



Legislative Bulletin.....November 9, 2005

Contents:

H.R. 1751 — Secure Access to Justice and Court Protection Act

Summary of the Bills Under Consideration Today:

Total Number of New Government Programs: 3

Total Cost of Discretionary Authorizations: \$509 million over five years

Effect on Revenue: \$0

Total Change in Mandatory Spending: \$0

Total New State & Local Government Mandates: 0

Total New Private Sector Mandates: 0

Number of Bills Without Committee Reports: 0

Number of Reported Bills that Don't Cite Specific Clauses of Constitutional Authority: 1

H.R. 1751 — Secure Access to Justice and Court Protection Act (Gohmert)

Order of Business: The bill is scheduled for consideration on Wednesday, November 9, 2005, under a structured rule, making in order only those amendments printed in the Rules Committee report accompanying the resolution. See a separate RSC document for amendment summaries.

Summary: H.R. 1751 would establish mandatory minimum-prison sentences for certain crimes committed against judges and certain public safety officers and their families. It would provide increased court security through the U.S. Marshals Service and provide new grants to states to increase the security of courts, protect witnesses, and create threat assessment databases. It would also increase the mandatory minimum-federal sentences for the crimes of murder in the second degree and manslaughter. The specific provisions of the bill are described below by section:

Sec. 2. Penalties for influencing, impeding, or retaliating against judges and other officials by threatening or injuring a family member.

- Adds “federally financed public safety officer” as one of the positions covered under 18 U.S.C 1111, thus affording them the same protections under the law as federal law enforcement officers.
- Provides for increased criminal penalties for assault, kidnapping, murder, threats, or conspiracy to commit such crimes against an immediate family member of a United States judge, a federal law enforcement officer or a federally funded public safety officer; for assaults, the penalty would increase depending on the severity of the assault and the injuries incurred by the victim.

Sec. 3. Penalties for Certain Assaults.

- Provides for increased penalties where the victim is a U.S. judge, federal law enforcement officer, or federally funded public safety officer (as noted above, this position is being added to those already protected), including various minimum and maximum prison sentences based on the severity of the crime; if a dangerous weapon was used in relation to the offense, it also requires an additional five-year prison term beyond what is otherwise imposed.

Sec. 4. Killing of federally funded public safety officers.

- Provides for a prison term of at least 30 years for a person who kills, or attempts or conspires to kill, a current or former federally funded public safety officer while he is on duty or performing official duties; allows for a life sentence and, if the victim dies, provides for a death sentence.

Sec. 5. General modifications of federal murder crime and related crimes.

- Increases the mandatory minimum prison sentence for involuntary manslaughter from 6 to 10 years, and increases the maximum prison sentence from 10 to 20 years.
- Increases the mandatory minimum prison sentence for second-degree murder to 30 years.

Sec. 6. Modification of definition of offense and of the penalties for, influencing or injuring officer or juror generally.

- Expands and clarifies the definition of offenses relating to influencing or injuring a juror or officer of the court.
- Increases the maximum allowable prison sentence from 20 to 30 years.

Sec. 7. Modification of tampering with a witness, victim, or an informant offense.

- Increases the maximum prison sentences for tampering with a witness or obstructing an official proceeding as follows:
 - increases the maximum sentence from 20 to 30 years for attempted murder;
 - increases the maximum sentence from 10 to 20 years for a threat or the use of physical force;
 - increases the maximum sentence from 10 to 30 years for intentionally hindering or preventing communication to a judge regarding the commission or possible commission of a federal offense; and

- increases the maximum sentence from one to 20 years for harassing and thereby preventing a person from testifying in an official proceeding or reporting the commission or possible commission of a crime.

Sec. 8. Modification of retaliation offense.

- Increases the maximum prison sentences to 30 years (from 10 and 20 in various circumstances) for killing or attempting to kill a witness, victim, or an informant in retaliation for their testifying or providing information to law enforcement.

Sec. 9. Inclusion of intimidation and retaliation against witnesses in state prosecutions as basis for federal prosecution.

- Expands the definition of “unlawful activity” to include “intimidation of, or retaliation against, a witness, victim, juror, or informant” relating to interstate or foreign travel in aid to racketeering.

Sec. 10. Clarification of venue for retaliation against a witness.

- Allows a prosecution case brought under Section 1513 of title 18 (retaliating against a witness) to be brought in the district in which the official proceeding or conduct occurred; in current law, the location of venue for this crime is not addressed.

Sec. 11. Witness protection grant program.

- **Creates a new grant program** administered by the Attorney General to states, units of local government, and Indian tribes to create and expand witness protection programs “to prevent threats, intimidation, and retaliation against victims” of crimes.
- **Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.**

Sec. 12. Grants to states to protect witnesses and victims of crimes.

- Amends the Violent Crime Control Act to authorize grants to states to “create and expand witness protection programs to prevent threats and retaliation” against victims of crime;
- **Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.**

Sec. 13. Judicial branch security requirements.

- Directs the U.S. Marshals Service to consult and coordinate with the Administrative Office of the U.S. Courts “on a continuing basis” regarding security requirements for the judicial branch; according to the committee report, this provision is aimed at implementing security measures to protect judges and other employees and members of the public at federal courthouses.

Sec. 14. Protections against malicious recording of fictitious liens against a federal employee.

- Creates a new federal crime for filing a false lien against real or personal property owned by a federal judge, federal attorney, or federal employee (as defined by section 1114 in the U.S. Code).
- Provides for a fine or prison sentence of up to 10 years, or both.

Sec. 15. Prohibition of possession of dangerous weapons in federal court facilities.

- Expands items that are prohibited in federal court facilities to include “other dangerous weapons” (in addition to firearms currently prohibited); the term “dangerous weapon” is currently defined in law (18 U.S.C. 930) as “a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 1/2 inches in length.”

Sec. 16. Repeal of sunset provisions.

- Modifies the Ethics in Government Act of 1978 by repealing the sunset provision regarding the filing of disclosure statements by federal judges; according to the committee report, this will “allow federal judges to continue to redact identifying information about them and their families while ensuring that sufficient information is publicly available to ensure that no conflicts or other potential conflicts may arise while conducting their official duties.”

Sec. 17. Protection of individuals performing certain federal and other functions.

- Creates a new federal crime for publishing restricted personal information on the Internet, (with the intent to harm, intimidate, or retaliate against an official or court) concerning judges, law enforcement, public safety officers, jurors, witness, or other U.S. court officers.

Sec. 18. Eligibility of courts to apply directly for law enforcement discretionary grants and requirement that state and local governments consider courts when applying for grant funds.

- Modifies the eligibility requirements for discretionary Byrne grants so courts may apply directly; directs states and local governments to consider courts in the application process when applying for funds under the Byrne grant process.

Sec. 19. Report on security of federal prosecutors.

- Directs the Attorney General to submit a report to Congress on “the security of assistant U.S. attorneys and other federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, and those who commit fraud and other white-collar offenses.” The report is required to include such information as the number and nature of threats and assaults against attorneys handling such prosecutions;

Sec. 20. Flight to avoid prosecution for killing peace officers.

- Creates a new federal crime for flight to avoid prosecution for killing an individual involved in crime and juvenile delinquency control and reduction (peace officer); provides for a mandatory minimum prison sentence of 10 years. This provision is identical to H.R. 3900, the Justice for Peace Officers Act, sponsored by Rep. Dreier (R-CA).

Sec. 21. Special penalties for murder, kidnapping, and related crimes against federal judges and federal law enforcement officers.

- Expands the penalties for offenses against judges and law enforcement officers, including murder, kidnapping, and related federal crimes. Provides for a mandatory minimum prison sentence of 30 years for murder or kidnapping of a federal judge or law enforcement officer and provides for the death penalty in both cases.

Sec. 22. Media coverage of court proceedings.

- Authorizes the presiding judge of each court to permit media coverage (including photography, electronic recording, broadcasting or televising, etc.) of judicial proceedings based on his own discretion and provides specific procedures to be used to protect the security of witnesses.

Sec. 23. Funding for state courts to assess and enhance court security and emergency preparedness.

- Directs the Attorney General to make new grants to the highest state courts in states participating in this program to “conduct assessments focused on the essential elements for effective courtroom safety and security planning” and implement changes as necessary;
- **Appropriates \$20 million for each of fiscal years FY06 through FY10, for a total of \$100 million.**

Sec. 24. Additional amounts for United States Marshals Service to protect the judiciary.

- Appropriates an additional \$20 million to the U.S. Marshals Service for each fiscal year FY06 through FY10 (totaling \$100 million) to protect the federal judiciary, to include hiring additional entry-level and senior-level deputy marshals.

Sec. 25. Grants to states for threat assessment databases.

- Directs the Attorney General to carry out a new program for states to establish and maintain a threat assessment database; defines the purpose and components of such a database.
- **Appropriates such sums as may be necessary for FY06 through FY09.**

Sec. 26. Grants for young witness assistance.

- Allows the Bureau of Justice Assistance to make grants to state and local prosecutors and law enforcement agencies to provide witness assistance programs for juvenile and young adults.
- **Appropriates \$3 million for each of fiscal years FY06 through FY08, for a total of \$9 million.**

Committee Action: H.R. 1751 was introduced on April 21, 2005, and referred to the Committee on the Judiciary’s Subcommittee on Crime, Terrorism, and Homeland Security. The bill was marked-up on October 27, 2005, and ordered reported to the House by a vote of 26-5 (H. Rept. [109-271](#)).

Administration Policy: A Statement of Administration Policy (SAP) was not available at press time.

Cost to Taxpayers: CBO estimates that H.R. 1751 would authorize \$108 million in FY2006 and a total of \$509 million over the FY2006-FY2010 period. The bill could affect mandatory spending and revenues, but CBO estimates that any such effects “would not be significant.”

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. As described above, it would create several new federal crimes, establish several new federal grant programs, and expand the duties of the U.S. Marshals Service, among other things.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. CBO confirms that H.R. 1751 contains no intergovernmental or private-sector mandates, as defined in the Unfunded Mandates Reform Act (UMRA).

Constitutional Authority: The Committee Report, H. Rept. [109-271](#), cites constitutional authority for this legislation in Article 1, Section 8 of the Constitution (powers of Congress), but fails to cite a specific Clause.

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