S. 306

To establish the National Criminal Justice Commission.

IN THE SENATE OF THE UNITED STATES

February 8, 2011

Mr. Webb (for himself, Mr. Brown of Ohio, Mr. Durbin, Mr. Franken, Mr. Graham, Mrs. Hagan, Mr. Kerry, Mr. Lautenberg, Mr. Levin, Mrs. McCaskill, Mr. Schumer, Mrs. Shaheen, Mr. Udall of Colorado, Mr. Warner, Mr. Whitehouse, Mr. Wyden, Mr. Harkin, Mr. Bingaman, Mr. Menendez, and Mrs. Murray) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To establish the National Criminal Justice Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Criminal Justice Commission Act of 2011”.

SEC. 2. FINDINGS.

Congress finds that—

(1) it is in the interest of the Nation to establish a commission to undertake a comprehensive review of the criminal justice system;
(2) there has not been a comprehensive study since the President’s Commission on Law Enforce-
ment and Administration of Justice was established in 1965;

(3) that commission, in a span of 18 months, produced a comprehensive report entitled “The Challenge of Crime in a Free Society,” which contained 200 specific recommendations on all aspects of the criminal justice system involving Federal, State, tribal, and local governments, civic organizations, religious institutions, business groups, and individual citizens; and

(4) developments over the intervening 45 years require once again that Federal, State, tribal, and local governments, civic organizations, religious institutions, business groups, and individual citizens come together to review evidence and consider how to improve the criminal justice system.

SEC. 3. ESTABLISHMENT OF COMMISSION.

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

SEC. 4. PURPOSE OF THE COMMISSION.

The Commission shall undertake a comprehensive re-
view of the criminal justice system, encompassing current
Federal, State, local, and tribal criminal justice policies
and practices, and make reform recommendations for the
President, Congress, State, local, and tribal governments.

SEC. 5. REVIEW AND RECOMMENDATIONS.

(a) General Review.—The Commission shall un-
dertake a comprehensive review of all areas of the criminal
justice system, including Federal, State, local, and tribal
governments’ criminal justice costs, practices, and policies.

(b) Findings and Recommendations.—After con-
ducting a review of the United States criminal justice sys-
tem as required by section 5(a), the Commission shall
make findings regarding such review and recommenda-
tions for changes in oversight, policies, practices, and laws
designed to prevent, deter, and reduce crime and violence,
reduce recidivism, improve cost-effectiveness, and ensure
the interests of justice at every step of the criminal justice
system.

(c) Prior Commissions.—The Commission shall
take into consideration the work of prior relevant commis-
sions in conducting its review.

(d) State and Local Government.—In making
its recommendations, the Commission should consider the
financial and human resources of State and local govern-
ments. Recommendations shall not infringe on the legiti-
mate rights of the States to determine their own criminal
laws or the enforcement of such laws.

(c) **Public Hearings.**—The Commission shall con-
duct public hearings in various locations around the
United States.

(f) **Consultation With Government and Non-
Government Representatives.**—

(1) **In General.**—The Commission shall—

(A) closely consult with Federal, State,
local, and tribal government and nongovern-
mental leaders, including State, local, and tribal
law enforcement officials, legislators, public
health officials, judges, court administrators,
prosecutors, defense counsel, victims’ rights or-
ganizations, probation and parole officials,
criminal justice planners, criminologists, civil
rights and liberties organizations, formerly in-
carcerated individuals, professional organiza-
tions, and corrections officials; and

(B) include in the final report required by
subsection (g) summaries of the input and rec-
ommendations of these leaders.

(2) **United States Sentencing Commissi-
**on.—To the extent the review and recommenda-
tions required by this section relate to sentencing
policies and practices for the Federal criminal justice system, the Commission shall conduct such review and make such recommendations in consultation with the United States Sentencing Commission.

(g) Report.—

(1) Report.—Not later than 18 months after the first meeting of the Commission, the Commission shall prepare and submit a final report that contains a detailed statement of findings, conclusions, and recommendations of the Commission to Congress, the President, State, local, and tribal governments.

(2) Goal of Unanimity.—It is the sense of the Congress that, given the national importance of the matters before the Commission, the Commission should work toward unanimously supported findings and recommendations.

(3) Public Availability.—The report submitted under this subsection shall be made available to the public.

(4) Votes on Recommendations in Report.—Consistent with paragraph (2), the Commission shall state the vote total for each recommendation contained in its report to Congress.
SEC. 6. MEMBERSHIP.

(a) IN GENERAL.—The Commission shall be composed of 14 members, as follows:

(1) One member shall be appointed by the President, who shall serve as co-chairman of the Commission.

(2) One member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Republican Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the case may be) of the Republican Party, who shall serve as co-chairman of the Commission.

(3) Two members shall be appointed by the senior member of the Senate leadership of the Democratic Party, in consultation with the Democratic leadership of the Committee on the Judiciary.

(4) Two members shall be appointed by the senior member of the Senate leadership of the Republican Party, in consultation with the Republican leadership of the Committee on the Judiciary.

(5) Two members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party, in consultation with the Republican leadership of the Committee on the Judiciary.
(6) Two members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party, in consultation with the Democratic leadership of the Committee on the Judiciary.

(7) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Republican Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Republican Party.

(8) Two members, who shall be State and local representatives, shall be appointed by the President in agreement with leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party and the leader of the House of Representatives (majority or minority leader, as the case may be) of the Democratic Party.

(b) MEMBERSHIP.—

(1) QUALIFICATIONS.—The individuals appointed from private life as members of the Commission shall be individuals with distinguished reputations for integrity and nonpartisanship who are na-
tionally recognized for expertise, knowledge, or experience in such relevant areas as—

(A) law enforcement;
(B) criminal justice;
(C) national security;
(D) prison and jail administration;
(E) prisoner reentry;
(F) public health, including physical and sexual victimization, drug addiction and mental health;
(G) victims’ rights;
(H) civil liberties;
(I) court administration;
(J) social services; and
(K) State, local, and tribal government.

(2) DISQUALIFICATION.—An individual shall not be appointed as a member of the Commission if such individual possesses any personal financial interest in the discharge of any of the duties of the Commission.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(e) APPOINTMENT; FIRST MEETING.—
(1) APPOINTMENT.—Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

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

(3) ETHICS.—At the first meeting of the Commission, the Commission shall draft appropriate ethics guidelines for commissioners and staff, including guidelines relating to conflict of interest and financial disclosure. The Commission shall consult with the Senate and House Committees on the Judiciary as a part of drafting the guidelines and furnish the Committees with a copy of the completed guidelines.

(d) MEETINGS; QUORUM; VACANCIES.—

(1) MEETINGS.—The Commission shall meet at the call of the co-chairs or a majority of its members.

(2) QUORUM.—Eight members of the Commission shall constitute a quorum for purposes of conducting business, except that 2 members of the
Commission shall constitute a quorum for purposes of receiving testimony.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made. If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day, so long as at least 1 Commission member chosen by a member of each party, Republican and Democratic, is present.

(e) ACTIONS OF COMMISSION.—

(1) IN GENERAL.—The Commission—

(A) shall act by resolution agreed to by a majority of the members of the Commission voting and present; and

(B) may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title—

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

(ii) any findings and determinations made by such a panel shall not be consid—
ere the findings and determinations of the
Commission unless approved by the Com-
mmission.

(2) DELEGATION.—Any member, agent, or staff
of the Commission may, if authorized by the co-
chairs of the Commission, take any action which the
Commission is authorized to take pursuant to this
Act.

SEC. 7. ADMINISTRATION.

(a) STAFF.—

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

(2) APPOINTMENT AND COMPENSATION.—The
co-chairs of the Commission shall designate and fix
the compensation of the Executive Director and, in
accordance with rules agreed upon by the Commiss-
ion, may appoint and fix the compensation of such
other personnel as may be necessary to enable the
Commission to carry out its functions, without re-
gard to the provisions of title 5, United States Code,
governing appointments in the competitive service,
and without regard to the provisions of chapter 51
and subchapter III of chapter 53 of such title relat-
ing to classification and General Schedule pay rates,
except that no rate of pay fixed under this sub-
section may exceed the equivalent of that payable for
a position at level V of the Executive Schedule under
section 5316 of title 5, United States Code.

(3) PERSONNEL AS FEDERAL EMPLOYEES.—

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

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

(4) THE COMPENSATION OF COMMISSIONERS.—
Each member of the Commission may be com-
pensated at not to exceed the daily equivalent of the
annual rate of basic pay in effect for a position at
level V of the Executive Schedule under section 5315
of title 5, United States Code, for each day during
which that member is engaged in the actual per-
formance of the duties of the Commission. All mem-
bers of the Commission who are officers or employees of the United States, State, or local government shall serve without compensation in addition to that received for their services as officers or employees.

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

(b) **EXPERTS AND CONSULTANTS.**—With the approval of the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(c) **DETAIL OF GOVERNMENT EMPLOYEES.**—Upon the request of the Commission, the head of any Federal agency may detail, without reimbursement, any of the personnel of such agency to the Commission to assist in carrying out the duties of the Commission. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

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


to be necessary to carry out its duties from the Library


of Congress, the Department of Justice, the Office of Na-


tional Drug Control Policy, the Department of State, and


other agencies of the executive and legislative branches of


the Federal Government. The co-chairs of the Commission


shall make requests for such access in writing when nec-


essary.


(e) VOLUNTEER SERVICES.—Notwithstanding the


provisions of section 1342 of title 31, United States Code,


the Commission is authorized to accept and utilize the


services of volunteers serving without compensation. The


Commission may reimburse such volunteers for local travel


and office supplies, and for other travel expenses, includ-


ing per diem in lieu of subsistence, as authorized by sec-


section 5703 of title 5, United States Code. A person pro-


viding volunteer services to the Commission shall be con-


sidered an employee of the Federal Government in per-


formance of those services for the purposes of chapter 81


of title 5 of the United States Code, relating to compensa-


for work-related injuries, chapter 171 of title 28 of


the United States Code, relating to tort claims, and chap-


ter 11 of title 18 of the United States Code, relating to


conflicts of interest.
(f) Obtaining Official Data.—The Commission may secure directly from any agency of the United States information necessary to enable it to carry out this Act. Upon the request of the co-chairs of the Commission, the head of that department or agency shall furnish that information to the Commission. The Commission shall not have access to sensitive information regarding ongoing investigations.

(g) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(h) Administrative Reporting.—The Commission shall issue biannual status reports to Congress regarding the use of resources, salaries, and all expenditures of appropriated funds.

(i) Contracts.—The Commission is authorized to enter into contracts with Federal and State agencies, private firms, institutions, and individuals for the conduct of activities necessary to the discharge of its duties and responsibilities. A contract, lease or other legal agreement entered into by the Commission may not extend beyond the date of the termination of the Commission.
(j) Gifts.—Subject to existing law, the Commission may accept, use, and dispose of gifts or donations of services or property.

(k) Administrative Assistance.—The Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act. These administrative services may include human resource management, budget, leasing, accounting, and payroll services.

(l) Nonapplicability of FACA and Public Access to Meetings and Minutes.—

(1) In General.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(2) Meetings and Minutes.—

(A) Meetings.—

(i) Administration.—All meetings of the Commission shall be open to the public, except that a meeting or any portion of it may be closed to the public if it concerns matters or information described in section 552b(e) of title 5, United States Code. Interested persons shall be permitted to appear at open meetings and present oral or
written statements on the subject matter of the meeting. The Commission may administer oaths or affirmations to any person appearing before it.

(ii) NOTICE.—All open meetings of the Commission shall be preceded by timely public notice in the Federal Register of the time, place, and subject of the meeting.

(B) MINUTES AND PUBLIC AVAILABILITY.—Minutes of each open meeting shall be kept and shall contain a record of the people present, a description of the discussion that occurred, and copies of all statements filed. The minutes and records of all open meetings and other documents that were made available to or prepared for the Commission shall be available for public inspection and copying at a single location in the offices of the Commission.

(m) ARCHIVING.—Not later than the date of termination of the Commission, all records and papers of the Commission shall be delivered to the Archivist of the United States for deposit in the National Archives.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal years 2011 and 2012 such sums are as
necessary to carry out the purposes of this Act, not to exceed $7,000,000 per year for each fiscal year, and not more than $14,000,000 total. None of the funds appropriated under this Act may be utilized for international travel.

(b) **Availability.**—Any sums appropriated under the subsection (a) shall remain available, without fiscal year limitation, until expended.

**SEC. 9. SUNSET.**

The Commission shall terminate 60 days after it submits its report to Congress.