

107TH CONGRESS  
2D SESSION

# S. 2219

To provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 22, 2002

Mr. EDWARDS (for himself, Mr. JEFFORDS, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide for compassionate payments with regard to individuals who contracted human immunodeficiency virus due to the provision of a contaminated blood transfusion, and for other purposes.

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; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Steve Grissom Relief Fund Act of 2002”.

6       (b) TABLE OF CONTENTS.—The table of contents of  
7       this Act is as follows:

Sec. 1. Short title; table of contents.

## TITLE I—RELIEF FUND

- Sec. 101. Steve Grissom relief fund.
- Sec. 102. Compassionate payments.
- Sec. 103. Determination and payment.
- Sec. 104. Limitation on transfer of rights and number of petitions.
- Sec. 105. Time limitation.
- Sec. 106. Certain claims not affected by payment.
- Sec. 107. Definitions.

## TITLE II—TREATMENT OF CERTAIN PAYMENTS UNDER THE SSI PROGRAM

- Sec. 201. Treatment of certain payments under the SSI program.

1                   **TITLE I—RELIEF FUND**2   **SEC. 101. STEVE GRISSOM RELIEF FUND.**

3           (a) ESTABLISHMENT.—There is established in the  
4 Treasury of the United States a trust fund to be known  
5 as the “Steve Grissom Relief Fund”, which shall be ad-  
6 ministered by the Secretary of the Treasury.

7           (b) INVESTMENT OF AMOUNTS IN FUND.—Amounts  
8 in the Fund shall be invested in accordance with section  
9 9702 of title 31, United States Code, and any interest on  
10 and proceeds from any such investment shall be credited  
11 to and become part of the Fund.

12          (c) AVAILABILITY OF FUND.—Amounts in the Fund  
13 shall be available only for disbursement by the Secretary  
14 of Health and Human Services under section 103.

15          (d) TERMINATION.—The Fund shall terminate upon  
16 the expiration of the 5-year period beginning on the date  
17 of the enactment of this Act. If all of the amounts in the  
18 Fund have not been expended by the end of the 5-year  
19 period, investments of amounts in the Fund shall be liq-

1 updated, the receipts of such liquidation shall be deposited  
 2 in the Fund, and all funds remaining in the Fund shall  
 3 be deposited in the miscellaneous receipts account in the  
 4 Treasury of the United States.

5 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
 6 authorized to be appropriated to the Fund such sums as  
 7 may be necessary to carry out this title.

8 **SEC. 102. COMPASSIONATE PAYMENTS.**

9 (a) IN GENERAL.—If the conditions described in sub-  
 10 section (b) are met and if there are sufficient amounts  
 11 in the Fund to make each payment, the Secretary shall  
 12 make a single payment of \$100,000 from the Fund to any  
 13 individual who has an HIV infection, or who is diagnosed  
 14 with AIDS, and who is described in one of the following  
 15 paragraphs:

16 (1) The individual was treated with HIV con-  
 17 taminated blood transfusion, HIV contaminated  
 18 blood components, HIV contaminated human tissue,  
 19 or HIV contaminated organs (excluding Anti-hemo-  
 20 philiac Factor) in the United States during the pe-  
 21 riod beginning on July 1, 1982, and ending on De-  
 22 cember 31, 1987.

23 (2) The individual—

24 (A) is the lawful spouse of an individual  
 25 described in paragraph (1); or

1 (B) is the former lawful spouse of an indi-  
 2 vidual described in paragraph (1) and was the  
 3 lawful spouse of the individual at any time after  
 4 a date, within the period described in such sub-  
 5 paragraph, on which the individual was treated  
 6 as described in such paragraph and through  
 7 medical documentation can assert reasonable  
 8 certainty of transmission of HIV from indi-  
 9 vidual described in paragraph (1).

10 (3) The individual acquired the HIV infection  
 11 through perinatal transmission from a parent who is  
 12 an individual described in paragraph (1) or (2).

13 (b) CONDITIONS.—The conditions described in this  
 14 subsection are, with respect to an individual, as follows:

15 (1) SUBMISSION OF MEDICAL DOCUMENTATION  
 16 OF HIV INFECTION.—

17 (A) IN GENERAL.—The individual submits  
 18 to the Secretary written medical documentation  
 19 that demonstrates that—

20 (i) the individual has (or had) an HIV  
 21 infection;

22 (ii) in the case of an individual de-  
 23 scribed in subsection (a)(1), the individual  
 24 was treated with a blood transfusion, blood  
 25 components, human tissue, or organs (ex-

cluding anti-hemophiliac Factor) provided by a medical professional in the United States during the period described in such subsection;

(iii) prior to the treatment described in subparagraph (B), there was no evidence of HIV infection with respect to the individual involved; and

(iv) a comprehensive physical examination, or HIV testing, was conducted after the treatment described in subparagraph (B) and reveals evidence of HIV infection, and that evidence, together with other medical records, indicates the probable transmission of the HIV to the individual through such treatment.

(B) WAIVERS.—The Secretary may waive the requirements of subparagraph (A) with respect to an individual if the Secretary determines that the individual is unable to provide the documentation required under such subparagraph because the documents involved were destroyed or otherwise made unavailable as a result of the occurrence a natural disaster or

1           other circumstance beyond the control of the in-  
2           dividual.

3           (2) PETITION.—A petition for the payment is  
4           filed with the Secretary by or on behalf of the indi-  
5           vidual.

6           (3) DETERMINATION.—The Secretary deter-  
7           mines, in accordance with section 103(b), that the  
8           petition meets the requirements of this title.

9           (4) FRAUD.—Any individual who—

10           (A) knowingly and willfully makes or  
11           causes to be made any false statement or rep-  
12           resentation of a material fact in connection with  
13           any documentation provided under this sub-  
14           section; or

15           (B) having knowledge of the occurrence of  
16           any event affecting his or her initial or contin-  
17           ued right to any payment under this title con-  
18           ceals or fails to disclose such event with an in-  
19           tent fraudulently to secure such payment;

20           shall be fined not more than \$100,000 or imprisoned  
21           for not more than 5 years, or both.

22 **SEC. 103. DETERMINATION AND PAYMENT.**

23           (a) ESTABLISHMENT OF FILING PROCEDURES.—The  
24           Secretary of Health and Human Services shall establish  
25           procedures under which individuals may submit petitions

1 for payment under this title. The procedures shall include  
2 a requirement that each petition filed under this Act in-  
3 clude written medical documentation that the relevant in-  
4 dividual described in section 102(a)(1) received the treat-  
5 ment described in such section.

6 (b) DETERMINATION.—For each petition filed under  
7 this title, the Secretary shall determine whether the peti-  
8 tion meets the requirements of this title.

9 (c) PAYMENT.—

10 (1) IN GENERAL.—To the extent there are suf-  
11 ficient amounts in the Fund to cover each payment,  
12 the Secretary shall pay, from the Fund, each peti-  
13 tion that the Secretary determines meets the re-  
14 quirements of this title in the order received.

15 (2) PAYMENTS IN CASE OF DECEASED INDIVID-  
16 UALS.—

17 (A) IN GENERAL.—In the case of an indi-  
18 vidual referred to in section 102(a) who was di-  
19 agnosed with AIDS and who is deceased at the  
20 time that payment is made under this section  
21 on a petition filed by or on behalf of the indi-  
22 vidual, the payment shall be made as follows:

23 (i) If the individual is survived by a  
24 spouse who is living at the time of pay-

1           ment, the payment shall be made to such  
2           surviving spouse.

3           (ii) If the individual is not survived by  
4           a spouse described in clause (i), the pay-  
5           ment shall be made in equal shares to all  
6           children of the individual who are living at  
7           the time of the payment.

8           (iii) If the individual is not survived  
9           by a person described in clause (i) or (ii),  
10          the payment shall be made in equal shares  
11          to the parents of the individual who are  
12          living at the time of the payment.

13          (iv) If the individual is not survived  
14          by a person described in clause (i), (ii), or  
15          (iii), the payment shall revert back to the  
16          Fund.

17          (B) FILING OF PETITION BY SURVIVOR.—

18          If an individual eligible for payment under sec-  
19          tion 102(a) dies before filing a petition under  
20          this title, a survivor of the individual may file  
21          a petition for payment under this title on behalf  
22          of the individual if the survivor may receive  
23          payment under subparagraph (A).

24          (C) DEFINITIONS.—For purposes of this  
25          paragraph:



1 (i) SPOUSE.—The term “spouse”  
2 means an individual who was lawfully mar-  
3 ried to the relevant individual at the time  
4 of death.

5 (ii) CHILD.—The term “child” in-  
6 cludes a recognized natural child, a step-  
7 child who lived with the relevant individual  
8 in a regular parent-child relationship, and  
9 an adopted child.

10 (iii) PARENT.—The term “parent” in-  
11 cludes fathers and mothers through adop-  
12 tion.

13 (3) TIMING OF PAYMENT.—The Secretary may  
14 not make a payment on a petition under this title  
15 before the expiration of the 120-day period begin-  
16 ning on the date of the enactment of this Act or  
17 after the expiration of the 5-year period beginning  
18 on the date of the enactment of this Act.

19 (d) ACTION ON PETITIONS.—The Secretary shall  
20 complete the determination required by subsection (b) re-  
21 garding a petition not later than 120 days after the date  
22 the petition is filed under this title.

23 (e) HUMANITARIAN NATURE OF PAYMENT.—This  
24 Act does not create or admit any claim of or on behalf  
25 of the individual against the United States or against any

1 officer, employee, or agent thereof acting within the scope  
2 of employment or agency that relate to an HIV infection  
3 arising from a treatment described in section 102(a)(1),  
4 at any time during the period beginning on July 1, 1982,  
5 and ending on December 31, 1987. A payment under this  
6 Act shall, however, when accepted by or on behalf of the  
7 individual, be in full satisfaction of all such claims by or  
8 on behalf of that individual.

9 (f) TERMINATION OF DUTIES OF SECRETARY.—The  
10 duties of the Secretary under this section shall cease when  
11 the Fund terminates.

12 (g) TREATMENT OF PAYMENTS UNDER OTHER  
13 LAWS.—A payment under subsection (c)(1) to an  
14 individual—

15 (1) shall be treated for purposes of the Internal  
16 Revenue Code of 1986 as damages described in sec-  
17 tion 104(a)(2) of such Code;

18 (2) shall not be included as income or resources  
19 for purposes of determining the eligibility of the in-  
20 dividual to receive benefits described in section  
21 3803(c)(2)(C) of title 31, United States Code, or the  
22 amount of such benefits, and such benefits shall not  
23 be secondary to, conditioned upon reimbursement  
24 from, or subject to any reduction because of receipt  
25 of, any such payment; and

(3) shall not be treated as a third party payment or payment in relation to a legal liability with respect to such benefits and shall not be subject (whether by subrogation or otherwise) to recovery, recoupment, reimbursement, or collection with respect to such benefits (including the Federal or State governments or any entity that provides such benefits under a contract).

9 (h) REGULATORY AUTHORITY.—The Secretary may  
10 issue regulations necessary to carry out this title.

(i) TIME OF ISSUANCE OF PROCEDURES.—The Secretary shall, through the promulgation of appropriate regulations, guidelines, or otherwise, first establish the procedures to carry out this title not later than 120 days after the date of the enactment of this Act.

16 SEC. 104. LIMITATION ON TRANSFER OF RIGHTS AND NUM-  
17 BER OF PETITIONS.

18 (a) RIGHTS NOT ASSIGNABLE OR TRANSFERABLE.—  
19 Any right under this title shall not be assignable or trans-  
20 ferable.

(b) ONE PETITION WITH RESPECT TO EACH VICTIM.—With respect to each individual described in paragraph (1), (2), or (3) of section 102(a), the Secretary may not make payment with respect to more than one petition filed in respect to an individual.

1 **SEC. 105. TIME LIMITATION.**

2       The Secretary may not make any payment with re-  
3 spect to any petition filed under this title unless the peti-  
4 tion is filed within 5 years after the date of the enactment  
5 of this Act.

6 **SEC. 106. CERTAIN CLAIMS NOT AFFECTED BY PAYMENT.**

7       A payment made under section 103(c)(1) shall not  
8 be considered as any form of compensation, or reimburse-  
9 ment for a loss, for purposes of imposing liability on the  
10 individual receiving the payment, on the basis of such re-  
11 ceipt, to repay any insurance carrier for insurance pay-  
12 ments or to repay any person on account of worker's com-  
13 pensation payments. A payment under this title shall not  
14 affect any claim against an insurance carrier with respect  
15 to insurance or against any person with respect to work-  
16 er's compensation.

17 **SEC. 107. DEFINITIONS.**

18       For purposes of this title:

19           (1) AIDS.—The term “AIDS” means acquired  
20 immune deficiency syndrome.

21           (2) FUND.—The term “Fund” means the Steve  
22 Grissom Relief Fund.

23           (3) HIV.—The term “HIV” means human im-  
24 munodeficiency virus.

1           (4) SECRETARY.—Unless otherwise provided,  
2       the term “Secretary” means Secretary of Health  
3       and Human Services.

4   **TITLE II—TREATMENT OF CER-**  
5       **TAIN PAYMENTS UNDER THE**  
6       **SSI PROGRAM**

7   **SEC. 201. TREATMENT OF CERTAIN PAYMENTS UNDER THE**  
8               **SSI PROGRAM.**

9       (a) IN GENERAL.—Notwithstanding any other provi-  
10   sion of law, the payments described in subsection (b) shall  
11   not be considered income or resources in determining eligi-  
12   bility for, or the amount of supplemental security income  
13   benefits under title XVI of the Social Security Act.

14       (b) GOVERNMENT PAYMENTS DESCRIBED.—The  
15   payments described in this subsection are payments made  
16   from the Fund established pursuant to section 101 of this  
17   Act.

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