

115TH CONGRESS
2D SESSION

S. 3490

To protect State and local witnesses from tampering and retaliation, to empower law enforcement agencies to keep America safe from organized crime and gang-related violence, to authorize grants for the purchase of personal protective equipment and detection devices for first responders assisting at the scene of an opioid overdose or investigating opioid trafficking or distribution, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2018

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

A BILL

To protect State and local witnesses from tampering and retaliation, to empower law enforcement agencies to keep America safe from organized crime and gang-related violence, to authorize grants for the purchase of personal protective equipment and detection devices for first responders assisting at the scene of an opioid overdose or investigating opioid trafficking or distribution, 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,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Law Enforcement Resources and Community Safety Act
4 of 2018”.

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

Sec. 1. Short title; table of contents.

TITLE I—STATE WITNESS PROTECTION

Sec. 101. Short title.

Sec. 102. Protection of State and local witnesses.

Sec. 103. Sentencing guidelines enhancement.

Sec. 104. Witness protection grant program.

TITLE II—COPS SAFE STREETS

Sec. 201. Short title.

Sec. 202. Funding for law enforcement to combat organized crime and gang-related violence.

TITLE III—FIRST RESPONDER FENTANYL SAFETY

Sec. 301. Short title.

Sec. 302. Grants authorized.

7 **TITLE I—STATE WITNESS**
8 **PROTECTION**

9 **SEC. 101. SHORT TITLE.**

10 This title may be cited as the “State Witness Protec-
11 tion Act of 2018”.

12 **SEC. 102. PROTECTION OF STATE AND LOCAL WITNESSES.**

13 (a) IN GENERAL.—Chapter 73 of title 18, United
14 States Code, is amended by adding at the end the fol-
15 lowing:

1 **“§ 1522. State and local witness tampering and retal-**
 2 **iation**

3 “(a) DEFINITIONS.—In this section—

4 “(1) the term ‘judicial officer’ means a justice,
 5 judge, or other officer of the judicial branch of gov-
 6 ernment;

7 “(2) the term ‘physical force’ has the meaning
 8 given the term in section 1515; and

9 “(3) the term ‘State official proceeding’ means
 10 a proceeding before a judicial officer or grand jury
 11 of a State or political subdivision thereof.

12 “(b) TAMPERING AND RETALIATION.—It shall be un-
 13 lawful, in a circumstance described in subsection (c), for
 14 a person to kill, attempt to kill, use physical force or the
 15 threat of physical force against, harass, intimidate or at-
 16 tempt to intimidate, or offer anything of value to, another
 17 individual, with the intent to—

18 “(1) influence, delay, or prevent the testimony
 19 or attendance of any person in a State official pro-
 20 ceeding;

21 “(2) prevent the production of a record, docu-
 22 ment, or other object, in a State official proceeding;

23 “(3) cause or induce any person to—

24 “(A) withhold testimony, or withhold a
 25 record, document, or other object from a State
 26 official proceeding;

1 “(B) alter, destroy, mutilate, or conceal an
2 object with intent to impair the integrity or
3 availability of the object for use in a State offi-
4 cial proceeding;

5 “(C) evade legal process summoning that
6 person to appear as a witness, or to produce a
7 record, document or other object in a State offi-
8 cial proceeding; or

9 “(D) be absent from a State official pro-
10 ceeding to which that person has been sum-
11 moned by legal process;

12 “(4) hinder, delay, or prevent the communica-
13 tion by any person to a law enforcement officer, ju-
14 dicial officer, or grand jury of a State, or political
15 subdivision thereof, of information relating to the
16 violation or possible violation of a law of a State or
17 political subdivision thereof, or a violation of condi-
18 tions of probation, parole, or release pending judicial
19 proceedings; or

20 “(5) retaliate against any person for—

21 “(A) the attendance of a witness or party
22 at a State official proceeding, or any testimony
23 given or any record, document, or other object
24 produced by a witness in a State official pro-
25 ceeding; or

1 “(B) providing to a law enforcement officer
2 any information relating to the violation or pos-
3 sible violation of a law of a State or political
4 subdivision thereof, or a violation of conditions
5 of probation, supervised release, parole, or re-
6 lease pending judicial proceedings.

7 “(c) CIRCUMSTANCES.—A circumstance described in
8 this subsection is a circumstance in which—

9 “(1)(A) any communication involved in or made
10 in furtherance of the offense is communicated or
11 transported by the mail, or in interstate or foreign
12 commerce by any means, including by computer; or

13 “(B) any means or instrumentality of interstate
14 or foreign commerce is otherwise used in committing
15 or in furtherance of the commission of the offense;

16 “(2) any person travels or is transported in
17 interstate or foreign commerce in the course of the
18 commission of or in furtherance of the commission
19 of the offense; or

20 “(3) any weapon, including a firearm, shipped
21 or transported across State lines or in interstate or
22 foreign commerce is used in committing or in fur-
23 therance of the commission of the offense.

24 “(d) PENALTIES.—

1 “(1) IN GENERAL.—Any person that violates
2 this section—

3 “(A) in the case of a killing, shall be pun-
4 ished as provided under sections 1111 and
5 1112;

6 “(B) in the case of an attempt to murder,
7 or the use or attempted use of physical force
8 against any person, shall be fined under this
9 title, imprisoned for not more than 30 years, or
10 both; and

11 “(C) in the case of any other violation of
12 this section, shall be fined under this title, im-
13 prisoned for not more than 20 years, or both.

14 “(2) EXCEPTION.—If the offense under this
15 section occurs in connection with a trial of a crimi-
16 nal case, the maximum term of imprisonment that
17 may be imposed for the offense shall be the higher
18 of—

19 “(A) the penalty described in paragraph
20 (1); or

21 “(B) the maximum term that could have
22 been imposed for any offense charged in the
23 criminal case.

24 “(3) ATTEMPT AND CONSPIRACY.—Any person
25 who attempts or conspires to commit any offense

1 under this section shall be subject to the same pen-
 2 alties as those prescribed for the offense, the com-
 3 mission of which was the object of the attempt or
 4 conspiracy.

5 “(e) AFFIRMATIVE DEFENSE.—It is an affirmative
 6 defense to a prosecution under this section, which the de-
 7 fendant shall prove by a preponderance of the evidence,
 8 that—

9 “(1) the conduct committed by the defendant
 10 consisted solely of lawful conduct; and

11 “(2) the sole intention of the defendant in com-
 12 mitting the conduct was to encourage, induce, or
 13 cause the other person to testify truthfully.

14 “(f) PENDING PROCEEDING; EVIDENTIARY
 15 VALUE.—For the purposes of this section—

16 “(1) a State official proceeding need not be
 17 pending or about to be instituted at the time of the
 18 offense; and

19 “(2) the testimony, or the record, document, or
 20 other object, obstructed, tampered, or retaliated
 21 against by the defendant need not be admissible in
 22 evidence or free of a claim of privilege.

23 “(g) INTENT.—In a prosecution for an offense under
 24 this section, the state of mind need not be proved with
 25 respect to—

1 “(1) a State official proceeding before a judicial
 2 officer or grand jury being before a judicial officer
 3 or grand jury of a State or political subdivision
 4 thereof;

5 “(2) a judicial officer or grand jury being a ju-
 6 dicial officer or grand jury of a State or political
 7 subdivision thereof; or

8 “(3) a law enforcement officer being an officer
 9 or employee of a State or political subdivision there-
 10 of.

11 “(h) VENUE.—A prosecution brought under this sec-
 12 tion may be brought—

13 “(1) in the district in which the State official
 14 proceeding (whether or not pending or about to be
 15 instituted) was intended to be affected; or

16 “(2) in the district which the conduct consti-
 17 tuting the alleged offense occurred.”.

18 (b) TECHNICAL AND CONFORMING AMENDMENT.—
 19 The table of contents for chapter 73 of title 18, United
 20 States Code, is amended by adding at the end the fol-
 21 lowing:

“1522. State and local witness tampering and retaliation.”.

22 **SEC. 103. SENTENCING GUIDELINES ENHANCEMENT.**

23 Pursuant to its authority under section 994 of title
 24 28, United States Code, and in accordance with this sec-
 25 tion, the United States Sentencing Commission shall

1 amend the Federal Sentencing Guidelines to increase the
 2 guideline range for obstruction of justice under section
 3 2J1.2 of the Guidelines—

4 (1) by 2 levels if the defendant threatened or
 5 harmed 1 or more individuals on more than 1 occa-
 6 sion;

7 (2) by 2 levels if the defendant accepted or paid
 8 a bribe or payoff as part of a scheme to obstruct
 9 justice;

10 (3) by 2 levels if the defendant destroyed or
 11 caused the destruction of documents on a computer;
 12 and

13 (4) by 6 levels if the offense resulted in sub-
 14 stantial interference with the administration of jus-
 15 tice.

16 **SEC. 104. WITNESS PROTECTION GRANT PROGRAM.**

17 (a) IN GENERAL.—Subject to subsection (b), the At-
 18 torney General shall make competitive grants to eligible
 19 State, tribal, and local governments to establish or main-
 20 tain programs that provide—

21 (1) protection or assistance to witnesses in—

22 (A) court proceedings involving homicide,
 23 or involving a serious violent felony or serious
 24 drug offense as those terms are defined in sec-

1 tion 3559(c)(2) of title 18, United States Code;
2 and

3 (B) court proceedings involving gangs or
4 organized crime; and

5 (2) information and outreach to the public
6 about witness intimidation.

7 (b) CRITERIA.—In making grants under subsection
8 (a), the Attorney General shall evaluate applicants based
9 upon—

10 (1) the extent to which the applicant has a lack
11 of infrastructure to support a witness assistance pro-
12 gram;

13 (2) the extent to which witness intimidation is
14 present in the jurisdiction of the applicant;

15 (3) the level of cases not prosecuted by the ap-
16 plicant due to witness intimidation;

17 (4) the number of homicides per capita com-
18 mitted in the jurisdiction of the applicant;

19 (5) the number of serious violent felonies or se-
20 rious drug offenses, as those terms are defined in
21 section 3559(c)(2) of title 18, United States Code,
22 per capita committed in the jurisdiction of the appli-
23 cant;

24 (6) the extent to which organized crime is
25 present in the jurisdiction of the applicant; and

1 (7) any other appropriate criteria as determined
2 by the Attorney General.

3 (c) FEDERAL SHARE.—

4 (1) IN GENERAL.—The Federal share of the
5 cost of a project carried out using a grant made
6 under this section shall be not more than 75 per-
7 cent.

8 (2) IN-KIND CONTRIBUTIONS.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), the non-Federal share for a project
11 carried out using a grant made under this sec-
12 tion may be made in the form of in-kind con-
13 tributions that are directly related to the pur-
14 pose for which the grant was made.

15 (B) MAXIMUM PERCENTAGE.—Not more
16 than 50 percent of the non-Federal share for a
17 project carried out using a grant made under
18 this section may be in the form of in-kind con-
19 tributions.

20 (d) ADMINISTRATIVE EXPENSES.—The Attorney
21 General may use not more than 5 percent of the funds
22 appropriated under subsection (c) for a fiscal year for the
23 Federal administrative costs of carrying out this section
24 for that fiscal year.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—There
 2 are authorized to be appropriated such sums as are nec-
 3 essary to carry out this section.

4 **TITLE II—COPS SAFE STREETS**

5 **SEC. 201. SHORT TITLE.**

6 This title may be cited as the “COPS Safe Streets
 7 Act of 2018”.

8 **SEC. 202. FUNDING FOR LAW ENFORCEMENT TO COMBAT** 9 **ORGANIZED CRIME AND GANG-RELATED VIO-** 10 **LENCE.**

11 (a) COPS HIRING PROGRAM GRANTS.—

12 (1) AUTHORIZATION OF APPROPRIATIONS.—
 13 Notwithstanding subsection (i) of section 1701 of
 14 title I of the Omnibus Crime Control and Safe
 15 Streets Act of 1968 (34 U.S.C. 10381), there are
 16 authorized to be appropriated to the Attorney Gen-
 17 eral \$100,000,000 for each of fiscal years 2019
 18 through 2023 for grants under that section for the
 19 hiring and rehiring of additional career law enforce-
 20 ment officers under part Q of that title, to be award-
 21 ed to applicants who select transnational organized
 22 crime or transnational criminal gangs as a problem
 23 area.

24 (2) MAXIMUM HIRING COSTS.—Notwithstanding
 25 section 1704(c) of title I of the Omnibus Crime Con-

1 trol and Safe Streets Act of 1968 (34 U.S.C.
 2 10381(c)), the cost of hiring or rehiring a career law
 3 enforcement officer using amounts made available
 4 under paragraph (1) of this subsection may not ex-
 5 ceed \$125,000 unless the Attorney General grants a
 6 waiver of that limitation.

7 (b) COPS ANTI-GANG INITIATIVE GRANTS.—

8 (1) IN GENERAL.—There are authorized to be
 9 appropriated to the Attorney General \$100,000,000
 10 for each of fiscal years 2019 through 2023 for
 11 grants under section 1701 of title I of the Omnibus
 12 Crime Control and Safe Streets Act of 1968 (34
 13 U.S.C. 10381) to support regional anti-gang task
 14 forces.

15 (2) PRIORITY CONSIDERATION.—In awarding
 16 grants using amounts made available under para-
 17 graph (1), the Attorney General shall give additional
 18 consideration in the application process to projects
 19 targeting transnational criminal gangs.

20 (c) COLLABORATION WITH FBI TRANSNATIONAL
 21 ANTI-GANG TASKFORCE AND ORGANIZED CRIME
 22 UNITS.—In carrying out activities using amounts made
 23 available under subsection (a)(1) or (b)(1), a grant recipi-
 24 ent shall collaborate with the Federal Bureau of Investiga-
 25 tion, including the Transnational Anti-Gang Taskforce

1 and operations investigating transnational organized
2 crime groups.

3 **TITLE III—FIRST RESPONDER** 4 **FENTANYL SAFETY**

5 **SEC. 301. SHORT TITLE.**

6 This title may be cited as the “First Responder
7 Fentanyl Safety Act of 2018”.

8 **SEC. 302. GRANTS AUTHORIZED.**

9 Section 3021(a) of title I of the Omnibus Crime Con-
10 trol and Safe Streets Act of 1968 (34 U.S.C. 10701(a))
11 is amended—

12 (1) by redesignating paragraphs (5) through
13 (10) as paragraphs (6) through (11), respectively;
14 and

15 (2) by inserting after paragraph (4) the fol-
16 lowing:

17 “(5) Purchasing personal protective equipment
18 and detection devices for first responders assisting
19 at the scene of an opioid overdose or engaging in the
20 activities described in paragraph (4), and providing
21 training and resources for first responders on the
22 use of the personal protective equipment and detec-
23 tion devices.”.

