

111TH CONGRESS
1ST SESSION

H. R. 738

IN THE SENATE OF THE UNITED STATES

FEBRUARY 5, 2009

Received, read twice and referred to the Committee on the Judiciary

AN ACT

To encourage States to report to the Attorney General certain information regarding the deaths of individuals in the custody of law enforcement agencies, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Death in Custody Re-
3 porting Act of 2009”.

4 **SEC. 2. STATE INFORMATION REGARDING INDIVIDUALS**
5 **WHO DIE IN THE CUSTODY OF LAW ENFORCE-**
6 **MENT.**

7 (a) **IN GENERAL.**—For each fiscal year after the ex-
8 piration of the period specified in subsection (c)(1) in
9 which a State receives funds for a program referred to
10 in subsection (c)(2), the State shall report to the Attorney
11 General, on a quarterly basis and pursuant to guidelines
12 established by the Attorney General, information regard-
13 ing the death of any person who is detained, under arrest,
14 or is in the process of being arrested, is en route to be
15 incarcerated, or is incarcerated at a municipal or county
16 jail, State prison, State-run boot camp prison, boot camp
17 prison that is contracted out by the State, any State or
18 local contract facility, or other local or State correctional
19 facility (including any juvenile facility).

20 (b) **INFORMATION REQUIRED.**—The report required
21 by this section shall contain information that, at a min-
22 imum, includes—

23 (1) the name, gender, race, ethnicity, and age
24 of the deceased;

25 (2) the date, time, and location of death;

1 (3) the law enforcement agency that detained,
2 arrested, or was in the process of arresting the de-
3 ceased; and

4 (4) a brief description of the circumstances sur-
5 rounding the death.

6 (c) COMPLIANCE AND INELIGIBILITY.—

7 (1) COMPLIANCE DATE.—Each State shall have
8 not more than 120 days from the date of enactment
9 of this Act to comply with subsection (a), except
10 that—

11 (A) the Attorney General may grant an ad-
12 ditional 120 days to a State that is making
13 good faith efforts to comply with such sub-
14 section; and

15 (B) the Attorney General shall waive the
16 requirements of subsection (a) if compliance
17 with such subsection by a State would be un-
18 constitutional under the constitution of such
19 State.

20 (2) INELIGIBILITY FOR FUNDS.—For any fiscal
21 year after the expiration of the period specified in
22 paragraph (1), a State that fails to comply with sub-
23 section (a), shall, at the discretion of the Attorney
24 General, be subject to not more than a 10 percent
25 reduction of the funds that would otherwise be allo-

1 cated for that fiscal year to the State under subpart
2 1 of part E of title I of the Omnibus Crime Control
3 and Safe Streets Act of 1968 (42 U.S.C. 3750 et
4 seq.), whether characterized as the Edward Byrne
5 Memorial State and Local Law Enforcement Assist-
6 ance Programs, the Local Government Law Enforce-
7 ment Block Grants Program, the Edward Byrne Me-
8 morial Justice Assistance Grant Program, or other-
9 wise.

10 (d) REALLOCATION.—Amounts not allocated under a
11 program referred to in subsection (c)(2) to a State for fail-
12 ure to fully comply with subsection (a) shall be reallocated
13 under that program to States that have not failed to com-
14 ply with such subsection.

15 (e) DEFINITIONS.—In this section the terms “boot
16 camp prison” and “State” have the meaning given those
17 terms, respectively, in section 901(a) of the Omnibus
18 Crime Control and Safe Streets Act of 1968 (42 U.S.C.
19 3791(a)).

20 (f) STUDY AND REPORT OF INFORMATION RELATING
21 TO DEATHS IN CUSTODY.—

22 (1) STUDY REQUIRED.—The Attorney General
23 shall carry out a study of the information reported
24 under subsection (b) and section 3(a) to—

1 (A) determine means by which such infor-
2 mation can be used to reduce the number of
3 such deaths; and

4 (B) examine the relationship, if any, be-
5 tween the number of such deaths and the ac-
6 tions of management of such jails, prisons, and
7 other specified facilities relating to such deaths.

8 (2) REPORT.—Not later than 2 years after the
9 date of the enactment of this Act, the Attorney Gen-
10 eral shall prepare and submit to Congress a report
11 that contains the findings of the study required by
12 paragraph (1).

13 **SEC. 3. FEDERAL LAW ENFORCEMENT DEATH IN CUSTODY**
14 **REPORTING REQUIREMENT.**

15 (a) IN GENERAL.—For each fiscal year (beginning
16 after the date that is 120 days after the date of the enact-
17 ment of this Act), the head of each Federal law enforce-
18 ment agency shall submit to the Attorney General a report
19 (in such form and manner specified by the Attorney Gen-
20 eral) that contains information regarding the death of any
21 person who is—

22 (1) detained, under arrest, or is in the process
23 of being arrested by any officer of such Federal law
24 enforcement agency (or by any State or local law en-
25 forcement officer while participating in and for pur-

1 poses of a Federal law enforcement operation, task
2 force, or any other Federal law enforcement capacity
3 carried out by such Federal law enforcement agen-
4 cy); or

5 (2) en route to be incarcerated or detained, or
6 is incarcerated or detained at—

7 (A) any facility (including any immigration
8 or juvenile facility) pursuant to a contract with
9 such Federal law enforcement agency;

10 (B) any State or local government facility
11 used by such Federal law enforcement agency;
12 or

13 (C) any Federal correctional facility or
14 Federal pre-trial detention facility located with-
15 in the United States.

16 (b) INFORMATION REQUIRED.—Each report required
17 by this section shall include, at a minimum, the informa-
18 tion required by section 2(b).

1 (c) STUDY AND REPORT.—Information reported
2 under subsection (a) shall be analyzed and included in the
3 study and report required by section 2(f).

Passed the House of Representatives February 4,
2009.

Attest: LORRAINE C. MILLER,
Clerk.