

FEDERAL LEGISLATIVE UPDATE

RIVERSIDE SHERIFFS' ASSOCIATION

August and September, 2005

1st Session, 109th Congress

OVERVIEW OF CONGRESSIONAL ACTION IN JULY, 2005

Please note that Congress will be in recess for the month of August and will return after the Labor Day weekend. The next federal update will be provided on October 1st.

On June 28th Congressman Beauprez (CO) offered an amendment strongly supported by RSA to H.R. 3057, the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 2006. This amendment, which passed by a recorded vote, provides that none of the funds available for the Department of State may be used to provide assistance to any country that refuses to extradite to the United States any individual accused in the United States of killing a law enforcement officer.

Congressman Neal (R-GA) also offered an amendment to H.R. 3057. The amendment, which passed by a vote of 294-132, would prohibit any funds made available in the bill (with the exception of funds provided under the international narcotics control and law enforcement) from being used to provide assistance to any country that has an extradition treaty with the United States but refuses to extradite to the United States any individual accused of committing a criminal offense for which the maximum penalty is life imprisonment without the possibility of parole, or a lesser term of imprisonment.

Senator Chambliss (R-GA) offered an amendment to H.R. 3057 closely resembling the Neal amendment on the Senate Floor. This amendment passed by a vote of 86-12, with Senators Feinstein and Boxer voting in favor of its passage.

H.R. 3057 passed the House and Senate and is currently pending in a conference committee that will reconcile differences in the bills.

The House passed H.R. 3199, the "USA PATRIOT and Terrorism Prevention Act of 2005," on July 21st by a vote of 257-171. This legislation reauthorizes the 2001 anti-terrorism law commonly known as the USA PATRIOT ACT. This measure was received in the Senate on July 25th.

The two most controversial provisions of the PATRIOT ACT were modified. Section 215 was changed to require the federal government to show a person is connected to terrorism or espionage before investigators can obtain records. The substitute would allow a business or organization that receives such a request to challenge it. The bill

changes Section 206 to require federal investigators to reveal to a court either the suspect or the phone before they conduct wiretaps. The bill also modified Section 213 to require investigators to notify targets of “sneak and peak” searches within seven days unless a longer delay is justified. The government is allowed to monitor phone and internet communications of suspected terrorists and spies after going to the deputy attorney general.

H.R. 3199 also includes H.R. 1544, the “Faster and Smarter Funding for First Responders Act of 2005,” as it was passed in the House. This language allocates federal grant money to states based on risk rather than political formulas and provides increased funding for border states. This provision was strongly supported by RSA. Senator Feinstein has indicated she may amend the Senate version to include similar language.

In the area of immigration, Senator John Cornyn (R-TX), the Chairman of the Immigration Subcommittee, and Senator Jon Kyl (R-AZ), introduced the “Comprehensive Enforcement and Immigration Reform Act of 2005.” This bill would require the millions of illegal immigrants who currently reside in the United States to leave within five years of the bill’s enactment into law. The bill would establish a guest worker program – with unlimited spots -- to fill jobs that Americans are unwilling to take. Earlier in the year Senators McCain (R-AZ) and Kennedy (D-MA) introduced legislation which provided for a guest worker program and allowed participants to ultimately gain citizenship. The Senate Judiciary Committee held a hearing on these bills on July 26th. The Bush Administration failed to participate in the hearing. Nevertheless, Chairman Specter indicated that the Senate would pass a bill this year.

President Bush’s nomination of John Roberts to the U.S. Supreme Court will be the focus of Senate Judiciary hearings in September. Republican lawmakers have indicated they will schedule a floor vote by the end of September.

There were no major developments in the social security reform arena. Republican lawmakers hope to put the issue back on the front burner in September. RSA continues to fight against any effort to mandate public employees to participate in the social security program.

H.R. 2360, making appropriations for the Department of Homeland Security, passed the House and the Senate. The measure would increase funding for border security to \$9.8 billion for fiscal year 2006 and add 2,200 more detention beds. The Senate asked for a conference between the two bodies to reconcile differences in the bill. Senator Feinstein was appointed to the conference committee.

The Central American Free Trade Agreement passed the House of Representatives by a vote of 217-215 on July 27th. This measure was opposed by RSA.

During the month of June the House passed H.R. 2862, making appropriations for Science, State, Justice and the Judiciary. H.R. 2862, as amended, was also reported from the Senate Committee on Appropriations. No further action was taken on this measure

during the month of July. After the August recess Congress will once again focus on this and all other pending appropriation bills.

The bill includes report language that requires the Department of Justice to take steps to ensure that state and local governments are distributing protective vests funded by the federal government in a timely manner. RSA strongly supported an amendment offered by Congressman David Dreier (R-CA) to H.R. 2862 that increased funding for the State Criminal Alien Assistance Program (SCAAP) by \$50 million, for a total of \$405 million. This amendment passed by a recorded vote of 231-195.

Other provisions in the House-passed appropriation bill for Justice that RSA supports are as follows: \$30 million to reimburse state and local governments for the costs associated with the prosecution of criminal cases declined by local U.S. Attorneys offices; \$30 million for the protective vest program, which provides federal funds for half the costs of a vest; full funding for death benefits for survivors; and \$60 million for the Juvenile Accountability Block Grant program. The bill requires the Department of Justice to only transport prisoners classified as maximum or high security to facilities that have been certified by the Federal Bureau of Prisons to be appropriately secure to house such a prisoner. No money may be used by Federal prisons to purchase cable television services, to rent or purchase videocassettes, recorders, or any electronic equipment used primarily for recreational purposes.

LEGISLATION INTRODUCED, 109th Congress

EXTRADITION AND PENALTIES FOR KILLING A LAW ENFORCEMENT OFFICER

H.R. 2991, introduced by Congressman Patrick McHenry (R-NC). This legislation would prohibit United States foreign assistance from being provided to any county that refuses to extradite to the United States individuals accused of killing law enforcement officers.

H.R. 2363, the “Peace Officer Justice Act,” introduced by Congressman Dreier (R-CA). This legislation would provide for the death penalty or life imprisonment for individuals who are convicted of killing peace officers and who flee the country to avoid prosecution or detention.

APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE

H.R. 2862, making appropriations for Science, State, Justice and the Judiciary. This measure passed the House of Representatives and is pending Senate floor action.

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DEPARTMENT OF HOMELAND SECURITY – GRANTS AND BORDER ISSUES

H.R. 1817, legislation to authorize appropriations for the Department of Homeland Security, introduced by Congressman Chris Cox (R-CA). The House and Senate have passed this measure. This bill contains \$30.9 billion in funding for the Department of Homeland Security. It shifted more money for first responders to high risk states by changing the existing formula. Currently, each state receives 0.75 percent of the funds allocated for first responders. The bill lowers the minimum to .25 percent and .45 percent

for Border States, allowing more money to be allocated on the basis of risk. Congressman Cox offered an amendment to H.R. 1817 to authorize \$40 million in Fiscal Year 2006 to reimburse state and local governments for the costs associated with having state and local law enforcement trained and certified by Department of Homeland Security Immigration and Customs Enforcement to enforce Federal immigration laws. This amendment passed by voice vote on May 18, 2005. Congressman Norwood (R-GA) also offered an amendment to H.R. 1817 to clarify the existing authority of state and local law enforcement officers to assist in the apprehension, detention and transport of illegal aliens in the routine course of their daily duties and to require the Department of Homeland Security to establish a training manual and pocket guide for law enforcement. This amendment was agreed to by a recorded vote of 242-185.

H.R. 1544, the “Faster and Smarter Funding for First Responders Act of 2005,” introduced by Congressman Chris Cox (R-CA). This measure passed the House of Representatives on May 12, 2005. H.R. 1544 allocates federal grant money to states based on risk rather than political formulas and provides increased funding for Border States. The Senate Homeland Security and Government Affairs Committee have approved related legislation. Key provisions of the measure include the authorization of full funding for 2,000 new border patrol agents and a Homeland Security Information Network, a real time communication system for DHS and thousands of local law enforcement agencies.

S. 1013, the “Funding Our Risks with Appropriate Resource Disbursement Act of 2005,” introduced by Senator Feinstein. This legislation sets forth provisions to improve Department of Homeland Security grant funding for first responders.

IMMIGRATION ISSUES

H.R. 1268, the Fiscal Year 2005 emergency supplemental appropriation bill for Defense, the Global War on Terror and Tsunami Relief became public law 109-52. The new law provides funding for 500 additional border agents and 1,950 new detention beds. It also includes language to create national standards for drivers’ licenses, making it more difficult for illegal immigrants to obtain licenses.

Congressman Norwood offered an amendment to H.R. 1817 to clarify the existing authority of state and local law enforcement personnel in assisting in the apprehension, detention, and transport of illegal aliens in the routine course of their daily duties and to require the Department of Homeland Security to establish a training manual and pocket guide for law enforcement. The amendment passed by a vote of 242-185.

BENEFITS FOR OFFICERS

H.R. 1147, the “Public Safety Officer Protection Act of 2005, ” introduced by Congressman Baca (D-CA). This legislation would provide federal death and disability benefits to a public safety officer who develops cancer and either dies or becomes permanently disabled as a result of the cancer.

STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP)

S. 188, the State Criminal Alien Assistance Program Reauthorization Act of 2005,” introduced by Senator Feinstein, and H.R. 557 introduced by Congressman Kolbe. These bills would reauthorize the SCAAP program at \$750 million for FY 2006; \$850 million for FY 2007, and \$950 million for FY 2008 through 2011. The SCAAP program reimburses state and local governments for the costs of incarcerating criminal aliens. This measure passed the Senate floor on May 23rd. Senator Feinstein offered an amendment to her bill, which passed, requiring the funds to be used by state and local governments for correctional purposes.

H.R. 820, introduced by Congressman Peter King. This legislation would require the Secretary of Homeland Security, in carrying out the SCAAP program, to give priority to compensating state and local governments located on the borders or having one of the fifth largest populations of unauthorized aliens.

S. 1006, the “State Criminal Alien Assistance Program II,” introduced by Senator Jon Kyl. This legislation would provide for the reimbursement to state and local governments for the costs of imprisoning any illegal alien convicted of a felony and the indirect costs including court proceedings, attorney for local government, illegal alien detention, indigent defense, prosecution, autopsies, and translation and interpreter services. Amounts would be allocated based on the percentage of undocumented aliens in a state compared to the total number of undocumented aliens in the country. Additional funds would be obligated for the six states with the highest number of apprehended undocumented aliens.

H.R. 193 introduced by Congresswoman Linda Sanchez. This legislation would provide for compensation from the SCAAP program for undocumented immigrants with a felony or two or more misdemeanors.

AGAINST MANDATORY PARTICIPATION IN THE SOCIAL SECURITY SYSTEM

H.CON.RES. 45, introduced by Congressman Green. This resolution expresses the sense of Congress that social security reform measures should not force state and local government employees into paying into the social security system.

GOVERNMENT PENSION OFFSET

S. 619, the “Social Security Fairness Act of 2005,” introduced by Senator Feinstein and H.R. 147 introduced by Congressman McKeon. This legislation would repeal the government pension offset requirements applicable to husband’s and wife’s insurance benefits and the windfall elimination requirements.

PAROLE AND PROBATION

H.R. 484, the “Probation and Parole Officer Safety Task Force Act of 2005,” introduced by Congressman Bill Pascrell, Jr. This legislation would establish a Probation and Parole

Task Force within the Department of Justice to study and report to Congress on: 1) federal and state policies and practices as they affect the personal safety of probation and parole officers during the execution of their duties; and 2) guidelines for the safety, training, use of force by, and equipment standards for such officers, including whether to arm such officers. The legislation would also require the Bureau of Justice Statistics to carry out and report to the Attorney General on an annual, comprehensive statistical review of the incidence and effects of violence perpetrated against federal and state probation and parole officers.

PREVENTING INMATE ACCESS TO SOCIAL SECURITY NUMBERS

S. 29, the “Social Security Number Misuse Prevention Act”, introduced by Senator Feinstein (D-CA). This legislation would establish criminal penalties for the misuse of social security numbers. S. 29 includes a provision to prohibit any inmate in federal, state and local facilities from working in any program or in any capacity that would provide access to social security numbers.

COLLECTIVE BARGAINING RIGHTS

H.R. 1249, the “Public Safety Employer-Employee Cooperation Act of 2005”, introduced by Congressman Kildee (D-MI), and S. 606 introduced by Senator Gregg (R-NH). This legislation would provide collective bargaining rights to public safety officers employed by state and local governments. This bill would not affect jurisdictions that already provide equal or greater collective bargaining rights to their employees.

BILL OF RIGHTS

H.R. 354, the “State and Local Law Enforcement Discipline, Accountability, and Due Process Act of 2005,” introduced by Congressman Ramstad, and S. 718, introduced by Senator Biden. This bill would provide standards and procedures to guide State and local law enforcement agencies during internal investigations, interrogations, and administrative disciplinary hearings of law enforcement officers. The bill calls upon States to develop and enforce these disciplinary procedures. Please note that this bill would NOT preempt any State or local laws that confer rights or protections that are equal to or exceed the rights and protections within the bill.

GANGS

S. 155, the “Gang Prevention and Effective Deterrence Act of 2005,” introduced by Senator Feinstein. This legislation prohibits various criminal street gang-related offenses, including participation in a criminal street gang by committing a predicative crime in furtherance of the activities of such gang, to gain entrance to or to maintain or increase position in the gang, or for the gang’s benefit.

S. 1168, introduced by Senator Bill Nelson. This legislation would make inadmissible individuals who law enforcement knows, or has reasonable grounds to believe, seek entry into the United States to participate in illegal activities with criminal gangs located in the United States.

H.R. 1279, the “Gang Deterrence and Community Protection Act of 2005,” introduced by Congressman Randy Forbes. This legislation would expand prohibitions against criminal street gang activity, including forfeiture provisions. This measure passed the House on May 11th by a vote of 279-144. An amendment offered by Congressman Norwood passed, which would require a study to be conducted by the Department of Justice and Homeland Security on the link of illegal aliens and gang membership. An amendment offered by Congressman Goodlatte also passed, which would enhance penalties for crimes committed by illegal aliens and require the listing of immigration violators in the National Crime Information Center Database.

COMMEMORATIVES

H.R. 104, introduced by Congressman Gene Green. This legislation would provide Capitol flown flags to the families of deceased law enforcement officers.

H.R. 94, introduced by Congressman Paul Gillmor. This legislation would provide Capitol flown flags to the families of deceased law enforcement officers.

H. Con. Res. 85, introduced by Congressman Filner. This resolution expresses the sense of Congress that a postage stamp should be issued to honor law enforcement officers killed in the line of duty.

PRISON PRIVATIZATION

H.R. 1806, the “Private Prison Information Act,” introduced by Congressman Strickland (D-OH). This legislation would require private prison companies contracting with the federal government to make the same information available to the public as is required of the government under the Freedom of Information Act.

H.R. 2305, the “Public Safety Act”, introduced by Congressman Strickland (D-OH). This legislation would prevent the federal government from contracting with the private sector to house federal inmates. It would also prevent state and local governments from using federal grant money to contract with the private sector to house state and local inmates.

