

118TH CONGRESS
1ST SESSION

S. _____

To protect law enforcement officers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CORNYN (for himself, Mr. McCONNELL, Mr. GRAHAM, Mr. CRUZ, Mr. TILLIS, Mr. SCOTT of Florida, Mr. MORAN, Mr. BRAUN, Mr. CRAMER, Mrs. BLACKBURN, Mr. BOOZMAN, Mrs. FISCHER, Mrs. CAPITO, Mrs. BRITT, Mr. CRAPO, Mr. RUBIO, Mr. RISCH, Mr. RICKETTS, Mr. DAINES, Mr. BARRASSO, Mr. LANKFORD, Mrs. HYDE-SMITH, Mr. KENNEDY, Mr. COTTON, Mr. THUNE, Mr. HOEVEN, Mr. BUDD, Mr. HAWLEY, Mr. SCOTT of South Carolina, Mr. HAGERTY, Mr. MARSHALL, Mr. CASSIDY, Ms. ERNST, Mr. TUBERVILLE, Mr. GRASSLEY, Mr. YOUNG, Mr. SCHMITT, Ms. LUMMIS, and Mr. WICKER) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To protect law enforcement officers, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Back the Blue Act
5 of 2023”.

6 **SEC. 2. PROTECTION OF LAW ENFORCEMENT OFFICERS.**

7 (a) **KILLING OF LAW ENFORCEMENT OFFICERS.—**

1 (1) OFFENSE.—Chapter 51 of title 18, United
2 States Code, is amended by adding at the end the
3 following:

4 **“§ 1123. Killing of law enforcement officers**

5 “(a) DEFINITIONS.—In this section—

6 “(1) the terms ‘Federal law enforcement officer’
7 and ‘United States judge’ have the meanings given
8 those terms in section 115;

9 “(2) the term ‘federally funded public safety of-
10 ficer’ means a public safety officer or judicial officer
11 for a public agency that—

12 “(A) receives Federal financial assistance;
13 and

14 “(B) is an agency of an entity that is a
15 State of the United States, the District of Co-
16 lumbia, the Commonwealth of Puerto Rico, the
17 Virgin Islands, Guam, American Samoa, the
18 Commonwealth of the Northern Mariana Is-
19 lands, or any territory or possession of the
20 United States, an Indian tribe, or a unit of
21 local government of that entity;

22 “(3) the term ‘firefighter’ includes an individual
23 serving as an official recognized or designated mem-
24 ber of a legally organized volunteer fire department

1 and an officially recognized or designated public em-
2 ployee member of a rescue squad or ambulance crew;

3 “(4) the term ‘judicial officer’ means a judge or
4 other officer or employee of a court, including pros-
5 ecutors, court security, pretrial services officers,
6 court reporters, and corrections, probation, and pa-
7 role officers;

8 “(5) the term ‘law enforcement officer’ means
9 an individual, with statutory arrest powers, involved
10 in crime or juvenile delinquency control or reduction
11 or enforcement of the laws;

12 “(6) the term ‘public agency’ includes a court
13 system, the National Guard of a State to the extent
14 the personnel of that National Guard are not in
15 Federal service, and the defense forces of a State
16 authorized by section 109 of title 32; and

17 “(7) the term ‘public safety officer’ means an
18 individual serving a public agency in an official ca-
19 pacity, as a law enforcement officer, as a firefighter,
20 as a chaplain, or as a member of a rescue squad or
21 ambulance crew.

22 “(b) OFFENSE.—It shall be unlawful for any person
23 to—

24 “(1) kill, or attempt or conspire to kill—

25 “(A) a United States judge;

1 “(B) a Federal law enforcement officer; or

2 “(C) a federally funded public safety offi-

3 cer while that officer is engaged in official du-

4 ties, or on account of the performance of offi-

5 cial duties; or

6 “(2) kill a former United States judge, Federal

7 law enforcement officer, or federally funded public

8 safety officer on account of the past performance of

9 official duties.

10 “(c) PENALTY.—Any person that violates subsection

11 (b) shall be fined under this title and imprisoned for not

12 less than 10 years or for life, or, if death results, shall

13 be sentenced to not less than 30 years and not more than

14 life, or may be punished by death.”.

15 (2) TABLE OF SECTIONS.—The table of sections

16 for chapter 51 of title 18, United States Code, is

17 amended by adding at the end the following:

“1123. Killing of law enforcement officers.”.

18 (b) ASSAULT OF LAW ENFORCEMENT OFFICERS.—

19 (1) OFFENSE.—Chapter 7 of title 18, United

20 States Code, is amended by adding at the end the

21 following:

22 **“§ 120. Assaults of law enforcement officers**

23 “(a) DEFINITION.—In this section, the term ‘feder-

24 ally funded State or local law enforcement officer’ means

25 an individual involved in crime and juvenile delinquency

1 control or reduction, or enforcement of the laws (including
2 a police, corrections, probation, or parole officer) who
3 works for a public agency (that receives Federal financial
4 assistance) of a State of the United States or the District
5 of Columbia.

6 “(b) OFFENSE.—It shall be unlawful to assault a fed-
7 erally funded State or local law enforcement officer while
8 engaged in or on account of the performance of official
9 duties, or assaults any person who formerly served as a
10 federally funded State or local law enforcement officer on
11 account of the performance of such person’s official duties
12 during such service, or because of the actual or perceived
13 status of the person as a federally funded State or local
14 law enforcement officer.

15 “(c) PENALTY.—Any person that violates subsection
16 (b) shall be subject to a fine under this title and—

17 “(1) if the assault resulted in bodily injury (as
18 defined in section 1365), shall be imprisoned not less
19 than 2 years and not more than 10 years;

20 “(2) if the assault resulted in substantial bodily
21 injury (as defined in section 113), shall be impris-
22 oned not less than 5 years and not more than 20
23 years;

1 “(3) if the assault resulted in serious bodily in-
2 jury (as defined in section 1365), shall be impris-
3 oned for not less than 10 years;

4 “(4) if a deadly or dangerous weapon was used
5 during and in relation to the assault, shall be im-
6 prisoned for not less than 20 years; and

7 “(5) shall be imprisoned for not more than 1
8 year in any other case.

9 “(d) CERTIFICATION REQUIREMENT.—

10 “(1) IN GENERAL.—No prosecution of any of-
11 fense described in this section may be undertaken by
12 the United States, except under the certification in
13 writing of the Attorney General, or a designee,
14 that—

15 “(A) the State does not have jurisdiction;

16 “(B) the State has requested that the Fed-
17 eral Government assume jurisdiction;

18 “(C) the verdict or sentence obtained pur-
19 suant to State charges left demonstratively
20 unvindicated the Federal interest in eradicating
21 bias-motivated violence; or

22 “(D) a prosecution by the United States is
23 in the public interest and necessary to secure
24 substantial justice.

1 “(2) RULE OF CONSTRUCTION.—Nothing in
2 this subsection shall be construed to limit the au-
3 thority of Federal officers, or a Federal grand jury,
4 to investigate possible violations of this section.

5 “(e) STATUTE OF LIMITATIONS.—

6 “(1) OFFENSES NOT RESULTING IN DEATH.—
7 Except as provided in paragraph (2), no person shall
8 be prosecuted, tried, or punished for any offense
9 under this section unless the indictment for such of-
10 fense is found, or the information for such offense
11 is instituted, not later than 7 years after the date
12 on which the offense was committed.

13 “(2) OFFENSES RESULTING IN DEATH.—An in-
14 dictment or information alleging that an offense
15 under this section resulted in death may be found or
16 instituted at any time without limitation.”.

17 (2) TABLE OF SECTIONS.—The table of sections
18 for chapter 7 of title 18, United States Code, is
19 amended by adding at the end the following:

“120. Killing of law enforcement officers.”.

20 (c) FLIGHT TO AVOID PROSECUTION FOR KILLING
21 LAW ENFORCEMENT OFFICIALS.—

22 (1) OFFENSE.—Chapter 49 of title 18, United
23 States Code, is amended by adding at the end the
24 following:

1 **“§ 1075. Flight to avoid prosecution for killing law**
2 **enforcement officials**

3 “(a) OFFENSE.—It shall be unlawful for any person
4 to move or travel in interstate or foreign commerce with
5 intent to avoid prosecution, or custody or confinement
6 after conviction, under the laws of the place from which
7 the person flees or under section 1114 or 1123, for a crime
8 consisting of the killing, an attempted killing, or a con-
9 spiracy to kill a Federal judge or Federal law enforcement
10 officer (as those terms are defined in section 115), or a
11 federally funded public safety officer (as that term is de-
12 fined in section 1123).

13 “(b) PENALTY.—Any person that violates subsection
14 (a) shall be fined under this title and imprisoned for not
15 less than 10 years, in addition to any other term of impris-
16 onment for any other offense relating to the conduct de-
17 scribed in subsection (a).”.

18 (2) TABLE OF SECTIONS.—The table of sections
19 for chapter 49 of title 18, United States Code, is
20 amended by adding at the end the following:

“1075. Flight to avoid prosecution for killing law enforcement officials.”.

1 **SEC. 3. SPECIFIC AGGRAVATING FACTOR FOR FEDERAL**
2 **DEATH PENALTY KILLING OF LAW ENFORCE-**
3 **MENT OFFICER.**

4 (a) AGGRAVATING FACTORS FOR HOMICIDE.—Sec-
5 tion 3592(c) of title 18, United States Code, is amended
6 by inserting after paragraph (16) the following:

7 “(17) KILLING OF A LAW ENFORCEMENT OFFI-
8 CER, PROSECUTOR, JUDGE, OR FIRST RESPONDER.—
9 The defendant killed or attempted to kill a person
10 who is authorized by law—

11 “(A) to engage in or supervise the preven-
12 tion, detention, or investigation of any criminal
13 violation of law;

14 “(B) to arrest, prosecute, or adjudicate an
15 individual for any criminal violation of law; or

16 “(C) to be a firefighter or other first re-
17 sponder.”.

18 **SEC. 4. LIMITATION ON FEDERAL HABEAS RELIEF FOR**
19 **MURDERS OF LAW ENFORCEMENT OFFICERS.**

20 (a) JUSTICE FOR LAW ENFORCEMENT OFFICERS
21 AND THEIR FAMILIES.—

22 (1) IN GENERAL.—Section 2254 of title 28,
23 United States Code, is amended by adding at the
24 end the following:

25 “(j)(1) For an application for a writ of habeas corpus
26 on behalf of a person in custody pursuant to the judgment

1 of a State court for a crime that involved the killing of
2 a public safety officer (as that term is defined in section
3 1204 of title I of the Omnibus Crime Control and Safe
4 Streets Act of 1968 (34 U.S.C. 10284)) or judge, while
5 the public safety officer or judge was engaged in the per-
6 formance of official duties, or on account of the perform-
7 ance of official duties by or status as a public safety officer
8 or judge of the public safety officer or judge—

9 “(A) the application shall be subject to the time
10 limitations and other requirements under sections
11 2263, 2264, and 2266; and

12 “(B) the court shall not consider claims relating
13 to sentencing that were adjudicated in a State court.

14 “(2) Sections 2251, 2262, and 2101 are the exclusive
15 sources of authority for Federal courts to stay a sentence
16 of death entered by a State court in a case described in
17 paragraph (1).”.

18 (2) RULES.—Rule 11 of the Rules Governing
19 Section 2254 Cases in the United States District
20 Courts is amended by adding at the end the fol-
21 lowing: “Rule 60(b)(6) of the Federal Rules of Civil
22 Procedure shall not apply to a proceeding under
23 these rules in a case that is described in section
24 2254(j) of title 28, United States Code.”.

1 (3) FINALITY OF DETERMINATION.—Section
2 2244(b)(3)(E) of title 28, United States Code, is
3 amended by striking “the subject of a petition” and
4 all that follows and inserting: “reheard in the court
5 of appeals or reviewed by writ of certiorari.”.

6 (4) EFFECTIVE DATE AND APPLICABILITY.—

7 (A) IN GENERAL.—This paragraph and the
8 amendments made by this paragraph shall
9 apply to any case pending on or after the date
10 of enactment of this Act.

11 (B) TIME LIMITS.—In a case pending on
12 the date of enactment of this Act, if the amend-
13 ments made by this paragraph impose a time
14 limit for taking certain action, the period of
15 which began before the date of enactment of
16 this Act, the period of such time limit shall
17 begin on the date of enactment of this Act.

18 (C) EXCEPTION.—The amendments made
19 by this paragraph shall not bar consideration
20 under section 2266(b)(3)(B) of title 28, United
21 States Code, of an amendment to an application
22 for a writ of habeas corpus that is pending on
23 the date of enactment of this Act, if the amend-
24 ment to the petition was adjudicated by the
25 court prior to the date of enactment of this Act.

1 **SEC. 5. SELF-DEFENSE RIGHTS FOR LAW ENFORCEMENT**
2 **OFFICERS.**

3 (a) IN GENERAL.—Chapter 203 of title 18, United
4 States Code, is amended by inserting after section 3053
5 the following:

6 **“§ 3054. Authority of law enforcement officers to**
7 **carry firearms**

8 “Any sworn officer, agent, or employee of the United
9 States, a State, or a political subdivision thereof, who is
10 authorized by law to engage in or supervise the prevention,
11 detection, investigation, or prosecution of any violation of
12 law, or to supervise or secure the safety of incarcerated
13 inmates, may carry firearms if authorized by law to do
14 so. Such authority to carry firearms, with respect to the
15 lawful performance of the official duties of a sworn officer,
16 agent, or employee of a State or a political subdivision
17 thereof, shall include possession incident to depositing a
18 firearm within a secure firearms storage area for use by
19 all persons who are authorized to carry a firearm within
20 any building or structure classified as a Federal facility
21 or Federal court facility, as those terms are defined under
22 section 930, and any grounds appurtenant to such a facil-
23 ity.”.

24 (b) CARRYING OF CONCEALED FIREARMS BY QUALI-
25 FIED LAW ENFORCEMENT OFFICERS.—Section

1 926B(e)(2) of title 18, United States Code, is amended
2 by inserting “any magazine and” after “includes”.

3 (c) CARRYING OF CONCEALED FIREARMS BY QUALI-
4 FIED RETIRED LAW ENFORCEMENT OFFICERS.—Section
5 926C(e)(1)(B) of title 18, United States Code, is amended
6 by inserting “any magazine and” after “includes”.

7 (d) SCHOOL ZONES.—Section 922(q)(2)(B)(vi) title
8 18, United States Code, is amended by inserting “, a
9 qualified law enforcement officer (as defined in section
10 926B), or a qualified retired law enforcement officer (as
11 defined in section 926C)” before the semicolon.

12 (e) REGULATIONS REQUIRED.—Not later than 60
13 days after the date of enactment of this Act, the Attorney
14 General shall promulgate regulations allowing persons de-
15 scribed in section 3054 of title 18, United States Code,
16 to possess firearms in a manner described by that section.
17 With respect to Federal justices, judges, bankruptcy
18 judges, and magistrate judges, such regulations shall be
19 prescribed after consultation with the Judicial Conference
20 of the United States.

21 (f) TABLE OF SECTIONS.—The table of sections for
22 chapter 203 of title 18, United States Code, is amended
23 by inserting after the item relating to section 3053 the
24 following:

“3054. Authority of law enforcement officers to carry firearms.”.

1 (g) FURTHER AMENDMENTS.—Section 930 of title
2 18, United States Code, is amended—

3 (1) in subsection (d)—

4 (A) in paragraph (2), by striking “or” at
5 the end;

6 (B) in paragraph (3), by striking the pe-
7 riod at the end and inserting “; or”; and

8 (C) by adding at the end the following:

9 “(4) the possession of a firearm or ammunition
10 in a Facility Security Level I or II civilian public ac-
11 cess facility by a qualified law enforcement officer
12 (as defined in section 926B(c)) or a qualified retired
13 law enforcement officer (as defined in section
14 926C(c)).”; and

15 (2) in subsection (g), by adding at the end the
16 following:

17 “(4) The term ‘Facility Security Level’ means
18 a security risk assessment level assigned to a Fed-
19 eral facility by the security agency of the facility in
20 accordance with the biannually issued Interagency
21 Security Committee Standard.

22 “(5) The term ‘civilian public access facility’
23 means a facility open to the general public.”.