
House of Representatives Committee on the Judiciary

Washington, D.C.

The committee met, pursuant to call, at 2:50 p.m., in Room 2141, Rayburn House Office Building, Hon. Bob Goodlatte [chairman of the committee] presiding.

Present: Representatives Goodlatte, Coble, Smith of Texas, Chabot, Bachus, Issa, Franks, Gohmert, Jordan, Poe, Chaffetz, Marino, Amodei, Labrador, Farenthold, Holding,
Collins, DeSantis, Smith of Missouri, Conyers, Scott, Watt, Lofgren, Jackson Lee, Bass, DelBene, Garcia, and Jeffries.

Staff Present: Shelley Husband, Majority Staff Director; Branden Ritchie, Majority Deputy Staff Director/Chief Counsel; Allison Halataei, Majority Parliamentarian; Kelsey Deterding, Clerk; Sarah Allen, Majority Counsel; Anthony Angeli, Majority Counsel; Perry Apelbaum, Minority Staff Director; Danielle Brown, Minority Parliamentarian; Ashley McDonald, Minority Counsel; and Joseph Graupensperger, Minority Counsel.
Chairman Goodlatte. Good afternoon. The Judiciary Committee will come to order.

And without objection, the chair is authorized to declare a recess at any time.

Pursuant to notice, I now call up H.R. 3627 for purposes of markup and move that the committee report the bill favorably to the House. The clerk will report the bill.

Ms. Deterding. H.R. 3627, to require the Attorney General to report on State law penalties for certain child -

-Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any point.

[The information follows:]
Chairman Goodlatte. And I will begin by recognizing myself for an opening statement.

H.R. 3627, the Kilah Davenport Child Protection Act of 2013, is named after a 3-year-old girl from North Carolina who was brutally beaten by her stepfather in May 2012. Kilah was put into a coma and suffered a broken collarbone, a fractured skull, brain damage, and paralysis. Her stepfather was charged with felony child abuse and is awaiting trial.

Sadly, Kilah's story is not unique. Approximately 3.5 million cases of child abuse involving 6 million children are reported every year in the United States. Children under the age of 1 are most likely to be victimized, and the vast majority of this abuse, an estimated 80 percent, is committed by parents, the very people who should be protecting these children from harm.

The picture is even worse in Indian Country, where Indian children experience child abuse at significantly higher rates than the rest of the population. One study estimates that 14 Indian children per 1,000 are victims of abuse, as compared to 9 per 1,000 non-Indian children.
H.R. 3627, introduced by Mr. Pittenger of North Carolina, would help to highlight how child abuse cases are handled across the country by requiring the Justice Department to issue a report on the criminal penalties for child abuse in the 50 States, the District of Columbia, and the U.S. territories. The bill specifically requires the Justice Department to look at whether the States, territories, and D.C. provide enhanced penalties when the victim, like Kilah, has suffered serious bodily injury or permanent or protracted loss or impairment of any function. This report focuses on State statutes because the majority of child abuse cases are handled and should be handled at the State level. There are parts of the country, however, where the Federal Government has an increased role to play in enforcing justice, primarily in Indian Country and special maritime and territorial jurisdiction. H.R. 3627 helps to strengthen the Federal response to child abuse and all forms of domestic abuse in these areas by amending 18 U.S.C. Section 117 to allow prior convictions for the abuse of a child to trigger the offense of domestic assault by a habitual offender. This is a common sense
technical change in an existing statute that could help to
prosecute and convict repeat offenders of child abuse.
The Kilah Davenport Child Protection Act, unfortunately,
will not stop the scourge of child abuse in this country,
but it does take meaningful steps toward reducing the
instances of this terrible crime, and I encourage my
colleagues to support the legislation.
The ranking member is not present. Does the ranking
member of the subcommittee have a statement?
Mr. Scott. Yes, Mr. Chairman.
Chairman Goodlatte. The chair is pleased to recognize
the gentleman from Virginia for his opening statement.
Mr. Scott. Thank you, Mr. Chairman.
Mr. Chairman, we all agree that child abuse is a
horrible problem, and the abuse of Kilah Davenport is a
tragedy. We must take all appropriate steps to prevent such
future tragedies.
Child abuse is a widespread problem. In 2011,
approximately 681,000 children were victims of maltreatment,
and approximately 3.3 million children received preventive
services from Child Protective Services agencies in the
United States. Furthermore, nearly 5 children die every day in America from abuse and neglect, and more than 78 percent of reported child fatalities as a result of abuse and neglect were caused by one or more of the child victim's parents.

In addition to harming children directly, child abuse contributes to future crime. Children who experience child abuse and neglect are about nine times more likely to become involved in criminal activity. We should, therefore, get serious about reducing child abuse by enacting the type of meaningful legislation proven to actually reduce child abuse and save money in the process, like nurse-family partnerships.

Nurse-family partnerships are evidence-based community health programs that provide home visits from registered nurses to low-income, first-time moms from pregnancy until the child turns 2 years old. In medical and scientific journals, nurse-family partnerships are most often cited as the most effective intervention to reduce and prevent child abuse and neglect.

The approach in H.R. 3627, on the other hand, is to
allow sentences of up to 10 years -- to increase sentences by up to 10 years for those convicted for the third time for domestic abuse, which, with this bill, will include child abuse. But it only applies to those offenses committed on national parks, military bases, Indian Country, and other Federal land.

So of all the cases of child abuse committed nationally, this bill only -- unfortunately reaches only a negligible portion of those cases, those committed on Federal land by people with two prior offenses. I am, therefore, concerned that by increasing penalties for third offenses, this bill implies that judges don't know what to do with a defendant convicted for the third time of this heinous offense.

As I have described, child abuse is a serious problem, and in order to determine the appropriateness of expanding Federal laws, we should have had a hearing on this issue, which we did not. We received no evidence suggesting that Federal judges impose such lenient sentences on these three-time offenders that the offenders keep getting out and doing it again.

The reason the bill before us can only apply on Federal
lands is because we do not have jurisdiction over local crimes. This issue is traditionally a matter for the States, and therefore, the issue might have been best first considered by the Over-Criminalization Task Force. But if our goal is to actually reduce the ravages of child abuse, we should not limit our efforts to the negligible number of prosecutable cases involving third offenses on Federal lands. And I say "prosecutable" because most child abuse isn't even reported at all. Most that are reported are difficult to prosecute because family members are often unwilling to testify against one another. In fact, there is no evidence that the bill would even apply to the Kilah Davenport case. It does not appear that it occurred on Federal land, nor does it appear to be committed by someone with two prior offenses. So if our goal is to actually reduce child abuse cases, we need to focus our efforts on supporting programs which will prevent these cases from happening in the first place. H.R. 3627 does, however, include a worthwhile provision that requires the Attorney General to issue a report outlining the child abuse laws in the 50 States. The States can then
review their statutes to see how they can compare to other States and then decide whether or not their laws need to be amended.

I agree that we need to do to protect our children from tragic victimization, and we should work together to reduce child abuse. However, I think there are better ways to do it than this bill.

Thank you. And I yield back.

Chairman Goodlatte. Are there any amendments?

Mr. Scott. I have an amendment at the desk.

Chairman Goodlatte. The clerk will report the amendment.

Ms. Deterding. Amendment to H.R. 3627, offered by Mr. Scott. Page 2, strike line 9 and all that follows through line 14.

[The amendment of Mr. Scott follows:]
Chairman Goodlatte. The gentleman from Virginia is recognized for 5 minutes on his amendment.

Mr. Scott. Mr. Chairman, not to belabor the point, but this would strike the criminal penalties from the bill, which was the target of most of my complaint about the bill. And I yield back.

Chairman Goodlatte. The chair thanks the gentleman and recognizes himself in opposition to the amendment.

This amendment would strike H.R. 3627's modest change to an existing criminal provision. The underlying bill simply makes a technical change to 18 U.S.C. Section 117 to ensure that prior convictions for the abuse of a child can trigger the habitual domestic violence offense.

I agree that most child abuse cases are handled and should be handled at the State level. Section 117, however, only covers cases in a very narrow subset of Federal jurisdiction -- most importantly, Indian Country, where the rate of abuse against minors is appalling.

One study found that the rate of abuse against Indian children is 50 percent more than for non-Indian children in other areas. And those statistics only capture the reported...
cases. H.R. 3627 makes a small, but important change to existing law, and I urge my colleagues to oppose this amendment.

The question occurs on the amendment offered by the gentleman from Virginia.

Those in favor will say aye.

Those opposed, no.

In the opinion of the chair, the noes have it, and the amendment is not agreed to.

Are there any other amendments?

[No response.]

Chairman Goodlatte. We are still two or three Members short of a reporting quorum. So we will move on to the gentleman from Virginia's bill and revisit this bill when we have a reporting quorum.

And before we do that, I want to call attention to all of the Members that this is the final markup for Tony Angeli, the distinguished gentleman sitting immediately to my right, our detailee from the Drug Enforcement Administration.

Tony is a supervisory special agent with the DEA, an
attorney and former prosecutor, and has been detailed to the
Crime Subcommittee for over 2 years. During that time, Tony's contributions to the subcommittee have been invaluable. His expertise in criminal investigations and drug enforcement has greatly benefited the subcommittee staff and members in their legislative and oversight work. Tony was instrumental in the passage of a number of important pieces of legislation, including legislation to curb synthetic drugs, to prohibit the construction of border tunnels, to address counterfeit drug trafficking, to establish a blue alert system for fallen officers, and to reauthorize the Death in Custody Reporting Program, the bill before the subcommittee today.

Tony's detail to the subcommittee will end later this month. We thank you very much for your service to the committee, and we wish you the very best in the future, and we hope to see you here around the committee anytime you want.

Thank you very much.
Chairman Goodlatte. And we are going to miss Tony for other reasons, too, because while we were applauding him, we achieved a reporting quorum.

[Laughter.]

Chairman Goodlatte. And we are now going to go back to H.R. 3627. A reporting quorum being present, the question is on the motion to report the bill H.R. 3627 favorably to the House.

Those in favor will say aye.

Those opposed, no.

In the opinion of the chair, the ayes have it, and the bill is ordered reported favorably.

Members will have 2 days to submit views, without objection. That is it.

Pursuant to notice, I now call up H.R. 1447 for purposes of markup and move that the committee report the bill favorably to the House.

The clerk will report the bill.

Ms. Deterding. H.R. 1447, to encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law --
Chairman Goodlatte. Without objection, the bill is considered as read and open for amendment at any point.

[The information follows:]
Chairman Goodlatte. And I will begin by recognizing myself for an opening statement.

The Death in Custody Reporting Act of 2000 directed the Bureau of Justice Statistics within the Department of Justice to collect data on deaths that occur at two important stages of the criminal justice system. First, deaths that occur in the process of arrest or during transfer after arrest. And second, deaths that occur in jails and prisons. The provisions of that act expired in December 2006.

According to the Bureau of Justice Statistics, 885 inmates died in the custody of local jails in 2011. This is the lowest number of jail inmate deaths in the 12-year history of the Death in Custody Reporting Program.

Nearly 9 out of every 10 State prison deaths were the result of natural causes, the leading reasons being cancer and heart disease. Although ill-related deaths have increased slightly in recent years, the homicide and suicide rates in State prisons have dramatically decreased over the last 25 years.

H.R. 1447 reauthorizes this data collection program and
directs the Attorney General not only to collect the data, but also to study the data to determine how to reduce deaths in custody in the future. The legislation extends the reporting requirements to deaths that occur in Federal custody.

Although the Death in Custody Reporting Act expired in 2006, the Bureau of Justice Statistics has continued to collect this data. They provide a national resource for understanding mortality in the criminal justice system. The collection of this data will help Federal, State, and local governments examine the relationship between deaths in custody and the proper management of jail and prison facilities. It will also provide important information to Congress on any need to improve Federal custody procedures.

Because the Bureau of Justice Statistics has continued to collect the information even though the prior law has expired, this bill will not impose any new cost on the agency. Congress passed similar legislation in the last three Congresses with overwhelming bipartisan support. I would like to thank Congressman Scott for introducing this
legislation, and I urge my colleagues to support it.

At this time, the chair recognizes the ranking member of the committee, the gentleman from Michigan, for his opening statement.

Mr. Conyers. Thank you, Chairman.

I join with you in thanking our colleague, the ranking member of the Subcommittee on Crime, Bobby Scott. And it is important that we consider the greatest power of any government, any unit of government, is to take away the freedom of a citizen. Sometimes it is the role of the government to do that, as long as there is due process and justice so requires.

However, government maintains an important obligation to treat those in its custody in a fair way and to refrain from doing them harm, and it is our role and in the interest of all our citizens that we maintain transparency with respect to the treatment of prisoners and others held in government custody. And that is what this bill is really all about, making sure we have the information we need to conduct oversight concerning the treatment of those incarcerated or otherwise in government custody.
A similar proposal turned into a law was sponsored by our former colleague from Arkansas Asa Hutchinson and was enacted in the year 2000. But the grant program with which it was associated expired in 2006, and therefore, we need to reestablish this reporting requirement for the States and extend it to Federal law enforcement agencies as well.

And so, I urge my colleagues to support this measure and return the balance of my time.

Chairman Goodlatte. The chair thanks the gentleman and recognizes the gentleman from Virginia, the ranking member of the Crime, Terrorism, and Homeland Security and Investigations Subcommittee, and the author of the legislation for 5 minutes.

Mr. Scott. Thank you, Mr. Chairman.

I would ask unanimous consent to introduce my statement into the record. I think you and the ranking member have adequately described the bill.

Chairman Goodlatte. A man of few words is very popular here in the committee today.

[Laughter.]

Mr. Conyers. But only for today, though.
[The statement of Mr. Scott follows:]
Chairman Goodlatte. Are there any amendments to H.R. 1447?

[No response.]

Chairman Goodlatte. There being none, the question is on reporting the bill favorably to the House.

All those in favor will respond by saying aye.

Those opposed, no.

The ayes have it, and the bill is ordered reported favorably to the House.

Members will have 2 days to submit views.

The chair is now pleased to recognize the ranking member of the committee.

Mr. Conyers. Thank you, Mr. Chairman.

I will be very brief, but this may be the last markup in Judiciary Committee that we will be enjoying the company of the distinguished gentleman from North Carolina Mel Watt.

And I wanted to say on behalf of all of us, Mel, that your presence here -- and I am not trying to predict what is going to happen in the future, but it looks like this may be the last markup that you will be attending with Judiciary.

And it is with fondness that we reflect upon the work
that you have collaborated on with all the Members, and we
wish you well in all your future activities.

Chairman Goodlatte. Would the gentleman yield?

Mr. Conyers. With pleasure.

Chairman Goodlatte. I thank the gentleman.

And first, I want to say I know the long and arduous
process that he has followed in the Senate. I hope we are
not jinxing him because we don't need that to happen.

But I do want to say that I have had the honor and the
privilege of serving on this committee with Mel for the
entire 21 years that I have served on the committee. And he
is a great voice for civil liberties, for common sense. And
while we definitely don't agree on every matter that has
come before the committee, it has been a pleasure to work
with him, and he has made substantial contributions to most
every piece of legislation of major import that we have
taken up in the committee.

And I thank him for his service.

Mr. Coble. Mr. Chairman?

Chairman Goodlatte. The gentleman from North Carolina
seeks recognition.
Mr. Coble. I want to say on behalf of the committee to send Mel our best wishes.

Chairman Goodlatte. The gentleman from Alabama?

Mr. Bachus. One thing I would like to commend Mel on is his choice of a wife, Eulada. She is -- both of them are very intelligent, informed individuals, and I think both of your children, have they graduated from Yale? Is that correct? So I think that is something we would all aspire to.

So congratulations on whatever your future holds, Mel.

Chairman Goodlatte. The gentleman from Virginia?

Mr. Scott. Thank you, Mr. Chairman.

It is with mixed feelings that I -- I have been sitting besides Mel for the better part of 21 years, and often, we find ourselves, it is not unusual to find ourselves on the short end of a 35 to 2 split. So it is going to be lonely sometimes being the only one.

But you have done a fine job, kept to your principles, and that is what we need more of in this Congress.

Thank you very much.

Chairman Goodlatte. The gentleman from Texas?
Mr. Smith of Texas. Mr. Chairman, I, too, just want to add similar sentiments to those that have been voiced by others and say that I will miss Mel Watt on the committee. He has been particularly thoughtful and articulate and have enjoyed working with him on many occasions on many pieces of legislation.

I would only say that he would get even more adulation today if he were to endorse the bill that is on the House floor tomorrow.

[Laughter.]

Mr. Smith of Texas. But certainly he will be missed, and Mel, I hope you keep in touch with us.

Chairman Goodlatte. The gentlewoman from Texas?

Ms. Jackson Lee. Thank you, Mr. Chairman.

Mr. Chairman -- congratulations. We don't want to jinx him, but we do want to acknowledge that Mel was on the Immigration Subcommittee before I served as the ranking member, and he captures positively and effectively a lot of issue that come through this committee, which I still believe has the greatest jurisdiction of any committee in the House.
And I want to congratulate him for that service because he has helped a lot of people as a member of this committee. So, again, congratulations to you, Mel, and best wishes onward. And we will always have a spot for you on this committee.

I yield back.

Chairman Goodlatte. And the chair now recognizes the gentleman from North Carolina, but not with the hope of the gentleman from Texas that his final speech in the House is going to be in support of the Innovation Act. But we do thank him for the contributions that he made even to that legislation.

So the gentleman from North Carolina?

Mr. Watt. Thank you, Mr. Chairman.

I am going to jump in for fear that somebody else is going to seize the mike. And I should have jumped in earlier and tried to cut off all the nice things that were being said.

But I definitely appreciate it. Appreciate all of the wonderful comments. My service on the Judiciary Committee and on the Financial Services Committee has been 21 --
approaching 21 years of service now. And I have kind of
gone back and forth in my allegiances depending on which
committee I was ranking member or sometimes chair of a
subcommittee on, but it has been interesting throughout.

And I appreciate especially Spencer's comments about my
wife. She is far and away the highlight of our family, and
his nice comments about my children, both of whom have done
very well, and I am very proud of them.

I guess it is fitting, as some people made note of
yesterday at the Rules Committee, that I would be going out
standing on beliefs, since they noted that the White House
yesterday issued a statement in support of your Innovation
Act. And notwithstanding the fact that I am their nominee,
I not only was an adversary of the chair, but I was an
adversary of the White House yesterday. And it looks like
if this plays itself out appropriately, the same may happen
tomorrow.

Again, the rumors of my demise may be greatly
exaggerated because the Senate has not yet acted, and they
have not given me any indication of when that is to occur.
But I am hopeful, as I have been throughout this process,
that process will run its course, and it perhaps can happen over the next 2 or 3 weeks. And if this the last markup for this year, it is possible that it could be my last markup in the Judiciary Committee.

So I have enjoyed it immensely. I tack it on to 3 years of law school, 22 years of the practice of law, and 21 years of practice on this committee. And I guess that is why they called it the "practice of law" because you never get it right. I continue to practice, and I hope we all continue to do so and strive for the appropriate result. And that is what I have tried to do over the years, and I hope that is what I will be remembered for.

Thank you so much, and thank all of you for your kindnesses and for the kind comments today.

Chairman Goodlatte. Well, I thank the gentleman, and I know I speak on behalf of all the members of the committee when we wish you Godspeed and a bright future in the Obama administration, and we will smooth over any difficulties with --

Mr. Watt. Well, I have to correct you. This is not necessarily in the Obama administration. This is actually
an independent agency. So I may yet get to fight both
Congress and the White House on a continuing basis.

So we will try to do what is right throughout the
process, and I guess I demonstrated at the Rules Committee
yesterday that at least the rumors that the Senate was
putting out that I would be a tool of the administration
probably weren't all that accurate. So --

Chairman Goodlatte. Well, on that note, this concludes
our business for today, and I thank all the Members for
attending.

And the meeting is adjourned.

[Whereupon, at 3:18 p.m., the committee was adjourned.]