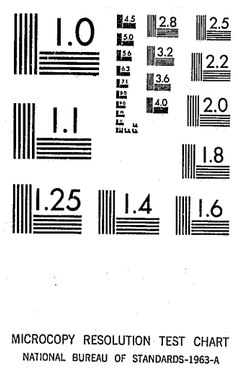

96TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 96-753

# VICTIMS OF CRIME ACT OF 1979

FEBRUARY 13, 1980.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DRINAN, from the Committee on the Judiciary, submitted the following

## REPORT

together with

## DISSENTING, SEPARATE DISSENTING AND SEPARATE VIEWS

[To accompany H.R. 4257]

[Including cost estimate of the Congressional Budget Office]





The Committee on the Judiciary, to whom was referred the bill (H.R. 4257) to help States assist the innocent victims of crime, having considered the same, report favorably thereon with amendments and recommended that the bill as amended do pass.

The amendments (stated in terms of the page and line numbers of the introduced bill) are as follows:

Page 3, line 24, strike out "(a)".

Page 4, beginning in line 9, strike out "any individual who suffers" and insert in lieu thereof "indviduals who suffer".

Page 4, beginning in line 12, strike out "any surviving dependent of any individual whose death is" and insert in lieu thereof "surviving dependents of individuals whose deaths are".

Page 5, beginning in line 23, strike out "may be required to make restitution" and insert in lieu thereof "is required to make restitution, where appropriate,".

Page 6, line 8, strike out the period and insert in lieu thereof "payable to that fund from which the State pays victim compensation awards."

Page 6, line 14, after "individual", insert the following: "or his designee".

Page 6, line 21, after "dependents", insert the following: "and fully to pay the compensation awarded to such victim or dependent pursuant to the State program".

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Page 6, strike out line 22 and all that follows through line 2, page 7.
Page 12, line 8, strike out "1981" and insert in lieu thereof "1980".
Page 12, line 9, strike out "1982" and insert in lieu thereof "1981".
Page 12, line 11, strike out "1983" and insert in lieu thereof "1982".

PURPOSE

The purpose of this legislation is to help States assist the innocent victims of crime.

STATEMENT

The victim of a violent crime endures more than just the shock and trauma produced by the criminal act. The victim also faces economic loss brought on by hospital and medical bills and by time lost from work, and in many instances this economic loss is quite substantial, causing a serious financial strain upon the victim and the victim's family. All too frequently, crime victims are unable to recoup the financial losses they sustain as a result of their victimization, either from public sources or private sources.

Recognizing that many victims of crime suffer considerable financial hardship, some 28 States have established programs to compensate people who are injured by criminal acts. These 28 States, based upon the most recent statistics in the FBI Uniform Crime Reports, account for more than three-quarters of the violent crimes in this country. The States that presently have crime victim compensation programs include:

| | |
|---|---|
| Alaska | Montana |
| California | Nebraska |
| Connecticut | Nevada |
| Delaware | New Jersey |
| Florida | New York |
| Hawaii | North Dakota |
| Illinois | Ohio |
| Indiana | Oregon |
| Kansas | Pennsylvania |
| Kentucky | Tennessee |
| Maryland | Texas |
| Massachusetts | Virginia |
| Michigan | Washington |
| Minnesota | Wisconsin |

The crime victim compensation programs in these States have several important characteristics in common. First, they compensate only *innocent* crime victims. The Michigan legislation is typical. It provides that a person is not eligible for compensation under its program if that person was (1) "criminally responsible for the crime", or (2) "an accomplice to the crime".

Another important common characteristic is that the programs will pay compensation only if the crime victim has been physically injured or has died. The Pennsylvania legislation, for example, provides that for purposes of its crime victim compensation program the term "victim" means a person "who suffers bodily injury or death as a direct result of a crime". Thus, State crime victim compensation programs deal with the most serious cases, cases where the victim has been killed or injured.



Other important common characteristics include provisions that prevent double recovery. For example, if part of a victim's medical bills are paid by an insurance program of some sort, then that amount would be deducted from the victim's claim under the crime victim compensation program. In other words, the States compensate victims only for losses that would otherwise be unreimbursed. Further, the State programs all provide that the State is subrogated, to the extent of any compensation paid to the victim, to any claim that the victim has against the offender as a result of the crime. Consequently, in those relatively few instances when an offender is caught, convicted, and able to pay a judgment, the State can recover the amount of compensation it paid to a victim. Finally, the State programs do not compensate victims for crimes involving property loss, such as stolen cars or television sets. The States, therefore, do not act as property insurers.

While the 28 State crime victim compensation programs have important characteristics in common, they also differ in many respects. One difference involves the method of administration. Four States (Illinois, Massachusetts, Ohio and Tennessee) utilize their courts to determine whether a claimant is eligible for compensation and, if so, how much the compensation should be. The other States use administrative agencies to investigate claims, determine claimant eligibility, and make awards of compensation. Some of them, such as Kentucky, Kansas and Florida, use a specialized agency whose sole function is to administer the State's crime victim compensation program. Others, such as California, Virginia, and Texas, use a State agency that has other functions besides administering the crime victim compensation program.

The States also differ in the way they define the crimes whose victims will be eligible for compensation. Some States, like New Jersey and Wisconsin, provided that the victims of certain enumerated crimes are eligible under their programs. Some States, like Montana and Virginia, refer to any crime that causes physical injury or death. The Indiana legislation refers to "a violent crime."

The State programs differ in other respects—such as whether to require a minimum loss and, if so, how much and whether that minimum loss is a deductible amount; the maximum amount that can be awarded; whether to utilize a financial need test; the length of time within which claims can be filed; whether to permit attorney fees and, if so, how much to permit and whether those fees should be paid in addition to or out of the award of compensation.

The diversity among the State crime victim compensation programs has been the result of each State designing its own program to fit its own needs and goals. The committee believes that this diversity is desirable and that any Federal legislation ought to permit and encourage it. H.R. 4257 has been drafted to allow each State flexibility to shape its own crime victim compensation program.

In brief outline, the legislation enables the Federal Government to help the States assist innocent crime victims. State victim compensation programs that meet 11 criteria are eligible for grants of assistance from the Federal Government. The grant would equal 25 percent of the State program's cost of paying compensation to the victims of State crimes and 100 percent of the cost of paying compensation of

victims of "analogous" Federal crimes.[1] The Federal grants are to be administered by the Attorney General, who will be advised by an Advisory Committee on Victims of Crime. Seven of the nine members of this committee will be officials of States receiving Federal grants, giving those States with qualified programs direct and formal access to the Federal officials responsible for administering the legislation.

It has been suggested that there is no Federal interest in helping States to assist crime victims. The Committee does not accept that argument. The Federal Government is already heavily involved in assisting the States in other aspects of their criminal justice systems, most notably through the Law Enforcement Assistance Administration. As stated by the representative of the California Attorney General.

> LEAA provides money for local projects; and while its commitment to any one project is limited, its overall commitment to assist local law enforcement is ongoing. Ongoing too is State/Federal co-operation with the FBI and State prosecution of Federal crimes where there is concurrent jurisdiction. The importation of narcotics and guns affect State law enforcement. And finally, every detention, search, questioning, arrest, trial, sentence, appeal, and parole is bejeweled with Federal constitutional rights interpreted and applied by State law enforcement and State courts. If it seems that we step over the body of the victim to give medical and other services to the criminal, it also seems that we step over the victims' fundamental right to life, liberty, and the pursuit of happiness to grant constitutional rights to the one who took the victim's rights away.
>
> The Federal Government, then, like the State governments, finds itself officially, and constitutionally, committed to act in this field of criminal justice. It is—perhaps not in the legal sense, but in the moral sense—a denial of equal protection for it to ignore the victims of crime.[2]

It is, in the committee's judgment, entirely appropriate for the Federal Government to be a partner with the States in assisting innocent crime victims. Federal funds have gone to the States for use by police and sheriff's departments, by prosecutors, by courts, by corrections departments—in short, for use by all parts of State criminal justice systems. If Federal funds can go to the States to help them apprehend and try criminals, and imprison them when convicted, then Federal funds can go to the States to help them assist the innocent victims of crime.

SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1*

Section 1 of the bill provides that the short title of the legislation is the "Victims of Crime Act of 1979".

[1] "Analogous" Federal crimes are those crimes that occur within a State which would be covered by the State's crime victim compensation program but for the fact that they are subject to exclusive Federal jurisdiction. This term is explained in detail in the analysis of section 7(8)(B) of the legislation.

[2] Statement on behalf of California Attorney General Evelle Younger, in *Victims of Crime Compensation: Hearings on H.R. 7010 and Related Bills before the Subcommittee on Criminal Justice of the House Commitee on the Judiciary*, 95th Congress, 1st Session (1977), at 84.



*Section 2*

Section 2 of the bill vests in the Attorney General the responsibility for administering the provisions of the legislation. The Attorney General is empowered to make annual and supplemental grants to qualifying State crime victim compensation programs. The grants may be made in advance or by way of reimbursement and are subject to the availability of appropriated money. The legislation, therefore, does not create an entitlement program. The grants are also subject to the limitations found in section 5 of the legislation.

The formula for determining the amount of a grant is set forth in section 2(a). Under that formula, a qualified State victim compensation program may receive, during a Federal fiscal year, an amount equal to 25 percent of its cost of paying compensation to victims of most qualifying crimes (those that fall within State jurisdiction) and 100 percent of the cost of paying compensation to victims of "analogous" Federal crimes. These crimes are defined in section 7(8)(B) of the legislation to be crimes that occur with the boundaries of the State but that are within the exclusive jurisdiction of the Federal Government to prosecute.[3]

Section 2(b) of the bill authorizes the Attorney General to prescribe such rules as are necessary to administer the legislation and to approve, in whole or in part, a request for an annual or supplemental grant under the program. Section 2(c) of the bill expressly precludes the Attorney General from modifying the dispostion of any individual claim processed by a State agency administering the State's victim compensation program. The responsibility for administering each State program rests exclusively with the State involved.[4]

*Section 3*

Section 3 of the legislation establishes an Advisory Committee on Victims of Crime composed of nine members appointed by the Attorney General, seven of whom must be officials of States with programs that qualify for grants under the legislation. The members will serve 1 year terms and will receive only transportation and travel expenses and a per diem allowance while away from their homes in the performance of their services for the committee. The purpose of the committee is to advise the Attorney General on matters relating to the administration of the legislation and to the compensation of crime victims. Since a majority of the committee will consist of officials from States with qualifying victims compensation programs, those directly affected by the manner in which the legislation is administered will have a direct and formal method of making their views known to the Attorney General.

*Section 4*

Section 4 of the bill sets forth 14 criteria that a State crime victim compensation program must meet in order to qualify for a grant under

[3] The Committee believes that the overall impact of the analogous Federal crime provision will not be great. It will primarily affect those States with Federal enclaves over which States may not exercise criminal jurisdiction.

[4] For example, some States utilize a financial need ("means") tests in determining eligibility for victim compensation. Section 4 of the legislation does not require a qualified State crime victim compensation program to impose a means test. Section 2(b) does not authorize the Attorney General to issue a rule requiring all qualified State programs to impose a means test. Likewise, since section 4 does not preclude States from utilizing a means test, the Attorney General could not, by rule, preclude any qualifying State program from utilizing a means list if it chooses to do so.

the legislation. A State program must meet all 11 criteria in order to be eligible for a grant.

Section 4(1) requires that the State program offer "(A) compensation for personal injury to individuals who suffer personal injury that is the result of a qualifying crime; and (B) compensation for death to surviving dependents of individuals whose deaths are the result of a qualifying crime." [5]

Section 4(2) requires that the State crime victim compensation program offer to aggrieved claimants the right to a hearing with administrative or judicial review. No particular form of administrative or judicial review is required by the legislation.

Section 4(3) provides that the State crime victim compensation program must require that "claimants cooperate with appropriate law enforcement authorities with respect to the qualifying crime for which compensation is sought." A State may meet this qualification, or any of the other qualifications, either by statute or by rule or regulation adopted by the appropriate State agency.

Section 4(4) provides that there be in effect in each State with a qualified crime victim compensation program a requirement that appropriate law enforcement agencies and officials take reasonable care to inform victims of qualifying crimes about (1) the existence of the State's compensation program and (2) the procedure for applying for compensation under it.

Section 4(5) requires that the State be subrogated to any claim that the claimant has against the perpetrator of the qualifying crime for damages resulting from that crime. The State is to be subrogated to the extent of any money paid to the claimant by the program.

Section 4(6) provides that the State program may not "require any claimant to seek or accept any benefit in the nature of welfare unless such claimant was receiving such benefit prior to the occurrence of the qualifying crime that gave rise to the claim." Thus, a qualified State victim compensation program cannot require that a claimant seek or accept welfare benefits in lieu of, or in addition to, any award of compensation it makes, unless that claimant was receiving those welfare benefits prior to the crime that resulted in the claim.

Section 4(7) requires that a State victim compensation program must deny or reduce a claim if the victim is found by the agency administering the State program to have contributed to the infliction of the death or injury that is the basis for the claim. Thus, for example, where the agency administering the State program finds contributory fault on the part of the victim, the victim's claim would have to be reduced or denied altogether.

Section 4(8) provides that State law must require that an obligation to pay restitution must, where appropriate, be imposed upon criminal wrongdoers, The restitution obligation may be imposed at the time the wrongdoer is sentenced, in addition to or in lieu of any fine or term of years imposed. The restitution obligation may also be imposed after the wrongdoer is sentenced, as a condition of parole, for example.

Section 4(9) of the bill provides that the State may not require that anyone be apprehended, prosecuted or convicted of the offense that gave rise to the claim. A person who receives crime victim compensation does so because that person has been the innocent victim of a crime. That person's status as a crime victim does not change because the police were unable to catch the wrongdoer, or because the prosecutor decided to drop the charges against the wrongdoer as a part of a plea bargain, or because the case against the wrongdoer was dismissed on a technicality. It appears that all of the States that presently have crime victim compensation programs will be able to meet this requirement.

[5] The term "compensation for personal injury" is defined in section 7(4) of the bill; the term "personal injury" is defined in section 7(2); the term "dependent" is defined in section 7(1); and the term "qualifying crime" is defined in section 7(8).



Section 4(10) requires that a State impose upon convicted defendants court costs of at least $5. This sum is to be imposed in addition to any other costs assessed under State law, and the revenues generated by the additional court costs are to go into the fund which the State uses to pay victim compensation awards.

Section 4(11) provides that State law require that any person who contracts directly or indirectly with a person charged with or convicted of a crime for an interview, statement or article relating to the crime, must turn over to the State any money due the person charged or convicted. The State is to hold the money in escrow for a reasonable period and can use the money only to pay claims perfected by the victims, if the wrongdoer is convicted.

*Section 5*

The legislation provides that certain State expenditures on behalf of its victim compensation program are not reimbursable. Section 5 of the bill defines those expenditures which may not be included in the State program's cost of paying compensation when determining the amount of the grant for which that program will be eligible.[6]

Section 5(1) provides that administrative expenses are not included in the cost of paying compensation. Thus, a State with a qualified victim compensation program must pay for all of the administrative expenses connected with operating its program.[7]

Section 5(2) provides that any amount awarded by a qualified State program for "pain and suffering" or for lost property shall be excluded from the cost of paying compensation when determining the amount of the grant. The term "pain and suffering" is used in its tort law sense and represents amounts awarded on the basis of a subjective evaluation of the extent to which someone endured discomfort. A State program may make such awards without jeopardizing its status as a qualified program. However, the amount of any award designated as compensating the claimant for pain and suffering will not be included in the State program's cost of paying compensation when the amount of its grant is determined. The lost property exclusion means that a qualified State program which chooses to compensate victims for stolen cars or other personal property would not be able to include amounts for such awards in its cost of paying compensation.[8]

[6] Some State statutes—for example, those in Tennessee and Virginia—authorize the making of an emergency award in some circumstances. This legislation treats such awards the same way it treats regular awards. Thus, amounts expended by a qualified State program for emergency awards are to be included in the costs of that program when computing the federal grant. The limitations in section 7 of the bill apply to emergency awards just as they apply to regular awards.

[7] For the purpose of administering this legislation, certain awards of attorney's fees are defined by section 7(7) to be administrative expenses.

[8] A limited class of things that could be classified as "property"—medical, dental, surgical, or prosthetic devices, such as eyeglasses or artificial limbs—are defined not to be property for the purpose of administering this legislation. See section 7(6) of the bill.

Section 5(3)(A) provides that any amount awarded by a qualified State program to a claimant who filed a claim more than 1 year after the occurrence of the qualifying crime shall be excluded from the cost of paying compensation when determining the amount of the grant—unless the agency administering the State program has found "good cause" for the delay.[9] A number of State programs have more stringent filing requirements.[10] The legislation does not require those States to change their requirements.

Section 5(3)(B) provides that any amount awarded by a qualified State program to a claimant who failed to report the qualifying crime to law enforcement authorities within 72 hours after the occurrence of that qualifying crime shall be excluded from the cost of paying compensation when determining the amount of grant—unless the agency administering the State program has found "good cause" for the failure to report within 72 hours.[11] A number of State programs have more stringent requirements about reporting to the police.[12] The legislation does not compel those States to change their requirements.

Section 5(4) provides that any amount awarded by a qualified State program in excess of $25,000 shall not be included in the cost of paying compensation when determining the amount of the grant. Where the victim is deceased, the awards paid to the victim's dependents are aggregated. All aggregated amounts in excess of $25,000 are excluded from the cost of paying compensation when determining the amount of the grant.

Section 5(5) provides that any amount awarded by a qualified State program to a claimant who is entitled to receive compensation from a source other than a compensation program assisted under the legislation or the perpetrator of the qualifying crime, up to the amount of that compensation, shall be excluded from the cost of paying compensation when determining the amount of the grant. The purpose of this collateral source provision is to discourage the making of awards that would result in double recovery by a claimant. Thus, for example, a claimant may be entitled to be reimbursed by an insurance plan for all or a part of his medical expenses. That part of the State program's award which duplicates the reimbursement from the insurance plan will not be included in the cost of paying compensation when determining the amount of the grant.

Section 5(6) provides that any amount awarded by a qualified State program in excess of $200 per week for lost earnings shall be excluded from the cost of paying compensation when determining the amount of the grant.

[9] Some States, such as Wisconsin (2 years), have longer claim filing periods. In those States, if the claim was filed after 1 year, but within the period permitted by State law, the State program may be able to conclude that there was good cause why the claim was not filed within 1 year. If it does so conclude, the amount of the award in that instance can then be included in the cost of paying compensation when determining the amount of grant.

[10] Kentucky, for example, requires a filing within 3 months, which can be extended to one year upon a showing of good cause.

[11] A number of States, such as Minnesota (5 days after the crime or after the time when a report could reasonably have ben made), have longer police reporting provisions. In those States, if the report was made after 72 hours but within the period permitted by State law, the State program may be able to conclude that there was good cause why the police report was not made within 72 hours. If it does so conclude, the amount of the award in that instance can then be included in the cost of paying compensation when determining the amount of the grant.

[12] Maryland, for example, requires that the report to the police be made within 48 hours.



*Section 6*

Section 6 of the bill requires the Attorney General to report periodically to the Congress. Section 6(1) requires that the report contain certain information about the activities of the qualified State programs. Section 6(2) requires that the report contain certain information about the Attorney General's activities in administering the legislation.

The Attorney General's report must be filed within 135 days after the end of the Federal fiscal year. The purpose for this reporting provision is to assist the Congress in carrying out its oversight responsibilities with respect to the administration of the legislation. Requiring that the report to be filed within 135 days after the end of the Federal fiscal year will enable the appropriate congressional committees to evaluate the program's administration and effectiveness in time to include any necessary changes in authorization legislation.

*Section 7*

Section 7 of the bill defines certain terms used in the legislation.

Section 7(1) provides that for the purpose of administering the legislation, the term "dependent" means what each State defines it to mean for purposes of that State's victim compensation program.

Section 7(2) provides that for the purpose of administering the legislation, the term "personal injury" means what each State defines it to mean for purposes of that State's victim compensation program.[13]

Section 7(3) defines "State" to include every State of the Union, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory of the United States (such as the Virgin Islands).

Section 7(4) defines the term "compensation for personal injury" to mean "compensation for loss which is the result of personal injury" and includes: (1) appropriate and reasonable expenses for hospital and medical services; (2) appropriate and reasonable expenses for physical and occupational therapy and rehabilitation; and (3) loss of past and anticipated future earnings.[14]

Section 7(5) provides that the term "property loss" does not include expenses incurred for medical, dental, surgical or prosthetic services and devices. This permits awards that compensate claimants for expenses connected with replacing or repairing such items as broken eyeglasses, dentures, artificial limbs, hearing aids, or wheelchairs to be included in the cost of paying compensation when determining the amount of the grant.

Section 7(6) defines "compensation for death" to mean compensation paid for losses resulting from the death of the victim, including reasonable funeral and burial expenses and loss of support for the victim's dependents.

[13] The definition of "personal injury" used in the legislation will permit a qualified State program to include pregnancy resulting from rape as a personal injury for the purposes of its program. Michigan, for example, defines personal injury to mean "actual bodily harm and includes pregnancy." If the Michigan program is found to be a qualified State program under this legislation, amounts representing awards for pregnancy-related expenses of a victim would be included in its cost of paying compensation for the purpose of determining its grant.

[14] Section 7(4) also defines "compensation for personal injury" to include compensation for appropriate and reasonable expenses incurred for "nonmedical care and treatment rendered in accordance with a method of healing recognized by the law of the State." Thus, this provision permits the State agency to compensate a claimant for expenses incurred for treatment rendered by a Christian Science practitioner or by a Christian Science nursing home if the State law recognizes the Christian Science method of treatment.

Section 7(7) defines the term "administrative expenses" to include an award of an attorney's fee if the fee "is paid in addition to, and not out of the amount of compensation." Therefore, amounts representing awards of attorneys' fees paid in addition to the compensation are not included in the State program's cost of paying compensation when determining the amount of the grant.

Section 7(8) defines the term "qualifying crime" to mean (A) any act or omission occurring in the State which is criminally punishable and which the State designates that it will compensate the victims of, and (B) any act or omission that would qualify under (A) but for the fact that the act or omission occurred within the exclusive federal jurisdiction.[15] Thus, while each State with a qualified program has complete freedom to specify those crimes whose victims will be eligible for compensation, it must make all victims of those crimes eligible, without regard to the victim's State of residency. A qualified State program will be eligible for a grant equal to 25 percent of the cost of paying compensation to the victims of such crimes.

Section 7(9) requires that States compensate the victims of certain crimes that fall within exclusive Federal jurisdiction. The crimes involved are those that are "analogous" to the State crimes whose victims are eligible for compensation.[16] However, in return for a State program assuming this burden, it will be eligible for a grant equal to 100 percent of the cost of paying compensation to the victims of "analogous" crimes.

*Section 8*

Section 8 of the bill authorizes the appropriations of $15 million to carry out the purposes of the legislation during the first fiscal year of its existence (fiscal year 1980). It authorizes the appropriation of $25 million during the second fiscal year (1981) and $35 million during the third fiscal year (1982).

*Section 9*

Section 9 of the bill provides that the Attorney General may begin to make grants starting with fiscal year 1980.

COST ESTIMATE

The committee, based upon the following analysis prepared by the Congressional Budget Office, estimates the cost of the legislation to be $8 million for fiscal year 1980, $13 million for fiscal year 1981, and $16 million for fiscal year 1982.

[15] In some States, an act may not be a "crime," even though all of the elements of an offense are present, if the perpetrator lacked the capacity to commit a criminal act—because, for example, the perpetrator was under a certain age or was "criminally insane." The State of Massachusetts deals with this situation in a way that is typical of States with victim compensation programs. For the purposes of its victim compensation program, Massachusetts defines "crime" to include an act "which, if committed by a mentally competent adult, who had no legal exemption or defense, would constitute a crime . . . ."

The phrase "criminally punishable" is used in the legislation in order to make it clear that a State may include in its cost of paying compensation amounts representing awards to victims where, technically, no "crime" has been committed. Thus, if the Massachusetts program is found to be a qualified State program, when it compensates a claimant where it finds that the offender was acquitted (or not prosecuted) because of insanity, or mental irresponsibility, the amount of that award would be included in the cost of paying compensation when determining the amount of its grant.

[16] For example, the Washington program makes rape victims who are injured eligible for compensation. If a rape occurs within the territorial boundaries of Washington but is subject exclusively to federal jurisdiction, the Washington program, to be a qualified program, must provide that the victim of that federal rape shall, if otherwise eligible, be entitled to compensation.



U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, D.C., June 14, 1979.*

Hon. PETER W. RODINO, Jr.,
*Chairman, Committee on the Judiciary,*
*U.S. House of Representatives,*
*Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to the request of the staff of the Subcommittee on Criminal Justice of the House Committee on the Judiciary, the Congressional Budget Office has prepared the attached cost estimate for H.R. 4257, the Victims of Crime Act of 1979.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

JAMES BLUM,
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

JUNE 13, 1979.

1. Bill No.: H.R. 4257.
2. Bill title: Victims of Crime Act of 1979.
3. Bill status: As ordered reported by the House Committee on the Judiciary, June 5, 1979.
4. Bill purpose: The bill gives the Attorney General the administrative responsibility for making grants to states with qualifying programs to compensate the victims of violent crimes. These grants would cover 100 percent of the costs of awards resulting from crimes subject to exclusive federal jurisdiction and 25 percent of the costs of awards for other crimes. Individual states determine which crimes qualify for their programs. However, to receive federal grants, a state must compensate individuals for personal injuries which were the result of qualifying crimes, as well as offer compensation for loss of support to eligible victims' dependents. The bill excludes from the reimbursement formula any state compensation for pain or suffering, property loss, any amount over $25,000 on an individual award, costs for which the victim was or will be reimbursed from another source, and states' administrative expenses. The bill authorizes the appropriation of $15 million in fiscal year 1980, $25 million in fiscal year 1981, and $35 million in fiscal year 1982 to carry out this program. This is an authorization bill that requires subsequent appropriation action.
5. Cost estimate:

| | [In millions of dollars] |
|---|---|
| Authorization level: | |
| Fiscal year: | |
| 1980 | 15 |
| 1981 | 25 |
| 1982 | 35 |
| 1983 | ---- |
| 1984 | ---- |
| Estimated outlays: | |
| Fiscal year: | |
| 1980 | 8 |
| 1981 | 13 |
| 1982 | 16 |
| 1983 | 17 |
| 1984 | 18 |

The costs of this bill fall within budget function 750.

6. Basis of estimate: The authorization levels are those stated in the bill and the full amounts authorized are assumed to be appropriated. The resulting outlays will be significantly affected by three variables: (1) the national incidence of violent crime in the coming years, (2) the percentage of violent crime victims covered in states with compensation programs, and (3) the value of the awards to individuals. CBO's estimate assumes that the national incidence of violent crimes will increase at an average rate of 2 percent annually. This assumption is based on violent crime data provided by the FBI. CBO estimates that approximately 1.6 percent of the victims of violent crime in the participating states would receive compensation awards, and that participation would include states with approximately 90 percent of the nation's violent crimes. Compensation is estimated to initially average $2,700 for lump sum awards (one-time compensation) and $2,500 per year for protracted awards, with increases in subsequent years at the rate of inflation. It is projected that the awards would be disbursed by the federal government at a rate of 80 percent the first year and 20 percent the second year.

The critical assumptions and general methodologies that were used to derive these costs are explained below.

*Incidence of violent crime*

The growth rate of violent crimes between 1970 and 1975 averaged 5 percent per year, but many criminal justice experts believe that growth rate was abnormal, and that a smaller growth rate will occur. The rates of change in recent years are shown in the following table:

| | Total violent crimes | Annual percentage change |
|---|---|---|
| 1975 | 1,026,280 | 5 |
| 1976 | 986,570 | −4 |
| 1977 | 1,009,500 | 2 |
| 1978[1] | 1,059,975 | 5 |

[1] Uniform crime reports: 1978 preliminary annual release, Mar. 27, 1979.

The FBI crime report indicates a 4 percent decrease in 1976 followed by increases of 2 percent and 5 percent in 1977 and 1978, respectively. The growth assumptions employed in deriving this estimate reflect the view that the average increase in violent crimes will be about 2 percent per year for the next 5 years.

Less than 1 percent of all violent crimes can be classified as exclusively federal in jurisdiction.

*Compensation victims as a percentage of total victims*

Currently 27 states in which 75 percent of the nation's violent crimes occur operate victim compensation programs. In addition eleven states have partial programs or pending legislation to help compensate victims. It is assumed that several of these eleven states would initiate comprehensive victim compensation programs with federal cost sharing in effect. CBO assumes that approximately 90 percent of the nation's violent crime victims would be included in a national program. CBO's assumption of the percentage of victims of violent crimes who will receive compensation awards is based on data obtained from seven states (California, Illinois, Maryland, New Jersey, New York, Minnesota, Massachusetts) with existing victim compensation programs. These programs, where 44 percent of the nation's violent crimes have been committed, give compensation awards to 1.4 percent of their violent crime victims. CBO has projected that this bill would give existing state programs greater visibility and subsequently increase the number of awards to include 1.6 percent of victims in 1980 and 1981, and 1.7 percent thereafter.



*Value of awards*

The grant experience of the seven aforementioned states is also the basis for projections about the type and amount of compensation awards. The average lump sum award is expected to be $2,700 in 1980. For protracted grants, which 20 percent of the recipients receive, the average annual value is assumed to be $2,500 in 1980. Both amounts are increased in subsequent years to reflect inflation. Protracted grants are assumed to be paid for an average of two years.

*Federal administration costs*

The administrative expenses of the Justice Department are projected to be $300,000 initially, increasing to $400,000 by 1984. A staff of four professionals and four support personnel is assumed, in addition to the one supervisory Executive Level IV position.

7. Estimate comparison: None.

8. Previous CBO estimate: During the 95th Congress, CBO prepared cost estimates for two similar bills, H.R. 7010 and S. 551.

9. Estimate prepared by Michael E. Horton.

10. Estimate approved by:

JAMES L. BLUM,
*Assistant Director for Budget Analysis.*

## NEW BUDGET AUTHORITY

The bill authorizes the appropriations of $15 million for Federal fiscal year 1980; $25 million for Federal fiscal year 1981; and $35 million for Federal fiscal year 1982.

## INFLATION IMPACT STATEMENT

H.R. 4257 will have no foreseeable inflationary impact on prices or costs in the operation of the national economy.

## COMMITTEE VOTE

The committee reported the bill by voice vote on June 5, 1979.

## DISSENTING VIEWS OF MESSRS. KINDNESS, LUNGREN, McCLORY, VOLKMER, BUTLER, ASHBROOK, MOORHEAD, SENSENBRENNER, HALL (OF TEXAS) AND SYNAR TO H.R. 4257

We strongly oppose H.R. 4257. Now is not the time, nor is this bill the proper governmental vessel, for such an uncertain and unnecessary legislative journey.

Admittedly, compensating victims of crime can be a legitimate governmental concern. In fact, many of those opposed to passage of H.R. 4257 have vigorously supported victim compensation programs in their own States where they have been initiated without Federal assistance. But we must join the administration in opposing a bill proposing Federal grants for State crime victim compensation programs.

More so than its predecessors, this Congress represents a Nation weary of growing Government spending and anxious to restore funding priorities closer to the people. As conscientious trustees for the American taxpayer, we are expected to say "no" when common sense so requires.

The rationale for any major Federal undertaking requires the existence of a Federal purpose, the discharge of a Federal responsibility, or the development of a uniquely Federal solution to a widespread problem. Thus far, supporters of H.R. 4257 have been unable to provide any such bases.

One necessity for H.R. 4257, we are told, is to encourage States to initiate victim compensation programs. But what are the facts? Nearly 30 States with 75 percent of America's victims have already established programs without any Federal encouragement. The obvious weakness of this supposed rationale leads to the disquieting conclusion that the burgeoning cost of existing victim compensation programs has caused State legislators regret and prompted them to seek to pass their expense on elsewhere. The Federal Government cannot be merely an automatic carte blanche for State programs. The proper role of the Federal Government is to devote its limited resources to those problems not already being adequately treated by the States.

Whether a State wishes to compensate its crime victims is a matter of its own spending priorities. Having chosen to do so, a State should not seek to have that decision underwritten by the other 49 States.

Indeed, the discussions of a Federal "bail out" for the States in the past two Congresses have precipitated an unhealthy development: several States have passed crime victim compensation legislation but conditioned their implementation upon Federal funding participation. Thus, the previously unhampered growth of self-reliant State programs has been stymied by the siren-song of the ever enlarging Federal "big brother."





At its core, the basis for this legislation is the misguided notion that Federal dollars can somewhow always more efficiently fund State programs than can State dollars. Although that philosophy may have easily prevailed in the past, it is rightly questioned today.

Supporters of H.R. 4257 also argue that the Federal Government bears some responsibility for the victims of State crime. However, such attenuated reasoning represents a quantum leap in the Federal-State relationship—a leap so profound that its logical concommitant would be the detailing of the FBI as urban patrolman. For there can be no Federal responsibility where there is no Federal authority. State crime victims result from the violation of State criminal laws which the Federal Government has no ability to enforce. Moreover, to blame the Federal Government for a street crime in New York, in reality only channels that responsibility to the taxpayers of the other 49 States, certainly none of whom were able to prevent that crime in the first place.

Before this Congress is tempted to assume the burden of compensating State crime victims, it should have no misunderstanding as to the size of the task. Cost estimates for an earlier 50–50 Federal/State proposal ranged all the way from $22 million to $200 million annually; the only agreement appears to be that whatever the expense, it will grow.

Furthermore, the Congress should not delude itself into believing that the 25 percent Federal share of H.R. 4257 is the final word. In subcommittee hearings, there were already requests to expand the scope and thus the cost of this bill enormously. Make no mistake—this bill establishes a precedent upon which there will be naturally persistent requests for greater Federal financial involvement. H.R. 4257 is a vast, new Federal welfare program poised on the launching pad; like all skyrockets, once fired, it will only go higher and higher.

Perhaps H.R. 4257 would merit support if it proposed an innovative method to correct a uniquely Federal problem. Instead, it merely follows the long discredited notion that every problem must be Federal in nature and can be spent away by the Federal Treasury.

But beyond that, it pours Federal money on the wrong end of the problem—no amount of money will make the victim appreciate his pains; he would have preferred that the crime had been prevented. Although this bill is advertized as a crime fighter, it can only reduce crime as effectively as bandaids prevent cuts.

It is said that paying the victim will persuade him to report the crime and to testify at the trial. But there is today no lack of victim participation in the criminal justice system, but rather, nonvictim witness indifference—an indifference this bill will only reinforce. H.R. 4257 adds still another hearing at which a witness must testify—the victim compensation hearing—thus further convincing him that silence is the only way to avoid personal involvement in the endless grinding of the criminal justice system. Instead of enhancing the citizen role in law enforcement, this bill may actually detract from it.

If there were but some assurance that by paying State crime victims with Federal dollars we could significantly—and magically—reduce the number of crimes, then this bill would be meritorious. Such a promise is as illusory as the supposed connection between the Federal

Government and its responsibility for State crimes. H.R. 4257 is merely a head-long plunge into another fiscal tunnel so blind that there is not even light at the end.

For these reasons, we respectfully dissent.

HAROLD L. VOLKMER.
SAM B. HALL, Jr.
MIKE SYNAR.
JAMES F. SENSENBRENNER, Jr.
DANIEL E. LUNGREN.
JOHN M. ASHBROOK.
M. CALDWELL BUTLER.
THOMAS N. KINDNESS.
CARLOS J. MOORHEAD.
ROBERT MCCLORY.

## SEPARATE VIEWS OF MR. HYDE TO H.R. 4257

I was supporter of this legislation last session, because I protest the amounts of money and attention society spends on rehabilitating the criminal, while ignoring the often helpless victim. Notwithstanding, I am persuaded that the States can and should initiate and support these programs without Federal help, since our acknowledged goal is to cut Federal spending wherever possible.

One way to hold down the deficit is to refrain from starting new programs. This program, while laudable, can await Federal involvement until we get inflation under control.

After all, we are all victims of the crime of inflation, and that *is* a federal responsibility.

HENRY J. HYDE.

## SEPARATE DISSENTING VIEWS OF THE HONORABLE SAM B. HALL, JR. TO H.R. 4257

While I am in complete agreement with the position expressed by the dissenting views, I think it is important to emphasize the cost to the American taxpayers of this radically new program. At a time when the overtaxed citizens of this country are crying out for relief from excessive regulation by the Federal Government and from Government generated inflation, this legislation would create an unprecedented new Federal program costing, at the lowest estimate, $72 million over the next 5 years. Based on estimates provided the Committee last Congress, the Federal share under this bill could reach $100 million per year. Either way, the cost of this program is excessive, especially since there is no demonstrated need for the Federal Government to become involved in what is, by its very essence, a State and local matter.

SAM B. HALL, JR.



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END