

Calendar No. 158

114TH CONGRESS } SENATE { REPORT
1st Session } 114-87

A BILL TO CURTAIL THE USE OF CHANGES IN MANDATORY PROGRAMS AFFECTING THE CRIME VICTIMS FUND TO INFLATE SPENDING

JULY 21, 2015.—Ordered to be printed

Mr. ENZI, from the Committee on the Budget, submitted the following

R E P O R T

[To accompany S. 1495]

The Committee on the Budget to which was referred the bill (S. 1495) to curtail the use of changes in mandatory programs affecting the Crime Victims Fund to inflate spending having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE

S. 1495, the Fairness for Crime Victims Act of 2015, modifies the Congressional Budget Act of 1974 and creates a point of order, waivable by three-fifths of Senators duly chosen and sworn, against an appropriations bill, conference report, or amendment which provide, that the Crime Victims Fund (CVF) shall disburse less than the average amount it has collected over the past three completed fiscal years.

II. BACKGROUND

In 1984, the CVF was established by the Victims of Crime Act (VOCA, P.L. 98–473) with the premise that money the Federal Government collects from those who are convicted of committing crimes should be used to help those who are victimized by crime. The CVF receives no tax dollars and does not add to the national debt or deficit. It is financed by criminal fines and penalties collected by U.S. Attorneys’ Offices, U.S. federal courts, and the Federal Bureau of Prisons, along with gifts, bequests, and donations from private entities. Under federal law, monies deposited into the Fund may be used only to assist crime victims.

The U.S. Department of Justice disburses money from the CVF pursuant to a formula enacted in the Victims of Crime Act. The vast majority of funds go to States, which provide victim compensation grants—money paid directly to victims of crime—and victim assistance grants, which provide grants to victims service groups, such as Child Advocacy Centers, rape crisis centers, and domestic violence shelters.

For the first 15 years, the CVF disbursed what it brought in the prior year. Beginning in 2000, however, spending was limited from the CVF to amounts less than what the Fund collected. The difference has been used as an offset to allow for higher discretionary spending. Over time, this offset has grown, reaching \$10.8 billion in fiscal year 2015.

III. LEGISLATIVE HISTORY

Senator Pat Toomey (R–PA) introduced S. 1495 on June 3, 2015. The bill was read twice and referred to the Senate Committee on the Budget. At the time of committee action, the Fairness for Crime Victims Act is co-sponsored by Senators Kelly Ayotte (R–NH), Bob Corker (R–TN), Tom Cotton (R–AR), Mike Crapo (R–ID), Cory Gardner (R–CO), Orrin Hatch (R–UT), Ron Johnson (R–WI), David Perdue (R–GA), Rob Portman (R–OH), and Jeff Sessions (R–AL). The Committee held a Field Hearing on S.1495 on June 8, 2015, in Villanova, Pennsylvania.

IV. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section identifies the short title as the “Fairness for Crime Victims Act of 2015.”

Section 2. Point of Order against certain changes in mandatory programs affecting the Crime Victims Fund

This section provides twelve Findings and amends Title IV of the Congressional Budget Act of 1974 (2 U.S.C. 651 et seq.) to establish a point of order against an appropriations bill, conference report, or amendment providing that the Crime Victims Fund shall disburse less than the average amount collected by the Fund over the past three fiscal years. If the point of order is sustained by the Chair, that provision, and only that provision, shall be stricken from the measure and may not be offered as an amendment from the floor.

A Senator may move to waive the point of order and, if three-fifths of Senators duly chosen and sworn agree, the point of order is waived. In the Senate, determinations of budgetary levels shall be provided by the Chairman of the Senate Budget Committee.

The bill also prohibits consideration in the House of Representatives of any legislation, amendment, or conference report which provides that the Crime Victims Fund shall disburse less than the average amount collected by the Fund over the past three fiscal years. In the House, determinations of budgetary levels shall be provided by the Chairman of the House Budget Committee.

V. CBO COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 2015.

Hon. MIKE ENZI,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As you requested, the Congressional Budget Office (CBO) has prepared a cost estimate for S. 1495, the Fairness for Crime Victims Act of 2015, as introduced on June 3, 2015.

S. 1495 would amend the Congressional Budget Act to establish a point of order, which a Member of Congress may raise, against certain legislation that would limit the obligation of funds from the Crime Victims Fund in the Department of Justice.

CBO estimates that enacting S. 1495 would, by itself, have no effect on federal spending. The bill could affect certain legislative proposals relating to the Crime Victims Fund, but we have no basis for predicting the future actions of the Congress under current law or under the provisions of S. 1495. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

S. 1495 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Sincerely,

KEITH HALL,
Director.

VI. REGULATORY IMPACT STATEMENT

Paragraph 11(b) of rule XXVI of the Standing Rules of the Senate requires committee reports to evaluate the legislation's regulatory, paperwork, and privacy impact on individuals, businesses, and consumers.

The Congressional Budget Office (CBO) estimates that S. 1495 contains no intergovernmental or private sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

VII. PUBLIC HEARING

A Field Hearing was called to order by Senator Toomey at 10 a.m. on June 8, 2015, at Villanova University School of Law in Villanova, Pennsylvania, to consider "Perspectives on Budget Proc-

ess Reform: S. 1495—Fairness for Crime Victims Act of 2015.” At the invitation of Senator Toomey, the following witnesses provided testimony: the Honorable Jack Whelan, District Attorney for Delaware County, PA; Ms. Abbie Newman, Executive Director & CEO for Mission Kids Child Advocacy Center of Montgomery County, PA; Ms. Diane Moyer, Legal Director for the Pennsylvania Coalition Against Rape; and Ms. Peg Dierkers, Executive Director for the Pennsylvania Coalition Against Domestic Violence.

VIII. COMMITTEE VOTE

On June 24, 2015, with a quorum present, the Chairman of the Senate Budget Committee held a Markup to order for consideration of S. 1495, the Fairness for Crime Victims Act of 2015, as introduced on June 3, 2015. The committee, by voice vote, ordered S. 1495 to be reported favorably without amendment.

IX. VIEWS OF MEMBERS OF THE COMMITTEE

ADDITIONAL VIEWS FROM SENATOR MIKE CRAPO

I appreciate the opportunity to work with Senator Toomey and others on this important issue.

This is an issue I have been working on since I first offered an amendment in this committee to the Fiscal Year 2010 budget resolution to establish a point of order against efforts to use CHIMPs to spend money out of the Crime Victims Fund for other purposes.

My amendment received unanimous support in this committee, but unfortunately was dropped in conference.

Then, we had several years where this committee did not mark up a budget resolution.

But, when we did again for Fiscal Year 2014, I again offered my amendment, which once more received unanimous support in this committee.

That year, my amendment did not go any further because the Senate leadership at the time failed to proceed with passing a budget through the full Senate and on to conference.

Earlier this year, however, this committee, under Chairman Enzi's leadership, did produce a strong balanced budget resolution, which was ultimately confereed with the House.

My amendment was again offered and again supported unanimously in this committee.

And, as a conferee, I was pleased that my amendment took another step forward, as a modified version, providing additional protections to the Crime Victims Fund for FY 2016, was included in the final conference report.

I am a proud co-sponsor of the legislation from Senator Toomey, which will take another important step forward in this effort to protect victims of crime.

This bill, for the first time, will provide statutory protections to ensure that crime victims get the assistance funding they deserve and are entitled to under the law.

Further, this bill will protect against efforts to continue to increase the amount of funds in the CVF that are diverted for other spending purposes.

As I have noted many times, these funds are not taxpayer dollars that can be spent at the discretion of Congress.

These are fines, forfeitures and penalties from criminals that have been directed by law to a special fund set aside specifically to fund programs to assist victims of crime.

There is no statutory authority for the government to use a dime of these funds for any other purpose.

I again thank Senator Toomey for this legislation, which will build on the progress we have already made, and I pledge to continue my efforts to work with him, and many others on this committee and throughout the Senate to complete our efforts to protect every dime in the fund so that these funds are only used to assist and protect victims of crime.

MIKE CRAPO.

ADDITIONAL VIEWS FROM SENATOR CHUCK GRASSLEY

The committee will consider S. 1495, the Fairness for Victims of Crime Act. I support this measure, which would establish a budgetary point of order against certain changes in mandatory programs that affect the Crime Victims Fund.

I have long advocated victims' rights, and I was an original co-sponsor of the 1984 Victims of Crime Act, which created the Crime Victims Fund. This fund is premised on the notion that fines and penalties collected from criminal offenders should be used to help those who have been victimized by crime. The money in the fund derives entirely from fines and restitution paid by federal criminals, not from taxpayers.

According to the U.S. Department of Justice, the money in the Crime Victims Fund helps thousands of local public and nonprofit organizations provide medical care, mental health counseling, lost wages, courtroom advocacy, temporary housing, increased awareness of victims' rights, and much more.

The Victims of Crime Act passed Congress with significant bipartisan support in 1984, and three decades after President Reagan signed it into law, I'm pleased to see that the Act is still working as intended. But its efficiency has been weakened in recent years, after congressional appropriators imposed an arbitrary cap on money flowing out of the fund. Since this step was taken, billions of dollars have been withheld from survivors of violent crime.

I support Senator Toomey's efforts to remove this cap and restore the original intent of the Victims of Crime Act. Every last penny brought into the Victims of Crime Act fund is supposed to help victims rather than serve as a fund for other projects supported by appropriators. It's important that we ensure that victims of crime and their families are not forgotten and that they receive the compensation they are rightly owed.

CHUCK GRASSLEY.

X. CHANGES TO EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

CONGRESSIONAL BUDGET ACT OF 1974

[2 U.S.C. 651 et seq.]

**TITLE IV—ADDITIONAL PROVISIONS TO
IMPROVE FISCAL PROCEDURES**

* * * * *

**PART C—ADDITIONAL LIMITATIONS ON BUDGETARY
AND APPROPRIATIONS LEGISLATION****SEC. 441. POINT OF ORDER AGAINST CHANGES IN MANDATORY PROGRAMS AFFECTING THE CRIME VICTIMS FUND.**(a) *DEFINITIONS.—In this section—*(1) *the term ‘CHIMP’ means a provision that—*

(A) *would have been estimated as affecting direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902) (as in effect prior to September 30, 2002) if the provision was included in legislation other than appropriation Acts; and*

(B) *results in a net decrease in budget authority in the current year or the budget year, but does not result in a net decrease in outlays over the period of the total of the current year, the budget year, and all fiscal years covered under the most recently adopted concurrent resolution on the budget;*

(2) *the term ‘Crime Victims Fund’ means the Crime Victims Fund established under section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601); and*

(3) *the term ‘3-year average amount’ means the annual average amount that was deposited into the Crime Victims Fund during the 3-fiscal-year period beginning on October 1 of the fourth fiscal year before the fiscal year to which a CHIMP affecting the Crime Victims Fund applies.*

(b) *POINT OF ORDER IN THE SENATE.—*

(1) *IN GENERAL.—When the Senate is considering a bill or joint resolution making appropriations for a fiscal year, or an amendment thereto, amendment between the Houses in relation thereto, conference report thereon, or motion thereon, if a point of order is made by a Senator against a provision containing a CHIMP that, if enacted, would cause the amount available for obligation during the fiscal year from the Crime Victims Fund to be less than the 3-year average amount, and the point of order is sustained by the Chair, that provision shall be*

stricken from the measure and may not be offered as an amendment from the floor.

(2) *FORM OF THE POINT OF ORDER.*—A point of order under paragraph (1) may be raised by a Senator as provided in section 313(e).

(3) *CONFERENCE REPORTS.*—When the Senate is considering a conference report on, or an amendment between the Houses in relation to, a bill or joint resolution, upon a point of order being made by any Senator pursuant to paragraph (1), and such point of order being sustained, such material contained in such conference report or House amendment shall be stricken, and the Senate shall proceed to consider the question of whether the Senate shall recede from its amendment and concur with a further amendment, or concur in the House amendment with a further amendment, as the case may be, which further amendment shall consist of only that portion of the conference report or House amendment, as the case may be, not so stricken. Any such motion in the Senate shall be debatable. In any case in which such point of order is sustained against a conference report (or Senate amendment derived from such conference report by operation of this subsection), no further amendment shall be in order.

(4) *SUPERMAJORITY WAIVER AND APPEAL.*—In the Senate, this subsection may be waived or suspended only by an affirmative vote of three-fifths of the Members, duly chosen and sworn. An affirmative vote of three-fifths of Members of the Senate, duly chosen and sworn shall be required to sustain an appeal of the ruling of the Chair on a point of order raised under this subsection.

(5) *DETERMINATION.*—For purposes of this subsection, budgetary levels shall be determined on the basis of estimates provided by the Chairman of the Committee on the Budget of the Senate.

(c) *POINT OF ORDER IN THE HOUSE OF REPRESENTATIVES.*—

(1) *IN GENERAL.*—A provision in a bill or joint resolution making appropriations for a fiscal year that proposes a CHIMP that, if enacted, would cause the amount available for obligation during the fiscal year from the Crime Victims Fund to be less than the 3-year average amount shall not be in order in the House of Representatives.

(2) *AMENDMENTS AND CONFERENCE REPORTS.*—It shall not be in order in the House of Representatives to consider an amendment to, or a conference report on, a bill or joint resolution making appropriations for a fiscal year if such amendment thereto or conference report thereon proposes a CHIMP that, if enacted, would cause the amount available for obligation during the fiscal year from the Crime Victims Fund to be less than the 3-year average amount.

(3) DETERMINATION.—For purposes of this subsection, budgetary levels shall be determined on the basis of estimates provided by the Chairman of the Committee on the Budget of the House of Representatives.”

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