

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3359
OFFERED BY M . _____**

Strike all that follows after the enacting clause and
insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Homicide Victims’
3 Families’ Rights Act of 2021”.

4 SEC. 2. CASE FILE REVIEW.

5 (a) IN GENERAL.—The head of an agency shall re-
6 view the case file regarding a cold case murder upon writ-
7 ten application by one designated person to determine if
8 a full reinvestigation would result in either the identifica-
9 tion of probative investigative leads or a likely perpetrator.

10 (b) REVIEW.—The review under subsection (a) shall
11 include—

12 (1) an analysis of what investigative steps or
13 follow-up steps may have been missed in the initial
14 investigation;

15 (2) an assessment of whether witnesses should
16 be interviewed or reinterviewed;

17 (3) an examination of physical evidence to see
18 if all appropriate forensic testing and analysis was

1 performed in the first instance or if additional test-
2 ing might produce information relevant to the inves-
3 tigation; and

4 (4) an update of the case file using the most
5 current investigative standards as of the date of the
6 review to the extent it would help develop probative
7 leads.

8 (c) CERTIFICATION IN LIEU OF REVIEW.—In any
9 case in which a written application for review has been
10 received under this Act by the agency, review shall be un-
11 necessary where the case does not satisfy the criteria for
12 a cold case murder. In such a case, the head of the agency
13 shall issue a written certification, with a copy provided to
14 the designated person that made the application under
15 subsection (a), stating that final review is not necessary
16 because all probative investigative leads have been ex-
17 hausted or that a likely perpetrator will not be identified.

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

21 (e) ACKNOWLEDGMENT.—The agency shall provide
22 in writing to the applicant as soon as reasonably pos-
23 sible—

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

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

3 (f) PROHIBITION ON MULTIPLE CONCURRENT RE-
4 VIEWS.—Only one case review shall be undertaken at any
5 one time with respect to the same cold case murder victim.
6 (g) TIME LIMIT.—Not later than 6 months after the
7 receipt of the written application submitted pursuant to
8 subsection (a), the agency shall conclude its case file re-
9 view and reach a conclusion about whether or not a full
10 reinvestigation under section 4 is warranted.

11 (h) EXTENSIONS.—

12 (1) IN GENERAL.—The agency may extend the
13 time limit under subsection (g) once for a period of
14 time not to exceed 6 months if the agency makes a
15 finding that the number of case files to be reviewed
16 make it impracticable to comply with such limit
17 without unreasonably taking resources from other
18 law enforcement activities.

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

1 **SEC. 3. APPLICATION.**

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

5 **SEC. 4. FULL REINVESTIGATION.**

6 (a) IN GENERAL.—The agency shall conduct a full
7 reinvestigation of the cold case murder at issue if the re-
8 view of the case file required by section 2 concludes that
9 a full reinvestigation of such cold case murder would result
10 in probative investigative leads.

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

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

18 (d) PROHIBITION ON MULTIPLE CONCURRENT RE-
19 VIEWS.—Only one full reinvestigation shall be undertaken
20 at any one time with respect to the same cold case murder
21 victim.

22 **SEC. 5. CONSULTATION AND UPDATES.**

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

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

8 **SEC. 6. SUBSEQUENT REVIEWS.**

9 (a) CASE FILE REVIEW.—If a review under sub-
10 section (a) case file regarding a cold case murder is con-
11 ducted and a conclusion is reached not to conduct a full
12 reinvestigation, no additional case file review shall be re-
13 quired to be undertaken under this Act with respect to
14 that cold case murder for a period of five years, unless
15 there is newly discovered, materially significant evidence.
16 An agency may continue an investigation absent a des-
17 ignated person's application.

18 (b) FULL REINVESTIGATION.—If a full reinvestiga-
19 tion of a cold case murder is completed and a suspect is
20 not identified at its conclusion, no additional case file re-
21 view or full reinvestigation shall be undertaken with re-
22 gard to that cold case murder for a period of five years
23 beginning on the date of the conclusion of the reinvestiga-
24 tion, unless there is newly discovered, materially signifi-
25 cant evidence.

1 **SEC. 7. DATA COLLECTION.**

2 (a) IN GENERAL.—Beginning on the date that is
3 three years after the date of enactment of this Act, and
4 annually thereafter, the Director of the National Institute
5 of Justice shall publish statistics on the number of cold
6 case murders.

7 (b) MANNER OF PUBLICATION.—The statistics pub-
8 lished pursuant to subsection (a) shall, at a minimum, be
9 disaggregated by the circumstances of the cold case mur-
10 der, including the classification of the offense, and by
11 agency.

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

13 (a) REGULATIONS.—Not later than one year after the
14 date of enactment of this Act, the head of each agency
15 shall promulgate regulations to enforce the right of a des-
16 ignated person to request a review under this Act and to
17 ensure compliance by the agency with the obligations de-
18 scribed in this Act.

19 (b) PROCEDURES.—The regulations promulgated
20 under subsection (a) shall—

21 (1) designate an administrative authority within
22 the agency to receive and investigate complaints re-
23 lating to a review initiated under section 2 or a re-
24 investigation initiated under section 4;

25 (2) require a course of training for appropriate
26 employees and officers within the agency regarding

1 the procedures, responsibilities, and obligations re-
2 quired under this Act;

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

7 (4) provide a procedure for the resolution of
8 complaints filed by the designated person concerning
9 the agency's handling of a cold case murder inves-
10 tigation or the case file evaluation; and

11 (5) provide that the head of the agency, or the
12 designee thereof, shall be the final arbiter of the
13 complaint, and that there shall be no judicial review
14 of the final decision of the head of the agency by a
15 complainant.

16 **SEC. 9. WITHHOLDING INFORMATION.**

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

21 **SEC. 10. MULTIPLE AGENCIES.**

22 In the case that more than one agency conducted the
23 initial investigation of a cold case murder, each agency
24 shall coordinate their case file review or full reinvestiga-
25 tion such that there is only one joint case file review or

1 full reinvestigation occurring at a time in compliance with
2 section 2(f) or 4(d), as applicable.

3 **SEC. 11. APPLICABILITY.**

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

6 **SEC. 12. DEFINITIONS.**

7 In this Act:

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

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

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

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

21 (5) The term “agency” means a Federal law
22 enforcement entity with jurisdiction to engage in the
23 detection, investigation, or prosecution of a cold case
24 murder.

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

3 (A) committed more than three years prior
4 to the date of an application by a designated
5 person under section 2(a);

6 (B) previously investigated by a Federal
7 law enforcement entity;

8 (C) for which all probative investigative
9 leads have been exhausted; and

10 (D) for which no likely perpetrator has
11 been identified.

12 **SEC. 13. ANNUAL REPORT.**

13 (a) IN GENERAL.—Each agency shall submit an an-
14 nual report to the Committees on the Judiciary of the
15 House of Representatives and of the Senate describing ac-
16 tions taken and results achieved under this Act during the
17 previous year.

18 (b) REPORT DESCRIBED.—The report described in
19 subsection (a) shall include—

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

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

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

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

