of the Victims’ Rights and
 5 Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

6 **SEC. 3. INCREASED RESOURCES FOR ENFORCEMENT OF**
 7 **CRIME VICTIMS’ RIGHTS.**

8 (a) CRIME VICTIMS LEGAL ASSISTANCE GRANTS.—
 9 The Victims of Crime Act of 1984 (42 U.S.C. 10601 et
 10 seq.) is amended by inserting after section 1404C the fol-
 11 lowing:

12 **“SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.**

13 “(a) IN GENERAL.—The Director may make grants
 14 as provided in section 1404(c)(1)(A) to State, tribal, and
 15 local prosecutors’ offices, law enforcement agencies,
 16 courts, jails, and correctional institutions, and to qualified
 17 public and private entities, to develop, establish, and main-
 18 tain programs for the enforcement of crime victims’ rights
 19 as provided in law.

20 “(b) FALSE CLAIMS ACT.—Notwithstanding any
 21 other provision of law, amounts collected pursuant to sec-
 22 tions 3729 through 3731 of title 31, United States Code
 23 (commonly known as the ‘False Claims Act’), may be used
 24 for grants under this section.”.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—In addi-
2 tion to funds made available under section 1402(d) of the
3 Victims of Crime Act of 1984, there are authorized to be
4 appropriated to carry out this Act—

5 (1) \$2,000,000 for fiscal year 2005 and
6 \$5,000,000 for each of fiscal years 2006, 2007,
7 2008, and 2009 to United States Attorneys Offices
8 for Victim/Witnesses Assistance Programs;

9 (2) \$2,000,000 for fiscal year 2005 and
10 \$5,000,000 in each of the fiscal years 2006, 2007,
11 2008, and 2009, to the Office for Victims of Crime
12 of the Department of Justice for enhancement of the
13 Victim Notification System;

14 (3) \$300,000 in fiscal year 2005 and \$500,000
15 for each of the fiscal years 2006, 2007, 2008, and
16 2009, to the Office for Victims of Crime of the De-
17 partment of Justice for staff to administer the ap-
18 propriation for the support of the National Crime
19 Victim Law Institute or other organizations as des-
20 ignated under paragraph (4);

21 (4) \$7,000,000 for fiscal year 2005 and
22 \$11,000,000 for each of the fiscal years 2006, 2007,
23 2008, and 2009, to the Office for Victims of Crime
24 of the Department of Justice, for the support of—

1 (A) the National Crime Victim Law Insti-
 2 tute and the establishment and operation of the
 3 Institute's programs to provide counsel for vic-
 4 tims in criminal cases for the enforcement of
 5 crime victims' rights in Federal jurisdictions,
 6 and in States and tribal governments that have
 7 laws substantially equivalent to the provisions
 8 of chapter 237 of title 18, United States Code;
 9 or

10 (B) other organizations substantially simi-
 11 lar to that organization as determined by the
 12 Director of the Office for Victims of Crime.

13 (c) INCREASED RESOURCES TO DEVELOP STATE-OF-
 14 THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF
 15 IMPORTANT DATES AND DEVELOPMENTS.—The Victims
 16 of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amend-
 17 ed by inserting after section 1404D the following:

18 **“SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.**

19 “(a) IN GENERAL.—The Director may make grants
 20 as provided in section 1404(c)(1)(A) to State, tribal, and
 21 local prosecutors' offices, law enforcement agencies,
 22 courts, jails, and correctional institutions, and to qualified
 23 public or private entities, to develop and implement state-
 24 of-the-art systems for notifying victims of crime of impor-
 25 tant dates and developments relating to the criminal pro-

1 ceedings at issue in a timely and efficient manner, pro-
 2 vided that the jurisdiction has laws substantially equiva-
 3 lent to the provisions of chapter 237 of title 18, United
 4 States Code.

5 “(b) INTEGRATION OF SYSTEMS.—Systems developed
 6 and implemented under this section may be integrated
 7 with existing case management systems operated by the
 8 recipient of the grant.

9 “(c) AUTHORIZATION OF APPROPRIATIONS.—In ad-
 10 dition to funds made available under section 1402(d),
 11 there are authorized to be appropriated to carry out this
 12 section—

13 “(1) \$5,000,000 for fiscal year 2005; and

14 “(2) \$5,000,000 for each of the fiscal years
 15 2006, 2007, 2008, and 2009.

16 “(d) FALSE CLAIMS ACT.—Notwithstanding any
 17 other provision of law, amounts collected pursuant to sec-
 18 tions 3729 through 3731 of title 31, United States Code
 19 (commonly known as the ‘False Claims Act’), may be used
 20 for grants under this section.”.

21 **SEC. 4. REPORTS.**

22 (a) ADMINISTRATIVE OFFICE OF THE UNITED
 23 STATES COURTS.—Not later than 1 year after the date
 24 of enactment of this Act and annually thereafter, the Ad-
 25 ministrative Office of the United States Courts, for each

1 Federal court, shall report to Congress the number of
2 times that a right established in chapter 237 of title 18,
3 United States Code, is asserted in a criminal case and the
4 relief requested is denied and, with respect to each such
5 denial, the reason for such denial, as well as the number
6 of times a mandamus action is brought pursuant to chap-
7 ter 237 of title 18, and the result reached.

8 (b) GENERAL ACCOUNTING OFFICE.—

9 (1) STUDY.—The Comptroller General shall
10 conduct a study that evaluates the effect and effi-
11 cacy of the implementation of the amendments made
12 by this Act on the treatment of crime victims in the
13 Federal system.

14 (2) REPORT.—Not later than 3 years after the
15 date of enactment of this Act, the Comptroller Gen-
16 eral shall prepare and submit to the appropriate
17 committees a report containing the results of the
18 study conducted under subsection (a).

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