



(Original Signature of Member)

116TH CONGRESS
1ST SESSION

H. R. _____

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

Mr. SWALWELL of California introduced the following bill; which was referred to the Committee on _____

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 2020”.

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

1 application by a designated person to determine if a full
2 reinvestigation would result in probative investigative
3 leads.

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

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

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

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

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

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

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

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

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

9 (g) EXTENSIONS.—

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

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

1 **SEC. 3. APPLICATION.**

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

5 **SEC. 4. NOTICE.**

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

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

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

16 (b) **REINVESTIGATION.**—A full reinvestigation shall
17 include analyzing all evidence regarding the cold case mur-
18 der at issue for the purpose of developing probative inves-
19 tigative leads as to the perpetrator.

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

24 (d) **PROHIBITION ON MULTIPLE CONCURRENT RE-**
25 **VIEWES.**—Only one full reinvestigation shall be undertaken

1 at any one time with respect to the same cold case murder
2 victim.

3 **SEC. 6. CONSULTATION AND UPDATES.**

4 (a) IN GENERAL.—The applicable agency shall con-
5 sult with the designated person who filed the written appli-
6 cation pursuant to section 2 and provide him or her with
7 periodic updates during the case file review and full re-
8 investigation.

9 (b) EXPLANATION OF CONCLUSION.—The applicable
10 agency shall explain to the designated person who filed
11 the written application pursuant to section 2 its decision
12 whether or not to engage in the full reinvestigation pro-
13 vided for under section 5 at the conclusion of the case
14 file review.

15 **SEC. 7. SUBSEQUENT REVIEWS.**

16 (a) CASE FILE REVIEW.—If a case file review is done
17 and a conclusion is reached not to conduct a full reinves-
18 tigation, no additional case file review shall be undertaken
19 for a period of five years.

20 (b) FULL REINVESTIGATION.—If a full reinvestiga-
21 tion is done and a suspect is not identified at its conclu-
22 sion, no additional case file review or full reinvestigation
23 shall be undertaken for a period of five years.

1 **SEC. 8. DATA COLLECTION.**

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

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

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

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

14 (b) PROCEDURES.—The regulations promulgated
15 under subsection (a) shall—

16 (1) designate an administrative authority within
17 the agency to receive and investigate complaints re-
18 lating to the provision or violation of the rights of
19 designated persons;

20 (2) require a course of training for employees
21 and offices of agencies within the agency regarding
22 the rights under this Act;

23 (3) contain disciplinary sanctions, including
24 suspension or termination from employment, for em-
25 ployees of the agency who willfully or wantonly fail
26 to comply with this Act;

1 (4) establish a process for investigations into
2 the conduct of those no longer employed by the fed-
3 eral government when a complaint is filed and a
4 process for referrals of recommended sanctions with
5 respect to such conduct to the appropriate state bar
6 or other licensing body; and

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

12 **SEC. 10. WITHHOLDING INFORMATION.**

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

17 **SEC. 11. APPLICABILITY.**

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

20 **SEC. 12. DEFINITIONS.**

21 In this Act:

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

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

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

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

11 (5) The term “agency” means a Federal law
12 enforcement entity that is engaged in the detection,
13 investigation, or prosecution of murder under Fed-
14 eral law.

15 (6) The term “applicable agency” means an
16 agency that is investigating or had investigated the
17 murder of a victim.

18 (7) The term “cold case” means a violent crime
19 under Federal law committed more than three years
20 prior and for which all probative investigative leads
21 have been exhausted.

22 (8) The term “cold case murder” means a mur-
23 der committed more than three years prior and for
24 which all probative investigative leads have been ex-
25 hausted.

1 **SEC. 13. ANNUAL REPORT.**

2 (a) IN GENERAL.—Each applicable agency shall sub-
3 mit an annual report to the Senate Committee on the Ju-
4 diciary and the House Committee on the Judiciary de-
5 scribing actions taken and results achieved under this Act
6 during such year.

7 (b) REPORT DESCRIBED.—The report described in
8 the preceding subsection shall include the number of writ-
9 ten applications filed pursuant to section 2, the number
10 of extensions granted and an explanation of reasons pro-
11 vided under section 2(g), the number of full reinvestiga-
12 tions initiated and closed pursuant to section 5, the num-
13 ber of suspects identified, arrested, charged, and convicted
14 for the cold case murder investigated under the Act.