

108TH CONGRESS
2D SESSION

S. _____

IN THE SENATE OF THE UNITED STATES

Mr. KYL (for himself and Mrs. FEINSTEIN) introduced the following bill;
which was read twice and referred to the Committee on _____

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".

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

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

1 **“CHAPTER 237—CRIME VICTIMS’ RIGHTS**

“Sec.

“3771. Crime victims’ rights.

2 **“§ 3771. Crime victims’ rights**

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

5 “(1) The right to be reasonably protected from
6 the accused.

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

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

12 “(4) The right to be reasonably heard at any
13 public proceeding involving release, plea, or sen-
14 tencing.

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

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

19 “(7) The right to proceedings free from unrea-
20 sonable delay.

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

23 “(b) RIGHTS AFFORDED.—In any court proceeding
24 involving an offense against a crime victim, the court shall

1 ensure that the crime victim is afforded the rights de-
2 scribed in subsection (a). The reasons for any decision de-
3 nying relief under this chapter shall be clearly stated on
4 the record.

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

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

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

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

22 “(d) ENFORCEMENT AND LIMITATIONS.—

23 “(1) RIGHTS.—The crime victim, the crime vic-
24 tim’s lawful representative, and the attorney for the
25 Government may assert the rights established in this

1 chapter. A person accused of a crime may not obtain
2 any form of relief under this chapter.

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

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

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

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

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

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

15 “(f) PROCEDURES TO PROMOTE COMPLIANCE.—

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

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

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

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

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

18 “(D) provide that the Attorney General, or
19 the designee of the Attorney General, shall be
20 the final arbiter of the complaint, and that
21 there shall be no judicial review of the final de-
22 cision of the Attorney General by a complain-
23 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, and
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's programs under paragraph
20 (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 the
25 National Crime Victim Law Institute and the estab-

1 lishment and operation of the Institute’s programs
2 for the enforcement of crime victims’ rights in Fed-
3 eral jurisdictions, and in States and tribal govern-
4 ments that have laws substantially equivalent to the
5 provisions of chapter 237 of title 18, United States
6 Code.

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

12 **“SEC. 1404E. CRIME VICTIMS NOTIFICATION 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 or private entities, to develop and implement state-
18 of-the-art systems for notifying victims of crime of impor-
19 tant dates and developments relating to the criminal pro-
20 ceedings at issue in a timely and efficient manner, pro-
21 vided that the jurisdiction has laws substantially equiva-
22 lent to the provisions of chapter 237 of title 18, United
23 States Code.

24 “(b) INTEGRATION OF SYSTEMS.—Systems developed
25 and implemented under this section may be integrated

1 with existing case management systems operated by the
2 recipient of the grant.

3 “(c) AUTHORIZATION OF APPROPRIATIONS.—In ad-
4 dition to funds made available under section 1402(d),
5 there are authorized to be appropriated to carry out this
6 section—

7 “(1) \$5,000,000 for fiscal year 2005; and

8 “(2) \$5,000,000 for each of the fiscal years
9 2006, 2007, 2008, and 2009.

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

15 **SEC. 4. REPORTS.**

16 (a) ADMINISTRATIVE OFFICE OF THE UNITED
17 STATES COURTS.—Not later than 1 year after the date
18 of enactment of this Act and annually thereafter, the Ad-
19 ministrative Office of the United States Courts, for each
20 Federal court, shall report to Congress the number of
21 times that a right established in chapter 237 of title 18,
22 United States Code, is asserted in a criminal case and the
23 relief requested is denied and, with respect to each such
24 denial, the reason for such denial, as well as the number

1 of times a mandamus action is brought pursuant to chap-
2 ter 237 of title 18, and the result reached.

3 (b) GENERAL ACCOUNTING OFFICE.—

4 (1) STUDY.—The Comptroller General shall
5 conduct a study that evaluates the effect and effi-
6 cacy of the implementation of the amendments made
7 by this Act on the treatment of crime victims in the
8 Federal system.

9 (2) REPORT.—Not later than 3 years after the
10 date of enactment of this Act, the Comptroller Gen-
11 eral shall prepare and submit to the appropriate
12 committees a report containing the results of the
13 study conducted under subsection (a).