

107TH CONGRESS
1ST SESSION

H. R. 1998

To provide standards for the enactment of Federal crimes, to sunset those Federal crimes that do not meet those standards, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 24, 2001

Mr. MANZULLO introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide standards for the enactment of Federal crimes, to sunset those Federal crimes that do not meet those standards, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federalization of
5 Crimes Uniform Standards Act of 2001”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The State and Federal courts together com-
2 prise an intertwined system for the delivery of jus-
3 tice in the United States. The 2 court systems have
4 played different but equally significant roles in the
5 Federal system. The State courts have served as the
6 chief tribunals for trials of criminal law cases.

7 (2) The Federal courts have a more limited ju-
8 risdiction than the State courts with respect to
9 criminal matters because of the fundamental con-
10 stitutional principle that the Federal Government is
11 a government of delegated power in which the resid-
12 ual power remains in the States. In criminal mat-
13 ters, the jurisdiction of the Federal courts should
14 complement, not supplant, that of the State courts.

15 (3) There is no sound justification for having 2
16 parallel justice systems.

17 (4) Citizens should not be subject to different,
18 competing law enforcement systems, different pen-
19 alties depending on which system brings them to
20 trial, and an ever-lengthening possibility that they
21 might be tried for the same offense more than once.

1 **SEC. 3. COMMISSION TO REVIEW THE FEDERAL CRIMINAL**
2 **CODE.**

3 (a) ESTABLISHMENT.—There is established in the
4 legislative branch a commission to be known as the “Com-
5 mission to Review the Federal Criminal Code”.

6 (b) DUTIES.—The Commission shall have the fol-
7 lowing duties, which the Commission shall carry out
8 through the Director:

9 (1) To prepare Federal law enforcement impact
10 statements in accordance with section 5.

11 (2) To review Federal criminal offenses subject
12 to section 6.

13 (3) To carry out, in accordance with this Act,
14 any other activity of the Commission under this Act.

15 (c) MEMBERSHIP.—

16 (1) NUMBER AND APPOINTMENT.—The Com-
17 mission shall be composed of 5 members appointed
18 as follows:

19 (A) 1 member appointed by the President
20 pro tempore of the Senate.

21 (B) 1 member appointed by the minority
22 leader of the Senate.

23 (C) 1 member appointed by the Speaker of
24 the House of Representatives.

25 (D) 1 member appointed by the minority
26 leader of the House of Representatives.

1 (E) 1 member appointed by the Chief Jus-
2 tice of the United States.

3 (2) DISQUALIFICATION.—A person who is an
4 officer or employee of the United States may not be
5 a member of the Commission.

6 (3) TERMS.—Each member shall be appointed
7 for a term of 5 years.

8 (4) VACANCIES.—A vacancy in the Commission
9 shall be filled in the manner in which the original
10 appointment was made.

11 (5) BASIC PAY.—Members shall each be paid at
12 the daily equivalent of the annual rate of basic pay
13 payable for level IV of the Executive Schedule for
14 each day (including travel time) during which they
15 are engaged in the actual performance of duties
16 vested in the Commission.

17 (6) TRAVEL EXPENSES.—Each member shall
18 receive travel expenses, including per diem in lieu of
19 subsistence, in accordance with sections 5702 and
20 5703 of title 5, United States Code.

21 (7) QUORUM.—3 members of the Commission
22 shall constitute a quorum but a lesser number may
23 hold hearings.

1 (8) CHAIRPERSON.—The member appointed by
2 the Chief Justice of the United States shall serve as
3 the Chairperson of the Commission.

4 (9) MEETINGS.—The Commission shall meet at
5 the call of the Chairperson.

6 (d) STAFFING AND SUPPORT FUNCTIONS.—

7 (1) DIRECTOR.—The Commission shall have a
8 director who shall be appointed by the Chairperson.

9 (2) STAFF.—Subject to rules prescribed by the
10 Commission, the Director may appoint additional
11 personnel as the Commission considers appropriate.

12 (3) APPLICABILITY OF CERTAIN CIVIL SERVICE
13 LAWS.—The Director and staff of the Commission
14 shall be appointed subject to the provisions of title
15 5, United States Code, governing appointments in
16 the competitive service, and shall be paid in accord-
17 ance with the provisions of chapter 51 and sub-
18 chapter III of chapter 53 of that title relating to
19 classification and General Schedule pay rates.

20 (e) POWERS.—

21 (1) HEARINGS AND SESSIONS.—The Commis-
22 sion may for the purpose of carrying out this Act,
23 hold hearings, sit and act at times and places, take
24 testimony, and receive evidence as the Commission
25 considers appropriate. The Commission may admin-

1 ister oaths or affirmations to witnesses appearing
2 before it. The Commission may establish rules for
3 its proceedings.

4 (2) POWERS OF MEMBERS AND AGENTS.—Any
5 member or agent of the Commission may, if author-
6 ized by the Commission, take any action which the
7 Commission is authorized to take by this Act.

8 (3) OBTAINING OFFICIAL DATA.—The Commis-
9 sion may secure directly from any department or
10 agency of the United States information necessary
11 to enable it to carry out this Act. Upon request of
12 the Chair of the Commission, the head of that de-
13 partment or agency shall furnish that information to
14 the Commission, unless doing so would threaten the
15 national security, the health or safety or any indi-
16 vidual, or the integrity of an ongoing investigation.

17 (4) ADMINISTRATIVE SUPPORT SERVICES.—
18 Upon the request of the Commission, the Adminis-
19 trator of General Services shall provide to the Com-
20 mission, on a reimbursable basis, the administrative
21 support services necessary for the Commission to
22 carry out its responsibilities under this title.

23 (5) REPORTS.—

24 (A) The Commission shall submit to the
25 Congress an initial report not later than 4 years

1 after the date of the enactment of this Act. The
2 report shall contain, for each Federal criminal
3 offense subject to section 6 with a date of en-
4 actment on or before the date of the enactment
5 of this Act, the contents specified in subpara-
6 graph (C) with respect to that offense.

7 (B) For each Federal criminal offense sub-
8 ject to section 6 enacted after the date of the
9 enactment of this Act, the Commission shall
10 submit to the Congress, not later than 4 years
11 after the date of the enactment of that offense,
12 a report containing the contents specified in
13 subparagraph (C) with respect to that offense.

14 (C) The contents referred to in subpara-
15 graphs (A) and (B) are the findings, conclu-
16 sions, and recommendations of the Commission
17 as to the extent to which—

18 (i) that offense is within core Federal
19 responsibilities;

20 (ii) the efforts of States have proven
21 inadequate to address the purposes served
22 by that offense; and

23 (iii) that offense imposes burdens on
24 the Federal court system.

1 (f) TERMINATION.—Section 14(a)(2)(B) of the Fed-
2 eral Advisory Committee Act (5 U.S.C. App.; relating to
3 the termination of advisory committees) shall not apply
4 to the Commission.

5 **SEC. 4. CONTROLS ON CERTAIN FEDERAL CRIMINAL LEGIS-**
6 **LATION.**

7 (a) POINT OF ORDER.—It shall not be in order in
8 either the House of Representatives or the Senate to con-
9 sider any measure containing a provision that would in-
10 crease the law enforcement responsibilities of the Federal
11 Government, unless that measure is accompanied by a
12 Federal law enforcement impact statement prepared in ac-
13 cordance with section 5.

14 (b) EXERCISE OF RULEMAKING POWERS.—The pro-
15 visions of subsection (a) are enacted by Congress—

16 (1) as an exercise of the rulemaking power of
17 the Senate and the House of Representatives, re-
18 spectively, and as such they shall be considered as
19 part of the rules of such House, respectively, and
20 such rules shall supersede other rules only to the ex-
21 tent that they are inconsistent therewith; and

22 (2) with full recognition of the constitutional
23 right of either House to change such rules (so far
24 as relating to such House) at any time, in the same

1 manner, and to the same extent as in the case of
2 any other rule of each House.

3 (c) APPLICABILITY.—This section shall apply to any
4 consideration of a measure after the date that is 1 year
5 after the date of the enactment of this Act.

6 **SEC. 5. FEDERAL LAW ENFORCEMENT IMPACT STATEMENT.**

7 (a) PREPARATION.—For each measure referred to in
8 section 4 that is provided to the Commission by a Senator,
9 Representative in (or Delegate or Resident Commissioner
10 to) the Congress, or committee of the Senate or the House
11 of Representatives, the Commission shall, as promptly as
12 practicable—

13 (1) prepare a Federal law enforcement impact
14 statement with respect to that measure; and

15 (2) provide that statement to that Senator,
16 Representative, or committee.

17 (b) CONTENTS.—A Federal law enforcement impact
18 statement with respect to a measure shall, for each provi-
19 sion of that measure that would increase the law enforce-
20 ment responsibilities of the Federal Government, contain
21 the findings, conclusions, and recommendations of the
22 Commission as to the following:

23 (1) The extent to which that increase in respon-
24 sibilities would occur only as to core Federal respon-
25 sibilities.

1 (2) The extent to which the efforts of States
2 are inadequate to address the purposes to be served
3 by that provision.

4 (3) The extent to which the burdens imposed on
5 the Federal court system with respect to that provi-
6 sion could be accommodated within the existing ca-
7 pacity, resources, and structure of that system.

8 **SEC. 6. DEFINITIONS.**

9 In this Act, the following definitions apply:

10 (1) The term “Commission” means the Com-
11 mission to Review the Federal Code established
12 under section 3.

13 (2) The term “Director” means the Director of
14 the Commission.

15 (3) The term “measure” means a bill or joint
16 resolution, amendment thereto, or conference report
17 thereof.

18 (4) The term “core Federal responsibilities”
19 mean the responsibilities of the Federal Government
20 in enforcing the following offenses:

21 (A) An offense directly against the Federal
22 Government, including an offense directly
23 against an officer, employee, agency, or instru-
24 mentality of the Federal Government.

1 (B) An offense that proscribes an activity
2 with respect to which a clear need for uniform
3 Federal law enforcement exists, including an
4 activity that—

5 (i) involves conduct of such an inter-
6 state or international nature, or of such
7 magnitude or complexity, that a State act-
8 ing singly cannot carry out effective law
9 enforcement with respect to that conduct;
10 or

11 (ii) involves conduct of overriding na-
12 tional interest, such as interference with
13 the exercise of constitutional rights.

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