

107TH CONGRESS
2^D SESSION

H. R. 5762

To provide for the expeditious disclosure of records relevant to the life and assassination of Reverend Doctor Martin Luther King, Jr.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2002

Ms. MCKINNEY introduced the following bill; which was referred to the Committee on Government Reform

A BILL

To provide for the expeditious disclosure of records relevant to the life and assassination of Reverend Doctor Martin Luther King, Jr.

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 “Martin Luther King,
5 Jr., Records Collection Act of 2002”.

6 **SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.**

7 (a) FINDINGS AND DECLARATIONS.—The Congress
8 finds and declares that—

9 (1) all Government records related to the life
10 and assassination of Reverend Dr. Martin Luther

1 King, Jr., should be preserved for historical and gov-
2 ernmental purposes;

3 (2) all Government records concerning the life
4 and assassination of Reverend Dr. Martin Luther
5 King, Jr., should carry a presumption of immediate
6 disclosure, and all records should be eventually dis-
7 closed to enable the public to become fully informed
8 about the history surrounding his life and assassina-
9 tion;

10 (3) legislation is necessary to create an enforce-
11 able, independent, and accountable process for the
12 public disclosure of such records;

13 (4) legislation is necessary because congres-
14 sional records related to the life and assassination of
15 Reverend Dr. Martin Luther King, Jr., would not
16 otherwise be subject to public disclosure until at
17 least the year 2028;

18 (5) legislation is necessary because the Freedom
19 of Information Act, as implemented by the executive
20 branch, has prevented the timely public disclosure of
21 records relating to the life and assassination of Rev-
22 erend Dr. Martin Luther King, Jr.;

23 (6) legislation is necessary because Executive
24 Order No. 12356, entitled “National Security Infor-
25 mation” has eliminated the declassification and

1 downgrading schedules relating to classified informa-
2 tion across government and has prevented the timely
3 public disclosure of records relating to the life and
4 assassination of Reverend Dr. Martin Luther King,
5 Jr.; and

6 (7) most of the records related to the life and
7 assassination of Reverend Dr. Martin Luther King,
8 Jr., are almost 35 years old, and only in the rarest
9 cases is there any legitimate need for continued pro-
10 tection of such records.

11 (b) PURPOSES.—The purposes of this Act are—

12 (1) to provide for the creation of the Reverend
13 Dr. Martin Luther King, Jr., Records Collection at
14 the National Archives and Records Administration;
15 and

16 (2) to require the expeditious public trans-
17 mission to the Archivist and public disclosure of
18 such records.

19 **SEC. 3. DEFINITIONS.**

20 In this Act, the following definitions apply:

21 (1) The term “Archivist” means the Archivist
22 of the United States.

23 (2) The term “related record” means a record
24 that is related to the life and assassination of Rev-
25 erend Dr. Martin Luther King, Jr., that was created

1 or made available for use by, obtained by, or other-
2 wise came into the possession of—

3 (A) the Commission on Central Intelligence
4 Agency Activities Within the United States (the
5 “Rockefeller Commission”);

6 (B) the Senate Select Committee to Study
7 Governmental Operations with Respect to Intel-
8 ligence Activities (the “Church Committee”);

9 (C) the Select Committee on Assassina-
10 tions (the “House Assassinations Committee”)
11 of the House of Representatives;

12 (D) the Library of Congress;

13 (E) the National Archives and Records Ad-
14 ministration;

15 (F) any Presidential library;

16 (G) any Executive agency;

17 (H) any independent agency;

18 (I) any other office of the Federal Govern-
19 ment;

20 (J) any State or local law enforcement of-
21 fice that provided support or assistance or per-
22 formed work in connection with a Federal in-
23 quiry into the life and assassination of Rev-
24 erend Dr. Martin Luther King, Jr.; and

25 (K) any donated deed or gift.

1 (3) The term “collection” means the Reverend
2 Dr. Martin Luther King, Jr., Records Collection es-
3 tablished under section 4.

4 (4) The term “Executive agency” means an Ex-
5 ecutive agency as defined in subsection 552(f) of
6 title 5, United States Code, and includes any Execu-
7 tive department, military department, Government
8 corporation, Government controlled corporation, or
9 other establishment in the executive branch of the
10 Government, including the Executive Office of the
11 President, or any independent regulatory agency.

12 (5) The term “Government office” means any
13 office of the Federal Government that has possession
14 or control of related records, including—

15 (A) the House Committee on Administra-
16 tion with regard to the Select Committee on As-
17 sassinations of the records of the House of Rep-
18 resentatives;

19 (B) the Select Committee on Intelligence
20 of the Senate with regard to records of the Sen-
21 ate Select Committee to Study Governmental
22 Operations with Respect to Intelligence Activi-
23 ties and other related records;

24 (C) the Library of Congress;

1 (D) the National Archives as custodian of
2 related records that it has obtained or pos-
3 sesses, including the Commission on Central In-
4 telligence Agency Activities in the United
5 States; and

6 (E) any other executive branch office or
7 agency, and any independent agency.

8 (6) The term “identification aid” means the
9 written description prepared for each record as re-
10 quired in section 4.

11 (7) The term “National Archives” means the
12 National Archives and Records Administration and
13 all components thereof, including Presidential archi-
14 val depositories established under section 2112 of
15 title 44, United States Code.

16 (8) The term “official investigation” means the
17 reviews of the activities or assassination of Reverend
18 Dr. Martin Luther King, Jr., conducted by any
19 Presidential commission, any authorized congress-
20 sional committee, and any Government agency either
21 independently, at the request of any Presidential
22 commission or congressional committee, or at the re-
23 quest of any Government official.

24 (9) The term “originating body” means the Ex-
25 ecutive agency, government commission, congress-

1 sional committee, or other governmental entity that
2 created a record or particular information within a
3 record.

4 (10) The term “public interest” means the
5 compelling interest in the prompt public disclosure
6 of related records for historical and governmental
7 purposes and for the purpose of fully informing the
8 American people about the history surrounding the
9 life and assassination of Reverend Dr. Martin Lu-
10 ther King, Jr.

11 (11) The term “record” includes a book, paper,
12 map, photograph, sound or video recording, machine
13 readable material, computerized, digitized, or elec-
14 tronic information, regardless of the medium on
15 which it is stored, or other documentary material or
16 physical evidence, regardless of its physical form or
17 characteristics.

18 (12) The term “Review Board” means the
19 Records Review Board established by section 7.

20 (13) The term “third agency” means a Govern-
21 ment agency that originated a related record that is
22 in the possession of another agency.

1 **SEC. 4. REVEREND DR. MARTIN LUTHER KING, JR.,**
2 **RECORDS COLLECTION AT THE NATIONAL**
3 **ARCHIVES AND RECORDS ADMINISTRATION.**

4 (a) IN GENERAL.—(1) Not later than 60 days after
5 the date of enactment of this Act, the National Archives
6 and Records Administration shall commence establish-
7 ment of a collection of records to be known as the Rev-
8 erend Dr. Martin Luther King, Jr., records collection. In
9 so doing, the Archivist shall ensure the physical integrity
10 and original provenance of all records. The collection shall
11 consist of record copies of all Government records relating
12 to the life and assassination of Reverend Dr. Martin Lu-
13 ther King, Jr., which shall be transmitted to the national
14 archives in accordance with section 2107 of title 44,
15 United States Code. The archivist shall prepare and pub-
16 lish a subject guidebook and index to the collection which
17 will be available to the public for inspection and searchable
18 electronically—

19 (2) The Collection shall include—

20 (A) all related records—

21 (i) that have been transmitted to the Na-
22 tional Archives or disclosed to the public in an
23 unredacted form prior to the date of enactment
24 of this Act;

25 (ii) that are required to be transmitted to
26 the National Archives;

1 (iii) the disclosure of which is postponed
2 under this Act; or

3 (iv) that meets the definition of a related
4 record discovered after termination of the exist-
5 ence of the Records Review Board;

6 (B) a central directory comprised of identifica-
7 tion aids created for each record transmitted to the
8 Archivist under section 5; and

9 (C) all Review Board records as required by
10 this Act.

11 (b) USE OF SECONDARY LOCATION FOR PORTION OF
12 COLLECTION.—

13 (1) IN GENERAL.—The Archivist shall enter
14 into an agreement with an entity outside the Na-
15 tional Archives for the establishment of a secondary
16 location for such portion of the Collection as the Ar-
17 chivist considers appropriate.

18 (2) PROCESS FOR ENTERING INTO AGREE-
19 MENT.—The Archivist shall enter into an agreement
20 under this subsection through the solicitation of pro-
21 posals from public and private institutions of higher
22 education, research institutions, museums, and other
23 archival institutions.

1 (3) CRITERIA FOR SELECTION.—In selecting
2 from the proposals submitted under paragraph (2),
3 the Archivist shall give preference to an entity—

4 (A) with a proven record of archival col-
5 lecting;

6 (B) which will provide a maximum level of
7 public access to the portion of the Collection in-
8 volved; and

9 (C) which will encourage continuing study
10 and education regarding the life and assassina-
11 tion of Dr. Reverend Martin Luther King, Jr.

12 (4) TREATMENT OF COLLECTION AT SEC-
13 ONDARY LOCATION.—The portion of the Collection
14 maintained at the secondary location pursuant to
15 this subsection, and the entity responsible for main-
16 taining such portion of the collection under the
17 agreement under this subsection, shall be subject to
18 the same terms, conditions, and requirements as
19 apply under this Act to the portion of the Collection
20 maintained at the National Archives and the Archi-
21 vist.

22 (c) DISCLOSURE OF RECORDS.—All assassination
23 records transmitted to the National Archives for disclosure
24 to the public shall be included in the Collection and shall
25 be available to the public for inspection and copying at

1 the National Archives and through an electronic format
2 within 30 days after their transmission to the National
3 Archives.

4 (d) FEES FOR COPYING.—The Archivist shall—

5 (1) charge fees for copying such records; and

6 (2) grant waivers of such fees pursuant to the
7 standards established by section 552(a)(4) of title 5,
8 United States Code.

9 (e) ADDITIONAL REQUIREMENTS.—(1) The Collec-
10 tion shall be preserved, protected, archived, and made
11 available to the public at the National Archives using ap-
12 propriations authorized, specified, and restricted for use
13 under the terms of this Act.

14 (2) The National Archives, in consultation with the
15 Information Security Oversight Office, shall ensure the se-
16 curity of the postponed records in the Collection.

17 (f) OVERSIGHT.—The Committee on Government Re-
18 form of the House of Representatives and the Committee
19 on Governmental Affairs of the Senate shall have con-
20 tinuing oversight jurisdiction with respect to the Collec-
21 tion, and shall conduct biannual hearings, up to and in-
22 cluding the final archivist determination.

1 **SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE**
2 **NATIONAL ARCHIVES, AND PUBLIC DISCLO-**
3 **SURE OF RELATED RECORDS BY GOVERN-**
4 **MENT OFFICES.**

5 (a) IN GENERAL.—

6 (1) PREPARATION.—As soon as practicable
7 after the date of enactment of this Act, each Gov-
8 ernment office shall identify and organize its records
9 relating to the life and assassination of Reverend
10 Dr. Martin Luther King, Jr., and prepare them for
11 transmission to the Archivist for inclusion in the
12 Collection.

13 (2) RELATED RECORDS.—No related record
14 shall be destroyed, altered, or mutilated in any way.

15 (3) PRIOR DISCLOSURE.—No related record
16 made available or disclosed to the public prior to the
17 date of enactment of this Act may be withheld, re-
18 dacted, postponed for public disclosure, or reclassi-
19 fied.

20 (4) RELATED RECORDS CREATED OUTSIDE OF
21 GOVERNMENT.—No related record created by a per-
22 son or entity outside government (excluding names
23 or identities consistent with the requirements of sec-
24 tion (6) shall be withheld, redacted, postponed for
25 public disclosure, or reclassified.

1 (b) CUSTODY OF RELATED RECORDS PENDING RE-
2 VIEW.—During the review by Government offices and
3 pending review activity by the Review Board, each Govern-
4 ment office shall retain custody of its related records for
5 purposes of preservation, security, and efficiency, unless—

6 (1) the Review Board requires the physical
7 transfer of records for purposes of conducting an
8 independent and impartial review;

9 (2) transfer is necessary for an administrative
10 hearing or other Review Board function; or

11 (3) it is a third agency record described in sub-
12 section (c)(2)(C).

13 (c) REVIEW.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, each Gov-
16 ernment office shall review, identify, and organize
17 each related record in its custody or possession for
18 disclosure to the public, review by the Review Board,
19 and transmission to the Archivist.

20 (2) RELATED RECORDS.—In carrying out para-
21 graph (1), a Government office shall—

22 (A) determine which of its records are re-
23 lated records;

1 (B) determine which of its related records
2 have been officially disclosed or publicly avail-
3 able in a complete and unredacted form;

4 (C)(i) determine which of its related
5 records, or particular information contained in
6 such a record, was created by a third agency or
7 by another Government office; and

8 (ii) transmit to a third agency or other
9 Government office those records, or particular
10 information contained in those records, or com-
11 plete and accurate copies thereof;

12 (D)(i) determine whether its related
13 records or particular information in related
14 records are covered by the standards for post-
15 ponement of public disclosure under this Act;
16 and

17 (ii) specify on the identification aid re-
18 quired by subsection (d) the applicable post-
19 ponement provision contained in section 6;

20 (E) organize and make available to the Re-
21 view Board all related records identified under
22 subparagraph (D) the public disclosure of which
23 in whole or in part may be postponed under
24 this Act;

1 (F) organize and make available to the Re-
2 view Board any record concerning which the of-
3 fice has any uncertainty as to whether the
4 record is a related record governed by this Act;

5 (G) give priority to—

6 (i) the identification, review, and
7 transmission of all related records publicly
8 available or disclosed as of the date of en-
9 actment of this Act in a redacted or edited
10 form; and

11 (ii) the identification, review, and
12 transmission, under the standards for post-
13 ponement set forth in this Act, of related
14 records that on the date of enactment of
15 this Act are the subject of litigation under
16 section 552 of title 5, United States Code;
17 and

18 (H) make available to the Review Board
19 any additional information and records that the
20 Review Board has reason to believe it requires
21 for conducting a review under this Act.

22 (3) ARCHIVAL DEPOSITORIES.—The Director of
23 each archival depository established under section
24 2112 of title 44, United States Code, shall have as
25 a priority the expedited review for public disclosure

1 of related records in the possession and custody of
2 the depository, and shall make such records available
3 to the Review Board as required by this Act.

4 (d) IDENTIFICATION AIDS.—

5 (1) IN GENERAL.—

6 (A) STANDARD FORM.—Not later than 45
7 days after the date of enactment of this Act,
8 the Archivist, in consultation with the appro-
9 priate Government offices, shall prepare and
10 make available to all Government offices a
11 standard form of identification or finding aid
12 for use with each related record subject to re-
13 view under this Act.

14 (B) UNIFORM SYSTEM.—The Archivist
15 shall ensure that the identification aid program
16 is established in such a manner as to result in
17 the creation of a uniform system of electronic
18 records by Government offices that are compat-
19 ible with each other and which shall be made
20 publicly available.

21 (2) PRINTED COPIES.—Upon completion of an
22 identification aid, a Government office shall—

23 (A) attach a printed copy to the record it
24 describes;

1 (B) transmit to the Review Board a print-
2 ed copy; and

3 (C) attach a printed copy to each related
4 record it describes when it is transmitted to the
5 Archivist.

6 (3) PUBLICLY AVAILABLE RECORDS.—Related
7 records which are in the possession of the National
8 Archives on the date of enactment of this Act, and
9 which have been publicly available in their entirety
10 without redaction, shall be made available in the
11 Collection without any additional review by the Re-
12 view Board or another authorized office under this
13 Act.

14 (e) TRANSMISSION TO THE NATIONAL ARCHIVES.—
15 Each Government office shall—

16 (1) transmit to the Archivist, and make imme-
17 diately available to the public, all related records
18 that can be publicly disclosed, including those that
19 are publicly available on the date of enactment of
20 this Act, without any redaction, adjustment, or with-
21 holding under the standards of this Act; and

22 (2) transmit to the Archivist upon approval for
23 postponement by the Review Board or upon comple-
24 tion of other action authorized by this Act, all re-
25 lated records the public disclosure of which has been

1 postponed, in whole or in part, under the standards
2 of this Act, to become part of the protected Collec-
3 tion.

4 (f) CUSTODY OF POSTPONED RELATED RECORDS.—
5 A related record the public disclosure of which has been
6 postponed shall, pending transmission to the Archivist, be
7 held for reasons of security and preservation by the origi-
8 nating body until such time as the information security
9 program has been established at the National Archives as
10 required in section 5(e)(2).

11 (g) PERIODIC REVIEW OF POSTPONED RELATED
12 RECORDS.—(1) All postponed or redacted records shall be
13 reviewed periodically by the originating agency and the Ar-
14 chivist consistent with the recommendations of the Review
15 Board under section 9(c)(3)(B).

16 (2) A periodic review shall address the public disclo-
17 sure of additional related records in the Collection under
18 the standards of this Act.

19 (3) All postponed related records determined to re-
20 quire continued postponement shall require an unclassified
21 written description of the reason for such continued post-
22 ponement. Such description shall be provided to the Archi-
23 vist and published in the Federal Register upon deter-
24 mination.

1 (4) The periodic review of postponed related records
2 shall serve to downgrade and declassify security classified
3 information.

4 (5) Each related record shall be publicly disclosed in
5 full, and available in the Collection no later than the date
6 that is 10 years after the date of enactment of this Act,
7 unless the President certifies, as required by this Act,
8 that—

9 (A) continued postponement is made necessary
10 by an—

11 (B) identifiable harm to the military defense,
12 intelligence operations, law enforcement, or conduct
13 of foreign relations; and

14 (C) the identifiable harm is of such gravity that
15 it outweighs the public interest in disclosure.

16 (h) RECORD AVAILABILITY.—Executive branch agen-
17 cies shall—

18 (1) charge fees for copying related records;

19 (2) grant waivers of such fees pursuant to the
20 standards established by section 552(a)(4) of title 5,
21 United States Code;

22 (3) permit, when not deemed a risk by the
23 Board, the use of personal copying devices, includ-
24 ing, but not limited to portable scanners, digital
25 cameras, and the like; and

1 (4) make available to the public electronic
2 versions of related records.

3 **SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLO-**
4 **SURE OF RECORDS.**

5 Disclosure of related records or particular informa-
6 tion in related records to the public may be postponed sub-
7 ject to the limitations of this Act if there is clear and con-
8 vincing evidence that—

9 (1) the threat to the military defense, intel-
10 lligence operations, or conduct of foreign relations of
11 the United States posed by the public disclosure of
12 the related record is of such gravity that it out-
13 weighs the public interest, and such public disclosure
14 would reveal—

15 (A) a living intelligence agent whose iden-
16 tity currently requires protection;

17 (B) an intelligence source or method which
18 is currently utilized, or reasonably expected to
19 be utilized, by the United States Government
20 and which has not been officially disclosed, the
21 disclosure of which would interfere with the
22 conduct of intelligence activities; or

23 (C) any other matter currently relating to
24 the military defense, intelligence operations, or
25 conduct of foreign relations of the United

1 States, the disclosure of which would demon-
2 strably impair the national security of the
3 United States;

4 (2) the public disclosure of the related record
5 would reveal the name or identity of a living person
6 who provided confidential information to the United
7 States and would pose a substantial risk of harm to
8 that person;

9 (3) the public disclosure of the related record
10 could reasonably be expected to constitute an unwar-
11 ranted invasion of a living person's personal privacy,
12 and that invasion of privacy is so substantial that it
13 outweighs the public interest; or

14 (4) the public disclosure of the related record
15 would compromise the existence of an understanding
16 of confidentiality currently requiring protection be-
17 tween a Government agent and a living cooperating
18 individual or a foreign government, and public dis-
19 closure would be so harmful that it outweighs the
20 public interest.

21 **SEC. 7. ESTABLISHMENT AND POWERS OF THE RECORDS**

22 **REVIEW BOARD.**

23 (a) ESTABLISHMENT.—There is established as an
24 independent agency a board to be known as the Records
25 Review Board.

1 (b) APPOINTMENT.—

2 (1) FIVE MEMBERS.—The President, by and
3 with the advice and consent of the Senate, shall ap-
4 point, without regard to political affiliation, 5 citi-
5 zens to serve as members of the Review Board to en-
6 sure and facilitate the review, transmission to the
7 Archivist, and public disclosure of Government
8 records related to the life and assassination of Rev-
9 erend Dr. Martin Luther King, Jr.

10 (2) NOMINATIONS.—The President shall make
11 nominations to the Review Board not later than 90
12 calendar days after the date of enactment of this
13 Act.

14 (3) ADDITIONAL NOMINATIONS.—If the Senate
15 votes not to confirm a nomination to the Review
16 Board, the President shall make an additional nomi-
17 nation not later than 30 days thereafter.

18 (4) RECOMMENDATIONS.—(A) The President
19 shall make nominations to the Review Board after
20 considering persons recommended by the American
21 Historical Association, the Organization of American
22 Historians, the Society of American Archivists, and
23 the American Bar Association.

24 (B) If an organization described in subpara-
25 graph (A) does not recommend at least 2 nominees

1 meeting the qualifications stated in paragraph (5) by
2 the date that is 45 days after the date of enactment
3 of this Act, the President shall consider for nomina-
4 tion the persons recommended by the other organi-
5 zations described in subparagraph (A).

6 (C) The President may request an organization
7 described in subparagraph (A) to submit additional
8 nominations.

9 (5) NOMINATIONS.—Persons nominated to the
10 Review Board—

11 (A) shall be impartial private citizens, none
12 of whom is presently employed by any branch
13 of the Government, none of whom shall have
14 had any previous involvement with any official
15 investigation or inquiry conducted by a Federal,
16 State, or local government, and none of whom
17 shall have been previously employed by any fed-
18 eral intelligence or law enforcement agency, re-
19 lating to the life or assassination of Reverend
20 Dr. Martin Luther King, Jr.;

21 (B) shall be distinguished persons of high
22 national professional reputation in their respec-
23 tive fields who are capable of exercising the
24 independent and objective judgment necessary
25 to the fulfillment of their role in ensuring and

1 facilitating the review, transmission to the pub-
2 lic, and public disclosure of records related to
3 the life and assassination of Dr. Reverend Mar-
4 tin Luther King, Jr., and who possess an ap-
5 preciation of the value of such material to the
6 public, scholars, and government; and

7 (C) shall include at least 1 professional
8 historian, 1 attorney, 1 researcher, and 1 rep-
9 resentative of the civil rights community.

10 (c) SECURITY CLEARANCES.—(1) All Review Board
11 nominees shall be granted the necessary security clear-
12 ances in an accelerated manner, commiserate with that of
13 other executive nominations, subject to the standard pro-
14 cedures for granting such clearances.

15 (2) All nominees shall qualify for the necessary secu-
16 rity clearance prior to being considered for confirmation
17 by the Committee on Governmental Affairs of the Senate.

18 (d) CONFIRMATION HEARINGS.—(1) The Committee
19 on Governmental Affairs of the Senate shall hold con-
20 firmation hearings within 30 days in which the Senate is
21 in session after the nomination of 3 Review Board mem-
22 bers.

23 (2) The Committee on Governmental Affairs shall
24 vote on the nominations within 14 days in which the Sen-

1 ate is in session after the confirmation hearings, and shall
2 report its results to the full Senate immediately.

3 (3) The Senate shall vote on each nominee to confirm
4 or reject within 14 days in which the Senate is in session
5 after reported by the Committee on Governmental Affairs.

6 (e) VACANCY.—A vacancy on the Review Board shall
7 be filled in the same manner as specified for original ap-
8 pointment within 30 days of the occurrence of the vacancy.

9 (f) CHAIRPERSON.—The Members of the Review
10 Board shall elect one of its members as chairperson at
11 its initial meeting.

12 (g) REMOVAL OF REVIEW BOARD MEMBER.—

13 (1) IN GENERAL.—No member of the Review
14 Board shall be removed from office, other than—

15 (A) by impeachment and conviction; or

16 (B) by the action of the President for inef-
17 ficiency, neglect of duty, malfeasance in office,
18 physical disability, mental incapacity, failure to
19 meet or falsification of any qualifications under
20 5(A) or 5(B), or any other condition that sub-
21 stantially impairs the performance of the mem-
22 ber's duties.

23 (2) REPORT.—

24 (A) FACTS AND GROUNDS.—If a member
25 of the Review Board is removed from office,

1 and that removal is by the President, not later
2 than 10 days after the removal the President
3 shall submit to the Committee on Government
4 Reform of the House of Representatives and
5 the Committee on Governmental Affairs of the
6 Senate a report specifying the facts found and
7 the grounds for the removal.

8 (B) PUBLICATION.—The President shall
9 publish in the Federal Register a report sub-
10 mitted under subparagraph (A), except that the
11 President may, if necessary to protect the
12 rights of a person named in the report or to
13 prevent undue interference with any pending
14 prosecution, postpone or refrain from pub-
15 lishing any or all of the report until the comple-
16 tion of such pending cases or pursuant to pri-
17 vacy protection requirements in law.

18 (3) JUDICIAL REVIEW.—

19 (A) CIVIL ACTION.—A member of the Re-
20 view Board removed from office may obtain ju-
21 dicial review of the removal in a civil action
22 commenced in the United States District Court
23 for the District of Columbia.

1 (B) REINSTATEMENT.—The member may
2 be reinstated or granted other appropriate relief
3 by order of the court.

4 (h) COMPENSATION OF MEMBERS.—(1) A member of
5 the Review Board shall be compensated at a rate equal
6 to the daily equivalent of the annual rate of basic pay pre-
7 scribed for level IV of the Executive Schedule under sec-
8 tion 5315 of title 5, United States Code, for each day
9 (including travel time) during which the member is en-
10 gaged in the performance of the duties of the Review
11 Board.

12 (2) A member of the Review Board shall be allowed
13 reasonable travel expenses, including per diem in lieu of
14 subsistence, at rates for employees of agencies under sub-
15 chapter I of chapter 57 of title 5, United States Code,
16 while away from the member's home or regular place of
17 business in the performance of services for the Review
18 Board.

19 (i) DUTIES OF THE REVIEW BOARD.—(1) The Re-
20 view Board shall consider and render decisions on a deter-
21 mination by a Government office to seek to postpone the
22 disclosure of related records.

23 (2) In carrying out paragraph (1), the Review Board
24 shall consider and render decisions—

1 (A) whether a record constitutes a related
2 record; and

3 (B) whether a related record or particular in-
4 formation in a record qualifies for postponement of
5 disclosure under this Act.

6 (j) POWERS.—

7 (1) IN GENERAL.—The Review Board shall
8 have the authority to act in a manner prescribed
9 under this Act including authority to—

10 (A) direct Government offices to complete
11 identification aids and organize related records;

12 (B) direct Government offices to transmit
13 to the Archivist related records as required
14 under this Act, including segregable portions of
15 related records, and substitutes and summaries
16 of related records that can be publicly disclosed
17 to the fullest extent;

18 (C)(i) obtain access to related records that
19 have been identified and organized by a Govern-
20 ment office;

21 (ii) direct a Government office to make
22 available to the Review Board, and if necessary
23 investigate the facts surrounding, additional in-
24 formation, records, or testimony from individ-
25 uals, which the Review Board has reason to be-

1 lieve is required to fulfill its functions and re-
2 sponsibilities under this Act; and

3 (iii) request the Attorney General to sub-
4 poena private persons to compel testimony,
5 records, and other information relevant to its
6 responsibilities under this Act;

7 (D) require any Government office to ac-
8 count in writing for the destruction of any
9 records relating to the life or assassination of
10 Reverend Dr. Martin Luther King, Jr.;

11 (E) receive information from the public re-
12 garding the identification and public disclosure
13 of related records;

14 (F) hold hearings, administer oaths, and
15 subpoena witnesses and documents;

16 (G) use the Federal Supply Service in the
17 same manner and under the same conditions as
18 other departments and agencies of the United
19 States; and

20 (H) use the United States mails in the
21 same manner and under the same conditions as
22 other departments and agencies of the United
23 States.

24 (2) ENFORCEMENT.—A subpoena issued under
25 paragraph (1)(C)(iii) may be enforced by any appro-

1 appropriate Federal court acting pursuant to a lawful re-
2 quest of the Review Board.

3 (k) WITNESS IMMUNITY.—The Review Board shall
4 be considered to be an agency of the United States for
5 purposes of section 6001 of title 18, United States Code.

6 (l) OVERSIGHT.—(1) The Committee on Government
7 Reform of the House of Representatives and the Com-
8 mittee on Governmental Affairs of the Senate shall have
9 continuing oversight jurisdiction with respect to the offi-
10 cial conduct of the Review Board and the disposition of
11 postponed or newly discovered records after termination
12 of the Review Board, shall conduct periodic hearings on
13 the conduct of the board not less than every 2 years, and
14 shall have access to any records held or created by the
15 Review Board.

16 (2) The Review Board, all Federal Government agen-
17 cies, and the NARA shall have the duty to cooperate with
18 the exercise of such oversight jurisdiction.

19 (m) SUPPORT SERVICES.—The Administrator of the
20 General Services Administration shall provide administra-
21 tive services for the Review Board on a reimbursable basis.

22 (n) INTERPRETIVE REGULATIONS.—The Review
23 Board may issue interpretive regulations.

24 (o) TERMINATION AND WINDING UP.—(1) The Re-
25 view Board and the terms of its members shall terminate

1 not later than 4 years after the enactment of this Act,
2 except that the Review Board may, by majority vote, ex-
3 tend its term for an additional 2-year period if it has not
4 completed its work within that 4-year period.

5 (2) Upon its termination, the Review Board shall
6 submit reports to the President and the Congress includ-
7 ing a complete and accurate accounting of expenditures
8 during its existence, and shall complete all other reporting
9 requirements under this Act.

10 (3) Upon termination and winding up, the Review
11 Board shall transfer all of its records to the Archivist for
12 inclusion in the Collection, and no record of the Review
13 Board shall be destroyed and records created in the course
14 of its duties will be released to the public within 60 days
15 of its termination.

16 **SEC. 8. RECORDS REVIEW BOARD PERSONNEL.**

17 (a) EXECUTIVE DIRECTOR.—

18 (1) APPOINTMENT.— Not later than 45 days
19 after the initial meeting of the Review Board, the
20 Review Board shall appoint one citizen, without re-
21 gard to political affiliation, to the position of Execu-
22 tive Director.

23 (2) QUALIFICATIONS.—The person appointed as
24 Executive Director shall be a private citizen of integ-
25 rity and impartiality who is a distinguished profes-

1 sional and who is not a present employee of any
2 branch of the Government, has not previously been
3 employed by an intelligence agency, and has had no
4 previous involvement with any official investigation
5 or inquiry relating to the life or assassination of
6 Reverend Dr. Martin Luther King, Jr.

7 (3) SECURITY CLEARANCES.—

8 (A) A candidate for Executive Director
9 shall be granted the necessary security clear-
10 ances in an accelerated manner subject to the
11 standard procedures for granting such clear-
12 ances.

13 (B) A candidate shall qualify for the nec-
14 essary security clearance prior to being ap-
15 proved by the Review Board.

16 (4) DUTIES.—The Executive Director shall—

17 (A) serve as principal liaison to Govern-
18 ment offices;

19 (B) be responsible for the administration
20 and coordination of the Review Board's review
21 of records;

22 (C) be responsible for the administration
23 of all official activities conducted by the Review
24 Board; and

1 (D) have no authority to decide or deter-
2 mine whether any record should be disclosed to
3 the public or postponed for disclosure.

4 (5) REMOVAL.—The Executive Director shall
5 not be removed for reasons other than by a majority
6 vote of the Review Board for cause on the grounds
7 of inefficiency, neglect of duty, malfeasance in office,
8 physical disability, mental incapacity, failure to meet
9 or falsification of any qualifications under paragraph
10 (2), or any other condition that substantially impairs
11 the performance of the responsibilities of the Execu-
12 tive Director or the staff of the Review Board.

13 (b) STAFF.—

14 (1) IN GENERAL.— The Review Board, without
15 regard to the provisions of title 5, United States
16 Code, governing appointments in the competitive
17 service and without regard to the provisions of chap-
18 ter 51 and chapter 53 of that title relating to classi-
19 fication and General Service pay rates, may appoint
20 and terminate additional personnel as are necessary
21 to enable the Review Board and its Executive Direc-
22 tor to perform its duties.

23 (2) QUALIFICATIONS.— A person appointed to
24 the staff of the Review Board shall be a private cit-
25 izen of integrity and impartiality who is not a

1 present employee of any branch of the Government,
2 has not previously been in the employ of any intel-
3 ligence agency, and who has had no previous involve-
4 ment with any official investigation or inquiry relat-
5 ing to the life or assassination of Reverend Dr. Mar-
6 tin Luther King, Jr.

7 (3) SECURITY CLEARANCES.—

8 (A) ACCELERATION.—A candidate for staff
9 shall be granted the necessary security clear-
10 ances in an accelerated manner subject to the
11 standard procedures for granting such clear-
12 ances.

13 (B) CONDITIONAL EMPLOYMENT.—(i) The
14 Review Board may offer conditional employ-
15 ment to a candidate for a staff position pending
16 the completion of security background inves-
17 tigation. During the pendency of such inves-
18 tigation, the Review Board shall ensure that
19 any such employee does not have access to, or
20 responsibility involving, classified or otherwise
21 restricted related record materials.

22 (ii) If a person hired on a conditional basis
23 under clause (i) is denied other otherwise does
24 not qualify for all security clearances necessary
25 to carry out the responsibilities of the position

1 for which conditional employment has been of-
2 ferred, the Review Board shall immediately ter-
3 minate the person's employment.

4 (c) COMPENSATION.—Subject to such rules as may
5 be adopted by the Review Board, the chairperson, without
6 regard to the provisions of title 5, United States Code,
7 governing appointments in the competitive service and
8 without regard to the provisions of chapter 51 and chapter
9 53 of that title relating to classification and General Serv-
10 ice pay rates, may—

11 (1) appoint an Executive Director, who shall be
12 paid at a rate not to exceed the rate of basic pay
13 for level V of the Executive Schedule; and

14 (2) appoint and fix compensation of such other
15 personnel as may be necessary to carry out this Act.

16 (d) ADVISORY COMMITTEES.—(1) The Review Board
17 shall create advisory committees to assist in fulfilling the
18 responsibilities of the Review Board under this Act.

19 (2) Any advisory committee created by the Review
20 Board shall be subject to the Federal Advisory Committee
21 Act (5 U.S.C. App.).

22 (e) SECURITY CLEARANCE REQUIRED.—An indi-
23 vidual employed in any position by the Review Board
24 (including an individual appointed as Executive Director)
25 shall be required to qualify for any necessary security

1 clearance prior to taking office in that position, but may
2 be employed conditionally in accordance with subsection
3 (b)(3)(B) before qualifying for that clearance.

4 **SEC. 9. REVIEW OF RECORDS BY THE RECORDS REVIEW**
5 **BOARD.**

6 (a) CUSTODY OF RECORDS REVIEWED BY BOARD.—
7 Pending the outcome of the Review Board’s review activ-
8 ity, a Government office shall retain custody of its related
9 records for purposes of preservation, security, and effi-
10 ciency, unless—

11 (1) the Review Board requires the physical
12 transfer of records for reasons of conducting an
13 independent and impartial review; or

14 (2) such transfer is necessary for an adminis-
15 trative hearing or other official Review Board func-
16 tion.

17 (b) STARTUP REQUIREMENTS.—The Review Board
18 shall—

19 (1) not later than 90 days after the date of its
20 appointment, publish a schedule for review of all as-
21 sassination records in the Federal Register; and

22 (2) not later than 180 days after the date of
23 enactment of this Act, begin its review of related
24 records under this Act.

25 (c) DETERMINATIONS OF THE REVIEW BOARD.—

1 (1) TRANSMITTAL.—The Review Board shall
2 direct that all related records be transmitted to the
3 Archivist and disclosed to the public in the Collec-
4 tion in the absence of clear and convincing evidence
5 that—

6 (A) a Government record is not a related
7 record; or

8 (B) a Government record or particular in-
9 formation within a related record qualifies for
10 postponement of public disclosure under this
11 Act.

12 (2) POSTPONEMENT.—In approving postpone-
13 ment of public disclosure of a related record, the Re-
14 view Board shall seek to—

15 (A) provide for the disclosure of segregable
16 parts, substitutes, or summaries of such a
17 record; and

18 (B) determine, in consultation with the
19 originating body and consistent with the stand-
20 ards for postponement under this Act, which of
21 the following alternative forms of disclosure
22 shall be made by the originating body:

23 (i) Any reasonably segregable par-
24 ticular information in a related record.

1 (ii) A substitute record for that infor-
2 mation which is postponed.

3 (iii) A summary of a related record.

4 (3) REPORT.—With respect to each related
5 record or particular information in related records
6 the public disclosure of which is postponed pursuant
7 to section 6, or for which only substitutions or sum-
8 maries have been disclosed to the public, the Review
9 Board shall create and transmit to the Archivist a
10 report containing—

11 (A) a description of actions by the Review
12 Board, the originating body, the President, or
13 any Government office (including a justification
14 of any such action to postpone disclosure of any
15 record or part of any record) and of any official
16 proceedings conducted by the Review Board
17 with regard to specific related records; and

18 (B) a statement, based on a review of the
19 proceedings and in conformity with the deci-
20 sions reflected therein, designating a rec-
21 ommended specified time at which or a specified
22 occurrence following which the material may be
23 appropriately disclosed to the public under this
24 Act.

25 (4) DISCLOSURE.—

1 (A) NOTICE.—Following its review and a
2 determination that a related record shall be
3 publicly disclosed in the Collection or postponed
4 for disclosure and held in the protected Collec-
5 tion, the Review Board shall notify the head of
6 the originating body of its determination and
7 publish a copy of the determination in the Fed-
8 eral Register within 14 days after the deter-
9 mination is made.

10 (B) LEGISLATIVE BRANCH.—Contempora-
11 neous notice shall be made to the President for
12 Review Board determinations regarding execu-
13 tive branch related records, and to the oversight
14 committees designated in this Act in the case of
15 legislative branch records. Such notice shall
16 contain a written unclassified justification for
17 public disclosure or postponement of disclosure,
18 including an explanation of the application of
19 any standards contained in section 6.

20 (d) PRESIDENTIAL AUTHORITY OVER REVIEW
21 BOARD DETERMINATION.—

22 (1) PUBLIC DISCLOSURE OR POSTPONEMENT
23 OF DISCLOSURE.—After the Review Board has made
24 a formal determination concerning the public disclo-
25 sure or postponement of disclosure of an executive

1 branch related record or information within such a
2 record, or of any information contained in a related
3 record, obtained or developed solely within the execu-
4 tive branch, the President shall have the sole and
5 nondelegable authority to require the disclosure or
6 postponement of such record or information under
7 the standards set forth in section 6, and the Presi-
8 dent shall provide the Review Board with an unclas-
9 sified written certification specifying the President's
10 decision within 30 days after the Review Board's de-
11 termination and notice to the executive branch agen-
12 cy as required under this Act, stating the justifica-
13 tion for the President's decision, including the appli-
14 cable grounds for postponement under section 6, ac-
15 companied by a copy of the identification aid re-
16 quired under section 4. If, after 30 days, the Presi-
17 dent has not transmitted such written certification
18 to the Review Board, the Board may proceed accord-
19 ing to its formal determination.

20 (2) PERIODIC REVIEW.—Any executive branch
21 related record postponed by the President shall be
22 subject to the requirements of periodic review, down-
23 grading and declassification of classified informa-
24 tion, and public disclosure in the collection set forth
25 in section 4.

1 (3) RECORD OF PRESIDENTIAL POSTPONE-
2 MENT.—The Review Board shall, upon its receipt,
3 publish in the Federal Register a copy of any unclas-
4 sified written certification, statement, and other ma-
5 terials transmitted by or on behalf of the President
6 with regard to postponement of related records.

7 (e) NOTICE TO PUBLIC.—Every 30 calendar days, be-
8 ginning on the date that is 60 calendar days after the date
9 on which the Review Board first approves the postpone-
10 ment of disclosure of a related record, the Review Board
11 shall publish in the Federal Register a notice that summa-
12 rizes the postponements approved by the Review Board
13 or initiated by the President, the House of Representa-
14 tives, or the Senate, including a description of the subject,
15 originating agency, length or other physical description,
16 and each ground for postponement that is relied upon.

17 (f) REPORTS BY THE REVIEW BOARD.—(1) The Re-
18 view Board shall report its activities to the leadership of
19 the Congress, the Committee on Government Reform of
20 the House of Representatives, the Committee on Govern-
21 mental Affairs of the Senate, the President, the Archivist,
22 and the head of any Government office whose records have
23 been the subject of Review Board activity.

24 (2) The first report shall be issued on the date that
25 is 1 year after the date of enactment of this Act, and sub-

1 sequent reports every 12 months thereafter until termi-
2 nation of the Review Board.

3 (3) A report under paragraph (1) shall include the
4 following information:

5 (A) A financial report of the expenses for all of-
6 ficial activities and requirements of the Review
7 Board and its personnel.

8 (B) The progress made on review, transmission
9 to the Archivist, and public disclosure of related
10 records.

11 (C) The estimated time and volume of assas-
12 sination records involved in the completion of the
13 Review Board's performance under this Act.

14 (D) Any special problems, including requests
15 and the level of cooperation of Government offices,
16 with regard to the ability of the Review Board to op-
17 erate as required by this Act.

18 (E) A record of review activities, including a
19 record of postponement decisions by the Review
20 Board or other related actions authorized by this
21 Act, and a record of the volume of records reviewed
22 and postponed.

23 (F) Suggestions and requests to Congress for
24 additional legislative authority needs.

1 (G) An appendix containing copies of reports of
2 postponed records to the Archivist required under
3 section 9(c)(3) made since the date of the preceding
4 report under this subsection.

5 (4) At least 90 calendar days before completing its
6 work, the Review Board shall provide written notice to the
7 President and Congress of its intention to terminate its
8 operations at a specified date.

9 **SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDI-**
10 **TIONAL STUDY.**

11 (a) MATERIALS UNDER SEAL OF COURT.—

12 (1) HEADER.—The Review Board may request
13 the Attorney General to petition any court in the
14 United States or abroad to release any information
15 or physical evidence relevant to the life or assassina-
16 tion of Reverend Dr. Martin Luther King, Jr., that
17 is held under seal of the court.

18 (2) HEADER.—

19 (A) The Review Board may request the At-
20 torney General to petition any court in the
21 United States to release any information rel-
22 evant to the life or assassination of Reverend
23 Dr. Martin Luther King, Jr., that is held under
24 the injunction of secrecy of a grand jury.

1 (B) A request for disclosure of life or as-
2 sassination materials under this Act shall be
3 deemed to constitute a showing of particular-
4 ized need under Rule 6 of the Federal Rules of
5 Criminal Procedure.

6 (b) SENSE OF CONGRESS.—It is the sense of the
7 Congress that—

8 (1) the Attorney General should assist the Re-
9 view Board in good faith to unseal any records that
10 the Review Board determines to be relevant and held
11 under seal by a court or under the injunction of se-
12 crecy of a grand jury;

13 (2) the Secretary of State should contact any
14 other foreign government that may hold information
15 relevant to the life and assassination of Reverend
16 Dr. Martin Luther King, Jr., and seek the disclo-
17 sure of such information; and

18 (3) all Executive agencies should cooperate in
19 full with the Review Board to seek the disclosure of
20 all information relevant to the life and assassination
21 of Reverend Dr. Martin Luther King, Jr., consistent
22 with the public interest.

23 **SEC. 11. PRIVATE RIGHT OF ACTION.**

24 (a) IN GENERAL.—Any person who is aggrieved by
25 a violation of this Act may bring a civil action in an appro-

1 priate district court for declaratory or injunctive relief
2 with respect to the violation.

3 (b) ATTORNEY'S FEES.—In a civil action under this
4 section, the court may allow the prevailing party (other
5 than the United States) reasonable attorney fees, includ-
6 ing litigation expenses, and costs.

7 **SEC. 12. RULES OF CONSTRUCTION.**

8 (a) PRECEDENCE OVER OTHER LAW.—When this
9 Act requires transmission of a record to the Archivist or
10 public disclosure, it shall take precedence over any other
11 law (except section 6103 of the Internal Revenue Code),
12 judicial decision construing such law, or common law doc-
13 trine that would otherwise prohibit such transmission or
14 disclosure.

15 (b) FREEDOM OF INFORMATION ACT.—Nothing in
16 this Act shall be construed to eliminate or limit any right
17 to file requests with any executive agency or seek judicial
18 review of the decisions pursuant to section 552 of title 5,
19 United States Code.

20 (c) JUDICIAL REVIEW.—Nothing in this Act shall be
21 construed to preclude judicial review, under chapter 7 of
22 title 5, United States Code, of final actions taken or re-
23 quired to be taken under this Act.

24 (d) EXISTING AUTHORITY.—Nothing in this Act re-
25 vokes or limits the existing authority of the President, any

1 executive agency, the Senate, or the House of Representa-
2 tives, or any other entity of the Government to publicly
3 disclose records in its possession.

4 (e) RULES OF THE SENATE AND HOUSE OF REP-
5 RESENTATIVES.—To the extent that any provision of this
6 Act establishes a procedure to be followed in the Senate
7 or the House of Representatives, such provision is adopt-
8 ed—

9 (1) as an exercise of the rulemaking power of
10 the Senate and House of Representatives, respec-
11 tively, and is deemed to be part of the rules of each
12 House, respectively, but applicable only with respect
13 to the procedure to be followed in that House, and
14 it supersedes other rules only to the extent that it
15 is inconsistent with such rules; and

16 (2) with full recognition of the constitutional
17 right of either House to change the rules (so far as
18 they relate to the procedure of that House) at any
19 time, in the same manner, and to the same extent
20 as in the case of any other rule of that House.

21 **SEC. 13. TERMINATION OF EFFECT OF ACT.**

22 (a) PROVISIONS PERTAINING TO THE REVIEW
23 BOARD.—The provisions of this Act that pertain to the
24 appointment and operation of the Review Board shall

1 cease to be effective when the Review Board and the terms
2 of its members have terminated pursuant to section 7(o).

3 (b) OTHER PROVISIONS.—The remaining provisions
4 of this Act shall continue in effect until such time as the
5 Archivist certifies to the President and the Congress that
6 all assassination records have been made available to the
7 public in accordance with this Act.

8 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

9 There are authorized to be appropriated such sums
10 as are necessary to carry out this Act, to remain available
11 until expended.

12 **SEC. 15. RECORDS PENDING.**

13 Upon termination of the Review Board, all records
14 that are still pending postponement determinations shall
15 be presumed to be available for release.

16 **SEC. 16. WHISTLEBLOWER PROTECTION.**

17 All members of the Review Board staff, the Review
18 Board, NARA, and all Federal agencies covered under this
19 Act shall treat relevant employees in accordance with the
20 Whistleblowers Protection Act provisions, particularly re-
21 lating to the disclosure of improper document retention,
22 release, and disclosure.

23 **SEC. 17. SEVERABILITY.**

24 If any provision of this Act or the application thereof
25 to any person or circumstance is held invalid, the remain-

1 der of this Act and the application of that provision to
2 other persons not similarly situated or to other cir-
3 cumstances shall not be affected by the invalidation.

○