

109TH CONGRESS
2^D SESSION

S. 3835

To provide adequate penalties for crimes committed against United States judges and Federal law enforcement officers, to provide appropriate security for judges and law enforcement officers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 3, 2006

Mr. CORNYN (for himself, Mr. CHAMBLISS, Mr. ALLEN, Mr. KYL, Mr. SESSIONS, Mr. GRAHAM, Mr. INHOFE, and Mr. SANTORUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide adequate penalties for crimes committed against United States judges and Federal law enforcement officers, to provide appropriate security for judges and law enforcement officers, 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 “Court and Law En-
5 forcement Officers Protection Act of 2006”.

1 **SEC. 2. SPECIAL PENALTIES FOR MURDER, KIDNAPPING,**
2 **AND RELATED CRIMES AGAINST FEDERAL**
3 **JUDGES AND FEDERAL LAW ENFORCEMENT**
4 **OFFICERS.**

5 (a) MURDER.—Section 1114 of title 18, United
6 States Code, is amended—

7 (1) by inserting “(a)” before “Whoever”; and

8 (2) by adding at the end the following:

9 “(b) If the victim of an offense punishable under this
10 section is a United States judge or a Federal law enforce-
11 ment officer (as those terms are defined in section 115)
12 the offender shall be punished by—

13 “(1) a fine under this title; and

14 “(2)(A) in the case of murder, attempted mur-
15 der, or conspiracy to murder, imprisonment for any
16 term of years not less than 30 years, or for life, or,
17 if death results, may be sentenced to death;

18 “(B) in the case of voluntary manslaughter, im-
19 prisonment for a term of years not less than 15
20 years nor more than 40 years; and

21 “(C) in the case of involuntary manslaughter,
22 imprisonment for a term of years not less than 3
23 years nor more than 15 years.”.

24 (b) KIDNAPPING.—Section 1201(a) of title 18,
25 United States Code, is amended by adding at the end the
26 following: “If the victim of the offense punishable under

1 this subsection is a United States judge or a Federal law
2 enforcement officer (as those terms are defined in section
3 115) the offender shall be punished by a fine under this
4 title and imprisonment for any term of years not less than
5 30 years, or for life, or, if death results, may be sentenced
6 to death.”.

7 **SEC. 3. AUTHORITY OF FEDERAL JUDGES AND PROSECU-**
8 **TORS TO CARRY FIREARMS.**

9 (a) IN GENERAL.—Chapter 203 of title 18, United
10 States Code, is amended by inserting after section 3053
11 the following:

12 **“§ 3054. Authority of Federal judges and prosecutors**
13 **to carry firearms**

14 “(a) IN GENERAL.—Any justice of the United States
15 or judge of the United States (as defined in section 451
16 of title 28), any judge of a court created under article I
17 of the United States Constitution, any bankruptcy judge,
18 any magistrate judge, any United States attorney, and
19 any other officer or employee of the Department of Justice
20 whose duties include representing the United States in a
21 court of law, may carry firearms.

22 “(b) REGULATIONS.—The Attorney General shall
23 prescribe regulations to carry out this section. Such regu-
24 lations may provide for training and regular certification
25 in the use of firearms and shall, with respect to justices,

1 judges, bankruptcy judges, and magistrate judges, be pre-
2 scribed after consultation with the Judicial Conference of
3 the United States.”.

4 (b) LAW ENFORCEMENT OFFICERS.—

5 (1) IN GENERAL.—Section 926B of title 18,
6 United States Code, is amended by adding at the
7 end the following:

8 “(f) For purposes of this section, a law enforcement
9 officer of the Amtrak Police Department or a law enforce-
10 ment or police officer of the executive branch of the Fed-
11 eral Government qualifies as an employee of a govern-
12 mental agency who is authorized by law to engage in or
13 supervise the prevention, detection, investigation, or pros-
14 ecution of, or the incarceration of any person for, any vio-
15 lation of law, and has statutory powers of arrest.”.

16 (2) RETIRED LAW ENFORCEMENT OFFICERS.—
17 Section 926C of title 18, United States Code, is
18 amended—

19 (A) in subsection (c)—

20 (i) in paragraph (3)(A), by striking
21 “was regularly employed as a law enforce-
22 ment officer for an aggregate of 15 years
23 or more” and inserting “served as a law
24 enforcement officer for an aggregate of 10
25 years or more”; and

1 (ii) by striking paragraphs (4) and
2 (5), and designating paragraphs (6) and
3 (7) as paragraphs (4) and (5), respectively;
4 (B) in subsection (d)—

5 (i) in paragraph (1), by striking “or”
6 after the semicolon;

7 (ii) in paragraph (2)(B), by striking
8 the period at the end and inserting “; or”;
9 and

10 (iii) by adding at the end the fol-
11 lowing:

12 “(3) in those States or for those law enforce-
13 ment agencies that do not issue the identification or
14 certification required by paragraph (1) or (2)—

15 “(A) an identification issued by the agency
16 from which the individual retired from service
17 as a law enforcement officer;

18 “(B) a photographic identification issued
19 by an agency of the State in which the indi-
20 vidual resides, such as a driver’s license or a
21 State identification card; and

22 “(C) a document issued by the State in
23 which the individual resides that either certifies
24 that the individual is authorized by the laws of
25 that State to carry a concealed firearm, or, in

1 those States that do not provide mandatory and
 2 objective standards for the issuance of such a li-
 3 cense, certifies that the individual has received
 4 training in the safe handling of firearms or has
 5 completed a firearms safety or training course
 6 for security guards or investigators.”; and

7 (C) by adding at the end the following:

8 “(f) In this section, the term ‘service with a public
 9 agency as a law enforcement officer’ includes service as
 10 a law enforcement officer of the Amtrak Police Depart-
 11 ment or as a law enforcement or police officer of the exec-
 12 utive branch of the Federal Government.”.

13 (c) CLERICAL AMENDMENT.—The table of sections
 14 for chapter 203 of title 18, United States Code, is amend-
 15 ed by inserting after the item relating to section 3053 the
 16 following:

 “3054. Authority of Federal judges and prosecutors to carry firearms.”.

17 **SEC. 4. PENALTIES FOR CERTAIN ASSAULTS.**

18 Section 111 of title 18, United States Code, is
 19 amended—

20 (1) in subsection (a), by striking “8 years” and
 21 inserting “15 years”;

22 (2) in subsection (b), by striking “20 years”
 23 and inserting “30 years”; and

24 (3) by adding at the end the following:

25 “(c) LAW ENFORCEMENT OFFICERS AND JUDGES.—

1 “(1) IN GENERAL.—If the victim of an assault
2 punishable under this section is a United States
3 judge or a Federal law enforcement officer (as those
4 terms are defined in section 115) the offender shall
5 be punished by a fine under this title and—

6 “(A) if the assault resulted in bodily injury
7 (as that term is defined in section 1365), im-
8 prisonment for a term of years not less than 2
9 years nor more than 10 years;

10 “(B) if the assault resulted in substantial
11 bodily injury (as that term is defined in section
12 113), imprisonment for a term of years not less
13 than 5 years nor more than 15 years; and

14 “(C) if a dangerous weapon was used or
15 possessed during and in relation to the offense,
16 or if the assault resulted in serious bodily injury
17 (as defined in section 2119(2)), imprisonment
18 for a term of years not less than 10 years nor
19 more than 25 years.

20 “(2) IMPOSITION OF PUNISHMENT.—Each pun-
21 ishment for criminal conduct described in this sub-
22 section shall be in addition to any other punishment,
23 whether imposed for a conviction under this section
24 or otherwise, for other criminal conduct during the
25 same criminal episode.”.

1 **SEC. 5. SPECIAL PENALTIES FOR RETALIATING AGAINST A**
2 **FEDERAL JUDGE OR FEDERAL LAW EN-**
3 **FORCEMENT OFFICER BY MURDERING OR AS-**
4 **SAULTING A FAMILY MEMBER.**

5 Section 115 of title 18, United States Code, is
6 amended—

7 (1) by redesignating subsections (c) and (d) as
8 subsections (d) and (e), respectively; and

9 (2) by inserting after subsection (b) the fol-
10 lowing:

11 “(c)(1) If an offense punishable under this section
12 is committed with the intent to impede, intimidate, or
13 interfere with a United States judge or a Federal law en-
14 forcement officer while engaged in the performance of offi-
15 cial duties, or with the intent to retaliate against such
16 judge or officer on account of the performance of official
17 duties, the offender shall be punished—

18 “(A) in the case of murder, attempted murder,
19 conspiracy to murder, or manslaughter, as provided
20 in section 1114(b);

21 “(B) in the case of kidnapping, attempted kid-
22 napping, or conspiracy to kidnap, as provided for an
23 offense against a United States judge or Federal law
24 enforcement officer in section 1201(a);

1 “(C) in the case of an assault, as provided for
2 an offense against a United States judge or Federal
3 law enforcement officer in section 111;

4 “(D) in the case of a threat, by a fine under
5 this title and imprisonment for a term of years not
6 less than 2 years nor more than 10 years.

7 “(2) Each punishment for criminal conduct described
8 in this subsection shall be in addition to any other punish-
9 ment, whether imposed for a conviction under this section
10 or otherwise, for other criminal conduct during the same
11 criminal episode.”.

12 **SEC. 6. LIMITATION ON DAMAGES INCURRED DURING COM-**
13 **MISSION OF A FELONY OR CRIME OF VIO-**
14 **LENCE.**

15 (a) IN GENERAL.—Section 1979 of the Revised Stat-
16 utes (42 U.S.C. 1983) is amended by—

17 (1) striking “except that in any action” and all
18 that follows through “relief was unavailable.” and
19 inserting the following: “except that—

20 “(1) in any action brought against a judicial of-
21 ficer for an act or omission taken in such officer’s
22 judicial capacity, injunctive relief shall not be grant-
23 ed unless a declaratory decree was violated or de-
24 claratory relief was unavailable; and

1 “(2) in any action seeking redress for a depri-
2 vation that was incurred in the course of, or as a re-
3 sult of, or is related to, conduct by the injured party
4 that, more likely than not, constituted a felony or a
5 crime of violence (as defined in section 16 of title
6 18, United States Code), including any deprivation
7 in the course of arrest or apprehension for, or the
8 investigation, prosecution, or adjudication of such an
9 offense, a court shall not have jurisdiction to con-
10 sider a claim for damages other than—

11 “(A) for necessary out-of-pocket expendi-
12 tures and other monetary loss; and

13 “(B) if the deprivation consisted of the
14 purposeful infliction of serious bodily injury (as
15 defined in section 1365 of title 18, United
16 States Code) by the defendant upon the injured
17 party, for additional damages in an amount
18 that shall not exceed \$250,000.”; and

19 (2) indenting the last sentence as an undesig-
20 nated paragraph.

21 (b) ATTORNEY’S FEES.—Section 722(b) of the Re-
22 vised Statutes (42 U.S.C. 1988(b)) is amended by striking
23 “except that in any action brought against a judicial offi-
24 cer for an act or omission taken in such officer’s judicial
25 capacity such officer shall not be held liable for any costs,

1 including attorneys fees, unless such action was clearly in
2 excess of such officer's jurisdiction." and inserting the fol-
3 lowing: "except that—

4 “(1) in any action brought against a judicial of-
5 ficer for an act or omission taken in such officer's
6 judicial capacity, such officer shall not be held liable
7 for any costs, including attorneys fees, unless such
8 action was clearly in excess of such officer's jurisdic-
9 tion; and

10 “(2) in any action seeking redress for a depri-
11 vation that was incurred in the course of, or as a re-
12 sult of, or is related to, conduct by the injured party
13 that, more likely than not, constituted a felony or a
14 crime of violence (as defined in section 16 of title
15 18, United States Code), including any deprivation
16 in the course of arrest or apprehension for, or the
17 investigation, prosecution, or adjudication of, such
18 an offense, the court may not allow such party to re-
19 cover attorney's fees.”.

20 (c) APPLICATION.—This section and the amendments
21 made by this section shall apply to cases pending on or
22 after the date of enactment of this Act.

1 **SEC. 7. FEDERAL REVIEW OF STATE CONVICTION FOR**
2 **MURDER OF A PUBLIC SAFETY OFFICER OF**
3 **JUDGE.**

4 (a) **SHORT TITLE.**—This section may be cited as the
5 “Police Officer Daniel Faulkner Act of 2006”.

6 (b) **IN GENERAL.**—Section 2254 of title 28, United
7 States Code, is amended by adding at the end the fol-
8 lowing:

9 “(j) For an application for a writ of habeas corpus
10 on behalf of a person in custody pursuant to the judgment
11 of a State court for a crime that involved the killing of
12 a public safety officer or judge while the public safety offi-
13 cer or judge was engaged in the performance of official
14 duties, or on account of the public safety officer’s or
15 judge’s performance of official duties or status as a public
16 safety officer or judge—

17 “(1) the application shall be subject to the time
18 limitations and other requirements under sections
19 2263, 2264, and 2266; and

20 “(2) the review of the application by the court
21 shall be limited to those claims concerning the valid-
22 ity of the conviction of the applicant for the under-
23 lying offense for which the applicant is held in cus-
24 tody.

25 “(k) A court shall not consider a claim relating to
26 sentencing mitigation that was adjudicated on the merits

1 in a State court, unless a determination that the error is
2 not structural is contrary to clearly established Federal
3 law, as determined by the Supreme Court of the United
4 States.”.

5 (c) FINALITY OF REVIEW.—

6 (1) IN GENERAL.—Section 2251 of title 28,
7 United States Code, is amended by adding at the
8 end the following:

9 “(c) STAY OF MATTERS.—This section, section 2262,
10 and section 2101 are the exclusive sources of authority
11 for Federal courts to stay a sentence of death entered by
12 a State court.”.

13 (2) SECOND OR SUCCESSIVE APPLICATIONS.—

14 Section 2244(b)(3)(E) of title 28, United States
15 Code, is amended by striking “the subject of a peti-
16 tion” and all that follows through the end of the
17 subparagraph and inserting the following: “reheard
18 in the court of appeals or reviewed by a writ of cer-
19 tiorari.”.

20 (3) RULES.—Rule 11 of the Rules Governing

21 Section 2254 Cases in the United States District
22 Courts is amended by adding at the end the fol-
23 lowing: “Rule 60(b)(6) of the Federal Rules of Civil
24 Procedure does not apply to proceedings under these
25 rules.”.

1 (d) EFFECTIVE DATE.—

2 (1) IN GENERAL.—This section and the amend-
3 ments made by this section shall apply to cases
4 pending on or after the date of enactment of this
5 Act.

6 (2) PENDING CASES.—In a case pending on the
7 date of enactment of this Act, if the amendments
8 made by this section impose a time limit for taking
9 certain action, the period of which began on the date
10 of an event that occurred prior to the date of enact-
11 ment of this Act, the period of such time limit shall
12 instead begin on the date of enactment of this Act.

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