

113TH CONGRESS
1ST SESSION

S. 698

To protect prosecutors, judges, law enforcement officers, and their families.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2013

Mr. CORNYN introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To protect prosecutors, judges, law enforcement officers, and
their families.

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 “Line of Duty Act of
5 2013”.

6 **SEC. 2. PROTECTION FOR PROSECUTORS AND JUDGES.**

7 (a) MODIFICATIONS TO THE COMMUNITY ORIENTED
8 POLICING SERVICES PROGRAM.—Section 1701(b) of title
9 I of the Omnibus Crime Control and Safe Streets Act of
10 1968 (42 U.S.C. 3796dd(b)) is amended—

1 (1) in paragraph (16), by striking “and” at the
2 end;

3 (2) by redesignating paragraph (17) as para-
4 graph (18);

5 (3) by inserting after paragraph (16) the fol-
6 lowing:

7 “(18) to train and provide security details for
8 prosecutors and judges, including their immediate
9 families, involved in cases that raise substantial con-
10 cerns of retaliation or intimidation through violent
11 acts; and”; and

12 (4) in paragraph (18), as so redesignated, by
13 striking “(16)” and inserting “(17)”.

14 (b) MODIFICATIONS TO THE EDWARD BYRNE MEMO-
15 RIAL JUSTICE ASSISTANCE GRANT PROGRAM.—Section
16 501(a)(1) of title I of the Omnibus Crime Control and
17 Safe Streets Act of 1968 (42 U.S.C. 3751(a)(1)) is
18 amended by adding at the end the following:

19 “(H) Prosecutorial and judicial security
20 details and programs.”.

21 **SEC. 3. JUSTICE FOR PROSECUTORS, JUDGES, LAW EN-**
22 **FORCEMENT OFFICERS, AND THEIR FAMI-**
23 **LIES.**

24 (a) KILLING OF PROSECUTORS, JUDGES, AND LAW
25 ENFORCEMENT OFFICERS.—

1 (1) OFFENSE.—Chapter 51 of title 18, United
2 States Code, is amended by adding at the end the
3 following:

4 **“§ 1123. Killing of federally funded prosecutors,**
5 **judges, and law enforcement officers**

6 “(a) DEFINITIONS.—In this section—

7 “(1) the terms ‘Federal law enforcement officer’
8 and ‘United States judge’ have the meanings given
9 those terms in section 115;

10 “(2) the term ‘federally funded public safety of-
11 ficer’ means a public safety officer or judicial officer
12 for a public agency that—

13 “(A) receives Federal financial assistance;
14 and

15 “(B) is an agency of an entity that is a
16 State of the United States, the District of Co-
17 lumbia, the Commonwealth of Puerto Rico, the
18 Virgin Islands, Guam, American Samoa, the
19 Commonwealth of the Northern Mariana Is-
20 lands, or any territory or possession of the
21 United States, an Indian tribe, or a unit of
22 local government of that entity;

23 “(3) the term ‘firefighter’ includes an individual
24 serving as an official recognized or designated mem-
25 ber of a legally organized volunteer fire department

1 and an officially recognized or designated public em-
2 ployee member of a rescue squad or ambulance crew;

3 “(4) the term ‘judicial officer’ means a judge or
4 other officer or employee of a court, including pros-
5 ecutors, court security, pretrial services officers,
6 court reporters, and corrections, probation, and pa-
7 role officers;

8 “(5) the term ‘law enforcement officer’ means
9 an individual, with arrest powers, involved in crime
10 or juvenile delinquency control or reduction or en-
11 forcement of the laws;

12 “(6) the term ‘public agency’ includes a court
13 system, the National Guard of a State to the extent
14 the personnel of that National Guard are not in
15 Federal service, and the defense forces of a State
16 authorized by section 109 of title 32; and

17 “(7) the term ‘public safety officer’ means an
18 individual serving a public agency in an official ca-
19 pacity, as a law enforcement officer, as a firefighter,
20 as a chaplain, or as a member of a rescue squad or
21 ambulance crew.

22 “(b) OFFENSE.—It shall be unlawful for any person
23 to—

24 “(1) kill, or attempt or conspire to kill—

25 “(A) a United States judge;

1 “(B) a Federal law enforcement officer; or

2 “(C) a federally funded public safety offi-
3 cer while that officer is engaged in official du-
4 ties, or on account of the performance of offi-
5 cial duties; or

6 “(2) kill a former United States judge, Federal
7 law enforcement officer, or federally funded public
8 safety officer on account of the past performance of
9 official duties.

10 “(c) PENALTY.—Any person that violates subsection
11 (b) shall be fined under this title and imprisoned for any
12 term of years not less than 30, or for life, or, if death
13 results and the offender is prosecuted as a principal, may
14 be sentenced to death.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions for chapter 51 of title 18, United States Code,
17 is amended by adding at the end the following:

“1123. Killing of federally funded prosecutors, judges, and law enforcement offi-
cers.”.

18 (b) FUGITIVES FROM JUSTICE.—

19 (1) OFFENSE.—Chapter 49 of title 18, United
20 States Code, is amended by adding at the end the
21 following:

1 **“§ 1075. Flight to avoid prosecution for killing pros-**
 2 **ecutors, judges, and law enforcement offi-**
 3 **cial**

4 “(a) OFFENSE.—It shall be unlawful for any person
 5 to move or travel in interstate or foreign commerce with
 6 intent to avoid prosecution, or custody or confinement
 7 after conviction, under the laws of the place from which
 8 the person flees or under section 1114 or 1123, for a crime
 9 consisting of the killing, an attempted killing, or a con-
 10 spiracy to kill a Federal judge or Federal law enforcement
 11 officer (as those terms are defined in section 115), or a
 12 federally funded public safety officer (as that term is de-
 13 fined in section 1123).

14 “(b) PENALTY.—Any person that violates subsection
 15 (a) shall be fined under this title and imprisoned for any
 16 term of years not less than 10, in addition to any other
 17 term of imprisonment for any other offense relating to the
 18 conduct described in subsection (a).”.

19 (2) CLERICAL AMENDMENT.—The table of sec-
 20 tions for chapter 49 of title 18, United States Code,
 21 is amended by adding at the end the following:

“1075. Flight to avoid prosecution for killing prosecutors, judges, and law en-
 forcement officials.”.

22 (c) AGGRAVATING FACTORS FOR HOMICIDE.—Sec-
 23 tion 3592(c) of title 18, United States Code, is amended
 24 by inserting after paragraph (16) the following:

1 “(17) KILLING OF A PROSECUTOR, JUDGE, LAW
2 ENFORCEMENT OFFICER, OR FIRST RESPONDER.—
3 The defendant killed or attempted to kill a person
4 who is authorized by law—

5 “(A) to engage in or supervise the preven-
6 tion, detention, or investigation of any criminal
7 violation of law;

8 “(B) to arrest, prosecute, or adjudicate an
9 individual for any criminal violation of law; or

10 “(C) to be a firefighter or other first re-
11 sponder.”.

12 (d) FEDERAL REVIEW OF STATE CONVICTION FOR
13 MURDER OF A LAW ENFORCEMENT OFFICER OR
14 JUDGE.—

15 (1) IN GENERAL.—Section 2254 of title 28,
16 United States Code, is amended by adding at the
17 end the following:

18 “(j)(1) For an application for a writ of habeas corpus
19 on behalf of a person in custody pursuant to the judgment
20 of a State court for a crime that involved the killing of
21 a public safety officer (as that term is defined in section
22 1204 of the Omnibus Crime Control and Safe Streets Act
23 of 1968 (42 U.S.C. 3796b)) or judge, while the public
24 safety officer or judge was engaged in the performance
25 of official duties, or on account of the performance of offi-

1 cial duties by or status as a public safety officer or judge
2 of the public safety officer or judge—

3 “(A) the application shall be subject to the time
4 limitations and other requirements under sections
5 2263, 2264, and 2266; and

6 “(B) the court shall not consider claims relating
7 to sentencing that were adjudicated in a State court.

8 “(2) Sections 2251, 2262, and 2101 are the exclusive
9 sources of authority for Federal courts to stay a sentence
10 of death entered by a State court in a case described in
11 paragraph (1).”.

12 (2) RULES.—Rule 11 of the Rules Governing
13 Section 2254 Cases in the United States District
14 Courts is amended by adding at the end the fol-
15 lowing: “Rule 60(b)(6) of the Federal Rules of Civil
16 Procedure shall not apply to a proceeding under
17 these rules in a case that is described in section
18 2254(j) of title 28, United States Code.”.

19 (3) FINALITY OF DETERMINATION.—Section
20 2244(b)(3)(E) of title 28, United States Code, is
21 amended by striking “the subject of a petition” and
22 all that follows and inserting: “reheard in the court
23 of appeals or reviewed by writ of certiorari.”.

24 (4) EFFECTIVE DATE AND APPLICABILITY.—

1 (A) IN GENERAL.—This section and the
2 amendments made by this section shall apply to
3 any case pending on or after the date of enact-
4 ment of this Act.

5 (B) TIME LIMITS.—In a case pending on
6 the date of enactment of this Act, if the amend-
7 ments made by this section impose a time limit
8 for taking certain action, the period of which
9 began before the date of enactment of this Act,
10 the period of such time limit shall begin on the
11 date of enactment of this Act.

12 (C) EXCEPTION.—The amendments made
13 by this section shall not bar consideration under
14 section 2266(b)(3)(B) of title 28, United States
15 Code, of an amendment to an application for a
16 writ of habeas corpus that is pending on the
17 date of enactment of this Act, if the amend-
18 ment to the petition was adjudicated by the
19 court prior to the date of enactment of this Act.

20 (e) SPECIAL PENALTIES FOR ASSAULTING A FED-
21 ERAL PROSECUTOR, JUDGE, OR LAW ENFORCEMENT OF-
22 FICER.—

23 (1) IN GENERAL.—Section 111 of title 18,
24 United States Code, is amended to read as follows:

1 **“§ 111. Assaulting or interfering with certain officers**
2 **or employees**

3 “(a) OFFICERS AND EMPLOYEES.—

4 “(1) IN GENERAL.—It shall be unlawful for any
5 person to—

6 “(A) assault or interfere with an officer or
7 employee described in section 1114, while such
8 officer or employee is engaged in, or on account
9 of the performance of, official duties;

10 “(B) assault or interfere with an individual
11 who formerly served as an officer or employee
12 described in section 1114 on account of the per-
13 formance of official duties; or

14 “(C) assault or interfere with an individual
15 on account of the current or former status of
16 the individual as an officer or employee de-
17 scribed in section 1114.

18 “(2) PENALTY.—Any person who violates para-
19 graph (1), shall be—

20 “(A) fined under this title;

21 “(B)(i) in the case of an interference or a
22 simple assault, imprisoned for not more than 1
23 year;

24 “(ii) in the case of an assault involving ac-
25 tual physical contact or the intent to commit

1 any other felony, imprisoned for not more than
2 10 years;

3 “(iii) in the case of an assault resulting in
4 bodily injury, imprisoned for not more than 20
5 years; or

6 “(iv) in the case of an assault resulting in
7 substantial bodily injury (as that term is de-
8 fined in section 113), or if a dangerous weapon
9 was used or possessed during and in relation to
10 the offense (including a weapon intended to
11 cause death or danger but that fails to do so by
12 reason of a defective component), imprisoned
13 for not more than 30 years; or

14 “(C) fined under subparagraph (A) and
15 imprisoned under subparagraph (B).

16 “(b) LAW ENFORCEMENT OFFICERS AND JUDGES.—

17 “(1) IN GENERAL.—

18 “(A) SUBSTANTIAL BODILY INJURY.—If
19 the victim of an assault punishable under this
20 section is a Federal law enforcement officer or
21 a United States judge (as those terms are de-
22 fined in section 115) and the assault resulted in
23 substantial bodily injury (as that term is de-
24 fined in section 113), the offender shall be pun-
25 ished by a fine under this title and imprison-

1 ment for not less 5 years nor more than 30
2 years.

3 “(B) SERIOUS BODILY INJURY.—If the vic-
4 tim of an assault punishable under this section
5 is a Federal law enforcement officer or a
6 United States judge (as those terms are defined
7 in section 115) and the assault resulted in seri-
8 ous bodily injury (as that term is defined in
9 section 2119(2)), or a dangerous weapon was
10 used or possessed during and in relation to the
11 offense, the offender shall be punished by a fine
12 under this title and imprisonment for any term
13 of years not less than 10 or for life.

14 “(2) IMPOSITION OF PUNISHMENT.—Each pun-
15 ishment for criminal conduct described in this sub-
16 section shall be in addition to any other punishment
17 for other criminal conduct during the same criminal
18 episode.”.

19 (2) TECHNICAL AND CONFORMING AMEND-
20 MENT.—The table of sections for chapter 7 of title
21 18, United States Code, is amended by striking the
22 item relating to section 111 and inserting the fol-
23 lowing:

“111. Assaulting or interfering with certain officers or employees.”.

24 (f) SPECIAL PENALTIES FOR RETALIATING AGAINST
25 A FEDERAL PROSECUTOR, JUDGE, OR LAW ENFORCE-

1 MENT OFFICER BY MURDERING OR ASSAULTING A FAM-
2 ILY MEMBER.—

3 (1) IN GENERAL.—Section 115 of title 18,
4 United States Code, is amended—

5 (A) by redesignating subsections (c) and
6 (d) as subsections (d) and (e), respectively; and

7 (B) by inserting after subsection (b) the
8 following:

9 “(c)(1) If an offense punishable under this section
10 is committed with the intent to impede, intimidate, or
11 interfere with a Federal law enforcement officer or a
12 United States judge while that officer or judge is engaged
13 in the performance of official duties, with the intent to
14 retaliate against that officer or judge or a person who for-
15 merly served as such an officer or judge on account of
16 the performance of official duties, or with the intent to
17 retaliate against an individual on account of the current
18 or former status of the individual as such an officer or
19 judge, the offender shall be punished—

20 “(A) in the case of murder, attempted murder,
21 conspiracy to murder, or manslaughter, as provided
22 in section 1114(1);

23 “(B) in the case of kidnapping, attempted kid-
24 napping, or conspiracy to kidnap, as provided in sec-
25 tion 1201(a);

1 “(C) in the case of an assault resulting in bod-
2 ily injury or involving the use or possession of a dan-
3 gerous weapon during and in relation to the offense,
4 as provided for a comparable offense against a Fed-
5 eral law enforcement officer or United States judge
6 under section 111; and

7 “(D) in the case of any other assault or threat,
8 by a fine under this title and imprisonment for not
9 more than 10 years.

10 “(2) Each punishment for criminal conduct described
11 in this subsection shall be in addition to any other punish-
12 ment for other criminal conduct during the same criminal
13 episode.”.

14 (2) TECHNICAL AND CONFORMING AMEND-
15 MENTS.—

16 (A) Section 119(b)(4) of title 18, United
17 States Code, is amended by striking “section
18 115(c)(2)” and inserting “section 115”.

19 (B) Section 2237(e)(1) of title 18, United
20 States Code, is amended by striking “in section
21 115(c)” and inserting “in section 115”.

22 (C) Section 5(a) of the Act entitled “An
23 Act to promote the development of Indian arts
24 and crafts and to create a board to assist there-
25 in, and for other purposes” (25 U.S.C. 305d) is

1 amended by striking “in section 115(e)” and in-
2 serting “in section 115”.

3 **SEC. 4. SELF-DEFENSE RIGHTS FOR PROSECUTORS,**
4 **JUDGES, AND LAW ENFORCEMENT OFFICERS.**

5 (a) IN GENERAL.—Chapter 203 of title 18, United
6 States Code, is amended by inserting after section 3053
7 the following:

8 **“§ 3054. Authority of judges, prosecutors, and law en-**
9 **forcement officers to carry firearms**

10 “Subject to such regulations as the Attorney General
11 shall prescribe regarding training and proficiency in the
12 use of firearms, any officer, agent, or employee of the
13 United States, a State, or a political subdivision thereof,
14 who is authorized by law to engage in or supervise the
15 prevention, detection, investigation, prosecution, or adju-
16 dication of any violation of law may carry firearms. Such
17 authority to carry firearms shall extend, but not be limited
18 to presence within any building or structure classified as
19 a Federal facility or Federal court facility, as those terms
20 are defined under section 930, and any grounds appur-
21 tenant to such a facility, where such possession is other-
22 wise authorized by law and incident to the lawful perform-
23 ance of the official duties of that person.”.

24 (b) CARRYING OF CONCEALED FIREARMS BY QUALI-
25 FIED LAW ENFORCEMENT OFFICERS.—Section

1 926B(e)(2) of title 18, United States Code, is amended
2 by inserting “any magazine and” after “includes”.

3 (c) CARRYING OF CONCEALED FIREARMS BY QUALI-
4 FIED RETIRED LAW ENFORCEMENT OFFICERS.—Section
5 926C(e)(1)(B) of title 18, United States Code, is amended
6 by inserting “any magazine and” after “includes”.

7 (d) SCHOOL ZONES.—Section 922(q)(2)(B)(vi) title
8 18, United States Code, is amended by inserting “, a
9 qualified law enforcement officer (as defined in section
10 926B(c)), or a qualified retired law enforcement officer
11 (as defined in section 926C(c))” before the semicolon.

12 (e) REGULATIONS REQUIRED.—Not later than 60
13 days after the date of enactment of this Act, the Attorney
14 General shall promulgate regulations allowing persons de-
15 scribed in section 3054 of title 18, United States Code,
16 to possess firearms in a manner described by that section.
17 With respect to Federal justices, judges, bankruptcy
18 judges, and magistrate judges, such regulations shall be
19 prescribed after consultation with the Judicial Conference
20 of the United States.

21 (f) TECHNICAL AND CONFORMING AMENDMENT.—
22 The table of sections for chapter 203 of title 18, United
23 States Code, is amended by inserting after the item relat-
24 ing to section 3053 the following:

“3054. Authority of judges, prosecutors, and law enforcement officers to carry
firearms.”.

1 **SEC. 5. LIMITATION ON DAMAGES INCURRED DURING COM-**
2 **MISSION OF A FELONY OR CRIME OF VIO-**
3 **LENCE.**

4 (a) IN GENERAL.—Section 1979 of the Revised Stat-
5 utes (42 U.S.C. 1983) is amended by—

6 (1) striking “except that in any action” and all
7 that follows through “relief was unavailable.” and
8 inserting the following: “except that—

9 “(1) in any action brought against a judicial of-
10 ficer for an act or omission taken in the judicial ca-
11 pacity of that officer, injunctive relief shall not be
12 granted unless a declaratory decree was violated or
13 declaratory relief was unavailable; and

14 “(2) in any action seeking redress for any dep-
15 rivation that was incurred in the course of, or as a
16 result of, or is related to, conduct by the injured
17 party that, more likely than not, constituted a felony
18 or a crime of violence (as that term is defined in sec-
19 tion 16 of title 18, United States Code) (including
20 any deprivation in the course of arrest or apprehen-
21 sion for, or the investigation, prosecution, or adju-
22 dication of, such an offense), a court may not award
23 damages other than for necessary out-of-pocket ex-
24 penditures and other monetary loss.”; and

25 (2) indenting the last sentence as an undesig-
26 nated paragraph.

1 (b) ATTORNEY'S FEES.—Section 722(b) of the Re-
2 vised Statutes (42 U.S.C. 1988(b)) is amended by striking
3 “except that in any action” and all that follows and insert-
4 ing the following: “except that—

5 “(1) in any action brought against a judicial of-
6 ficer for an act or omission taken in the judicial ca-
7 pacity of that officer, such officer shall not be held
8 liable for any costs, including attorneys fees, unless
9 such action was clearly in excess of the jurisdiction
10 of that officer; and

11 “(2) in any action seeking redress for any dep-
12 rivation that was incurred in the course of, or as a
13 result of, or is related to, conduct by the injured
14 party that, more likely than not, constituted a felony
15 or a crime of violence (as that term is defined in sec-
16 tion 16 of title 18, United States Code) (including
17 any deprivation in the course of arrest or apprehen-
18 sion for, or the investigation, prosecution, or adju-
19 dication of, such an offense), the court may not
20 allow such party to recover attorney's fees.”.

21 **SEC. 6. SELF-DEFENSE RIGHTS FOR FEDERAL CORREC-**
22 **TIONAL WORKERS.**

23 (a) IN GENERAL.—Chapter 303 of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 4049. Secure firearms storage for Federal correc-**
2 **tional workers**

3 “The Director of the Bureau of Prisons shall ensure
4 that each Federal penal or correctional institution pro-
5 vides a secure firearms storage area for use by all persons
6 employed by the Bureau of Prisons at the institution who
7 are authorized to carry a firearm, or allow such persons
8 to store firearms in a vehicle lockbox approved by the Di-
9 rector.”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 for chapter 303 of title 18, United States Code, is amend-
12 ed by adding at the end the following:

“4049. Secure firearms storage for Federal correctional workers.”.

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