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S. 4549

To provide for a system for reviewing the case files of cold case murders
at the instance of certain persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2022

Mr. CORNYN (for himself, Mr. DURBIN, Mr. GRASSLEY, Mr. COONS, Mr. COTTON, Mr. OSSOFF, Mrs. BLACKBURN, Mr. WHITEHOUSE, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for a system for reviewing the case files of cold
case murders at the instance of certain persons, 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 “Homicide Victims’
5 Families’ Rights Act of 2022”.

6 **SEC. 2. CASE FILE REVIEW.**

7 (a) IN GENERAL.—The head of an agency shall re-
8 view the case file regarding a cold case murder upon writ-
9 ten application by one designated person to determine if

1 a full reinvestigation would result in either the identifica-
2 tion of probative investigative leads or a likely perpetrator.

3 (b) REVIEW.—The review under subsection (a) shall
4 include—

5 (1) an analysis of what investigative steps or
6 follow-up steps may have been missed in the initial
7 investigation;

8 (2) an assessment of whether witnesses should
9 be interviewed or reinterviewed;

10 (3) an examination of physical evidence to see
11 if all appropriate forensic testing and analysis was
12 performed in the first instance or if additional test-
13 ing might produce information relevant to the inves-
14 tigation; and

15 (4) an update of the case file using the most
16 current investigative standards as of the date of the
17 review to the extent it would help develop probative
18 leads.

19 (c) CERTIFICATION IN LIEU OF REVIEW.—In any
20 case in which a written application for review has been
21 received under this Act by the agency, review shall be un-
22 necessary where the case does not satisfy the criteria for
23 a cold case murder. In such a case, the head of the agency
24 shall issue a written certification, with a copy provided to
25 the designated person that made the application under

1 subsection (a), stating that final review is not necessary
2 because all probative investigative leads have been ex-
3 hausted or that a likely perpetrator will not be identified.

4 (d) REVIEWER.—A review required under subsection
5 (a) shall not be conducted by a person who previously in-
6 vestigated the murder at issue.

7 (e) ACKNOWLEDGMENT.—The agency shall provide
8 in writing to the applicant as soon as reasonably pos-
9 sible—

10 (1) confirmation of the agency's receipt of the
11 application under subsection (a); and

12 (2) notice of the applicant's rights under this
13 Act.

14 (f) PROHIBITION ON MULTIPLE CONCURRENT RE-
15 VIEWS.—Only one case review shall be undertaken at any
16 one time with respect to the same cold case murder victim.

17 (g) TIME LIMIT.—Not later than 6 months after the
18 receipt of the written application submitted pursuant to
19 subsection (a), the agency shall conclude its case file re-
20 view and reach a conclusion about whether or not a full
21 reinvestigation under section 4 is warranted.

22 (h) EXTENSIONS.—

23 (1) IN GENERAL.—The agency may extend the
24 time limit under subsection (g) once for a period of
25 time not to exceed 6 months if the agency makes a

1 finding that the number of case files to be reviewed
2 make it impracticable to comply with such limit
3 without unreasonably taking resources from other
4 law enforcement activities.

5 (2) ACTIONS SUBSEQUENT TO WAIVER.—For
6 cases for which the time limit in subsection (g) is ex-
7 tended, the agency shall provide notice and an expla-
8 nation of its reasoning to one designated person who
9 filed the written application pursuant to this section.

10 **SEC. 3. APPLICATION.**

11 Each agency shall develop a written application to be
12 used for designated persons to request a case file review
13 under section 2.

14 **SEC. 4. FULL REINVESTIGATION.**

15 (a) IN GENERAL.—The agency shall conduct a full
16 reinvestigation of the cold case murder at issue if the re-
17 view of the case file required by section 2 concludes that
18 a full reinvestigation of such cold case murder would result
19 in probative investigative leads.

20 (b) REINVESTIGATION.—A full reinvestigation shall
21 include analyzing all evidence regarding the cold case mur-
22 der at issue for the purpose of developing probative inves-
23 tigative leads or a likely perpetrator.

1 (c) REVIEWER.—A reinvestigation required under
2 subsection (a) shall not be conducted by a person who pre-
3 viously investigated the murder at issue.

4 (d) PROHIBITION ON MULTIPLE CONCURRENT RE-
5 VIEWS.—Only one full reinvestigation shall be undertaken
6 at any one time with respect to the same cold case murder
7 victim.

8 **SEC. 5. CONSULTATION AND UPDATES.**

9 (a) IN GENERAL.—The agency shall consult with the
10 designated person who filed the written application pursu-
11 ant to section 2 and provide him or her with periodic up-
12 dates during the case file review and full reinvestigation.

13 (b) EXPLANATION OF CONCLUSION.—The agency
14 shall meet with the designated person and discuss the evi-
15 dence to explain to the designated person who filed the
16 written application pursuant to section 2 its decision
17 whether or not to engage in the full reinvestigation pro-
18 vided for under section 4 at the conclusion of the case
19 file review.

20 **SEC. 6. SUBSEQUENT REVIEWS.**

21 (a) CASE FILE REVIEW.—If a review under sub-
22 section (a) case file regarding a cold case murder is con-
23 ducted and a conclusion is reached not to conduct a full
24 reinvestigation, no additional case file review shall be re-
25 quired to be undertaken under this Act with respect to

1 that cold case murder for a period of five years, unless
2 there is newly discovered, materially significant evidence.
3 An agency may continue an investigation absent a des-
4 ignated person's application.

5 (b) FULL REINVESTIGATION.—If a full reinvestiga-
6 tion of a cold case murder is completed and a suspect is
7 not identified at its conclusion, no additional case file re-
8 view or full reinvestigation shall be undertaken with re-
9 gard to that cold case murder for a period of five years
10 beginning on the date of the conclusion of the reinvestiga-
11 tion, unless there is newly discovered, materially signifi-
12 cant evidence.

13 **SEC. 7. DATA COLLECTION.**

14 (a) IN GENERAL.—Beginning on the date that is
15 three years after the date of enactment of this Act, and
16 annually thereafter, the Director of the National Institute
17 of Justice shall publish statistics on the number of cold
18 case murders.

19 (b) MANNER OF PUBLICATION.—The statistics pub-
20 lished pursuant to subsection (a) shall, at a minimum, be
21 disaggregated by the circumstances of the cold case mur-
22 der, including the classification of the offense, and by
23 agency.

1 **SEC. 8. PROCEDURES TO PROMOTE COMPLIANCE.**

2 (a) REGULATIONS.—Not later than one year after the
3 date of enactment of this Act, the head of each agency
4 shall promulgate regulations to enforce the right of a des-
5 ignated person to request a review under this Act and to
6 ensure compliance by the agency with the obligations de-
7 scribed in this Act.

8 (b) PROCEDURES.—The regulations promulgated
9 under subsection (a) shall—

10 (1) designate an administrative authority within
11 the agency to receive and investigate complaints re-
12 lating to a review initiated under section 2 or a re-
13 investigation initiated under section 4;

14 (2) require a course of training for appropriate
15 employees and officers within the agency regarding
16 the procedures, responsibilities, and obligations re-
17 quired under this Act;

18 (3) contain disciplinary sanctions, which may
19 include suspension or termination from employment,
20 for employees of the agency who are shown to have
21 willfully or wantonly failed to comply with this Act;

22 (4) provide a procedure for the resolution of
23 complaints filed by the designated person concerning
24 the agency's handling of a cold case murder inves-
25 tigation or the case file evaluation; and

1 (5) provide that the head of the agency, or the
2 designee thereof, shall be the final arbiter of the
3 complaint, and that there shall be no judicial review
4 of the final decision of the head of the agency by a
5 complainant.

6 **SEC. 9. WITHHOLDING INFORMATION.**

7 Nothing in this Act shall require an agency to provide
8 information that would endanger the safety of any person,
9 unreasonably impede an ongoing investigation, violate a
10 court order, or violate legal obligations regarding privacy.

11 **SEC. 10. MULTIPLE AGENCIES.**

12 In the case that more than one agency conducted the
13 initial investigation of a cold case murder, each agency
14 shall coordinate their case file review or full reinvestiga-
15 tion such that there is only one joint case file review or
16 full reinvestigation occurring at a time in compliance with
17 section 2(f) or 4(d), as applicable.

18 **SEC. 11. APPLICABILITY.**

19 This Act applies in the case of any cold case murder
20 occurring on or after January 1, 1970.

21 **SEC. 12. DEFINITIONS.**

22 In this Act:

23 (1) The term “designated person” means an
24 immediate family member or someone similarly situ-
25 ated, as defined by the Attorney General.

1 (2) The term “immediate family member”
2 means a parent, parent-in-law, grandparent, grand-
3 parent-in-law, sibling, spouse, child, or step-child of
4 a murder victim.

5 (3) The term “victim” means a natural person
6 who died as a result of a cold case murder.

7 (4) The term “murder” means any criminal of-
8 fense under section 1111(a) of title 18, United
9 States Code, or any offense the elements of which
10 are substantially identical to such section.

11 (5) The term “agency” means a Federal law
12 enforcement entity with jurisdiction to engage in the
13 detection, investigation, or prosecution of a cold case
14 murder.

15 (6) The term “cold case murder” means a mur-
16 der—

17 (A) committed more than three years prior
18 to the date of an application by a designated
19 person under section 2(a);

20 (B) previously investigated by a Federal
21 law enforcement entity;

22 (C) for which all probative investigative
23 leads have been exhausted; and

24 (D) for which no likely perpetrator has
25 been identified.

1 **SEC. 13. ANNUAL REPORT.**

2 (a) IN GENERAL.—Each agency shall submit an an-
3 nual report to the Committees on the Judiciary of the
4 House of Representatives and of the Senate describing ac-
5 tions taken and results achieved under this Act during the
6 previous year.

7 (b) REPORT DESCRIBED.—The report described in
8 subsection (a) shall include—

9 (1) the number of written applications filed
10 with the agency pursuant to section 2(a);

11 (2) the number of extensions granted, and an
12 explanation of reasons provided under section 2(h);

13 (3) the number of full reinvestigations initiated
14 and closed pursuant to section 4; and

15 (4) statistics and individualized information on
16 topics that include identified suspects, arrests,
17 charges, and convictions for reviews under section 2
18 and reinvestigations under section 4.

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