

105TH CONGRESS
1ST SESSION

H. R. 1322

To implement the Victims' Rights Constitutional Amendment and protect
the rights of crime victims.

IN THE HOUSE OF REPRESENTATIVES

APRIL 15, 1997

Mr. HYDE (for himself, Ms. PRYCE of Ohio, Mr. BARCIA, Mr. ROYCE, Mr. STUMP, Mr. BONO, Mr. MORAN of Virginia, Mr. HORN, Mr. BRADY, Mr. FOLEY, Mr. STEARNS, Mr. GALLEGLY, Ms. ROS-LEHTINEN, and Mr. LOBIONDO) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To implement the Victims' Rights Constitutional Amendment
and protect the rights of crime victims.

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 “Victims’ Rights Con-
5 stitutional Amendment Implementation Act of 1997”.

6 **SEC. 2. CRIME VICTIM RIGHTS.**

7 (a) IN GENERAL.—Except as provided in section 3,
8 each victim of a Federal felony offense or any other Fed-

1 eral crime of violence (as defined in section 16 of title 18,
2 United States Code) shall have the following rights:

3 (1) To notice of, and not to be excluded from,
4 all public proceedings relating to the offense.

5 (2) To be heard, if present, and to submit a
6 written statement at all public proceedings, relating
7 to the offense, to determine a release from custody,
8 an acceptance of a negotiated plea, or a sentence.

9 (3) To the rights described in the preceding
10 portion of this section at a parole proceeding that is
11 not public, to the extent those rights are afforded to
12 the convicted offender.

13 (4) To notice of any release or escape from cus-
14 tody relating to the offense.

15 (5) To seek relief from an unreasonable delay
16 of the final disposition of the proceedings relating to
17 the offense.

18 (6) To an order of restitution from the con-
19 victed offender pursuant to law.

20 (7) To consideration for the safety of the victim
21 in determining any release from custody.

22 (8) To notice of the rights established by this
23 section.

24 (9) The right to be treated with fairness and
25 with respect for the victim's dignity and privacy.

1 (10) The right to confer with the attorney for
2 the Government in the case.

3 (b) AFFECTED PROCEEDINGS.—The rights estab-
4 lished by this section shall apply in—

5 (1) Federal criminal proceedings (other than
6 military criminal proceedings), including juvenile
7 justice proceedings;

8 (2) collateral proceedings such as habeas cor-
9 pus; and

10 (3) similar proceedings in the courts of any dis-
11 trict or territory of the United States not within a
12 State.

13 (c) REMEDIES.—

14 (1) STANDING.—The victim shall have standing
15 in the proceeding to assert the rights established by
16 this section.

17 (2) DISCIPLINARY PROCEEDINGS.—A knowing
18 violation of a right provided in subsection (a) shall
19 be grounds for disciplinary proceedings by the ap-
20 propriate Federal governmental and professional dis-
21 ciplinary authorities.

22 (3) CONTEMPT.—A knowing violation of a right
23 provided in subsection (a) may be treated by the
24 court having jurisdiction as a contempt of court.

1 (4) JUDICIAL REMEDIES.—This section does
2 not create a cause of action or defense in favor of
3 any person arising out of the failure to accord to a
4 victim a right provided in subsection (a), and nothing in this section—

5 (A) provides grounds for the victim to
6 overturn a charging decision, a conviction, or a
7 sentence; to obtain a stay of trial; or to compel
8 a new trial; or

9 (B) provides grounds for the accused or
10 convicted offender to obtain any form of relief.

11 **SEC. 3. EXCEPTIONS AND LIMITATIONS.**

12 (a) EXCEPTIONS.—The rights provided under section
13 2 do not apply—

14 (1) to informing victims about the release of an
15 alleged or convicted offender—

16 (A) to go under cover to gather evidence
17 on behalf of law enforcement authorities; or

18 (B) to participate in a witness protection
19 program;

20 (2) to the extent that the court—

21 (A) determines with respect to a right that
22 the number of victims is so great as unreason-
23 ably to delay the proceedings if that right were
24 accorded to each of them; and
25

1 (B) takes reasonable measures to allow
2 that right to be exercised by representative vic-
3 tims; or

4 (3) if the responsible official determines the vic-
5 tim is a suspect in the case.

6 (b) LIMITATIONS.—

7 (1) RIGHT TO NOTICE; WHEN VIOLATED.—The
8 rights to notice under this Act are not violated if the
9 proper authorities make a reasonable effort, but are
10 unable to provide the notice, or if the failure of the
11 victim to make a reasonable effort to make those au-
12 thorities aware of the victim's whereabouts prevents
13 that notice.

14 (2) RIGHT TO COUNSEL FOR VICTIMS.—This
15 Act does not create any right to counsel at public ex-
16 pense for any victim.

17 (3) RIGHTS OF VICTIMS OF UNCHARGED OF-
18 FENSES.—The decision to charge a defendant with
19 an offense shall not be construed to make the rights
20 under section 2(a) apply to a victim of any related,
21 but uncharged, offense.

22 **SEC. 4. RESPONSIBILITY FOR IMPLEMENTATION.**

23 (a) DESIGNATION OF RESPONSIBLE OFFICIALS.—
24 The courts, and the head of each department and agency
25 of the United States engaged in the detection, investiga-

1 tion, prosecution, or adjudication of crimes to which this
2 Act applies, shall designate by names and office titles the
3 persons who will be responsible for identifying the victims
4 of crime, assuring the implementation of the rights pro-
5 vided in section 2, and performing the services described
6 in subsection (c), at each stage of a criminal case.

7 (b) IDENTIFICATION OF VICTIMS.—At the earliest
8 opportunity after the detection of a crime at which it may
9 be done without interfering with an investigation, a re-
10 sponsible official shall—

- 11 (1) identify the victim or victims of a crime;
- 12 (2) inform the victims of their right to receive,
13 on request, the services described in subsection (c);
14 and
- 15 (3) inform each victim of the name, title, and
16 business address and telephone number of the re-
17 sponsible official to whom the victim should address
18 a request for each of the services described in sub-
19 section (c).

20 (c) DESCRIPTION OF SERVICES.—(1) A responsible
21 official shall—

- 22 (A) inform a victim of the place where the vic-
23 tim may receive emergency medical and social serv-
24 ices;

1 (B) inform a victim of any restitution or other
2 relief to which the victim may be entitled under this
3 or any other law and manner in which such relief
4 may be obtained;

5 (C) inform a victim of public and private pro-
6 grams that are available to provide counseling, treat-
7 ment, and other support to the victim; and

8 (D) assist a victim in contacting the persons
9 who are responsible for providing the services and
10 relief described in subparagraphs (A), (B), and (C).

11 (2) A responsible official shall arrange for a victim
12 to receive reasonable protection from a suspected offender
13 and persons acting in concert with or at the behest of the
14 suspected offender.

15 (3) During the investigation and prosecution of a
16 crime, a responsible official shall provide a victim the earli-
17 est possible notice of—

18 (A) the status of the investigation of the crime,
19 to the extent it is appropriate to inform the victim
20 and to the extent that it will not interfere with the
21 investigation;

22 (B) the arrest of a suspected offender;

23 (C) the filing of charges against a suspected of-
24 fender;

1 (D) the scheduling of each court proceeding
2 that the victim is either required to attend or, under
3 section 2, is entitled to attend;

4 (E) the release or detention status of an of-
5 fender or suspected offender;

6 (F) the acceptance of a plea of guilty or nolo
7 contendere or the rendering of a verdict after trial;
8 and

9 (G) the sentence imposed on an offender, in-
10 cluding the date on which the offender will be eligi-
11 ble for parole.

12 (4) During court proceedings, a responsible official
13 shall ensure that a victim is provided a waiting area re-
14 moved from and out of the sight and hearing of the de-
15 fendant and defense witnesses.

16 (5) After trial, a responsible official shall provide a
17 victim the earliest possible notice of—

18 (A) the scheduling of a parole hearing for the
19 offender;

20 (B) the escape, work release, furlough, or any
21 other form of release from custody of the offender;
22 and

23 (C) the death of the offender, if the offender
24 dies while in custody.

1 (6) At all times, a responsible official shall ensure
2 that any property of a victim that is being held for evi-
3 dentiary purposes be maintained in good condition and re-
4 turned to the victim as soon as it is no longer needed for
5 evidentiary purposes.

6 (7) The Attorney General or the head of another de-
7 partment or agency that conducts an investigation of a
8 sexual assault shall pay, either directly or by reimburse-
9 ment of payment by the victim, the cost of a physical ex-
10 amination of the victim which an investigating officer de-
11 termines was necessary or useful for evidentiary purposes.

12 (8) A responsible official shall provide the victim with
13 general information regarding the corrections process, in-
14 cluding information about work release, furlough, proba-
15 tion, and eligibility for each.

16 (d) REMEDIES.—

17 (1) DISCIPLINARY PROCEEDINGS.—A pattern
18 and practice of knowing failures to provide the serv-
19 ice described in subsection (c) shall be grounds for
20 disciplinary proceedings by the appropriate Federal
21 governmental and professional disciplinary authori-
22 ties.

23 (2) NO CAUSE OF ACTION OR DEFENSE.—This
24 section does not create a cause of action or defense
25 in favor of any person arising out of the failure of

1 a responsible person to provide information as re-
2 quired by subsection (b) or (c).

3 **SEC. 5. DEFINITIONS.**

4 For the purposes of this Act—

5 (1) the term “responsible official” means a per-
6 son designated pursuant to section 4(a) to perform
7 the functions of a responsible official under that sec-
8 tion; and

9 (2) the term “victim” means a person (but not
10 including any governmental entity) that has suffered
11 direct physical, emotional, or pecuniary harm as a
12 result of the commission of a crime, including—

13 (A) in the case of a victim that is an insti-
14 tutional entity, an authorized representative of
15 the entity; and

16 (B) in the case of a victim who is under
17 18 years of age, incompetent, incapacitated, or
18 deceased, one of the following (in order of pref-
19 erence):

20 (i) A spouse.

21 (ii) A legal guardian.

22 (iii) A parent.

23 (iv) A child.

24 (v) A sibling.

25 (vi) Another family member.

1 (vii) Another person designated by the
2 court.

3 **SEC. 6. CONFORMING REPEAL.**

4 Sections 502 and 503 of the Crime Control Act of
5 1990 (42 U.S.C. 10606 and 10607) are repealed.

○