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Collection: Counsel's Office, White House

Series: Kavanaugh, Brett – Subject Files

Folder Title: Victims of Terrorism
Compensation

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DOCUMENT NO.	FORM	SUBJECT/TITLE	PAGES	DATE	RESTRICTION(S)
001	Memorandum	Compensation for Victims of International Terrorism	4	01/24/2002	P5;
002	Letter	Dear Brett - To: Brett Kavanaugh	1	04/23/2002	P2; P6/b6;
003	Memorandum	Terrorist Victims' Compensation - To: Nancy P. Dorn - From: William H. Taft, IV	3	04/12/2002	P5;

COLLECTION TITLE:
Counsel's Office, White House

SERIES:
Kavanaugh, Brett - Subject Files

FOLDER TITLE:
Victims of Terrorism Compensation

FRC ID:
9802

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

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Freedom of Information Act - [5 U.S.C. 552(b)]

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OA Num.:

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NARA Num.:

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FOIA IDs and Segments:

2017-0345-F

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Next Hit	Forward	New Bills Search
Prev Hit	Back	HomePage
Hit List	Best Sections	Help
	Doc Contents	

Bill 3 of 50

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Embassy Employee Compensation Act (Introduced in the House)

HR 3375 IH

107th CONGRESS

1st Session

H. R. 3375

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist -related aircraft crashes on September 11, 2001.

IN THE HOUSE OF REPRESENTATIVES**November 29, 2001**

Mr. BLUNT (for himself, Mr. MORAN of Virginia, Mr. WOLF, Mr. OBEY, Mr. ISAKSON, Mr. WYNN, Mr. BOYD, Ms. MCKINNEY, Mr. FRANK, Ms. WATERS, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Mr. SCOTT, Mr. THOMPSON of Mississippi, Mr. OWENS, and Mr. PAYNE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide compensation for the United States citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, on the same basis as compensation is provided to victims of the terrorist -related aircraft crashes on September 11, 2001.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Embassy Employee Compensation Act'.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

- (1) CLAIMANT- The term 'claimant' means an individual filing a claim for compensation under section 5(a)(1).
- (2) COLLATERAL SOURCE- The term 'collateral source' means all collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the bombings of United States embassies in East Africa on August 7, 1998.
- (3) ECONOMIC LOSS- The term 'economic loss' means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.
- (4) ELIGIBLE INDIVIDUAL- The term 'eligible individual' means an individual determined to be eligible for compensation under section 5(c).
- (5) NONECONOMIC LOSSES- The term 'noneconomic losses' means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation, and all other nonpecuniary losses of any kind or nature.
- (6) SPECIAL MASTER- The term 'Special Master' means the Special Master appointed under section 404(a) of the September 11th Victim Compensation Fund of 2001 (title IV of the Air Transportation Safety and System Stabilization Act (Public Law 107-42; 115 Stat. XX)).

SEC. 3. PURPOSE.

It is the purpose of this Act to provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the bombings of United States embassies in East Africa on August 7, 1998.

SEC. 4. ADMINISTRATION.

- (a) IN GENERAL- The Attorney General, acting through the Special Master, shall--
 - (1) administer the compensation program established under this Act;
 - (2) promulgate all procedural and substantive rules for the administration of this Act; and
 - (3) employ and supervise hearing officers and other administrative personnel to perform

the duties of the Special Master under this Act.

(b) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to pay the administrative and support costs for the Special Master in carrying out this Act.

SEC. 5. DETERMINATION OF ELIGIBILITY FOR COMPENSATION.

(a) FILING OF CLAIM-

(1) IN GENERAL- A claimant may file a claim for compensation under this Act with the Special Master. The claim shall be on the form developed under paragraph (2) and shall state the factual basis for eligibility for compensation and the amount of compensation sought.

(2) CLAIM FORM-

(A) IN GENERAL- The Special Master shall develop a claim form that claimants shall use when submitting claims under paragraph (1). The Special Master shall ensure that such form can be filed electronically, if determined to be practicable.

(B) CONTENTS- The form developed under subparagraph (A) shall request--

(i) information from the claimant concerning the physical harm that the claimant suffered, or in the case of a claim filed on behalf of a decedent information confirming the decedent's death, as a result of the bombings of United States embassies in East Africa on August 7, 1998;

(ii) information from the claimant concerning any possible economic and noneconomic losses that the claimant suffered as a result of such bombings; and

(iii) information regarding collateral sources of compensation the claimant has received or is entitled to receive as a result of such bombings.

(3) LIMITATION- No claim may be filed under paragraph (1) after the date that is 2 years after the date on which regulations are promulgated under section 7.

(b) REVIEW AND DETERMINATION-

(1) REVIEW- The Special Master shall review a claim submitted under subsection (a) and determine--

(A) whether the claimant is an eligible individual under subsection (c);

(B) with respect to a claimant determined to be an eligible individual--

(i) the extent of the harm to the claimant, including any economic and noneconomic losses; and

(ii) the amount of compensation to which the claimant is entitled based on the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant.

(2) NEGLIGENCE- With respect to a claimant, the Special Master shall not consider negligence or any other theory of liability.

(3) DETERMINATION- Not later than 120 days after that date on which a claim is filed under subsection (a), the Special Master shall complete a review, make a determination, and provide written notice to the claimant, with respect to the matters that were the subject of the claim under review. Such a determination shall be final and not subject to judicial review.

(4) RIGHTS OF CLAIMANT- A claimant in a review under paragraph (1) shall have--

(A) the right to be represented by an attorney;

(B) the right to present evidence, including the presentation of witnesses and documents; and

(C) any other due process rights determined appropriate by the Special Master.

(5) NO PUNITIVE DAMAGES- The Special Master may not include amounts for punitive damages in any compensation paid under a claim under this Act.

(6) COLLATERAL COMPENSATION- The Special Master shall reduce the amount of compensation determined under paragraph (1)(B)(ii) by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the bombings of United States embassies in East Africa on August 7, 1998.

(c) ELIGIBILITY-

(1) IN GENERAL- A claimant shall be determined to be an eligible individual for purposes of this subsection if the Special Master determines that such claimant--

(A) is an individual described in paragraph (2); and

(B) meets the requirements of paragraph (3).

(2) INDIVIDUALS- A claimant is an individual described in this paragraph if the claimant is--

(A) a citizen of the United States who--

(i) was present at the United States Embassy in Nairobi, Kenya, or the United States Embassy in Dar es Salaam, Tanzania, at the time, or in the immediate aftermath, of the bombings of United States embassies in East Africa on August 7, 1998; and

(ii) suffered physical harm or death as a result of such a bombing; or

(B) in the case of a decedent who is an individual described in subparagraph (A), the personal representative of the decedent who files a claim on behalf of the decedent.

(3) REQUIREMENTS-

(A) SINGLE CLAIM- Not more than one claim may be submitted under this Act by an individual or on behalf of a deceased individual.

(B) LIMITATION ON CIVIL ACTION-

(i) IN GENERAL- Upon the submission of a claim under this Act, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of the bombings of United States embassies in East Africa on August 7, 1998. The preceding sentence does not apply to a civil action to recover collateral source obligations.

(ii) PENDING ACTIONS- In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this Act unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 7.

SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.

(a) IN GENERAL- Not later than 20 days after the date on which a determination is made by the Special Master regarding the amount of compensation due a claimant under this Act, the Special Master shall authorize payment to such claimant of the amount determined with respect to the claimant.

(b) PAYMENT AUTHORITY- This Act constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of amounts for compensation under this Act.

(c) ADDITIONAL FUNDING-

(1) IN GENERAL- The Attorney General is authorized to accept such amounts as may be contributed by individuals, business concerns, or other entities to carry out this Act, under such terms and conditions as the Attorney General may impose.

(2) USE OF SEPARATE ACCOUNT- In making payments under this section, amounts contained in any account containing funds provided under paragraph (1) shall be used prior to using appropriated amounts.

SEC. 7. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out this Act, including regulations with respect to--

- (1) forms to be used in submitting claims under this Act;
- (2) the information to be included in such forms;
- (3) procedures for hearing and the presentation of evidence;
- (4) procedures to assist an individual in filing and pursuing claims under this Act; and
- (5) other matters determined appropriate by the Attorney General.

SEC. 8. RIGHT OF SUBROGATION.

The United States shall have the right of subrogation with respect to any claim paid by the United States under this Act.

<i>THIS SEARCH</i>	<i>THIS DOCUMENT</i>	<i>GO TO</i>
Next Hit	Forward	New Bills Search
Prev Hit	Back	HomePage
Hit List	Best Sections	Help
	Doc Contents	

S 2134 IS

107th CONGRESS

2d Session

S. 2134

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

IN THE SENATE OF THE UNITED STATES**April 16, 2002**

Mr. HARKIN (for himself, Mr. ALLEN, Mr. SMITH of New Hampshire, Mr. SCHUMER, Mr. NICKLES, Mrs. CLINTON, Mr. WARNER, Ms. MIKULSKI, Mr. BURNS, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To allow American victims of state sponsored terrorism to receive compensation from blocked assets of those states.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Terrorism Victim's Access to Compensation Act of 2002'.

SEC. 2. FINDINGS.

Congress finds that:

- (1) The war against international terrorism must be fought and won on multiple fronts.
- (2) The state sponsors of international terrorism (including their agencies and instrumentalities) are ultimately responsible for the damages, pain, and suffering inflicted upon Americans who are victimized by terrorist acts. It is the state sponsors, not the American taxpayer, who must be compelled to pay those costs.
- (3) The Secretary of the Treasury lawfully controls billions of dollars in blocked assets of several governments which the President and the Department of State have determined to be state sponsors of international terrorism and responsible for multiple terrorist attacks on United States citizens abroad.

(4) There have been multiple Federal lawsuits brought since 1996 by American victims of state sponsored terrorism abroad and final judgments and financial awards in some of those cases have been paid appropriately by using some of the blocked assets of state sponsors of terrorism. Additional cases are still pending.

(5) Paying victims of state sponsored terrorism from the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) will punish those entities, deter future acts of terrorism, and provide a powerful incentive for any foreign government to stop sponsoring terrorist attacks on Americans.

(6) There must be a level playing field for all American victims of state sponsored terrorism who are pursuing redress in the Federal courts and compensation from the blocked assets of state sponsors of terrorism (including their agencies and instrumentalities).

SEC. 3. SENSE OF THE SENATE.

Considering the policy set forth in this Act, the Antiterrorism and Effective Death Penalty Act of 1996, and in the Victims of Trafficking and Violence Protection Act of 2000, it is the sense of Congress that it should be the policy of the United States--

(1) to use the blocked assets of state sponsors of acts of terrorism (including their agencies and instrumentalities) that are under the control of the Secretary of the Treasury to pay court-ordered judgments and awards made to United States nationals harmed by such acts; and

(2) to provide equal access to all United States victims of state sponsored terrorism who have secured judgments and awards in Federal courts against state sponsors of terrorism (including their agencies and instrumentalities) and that those judgments and awards be paid by state sponsors of terrorism (including their agencies and instrumentalities) from any of their blocked assets controlled by the Secretary of the Treasury.

SEC. 4. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL- Except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim for compensatory damages for an act of terrorism, or a claim for compensatory damages brought pursuant to section 1605(a)(7) of title 28, United States Code, the blocked assets of any terrorist party, or any agency or instrumentality of a terrorist party, shall be available for satisfaction of the judgment.

(b) PRESIDENTIAL WAIVER-

(1) IN GENERAL- Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment or satisfaction in aid of execution of judgment, or

execution of judgment, against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(2) EXCEPTION- A waiver under this subsection shall not apply to--

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used for any nondiplomatic purpose (including use as rental property), and the proceeds of such use; or

(B) any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that is sold or otherwise transferred for value to a third party, and the proceeds of such sale or transfer.

(c) DEFINITIONS- In this Act:

(1) BLOCKED ASSETS- The term 'blocked assets' means assets seized or blocked by the United States in accordance with law.

(2) PROPERTY AND ASSETS SUBJECT TO VIENNA CONVENTIONS- The terms 'property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' and 'asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations' mean any property or asset, respectively, the attachment in aid of execution or execution of which may, for the limited purpose of satisfying a judgment under subsection (a), breach an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(3) TERRORIST PARTY- The term 'terrorist party' means a terrorist, a terrorist organization, or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) (including any agency or instrumentality of that state).

END

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