

107TH CONGRESS
1ST SESSION

H. R. 1038

To place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 2001

Mr. JACKSON of Illinois (for himself, Mr. RODRIGUEZ, Mr. CLAY, Mr. HOEFFEL, and Ms. JACKSON-LEE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To place a moratorium on executions by the Federal Government and urge the States to do the same, while a National Commission on the Death Penalty reviews the fairness of the imposition of the death penalty.

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 Death Pen-
5 alty Moratorium Act of 2001”.

1 **TITLE I—MORATORIUM ON THE**
2 **DEATH PENALTY**

3 **SEC. 101. FINDINGS.**

4 Congress makes the following findings:

5 (1) GENERAL FINDINGS.—

6 (A) The administration of the death pen-
7 alty by the Federal government and the States
8 should be consistent with our Nation’s funda-
9 mental principles of fairness, justice, equality,
10 and due process.

11 (B) At a time when Federal executions are
12 scheduled to recommence, Congress should con-
13 sider that more than ever Americans are ques-
14 tioning the use of the death penalty and calling
15 for assurances that it be fairly applied. Support
16 for the death penalty has dropped to the lowest
17 level in 19 years. An NBC News/Wall Street
18 Journal Poll revealed that 63 percent of Ameri-
19 cans support a suspension of executions until
20 questions of fairness can be addressed.

21 (C) Documented unfairness in the Federal
22 system requires Congress to act and suspend
23 Federal executions. Additionally, substantial
24 evidence of unfairness throughout death penalty

1 States justifies further investigation by Con-
2 gress.

3 (2) ADMINISTRATION OF THE DEATH PENALTY
4 BY THE FEDERAL GOVERNMENT.—

5 (A) The fairness of the administration of
6 the Federal death penalty has recently come
7 under serious scrutiny, specifically raising ques-
8 tions of racial and geographic disparities:

9 (i) Eighty percent of Federal death
10 row inmates are members of minority
11 groups.

12 (ii) A report released by the Depart-
13 ment of Justice on September 12, 2000,
14 found that 80 percent of defendants who
15 were charged with death-eligible offenses
16 under Federal law and whose cases were
17 submitted by the United States attorneys
18 under the Department's death penalty de-
19 cision-making procedures were African
20 American, Hispanic American, or members
21 of other minority groups.

22 (iii) The Department of Justice report
23 shows that United States attorneys in only
24 5 of 94 Federal districts—1 each in Vir-
25 ginia, Maryland, Puerto Rico, and 2 in

1 New York—submit 40 percent of all cases
2 in which the death penalty is considered.

3 (iv) The Department of Justice report
4 shows that United States attorneys who
5 have frequently recommended seeking the
6 death penalty are often from States with a
7 high number of executions under State
8 law, including Texas, Virginia, and Mis-
9 souri.

10 (v) The Department of Justice report
11 shows that white defendants are more like-
12 ly than black defendants to negotiate plea
13 bargains saving them from the death pen-
14 alty in Federal cases.

15 (vi) A study conducted by the House
16 Judiciary Subcommittee on Civil and Con-
17 stitutional Rights in 1994 concluded that
18 89 percent of defendants selected for cap-
19 ital prosecution under the Anti-Drug
20 Abuse Act of 1988 were either African
21 American or Hispanic American.

22 (vii) The National Institute of Justice
23 has already set into motion a comprehen-
24 sive study of these racial and geographic
25 disparities.

1 (viii) Federal executions should not
2 proceed until these disparities are fully
3 studied, discussed, and the federal death
4 penalty process is subjected to necessary
5 remedial action.

6 (B) In addition to racial and geographic
7 disparities in the administration of the federal
8 death penalty, other serious questions exist
9 about the fairness and reliability of federal
10 death penalty prosecutions:

11 (i) Federal prosecutors rely heavily on
12 bargained-for testimony from accomplices
13 of the capital defendant, which is often ob-
14 tained in exchange for not seeking the
15 death penalty against the accomplices.
16 This practice creates a serious risk of false
17 testimony.

18 (ii) Federal prosecutors are not re-
19 quired to provide discovery sufficiently
20 ahead of trial to permit the defense to be
21 prepared to use this information effectively
22 in defending their clients.

23 (iii) The Federal Bureau of Investiga-
24 tion (FBI), in increasing isolation from the
25 rest of the nation's law enforcement agen-

1 cies, refuses to make electronic recordings
2 of interrogations that produce confessions,
3 thus making subsequent scrutiny of the le-
4 gality and reliability of such interrogations
5 more difficult.

6 (iv) Federal prosecutors rely heavily
7 on predictions of “future dangerous-
8 ness”—predictions deemed unreliable and
9 misleading by the American Psychiatric
10 Association and the American Psycho-
11 logical Association—to secure death sen-
12 tences.

13 (3) ADMINISTRATION OF THE DEATH PENALTY
14 BY THE STATES.—

15 (A) The punishment of death carries an
16 especially heavy burden to be free from arbi-
17 trariness and discrimination. The Supreme
18 Court has held that “super due process”, a
19 higher standard than that applied in regular
20 criminal trials, is necessary to meet constitu-
21 tional requirements. There is significant evi-
22 dence that States are not providing this height-
23 ened level of due process. For example:

24 (i) In the most comprehensive review
25 of modern death sentencing, Professor

1 James Liebman and researchers at Colum-
2 bia University found that, during the pe-
3 riod 1973 to 1995, 68 percent of all death
4 penalty cases reviewed were overturned due
5 to serious constitutional errors. In the
6 wake of the Liebman study, 6 States (Ari-
7 zona, Maryland, North Carolina, Illinois,
8 Indiana, and Nebraska), as well as the
9 Chicago Tribune and the Texas Defender
10 Service are conducting additional studies.
11 These studies may expose additional prob-
12 lems. With few exceptions, the rate of
13 error was consistent across all death pen-
14 alty States.

15 (ii) Forty percent of the cases over-
16 turned were reversed in Federal court after
17 having been upheld by the States.

18 (B) The high rate of error throughout all
19 death penalty jurisdictions suggests that there
20 is a grave risk that innocent persons may have
21 been, or will likely be, wrongfully executed. Al-
22 though the Supreme Court has never conclu-
23 sively addressed the issue of whether executing
24 an innocent person would in and of itself violate
25 the Constitution, in *Herrera v. Collins*, 506

1 U.S. 390 (1993), a majority of the court ex-
2 pressed the view that a persuasive demonstra-
3 tion of actual innocence would violate sub-
4 stantive due process rendering imposition of a
5 death sentence unconstitutional. In any event,
6 the wrongful conviction and sentencing of a per-
7 son to death is a serious concern for many
8 Americans. For example:

9 (i) After 13 innocent people were re-
10 leased from Illinois death row in the same
11 period that the State had executed 12 peo-
12 ple, on January 31, 2000, Governor
13 George Ryan of Illinois imposed a morato-
14 rium on executions until he could be “sure
15 with moral certainty that no innocent man
16 or woman is facing a lethal injection, no
17 one will meet that fate”.

18 (ii) Since 1973, 93 persons have been
19 freed and exonerated from death rows
20 across the country, most after serving
21 lengthy sentences.

22 (C) Wrongful convictions create a serious
23 public safety problem because the true killer is
24 still at large, while the innocent person lan-
25 guishes in prison.

1 (D) There are many systemic problems
2 that result in innocent people being convicted
3 such as mistaken identification, reliance on jail-
4 house informants, reliance on faulty forensic
5 testing and no access to reliable DNA testing.
6 For example:

7 (i) A study of cases of innocent people
8 who were later exonerated, conducted by
9 attorneys Barry Scheck and Peter Neufeld
10 with “The Innocence Project” at Cardozo
11 Law School, showed that mistaken identi-
12 fications of eyewitnesses or victims contrib-
13 uted to 84 percent of the wrongful convic-
14 tions.

15 (ii) Many persons on death row were
16 convicted prior to 1994 and did not receive
17 the benefit of modern DNA testing. At
18 least 10 individuals sentenced to death
19 have been exonerated through post-convic-
20 tion DNA testing, some within days of exe-
21 cution. Yet in spite of the current wide-
22 spread prevalence and availability of DNA
23 testing, many States have procedural bar-
24 riers blocking introduction of post-convic-
25 tion DNA testing. More than 30 States

1 have laws that require a motion for a new
2 trial based on newly discovered evidence to
3 be filed within 6 months or less.

4 (iii) The widespread use of jailhouse
5 snitches who earn reduced charges or sen-
6 tences by fabricating “admissions” by fel-
7 low inmates to unsolved crimes can lead to
8 wrongful convictions.

9 (iv) The misuse of forensic evidence
10 can lead to wrongful convictions. A re-
11 cently released report from the Texas De-
12 fender Service entitled “A State of Denial:
13 Texas and the Death Penalty” found 160
14 cases of official forensic misconduct includ-
15 ing 121 cases where expert psychiatrists
16 testified “with absolute certainty that the
17 defendant would be a danger in the fu-
18 ture”, often without even interviewing the
19 defendant.

20 (E) The sixth amendment to the Constitu-
21 tion guarantees all accused persons access to
22 competent counsel. The Supreme Court set out
23 standards for determining competency in the
24 case of Strickland v. Washington, 466 U.S. 668
25 (1984). Unfortunately, there is unequal access

1 to competent counsel throughout death penalty
2 States. For example:

3 (i) Ninety percent of capital defend-
4 ants cannot afford to hire their own attor-
5 ney.

6 (ii) Fewer than one-quarter of the 38
7 death penalty States have set any stand-
8 ards for competency of counsel and in
9 those few States, these standards were set
10 only recently. In most States, any person
11 who passes a bar examination, even if that
12 attorney has never represented a client in
13 any type of case, may represent a client in
14 a death penalty case.

15 (iii) Thirty-seven percent of capital
16 cases were reversed because of ineffective
17 assistance of counsel, according to the Co-
18 lumbia study.

19 (iv) The recent Texas report noted
20 problems with Texas defense attorneys who
21 slept through capital trials, ignored obvious
22 exculpatory evidence, suffered discipline for
23 ethical lapses or for being under the influ-
24 ence of drugs or alcohol while representing
25 an indigent capital defendant at trial.

1 (v) Poor lawyering was also cited by
2 Governor Ryan in Illinois as a basis for a
3 moratorium. More than half of all capital
4 defendants there were represented by law-
5 yers who were later disciplined or dis-
6 barred for unethical conduct.

7 (F) The Supreme Court has held that it is
8 a violation of the eighth amendment to impose
9 the death penalty in a manner that is arbitrary,
10 capricious, or discriminatory. *McKlesky v.*
11 *Kemp*, 481 U.S. 279 (1987). Studies consist-
12 ently indicate racial disparity in the application
13 of the death penalty both for the defendants
14 and the victims. The death penalty is dispar-
15 ately applied in various regions throughout the
16 country, suggesting arbitrary administration of
17 the death penalty based on where the prosecu-
18 tion takes place. For example:

19 (i) Of the 85 executions in the year
20 2000, 51 percent of the defendants were
21 white, 40 percent were black, 7 percent
22 were Latino and 2 percent Native Amer-
23 ican. Of the victims in the underlying mur-
24 der, 76 percent were white, 18 percent
25 were black, 2 percent were Latino, and 3

1 percent were “other”. These figures show
2 a continuing trend since reinstatement of
3 the modern death penalty of a predomi-
4 nance of white victims’ cases. Despite the
5 fact that nationally whites and blacks are
6 victims of murder in approximately equal
7 numbers, 83 percent of the victims in-
8 volved in capital cases overall since rein-
9 statement, and 76 percent of the victims in
10 2000, have been white. Since this disparity
11 is confirmed in studies that control for
12 similar crimes by defendants with similar
13 backgrounds, it implies that white victims
14 are considered more valuable in the crimi-
15 nal justice system.

16 (ii) Executions are conducted pre-
17 dominately in southern States. Ninety per-
18 cent of all executions in 2000 were con-
19 ducted in the south. Only 3 States outside
20 the south, Arizona, California, and Mis-
21 souri, conducted an execution in 2000.
22 Texas accounted for almost as many execu-
23 tions as all the remaining States combined.

1 **SEC. 102. FEDERAL AND STATE DEATH PENALTY MORATO-**
2 **RIUM.**

3 (a) IN GENERAL.—The Federal Government shall
4 not carry out any sentence of death imposed under Fed-
5 eral law until the Congress considers the final findings and
6 recommendations of the National Commission on the
7 Death Penalty in the report submitted under section
8 202(c)(2) and the Congress enacts legislation repealing
9 this section and implements or rejects the guidelines and
10 procedures recommended by the Commission.

11 (b) SENSE OF CONGRESS.—It is the sense of Con-
12 gress that each State that authorizes the use of the death
13 penalty should enact a moratorium on executions to allow
14 time to review whether the administration of the death
15 penalty by that State is consistent with constitutional re-
16 quirements of fairness, justice, equality, and due process.

17 **TITLE II—NATIONAL COMMIS-**
18 **SION ON THE DEATH PEN-**
19 **ALTY**

20 **SEC. 201. ESTABLISHMENT OF COMMISSION.**

21 (a) ESTABLISHMENT.—There is established a com-
22 mission to be known as the National Commission on the
23 Death Penalty (in this title referred to as the “Commis-
24 sion”).

25 (b) MEMBERSHIP.—

1 (1) APPOINTMENT.—Members of the Commis-
2 sion shall be appointed by the President in consulta-
3 tion with the Attorney General and the Chairmen
4 and Ranking Members of the Committees on the Ju-
5 diciary of the House of Representatives and the Sen-
6 ate.

7 (2) COMPOSITION.—The Commission shall be
8 composed of 15 members, of whom—

9 (A) 3 members shall be Federal or State
10 prosecutors;

11 (B) 3 members shall be attorneys experi-
12 enced in capital defense;

13 (C) 2 members shall be current or former
14 Federal or State judges;

15 (D) 2 members shall be current or former
16 Federal or State law enforcement officials; and

17 (E) 5 members shall be individuals from
18 the public or private sector who have knowledge
19 or expertise, whether by experience or training,
20 in matters to be studied by the Commission,
21 which may include—

22 (i) officers or employees of the Fed-
23 eral Government or State or local govern-
24 ments;

1 (ii) members of academia, nonprofit
2 organizations, the religious community, or
3 industry; and

4 (iii) other interested individuals.

5 (3) BALANCED VIEWPOINTS.—In appointing the
6 members of the Commission, the President shall, to
7 the maximum extent practicable, ensure that the
8 membership of the Commission is fairly balanced
9 with respect to the opinions of the members of the
10 Commission regarding support for or opposition to
11 the use of the death penalty.

12 (4) DATE.—The appointments of the initial
13 members of the Commission shall be made not later
14 than 30 days after the date of enactment of this
15 Act.

16 (c) PERIOD OF APPOINTMENT.—Each member shall
17 be appointed for the life of the Commission.

18 (d) VACANCIES.—A vacancy in the Commission shall
19 not affect the powers of the Commission, but shall be filled
20 in the same manner as the original appointment.

21 (e) INITIAL MEETING.—Not later than 30 days after
22 all initial members of the Commission have been ap-
23 pointed, the Commission shall hold the first meeting.

24 (f) MEETINGS.—The Commission shall meet at the
25 call of the Chairperson.

1 (g) QUORUM.—A majority of the members of the
2 Commission shall constitute a quorum for conducting
3 business, but a lesser number of members may hold hear-
4 ings.

5 (h) CHAIR.—The President shall designate 1 member
6 appointed under subsection (a) to serve as the Chair of
7 the Commission.

8 (i) RULES AND PROCEDURES.—The Commission
9 shall adopt rules and procedures to govern the proceedings
10 of the Commission.

11 **SEC. 202. DUTIES OF THE COMMISSION.**

12 (a) STUDY.—

13 (1) IN GENERAL.—The Commission shall con-
14 duct a thorough study of all matters relating to the
15 administration of the death penalty to determine
16 whether the administration of the death penalty
17 comports with constitutional principles and require-
18 ments of fairness, justice, equality, and due process.

19 (2) MATTERS STUDIED.—The matters studied
20 by the Commission shall include the following:

21 (A) Racial disparities in capital charging,
22 prosecuting, and sentencing decisions.

23 (B) Disproportionality in capital charging,
24 prosecuting, and sentencing decisions based on
25 geographic location and income status of de-

1 defendants or any other factor resulting in such
2 disproportionality.

3 (C) Adequacy of representation of capital
4 defendants, including consideration of the
5 American Bar Association “Guidelines for the
6 Appointment and Performance of Counsel in
7 Death Penalty Cases” (adopted February 1989)
8 and American Bar Association policies that are
9 intended to encourage competency of counsel in
10 capital cases (adopted February 1979, Feb-
11 ruary 1988, February 1990, and August 1996).

12 (D) Whether innocent persons have been
13 sentenced to death and the reasons these
14 wrongful convictions have occurred.

15 (E) Whether the Federal Government
16 should seek the death penalty in a State with
17 no death penalty.

18 (F) Whether courts are adequately exer-
19 cising independent judgment on the merits of
20 constitutional claims in State post-conviction
21 and Federal habeas corpus proceedings.

22 (G) Whether mentally retarded persons
23 and persons who were under the age of 18 at
24 the time of their offenses should be sentenced

1 to death after conviction of death-eligible of-
2 fenses.

3 (H) Procedures to ensure that persons sen-
4 tenced to death have access to forensic evidence
5 and modern testing of forensic evidence, includ-
6 ing DNA testing, when modern testing could
7 result in new evidence of innocence.

8 (I) Any other law or procedure to ensure
9 that death penalty cases are administered fairly
10 and impartially, in accordance with the Con-
11 stitution.

12 (b) GUIDELINES AND PROCEDURES.—

13 (1) IN GENERAL.—Based on the study con-
14 ducted under subsection (a), the Commission shall
15 establish guidelines and procedures for the adminis-
16 tration of the death penalty consistent with para-
17 graph (2).

18 (2) INTENT OF GUIDELINES AND PROCE-
19 DURES.—The guidelines and procedures required by
20 this subsection shall—

21 (A) ensure that the death penalty cases are
22 administered fairly and impartially, in accord-
23 ance with due process;

24 (B) minimize the risk that innocent per-
25 sons may be executed; and

1 (C) ensure that the death penalty is not
2 administered in a racially discriminatory man-
3 ner.

4 (c) REPORT.—

5 (1) PRELIMINARY REPORT.—Not later than 1
6 year after the date of enactment of this Act, the
7 Commission shall submit to the President, the Attor-
8 ney General, and the Congress a preliminary report,
9 which shall contain a preliminary statement of find-
10 ings and conclusions.

11 (2) FINAL REPORT.—Not later than 2 years
12 after the date of enactment of this Act, the Commis-
13 sion shall submit a report to the President, the At-
14 torney General, and the Congress which shall con-
15 tain a detailed statement of the findings and conclu-
16 sions of the Commission, together with the rec-
17 ommendations of the Commission for legislation and
18 administrative actions that implement the guidelines
19 and procedures that the Commission considers ap-
20 propriate.

21 **SEC. 203. POWERS OF THE COMMISSION.**

22 (a) INFORMATION FROM FEDERAL AND STATE
23 AGENCIES.—

24 (1) IN GENERAL.—The Commission may secure
25 directly from any Federal or State department or

1 agency information that the Commission considers
2 necessary to carry out the provisions of this title.

3 (2) FURNISHING OF INFORMATION.—Upon a
4 request of the Chairperson of the Commission, the
5 head of any Federal or State department or agency
6 shall furnish the information requested by the Chair-
7 person to the Commission.

8 (b) POSTAL SERVICES.—The Commission may use
9 the United States mails in the same manner and under
10 the same conditions as other departments and agencies of
11 the Federal Government.

12 (c) GIFTS.—The Commission may accept, use, and
13 dispose of gifts or donations of services or property.

14 (d) HEARINGS.—The Commission or, at the direction
15 of the Commission, any subcommittee or member of the
16 Commission, may, for the purpose of carrying out the pro-
17 visions of this title—

18 (1) hold hearings, sit and act at times and
19 places, take testimony, receive evidence, and admin-
20 ister oaths that the Commission, subcommittee, or
21 member considers advisable; and

22 (2) require, by subpoena or otherwise, the at-
23 tendance and testimony of witnesses and the produc-
24 tion of books, records, correspondence, memoranda,
25 papers, documents, tapes, and materials that the

1 Commission, subcommittee, or member considers ad-
2 visable.

3 (e) ISSUANCE AND ENFORCEMENT OF SUB-
4 POENAS.—

5 (1) ISSUANCE.—Subpoenas issued pursuant to
6 subsection (d)—

7 (A) shall bear the signature of the Chair-
8 person of the Commission; and

9 (B) shall be served by any person or class
10 of persons designated by the Chairperson for
11 that purpose.

12 (2) ENFORCEMENT.—

13 (A) IN GENERAL.—In the case of contu-
14 macy or failure to obey a subpoena issued
15 under subsection (d), the district court of the
16 United States for the judicial district in which
17 the subpoenaed person resides, is served, or
18 may be found, may issue an order requiring
19 that person to appear at any designated place
20 to testify or to produce documentary or other
21 evidence.

22 (B) CONTEMPT.—Any failure to obey a
23 court order issued under subparagraph (A) may
24 be punished by the court as a contempt.

1 (3) TESTIMONY OF PERSONS IN CUSTODY.—A
2 court of the United States within the jurisdiction in
3 which testimony of a person held in custody is
4 sought by the Commission or within the jurisdiction
5 of which such person is held in custody, may, upon
6 application by the Attorney General, issue a writ of
7 habeas corpus ad testificandum requiring the custo-
8 dian to produce such person before the Commission,
9 or before a member of the Commission or a member
10 of the staff of the Commission designated by the
11 Commission for such purpose.

12 (f) WITNESS ALLOWANCES AND FEES.—

13 (1) IN GENERAL.—The provisions of section
14 1821 of title 28, United States Code, shall apply to
15 witnesses requested or subpoenaed to appear at any
16 hearing of the Commission.

17 (2) TRAVEL EXPENSES.—The per diem and
18 mileage allowances for witnesses shall be paid from
19 funds available to pay the expenses of the Commis-
20 sion.

21 **SEC. 204. COMMISSION PERSONNEL MATTERS.**

22 (a) COMPENSATION OF MEMBERS.—Members of the
23 Commission shall serve without compensation for the serv-
24 ices of the member to the Commission.

1 (b) TRAVEL EXPENSES.—The members of the Com-
2 mission shall be allowed travel expenses, including per
3 diem in lieu of subsistence, at rates authorized for employ-
4 ees of agencies under subchapter I of chapter 57 of title
5 5, United States Code, while away from their homes or
6 regular places of business in the performance of services
7 for the Commission.

8 (c) STAFF.—

9 (1) IN GENERAL.—The Chairperson of the
10 Commission may, without regard to the civil service
11 laws and regulations, appoint and terminate an execu-
12 tive director and such other additional personnel as
13 may be necessary to enable the Commission to per-
14 form the duties of the Commission.

15 (2) EXECUTIVE DIRECTOR.—The employment
16 of an executive director shall be subject to confirma-
17 tion by the Commission.

18 (3) COMPENSATION.—The Chairperson of the
19 Commission may fix the compensation of the execu-
20 tive director and other personnel without regard to
21 the provisions of chapter 51 and subchapter III of
22 chapter 53 of title 5, United States Code, relating
23 to classification of positions and General Schedule
24 pay rates, except that the rate of pay for the execu-
25 tive director and other personnel may not exceed the

1 rate payable for level V of the Executive Schedule
2 under section 5316 of title 5.

3 (d) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any
4 Federal Government employee may be detailed to the
5 Commission without reimbursement, and the detail shall
6 be without interruption or loss of civil service status or
7 privilege.

8 (e) **PROCUREMENT OF TEMPORARY AND INTERMIT-**
9 **TENT SERVICES.**—The Chairperson of the Commission
10 may procure temporary and intermittent services under
11 section 3109(b) of title 5, United States Code, at rates
12 for individuals which do not exceed the daily equivalent
13 of the annual rate of basic pay prescribed for level V of
14 the Executive Schedule under section 5316 of title 5.

15 **SEC. 205. TERMINATION OF THE COMMISSION.**

16 The Commission shall terminate 90 days after the
17 date on which the Commission submits its report under
18 section 202.

19 **SEC. 206. FUNDING.**

20 (a) **IN GENERAL.**—The Commission may expend an
21 amount not to exceed \$850,000, as provided by subsection
22 (b), to carry out this title.

1 (b) AVAILABILITY.—Sums appropriated to the De-
2 partment of Justice shall be made available to carry out
3 this title.

○