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(Original Signature of Member)

117TH 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.

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IN THE HOUSE OF REPRESENTATIVES

Mr. SWALWELL (for himself and Mr. McCAUL) 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 2021”.

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 **VIEWS.**—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 meet with the designated person and discuss  
11 the evidence to explain to the designated person who filed  
12 the written application pursuant to section 2 its decision  
13 whether or not to engage in the full reinvestigation pro-  
14 vided for under section 5 at the conclusion of the case  
15 file review.

16 **SEC. 7. SUBSEQUENT REVIEWS.**

17 (a) CASE FILE REVIEW.—If a case file review is done  
18 and a conclusion is reached not to conduct a full reinves-  
19 tigation, no additional case file review shall be undertaken  
20 for a period of five years, unless there is newly discovered,  
21 materially significant evidence.

22 (b) FULL REINVESTIGATION.—If a full reinvestiga-  
23 tion is done and a suspect is not identified at its conclu-  
24 sion, no additional case file review or full reinvestigation

1 shall be undertaken for a period of five years, unless there  
2 is newly discovered, materially significant new evidence.

3 **SEC. 8. DATA COLLECTION.**

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

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

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

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

16 (b) PROCEDURES.—The regulations promulgated  
17 under subsection (a) shall—

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

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

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

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

11          (5) provide that the head of the agency, or the  
12          designee thereof, shall be the final arbiter of the  
13          complaint, and that there shall be no judicial review  
14          of the final decision of the head of the agency by a  
15          complainant.

16 **SEC. 10. WITHHOLDING INFORMATION.**

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

21 **SEC. 11. MULTIPLE AGENCIES.**

22          (a) IN GENERAL.—If there is more than one possible  
23          applicable agency, each applicable agency shall coordinate  
24          their case file review or full reinvestigation such that there  
25          is only one joint case file review or full reinvestigation

1 occurring at a time in compliance with section 2(e) or 5(d)  
2 as applicable.

3 (b) BIAS.—If an immediate family member believes  
4 there was bias demonstrated in the handling of the initial  
5 case, any case file review, or any full reinvestigation by  
6 any of the possible applicable agencies, said family mem-  
7 ber may communicate that concern to the Attorney Gen-  
8 eral. The Attorney General shall review the allegations  
9 made by the immediate family member to determine if,  
10 in the interest of justice, another agency should conduct  
11 the case file review or full reinvestigate, as applicable.

12 **SEC. 12. APPLICABILITY.**

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

15 **SEC. 13. DEFINITIONS.**

16 In this Act:

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

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

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



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

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

9           (6) The term “applicable agency” means an  
10          agency that is investigating or had investigated the  
11          murder of a victim.

12          (7) The term “cold case” means a violent crime  
13          under Federal law committed more than three years  
14          prior, for which all probative investigative leads have  
15          been exhausted, and for which no likely perpetrator  
16          has been identified.

17          (8) The term “cold case murder” means a mur-  
18          der committed more than three years prior, for  
19          which all probative investigative leads have been ex-  
20          hausted, and for which no likely perpetrator has  
21          been identified.

22   **SEC. 14. ANNUAL REPORT.**

23          (a) IN GENERAL.—Each applicable agency shall sub-  
24          mit an annual report to the Senate Committee on the Ju-  
25          diciary and the House Committee on the Judiciary de-

1 scribing actions taken and results achieved under this Act  
2 during such year.

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