



Legislative Bulletin.....September 12, 2011

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**H.R. 2076 — Investigative Assistance for Violent Crimes Act of 2011
(Gowdy, R-SC)**

Order of Business: The bill is scheduled to be considered on Monday, September 12, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.E. 2076 amends current federal law to provide authority to the Department of Justice (and the Federal Bureau of Investigation) *upon request from an appropriate state or local law enforcement authority* to respond to a violent crime when that violent crime does not appear to violate any federal law. Specifically, the bill permits federal officials to assist “in the investigation of violent acts and shootings occurring in venues such as schools, colleges, universities, non-Federal office buildings, malls, and other public places, and in the investigation of mass killings and attempted mass killings.” Current federal law defines “mass killings” to mean three or more killings in a single incident.

Secondly, the bill increases the maximum reward amount that the Department of Justice can pay pursuant to public advertisements for assistance in a criminal investigation from \$2,000,000 to \$3,000,000. According to the Judiciary Committee report, the offering or awarding of an amount of \$250,000 or more requires the personal approval of the President (or Attorney General) and written notice to the Chairman and Ranking Member of the House Judiciary Committee.

Additional Background: The Federal Bureau of Investigation (FBI) does not have the statutory authority to assist in the investigation of crimes that do not violate federal law. However, while the FBI receives requests from state and local law enforcement for investigatory assistance of violent crimes, federal officers could potentially be found to be acting outside of their scope of employment. Based on a letter to the House Judiciary Committee from the FBI Agents Association, an association representing over 12,000 active and retired-duty agents, despite “...a long history of working closely with state and local law enforcement officials to investigate crimes...the FBI must often find indirect grants of authority in order to assist with investigations.”

Committee Action: Representative Trey Gowdy (SC-04) introduced H.R. 2076 on June 1, 2011. On July 20, 2011, the Judiciary Committee reported the bill out of Committee by voice vote.

Administration Position: As of press time, no Statement of Administration Policy (SAP) has been released.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 2076 on July 28, 2011. The estimate states that implementing the bill would have no significant cost to the Federal government. Based on information from the Department of Justice about rewards for assistance in investigating crimes in recent years, the CBO expects very few rewards to exceed \$2 million. Payments for rewards are paid out of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes, the bill increases the reward amount that could be paid pursuant to a public advertisement for investigatory assistance from the Department of Justice from \$2,000,000 to \$3,000,000.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. The CBO report states that the bill does not contain any intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not impose any costs on state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes. According to House Report 112-186, H. R. 2076 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 3 of the Constitution [the Interstate Commerce Power].”

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H.R. 2633 – Appeal Time Clarification Act of 2011 (Coble, R-NC)

Order of Business: The bill is scheduled to be considered on Monday, September 12, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 2633 codifies a recent amendment to the Federal Rules of Appellate Procedure by the Judicial Conference of the United States relating to the time permitted to appeal a civil trial decision from a United States District Court in which a United States officer or employee is a party in the case. Under current federal law, the time to file a notice of appeal in a civil case is 60 days if the United States or a federal officer is a party.

However, it is unclear whether this time period applies if a current or former federal employee is sued in an individual capacity in connection to their federal employment. This legislation clarifies that it does.

Specifically, H.R. 2633 amends subsection (b) of 28 U.S.C. §2107 as follows: “In any civil action, suit, or proceeding, the time for all parties to appeal shall be 60 days from the entry of judgment, order, or decree, if one of the parties is the United States; an agency of the United States; an officer of an employee of the United States who is sued in an official capacity; or a current or former office or employee of the United States who is sued in an individual capacity for an act or omission occurring in connection with duties performed on behalf of the United States, including any instance in which the United States represents that person when the judgment, order, or decree is entered or files the appeal for that person.” This act will take effect on December 1, 2011.

Committee Action: Representative Howard Coble (R-NC) introduced H.R. 2633 on July 25, 2011. On July 28, 2011, the Judiciary Committee reported the bill out of Committee by voice vote.

Administration Position: As of press time, there is no Statement of Administration Policy (SAP) has been released.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 2633 on August 4, 2011 which stated that implementing the bill would have no significant impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: The CBO reports states that “H.R. 2633 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes. According to House Report 112-199, H. R. 2633 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: Clause 9 and clause 18 of Section 8 of Article I of the Constitution.”

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H.R. 1059 – To Protect the Safety of Judges by Extending the Authority of the Judicial Conference to Redact Sensitive Information Contained in their Financial Disclosure Reports, and for other Purposes
(Conyers, D-MI)

Order of Business: The bill is scheduled to be considered on Monday, September 12, 2011 under a motion to suspend the rules requiring two-thirds majority vote for passage.

Summary: H.R. 1059 permanently extends the authority of the Judicial Conference of the United States to redact sensitive information from financial disclosure reports judges and certain other judicial branch employees are required to file annually

Additional Background: To promote public confidence and transparency in the performance of judges and other judicial branch officials, current law requires these federal officials to file annual financial disclosure reports.¹ In 1998, Congress recognized the increased security risk to filers of these reports (and their families) when disclosing personal information by those seeking to harass or harm federal judges. Congress passed legislation that permitted the Judicial Conference of the United States to redact statutorily required sensitive information when the release of such information could endanger the filer or the filer's family.²

According to the Committee on the Judiciary report, filers who believe that release of their sensitive information could endanger themselves or their families must request approval to have their sensitive information redacted from their annual financial disclosure report. The majority of recent redaction request concerned information that reveals the location of the filers' personal residences.

The statutory authority of the Judicial Conference of the United States to approve redaction requests expires at the end of this year. Since 1998, there have been three extensions of this redaction authority granted to the Judicial Conference of the United States.³ This legislation would permanently extend this authority.

Committee Action: Ranking Member of the House Judiciary Committee John Conyers (*D-MI*) introduced H.R. 1059 on March 14, 2011. On July 28, 2011, the Committee reported the bill out of Committee by voice vote.

Administration Position: As of press time, no Statement of Administration Policy (SAP) has been released.

¹ *The Ethics in Government Act*, 5 U.S.C. app. 105

² *Identity Theft and Assumption Deterrence Act of 1998* (Pub. L. No. 105-318)

³ Public Law 107-126 extended the authority for four years until December 31, 2005; Public Law 110-24 extended the authority for an additional four years until December 31, 2009; and Section 104 of Public Law 110-177 extended the authority through December 31, 2011.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a cost estimate for H.R. 1059 on July 27, 2011 which stated that implementing the bill would have no significant impact on the federal budget.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. The CBO reports states that “H.R. 1059 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.”

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: Yes. According to House Report 112-189, H. R. 1059 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI of the Rules of the House of Representatives.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 9 and Clause 18; and Article III, Section I of the Constitution.”

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