111TH CONGRESS
1ST SESSION

H. R. 738

To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 2009

Mr. SCOTT of Virginia introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, 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 "Death in Custody Re-

5 porting Act of 2009".

SEC. 2. STATE INFORMATION REGARDING INDIVIDUALS WHO DIE IN THE CUSTODY OF LAW ENFORCE-MENT.

(a) IN GENERAL.—For each fiscal year after the expiration of the period specified in subsection (c)(1) in which a State receives funds for a program referred to in subsection (c)(2), the State shall report to the Attorney General, on a quarterly basis and pursuant to guidelines established by the Attorney General, information regarding the death of any person who is detained, under arrest, or is in the process of being arrested, is en route to be incarcerated, or is incarcerated at a municipal or county jail, State prison, State-run boot camp prison, boot camp prison that is contracted out by the State, any State or local contract facility, or other local or State correctional facility (including any juvenile facility).

(b) INFORMATION REQUIRED.—The report required by this section shall contain information that, at a minimum, includes—

(1) the name, gender, race, ethnicity, and age of the deceased;

(2) the date, time, and location of death;

(3) the law enforcement agency that detained, arrested, or was in the process of arresting the deceased; and

1   (4) a brief description of the circumstances sur-

2 rounding the death.

3 (c) COMPLIANCE AND INELIGIBILITY.—

4   (1) COMPLIANCE DATE.—Each State shall have

5 not more than 120 days from the date of enactment

6 of this Act to comply with subsection (a), except

7 that—

8   (A) the Attorney General may grant an ad-

9   ditional 120 days to a State that is making

10   good faith efforts to comply with such sub-

11   section; and

12   (B) the Attorney General shall waive the

13   requirements of subsection (a) if compliance

14   with such subsection by a State would be un-

15   constitutional under the constitution of such

16   State.

17   (2) INELIGIBILITY FOR FUNDS.—For any fiscal

18 year after the expiration of the period specified in

19 paragraph (1), a State that fails to comply with sub-

20 section (a), shall, at the discretion of the Attorney

21 General, be subject to not more than a 10 percent

22 reduction of the funds that would otherwise be allo-

23 cated for that fiscal year to the State under subpart

24 1 of part E of title I of the Omnibus Crime Control

25 and Safe Streets Act of 1968 (42 U.S.C. 3750 et

1 seq.), whether characterized as the Edward Byrne

2 Memorial State and Local Law Enforcement Assist-

3 ance Programs, the Local Government Law Enforce-

4 ment Block Grants Program, the Edward Byrne Me-

5 morial Justice Assistance Grant Program, or other-

6 wise.

7 (d) REALLOCATION.—Amounts not allocated under a

8 program referred to in subsection (c)(2) to a State for fail-

9 ure to fully comply with subsection (a) shall be reallocated

10 under that program to States that have not failed to com-

11 ply with such subsection.

12 (e) DEFINITIONS.—In this section the terms "boot

13 camp prison" and "State" have the meaning given those

14 terms, respectively, in section 901(a) of the Omnibus

15 Crime Control and Safe Streets Act of 1968 (42 U.S.C.

16 3791(a)).

17 (f) STUDY AND REPORT OF INFORMATION RELATING

18 TO DEATHS IN CUSTODY.—

19   (1) STUDY REQUIRED.—The Attorney General

20   shall carry out a study of the information reported

21   under subsection (b) and section 3(a) to—

22   (A) determine means by which such infor-

23   mation can be used to reduce the number of

24   such deaths; and

1   (B) examine the relationship, if any, be-
2   tween the number of such deaths and the ac-
3   tions of management of such jails, prisons, and
4   other specified facilities relating to such deaths.
5   (2) REPORT.—Not later than 2 years after the
6   date of the enactment of this Act, the Attorney Gen-
7   eral shall prepare and submit to Congress a report
8   that contains the findings of the study required by
9   paragraph (1).

10 **SEC. 3. FEDERAL LAW ENFORCEMENT DEATH IN CUSTODY**
11   **REPORTING REQUIREMENT.**

12   (a) IN GENERAL.—For each fiscal year (beginning
13 after the date that is 120 days after the date of the enact-
14 ment of this Act), the head of each Federal law enforce-
15 ment agency shall submit to the Attorney General a report
16 (in such form and manner specified by the Attorney Gen-
17 eral) that contains information regarding the death of any
18 person who is—

19   (1) detained, under arrest, or is in the process
20   of being arrested by any officer of such Federal law
21   enforcement agency (or by any State or local law en-
22   forcement officer while participating in and for pur-
23   poses of a Federal law enforcement operation, task
24   force, or any other Federal law enforcement capacity

1 carried out by such Federal law enforcement agen-

2 cy); or

3   (2) en route to be incarcerated or detained, or

4 is incarcerated or detained at—

5   (A) any facility (including any immigration

6   or juvenile facility) pursuant to a contract with

7   such Federal law enforcement agency;

8   (B) any State or local government facility

9   used by such Federal law enforcement agency;

10   or

11   (C) any Federal correctional facility or

12   Federal pre-trial detention facility located with-

13   in the United States.

14 (b) INFORMATION REQUIRED.—Each report required

15 by this section shall include, at a minimum, the informa-

16 tion required by section 2(b).

17 (c) STUDY AND REPORT.—Information reported

18 under subsection (a) shall be analyzed and included in the

19 study and report required by section 2(f).

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