

Calendar No. 1087

110TH CONGRESS
2D SESSION**H. R. 3971**

IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2008

Received; read twice and referred to the Committee on the Judiciary

SEPTEMBER 25 (legislative day, SEPTEMBER 17), 2008

Reported by Mr. LEAHY, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

AN ACT

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.

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 “~~Death in Custody Re-~~
5 ~~porting Act of 2008~~”.

1 **SEC. 2. INFORMATION REGARDING INDIVIDUALS WHO DIE**
2 **IN THE CUSTODY OF LAW ENFORCEMENT.**

3 (a) ~~IN GENERAL.~~—For each fiscal year after the ex-
4 piration of the period specified in subsection (b)(1) in
5 which a State receives funds for a program referred to
6 in subsection (b)(2), the State shall report to the Attorney
7 General, on a quarterly basis and pursuant to guidelines
8 established by the Attorney General, information regard-
9 ing the death of any person who is detained, under arrest,
10 or is in the process of being arrested, is en route to be
11 incarcerated, or is incarcerated at a municipal or county
12 jail, State prison, State-run boot camp prison, boot camp
13 prison that is contracted out by the State, any State or
14 local contract facility, or other local or State correctional
15 facility (including any juvenile facility) that, at a min-
16 imum, includes—

17 (1) the name, gender, race, ethnicity, and age
18 of the deceased;

19 (2) the date, time, and location of death;

20 (3) the law enforcement agency that detained,
21 arrested, or was in the process of arresting the de-
22 ceased; and

23 (4) a brief description of the circumstances sur-
24 rounding the death.

25 (b) ~~COMPLIANCE AND INELIGIBILITY.~~—

1 (1) COMPLIANCE DATE.—Each State shall have
2 not more than 30 days from the date of enactment
3 of this Act to comply with subsection (a), except
4 that—

5 (A) the Attorney General may grant an ad-
6 ditional 30 days to a State that is making good
7 faith efforts to comply with such subsection;
8 and

9 (B) the Attorney General shall waive the
10 requirements of subsection (a) if compliance
11 with such subsection by a State would be un-
12 constitutional under the constitution of such
13 State.

14 (2) INELIGIBILITY FOR FUNDS.—For any fiscal
15 year after the expiration of the period specified in
16 paragraph (1), a State that fails to comply with sub-
17 section (a) shall not receive 10 percent of the funds
18 that would otherwise be allocated for that fiscal year
19 to the State under subpart 1 of part E of title I of
20 the Omnibus Crime Control and Safe Streets Act of
21 1968 (42 U.S.C. 3750 et seq.), whether character-
22 ized as the Edward Byrne Memorial State and Local
23 Law Enforcement Assistance Programs, the Local
24 Government Law Enforcement Block Grants Pro-

1 gram, the Edward Byrne Memorial Justice Assist-
 2 ance Grant Program, or otherwise.

3 (c) ~~REALLOCATION.~~—Amounts not allocated under a
 4 program referred to in subsection (b)(2) to a State for
 5 failure to fully comply with subsection (a) shall be reallo-
 6 cated under that program to States that have not failed
 7 to comply with such subsection.

8 (d) ~~DEFINITIONS.~~—In this section the terms “boot
 9 camp prison” and “State” have the meaning given those
 10 terms, respectively, in section 901(a) of the Omnibus
 11 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
 12 3791(a)).

13 **SEC. 3. STUDY OF INFORMATION RELATING TO DEATHS IN**
 14 **CUSTODY.**

15 (a) ~~STUDY REQUIRED.~~—The Attorney General shall,
 16 subject to the availability of appropriations under sub-
 17 section (d), through grant or contract, provide for a study
 18 of the information reported under section 2 (regarding the
 19 death of any person who is detained, under arrest, or is
 20 in the process of being arrested, is en route to be incarcer-
 21 ated, or is incarcerated at a municipal or county jail, State
 22 prison, State-run boot camp prison, boot camp prison that
 23 is contracted out by the State, any State or local contract
 24 facility, or other local or State correctional facility (includ-
 25 ing any juvenile facility)) to—

1 (1) determine means by which such information
 2 can be used to reduce the number of such deaths;
 3 and

4 (2) examine the relationship, if any, between
 5 the number of such deaths and the actions of man-
 6 agement of such jails, prisons, and other correctional
 7 facilities relating to such deaths.

8 (b) REPORT.—Not later than 2 years after the date
 9 of the enactment of this Act, the Attorney General shall
 10 prepare and submit to Congress a report that contains the
 11 findings of the study required by subsection (a).

12 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
 13 authorized to be appropriated to carry out this section
 14 \$500,000 for fiscal year 2009. Funds appropriated under
 15 this subsection shall remain available until expended.

16 **SECTION 1. SHORT TITLE.**

17 *This Act may be cited as the “Death in Custody Re-*
 18 *porting Act of 2008”.*

19 **SEC. 2. STATE INFORMATION REGARDING INDIVIDUALS**
 20 **WHO DIE IN THE CUSTODY OF LAW ENFORCE-**
 21 **MENT.**

22 (a) IN GENERAL.—For each fiscal year after the expi-
 23 ration of the period specified in subsection (c)(1) in which
 24 a State receives funds for a program referred to in sub-
 25 section (c)(2), the State shall report to the Attorney General,

1 *on a quarterly basis and pursuant to guidelines established*
 2 *by the Attorney General, information regarding the death*
 3 *of any person who is detained, under arrest, or is in the*
 4 *process of being arrested, is en route to be incarcerated, or*
 5 *is incarcerated at a municipal or county jail, State prison,*
 6 *State-run boot camp prison, boot camp prison that is con-*
 7 *tracted out by the State, any State or local contract facility,*
 8 *or other local or State correctional facility (including any*
 9 *juvenile facility).*

10 *(b) INFORMATION REQUIRED.—The report required by*
 11 *this section shall contain information that, at a minimum,*
 12 *includes—*

13 *(1) the name, gender, race, ethnicity, and age of*
 14 *the deceased;*

15 *(2) the date, time, and location of death;*

16 *(3) the law enforcement agency that detained,*
 17 *arrested, or was in the process of arresting the de-*
 18 *ceased; and*

19 *(4) a brief description of the circumstances sur-*
 20 *rounding the death.*

21 *(c) COMPLIANCE AND INELIGIBILITY.—*

22 *(1) COMPLIANCE DATE.—Each State shall have*
 23 *not more than 120 days from the date of enactment*
 24 *of this Act to comply with subsection (a), except*
 25 *that—*

1 (A) the Attorney General may grant an ad-
2 ditional 120 days to a State that is making good
3 faith efforts to comply with such subsection; and

4 (B) the Attorney General shall waive the re-
5 quirements of subsection (a) if compliance with
6 such subsection by a State would be unconstitu-
7 tional under the constitution of such State.

8 (2) *INELIGIBILITY FOR FUNDS.*—For any fiscal
9 year after the expiration of the period specified in
10 paragraph (1), a State that fails to comply with sub-
11 section (a), shall, at the discretion of the Attorney
12 General, be subject to not more than a 10 percent re-
13 duction of the funds that would otherwise be allocated
14 for that fiscal year to the State under subpart 1 of
15 part E of title I of the Omnibus Crime Control and
16 Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.),
17 whether characterized as the Edward Byrne Memorial
18 State and Local Law Enforcement Assistance Pro-
19 grams, the Local Government Law Enforcement Block
20 Grants Program, the Edward Byrne Memorial Jus-
21 tice Assistance Grant Program, or otherwise.

22 (d) *REALLOCATION.*—Amounts not allocated under a
23 program referred to in subsection (c)(2) to a State for fail-
24 ure to fully comply with subsection (a) shall be reallocated

1 *under that program to States that have not failed to comply*
 2 *with such subsection.*

3 (e) *DEFINITIONS.—In this section the terms “boot*
 4 *camp prison” and “State” have the meaning given those*
 5 *terms, respectively, in section 901(a) of the Omnibus Crime*
 6 *Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)).*

7 (f) *STUDY OF INFORMATION RELATING TO DEATHS IN*
 8 *CUSTODY.—*

9 (1) *STUDY REQUIRED.—The Attorney General*
 10 *shall, subject to the availability of appropriations*
 11 *under paragraph (3), through grant or contract, pro-*
 12 *vide for a study of the information reported under*
 13 *subsection (b) and section 3(b) to—*

14 (A) *determine means by which such infor-*
 15 *mation can be used to reduce the number of such*
 16 *deaths; and*

17 (B) *examine the relationship, if any, be-*
 18 *tween the number of such deaths and the actions*
 19 *of management of such jails, prisons, and other*
 20 *specified facilities relating to such deaths.*

21 (2) *REPORT.—Not later than 2 years after the*
 22 *date of the enactment of this Act, the Attorney Gen-*
 23 *eral shall prepare and submit to Congress a report*
 24 *that contains the findings of the study required by*
 25 *paragraph (1).*

1 (3) *AUTHORIZATION OF APPROPRIATIONS.*—

2 *There is authorized to be appropriated to carry out*
3 *this subsection \$500,000 for fiscal year 2009. Funds*
4 *appropriated under this paragraph shall remain*
5 *available until expended.*

6 **SEC. 3. FEDERAL REPORTING REQUIREMENT.**

7 (a) *IN GENERAL.*—*For each fiscal year, the Attorney*
8 *General shall collect information regarding the death of any*
9 *person who is detained, under arrest, or is in the process*
10 *of being arrested by Federal authorities, is en route to be*
11 *incarcerated or detained, or is incarcerated or detained at*
12 *any facility pursuant to a contract with the federal govern-*
13 *ment (including any immigration or juvenile facility), any*
14 *State or local government facility used by a Federal agency,*
15 *and any Federal correctional facility or Federal pre-trial*
16 *detention facility.*

17 (b) *INFORMATION REQUIRED.*—*The report required by*
18 *this section shall include, at a minimum, the information*
19 *required by section 2(b).*

20 (c) *STUDY.*—*Information gathered pursuant to sub-*
21 *section (a) shall be analyzed and included in the study re-*
22 *quired by section 2(f).*

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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.

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