

109TH CONGRESS
2D SESSION

S. 2499

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

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2006

Mr. KERRY introduced the following bill; which was read twice and referred
to the Committee on Homeland Security and Governmental Affairs

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Martin Luther King, Jr., Records Collection Act of
6 2006”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and declarations.
Sec. 3. Definitions.

- Sec. 4. Reverend Dr. Martin Luther King, Jr., Records Collection at the National Archives.
- Sec. 5. Review, identification, transmission to the National Archives, and public disclosure of related records by Government offices.
- Sec. 6. Postponement of public disclosure of records.
- Sec. 7. Establishment and powers of the Records Review Board.
- Sec. 8. Records Review Board personnel.
- Sec. 9. Review of records by the Records Review Board.
- Sec. 10. Disclosure of materials under seal of court.
- Sec. 11. Private right of action.
- Sec. 12. Rules of construction.
- Sec. 13. Termination of effect of Act.
- Sec. 14. Authorization of appropriations.
- Sec. 15. Records pending.
- Sec. 16. Whistleblower protection.
- Sec. 17. Severability.

1 **SEC. 2. FINDINGS AND DECLARATIONS.**

2 (a) FINDINGS AND DECLARATIONS.—The Congress
3 finds and declares that—

4 (1) all Government records related to the life
5 and assassination of Reverend Dr. Martin Luther
6 King, Jr., should be preserved for historical and gov-
7 ernmental purposes;

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

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

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

6 (5) legislation is necessary because the Freedom
7 of Information Act, as implemented by the executive
8 branch, has prevented the timely public disclosure of
9 records relating to the life and assassination of Rev-
10 erend Dr. Martin Luther King, Jr.;

11 (6) legislation is necessary because Executive
12 Order No. 12356, entitled “National Security Infor-
13 mation”, has eliminated the declassification and
14 downgrading schedules relating to classified informa-
15 tion across government and has prevented the timely
16 public disclosure of records relating to the life and
17 assassination of Reverend Dr. Martin Luther King,
18 Jr.;

19 (7) legislation is necessary because records re-
20 lating to the life and assassination of Reverend Dr.
21 Martin Luther King, Jr., that were previously de-
22 classified and released to the public are being re-
23 evaluated for reclassification; and

24 (8) most of the records related to the life and
25 assassination of Reverend Dr. Martin Luther King,

1 Jr., are almost 35 years old, and only in the rarest
2 cases is there any legitimate need for continued pro-
3 tection of such records.

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

5 (1) to provide for the creation of the Reverend
6 Dr. Martin Luther King, Jr., Records Collection at
7 the National Archives; and

8 (2) to require the expeditious public trans-
9 mission to the Archivist and public disclosure (in-
10 cluding by electronic means) of such records.

11 **SEC. 3. DEFINITIONS.**

12 In this Act, the following definitions apply:

13 (1) The term “Archivist” means the Archivist
14 of the United States.

15 (2) The term “related record” includes all
16 records, public and private, regardless of how labeled
17 or identified, that document, describe, report on,
18 analyze or interpret activities, persons, or events
19 reasonably related to the life and assassination of
20 Dr. Martin Luther King, Jr., and investigations of
21 or inquiries into his life or death, including a
22 record—

23 (A) that was created or made available for
24 use by, obtained by, or otherwise came into the
25 possession of—

1 (i) the Commission on Central Intel-
2 ligence Agency Activities Within the
3 United States (the “Rockefeller Commis-
4 sion”);

5 (ii) the Senate Select Committee to
6 Study Governmental Operations with Re-
7 spect to Intelligence Activities (the
8 “Church Committee”);

9 (iii) the Select Committee on Assas-
10 sinations (the “House Assassinations Com-
11 mittee”) of the House of Representatives;

12 (iv) the Select Committee on Intel-
13 ligence (the “Pike Committee”) of the
14 House of Representatives;

15 (v) the Library of Congress;

16 (vi) the National Archives;

17 (vii) any Presidential library;

18 (viii) any Executive agency;

19 (ix) any independent agency;

20 (x) any Government office;

21 (xi) any State or local law enforce-
22 ment office that provided support or assist-
23 ance or performed work in connection with
24 a Federal inquiry into the life and assas-

1 sination of Reverend Dr. Martin Luther
2 King, Jr.; or

3 (xii) any donated deed or gift; or

4 (B) that is any of the following:

5 (i) A record created in the course of
6 a Federal, State, or local governmental in-
7 vestigation that is no longer in possession
8 of the Federal, State, or local government.

9 (ii) A record located at, or under the
10 control of—

11 (I) record repositories and ar-
12 chives of a Federal, State, or local
13 government;

14 (II) record repositories and ar-
15 chives of a university, library, histor-
16 ical society, or similar organization;

17 (III) an individual who possesses
18 the record by virtue of service with a
19 Government office;

20 (IV) a person, including an indi-
21 vidual or corporation, who obtained
22 such record from Government sources
23 or individuals identified in this Act; or

24 (V) a person, including an indi-
25 vidual or corporation, who created or

1 has obtained such record from sources
2 other than those identified in this
3 clause.

4 (iii) A record of a Federal or State
5 criminal or civil court, including a record
6 under seal released in accordance with sec-
7 tion 10.

8 (iv) A record generated by a foreign
9 government.

10 (v) A record in possession of a con-
11 tractor of the Federal Government.

12 (vi) All records collected by or seg-
13 regated by all Federal, State, and local
14 government agencies in conjunction with
15 any investigation or analysis of or inquiry
16 into the life and assassination of Dr. Mar-
17 tin Luther King, Jr., including any intra-
18 agency investigation or analysis, any inter-
19 agency communications, any request by the
20 Select Committee on Assassinations of the
21 House of Representatives to collect docu-
22 ments and other materials, or any intra-
23 agency collection or segregation of docu-
24 ments and other materials regarding the

1 life and assassination of Dr. Martin Lu-
2 ther King, Jr.

3 (vii) All documents used by Govern-
4 ment offices and agencies during their de-
5 classification review of related records as
6 well as all other documents, indices, and
7 other material, including but not limited to
8 those that disclose cryptonyms, code
9 names, or other identifiers that appear in
10 related records that would reasonably con-
11 stitute a related record or would assist in
12 the identification, evaluation, or interpreta-
13 tion of a related record, including—

14 (I) with respect to records that
15 are identified with respect to a par-
16 ticular person, all records relating to
17 that person that use or reflect the
18 true name or any other name, pseu-
19 donym, codeword, symbol, number,
20 cryptonym, or alias used to identify
21 that person;

22 (II) with respect to records that
23 are identified with respect to a par-
24 ticular operation or program, all
25 records pertaining to that program by

1 any other name, pseudonym,
 2 codeword, symbol, number, or
 3 cryptonym; and

4 (III) any other record that does
 5 not fall within the scope of a related
 6 record as described in the Act, but
 7 which has the potential to enhance,
 8 enrich, and broaden the historical
 9 record of the life and death of Dr.
 10 Martin Luther King, Jr.

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

14 (4) The term “Executive agency” means an Ex-
 15 ecutive agency as defined in subsection 552(f) of
 16 title 5, United States Code, and includes any Execu-
 17 tive department, military department, Government
 18 corporation, Government controlled corporation, or
 19 other establishment in the executive branch of the
 20 Government, including the Executive Office of the
 21 President, or any independent regulatory agency.

22 (5) The term “Government office” includes—

23 (A) all current, past, and former depart-
 24 ments, agencies, offices, divisions, foreign of-
 25 fices, bureaus, and deliberative bodies of any

1 Federal, State, or local government and in-
2 cludes all inter- or intra-agency working groups,
3 committees, and meetings that possess or cre-
4 ated records relating to the life and assassina-
5 tion of Dr. Martin Luther King, Jr.; and

6 (B) any office of the Federal Government
7 that has possession or control of related
8 records, including—

9 (i) the House Committee on Adminis-
10 tration with regard to the Select Com-
11 mittee on Assassinations of the records of
12 the House of Representatives;

13 (ii) the Select Committee on Intel-
14 ligence of the Senate with regard to
15 records of the Senate Select Committee to
16 Study Governmental Operations with Re-
17 spect to Intelligence Activities and other
18 related records;

19 (iii) the Library of Congress;

20 (iv) the National Archives as custo-
21 dian of related records that it has obtained
22 or possesses, including the Commission on
23 Central Intelligence Agency Activities in
24 the United States; and

1 (v) any other executive branch office
2 or agency, and any independent agency.

3 (6) The term “identification aid” means the
4 written description prepared by the Archivist for
5 each record as required by section 4.

6 (7) The term “National Archives” means the
7 National Archives and all components thereof, in-
8 cluding Presidential archival depositories established
9 under section 2112 of title 44, United States Code.

10 (8) The term “official investigation” means the
11 reviews of the activities or assassination of Reverend
12 Dr. Martin Luther King, Jr., conducted by any
13 Presidential commission, any authorized congres-
14 sional committee, and any Government agency either
15 independently, at the request of any Presidential
16 commission or congressional committee, or at the re-
17 quest of any Government official.

18 (9) The term “originating body” means the Ex-
19 ecutive agency, government commission, congres-
20 sional committee, or other governmental entity that
21 created a record or particular information within a
22 record.

23 (10) The term “public interest” means the
24 compelling interest in the prompt public disclosure
25 of related records for historical and governmental

1 purposes and for the purpose of fully informing the
 2 American people about the history surrounding the
 3 life and assassination of Reverend Dr. Martin Lu-
 4 ther King, Jr.

5 (11) The term “record” includes a book, paper,
 6 map, photograph, sound or video recording, machine
 7 readable material, computerized, digitized, or elec-
 8 tronic information, regardless of the medium on
 9 which it is stored, or other documentary material or
 10 physical evidence or artifact regardless of its phys-
 11 ical form or characteristics.

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

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

17 **SEC. 4. REVEREND DR. MARTIN LUTHER KING, JR.,**
 18 **RECORDS COLLECTION AT THE NATIONAL**
 19 **ARCHIVES.**

20 (a) IN GENERAL.—(1) Not later than 60 days after
 21 the date of enactment of this Act, the National Archives
 22 shall commence establishment of a collection of records to
 23 be known as the “Reverend Dr. Martin Luther King, Jr.,
 24 Records Collection.” In so doing, the Archivist shall en-
 25 sure the physical integrity and original provenance of all

1 records. The Collection shall consist of originals or record
2 copies of all Government records relating to the life and
3 assassination of Reverend Dr. Martin Luther King, Jr.,
4 which shall be transmitted to the National Archives in ac-
5 cordance with section 2107 of title 44, United States
6 Code. The Archivist shall prepare and publish a subject
7 guidebook and index to the collection, including the central
8 directory described in paragraph (2)(B), which shall be
9 available to the public and searchable electronically.

10 (2) The Collection shall include—

11 (A) all related records—

12 (i) that have been transmitted to the Na-
13 tional Archives or disclosed to the public in an
14 unredacted form prior to the date of enactment
15 of this Act, or were so transmitted or disclosed
16 and reclassified prior to such date of enact-
17 ment;

18 (ii) that are required to be transmitted to
19 the National Archives;

20 (iii) the disclosure of which is postponed
21 under this Act; or

22 (iv) that meets the definition of a related
23 record discovered after termination of the exist-
24 ence of the Records Review Board;

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

4 (C) all Review Board records as required by
5 this Act.

6 (b) USE OF SECONDARY LOCATION FOR PORTION OF
7 COLLECTION.—

8 (1) IN GENERAL.—The Archivist shall enter
9 into an agreement with an entity outside the Na-
10 tional Archives for the establishment of a secondary
11 location for copies of such portion of the Collection
12 as the Archivist considers appropriate.

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

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

22 (A) with a proven record of archival col-
23 lecting;

1 (B) which will provide a maximum level of
2 public access to copies of the portion of the Col-
3 lection involved; and

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

7 (4) TREATMENT OF COLLECTION AT SEC-
8 ONDARY LOCATION.—The copies of the portion of
9 the Collection maintained at the secondary location
10 pursuant to this subsection, and the entity respon-
11 sible for maintaining such copies of the collection
12 under the agreement under this subsection, shall be
13 subject to the same terms, conditions, and require-
14 ments as apply under this Act to the portion of the
15 Collection maintained at the National Archives and
16 the Archivist.

17 (c) AVAILABILITY OF COLLECTION AT ARCHIVES AND
18 ELECTRONICALLY.—Each item in the Collection (as de-
19 scribed in subsection (a)(2)), other than an artifact or a
20 record the disclosure of which is postponed under this Act,
21 shall be available to the public for inspection and copying
22 at the National Archives and through an electronic format
23 within 30 days after its transmission to the National Ar-
24 chives.

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

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

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

5 (e) ADDITIONAL REQUIREMENTS.—(1) The Collec-
6 tion shall be preserved, protected, archived, and made
7 available to the public at the National Archives.

8 (2) Whenever artifacts are included in the Collection,
9 it shall be sufficient to comply with this Act if the public
10 is provided with access to photographs, drawings, or simi-
11 lar materials depicting the artifacts. Additional display,
12 examination, or testing by the public of artifacts in the
13 Collection shall occur if there is a reasonable claim that
14 such examination or testing will reveal aspects of the arti-
15 fact that cannot be determined from such photographs or
16 depictions, and shall occur under the terms and conditions
17 established by the National Archives to ensure their pres-
18 ervation and protection for prosperity.

19 (3) The National Archives, in consultation with its
20 Information Security Oversight Office, shall ensure the se-
21 curity of the records in the Collection that qualify for post-
22 ponement of public disclosure pursuant to section 6.

23 (f) OVERSIGHT.—The Committee on Government Re-
24 form of the House of Representatives and the Committee
25 on Homeland Security and Governmental Affairs of the

1 Senate shall have continuing oversight jurisdiction with re-
2 spect to the Collection and shall conduct biannual hear-
3 ings, up to and including the final Archivist determination.

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

8 (a) IN GENERAL.—

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

16 (2) DETERMINATION OF USE OF ORIGINALS OR
17 COPIES.—

18 (A) For purposes of determining whether
19 originals or copies of related records are to be
20 made part of the Collection established under
21 this Act, the following shall apply:

22 (i) In the case of papers, maps, and
23 other documentary materials, the Review
24 Board may determine that record copies of
25 Government records, either the signed

1 original, original production, or a repro-
2 duction that has been treated as the offi-
3 cial record maintained to chronicle govern-
4 ment functions or activities may be placed
5 in the Collection.

6 (ii) In the case of other papers, maps,
7 and other documentary material, the Re-
8 view Board may determine that a true and
9 accurate copy of a record in lieu of the
10 original may be placed in the Collection.

11 (iii) In the case of photographs, the
12 original negative, whenever available (oth-
13 erwise the nearest generation print that is
14 a true and accurate copy), may be placed
15 in the Collection.

16 (iv) In the case of motion pictures,
17 the camera original, whenever available
18 (otherwise the earliest generation print
19 that is a true and accurate copy) may be
20 placed in the Collection.

21 (v) In the case of sound and video re-
22 cordings, the original recording, whenever
23 available (otherwise the earliest generation
24 copy that is a true and accurate copy) may
25 be placed in the Collection.

1 (vi) In the case of machine-readable
2 information, a true and accurate copy of
3 the original (duplicating all information
4 contained in the original and in a format
5 that permits retrieval of the information)
6 may be placed in the Collection.

7 (vii) In the case of artifacts, the origi-
8 nal objects themselves shall be placed in
9 the Collection.

10 (B) To the extent records from foreign
11 governments are included in the Collection, cop-
12 ies of the original records shall be sufficient for
13 inclusion in the Collection.

14 (C) In cases where a copy, as defined in
15 subparagraph (D), is authorized by the Review
16 Board to be included in the Collection, the Re-
17 view Board may require that a copy be certified
18 if, in its discretion, it determines a certification
19 to be necessary to ensure the integrity of the
20 Collection. In cases where an original, as de-
21 fined in subparagraph (A), is required for inclu-
22 sion in the Collection, the Review Board may,
23 at its discretion, accept the best available copy.
24 In such cases that records included in the Col-
25 lection, whether originals or copies, contain il-

1 legible portions, such records shall have at-
2 tached thereto a certified transcription of the il-
3 legible language to the extent practicable.

4 (D) For purposes of implementing this
5 Act, the term “copy” means true and accurate
6 photocopy duplication by a means appropriate
7 to the medium of the original record that pre-
8 serves and displays the integrity of the record
9 and the information contained in it.

10 (E) Nothing in this paragraph shall be in-
11 terpreted to suggest that additional copies of
12 any related records contained in the Collection
13 are not also related records that, at the Review
14 Board’s discretion, may also be placed in the
15 Collection.

16 (F) Nothing in this paragraph shall be in-
17 terpreted to prevent or to preclude copies of any
18 electronic related records from being refor-
19 matted electronically in order to conform to dif-
20 ferent hardware or software requirements of
21 audiovisual or machine readable formats if such
22 is the professional judgment of the National Ar-
23 chives.

1 (3) RELATED RECORDS.—In carrying out this
2 section, a Government office may not destroy, alter,
3 or mutilate in any way a related record.

4 (4) PRIOR DISCLOSURE.—

5 (A) Except as provided in subparagraph
6 (B), in carrying out this section, a Government
7 office may not withhold, redact, postpone for
8 public disclosure, or reclassify a related record
9 that was made available or disclosed to the pub-
10 lic prior to the date of enactment of this Act.

11 (B) For purposes of subparagraph (A), a
12 Government office may withhold names or iden-
13 tifies, consistent with the requirements of sec-
14 tion 6, in a related record created by a person
15 or entity outside government.

16 (b) CUSTODY OF RELATED RECORDS PENDING RE-
17 VIEW.—During the review by a Government office and
18 pending review activity by the Review Board, the Govern-
19 ment office shall retain custody of its related records for
20 purposes of preservation, security, and efficiency, unless—

21 (1) the Review Board requires the physical
22 transfer of records for purposes of conducting an
23 independent and impartial review;

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

1 (3) it is a third agency record described in sub-
2 section (c)(2)(C); or

3 (4) any other records are transferred to the Ar-
4 chives for public disclosure.

5 (c) REVIEW.—

6 (1) IN GENERAL.—Not later than 180 days
7 after the date of enactment of this Act, each Gov-
8 ernment office shall review each related record in its
9 custody or possession in accordance with paragraph
10 (2).

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

13 (A) determine which of its records are re-
14 lated records;

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

18 (C)(i) determine which of its related
19 records, or particular information contained in
20 such a record, was created by a third agency or
21 by another Government office; and

22 (ii) transmit to a third agency or other
23 Government office those records, or particular
24 information contained in those records, or com-
25 plete and accurate copies thereof;

1 (D)(i) determine whether its related
2 records or particular information in related
3 records are covered by the standards for post-
4 ponement of public disclosure under this Act;
5 and

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

9 (E) organize and make available to the Re-
10 view Board all related records identified under
11 subparagraph (D) the public disclosure of which
12 in whole or in part may be postponed under
13 this Act;

14 (F) organize and make available to the Re-
15 view Board any record concerning which the of-
16 fice has any uncertainty as to whether the
17 record is a related record governed by this Act;

18 (G) give priority to—

19 (i) the identification, review, and
20 transmission of all related records publicly
21 available or disclosed as of the date of en-
22 actment of this Act in a redacted or edited
23 form; and

24 (ii) the identification, review, and
25 transmission, under the standards for post-

ponement set forth in this Act, of related records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act, including the following:

(i) All training manuals, instructional materials and guidelines created or used by the Government office in furtherance of its review of related records.

(ii) All records, lists, and documents describing the procedure by which the office identified or selected related records for review.

(iii) Organizational charts of the office.

(iv) Records necessary and sufficient to describe the office's—

(I) records policies and schedules;

(II) filing systems and organiza-

tion;

1 (III) storage facilities and loca-
2 tions;

3 (IV) indexing symbols, marks,
4 codes, instructions, guidelines, meth-
5 ods, and procedures; and

6 (V) search methods and proce-
7 dures used in the performance of the
8 duties of the office under this Act.

9 (v) Reclassification to a higher level,
10 transfer, destruction, or other information
11 (e.g., theft) regarding the status of related
12 records.

13 (3) ARCHIVAL DEPOSITORIES.—The Director of
14 each archival depository established under section
15 2112 of title 44, United States Code, shall have as
16 a priority the expedited review for public disclosure
17 of related records in the possession and custody of
18 the depository, and shall make such records available
19 to the Review Board as required by this Act.

20 (d) IDENTIFICATION AIDS.—

21 (1) IN GENERAL.—

22 (A) STANDARD FORM.—Not later than 45
23 days after the date of enactment of this Act,
24 the Archivist, in consultation with the appro-
25 priate Government offices, shall prepare and

1 make available to all Government offices a
2 standard form of identification or finding aid
3 for use with each related record subject to re-
4 view under this Act.

5 (B) UNIFORM SYSTEM.—The Archivist
6 shall ensure that the identification aid program
7 is established in such a manner as to result in
8 the creation of a uniform system of electronic
9 records by Government offices that are compat-
10 ible with each other and which shall be made
11 publicly available and searchable electronically.

12 (2) PRINTED COPIES.—Upon completion of an
13 identification aid by the Archivist, a Government of-
14 fice shall—

15 (A) attach a printed copy to the record it
16 describes;

17 (B) transmit to the Review Board a print-
18 ed copy; and

19 (C) attach a printed copy to each related
20 record it describes when it is transmitted to the
21 Archivist.

22 (3) PUBLICLY AVAILABLE RECORDS.—Related
23 records which are in the possession of the National
24 Archives on the date of enactment of this Act, and
25 which have been publicly available in their entirety

1 without redaction, shall be made available in the
2 Collection without any additional review by the Re-
3 view Board or another authorized office under this
4 Act.

5 (e) TRANSMISSION TO THE NATIONAL ARCHIVES.—
6 Each Government office shall—

7 (1) transmit to the Archivist, and make imme-
8 diately available to the public, all related records
9 that can be publicly disclosed, including those that
10 are publicly available on the date of enactment of
11 this Act, without any redaction, adjustment, or with-
12 holding under the standards of this Act; and

13 (2) transmit to the Archivist upon approval for
14 postponement by the Review Board or upon comple-
15 tion of other action authorized by this Act, all re-
16 lated records the public disclosure of which has been
17 postponed, in whole or in part, under the standards
18 of this Act, to become part of the protected Collec-
19 tion.

20 (f) RECORD AVAILABILITY.—Executive branch agen-
21 cies shall—

22 (1) charge fees for copying related records;

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

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

5 (4) make available to the public electronic
6 versions of related records, identification aids, and
7 indexes.

8 **SEC. 6. POSTPONEMENT OF PUBLIC DISCLOSURE OF**
9 **RECORDS.**

10 (a) **GROUND FOR POSTPONEMENT.**—Disclosure of
11 related records or particular information in related records
12 to the public may be postponed subject to the limitations
13 of this Act if there is clear and convincing evidence that—

14 (1) the threat, as of the time the postponement
15 decision is made, to the military defense, intelligence
16 operations, or conduct of foreign relations of the
17 United States posed by the public disclosure of the
18 related record is of such gravity that it outweighs
19 the public interest, and such public disclosure would
20 reveal—

21 (A) a living intelligence agent whose iden-
22 tity currently requires protection;

23 (B) an intelligence source or method which
24 is currently utilized, or reasonably expected to
25 be utilized, by the United States Government

1 and which has not been officially disclosed, the
2 disclosure of which would interfere with the
3 conduct of intelligence activities; or

4 (C) any other matter currently relating to
5 the military defense, intelligence operations, or
6 conduct of foreign relations of the United
7 States, the disclosure of which would demon-
8 strably impair the national security of the
9 United States;

10 (2) the public disclosure of the related record
11 would reveal the name or identity of a living person
12 who provided confidential information to the United
13 States and would pose a substantial risk of harm to
14 that person;

15 (3) the public disclosure of the related record
16 could reasonably be expected to constitute an unwar-
17 ranted invasion of a living person's personal privacy,
18 and that invasion of privacy is so substantial that it
19 outweighs the public interest; or

20 (4) the public disclosure of the related record
21 would compromise the existence of an understanding
22 of confidentiality currently requiring protection be-
23 tween a Government agent and a living cooperating
24 individual or a foreign government, and public dis-

1 closure would be so harmful that it outweighs the
2 public interest.

3 (b) CUSTODY OF POSTPONED RELATED RECORDS.—

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

10 (c) ANNUAL REVIEW OF POSTPONED RELATED

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

15 (2) An annual review shall address the public dislo-
16 sure of additional related records in the Collection. Any
17 related records discovered since the preceding annual re-
18 view in possession of any Federal, State, or local agency,
19 Government office, organization, or person shall be added
20 to the Collection, and the annual review also shall address
21 the public disclosure of such records under the standard
22 of this Act.

23 (3) All postponed related records determined to re-
24 quire continued postponement shall require an unclassified
25 written description of the record and the reason for such

1 continued postponement. Such description shall be pro-
 2 vided to the Archivist and published in the Federal Reg-
 3 ister upon determination.

4 (4) The annual review of postponed related records
 5 shall serve to downgrade and declassify security classified
 6 information and implement the presumption of release re-
 7 quired by section 15.

8 (d) REQUIREMENT TO DISCLOSE POSTPONED
 9 RECORDS.—Each related record shall be publicly disclosed
 10 in full, and available in the Collection no later than 1 year
 11 after the termination of the Review Board or the date that
 12 is 8 years after the date of enactment of this Act, which-
 13 ever is earlier, unless the President certifies, as required
 14 by this Act, that continued postponement is made nec-
 15 essary by—

16 (1) a current and identifiable harm to the mili-
 17 tary defense, intelligence operations, law enforce-
 18 ment, or conduct of foreign relations; and

19 (2) the identifiable harm is of such gravity that
 20 it outweighs the public interest in disclosure.

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 “Martin
 25 Luther King Records 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) THREE ALTERNATE MEMBERS.—The Presi-
11 dent shall appoint, without regard to political affili-
12 ation, 3 citizens to serve as alternate members of the
13 Review Board in the case of a vacancy. The appoint-
14 ments shall be made at the same time members
15 under paragraph (1) are nominated.

16 (3) NOMINATIONS.—The President shall make
17 nominations to the Review Board not later than 90
18 calendar days after the date of enactment of this
19 Act.

20 (4) ADDITIONAL NOMINATIONS.—If the Senate
21 votes not to confirm a nomination to the Review
22 Board, the President shall make an additional nomi-
23 nation not later than 30 days thereafter.

24 (5) RECOMMENDATIONS.—(A) The President
25 shall make nominations to the Review Board after

1 considering persons recommended by the Society of
2 American Archivists, the National Bar Association,
3 the Black Caucus of the American Library Association,
4 tion, Inc., and the National Conference of Black Political Scientists.

6 (B) If an organization described in subparagraph
7 graph (A) does not recommend at least 2 nominees
8 meeting the qualifications stated in paragraph (6) by
9 the date that is 45 days after the date of enactment
10 of this Act, the President shall consider for nomination
11 the persons recommended by the other organizations
12 described in subparagraph (A).

13 (C) The President may request an organization
14 described in subparagraph (A) to submit additional
15 nominations.

16 (6) NOMINATIONS.—Persons nominated to the
17 Review Board—

18 (A) shall be impartial private citizens, none
19 of whom is presently employed by any branch
20 of the Government, none of whom shall have
21 had any previous involvement with any official
22 investigation or inquiry into the life or death of
23 Dr. Martin Luther King, Jr., conducted by a
24 Federal, State, or local government, and none
25 of whom shall have been previously employed by

1 any Federal intelligence or law enforcement
2 agency, relating to the life or assassination of
3 Reverend Dr. Martin Luther King, Jr.;

4 (B) shall be distinguished persons of high
5 national professional reputation in their respec-
6 tive fields who are capable of exercising the
7 independent and objective judgment necessary
8 to the fulfillment of their role in ensuring and
9 facilitating the review, transmission to the pub-
10 lic, and public disclosure of records related to
11 the life and assassination of Dr. Reverend Mar-
12 tin Luther King, Jr., and who possess an ap-
13 preciation of the value of such material to the
14 public, scholars, and government; and

15 (C) shall include at least 1 professional
16 historian, 1 attorney, 1 researcher, and 1 rep-
17 resentative of the civil rights community.

18 (c) SECURITY CLEARANCES.—(1) All Review Board
19 nominees shall be granted the necessary security clear-
20 ances in an accelerated manner, commensurate with that
21 of other executive nominations, subject to the standard
22 procedures for granting such clearances.

23 (2) All nominees shall qualify for the necessary secu-
24 rity clearance prior to being considered for confirmation

1 by the Committee on Homeland Security and Govern-
2 mental Affairs of the Senate.

3 (d) CONFIRMATION HEARINGS.—(1) The Committee
4 on Homeland Security and Governmental Affairs of the
5 Senate shall hold confirmation hearings within 30 days in
6 which the Senate is in session after the nomination of 3
7 Review Board members.

8 (2) The Committee on Homeland Security and Gov-
9 ernmental Affairs shall vote on the nominations within 14
10 days in which the Senate is in session after the confirma-
11 tion hearings, and shall report its results to the full Senate
12 immediately.

13 (3) The Senate shall vote on each nominee to confirm
14 or reject within 14 days in which the Senate is in session
15 after reported by the Committee on Homeland Security
16 and Governmental Affairs.

17 (e) VACANCY.—A vacancy on the Review Board shall
18 be filled in the same manner as specified for original ap-
19 pointment within 30 days of the occurrence of the vacancy.
20 Nominations for a vacancy shall be made from among the
21 alternate members appointed under subsection (b)(2).

22 (f) CHAIRPERSON.—The Members of the Review
23 Board shall elect one of its members as chairperson at
24 its initial meeting.

25 (g) REMOVAL OF REVIEW BOARD MEMBER.—

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

3 (A) by impeachment and conviction; or

4 (B) by the action of the President for inef-
5 ficiency, neglect of duty, malfeasance in office,
6 physical disability, mental incapacity, failure to
7 meet or falsification of any qualifications under
8 subsection (b)(6), or any other condition that
9 substantially impairs the performance of the
10 member's duties.

11 (2) REPORT.—

12 (A) FACTS AND GROUNDS.—If a member
13 of the Review Board is removed from office,
14 and that removal is by the President, not later
15 than 10 days after the removal the President
16 shall submit to the Committee on Government
17 Reform of the House of Representatives and
18 the Committee on Homeland Security and Gov-
19 ernmental Affairs of the Senate a report speci-
20 fying the facts found and the grounds for the
21 removal.

22 (B) PUBLICATION.—The President shall
23 publish in the Federal Register a report sub-
24 mitted under subparagraph (A), except that the
25 President may, if necessary to protect the

rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

(3) JUDICIAL REVIEW.—

(A) CIVIL ACTION.—A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

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

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under sub-

1 chapter I of chapter 57 of title 5, United States Code,
2 while away from the member's home or regular place of
3 business in the performance of services for the Review
4 Board.

5 (i) DUTIES OF THE REVIEW BOARD.—The Review
6 Board shall carry out sections 9 and 10 of this Act and
7 any other duties of the Board as specified in this Act.

8 (j) POWERS.—

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

12 (A) direct Government offices to complete
13 identification aids and organize related records;

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

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

23 (ii) direct a Government office to make
24 available to the Review Board, and if necessary
25 investigate the facts surrounding, additional in-

1 formation, records, or testimony from individ-
2 uals, which the Review Board has reason to be-
3 lieve is required to fulfill its functions and re-
4 sponsibilities under this Act; and

5 (iii) request the Attorney General to sub-
6 poena private persons and State and Federal
7 employees to compel testimony, records, and
8 other information relevant to its responsibilities
9 under this Act;

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

14 (E) receive information from the public re-
15 garding the identification and public disclosure
16 of related records;

17 (F) hold hearings, administer oaths, and
18 subpoena witnesses and documents;

19 (G) use the Federal Supply Service in the
20 same manner and under the same conditions as
21 other departments and agencies of the United
22 States;

23 (H) use the United States mails in the
24 same manner and under the same conditions as

1 other departments and agencies of the United
2 States; and

3 (I) appoint within 30 days after the ap-
4 pointment of the Review Board an independent
5 citizen advisory committee, subject to the Fed-
6 eral Advisory Committee Act (5 U.S.C. App.),
7 that includes members of the civil rights com-
8 munity and the King family.

9 (2) ENFORCEMENT.—A subpoena issued under
10 paragraph (1)(C)(iii) may be enforced by any appro-
11 priate Federal court acting pursuant to a lawful re-
12 quest of the Review Board.

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

16 (l) OVERSIGHT.—(1) The Committee on Government
17 Reform of the House of Representatives and the Com-
18 mittee on Homeland Security and Governmental Affairs
19 of the Senate shall have continuing oversight jurisdiction
20 with respect to the official conduct of the Review Board
21 and the disposition of postponed or newly discovered
22 records after termination of the Review Board, shall con-
23 duct periodic hearings on the conduct of the board not
24 less than every 2 years for a period ending 2 years after
25 termination of the Review Board or 1 year after the cer-

1 tification of the Archivist under section 13(b), and shall
2 have access to any records held or created by the Review
3 Board.

4 (2) The Review Board, all Federal Government agen-
5 cies, and the National Archives shall have the duty to co-
6 operate with the exercise of such oversight jurisdiction.

7 (m) SUPPORT SERVICES.—The Administrator of the
8 General Services Administration shall provide administra-
9 tive services for the Review Board on a reimbursable basis.
10 (n) INTERPRETIVE REGULATIONS.—The Review
11 Board may issue interpretive regulations.

12 (o) TERMINATION AND WINDING UP.—(1) The Re-
13 view Board and the terms of its members shall terminate
14 not later than 5 years after the enactment of this Act,
15 except that the Review Board may, by majority vote, ex-
16 tend its term for an additional 2-year period if it has not
17 completed its work within that 5-year period.

18 (2) Upon its termination, the Review Board shall
19 submit reports to the President and the Congress includ-
20 ing a complete and accurate accounting of expenditures
21 during its existence, and shall complete all other reporting
22 requirements under this Act.

23 (3) Upon termination and winding up, the Review
24 Board shall transfer all of its records to the Archivist for
25 inclusion in the Collection, and no record of the Review

1 Board shall be destroyed and records created in the course
 2 of its duties will be released to the public within 60 days
 3 of its termination.

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

5 (a) EXECUTIVE DIRECTOR.—

6 (1) APPOINTMENT.—Not later than 45 days
 7 after the initial meeting of the Review Board, the
 8 Review Board shall appoint one citizen, without re-
 9 gard to political affiliation, to the position of Execu-
 10 tive Director.

11 (2) QUALIFICATIONS.—The person appointed as
 12 Executive Director shall be a private citizen of integ-
 13 rity and impartiality who is a distinguished profes-
 14 sional and who is not a present employee of any
 15 branch of the Government, has not previously been
 16 employed by an intelligence agency, and has had no
 17 previous involvement with any official investigation
 18 or inquiry relating to the life or assassination of
 19 Reverend Dr. Martin Luther King, Jr.

20 (3) SECURITY CLEARANCES.—

21 (A) A candidate for Executive Director
 22 shall be granted the necessary security clear-
 23 ances in an accelerated manner subject to the
 24 standard procedures for granting such clear-
 25 ances.

1 (B) A candidate shall qualify for the nec-
2 essary security clearance prior to being ap-
3 proved by the Review Board.

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

5 (A) serve as principal liaison to Govern-
6 ment offices;

7 (B) be responsible for the administration
8 and coordination of the Review Board's review
9 of records;

10 (C) be responsible for the administration
11 of all official activities conducted by the Review
12 Board; and

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

16 (5) REMOVAL.—The Executive Director shall
17 not be removed for reasons other than by a majority
18 vote of the Review Board for cause on the grounds
19 of inefficiency, neglect of duty, malfeasance in office,
20 physical disability, mental incapacity, failure to meet
21 or falsification of any qualifications under paragraph
22 (2), or any other condition that substantially impairs
23 the performance of the responsibilities of the Execu-
24 tive Director or the staff of the Review Board.

25 (b) STAFF.—

1 (1) IN GENERAL.—The Review Board, without
2 regard to the provisions of title 5, United States
3 Code, governing appointments in the competitive
4 service and without regard to the provisions of chap-
5 ter 51 and chapter 53 of that title relating to classi-
6 fication and General Service pay rates, may appoint
7 and terminate additional personnel as are necessary
8 to enable the Review Board and its Executive Direc-
9 tor to perform its duties.

10 (2) QUALIFICATIONS.—A person appointed to
11 the staff of the Review Board shall be a private cit-
12 izen of integrity and impartiality who is not a
13 present employee of any branch of the Government,
14 has not previously been in the employ of any intel-
15 ligence agency, and who has had no previous involve-
16 ment with any official investigation or inquiry relat-
17 ing to the life or assassination of Reverend Dr. Mar-
18 tin Luther King, Jr.

19 (3) SECURITY CLEARANCES.—

20 (A) ACCELERATION.—A candidate for staff
21 shall be granted the necessary security clear-
22 ances in an accelerated manner subject to the
23 standard procedures for granting such clear-
24 ances.

1 (B) CONDITIONAL EMPLOYMENT.—(i) The
2 Review Board may offer conditional employ-
3 ment to a candidate for a staff position pending
4 the completion of security background inves-
5 tigations. During the pendency of such inves-
6 tigations, the Review Board shall ensure that
7 any such employee does not have access to, or
8 responsibility involving, classified or otherwise
9 restricted related record materials.

10 (ii) If a person hired on a conditional basis
11 under clause (i) is denied other otherwise does
12 not qualify for all security clearances necessary
13 to carry out the responsibilities of the position
14 for which conditional employment has been of-
15 fered, the Review Board shall immediately ter-
16 minate the person's employment.

17 (c) COMPENSATION.—Subject to such rules as may
18 be adopted by the Review Board, the chairperson, without
19 regard to the provisions of title 5, United States Code,
20 governing appointments in the competitive service and
21 without regard to the provisions of chapter 51 and chapter
22 53 of that title relating to classification and General Serv-
23 ice pay rates, may—

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

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

6 (d) SECURITY CLEARANCE REQUIRED.—An indi-
 7 vidual employed in any position by the Review Board (in-
 8 cluding an individual appointed as Executive Director)
 9 shall be required to qualify for any necessary security
 10 clearance prior to taking office in that position, but may
 11 be employed conditionally in accordance with subsection
 12 (b)(3)(B) before qualifying for that clearance.

13 **SEC. 9. REVIEW OF RECORDS BY THE RECORDS REVIEW**
 14 **BOARD.**

15 (a) STARTUP REQUIREMENTS.—The Review Board
 16 shall—

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

20 (2) not later than 180 days after the date of its
 21 appointment, begin its review of related records
 22 under this Act.

23 (b) DETERMINATIONS OF THE REVIEW BOARD RE-
 24 LATING TO PUBLIC DISCLOSURE AND POSTPONEMENT.—

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) NOTICE OF RELATED RECORD DESIGNA-
13 TION.—

14 (A) In determining to designate related
15 records, the Review Board must determine that
16 the record or group of records will more likely
17 than not enhance, enrich, and broaden the his-
18 torical record of the life and assassination of
19 Dr. Martin Luther King, Jr.

20 (B) A Notice or Related Record Designa-
21 tion (NRRD) shall be the mechanism for the
22 Review Board to announce publicly its deter-
23 mination that a record or group of records
24 meets the definition of related records.

25 (3) POSTPONEMENT.—

1 (A) The Review Board shall consider and
2 render decisions on a determination by a Gov-
3 ernment office to seek to postpone the disclo-
4 sure of related records. In carrying out this
5 subparagraph, the Review Board shall—

6 (i) consider and render decisions on
7 whether a record constitutes a related
8 record;

9 (ii) consider and render decisions on
10 whether a related record or particular in-
11 formation in a record qualifies for post-
12 ponement of disclosure under this Act; and

13 (iii) in the case of a related record
14 that qualifies for such postponement, set
15 specific conditions and dates for public dis-
16 closure of the record, related to events or
17 specific dates when the reasons for post-
18 ponement will end.

19 (B) A related record shall be released in its
20 entirety except for portions specifically post-
21 poned pursuant to the grounds for postpone-
22 ment of public disclosure of records established
23 in section 6(a), and no portion of any related
24 record shall be withheld from public disclosure
25 solely on grounds of nonrelevance unless, in the

1 Review Board’s sole discretion, release of a part
2 of a record is sufficient to comply with the in-
3 tent and purposes of this Act.

4 (C) In approving postponement of public
5 disclosure of a related record, the Review Board
6 shall seek to—

7 (i) provide for the disclosure of seg-
8 regable parts, substitutes, or summaries of
9 such a record; and

10 (ii) determine, in consultation with
11 the originating body and consistent with
12 the standards for postponement under this
13 Act, which of the following alternative
14 forms of disclosure shall be made by the
15 originating body:

16 (I) Any reasonably segregable
17 particular information in a related
18 record.

19 (II) A substitute record for that
20 information which is postponed.

21 (III) A summary of a related
22 record.

23 (4) REPORT.—With respect to each related
24 record or particular information in related records
25 the public disclosure of which is postponed pursuant

1 to section 6, or for which only substitutions or sum-
2 maries have been disclosed to the public, the Review
3 Board shall create and transmit to the Archivist a
4 report containing—

5 (A) a description of actions by the Review
6 Board, the originating body, the President, or
7 any Government office (including a justification
8 of any such action to postpone disclosure of any
9 record or part of any record) and of any official
10 proceedings conducted by the Review Board
11 with regard to specific related records; and

12 (B) a statement of the specific conditions
13 and dates for the public disclosure of the record
14 as set by the Review Board under paragraph
15 (3)(A)(iii).

16 (5) NOTICE.—

17 (A) IN GENERAL.—Following its review
18 and a determination that a related record shall
19 be publicly disclosed in the Collection or post-
20 poned for disclosure and held in the protected
21 Collection, the Review Board shall notify the
22 head of the originating body of its determina-
23 tion, publish a copy of the determination in the
24 Federal Register within 14 days after the deter-

1 mination is made, and provide that the deter-
2 mination is searchable electronically.

3 (B) CONTEMPORANEOUS NOTICE TO EXEC-
4 UTIVE AND LEGISLATIVE BRANCHES.—Contem-
5 poraneous notice shall be made to the President
6 for Review Board determinations regarding ex-
7 ecutive branch related records, and to the over-
8 sight committees designated in this Act in the
9 case of legislative branch records. Such notice
10 shall contain a written unclassified justification
11 for public disclosure or postponement of disclo-
12 sure, including an explanation of the application
13 of any standards contained in section 6.

14 (c) PRESIDENTIAL AUTHORITY OVER REVIEW
15 BOARD DETERMINATION.—

16 (1) PUBLIC DISCLOSURE OR POSTPONEMENT
17 OF DISCLOSURE.—After the Review Board has made
18 a formal determination concerning the public disclo-
19 sure or postponement of disclosure of an executive
20 branch related record or information within such a
21 record, or of any information contained in a related
22 record, obtained or developed solely within the exec-
23 utive branch, and upon a written appeal to the
24 President by the originating agency or third agency
25 within 30 days after such determination, the Presi-

1 dent shall have the sole and nondelegable authority
2 to require the disclosure or postponement of such
3 record or information under the standards set forth
4 in section 6, and the President shall provide the Re-
5 view Board with an unclassified written certification
6 specifying the President's decision within 30 days
7 after the Review Board's determination and notice
8 to the executive branch agency as required under
9 this Act, stating the justification for the President's
10 decision, including the applicable grounds for post-
11 ponement under section 6, accompanied by a copy of
12 the identification aid required under section 4. If,
13 after 30 days, the President has not transmitted
14 such written certification to the Review Board, the
15 Board may proceed according to its formal deter-
16 mination.

17 (2) ANNUAL REVIEW.—Any executive branch
18 related record postponed by the President shall be
19 subject to the requirements of annual review, down-
20 grading and declassification of classified informa-
21 tion, and public disclosure in the collection set forth
22 in section 6.

23 (3) RECORD OF PRESIDENTIAL POSTPONE-
24 MENT.—The Review Board shall, upon its receipt,
25 publish in the Federal Register a copy of any unclas-

1 sified written certification, statement, and other ma-
2 terials transmitted by or on behalf of the President
3 with regard to postponement of related records and
4 provide that such copies are searchable electroni-
5 cally.

6 (d) NOTICE TO PUBLIC.—Every 30 calendar days,
7 beginning on the date that is 60 calendar days after the
8 date on which the Review Board first approves the post-
9 ponement of disclosure of a related record, the Review
10 Board shall publish in the Federal Register a notice that
11 summarizes the postponements approved by the Review
12 Board or initiated by the President, the House of Rep-
13 resentatives, or the Senate, including a description of the
14 subject, originating agency, length or other physical de-
15 scription, and each ground for postponement that is relied
16 upon, and provide that the notice is searchable electroni-
17 cally.

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

1 (2) The first report shall be issued on the date that
2 is 1 year after the date of enactment of this Act, and sub-
3 sequent reports every 12 months thereafter until termi-
4 nation of the Review Board.

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

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

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

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

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

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

1 (F) Suggestions and requests to Congress for
2 additional legislative authority needs.

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

7 (H) Any recommendations made by the citizens
8 advisory committee appointed by the Review Board.

9 (I) Any recommendations of the Review Board.

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

14 **SEC. 10. DISCLOSURE OF MATERIALS UNDER SEAL OF**
15 **COURT.**

16 (a) REQUESTS TO ATTORNEY GENERAL.—

17 (1) REQUESTS FOR INFORMATION OR EVIDENCE
18 UNDER SEAL.—The Review Board may request the
19 Attorney General—

20 (A) to petition any court in the United
21 States or abroad to release any information or
22 physical evidence relevant to the life or assas-
23 sination of Reverend Dr. Martin Luther King,
24 Jr., that is held under seal of the court; or

1 (B) to subpoena any such information or
2 evidence if such information or evidence is no
3 longer in the possession of the Government.

4 (2) REQUESTS FOR INFORMATION UNDER IN-
5 JUNCTION OF SECRECY OF A GRAND JURY.—

6 (A) The Review Board may request the At-
7 torney General to petition any court in the
8 United States to release any information rel-
9 evant to the life or assassination of Reverend
10 Dr. Martin Luther King, Jr., that is held under
11 the injunction of secrecy of a grand jury.

12 (B) A request for disclosure of life or as-
13 sassination materials under this Act shall be
14 deemed to constitute a showing of particular-
15 ized need under Rule 6 of the Federal Rules of
16 Criminal Procedure.

17 (b) SENSE OF CONGRESS.—It is the sense of the
18 Congress that—

19 (1) the Attorney General should assist the Re-
20 view Board in good faith to unseal any records that
21 the Review Board determines to be relevant and held
22 under seal by a court or under the injunction of se-
23 crecy of a grand jury;

24 (2) the Secretary of State should contact any
25 other foreign government that may hold information

1 relevant to the life and assassination of Reverend
2 Dr. Martin Luther King, Jr., seek the disclosure of
3 such information, and report on progress on these
4 matters to the Review Board in a timely fashion;
5 and

6 (3) all Executive agencies should cooperate in
7 full with the Review Board to seek the disclosure of
8 all information relevant to the life and assassination
9 of Reverend Dr. Martin Luther King, Jr., consistent
10 with the public interest.

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

12 (a) IN GENERAL.—Any person who is aggrieved by
13 a violation of this Act may bring a civil action in an appro-
14 priate district court for declaratory or injunctive relief
15 with respect to the violation.

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

20 **SEC. 12. RULES OF CONSTRUCTION.**

21 (a) PRECEDENCE OVER OTHER LAW.—When this
22 Act requires transmission of a record to the Archivist or
23 public disclosure, it shall take precedence over any other
24 law (except section 6103 of the Internal Revenue Code),
25 judicial decision construing such law, or common law doc-

1 trine that would otherwise prohibit such transmission or
2 disclosure.

3 (b) FREEDOM OF INFORMATION ACT.—Nothing in
4 this Act shall be construed to eliminate or limit any right
5 to file requests with any executive agency or seek judicial
6 review of the decisions pursuant to section 552 of title 5,
7 United States Code, except that any related record discov-
8 ered after termination of the Review Board shall be con-
9 sidered for postponement or public disclosure under the
10 standards of this Act, not such section 552.

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

15 (d) EXISTING AUTHORITY.—Nothing in this Act re-
16 vokes or limits the existing authority of the President, any
17 executive agency, the Senate, or the House of Representa-
18 tives, or any other entity of the Government to publicly
19 disclose records in its possession.

20 (e) RULES OF THE SENATE AND HOUSE OF REP-
21 RESENTATIVES.—To the extent that any provision of this
22 Act establishes a procedure to be followed in the Senate
23 or the House of Representatives, such provision is adopt-
24 ed—

1 (1) as an exercise of the rulemaking power of
 2 the Senate and House of Representatives, respec-
 3 tively, and is deemed to be part of the rules of each
 4 House, respectively, but applicable only with respect
 5 to the procedure to be followed in that House, and
 6 it supersedes other rules only to the extent that it
 7 is inconsistent with such rules; and

8 (2) with full recognition of the constitutional
 9 right of either House to change the rules (so far as
 10 they relate to the procedure of that House) at any
 11 time, in the same manner, and to the same extent
 12 as in the case of any other rule of that House.

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

14 (a) PROVISIONS PERTAINING TO THE REVIEW
 15 BOARD.—The provisions of this Act that pertain to the
 16 appointment and operation of the Review Board shall
 17 cease to be effective when the Review Board and the terms
 18 of its members have terminated pursuant to section 7(o).

19 (b) OTHER PROVISIONS.—The remaining provisions
 20 of this Act shall continue in effect until such time as the
 21 Archivist certifies to the President and the Congress that
 22 all assassination records, including any related record sub-
 23 sequently discovered as described in section 6(c)(2), have
 24 been made available to the public in accordance with this
 25 Act.

1 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS.**

2 There are authorized to be appropriated such sums
3 as are necessary to carry out this Act, to remain available
4 until expended.

5 **SEC. 15. RECORDS PENDING.**

6 Upon termination of the Review Board, all records
7 that are still pending postponement determinations shall
8 be presumed to be available for release.

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

10 All members of the Review Board staff, the Review
11 Board, the National Archives, and all Federal agencies
12 covered under this Act shall treat relevant employees in
13 accordance with the provisions of chapter 23 of title 5,
14 United States Code, prohibiting certain personnel prac-
15 tices (commonly referred to as whistleblower protection
16 provisions), particularly relating to the disclosure of im-
17 proper document retention, release, and disclosure.

18 **SEC. 17. SEVERABILITY.**

19 If any provision of this Act or the application thereof
20 to any person or circumstance is held invalid, the remain-
21 der of this Act and the application of that provision to
22 other persons not similarly situated or to other cir-
23 cumstances shall not be affected by the invalidation.

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