

117TH CONGRESS
1ST SESSION

H. R. 3359

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

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2021

Mr. SWALWELL (for himself and Mr. McCAUL) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

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

7 (a) IN GENERAL.—An applicable agency shall review
8 the case file regarding a cold case murder upon written
9 application by a designated person to determine if a full

1 reinvestigation would result in probative investigative
2 leads.

3 (b) REVIEW.—The case file review shall include—

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

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

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

14 (4) a modernization of the file to bring it up to
15 current investigative standards to the extent it would
16 help develop probative leads.

17 (c) REVIEWER.—The person or persons doing the re-
18 view required by subsection (a) shall not have previously
19 investigated the murder at issue.

20 (d) ACKNOWLEDGMENT.—The applicable agency
21 shall confirm in writing receipt of the request provided for
22 under subsection (a).

23 (e) PROHIBITION ON MULTIPLE CONCURRENT RE-
24 VIEWS.—Only one case review shall be undertaken at any
25 one time with respect to the same cold case murder victim.

1 (f) TIME LIMIT.—No later than six months after the
2 receipt of the written application submitted pursuant to
3 subsection (a), the applicable agency shall conclude its
4 case file review and reach a conclusion about whether or
5 not a full reinvestigation under section 5 is warranted.

6 (g) EXTENSIONS.—

7 (1) IN GENERAL.—The applicable agency may
8 extend the limit in subsection (f) for periods of time
9 not to exceed six months if said agency makes a
10 finding that the number of case files to be reviewed
11 make it impracticable to comply with said limit with-
12 out unreasonably taking resources from other law
13 enforcement activities.

14 (2) ACTIONS SUBSEQUENT TO WAIVER.—For
15 cases for which the time limit in subsection (f) is ex-
16 tended, the applicable agency shall provide notice
17 and an explanation of its reasoning to the des-
18 ignated person who filed the written application pur-
19 suant to this section.

20 **SEC. 3. APPLICATION.**

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

1 **SEC. 4. NOTICE.**

2 Each agency shall provide notice of the rights under
3 this Act to designated persons as soon as is reasonable
4 after being made aware of a murder.

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

6 (a) IN GENERAL.—The applicable agency shall con-
7 duct a full reinvestigation of the cold case murder at issue
8 if the review of the case file required by section 2 con-
9 cludes that a full reinvestigation of such cold case murder
10 would result in would result in probative investigative
11 leads.

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

16 (c) REVIEWER.—The person or persons doing the full
17 reinvestigation required by subsection (a) shall not have
18 previously investigated the murder at issue, except for the
19 case file review pursuant to section 2.

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

24 **SEC. 6. CONSULTATION AND UPDATES.**

25 (a) IN GENERAL.—The applicable agency shall con-
26 sult with the designated person who filed the written appli-

1 cation pursuant to section 2 and provide him or her with
2 periodic updates during the case file review and full re-
3 investigation.

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

11 **SEC. 7. SUBSEQUENT REVIEWS.**

12 (a) CASE FILE REVIEW.—If a case file review is done
13 and a conclusion is reached not to conduct a full reinves-
14 tigation, no additional case file review shall be undertaken
15 for a period of five years, unless there is newly discovered,
16 materially significant evidence.

17 (b) FULL REINVESTIGATION.—If a full reinvestiga-
18 tion is done and a suspect is not identified at its conclu-
19 sion, no additional case file review or full reinvestigation
20 shall be undertaken for a period of five years, unless there
21 is newly discovered, materially significant new evidence.

22 **SEC. 8. DATA COLLECTION.**

23 (a) IN GENERAL.—Beginning three years after enact-
24 ment of this Act, the National Institute of Justice shall
25 publish annually statistics on the number of cold cases.

1 (b) MANNER OF PUBLICATION.—The statistics pub-
2 lished pursuant to subsection (a) shall, at a minimum, be
3 broken down by the type of crime and agency.

4 **SEC. 9. PROCEDURES TO PROMOTE COMPLIANCE.**

5 (a) REGULATIONS.—Not later than one year after the
6 date of enactment of this Act, the head of each Federal
7 agency shall promulgate regulations to enforce the rights
8 of designated persons and to ensure compliance by respon-
9 sible officials with the obligations described in this Act.

10 (b) PROCEDURES.—The regulations promulgated
11 under subsection (a) shall—

12 (1) designate an administrative authority within
13 the agency to receive and investigate complaints re-
14 lating to the provision or violation of the rights of
15 designated persons;

16 (2) require a course of training for employees
17 and offices of agencies within the agency regarding
18 the rights under this Act;

19 (3) contain disciplinary sanctions, including
20 suspension or termination from employment, for em-
21 ployees of the agency who willfully or wantonly fail
22 to comply with this Act;

23 (4) establish a process for investigations into
24 the conduct of those no longer employed by the Fed-
25 eral Government when a complaint is filed and a

1 process for referrals of recommended sanctions with
2 respect to such conduct to the appropriate State bar
3 or other licensing body; and

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

9 **SEC. 10. WITHHOLDING INFORMATION.**

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

14 **SEC. 11. MULTIPLE AGENCIES.**

15 (a) IN GENERAL.—If there is more than one possible
16 applicable agency, each applicable agency shall coordinate
17 their case file review or full reinvestigation such that there
18 is only one joint case file review or full reinvestigation
19 occurring at a time in compliance with section 2(e) or 5(d)
20 as applicable.

21 (b) BIAS.—If an immediate family member believes
22 there was bias demonstrated in the handling of the initial
23 case, any case file review, or any full reinvestigation by
24 any of the possible applicable agencies, said family mem-
25 ber may communicate that concern to the Attorney Gen-

1 eral. The Attorney General shall review the allegations
2 made by the immediate family member to determine if,
3 in the interest of justice, another agency should conduct
4 the case file review or full reinvestigate, as applicable.

5 **SEC. 12. APPLICABILITY.**

6 This Act applies in the case of any murder occurring
7 on or after January 1, 1970.

8 **SEC. 13. DEFINITIONS.**

9 In this Act:

10 (1) The term “designated person” means an
11 immediate family member or someone similarly situ-
12 ated as defined by the Department of Justice.

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

17 (3) The term “victim” means a natural person
18 who died as a result of a murder.

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

23 (5) The term “agency” means a Federal law
24 enforcement entity that is engaged in the detection,

1 investigation, or prosecution of murder under Fed-
2 eral law.

3 (6) The term “applicable agency” means an
4 agency that is investigating or had investigated the
5 murder of a victim.

6 (7) The term “cold case” means a violent crime
7 under Federal law committed more than three years
8 prior, for which all probative investigative leads have
9 been exhausted, and for which no likely perpetrator
10 has been identified.

11 (8) The term “cold case murder” means a mur-
12 der committed more than three years prior, for
13 which all probative investigative leads have been ex-
14 hausted, and for which no likely perpetrator has
15 been identified.

16 **SEC. 14. ANNUAL REPORT.**

17 (a) IN GENERAL.—Each applicable agency shall sub-
18 mit an annual report to the Senate Committee on the Ju-
19 diciary and the House Committee on the Judiciary de-
20 scribing actions taken and results achieved under this Act
21 during such year.

22 (b) REPORT DESCRIBED.—The report described in
23 the preceding subsection shall include the number of writ-
24 ten applications filed pursuant to section 2, the number
25 of extensions granted and an explanation of reasons pro-

1 vided under section 2(g), the number of full reinvestiga-
2 tions initiated and closed pursuant to section 5, the num-
3 ber of suspects identified, arrested, charged, and convicted
4 for the cold case murder investigated under the Act.

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