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H.R. 1325/S. 4605, THE “PROTECT AND SERVE ACT”

Facts and analysis

This legislation was introduced in the House by former law enforcement officers and current U.S. Representatives John H. Rutherford (R-FL), Val V. Demings (D-FL), Peter A. Stauber (R-MN) and Thomas C. O’Halloran (D-AZ). A nearly identical bill, H.R. 5698, passed the U.S. House of Representatives in 2018 on an overwhelming 382-35 vote.

Senator Thomas R. Tillis (R-NC) introduced the Senate companion bill, S. 4605, along with 15 other original cosponsors.

The bill would create a new Federal offense for those who deliberately target law enforcement officers with violence and is a direct response to the increased number of law enforcement officers who have been targeted for attack.

THE FACTS

- In October 2015, the U.S. Department of Justice released a report entitled: [*Ambushes of Police*](#). The report detailed the number of ambush attacks on law enforcement officers from 1990-2013. In 2013 alone, there were between 200-300 ambush attacks reported. The Executive Summary of the report states:
...the proportion of fatal attacks on officers attributable to ambushes [is] increasing. Concerns about targeted violence against police are on the rise, while officers must not only be guardians of the public but also be prepared to respond to violence targeting them.
- In May 2017, the Federal Bureau of Investigation (FBI) released a report entitled [*The Assailant Study: Mindset and Behavior*](#). The report identified a disturbing and growing trend of attackers who are motivated by a desire to kill a law enforcement officer. This motivation, the report concludes, is from a “singular narrative that portrays the officer as guilty in traditional and social media and the subject as the victim.”
- A December 2017 study by the Office of Community Oriented Policing Services entitled [*Making It Safer*](#) examined law enforcement officer fatalities from 2010-2016, including ambush attacks. The study found that 20% of ambushed officers were seated in their patrol cars and that:
56 percent were not on a call or engaged in any enforcement activity. Many of these officers were simply eating, sitting on post, or in five cases, targeted and killed while at their home or on their way home.

- In 2018, the Criminal Justice Information Services Division within the FBI released a report entitled *Ambushes and Unprovoked Attacks: Assaults on Our Nation's Law Enforcement Officers*. This comprehensive report concluded: "While the overall number of officers who were feloniously killed was declining, the percentage of officers feloniously killed during surprise attacks was increasing."
- In 2016, 253 officers were shot in the line of duty and 66 were killed, 33% of which were ambush attacks.
- In 2017, 271 officers were shot in the line of duty and 47 were killed. Deaths by gunfire among law enforcement dropped by 10% that year; however, more officers were shot in 2017 than in the previous year, showing that the risk to law enforcement did not diminish.
- In 2018, 237 officers were shot in the line of duty and 53 were killed. Of these, 22 officers were shot in an ambush attack and five of these officers died. Officer deaths by gunfire increased 24% from 2017.
- In 2019, 293 officers were shot in the line of duty, 50 of whom were killed. The number of officers shot in an ambush attack increased to 30 and seven of those officers were killed. The number of officers shot in the line of duty went up 20% in 2019. Eighteen percent (18%) of the officers killed by gunfire in 2019 were killed in an ambush attack.
- So far in 2020, 230 officers have been shot in the line of duty, 35 of whom died. Twenty-five law enforcement officers have been ambushed this year, seven of whom were killed. The lethality of these attacks would be much greater but for dramatic improvements in medical trauma science and anti-ballistic technology.

ANALYSIS: Section by Section

Section 1. Short Title.

The short title of the bill is the "Protect and Serve Act."

Section 2. Crimes targeting law enforcement officers.

This section creates a new Federal offense for anyone who "knowingly assaults a law enforcement officer" and would sentence such an offender for a term of imprisonment for 10 years or for life for murder or attempted murder. In order for these charges to be filed, the U.S. Attorney General must certify that:

- the State does not have jurisdiction;
- the State has asked the Federal government to assume jurisdiction;
- the verdict or sentence at the State level "left demonstratively unvindicated the Federal interest in protecting public safety; or
- a Federal prosecution is in the public interest and necessary to "secure substantial justice."