

Calendar No. 514

111TH CONGRESS
2^D SESSION**H. R. 5143**

IN THE SENATE OF THE UNITED STATES

JULY 28, 2010

Received

AUGUST 5, 2010

Read twice and placed on the calendar

AN ACT

To establish the National Criminal Justice Commission.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Criminal Jus-
5 tice Commission Act of 2010”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

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

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

5 (3) that commission, in a span of 18 months,
6 produced a comprehensive report entitled “The
7 Challenge of Crime in a Free Society,” which con-
8 tained 200 specific recommendations on all aspects
9 of the criminal justice system involving Federal,
10 State, tribal, and local governments, civic organiza-
11 tions, religious institutions, business groups, and in-
12 dividual citizens; and

13 (4) developments over the intervening 45 years
14 require once again that Federal, State, tribal, and
15 local governments, civic organizations, religious in-
16 stitutions, business groups, and individual citizens
17 come together to review evidence and consider how
18 to improve the criminal justice system.

19 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

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

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

24 The Commission shall undertake a comprehensive re-
25 view of the criminal justice system, encompassing current

1 Federal, State, local, and tribal criminal justice policies
2 and practices, and make reform recommendations for the
3 President, Congress, State, local, and tribal governments.

4 **SEC. 5. REVIEW AND RECOMMENDATIONS.**

5 (a) GENERAL REVIEW.—The Commission shall un-
6 dertake a comprehensive review of all areas of the criminal
7 justice system, including Federal, State, local, and tribal
8 governments' criminal justice costs, practices, and policies.

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

18 (c) REPORT ADVISORY IN NATURE.—No finding or
19 recommendation made by the Commission in its report
20 shall be binding on any Federal, State, Tribal, or local
21 unit of government. The findings and recommendations of
22 the Commission are advisory in nature.

23 (d) STATE AND LOCAL GOVERNMENT.—In making
24 its recommendations, the Commission should consider the
25 financial and human resources of State and local govern-

1 ments. Recommendations shall not infringe on the legiti-
2 mate rights of the States to determine their own criminal
3 laws or the enforcement of such laws.

4 (e) PUBLIC HEARINGS.—The Commission shall con-
5 duct public hearings in various locations around the
6 United States.

7 (f) CONSULTATION WITH GOVERNMENT AND NON-
8 GOVERNMENT REPRESENTATIVES.—

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

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

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

24 (2) UNITED STATES SENTENCING COMMIS-
25 SION.—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.

1 **SEC. 6. MEMBERSHIP.**

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

4 (1) 1 member shall be appointed by the Presi-
5 dent, who shall serve as co-chairman of the Commis-
6 sion.

7 (2) 1 member shall be appointed by the minor-
8 ity leader of the Senate, in consultation with the mi-
9 nority leader of the House of Representatives, who
10 shall serve as co-chairman of the Commission.

11 (3) 2 members appointed by the majority leader
12 of the Senate, in consultation with the Chairman of
13 the Committee on the Judiciary.

14 (4) 2 members appointed by the minority leader
15 of the Senate, in consultation with the ranking mem-
16 ber of the Committee on Judiciary.

17 (5) 2 members appointed by the Speaker of the
18 House of Representatives, in consultation with the
19 Chairman of the Committee on Judiciary.

20 (6) 2 members appointed by the minority leader
21 of the House of Representatives, in consultation with
22 the ranking member of the Committee on Judiciary.

23 (7) 2 members, who shall be State and local
24 representatives, shall be appointed by the President
25 in agreement with the minority leader of the Senate

1 and the minority leader of the House of Representa-
2 tives.

3 (8) 2 members, who shall be State and local
4 representatives, shall be appointed by the President
5 in agreement with the majority leader of the Senate
6 and the Speaker of the House of Representatives.

7 (b) MEMBERSHIP.—

8 (1) QUALIFICATIONS.—The individuals ap-
9 pointed from private life as members of the Commis-
10 sion shall be individuals with distinguished reputa-
11 tions for integrity and nonpartisanship who are na-
12 tionally recognized for expertise, knowledge, or expe-
13 rience in such relevant areas as—

14 (A) law enforcement;

15 (B) criminal justice;

16 (C) national security;

17 (D) prison and jail administration;

18 (E) prisoner reentry;

19 (F) public health, including physical and
20 sexual victimization, drug addiction and mental
21 health;

22 (G) victims' rights;

23 (H) civil liberties;

24 (I) court administration;

25 (J) social services; and

1 (K) State, local, and tribal government.

2 (2) DISQUALIFICATION.—An individual shall
3 not be appointed as a member of the Commission if
4 such individual possesses any personal financial in-
5 terest in the discharge of any of the duties of the
6 Commission.

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

9 (c) APPOINTMENT; FIRST MEETING.—

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

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

19 (3) ETHICS.—At the first meeting of the Com-
20 mission, the Commission shall draft appropriate eth-
21 ics guidelines for commissioners and staff, including
22 guidelines relating to conflict of interest and finan-
23 cial disclosure. The Commission shall consult with
24 the Senate and House Committees on the Judiciary

1 as a part of drafting the guidelines and furnish the
2 Committees with a copy of the completed guidelines.

3 (d) MEETINGS; QUORUM; VACANCIES.—

4 (1) MEETINGS.—The Commission shall meet at
5 the call of the co-chairs or a majority of its mem-
6 bers.

7 (2) QUORUM.—Seven members of the Commis-
8 sion, including at least 2 members chosen by either
9 the Senate Majority Leader, Speaker of the House,
10 or Senate Majority Leader and Speaker of the
11 House in agreement with the President and 2 mem-
12 bers chosen by either the Senate Minority Leader,
13 House Minority Leader, or Senate Minority Leader
14 and House Minority Leader in agreement with the
15 President, shall constitute a quorum for purposes of
16 conducting business, except that 2 members of the
17 Commission shall constitute a quorum for purposes
18 of receiving testimony.

19 (3) VACANCIES.—Any vacancy in the Commis-
20 sion shall not affect its powers, but shall be filled in
21 the same manner in which the original appointment
22 was made. If vacancies in the Commission occur on
23 any day after 45 days after the date of the enact-
24 ment of this Act, a quorum shall consist of a major-
25 ity of the members of the Commission as of such

1 day, so long as at least 1 Commission member cho-
2 sen by a member of each party, Republican and
3 Democratic, is present.

4 (e) ACTIONS OF COMMISSION.—

5 (1) IN GENERAL.—The Commission—

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

9 (B) may establish panels composed of less
10 than the full membership of the Commission for
11 purposes of carrying out the duties of the Com-
12 mission under this title—

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

15 (ii) any findings and determinations
16 made by such a panel shall not be consid-
17 ered the findings and determinations of the
18 Commission unless approved by the Com-
19 mission.

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

1 **SEC. 7. ADMINISTRATION.**

2 (a) STAFF.—

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

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

25 (3) PERSONNEL AS FEDERAL EMPLOYEES.—

1 (A) IN GENERAL.—The executive director
2 and any personnel of the Commission who are
3 employees shall be employees under section
4 2105 of title 5, United States Code, for pur-
5 poses of chapters 63, 81, 83, 84, 85, 87, 89,
6 and 90 of that title.

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

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

22 (5) TRAVEL EXPENSES.—While away from
23 their homes or regular places of business in the per-
24 formance of services for the Commission, members
25 of the Commission shall be allowed travel expenses,

1 including per diem in lieu of subsistence, in the
2 same manner as persons employed intermittently in
3 the Government service are allowed expenses under
4 section 5703(b) of title 5, United States Code.

5 (b) EXPERTS AND CONSULTANTS.—With the ap-
6 proval of the Commission, the Executive Director may
7 procure temporary and intermittent services under section
8 3109(b) of title 5, United States Code.

9 (c) DETAIL OF GOVERNMENT EMPLOYEES.—Upon
10 the request of the Commission, the head of any Federal
11 agency may detail, without reimbursement, any of the per-
12 sonnel of such agency to the Commission to assist in car-
13 rying out the duties of the Commission. Any such detail
14 shall not interrupt or otherwise affect the civil service sta-
15 tus or privileges of the Federal employee.

16 (d) OTHER RESOURCES.—The Commission shall
17 have reasonable access to materials, resources, statistical
18 data, and other information such Commission determines
19 to be necessary to carry out its duties from the Library
20 of Congress, the Department of Justice, the Office of Na-
21 tional Drug Control Policy, the Department of State, and
22 other agencies of the executive and legislative branches of
23 the Federal Government. The co-chairs of the Commission
24 shall make requests for such access in writing when nec-
25 essary.

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

17 (f) OBTAINING OFFICIAL DATA.—The Commission
18 may secure directly from any agency of the United States
19 information necessary to enable it to carry out this Act.
20 Upon the request of the co-chairs of the Commission, the
21 head of that department or agency shall furnish that infor-
22 mation to the Commission. The Commission shall not have
23 access to sensitive information regarding ongoing inves-
24 tigations.

1 (g) **MAILS.**—The Commission may use the United
2 States mails in the same manner and under the same con-
3 ditions as other departments and agencies of the United
4 States.

5 (h) **ADMINISTRATIVE REPORTING.**—The Commission
6 shall issue bi-annual status reports to Congress regarding
7 the use of resources, salaries, and all expenditures of ap-
8 propriated funds.

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

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

19 (k) **ADMINISTRATIVE ASSISTANCE.**—The Adminis-
20 trator of General Services shall provide to the Commis-
21 sion, on a reimbursable basis, the administrative support
22 services necessary for the Commission to carry out its re-
23 sponsibilities under this Act. These administrative services
24 may include human resource management, budget, leas-
25 ing, accounting, and payroll services.

1 (l) NONAPPLICABILITY OF FACA AND PUBLIC AC-
2 CESS TO MEETINGS AND MINUTES.—

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

6 (2) MEETINGS AND MINUTES.—

7 (A) MEETINGS.—

8 (i) ADMINISTRATION.—All meetings of
9 the Commission shall be open to the pub-
10 lic, except that a meeting or any portion of
11 it may be closed to the public if it concerns
12 matters or information described in section
13 552b(c) of title 5, United States Code. In-
14 terested persons shall be permitted to ap-
15 pear at open meetings and present oral or
16 written statements on the subject matter
17 of the meeting. The Commission may ad-
18 minister oaths or affirmations to any per-
19 son appearing before it.

20 (ii) NOTICE.—All open meetings of
21 the Commission shall be preceded by time-
22 ly public notice in the Federal Register of
23 the time, place, and subject of the meeting.

24 (B) MINUTES AND PUBLIC AVAIL-
25 ABILITY.—Minutes of each open meeting shall

1 be kept and shall contain a record of the people
2 present, a description of the discussion that oc-
3 curred, and copies of all statements filed. The
4 minutes and records of all open meetings and
5 other documents that were made available to or
6 prepared for the Commission shall be available
7 for public inspection and copying at a single lo-
8 cation in the offices of the Commission.

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

13 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

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

21 (b) AVAILABILITY.—Any sums appropriated under
22 the subsection (a) shall remain available, without fiscal
23 year limitation, until expended.

1 **SEC. 9. SUNSET.**

2 The Commission shall terminate 60 days after it sub-
3 mits its report to Congress.

4 **SEC. 10. COMPLIANCE WITH PAYGO.**

5 The budgetary effects of this Act, for the purpose of
6 complying with the Statutory Pay-As-You-Go Act of 2010,
7 shall be determined by reference to the latest statement
8 titled “Budgetary Effects of PAYGO Legislation” for this
9 Act, submitted for printing in the Congressional Record
10 by the Chairman of the Committee on the Budget of the
11 House of Representatives, provided that such statement
12 has been submitted prior to the vote on passage.

Passed the House of Representatives July 27, 2010.

Attest: LORRAINE C. MILLER,
Clerk.

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11TH CONGRESS
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