



Legislative Bulletin.....September 26, 2002

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H.R. 2215—To authorize appropriations for the Department of Justice for fiscal year 2002—Conference Report (Sensenbrenner)

Order of Business: H.R. 2215 passed the House on July 23, 2001, by voice vote. The Senate passed the bill with amendments on December 20, 2001, by unanimous consent. The conference report is now scheduled to be considered in the House on Thursday, September 26th, subject to a closed rule (H.Res. 552).

Summary: The bill would authorize specific sums to be appropriated for fiscal years 2002 and 2003 to carry out the activities of the United States Department of Justice as follows:

Authorizations of Appropriations (FY2002 authorization followed by the FY2003 authorization for each item):

- **General Administration**--\$92,668,000; \$121,079,000
- **Administration of pardon and clemency petitions and for immigration-related activities**--\$173,647,000; \$198,869,000
- **Office of the Inspector General**--\$50,735,000; \$66,288,000 (including \$10,000 in each fiscal year for “unforeseen emergencies of a confidential character”)
- **Inspector General staffing increases**--\$2,000,000 (FY2003 only)
- **General legal activities**--\$549,176,000; \$659,181,000 (including not less than \$4 million in each fiscal year for Nazi war criminals cases and up to \$20,000 in each fiscal year for confidential emergencies)
- **Antitrust Division**--\$130,791,000; \$141,855,000
- **United States Attorneys**--\$1,353,968,000; \$1,550,948,000 (not less than \$10 million in each fiscal year for the prosecution of intellectual property crimes)
- **FBI**--\$3,524,864,000 (including up to \$33.8 million for construction and \$70,000 for confidential emergencies); \$4,323,912,000 (including up to \$1.25 million for construction and \$70,000 for confidential emergencies)
- **FBI’s Office of Professional Responsibility staffing increases**--\$1,700,000 (FY2003 only)

- **U.S. Marshals Service**--\$648,696,000 (including up to \$15.0 million for construction); \$737,346,000 (including up to \$15.15 million for construction)
- **Federal Prison System** (including National Institute of Corrections)--\$4,622,152,000; \$4,605,068,000
- **Federal prisoner detention in non-federal institutions**--\$706,182,000 (FY2002 only)
- **DEA**--\$1,481,783,000; \$1,582,044,000 (including up to \$70,000 in each fiscal year for confidential emergencies)
- **INS**--\$3,499,854,000 (including up to \$2.7 billion for salaries and expenses of enforcement and border affairs, up to \$631.7 million for all other salaries and expenses, up to \$128.4 million for construction, and up to \$50,000 for confidential emergencies); \$4,131,811,000 (including up to \$3.25 billion for salaries and expenses of enforcement and border affairs, up to \$88.6 million for salaries and expenses of immigration services, up to \$789.65 million for salaries and expenses for support and administration, and up to \$50,000 for confidential emergencies)
- **Fees and expenses of witnesses**--\$156,145,000; \$156,145,000 (including up to \$6 million in each fiscal year for construction of protected witness safesites)
- **Interagency crime and drug enforcement**--\$338,577,000; \$362,131,000
- **Foreign Claims Settlement Commission**--\$1,136,000; \$1,194,000
- **Community Relations Service**--\$9,269,000; \$10,732,000
- **Assets Forfeiture Fund**--\$22,949,000; \$22,949,000
- **United States Parole Commission**--\$9,876,000; \$11,355,000
- **Federal Detention Trustee**--\$1,000,000; \$1,388,583,000
- **Joint Automated Booking System**--\$1,000,000 (FY2002 only)
- **Identification System Integration**--\$24,505,000 (FY2003 only)
- **Costs of conversions to narrowband communications**--\$94,615,000; \$149,292,000
- **Radiation exposure compensation**—Such sums as necessary for both fiscal years
- **Counterterrorism Fund**--\$4,989,000; \$35,000,000
- **Office of Justice Programs**--\$132,862,000; \$215,811,000
- **Legal Activities Office**--\$15,942,000 (FY2003 only)

Miscellaneous provisions :

- Permanent flexibility would be extended to the Attorney General to make various decisions at his discretion about the use of appropriated funds for each account (within certain limits set by the legislation).
- A Violence Against Women Office and a presidentially appointed director for such office would be reauthorized within the Department of Justice. Such sums as necessary would be authorized through FY2005.
- Eight new permanent judgeships would be authorized (five in the Southern District of California, two in the Western District of Texas, and one in the Western District of North Carolina), four temporary judgeships would be converted to permanent status (one each in the Central District of Illinois, the Southern District of Illinois, the Northern District of New York, and the Eastern District of Virginia), seven new temporary judgeships would be authorized (one each in the Northern District of

Alabama, the District of Arizona, the Central District of California, the Southern District of Florida, the District of New Mexico, the Western District of North Carolina, and the Eastern District of Texas), and the temporary judgeship in the Northern District of Ohio would be extended for five years.

- A law enforcement officer would not need to be present for a warrant to be considered as served (fax and e-mail are OK).
- The process by which multidistrict litigation governing disasters are adjudicated would be streamlined (--these provisions passed the House last year as H.R. 860).
- The Boys and Girls Clubs of America would be given a \$10 million increase in funds (from \$70 million to \$80 million) available for grants for FY2003-2005.
- The Attorney General would be required to submit a report detailing the use of the DCS 1000 ("Carnivore") surveillance system in the preceding fiscal year.
- The Inspector General would be required to appoint a Deputy Inspector General for the FBI for the sole purpose of supervising the programs and operations of the FBI until the end of fiscal year 2004. The Inspector General would also be required to submit within one month of the passage of H.R. 2215 an oversight plan for the FBI.
- Authorizes the already-existing FBI Police (to protect FBI buildings and personnel).
- The President would be required to submit (to the Judiciary Committees of both houses of Congress) legislation authorizing appropriations for the Department of Justice for fiscal years 2004 and 2005 simultaneous with his submission of a budget for the U.S. Government for those fiscal years.
- The Attorney General would be authorized to award grants to rural state criminal justice agencies and other appropriate authorities to develop their capacity to prevent and reduce crime, violence, and substance abuse (\$30 million over three years).
- The Attorney General would be required to report to Congress when he or any officer of the Department refrains from enforcing a federal law or regulation, refrains from adhering to a judicial decision, contests the constitutionality of a federal law or regulation, refrains from defending the constitutionality of a federal law or regulation, approves a settlement or compromise of any claim against the United States exceeding \$2 million or 3 years of injunctive relief.
- The existing statute that permits any individual to file misconduct complaints against federal judges and magistrates would be tightened to make the filing, reviewing, and subsequent actions requirements more explicit, more comprehensible to the public, and more expeditious (--these provisions passed the House this year as H.R. 3892).
- 200 new assistant U.S. attorneys could be appointed and transferred to various U.S. Attorneys offices around the country.
- 94 new U.S. attorneys could be appointed to work with state and local law enforcement for the identification and prosecution of federal firearms violations (especially in and around schools).
- For the purposes of oversight and the elimination of waste, fraud, and abuse in appropriations, the Attorney General would be required to submit an annual report to the House Committee on the Judiciary and the Senate Committee on the Judiciary detailing every grant and contract awarded by the Office of Justice Programs for which supplemental funds were provided in the previous fiscal year and a performance review of *every* grant and contract awarded by that same Office that ended in the previous fiscal year.

- The conference report would raise the penalty for using physical force or attempting physical force to tamper with a witness from a maximum imprisonment of ten years to a maximum of 20 years. Conspiring to commit such offenses would be treated as commission.
- A Counterterrorism Fund would be established in the U.S. Treasury to reimburse the Department of Justice for counterterrorism activities.
- Open-ended authorizations of appropriations would be repealed for the National Institute of Corrections and the U.S. Marshals Service.
- The Attorney General would be required within six months of this bill's enactment to assess and report to Congress the number of untested rape exam kits that currently exist nationwide.
- Units of local government would be made eligible to receive Paul Coverdell Forensic Sciences Improvement Grants.
- Penalties would be increased for threatening or attempting to impede federal officials carrying out their official duties.
- Convicted violent felons would be prohibited from purchasing, owning, or possessing body armor.
- The Attorney General could make grants to states, local governments, and Indian tribes to carry out programs to honor law enforcement or public safety officers killed or disabled in action. (\$3 million authorized per fiscal year through FY2006)

Drug abuse provisions:

- Residential substance abuse treatment grants to states could be used to provide for drug treatment services during *and after* incarceration (subject to certain requirements).
- Probation or supervised release of a felon would have to be revoked if the felon tests positive for illegal drugs more than three times over the course of one year.
- Various elements of DOJ would be directed to conduct studies on drug-testing technologies, substance abuse treatment, drug education and prevention, and addiction.
- The National Institute of Justice would be authorized (at "such sums") to make grants or enter into cooperative agreements to expand the research into and trials of drug treatment.
- The conference report would reauthorize the Drug Courts grants program, yet consolidate all drug court programs into one office. Authorizations of appropriations for this program would start at \$50 million for FY2002 and work their way up to \$60 million for FY2005. Grants could not cover more than 75% of total expenses for drug courts.
- A new post-incarceration vocational and remedial education demonstration project would be established for inmates. For this program, the Federal Bureau of Prisons would be authorized \$1.38 million in FY2003, \$1.1 million in FY2004, and then increasingly higher amounts up to \$1.23 million in FY2007. Additionally, the Federal Judiciary would be authorized \$3.38 million in FY2003 and increasingly higher amounts up to \$4.1 million in FY2007.

- The Attorney General would be authorized to make grants of up to \$1 million to states, territories, and Indian tribes to establish adult and juvenile offender reentry demonstration projects. This project would be authorized for \$15.0 million in FY2003, \$15.5 million in FY2004, and \$16.0 million in FY2005.

Immigration provisions :

- The conditions for permanent resident status for certain alien entrepreneurs, spouses, and children would be softened under certain circumstances.
- The requirement to “establish” an enterprise for alien entrepreneurs would be altered to a requirement that such aliens “invest in” a commercial enterprise.

Juvenile justice provisions :

- Most of the juvenile justice provisions in the conference report passed the House last year as H.R. 863 and this year as H.R. 1900 and are authorized such sums as may be necessary through fiscal year 2007.
- The Attorney General would be authorized to provide \$350 million in grants (for each of fiscal years 2002-2005) to states, local governments, and Indian tribes for the strengthening of the juvenile justice system (including such things as expanding juvenile facilities, hiring juvenile court judges and probation officers, hiring additional prosecutors, and establishing accountability programs designed to reduce recidivism).
- The conference report would also clarify existing requirements for federal efforts to assist state and local governments in preventing juvenile delinquency and holding offenders accountable.
- A new Juvenile Delinquency Prevention Block Grant Program would be established to help states and Indian tribes carry out treatment projects for at-risk youths, projects encouraging youths to stay in school, programs preventing unwarranted and arbitrary suspensions and expulsions from school, services to assist juveniles in making the transition to work, and other such programs listed in the legislation.
- The Office of Juvenile Justice and Delinquency Prevention would be authorized to engage in research, training, technical assistance, and information dissemination regarding juvenile justice matters.
- The Office of Juvenile Justice and Delinquency Prevention would be authorized to make grants to states, localities, Indian tribes, public and private agencies, organizations, and individuals to develop, test, and demonstrate creative new initiatives for the prevention, control, or reduction of juvenile delinquency.
- The Incentive Grants for Local Delinquency Prevention Programs would be reauthorized. The grants in this program are aimed at activities (such as tutoring, recreation services, mental health services, and leadership activities) for juveniles who have had or who are likely to have contact with the juvenile justice system. Such sums would be authorized for this program through FY2008.
- The conference report would provide new authority to impose a term of juvenile delinquency supervision to follow a term of official detention, pending certain circumstances.

Intellectual property and anti-trust provisions :

- The conference report would establish the Antitrust Modernization Commission to evaluate whether the nation's antitrust laws need updating.
- The Patent and Trademark Office (PTO) would be reauthorized to receive appropriations through FY2008 in amounts equal to those fees collected by the agency in each fiscal year (--these and other PTO provisions passed the House last year as H.R. 2047).
- \$50 million for each of fiscal years 2003-2005 would be authorized for the PTO Director to develop (within three years of this conference report's enactment) a user-friendly electronic system for filing and processing patent and trademark applications.
- The PTO Director would have to submit a five-year strategic plan to Congress.
- The Court of Appeals for the Federal Circuit would be able to hear a third-party appeal of a final decision on patentability.
- Performances and displays of copyrighted works in digital distance education would be covered by copyright law under certain circumstances.
- The "Madrid Protocol" would be implemented, by which holders of applications or registrations before the PTO could file an *international* application for trademark protection at the PTO and have it automatically transferred to the International Bureau of the World Intellectual Property Organization (--passed the House last year as H.R. 741).
- Ships owned by people who are in violation of antitrust laws would be prohibited from passing through the Panama Canal (--passed the House last year as H.R. 809).

Additional Background: To read the RSC Legislation Bulletin for H.R. 2215 as it passed the House last year, please visit this website:

<http://www.house.gov/burton/RSC/LB72301.PDF>

The last time the Department of Justice was authorized was in 1979.

Cost to Taxpayers : No CBO cost estimate is available. See the "Summary" section above for the details of the bulk of the authorizations in this conference report.

Does the Bill Create New Federal Programs or Rules?: Yes. New offices, judgeships, U.S. attorneys, funds, reports, and programs would be created, as detailed above.

Constitutional Authority: The Committee on the Judiciary in Report 107-125 finds constitutional authority in Article I, Section 8, without citing a specific clause.

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