

CHILD ABUSE PREVENTION AND ENFORCEMENT ACT

OCTOBER 1, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 764]

The Committee on the Judiciary, to whom was referred the bill (H.R. 764) to reduce the incidence of child abuse and neglect, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

The purpose of H.R. 764, the “Child Abuse Prevention and Enforcement Act,” is to provide increased funding for the investigation of child abuse crimes and prevention programs designed to prevent child abuse and other domestic violence. The bill would make three

changes to current law. First, it would amend an existing Justice Department program that makes grants to States to assist them in providing equipment and personnel training for closed-circuit television and videotaping of the testimony of children in criminal child abuse cases. H.R. 764 would amend this program to permit these grant funds to be used for an additional purpose namely, "to provide child protective workers and child welfare workers (in public and private agencies . . .) access to criminal conviction information and orders of protection based on the claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, [and] guardianship orders. . . ."

Second, H.R. 764 would amend the Byrne Grant statute, 42 U.S.C. §3750 *et. seq.*, which provides discretionary funds to State and local governments to fight crime and drug abuse problems. The Byrne Grant statute specifies 26 permissible uses for these discretionary grants.

H.R. 764 would amend this statute to add an additional permissible use for these Federal funds, namely "to enforce child abuse and neglect laws and programs designed to prevent child abuse and neglect."

Third, H.R. 764 would amend the Victims of Crime Act of 1984, 42 U.S.C. §10610 *et. seq.*, which created the Crime Victims Fund. Under current law, the first \$10 million of the funds deposited in the fund each year are to be expended by the Secretary of Health and Human Services for grants relating to child abuse prevention and treatment. Of the remaining funds, 48.5 percent are to be used for grants to State crime victim compensation programs, 48.5 percent are to be used for victim assistance programs, and 3 percent are to be used for grants for demonstration projects and training in technical assistance services to eligible crime assistance programs. H.R. 764 would increase the "earmark" for child abuse and domestic assistance programs from \$10 million to \$20 million.

BACKGROUND AND NEED FOR THE LEGISLATION

According to a recent Federal study of the incidence of child abuse and neglect in America, the number of abused and neglected children in this country nearly doubled between 1986 and 1993. Today, the country's child protective service agencies handle more than a million cases annually of abused and neglected children. H.R. 764 provides additional Federal assistance to community law enforcement efforts to respond to child abuse and neglect in two principal ways. First, it would double—from \$10 million to \$20 million—the money available to States under the Victims of Crime Act. These funds are critical for a wide array of unmet legal needs for abused and neglected children who find themselves going through the criminal justice system as victims and witnesses. The current modest set aside of crime victim funds has been used to support considerable innovative work on improving abuse investigations, child victim interviewing, criminal prosecution, and other court-related assistance. Since this set aside was established, contributions to the Crime Victims Fund have substantially increased, yet the amount of the set aside has remained unchanged. H.R. 764 will in-

crease this amount to reflect the overall increase in crime victim funds.

Second, H.R. 764 seeks to improve law enforcement's response to the abuse of children. It would provide financial incentives to encourage law enforcement agencies to help child protective service agencies conduct child safety assessments; that is, by determining if there is criminal-history or civil-protection-order information (from prior domestic violence or child abuse cases) related to adults living in the child's home. In 1997, in the Adoption and Safe Families Act, Congress made it clear that it expected child safety to be the primary responsibility of State and local child welfare agency work. That law includes a requirement to conduct criminal record checks on proposed adult foster and adoptive parents. H.R. 764 would provide incentives to States to check the criminal histories of adults in homes where suspected child abuse is being investigated. Innumerable studies have pointed to the prevalence of such past behavior as the leading indicator of risk of harm to children. It is critical that child protective service workers have, through the support of the police, access to any such relevant information in making child risk-assessment determinations.

HEARINGS

The Subcommittee on Crime held a legislative hearing on H.R. 764 on May 11, 1999. Testifying at the hearing was Cathryn Turman, Acting Director, Office of Victims of Crime, United States Department of Justice; Patrick Coleman, Deputy Director of Policy Management, Bureau of Justice Assistance, United States Department of Justice; Major Lynn Jones, Tulsa Police Department; Deborah Sendek, Director, Center for Child Abuse Prevention, Children's Hospital, Columbus, Ohio; John H. Stein, Deputy Director, National Organization for Victim assistance; and Robert Horowitz, ABA Steering Committee on Unmet Legal Needs of Children.

COMMITTEE CONSIDERATION

On September 28, 1999, the committee met in open session and ordered reported favorably the bill H.R. 764 without amendment by voice vote, a quorum being present.

VOTE OF THE COMMITTEE

Vote on final passage: passed by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based in oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(1)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

COMMITTEE COST ESTIMATE

The Congressional Budget Office estimate was not available at the time of printing this report. The committee estimates that enactment of this legislation will result in no additional costs to the Federal government.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to rule XI, clause 2(1)(4) of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Sec. 1. Short Title.

This section provides that the Act may be cited as the “Child Abuse Prevention and Enforcement Act.”

Sec. 2. Improvement of access to certain court and law enforcement records.

This section would amend 42 U.S.C. section 3796 aa-1, et. seq. These provisions authorize the director of the Bureau of Justice Assistance (BJA) to make grants to States to enable them to provide equipment and personnel training for closed-circuit television and videotaping of the testimony of children in criminal proceedings for the violation of laws relating to child abuse. Under the existing program, States and units of local government may make applications to BJA for grants to be used for this purpose. H.R. 764 would amend this section to permit these grants to be used for an additional purpose namely, “to provide child protective workers and child welfare workers (in public and private agencies . . .) access to criminal conviction information and orders of protection based on the claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, [and] guardianship orders. . . .”

Sec. 3. Use of funds under the Byrne Grant Program for child protection.

This section would modify the Federal crime control assistance program known as the Byrne Grant Program (42 U.S.C. § 10610 et. seq.). In 1986, Congress passed the Anti-Drug Abuse Act of 1986 (Public Law No. 99-570), which amended the Omnibus Crime Control and Safe Streets Act of 1968 (Public Law No. 90-351) in order

to provide financial assistance to State and local governments and to coordinate government efforts to fight crime and drug abuse problems. In 1988, this financial assistance program was renamed the Edward Byrne Memorial State and Local Law Enforcement Assistance Program. The grants distributed under this program are commonly referred to as the Byrne Grants. The statute was amended again in 1990 and 1994.

The statute authorizes the Federal Government to award both block grant and discretionary grants for specified activities. Block grants are allocated to the States on the basis of population, and are to be used for personnel, equipment, training, technical assistance, and information systems to improve criminal justice systems. Discretionary funds are awarded on a competitive basis in accordance with priorities established by BJA and also by Congress (through "earmarks" in regular appropriation bills). The discretionary program funds are distributed to non-Federal public and private organizations undertaking projects that educate criminal justice personnel or provide technical assistance to State and local governments. In FY 1999, Congress appropriated \$552 million for this program, \$505 million for the formula grants and \$47 million for the discretionary grants.

The Byrne Grant statute specifies 26 permissible uses for these funds. They include such programs as those intended to reduce drug demand, programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors, programs to disrupt illicit commerce in stolen goods and property, programs designed to prosecute career criminals, programs designed to provide alternatives to prevent detention, jail, and prison for persons who pose no danger to the community, and programs for the prosecution of persons who drive while intoxicated.

H.R. 764 would amend the Byrne Grant Program to add an additional permissible use for these Federal funds, namely "to enforce child abuse and neglect laws and programs design to prevent child abuse and neglect."

Sec. 4. Increase in set aside for child abuse victims under the Victims of Crime Act of 1984.

This section would amend the Victims of Crime Act of 1984. This law was passed to assist States in directly compensating and providing support services to victims and families of victims of violent crimes. In order to generate revenue for this purpose, the Act created the Crime Victims Fund, which is financed from the collection of criminal fines, penalty assessments, and forfeited appearance bonds of persons convicted of crimes against the United States. In FY 1998, 383 million was deposited into this fund for distribution in FY 1999.

There are two principal programs established under the act. The victims compensation program provides funds to State which have in place their own programs to compensate victims of crime. The Federal funds are to be used by the States to offer direct reimbursement to victims of violent crimes or their survivors for non-reimbursable medical costs, lost wages and support, and funeral expenses arising from a crime-related injury or death. The victim assistance program also provide grants to States which are then au-

thorized to distribute the funds to support public and non-profit agencies that provide direct services to victims of crime. Services provided by these agencies include 24-hour crisis hotlines for victims of sexual assault, shelter for victims of spousal abuse, and counseling for victims of child abuse. States are awarded a base amount, increased by additional funds distributed on the basis of population.

Under current law the first \$10 million of the funds deposited in the fund each year are to be expended by the Secretary of Health and Human Services for grants relating to child abuse prevention and treatment. Of the remaining funds, 48.5 percent are to be use for grants to State crime victim compensation programs, 48.5 percent are to be use for victim assistance programs, and three percent are to be used for grants for demonstration projects and training in technical assistance services to eligible crime assistance programs.

H.R. 764 would increase the "earmark" for child abuse and domestic assistance programs from \$10 million to \$20 million.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

* * * * *

TITLE I—JUSTICE SYSTEM IMPROVEMENT

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PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

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Subpart 1—Drug Control and System Improvement Grant Program

DESCRIPTION OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM

SEC. 501. (a) * * *

(b) The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the "Director") is authorized to make grants to States, for the use by States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. Such grants shall provide addi-

tional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

(1) * * *

* * * * *

(25) developing or improving in a forensic laboratory a capability to analyze deoxyribonucleic acid (hereinafter in this title referred to as “DNA”) for identification purposes; [and]

(26) to develop and implement antiterrorism training programs and to procure equipment for use by local law enforcement authorities[.]; and

(27) enforcing child abuse and neglect laws and programs designed to prevent child abuse and neglect.

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[PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISIONING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE]

PART N—GRANTS FOR CLOSED-CIRCUIT TELEVISIONING OF TESTIMONY OF CHILDREN WHO ARE VICTIMS OF ABUSE AND FOR IMPROVING ACCESS TO COURT AND LAW ENFORCEMENT RECORDS FOR THE PURPOSE OF PREVENTING CHILD ABUSE

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DESCRIPTION OF GRANT PROGRAM

SEC. 1402. The Director is authorized to make grants to provide equipment and personnel training for the closed-circuit televising and video taping of the testimony of children in criminal proceedings for the violation of laws relating to the abuse of children or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders.

APPLICATIONS TO RECEIVE GRANTS

SEC. 1403. To request a grant under section 1402, the chief executive officer of a State or unit of local government shall submit to the Director an application at such time and in such form as the Director may require. Such application shall include—

(1) a certification that Federal funds made available under section 1402 of this title will not be used to supplant State or local funds, but will be used to increase the amounts of such

funds that would, in the absence of such funds, be made available for criminal proceedings for the violation of laws relating to the abuse of children or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders; and

(2) a certification that funds required to pay the non-Federal portion of the cost of equipment and personnel training for which such grant is made shall be in addition to funds that would otherwise be made available by the recipients of grant funds for criminal proceedings for the violation of laws relating to the abuse of children or to provide child protective workers and child welfare workers (in public and private agencies, who, in the course of their official duties, are engaged in the assessment of risk and other actions related to the protection of children, including placement of children in foster care) access to criminal conviction information and orders of protection based on a claim of domestic or child abuse, or to improve law enforcement access to judicial custody orders, visitation orders, protection orders, guardianship orders, stay away orders, or other similar judicial orders.

REVIEW OF APPLICATIONS

SEC. 1404. (a) An applicant is eligible to receive a grant for closed circuit televising of testimony of children who are victims of abuse under this part if—

(1) * * *

* * * * *

DEFINITIONS

SEC. 1409. For purposes of this part—

(1) the term “child” means an individual under the age of 18 years; and

(2) the term “abuse” means physical or mental injury, sexual abuse or exploitation, or negligent treatment of a child or the taking of a child in violation of a court order.

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SECTION 1402 OF THE VICTIMS OF CRIME ACT OF 1984

CRIME VICTIMS FUND

SEC. 1402. (a) * * *

* * * * *

(d) The Fund shall be available as follows:

(1) * * *
(2) the next **[\$10,000,000]** *\$20,000,000* deposited in the
Fund shall be available for grants under section 1404A.

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