

DEATH IN CUSTODY REPORTING ACT OF 2011

SEPTEMBER 7, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R.2189]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2189) to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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Purpose and Summary

H.R. 2189 reauthorizes the Death in Custody Reporting Act of 2000 which expired in 2006. This legislation will require the submission of information regarding deaths occurring in law enforcement custody at the Federal, state and local levels. The legislation also provides for reductions of up to 10 percent of Federal Byrne JAG grant funds at the discretion of the Attorney General, in the

event of a state's non-compliance with the reporting requirements. H.R. 2189 also requires a study and report of information on deaths in custody.

Background and Need for the Legislation

The Department of Justice's Bureau of Justice Statistics ("BJS") collects and disseminates data on deaths that occur in local jails, state prisons, and during the process of arrests by state and local law enforcement agencies through its Deaths in Custody Reporting Program ("DCRP"). This program was initiated by the Death in Custody Reporting Act of 2000, Public Law 106-297, which required the collection of individual death records for these fatalities. Federal prisons were not covered by this law. Prior to the passage of the law, BJS had historically collected aggregate counts of deaths in correctional facilities. The collection of individual-level data has provided BJS with the ability to perform detailed analyses of comparative death rates across demographic categories, offense types and facility/agency characteristics. While the Death in Custody Reporting Act expired in 2006, BJS has continued to collect these data, as they represent a unique national resource for understanding mortality in the criminal justice system. BJS has published both in-depth analytical reports and online statistical tables from these various DCRP collections.

Hearings

The Committee on the Judiciary held no hearings on H.R. 2189.

Committee Consideration

On July 29, 2011, the Committee met in open session and ordered the bill H.R. 2189 favorably reported without amendment, by voice vote, a quorum being present.

Committee Votes

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 2189.

Committee Oversight Findings

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

New Budget Authority and Tax Expenditures

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

Congressional Budget Office Cost Estimate

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2189, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, August 19, 2011.

Hon. LAMAR SMITH, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2189, the “Death in Custody Reporting Act of 2011.”

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 2189—Death in Custody Reporting Act of 2011.

CBO estimates that implementing H.R. 2189 would have no significant cost to the Federal Government. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

H.R. 2189 would require Federal law enforcement agencies and states that receive certain Federal funds to report to the Department of Justice (DOJ) any deaths of persons arrested or detained by law enforcement personnel under their jurisdiction. The bill would direct DOJ to prepare a report, within two years of enactment, on the information provided by Federal agencies and states and on ways to reduce the number of such deaths. Based on the costs of similar activities currently carried out by DOJ, CBO estimates that implementing H.R. 2189 would not significantly affect spending by the department or by other Federal law enforcement agencies.

H.R. 2189 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

Performance Goals and Objectives

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2189, reauthorizes the Death in Custody Reporting Act of 2000 which expired in 2006 and will require the submission of information regarding

deaths occurring in law enforcement custody at the Federal, state and local levels.

Advisory on Earmarks

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 2189 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

Section-by-Section Analysis

The following discussion describes the bill as reported by the Committee.

Sec. 1: Short Title

Section 1 provides that the short title of H.R. 2189 is the “Death in Custody Reporting Act of 2011.”

Sec. 2: State Information Regarding Individuals Who Die in the Custody of Law Enforcement

Section 2 requires states to report to the Attorney General on a quarterly basis certain information regarding the death of any person who is detained, arrested, en route to incarceration, or incarcerated in state or local facilities or a boot camp prison. This section imposes penalties of up to a 10% reduction of Federal Byrne JAG funding, at the discretion of the Attorney General, on states that fail to comply with such reporting requirements. The section also requires the study and report of information by the BJS as it relates to state and local deaths in custody.

Sec. 3: Federal Law Enforcement Death in Custody Reporting Requirement

Section 3 requires the head of each Federal law enforcement agency to report annually to the Attorney General certain information regarding the death of any person who is detained or arrested by any officer of such agency (or by any state or local law enforcement officer for purposes of a Federal law enforcement operation); or is en route to be incarcerated or detained, or is incarcerated or detained, at any Federal correctional facility or Federal pretrial detention facility located within the United States or any other facility pursuant to a contract with or used by such agency.