

115TH CONGRESS
2D SESSION

S. 3178

AN ACT

To amend title 18, United States Code, to specify lynching as a deprivation of civil rights, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Justice for Victims
3 of Lynching Act of 2018”.

4 **SEC. 2. FINDINGS.**

5 Congress finds the following:

6 (1) The crime of lynching succeeded slavery as
7 the ultimate expression of racism in the United
8 States following Reconstruction.

9 (2) Lynching was a widely acknowledged prac-
10 tice in the United States until the middle of the
11 20th century.

12 (3) Lynching was a crime that occurred
13 throughout the United States, with documented inci-
14 dents in all but 4 States.

15 (4) At least 4,742 people, predominantly Afri-
16 can Americans, were reported lynched in the United
17 States between 1882 and 1968.

18 (5) Ninety-nine percent of all perpetrators of
19 lynching escaped from punishment by State or local
20 officials.

21 (6) Lynching prompted African Americans to
22 form the National Association for the Advancement
23 of Colored People (referred to in this section as the
24 “NAACP”) and prompted members of B’nai B’rith
25 to found the Anti-Defamation League.

1 (7) Mr. Walter White, as a member of the
2 NAACP and later as the executive secretary of the
3 NAACP from 1931 to 1955, meticulously inves-
4 tigated lynchings in the United States and worked
5 tirelessly to end segregation and racialized terror.

6 (8) Nearly 200 anti-lynching bills were intro-
7 duced in Congress during the first half of the 20th
8 century.

9 (9) Between 1890 and 1952, 7 Presidents peti-
10 tioned Congress to end lynching.

11 (10) Between 1920 and 1940, the House of
12 Representatives passed 3 strong anti-lynching meas-
13 ures.

14 (11) Protection against lynching was the min-
15 imum and most basic of Federal responsibilities, and
16 the Senate considered but failed to enact anti-lynch-
17 ing legislation despite repeated requests by civil
18 rights groups, Presidents, and the House of Rep-
19 resentatives to do so.

20 (12) The publication of “Without Sanctuary:
21 Lynching Photography in America” helped bring
22 greater awareness and proper recognition of the vic-
23 tims of lynching.

1 (13) Only by coming to terms with history can
2 the United States effectively champion human rights
3 abroad.

4 (14) An apology offered in the spirit of true re-
5 pentance moves the United States toward reconcili-
6 ation and may become central to a new under-
7 standing, on which improved racial relations can be
8 forged.

9 (15) Having concluded that a reckoning with
10 our own history is the only way the country can ef-
11 fectively champion human rights abroad, 90 Mem-
12 bers of the United States Senate agreed to Senate
13 Resolution 39, 109th Congress, on June 13, 2005,
14 to apologize to the victims of lynching and the de-
15 scendants of those victims for the failure of the Sen-
16 ate to enact anti-lynching legislation.

17 (16) The National Memorial for Peace and Jus-
18 tice, which opened to the public in Montgomery, Ala-
19 bama, on April 26, 2018, is the Nation's first memo-
20 rial dedicated to the legacy of enslaved Black people,
21 people terrorized by lynching, African Americans hu-
22 miliated by racial segregation and Jim Crow, and
23 people of color burdened with contemporary pre-
24 sumptions of guilt and police violence.

1 (17) Notwithstanding the Senate’s apology and
2 the heightened awareness and education about the
3 Nation’s legacy with lynching, it is wholly necessary
4 and appropriate for the Congress to enact legisla-
5 tion, after 100 years of unsuccessful legislative ef-
6 forts, finally to make lynching a Federal crime.

7 (18) Further, it is the sense of Congress that
8 criminal action by a group increases the likelihood
9 that the criminal object of that group will be suc-
10 cessfully attained and decreases the probability that
11 the individuals involved will depart from their path
12 of criminality. Therefore, it is appropriate to specify
13 criminal penalties for the crime of lynching, or any
14 attempt or conspiracy to commit lynching.

15 (19) The United States Senate agreed to unani-
16 mously Senate Resolution 118, 115th Congress, on
17 April 5, 2017, “[c]ondemning hate crime and any
18 other form of racism, religious or ethnic bias, dis-
19 crimination, incitement to violence, or animus tar-
20 geting a minority in the United States” and taking
21 notice specifically of Federal Bureau of Investigation
22 statistics demonstrating that “among single-bias
23 hate crime incidents in the United States, 59.2 per-
24 cent of victims were targeted due to racial, ethnic,
25 or ancestral bias, and among those victims, 52.2

1 percent were victims of crimes motivated by the of-
2 fenders’ anti-Black or anti-African American bias”.

3 (20) On September 14, 2017, President Donald
4 J. Trump signed into law Senate Joint Resolution
5 49 (Public Law 115–58; 131 Stat. 1149), wherein
6 Congress “condemn[ed] the racist violence and do-
7 mestic terrorist attack that took place between Au-
8 gust 11 and August 12, 2017, in Charlottesville,
9 Virginia” and “urg[ed] the President and his admin-
10 istration to speak out against hate groups that
11 espouse racism, extremism, xenophobia, anti-Semi-
12 tism, and White supremacy; and use all resources
13 available to the President and the President’s Cabi-
14 net to address the growing prevalence of those hate
15 groups in the United States”.

16 (21) Senate Joint Resolution 49 (Public Law
17 115–58; 131 Stat. 1149) specifically took notice of
18 “hundreds of torch-bearing White nationalists,
19 White supremacists, Klansmen, and neo-Nazis [who]
20 chanted racist, anti-Semitic, and anti-immigrant slo-
21 gans and violently engaged with counter-demonstra-
22 tors on and around the grounds of the University of
23 Virginia in Charlottesville” and that these groups
24 “reportedly are organizing similar events in other
25 cities in the United States and communities every-

1 where are concerned about the growing and open
 2 display of hate and violence being perpetrated by
 3 those groups”.

4 **SEC. 3. LYNCHING.**

5 (a) OFFENSE.—Chapter 13 of title 18, United States
 6 Code, is amended by adding at the end the following:

7 **“§ 250. Lynching**

8 “(a) IN GENERAL.—

9 “(1) OFFENSES INVOLVING ACTUAL OR PER-
 10 CEIVED RACE, COLOR, RELIGION, OR NATIONAL ORI-
 11 GIN.—If 2 or more persons willfully cause bodily in-
 12 jury to any other person, because of the actual or
 13 perceived race, color, religion, or national origin of
 14 any person—

15 “(A) each shall be imprisoned not more
 16 than 10 years, fined in accordance with this
 17 title, or both, if bodily injury results from the
 18 offense; or

19 “(B) each shall be imprisoned for any term
 20 of years or for life, fined in accordance with
 21 this title, or both, if death results from the of-
 22 fense or if the offense includes kidnapping or
 23 aggravated sexual abuse.

24 “(2) OFFENSES INVOLVING ACTUAL OR PER-
 25 CEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEX-

1 UAL ORIENTATION, GENDER IDENTITY, OR DIS-
2 ABILITY.—

3 “(A) IN GENERAL.—If 2 or more persons,
4 in any circumstance described in subparagraph
5 (B), willfully cause bodily injury to any other
6 person because of the actual or perceived reli-
7 gion, national origin, gender, sexual orientation,
8 gender identity, or disability of any person—

9 “(i) each shall be imprisoned not more
10 than 10 years, fined in accordance with
11 this title, or both, if bodily injury results
12 from the offense; or

13 “(ii) each shall be imprisoned for any
14 term of years or for life, fined in accord-
15 ance with this title, or both, if death re-
16 sults from the offense or if the offense in-
17 cludes kidnapping or aggravated sexual
18 abuse.

19 “(B) CIRCUMSTANCES DESCRIBED.—For
20 purposes of subparagraph (A), the cir-
21 cumstances described in this subparagraph are
22 that—

23 “(i) the conduct described in subpara-
24 graph (A) occurs during the course of, or

1 as the result of, the travel of the defendant
2 or the victim—

3 “(I) across a State line or na-
4 tional border; or

5 “(II) using a phone, the internet,
6 the mail, or any other channel, facil-
7 ity, or instrumentality of interstate or
8 foreign commerce;

9 “(ii) the defendant uses a phone, the
10 internet, the mail, or any other channel,
11 facility, or instrumentality of interstate or
12 foreign commerce in connection with the
13 conduct described in subparagraph (A);

14 “(iii) in connection with the conduct
15 described in subparagraph (A), the defend-
16 ant employs a firearm, dangerous weapon,
17 explosive or incendiary device, or other
18 weapon that has traveled in interstate or
19 foreign commerce; or

20 “(iv) the conduct described in sub-
21 paragraph (A)—

22 “(I) interferes with commercial
23 or other economic activity in which
24 the victim is engaged at the time of
25 the conduct;

1 “(II) otherwise affects interstate
2 or foreign commerce; or

3 “(III) occurs within the special
4 maritime or territorial jurisdiction of
5 the United States.

6 “(3) OFFENSES OCCURRING IN THE SPECIAL
7 MARITIME OR TERRITORIAL JURISDICTION OF THE
8 UNITED STATES.—Whoever, within the special mari-
9 time or territorial jurisdiction of the United States,
10 engages in conduct described in paragraph (1) or in
11 paragraph (2)(A) (without regard to whether that
12 conduct occurred in a circumstance described in
13 paragraph (2)(B)) shall be subject to the same pen-
14 alties as prescribed in those paragraphs.

15 “(b) ATTEMPT.—Whoever attempts to commit any
16 offense under this section—

17 “(1) shall be imprisoned for not more than 10
18 years, fined in accordance with this title, or both; or

19 “(2) if the offense includes kidnapping or an at-
20 tempt to kidnap, aggravated sexual abuse or an at-
21 tempt to commit aggravated sexual abuse, or an at-
22 tempt to kill, shall be imprisoned for any term of
23 years or for life, fined in accordance with this title,
24 or both.

1 “(c) CONSPIRACY.—If 2 or more persons conspire to
2 commit any offense under this section, and 1 or more of
3 such persons do any act to effect the object of the con-
4 spiracy, each shall be subject to the same penalties as
5 those prescribed for the offense the commission of which
6 was the object of the conspiracy.

7 “(d) CERTIFICATION REQUIREMENT.—

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

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

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

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

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

23 “(2) RULE OF CONSTRUCTION.—Nothing in
24 this subsection shall be construed to limit the au-

1 thority of Federal officers, or a Federal grand jury,
2 to investigate possible violations of this section.”.

3 (b) TABLE OF SECTIONS AMENDMENT.—The table of
4 sections for chapter 13 of title 18, United States Code,
5 is amended by inserting after the item relating to section
6 249 the following:

“250. Lynching.”.

Passed the Senate December 19, 2018.

Attest:

Secretary.

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