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Congressional Record S. 19904-7 - Criminal Injuries Compensation Act

Mike Mansfield 1903-2001

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CONGRESSIONAL RECORD — SENATE
December 10, 1970

S 4576—INTRODUCTION OF THE CRIMINAL INJURIES COMPENSATION ACT OF 1971

Mr. MANSFIELD. Mr. President, the Senate has passed every major Presidential request for stern measures against criminals. In addition the Senate has, initiated and passed several measures on its own, calling for stiffer action against criminals. No matter how stiff our legislative stance against the criminal has been, however, the Senate did not repeal the Constitution. And the Constitution provides strict protections to the accused, for more police on the beat, for better prison facilities—facilities that will at least assure that upon his release, the prisoner is not even more menacing than he was when first incarcerated.

To help in the total fight on crime, back in 1968, the Law Enforcement Assistance Administration was established to channel vitally needed resources to States and local communities and thereby update police facilities and equipment. Hopefully, when fully implemented, that program will lead the way to vastly improved and more effective police efforts. But there is another dimension to this problem of crime; a dimension heretofore largely ignored. It concerns those who suffer because of crime. It concerns the victim. For him the protection of society has been grossly inadequate. To him, unlike the accused, the protections of our Constitution do not fully extend. Up to now our concern has focused mainly on the criminal. With the proposal I will introduce, it is hoped that that focus will shift, at least in part, to his victim.

At the very least, the victim of the crime should be made whole and under my proposal he would be. Provided is a form of compensation for those who suffer from criminal violence. Any person who is personally injured in the perpetration of any crime would receive pecuniary compensation. There would be established a Federal Violent Crimes Compensation Commission which would make direct awards to the victim for injuries suffered in the course of the crimes committed within the narrow Federal jurisdiction. In addition, a system of block grants to the States would underwrite similar State compensation commissions for the victims who suffer from crimes within the State and local criminal jurisdictions.

I would say further that when the protection of society is not sufficient to prevent a person from being victimized, society then has the obligation to compensate the victim for that failure of protection. To introduce complications in this process would from a system for compensation to a system for punishment.

Mr. President, this is a time for bold action. This is a time for Congress to demonstrate to the people of America that it is as interested in the problems and sufferings of criminal acts as it is in protecting rights of accused criminals. Therefore, as the next Congress convenes a month from now, I shall reintroduce my proposal and urge its prompt consideration. The victim of crime deserves no less.

Mr. President, I send my bill to the desk, ask for its appropriate reference and that its text be printed at this point in the Record.

The ACTING PRESIDENT pro tempore (Mr. Eagleton). The bill will be received, and appropriately referred; and, without objection, the bill will be printed in the Record, as follows:

S 4576

The bill (S. 4576) to provide for the compensation of persons injured by certain criminal acts, to make grants to States for the payment of such compensation, and for other purposes, introduced by Mr. Mansfield, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the Record, as follows:

TITLE I—SHORT TITLE AND DEFINITIONS

SECTION 1. This Act may be cited as the "Criminal Injuries Compensation Act of 1971".

DEFINITIONS

Sec. 102. As used in this Act the term—
(1) "child" means an unmarried person who is under eighteen years of age and includes a stepchild or an adopted child, and a child conceived prior to but born after the death of the victim or those for whom the victim was legally responsible;
(2) "Commission" means the Violent Crimes Compensation Commission established by this Act;
(3) "dependent" means those who were wholly or partially dependent upon the income of the victim at the time of the death of the victim or those for whom the victim was legally responsible;
(4) "personal injury" means actual bodily harm and includes pregnancy, mental distress, nervous shock, and loss of reputation;
(5) "relative" means the spouse, parent, grandparent, stepfather, stepmother, child, sibling, stepchild, sibblings, the whole or half blood, spouse's parent;
(6) "victim" means a person who is injured, killed, or dies as the result of injuries caused by any act or omission of any other person which is within the description of any of the offenses specified in section 205 of this Act;
(7) "guardian" means one who is entitled by common law or legal appointment to care for and manage the person or property or both of a child or incompetent; and
(8) "incompetent" means a person who is incapable of managing his own affairs, whether adjudicated or not.

TITLE II—ESTABLISHMENT OF VIOLENT CRIMES COMPENSATION COMMISSION

Sec. 201. There is hereby established an independent agency within the executive branch of the Federal government to be known as the Violent Crimes Compensation Commission. The Commission shall be composed of three members to be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one of the members of the Commission as Chairman, who shall have been a member of the bar of a Federal court or of the highest court of a State for at least eight years.

(b) There shall be appointed, by the President, by and with the advice and consent of the Senate, an Executive Secretary and a General Counsel to perform such duties as the Commission shall prescribe in accordance with the objectives of this Act.

(c) No member of the Commission shall engage in any other business, vocation, or employment.

(d) Except as provided in section 206(1) of this Act, the Chairman and one other member of the Commission shall constitute a quorum. Where the Commission is divided and only one other member is present, the opinion of the Chairman shall prevail.

The Commission shall have an official seal.

Mike Mansfield Papers, Series 21, Box 46, Folder 86, Mansfield Library, University of Montana.
December 10, 1970

CONGRESSIONAL RECORD—SENATE

S 19905

FUNCTION OF THE COMMISSION

Sec. 202. In order to carry out the purposes of this Act, the Commission shall—
(a) receive and process applications under the provisions of this Act for compensation
and for an award of a special maritime or territorial jurisdiction of the United States
(b) receive and process applications for compensation under title II of this Act
(c) to establish and maintain an office on the Federal Register
(d) arrange for the making of the reports of the Commission
Sec. 203. (a) The Commission is authorized to carry out the purposes of this Act to the
extent that it may be necessary to make or to supplement such rules and regulations as
may be necessary to make the application of this Act as consistent with the provisions
of title II of this Act
(b) {passage}
(c) {passage}
(d) {passage}
Sec. 204. {passage}

TERMS AND COMPENSATION OF COMMISSION

Sec. 204. (a) Section 5314, title 5, United States Code, is amended by adding at the
e nd thereof the following paragraph:
(b) {passage}
Sec. 205. (a) The principal office of the Commission shall be in or near the District
of Columbia, or any duly authorized representative may exercise any or all of its powers
in any place
(b) {passage}
(c) {passage}
Sec. 206. The Commission may—
(a) {passage}
(b) {passage}
(c) {passage}

AWARDING COMPENSATION

Sec. 301. (a) In any case in which a person is injured or killed by any act or omission
and in any other case in which the description of the offenses listed in section
302 of this Act, the Commission, in its discretion, may, upon an application for the
payment of, and compensation in accordance with the provisions of this Act, if such
omission or act was committed in the District of Columbia, or any other place
in the District of Columbia, order the payment of compensation—

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1. (1) to or on behalf of the injured person;
2. (2) in the case of the personal injury of the victim, where the compensation is for
pecuniary loss suffered or expenses incurred by any person responsible for the mainte­
nance of the victim, to that person;
3. (3) in the case of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any

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3. (3) in the case of the victim, to or for the benefit of the dependents or closest relative of the deceased victim, or any
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December 10, 1970

S 19906

(7) threats to do bodily harm; 
(8) lewd, indecent, or obscene acts; 
(9) indecent act with children; 
(10) indecent act with a mental patient; 
(11) kidnapping; 
(12) robbery; 
(13) murder; 
(14) manslaughter, voluntary; 
(15) attempted murder; 
(16) rape; 
(17) attempted rape; 
(18) or other crimes involving force to the person.

FINALITY OF DECISION

Sec. 306. The orders and decisions of the Commission shall be reviewable in the appropriate courts of appeals, but that no trial de novo of the facts determined by the Commission shall be allowed.

LIMITATIONS UPON AWARDING COMPENSATION

Sec. 307. (a) No order for the payment of compensation shall be made under section 501 of this Act unless the application has been made within two years after the date of the personal injury or death.

(b) No compensation shall be awarded under this Act to or on behalf of any victim in an amount 

(c) No compensation shall be awarded if the victim was at the time of the personal injury or death living with the offender as his spouse or in situations when the Commission at its discretion feels unjust enrichment to or on behalf of the offender would result.

TERMS AND PAYMENT OF THE ORDER

Sec. 308. (a) Except as otherwise provided in this section, the payment of compensation under this Act may be made upon such terms and conditions as the Commission determines to be appropriate.

(b) The Commission shall have the power to pay such amount to any person as it may determine, if the person appears to the court 

(c) The Commission shall make the payment of each award in accordance with the provisions of this Act.

TITLE IV — RECOVERY OF COMPENSATION

RECOVERY FROM OFFENDER

Sec. 401. (a) Whenever any person is convicted of an offense and an order for the payment of compensation is or has been made under this Act for a personal injury or death resulting from the act or omission constituting such offense, the Attorney General may make a claim against any person

(b) Process of the district court for any judicial district in any action under this section may be served in any judicial district of the United States by the United States Marshal thereof. Whenever it appears to the court in which any action under this section is pending that other parties should be brought before the court in such action, the court may, upon application, cause such process to be served in such other judicial districts of the United States as the court shall determine, and render judgment in any such action.

EFFECT ON CIVIL ACTIONS

Sec. 402. An order for the payment of compensation under this Act affects the right of any person to recover damages from any other person by a civil action for the injury or death.

TITL E V — VIOLENT CRIMES COMPENSATION GRANTS

GRANTS AUTHORIZED

Sec. 501. Under the supervision and direction of the Commission the Executive Secretary is authorized to make grants to States to pay the Federal share of the costs of State programs to compensate victims of violent crimes.

ELIGIBILITY FOR ASSISTANCE

Sec. 502. (a) A State is eligible for assistance under this title only if the Executive Secretary, after consultation with the Attorney General, determines, pursuant to objective criteria established by the Commission and under section 504, that such State has enacted legislation of general applicability within such State establishing a State agency having the capacity to hear and determine claims brought by or on behalf of victims of violent crimes and order the payment of such claims;

(b) providing for the payment of compensation for personal injuries or death resulting from offenses in categories established pursuant to section 504;

(c) providing for the payment of compensation for personal injuries or death resulting from offenses in categories established pursuant to section 504.

STATE PLANS

Sec. 503. (a) Any State desiring to receive a grant under this title shall submit to the Commission a State plan. Such plan shall contain:

(1) provide that the program for which assistance under this title is sought will be administered by or under the supervision of a State agency;

(2) set forth a program for the compensation of victims of violent crimes which is consistent with the requirements set forth in section 502;

(3) provide assurances that the State will pay from non-Federal sources the remaining cost of such program;

(A) periodic reports evaluating the effectiveness of payments received under this title in carrying out the objectives of this Act,

(B) such other reports as may be reasonably necessary to enable the Executive Secretary to perform his functions under this title, including such reports as he may require to determine whether the local public agencies of that State are eligible to receive for any fiscal year, and assures that such State will establish such records and afford such access thereto as the Executive Secretary may find necessary to assure the completeness and verification of such reports.

The Executive Secretary shall approve a plan which meets the requirements specified in subsection (a) of this section and he shall finally disapprove such a plan except after reasonable notice and opportunity for a hearing to such State.

BASE OF THE STATE

Sec. 504. As soon as practicable after the enactment of this Act, the Commission shall by regulations prescribe criteria to be applied for determining eligibility for assistance under this title. In addition to other ma...
PAYMENTS
Sec. 505. (a) The Executive Secretary shall pay in any fiscal year to each State which has a plan approved pursuant to this title for that fiscal year the Federal share of the cost of such plan as determined by him.
(b) The Federal share of programs covered by the State plan shall be 75 per centum for any fiscal year.
(c) Payments under this section may be made in installments, in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.
(d) Grants made under this section pursuant to a State plan for programs and projects in any one State shall not exceed in the aggregate 15 per centum of the aggregate amount of funds authorized to be appropriated under section 603.

WITHHOLDING OF GRANTS
Sec. 506. Whenever the Executive Secretary, after reasonable notice and opportunity for a hearing to any State, finds—
(1) that there has been a failure to comply substantially with any requirement set forth in the plan of that State approved under section 503; or
(2) that in the operation of any program assisted under this Act there is a failure to comply substantially with any applicable provision of this Act;
the Executive Secretary shall notify such State of his findings and that no further payments may be made to such State under this Act until he is satisfied that there is no longer any such failure to comply, or the non-compliance will be promptly corrected.

REVIEW AND AUDIT
Sec. 507. The Executive Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of finding and examination, to any books, documents, papers, and records of a grantee that are pertinent to the grant received.

DEFINITION
Sec. 508. For the purpose of this title the term "State" means each of the several States.

TITLE VI—MISCELLANEOUS
REPORTS TO THE CONGRESS
Sec. 601. The Commission shall transmit to the President and to the Congress annually a report of its activities under this Act including the name of each applicant, a brief description of the facts in each case, and the amount, if any, of compensation awarded, and the number and amount of grants to States under title V.

PENALTIES
Sec. 602. The provisions of section 1001 of title 18 of the United States Code shall apply to any application, statement, document, or information presented to the Commission under this Act.

AUTHORIZATION OF APPROPRIATIONS
Sec. 603. (a) There are authorized to be appropriated for the purpose of making grants under title V of this Act $— for the fiscal year ending June 30, 1972; $— for the fiscal year ending June 30, 1973; and $— for the fiscal year ending June 30, 1974.
(b) There are hereby authorized to be appropriated such sums as may be necessary to carry out the other provisions of this Act.

EFFECTIVE DATE
Sec. 604. This Act shall take effect on January 1, 1971.