

## SECTION BY SECTION ANALYSIS

A Bill to Protect Crime Victims' Rights

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Crime Victims' Rights Act*

**Section 1 :** Provides the short title.

**Section 2: Establishes “due process” rights for crime victims in law, with a meaningful enforcement mechanism**

(a) Amends Title 18 U.S.C. to provide rights to crime victims:

- to be treated with fairness and with respect for the crime victim's dignity and privacy;
- to be reasonably protected from the accused;
- to receive notice of public proceedings;
- to receive notice of the release or escape of the accused, so long as such notice of release does not endanger the safety of any person;
- to attend proceedings and be heard at proceedings involving release, plea, or sentencing;
- to confer with the government's attorney;
- to restitution as provided in law;
- to proceedings free from unreasonable delay.

(b) Enforces the rights provided in the statute by requiring that the criminal court ensure that the crime victim be afforded the rights and that any decision denying relief be made on the record.

(c) Provides that officers and employees of the Department of Justice and other federal law enforcement shall make their best efforts to see that crime victims are notified of and accorded these rights. If a material conflict of interest arises between the crime victim and the Government's attorney, the Government's attorney shall advise the crime victim of the conflict and take reasonable steps to direct the crime victim to other counsel.

(d) Provides for enforcement, stating that only the crime victim, his or her lawful representative or the government attorney may assert these rights. When the number of victims makes it impracticable to accord all of them the rights, the court must fashion a procedure to give effect to the chapter. If any federal court denies a crime victim's rights, a crime victim may apply for a writ of mandamus and the court of appeals shall "forthwith" take up the writ and order such relief as may be necessary to protect the victim's ability to exercise the right. The Government may assert as error on appeal the district court's denial of any victim's right. In no case can the failure to afford a right result in a new trial.

(e) Defines "crime victim" as a person directly and proximately harmed as a result of the commission of any offense. If the crime victim is under 18, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or representatives of the crime victim's estate, family members or persons appointed by the court, may assert the crime victim's rights. The defendant cannot be the representative or guardian.

(f) Requires the Attorney General, within one year of enactment to promulgate regulations to enforce the rights of crime victims and ensure compliance by responsible officials with crime victim laws.

### **Section 3: Provides for increased resources for enforcement of crime victims' rights**

(a) Crime Victims Legal Assistance Grants. Allows grants to develop, establish, and maintain programs for enforcement of crime victims' rights and authorizes three appropriations for each of the fiscal years 2005, 2006, and 2007:

- 1) \$5,000,000 to the United States Attorneys Offices for Victim/Witnesses Assistance Programs;

2) \$5,000,000 to United States District Court Clerks; and

3) \$7,000,000 to the Office for Victims of Crime for support of the National Crime Victim Law Institute.

(b) Crime Victims Notification Grants. Allows grants to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments, authorizing appropriations in the amounts of \$10,000,000, \$5,000,000 and \$5,000,000 for fiscal years 2005, 2006 and 2007, respectively.

[NOTE: Grants under (a) and (b) are funded by False Claims Act collections; increased funding for U.S. Attorneys, Court Clerks and NCVLI are regular appropriations. Funding for these do not come from the Crime Victims Fund.]

#### **Section 4: Reports**

(a) Requires the Administrative Office of the United States Courts to report to Congress annually the number of times a victim's right was asserted in a criminal case, and the relief requested is denied.

(b) Requires the Comptroller General to report to Congress annually a comprehensive assessment of the effect of the chapter.