

Crime Victims Fund “Lockbox” A New Approach to Saving VOCA

Since its creation in 1984 as part of the Victims of Crime Act (VOCA), the Crime Victims Fund has been the primary source of Federal financial support for state crime victim compensation and assistance services for victims of all types of crimes. Thanks to VOCA funds, every year, some 4,400 local victim service agencies are able to help more than 3.8 million crime victims and crime victim compensation programs in all 50 states, the District of Columbia, Puerto Rico and the Virgin Islands provide financial assistance to more than 142,000 victims.

Since its creation, the Fund—which comes from fines and other penalties collected from Federal criminals, not from taxpayers—has collected more than \$8 billion. Traditionally, the total amount deposited into the Fund in each year is used to support victim services the following year.

Beginning in 1999, when Fund deposits started to fluctuate widely, Congress has limited or “capped” the amount of each year’s Fund deposits that would be made available to support victim services every year. Congress has repeatedly said that the reason for capping the Fund is “to ensure that a stable level of funding will remain available for these programs in future years.” In recent years, the cap has been set at about \$625 million.

Capping the Fund means that in years when annual deposits are more than the amount allowed to be spent, a balance is left which Congress, by statute, says must remain in the Fund for future victim services. Conversely, when annual deposits are less than the cap, the Fund’s balance is drawn down. The balance, which has ranged between \$600 million to \$700 million, is a “rainy day” reserve that Congress uses to stabilize annual VOCA spending.

For the past three Federal budgets, the Administration has proposed transferring approximately \$1.3 billion from the Fund into the U.S. General Treasury. The Administration’s proposal would not only have wiped out the “rainy day” reserve, it would also have removed all current year’s deposits leaving the Fund empty for the following year’s programs. If successful, these budget proposals would greatly jeopardize this vital source of funding for the nation’s victim services.

And so, every year, a coalition of dozens of crime victim advocacy coalitions and criminal justice organizations, individual crime victims and Congressional supporters join together to fight the Administration’s proposals and every year, Congress has flatly, explicitly and overwhelmingly rejected these efforts to virtually eviscerate VOCA.

One of the reasons given for the Administration’s raid on VOCA is based upon the complicated nature of the federal budget process. Before Congress actually appropriates funds for federal programs, it tries to pass a budget resolution—a blueprint or target for overall federal taxes and spending. Every federal spending program is then “scored” or “counted” against these budget targets.

When Congress started capping the Fund, it scored the withheld amounts as “savings” which offset spending for other programs. This helps Congress meet its budget targets (and is an incentive to keep the VOCA cap as low as possible). The Administration accused Congress of playing budgetary tricks to hide additional spending. But, instead of simply opposing the use of caps, the Administration has asked to eliminate the entire Fund and put the money—money paid by criminal offenders and dedicated exclusively for victim services--into the Federal government’s General Treasury for some other, unspecified purposes.

Despite success in rebuffing the Administration's raid, the yearly fight to protect the Fund has distracted advocates from the more important task of providing critical services helping crime victims. And so, Rep. Ted Poe, co-chair of the Congressional Crime Victims' Rights Caucus, and 60 co-sponsors have introduced legislation that seeks to make it impossible for an Administration to try again to empty out the Fund or use it for anything not authorized by the VOCA statute.

H.R. 2941, the "Victims of Crime Act Preservation Fund Act of 2007" addresses this problem in several ways. First, it states that the Crime Victims Fund would no longer be counted as part of the budget submitted by the President or the congressional budget. Like the Social Security Trust Fund, the Crime Victims Fund would be considered "off-budget" meaning that any spending or "savings" from the Fund would no longer be part of the Federal budget calculation. This means that the President could no longer request a rescission of the Fund and Congress would no longer be accused of using the Fund to distort its budget goals.

Second, the bill would provide what is known as "lockbox" protection for the Crime Victims Fund. This means that neither the Senate nor the House of Representatives could consider any measure that would use any of the amounts in the Crime Victims Fund for a purpose that is not authorized by the Victims of Crime Act. Doing so would require a "super" 60-vote majority in the Senate.

It is important to understand that this bill will not preclude annual caps on VOCA spending. However, the bill would remove the incentive for Congress to set the cap at an inadequate level. Briefly, the Fund supports eight different victim service program areas (including Children's Justice Act grants and federal victim service programs) and specifies the order in which each of these are funded; basically, state VOCA victim assistance grants which support most local direct victim services are allocated last and receives whatever amount remains "under the cap" after the seven other program areas are funded. Unless the cap is set at a sufficient level, increases in the other program areas means less is available for state VOCA assistance grants. Three times since 2000 state VOCA assistance grants have been cut because the cap has not kept pace with increases in the other VOCA program areas.

By taking the Fund "off-budget" and not counting Fund "savings" as an offset for other spending, H.R. 2941 will remove a reason for Congress to set the cap at too low a level to safeguard state VOCA assistance grants.

The VOCA Lockbox bill will protect the Crime Victims Fund and ensure that the integrity of this special Fund that was established more than twenty years ago remains intact and beyond the reach of those who would like to use these monies for other purposes.