

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 573

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## AN ACT

To establish the National Criminal Justice Commission.

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 “National Criminal Jus-  
3 tice Commission Act of 2018”.

4 **SEC. 2. FINDINGS.**

5 Congress finds that—

6 (1) it is in the interest of the Nation to estab-  
7 lish a commission to undertake a comprehensive re-  
8 view of the criminal justice system;

9 (2) there has not been a comprehensive study  
10 since the President’s Commission on Law Enforce-  
11 ment and Administration of Justice was established  
12 in 1965;

13 (3) that commission, in a span of 18 months,  
14 produced a comprehensive report entitled “The  
15 Challenge of Crime in a Free Society,” which con-  
16 tained 200 specific recommendations on all aspects  
17 of the criminal justice system involving Federal,  
18 State, Tribal, and local governments, civic organiza-  
19 tions, religious institutions, business groups, and in-  
20 dividual citizens; and

21 (4) developments over the intervening 50 years  
22 require once again that Federal, State, Tribal, and  
23 local governments, law enforcement agencies, includ-  
24 ing rank and file officers, civil rights organizations,  
25 community-based organization leaders, civic organi-  
26 zations, religious institutions, business groups, and

1 individual citizens come together to review evidence  
2 and consider how to improve the criminal justice  
3 system.

4 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

5 There is established a commission to be known as the  
6 “National Criminal Justice Commission” (referred to in  
7 this Act as the “Commission”).

8 **SEC. 4. PURPOSE OF THE COMMISSION.**

9 The Commission shall—

10 (1) undertake a comprehensive review of the  
11 criminal justice system;

12 (2) make recommendations for Federal criminal  
13 justice reform to the President and Congress; and

14 (3) disseminate findings and supplemental guid-  
15 ance to the Federal Government, as well as to State,  
16 local, and Tribal governments.

17 **SEC. 5. REVIEW, RECOMMENDATIONS, AND REPORT.**

18 (a) GENERAL REVIEW.—The Commission shall un-  
19 dertake a comprehensive review of all areas of the criminal  
20 justice system, including Federal, State, local, and Tribal  
21 governments’ criminal justice costs, practices, and policies.

22 (b) RECOMMENDATIONS.—

23 (1) IN GENERAL.—Not later than 18 months  
24 after the first meeting of the Commission, the Com-  
25 mission shall submit to the President and Congress

1 recommendations for changes in Federal oversight,  
2 policies, practices, and laws designed to prevent,  
3 deter, and reduce crime and violence, reduce recidi-  
4 vism, improve cost-effectiveness, and ensure the in-  
5 terests of justice at every step of the criminal justice  
6 system.

7 (2) UNANIMOUS CONSENT REQUIRED.—A rec-  
8 ommendation of the Commission may be adopted  
9 and submitted under paragraph (1) if the rec-  
10 ommendation is approved by a unanimous vote of  
11 the Commissioners at a meeting where a quorum is  
12 present pursuant to section 6(d).

13 (3) REQUIREMENT.—The recommendations  
14 submitted under this subsection shall be made avail-  
15 able to the public.

16 (c) REPORT.—

17 (1) IN GENERAL.—Not later than 18 months  
18 after the first meeting of the Commission, the Com-  
19 mission shall also disseminate to the Federal Gov-  
20 ernment, as well as to State, local, and Tribal gov-  
21 ernments, a report that details the findings and sup-  
22 plemental guidance of the Commission regarding the  
23 criminal justice system at all levels of government.

24 (2) MAJORITY VOTE REQUIRED.—Commission  
25 findings and supplemental guidance may be adopted

1 and included in the report required under paragraph  
2 (1) if the findings or guidance is approved by a ma-  
3 jority vote of the Commissioners at a meeting where  
4 a quorum is present pursuant to section 6(d), except  
5 that any Commissioners dissenting from particular  
6 finding or supplemental guidance shall have the  
7 right to state the reason for their dissent in writing  
8 and such dissent shall be included in the report of  
9 the Commission.

10 (3) REQUIREMENT.—The report submitted  
11 under this subsection shall be made available to the  
12 public.

13 (d) PRIOR COMMISSIONS.—The Commission shall  
14 take into consideration the work of prior relevant commis-  
15 sions in conducting its review.

16 (e) STATE AND LOCAL GOVERNMENT.—In issuing its  
17 recommendations and report under this section, the Com-  
18 mission shall not infringe on the legitimate rights of the  
19 States to determine their own criminal laws or the enforce-  
20 ment of such laws.

21 (f) PUBLIC HEARINGS.—The Commission shall con-  
22 duct public hearings in various locations around the  
23 United States.

24 (g) CONSULTATION WITH GOVERNMENT AND NON-  
25 GOVERNMENT REPRESENTATIVES.—

1 (1) IN GENERAL.—The Commission shall—

2 (A) closely consult with Federal, State,  
3 local, and Tribal government and nongovern-  
4 mental leaders, including State, local, and Trib-  
5 al law enforcement officials, including rank and  
6 file officers, legislators, public health officials,  
7 judges, court administrators, prosecutors, de-  
8 fense counsel, victims' rights organizations, pro-  
9 bation and parole officials, criminal justice  
10 planners, criminologists, civil rights and lib-  
11 erties organizations, community-based organiza-  
12 tion leaders, formerly incarcerated individuals,  
13 professional organizations, and corrections offi-  
14 cials; and

15 (B) include in the final report required  
16 under subsection (c) summaries of the input  
17 and recommendations of these leaders.

18 (2) UNITED STATES SENTENCING COMMIS-  
19 SION.—To the extent the review and recommenda-  
20 tions required by this section relate to sentencing  
21 policies and practices for the Federal criminal jus-  
22 tice system, the Commission shall conduct such re-  
23 view in consultation with the United States Sen-  
24 tencing Commission.

1 (h) SENSE OF CONGRESS, GOAL OF UNANIMITY.—

2 It is the sense of the Congress that, given the national  
3 importance of the matters before the Commission, the  
4 Commission should work toward unanimously supported  
5 findings and supplemental guidance, and that unani-  
6 mously supported findings and supplemental guidance  
7 should take precedence over those findings and supple-  
8 mental guidance that are not unanimously supported.

9 **SEC. 6. MEMBERSHIP.**

10 (a) IN GENERAL.—The Commission shall be com-  
11 posed of 14 members, as follows:

12 (1) The President shall appoint the Attorney  
13 General to serve as chairman and a member of the  
14 Commission.

15 (2) Six members shall be appointed by the At-  
16 torney General in consultation with—

17 (A) the leadership of the Senate and  
18 House of Representatives of the same political  
19 party as the President; and

20 (B) the leadership of the Committee on the  
21 Judiciary of the House of Representatives and  
22 the Committee on the Judiciary of the Senate  
23 of the same political party as the President.

24 (3) Seven members shall be appointed by the  
25 senior members of the leadership of the Senate and

1 the House of Representatives of the opposite party  
2 of the President in consultation with the leadership  
3 of the Committee on the Judiciary of the House of  
4 Representatives and the Committee on the Judiciary  
5 of the Senate of the opposite political party of the  
6 President.

7 (b) MEMBERSHIP.—

8 (1) IN GENERAL.—Members will be selected  
9 based upon knowledge or experience in such relevant  
10 areas as—

11 (A) law enforcement;

12 (B) criminal justice;

13 (C) national security;

14 (D) prison and jail administration;

15 (E) prisoner reentry;

16 (F) public health, including physical and  
17 sexual victimization, drug addiction and mental  
18 health;

19 (G) victims' rights;

20 (H) civil rights;

21 (I) civil liberties;

22 (J) court administration;

23 (K) social services; and

24 (L) State, local, and Tribal government.

25 (2) LAW ENFORCEMENT REPRESENTATION.—



1 (A) MEMBERS APPOINTED BY ATTORNEY  
2 GENERAL.—Of the 6 members appointed by the  
3 Attorney General under subsection (a)(2)—

4 (i) not fewer than 2 shall be rep-  
5 resentatives from Federal, State, or local  
6 law enforcement agencies; and

7 (ii) not fewer than 1 shall be a rep-  
8 resentative from Tribal law enforcement  
9 agencies.

10 (B) OTHER MEMBERS.—Of the 7 members  
11 appointed under subsection (a)(3)—

12 (i) not fewer than 2 shall be rep-  
13 resentatives of Federal, State, or local law  
14 enforcement agencies; and

15 (ii) not fewer than 1 shall be a rep-  
16 resentative from Tribal law enforcement  
17 agencies.

18 (3) DISQUALIFICATION.—An individual shall  
19 not be appointed as a member of the Commission if  
20 such individual possesses any personal financial in-  
21 terest in the discharge of any of the duties of the  
22 Commission.

23 (4) TERMS.—Members shall be appointed for  
24 the life of the Commission.

25 (c) APPOINTMENT; FIRST MEETING.—

1           (1) APPOINTMENT.—Members of the Commis-  
2 sion shall be appointed not later than 45 days after  
3 the date of the enactment of this Act.

4           (2) FIRST MEETING.—The Commission shall  
5 hold its first meeting on the date that is 60 days  
6 after the date of enactment of this Act, or not later  
7 than 30 days after the date on which funds are  
8 made available for the Commission, whichever is  
9 later.

10           (3) ETHICS.—At the first meeting of the Com-  
11 mission, the Commission shall draft appropriate eth-  
12 ics guidelines for commissioners and staff, including  
13 guidelines relating to conflict of interest and finan-  
14 cial disclosure. The Commission shall consult with  
15 the Senate and House Committees on the Judiciary  
16 as a part of drafting the guidelines and furnish the  
17 Committees with a copy of the completed guidelines.

18 (d) MEETINGS; QUORUM; VACANCIES.—

19           (1) MEETINGS.—The Commission shall meet at  
20 the call of the chairman or his or her designee.

21           (2) QUORUM.—A majority of the members of  
22 the Commission shall constitute a quorum for pur-  
23 poses of conducting business, except that 2 members  
24 of the Commission shall constitute a quorum for  
25 purposes of receiving testimony.

1           (3) VACANCIES.—Any vacancy in the Commis-  
2           sion shall not affect its powers, but shall be filled in  
3           the same manner in which the original appointment  
4           was made. If vacancies in the Commission occur on  
5           any day after 45 days after the date of the enact-  
6           ment of this Act, a quorum shall consist of a major-  
7           ity of the members of the Commission as of such  
8           day, so long as not less than 1 Commission member  
9           chosen by a member of each party, Republican and  
10          Democratic, is present.

11         (e) ACTIONS OF COMMISSION.—

12           (1) IN GENERAL.—The Commission—

13                 (A) shall, subject to the requirements of  
14                 section 5, act by resolution agreed to by a ma-  
15                 jority of the members of the Commission voting  
16                 and present; and

17                 (B) may establish panels composed of less  
18                 than the full membership of the Commission for  
19                 purposes of carrying out the duties of the Com-  
20                 mission under this title—

21                         (i) which shall be subject to the review  
22                         and control of the Commission; and

23                         (ii) any findings and determinations  
24                         made by such a panel shall not be consid-  
25                         ered the findings and determinations of the

1 Commission unless approved by the Com-  
2 mission.

3 (2) DELEGATION.—Any member, agent, or staff  
4 of the Commission may, if authorized by the chair-  
5 man of the Commission, take any action which the  
6 Commission is authorized to take pursuant to this  
7 Act.

8 **SEC. 7. ADMINISTRATION.**

9 (a) STAFF.—

10 (1) EXECUTIVE DIRECTOR.—The Commission  
11 shall have a staff headed by an Executive Director.  
12 The Executive Director shall be paid at a rate estab-  
13 lished for the Certified Plan pay level for the Senior  
14 Executive Service under section 5382 of title 5,  
15 United States Code.

16 (2) APPOINTMENT AND COMPENSATION.—The  
17 chairman of the Commission shall designate and fix  
18 the compensation of the Executive Director and, in  
19 accordance with rules agreed upon by the Commis-  
20 sion, may appoint and fix the compensation of such  
21 other personnel as may be necessary to enable the  
22 Commission to carry out its functions, without re-  
23 gard to the provisions of title 5, United States Code,  
24 governing appointments in the competitive service,  
25 and without regard to the provisions of chapter 51

1 and subchapter III of chapter 53 of such title relat-  
2 ing to classification and General Schedule pay rates,  
3 except that no rate of pay fixed under this sub-  
4 section may exceed the equivalent of that payable for  
5 a position at level V of the Executive Schedule under  
6 section 5316 of title 5, United States Code.

7 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

8 (A) IN GENERAL.—The executive director  
9 and any personnel of the Commission who are  
10 employees shall be employees under section  
11 2105 of title 5, United States Code, for pur-  
12 poses of chapters 63, 81, 83, 84, 85, 87, 89,  
13 and 90 of that title.

14 (B) MEMBERS OF COMMISSION.—Subpara-  
15 graph (A) shall not be construed to apply to  
16 members of the Commission.

17 (4) THE COMPENSATION OF COMMISSIONERS.—

18 Each member of the Commission may be com-  
19 pensated at not to exceed the daily equivalent of the  
20 annual rate of basic pay in effect for a position at  
21 level V of the Executive Schedule under section 5315  
22 of title 5, United States Code, for each day during  
23 which that member is engaged in the actual per-  
24 formance of the duties of the Commission. All mem-  
25 bers of the Commission who are officers or employ-

1       ees of the United States, State, or local government  
2       shall serve without compensation in addition to that  
3       received for their services as officers or employees.

4           (5) TRAVEL EXPENSES.—While away from  
5       their homes or regular places of business in the per-  
6       formance of services for the Commission, members  
7       of the Commission shall be allowed travel expenses,  
8       including per diem in lieu of subsistence, in the  
9       same manner as persons employed intermittently in  
10      the Government service are allowed expenses under  
11      section 5703(b) of title 5, United States Code.

12      (b) EXPERTS AND CONSULTANTS.—With the ap-  
13      proval of the Commission, the Executive Director may  
14      procure temporary and intermittent services under section  
15      3109(b) of title 5, United States Code.

16      (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon  
17      the request of the Commission, the head of any Federal  
18      agency may detail, without reimbursement, any of the per-  
19      sonnel of such agency to the Commission to assist in car-  
20      rying out the duties of the Commission. Any such detail  
21      shall not interrupt or otherwise affect the civil service sta-  
22      tus or privileges of the Federal employee.

23      (d) OTHER RESOURCES.—The Commission shall  
24      have reasonable access to materials, resources, statistical  
25      data, and other information such Commission determines

1 to be necessary to carry out its duties from the Library  
2 of Congress, the Department of Justice, the Office of Na-  
3 tional Drug Control Policy, the Department of State, and  
4 other agencies of the executive and legislative branches of  
5 the Federal Government. The chairman of the Commis-  
6 sion shall make requests for such access in writing when  
7 necessary.

8 (e) VOLUNTEER SERVICES.—Notwithstanding the  
9 provisions of section 1342 of title 31, United States Code,  
10 the Commission is authorized to accept and utilize the  
11 services of volunteers serving without compensation. The  
12 Commission may reimburse such volunteers for local travel  
13 and office supplies, and for other travel expenses, includ-  
14 ing per diem in lieu of subsistence, as authorized by sec-  
15 tion 5703 of title 5, United States Code. A person pro-  
16 viding volunteer services to the Commission shall be con-  
17 sidered an employee of the Federal Government in per-  
18 formance of those services for the purposes of chapter 81  
19 of title 5, United States Code, relating to compensation  
20 for work-related injuries, chapter 171 of title 28, United  
21 States Code, relating to tort claims, and chapter 11 of  
22 title 18, United States Code, relating to conflicts of inter-  
23 est.

24 (f) OBTAINING OFFICIAL DATA.—The Commission  
25 may secure directly from any agency of the United States

1 information necessary to enable it to carry out this Act.  
2 Upon the request of the chairman of the Commission, the  
3 head of that department or agency shall furnish that infor-  
4 mation to the Commission. The Commission shall not have  
5 access to sensitive information regarding ongoing inves-  
6 tigations.

7 (g) **MAILS.**—The Commission may use the United  
8 States mails in the same manner and under the same con-  
9 ditions as other departments and agencies of the United  
10 States.

11 (h) **ADMINISTRATIVE REPORTING.**—The Commission  
12 shall issue biannual status reports to Congress regarding  
13 the use of resources, salaries, and all expenditures of ap-  
14 propriated funds.

15 (i) **CONTRACTS.**—The Commission is authorized to  
16 enter into contracts with Federal and State agencies, pri-  
17 vate firms, institutions, and individuals for the conduct of  
18 activities necessary to the discharge of its duties and re-  
19 sponsibilities. A contract, lease or other legal agreement  
20 entered into by the Commission may not extend beyond  
21 the date of the termination of the Commission.

22 (j) **GIFTS.**—Subject to existing law, the Commission  
23 may accept, use, and dispose of gifts or donations of serv-  
24 ices or property.



1       (k) ADMINISTRATIVE ASSISTANCE.—The Adminis-  
2 trator of General Services shall provide to the Commis-  
3 sion, on a reimbursable basis, the administrative support  
4 services necessary for the Commission to carry out its re-  
5 sponsibilities under this Act. These administrative services  
6 may include human resource management, budget, leas-  
7 ing, accounting, and payroll services.

8       (l) NONAPPLICABILITY OF FACAA AND PUBLIC AC-  
9 CESS TO MEETINGS AND MINUTES.—

10           (1) IN GENERAL.—The Federal Advisory Com-  
11 mittee Act (5 U.S.C. App.) shall not apply to the  
12 Commission.

13           (2) MEETINGS AND MINUTES.—

14           (A) MEETINGS.—

15           (i) ADMINISTRATION.—All meetings of  
16 the Commission shall be open to the pub-  
17 lic, except that a meeting or any portion of  
18 it may be closed to the public if it concerns  
19 matters or information described in section  
20 552b(c) of title 5, United States Code. In-  
21 terested persons shall be permitted to ap-  
22 pear at open meetings and present oral or  
23 written statements on the subject matter  
24 of the meeting. The Commission may ad-

1 minister oaths or affirmations to any per-  
2 son appearing before it.

3 (ii) NOTICE.—All open meetings of  
4 the Commission shall be preceded by time-  
5 ly public notice in the Federal Register of  
6 the time, place, and subject of the meeting.

7 (B) MINUTES AND PUBLIC AVAIL-  
8 ABILITY.—Minutes of each open meeting shall  
9 be kept and shall contain a record of the people  
10 present, a description of the discussion that oc-  
11 curred, and copies of all statements filed. The  
12 minutes and records of all open meetings and  
13 other documents that were made available to or  
14 prepared for the Commission shall be available  
15 for public inspection and copying at a single lo-  
16 cation in the offices of the Commission.

17 (m) ARCHIVING.—Not later than the date of termi-  
18 nation of the Commission, all records and papers of the  
19 Commission shall be delivered to the Archivist of the  
20 United States for deposit in the National Archives.

21 **SEC. 8. AUTHORIZATION FOR USE OF FUNDS.**

22 For each of fiscal years 2019 and 2020, the Attorney  
23 General may use, from any unobligated balances made  
24 available under the heading “General Administration” to  
25 the Department of Justice in an appropriations Act, such

1 amounts as are necessary, not to exceed \$7,000,000 per  
2 fiscal year and not to exceed \$14,000,000 total for both  
3 fiscal years, to carry out this Act, except that none of the  
4 funds authorized to be used to carry out this Act may be  
5 used for international travel.

6 **SEC. 9. SUNSET.**

7 The Commission shall terminate 60 days after the  
8 Commission submits the report required under section  
9 5(c) to Congress.

Passed the Senate December 22, 2018.

Attest:

*Secretary.*

115<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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