

H.R.5107

Justice for All Act of 2004 (Enrolled as Agreed to or Passed by Both House and Senate)

TITLE I--SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

SEC. 101. SHORT TITLE.

This title may be cited as the 'Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act'.

SEC. 102. CRIME VICTIMS' RIGHTS.

(a) Amendment to Title 18- Part II of title 18, United States Code, is amended by adding at the end the following:

'CHAPTER 237--CRIME VICTIMS' RIGHTS

'Sec.

'3771. Crime victims' rights.

'Sec. 3771. Crime victims' rights

'(a) Rights of Crime Victims- A crime victim has the following rights:

- '(1) The right to be reasonably protected from the accused.
- '(2) The right to reasonable, accurate, and timely notice of any public court proceeding, or any parole proceeding, involving the crime or of any release or escape of the accused.
- '(3) The right not to be excluded from any such public court proceeding, unless the court, after receiving clear and convincing evidence, determines that testimony by the victim would be materially altered if the victim heard other testimony at that proceeding.
- '(4) The right to be reasonably heard at any public proceeding in the district court involving release, plea, sentencing, or any parole proceeding.
- '(5) The reasonable right to confer with the attorney for the Government in the case.
- '(6) The right to full and timely restitution as provided in law.
- '(7) The right to proceedings free from unreasonable delay.
- '(8) The right to be treated with fairness and with respect for the victim's dignity and

privacy.

`(b) Rights Afforded- In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before making a determination described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

`(c) Best Efforts To Accord Rights-

`(1) GOVERNMENT- Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

`(2) ADVICE OF ATTORNEY- The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

`(3) NOTICE- Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

`(d) Enforcement and Limitations-

`(1) RIGHTS- The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

`(2) MULTIPLE CRIME VICTIMS- In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

`(3) MOTION FOR RELIEF AND WRIT OF MANDAMUS- The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide any motion asserting a victim's right forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five days for purposes of enforcing this chapter. If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.

`(4) ERROR- In any appeal in a criminal case, the Government may assert as error

the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

`(5) LIMITATION ON RELIEF- In no case shall a failure to afford a right under this chapter provide grounds for a new trial. A victim may make a motion to re-open a plea or sentence only if--

`(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

`(B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and

`(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.'

`(6) NO CAUSE OF ACTION- Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

`(e) Definitions- For the purposes of this chapter, the term `crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

`(f) Procedures To Promote Compliance-

`(1) REGULATIONS- Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

`(2) CONTENTS- The regulations promulgated under paragraph (1) shall--

`(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

`(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the

treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

`(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

`(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.'

(b) Table of Chapters- The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

--3771'.

(c) Repeal- Section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

SEC. 103. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) Crime Victims Legal Assistance Grants- The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

`SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

`(a) In General- The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

`(b) Prohibition- Grant amounts under this section may not be used to bring a cause of action for damages.

`(c) False Claims Act- Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the `False Claims Act'), may be used for grants under this section, subject to appropriation.'

(b) Authorization of Appropriations- In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this title--

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

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

(3) \$300,000 in fiscal year 2005 and \$500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of organizations as designated under paragraph (4);

(4) \$7,000,000 for fiscal year 2005 and \$11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; and

(5) \$5,000,000 for fiscal year 2005 and \$7,000,000 for each of fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of--

(A) training and technical assistance to States and tribal jurisdictions to craft state-of-the-art victims' rights laws; and

(B) training and technical assistance to States and tribal jurisdictions to design a variety of compliance systems, which shall include an evaluation component.

(c) Increased Resources To Develop State-of-the-Art Systems for Notifying Crime Victims of Important Dates and Developments- The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

(a) In General- The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

(b) Integration of Systems- Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

(c) Authorization of Appropriations- In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section--

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

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

(d) False Claims Act- Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.'

SEC. 104. REPORTS.

(a) Administrative Office of the United States Courts- Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) Government Accountability Office-

(1) STUDY- The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this title on the treatment of crime victims in the Federal system.

(2) REPORT- Not later than 4 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under subsection (a).