

118TH CONGRESS  
1ST SESSION

# H. R. 3079

To protect law enforcement officers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2023

Mr. BACON (for himself, Mr. LAMALFA, Mr. CARL, Mr. NEWHOUSE, Mr. LATTA, Mr. BARR, Mr. AMODEI, Ms. STEFANIK, Mr. ALLEN, Mr. JOHNSON of Ohio, Mr. BILIRAKIS, Mr. MEUSER, Mr. JACKSON of Texas, Mr. D'ESPOSITO, Mr. LAWLER, Mr. LALOTA, and Mr. HUDSON) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To protect law enforcement officers, 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 “Back the Blue Act  
5       of 2023”.

6       **SEC. 2. PROTECTION OF LAW ENFORCEMENT OFFICERS.**

7       (a) KILLING OF LAW ENFORCEMENT OFFICERS.—

8               (1) OFFENSE.—Chapter 51 of title 18, United  
9       States Code, is amended by adding at the end the  
10       following:

1 **“§ 1123. Killing of law enforcement officers**

2 “(a) DEFINITIONS.—In this section—

3 “(1) the terms ‘Federal law enforcement officer’  
4 and ‘United States judge’ have the meanings given  
5 those terms in section 115;

6 “(2) the term ‘federally funded public safety of-  
7 ficer’ means a public safety officer or judicial officer  
8 for a public agency that—

9 “(A) receives Federal financial assistance;  
10 and

11 “(B) is an agency of an entity that is a  
12 State of the United States, the District of Co-  
13 lumbia, the Commonwealth of Puerto Rico, the  
14 Virgin Islands, Guam, American Samoa, the  
15 Commonwealth of the Northern Mariana Is-  
16 lands, or any territory or possession of the  
17 United States, an Indian tribe, or a unit of  
18 local government of that entity;

19 “(3) the term ‘firefighter’ includes an individual  
20 serving as an official recognized or designated mem-  
21 ber of a legally organized volunteer fire department  
22 and an officially recognized or designated public em-  
23 ployee member of a rescue squad or ambulance crew;

24 “(4) the term ‘judicial officer’ means a judge or  
25 other officer or employee of a court, including pros-  
26 ecutors, court security, pretrial services officers,

1 court reporters, and corrections, probation, and pa-  
2 role officers;

3 “(5) the term ‘law enforcement officer’ means  
4 an individual, with statutory arrest powers, involved  
5 in crime or juvenile delinquency control or reduction  
6 or enforcement of the laws;

7 “(6) the term ‘public agency’ includes a court  
8 system, the National Guard of a State to the extent  
9 the personnel of that National Guard are not in  
10 Federal service, and the defense forces of a State  
11 authorized by section 109 of title 32; and

12 “(7) the term ‘public safety officer’ means an  
13 individual serving a public agency in an official ca-  
14 pacity, as a law enforcement officer, as a firefighter,  
15 as a chaplain, or as a member of a rescue squad or  
16 ambulance crew.

17 “(b) OFFENSE.—It shall be unlawful for any person  
18 to—

19 “(1) commit, or attempt to or conspire to com-  
20 mit, murder (within the meaning of section 1111(a))  
21 or manslaughter (within the meaning of section  
22 1112(a)) against—

23 “(A) a United States judge;

24 “(B) a Federal law enforcement officer; or

1           “(C) a federally funded public safety offi-  
2           cer while that officer is engaged in official du-  
3           ties, or on account of the performance of offi-  
4           cial duties; or

5           “(2) commit, or attempt to or conspire to com-  
6           mit, murder (within the meaning of section 1111(a))  
7           or manslaughter (within the meaning of section  
8           1112(a)) against a former United States judge, Fed-  
9           eral law enforcement officer, or federally funded  
10          public safety officer on account of the past perform-  
11          ance of official duties.

12          “(c) PENALTY.—Any person that violates subsection  
13 (b) shall be fined under this title and imprisoned for not  
14 less than 10 years or for life, or, if death results, shall  
15 be sentenced to not less than 30 years and not more than  
16 life, or may be punished by death.”.

17          (2) TABLE OF SECTIONS.—The table of sections  
18          for chapter 51 of title 18, United States Code, is  
19          amended by adding at the end the following:

“1123. Killing of law enforcement officers.”.

20          (b) ASSAULT OF LAW ENFORCEMENT OFFICERS.—

21                  (1) OFFENSE.—Chapter 7 of title 18, United  
22          States Code, is amended by adding at the end the  
23          following:

1 **“§ 120. Assaults of law enforcement officers**

2       “(a) DEFINITION.—In this section, the term ‘feder-  
3 ally funded State or local law enforcement officer’ means  
4 an individual involved in crime and juvenile delinquency  
5 control or reduction, or enforcement of the laws (including  
6 a police, corrections, probation, or parole officer) who  
7 works for a public agency (that receives Federal financial  
8 assistance) of a State of the United States or the District  
9 of Columbia.

10       “(b) OFFENSE.—It shall be unlawful to assault a fed-  
11 erally funded State or local law enforcement officer while  
12 engaged in or on account of the performance of official  
13 duties, or assaults any person who formerly served as a  
14 federally funded State or local law enforcement officer on  
15 account of the performance of such person’s official duties  
16 during such service, or because of the actual or perceived  
17 status of the person as a federally funded State or local  
18 law enforcement officer.

19       “(c) PENALTY.—Any person that violates subsection  
20 (b) shall be subject to a fine under this title and—

21               “(1) if the assault resulted in bodily injury (as  
22 defined in section 1365), shall be imprisoned not less  
23 than 2 years and not more than 10 years;

24               “(2) if the assault resulted in substantial bodily  
25 injury (as defined in section 113), shall be impris-

1       oned not less than 5 years and not more than 20  
2       years;

3           “(3) if the assault resulted in serious bodily in-  
4       jury (as defined in section 1365), shall be impris-  
5       oned for not less than 10 years;

6           “(4) if a deadly or dangerous weapon was used  
7       during and in relation to the assault, shall be im-  
8       prisoned for not less than 20 years; and

9           “(5) shall be imprisoned for not more than 1  
10       year in any other case.

11       “(d) CERTIFICATION REQUIREMENT.—

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

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

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

20           “(C) the verdict or sentence obtained pur-  
21       suant to State charges left demonstratively  
22       unvindicated the Federal interest in eradicating  
23       bias-motivated violence; or

1           “(D) a prosecution by the United States is  
2           in the public interest and necessary to secure  
3           substantial justice.

4           “(2) RULE OF CONSTRUCTION.—Nothing in  
5           this subsection shall be construed to limit the au-  
6           thority of Federal officers, or a Federal grand jury,  
7           to investigate possible violations of this section.

8           “(e) STATUTE OF LIMITATIONS.—

9           “(1) OFFENSES NOT RESULTING IN DEATH.—  
10          Except as provided in paragraph (2), no person shall  
11          be prosecuted, tried, or punished for any offense  
12          under this section unless the indictment for such of-  
13          fense is found, or the information for such offense  
14          is instituted, not later than 7 years after the date  
15          on which the offense was committed.

16          “(2) OFFENSES RESULTING IN DEATH.—An in-  
17          dictment or information alleging that an offense  
18          under this section resulted in death may be found or  
19          instituted at any time without limitation.”.

20          “(2) TABLE OF SECTIONS.—The table of sections  
21          for chapter 7 of title 18, United States Code, is  
22          amended by adding at the end the following:

“120. Assaults of law enforcement officers.”.

23          “(c) FLIGHT TO AVOID PROSECUTION FOR KILLING  
24          LAW ENFORCEMENT OFFICIALS.—

1           (1) OFFENSE.—Chapter 49 of title 18, United  
2           States Code, is amended by adding at the end the  
3           following:

4   **“§ 1075. Flight to avoid prosecution for killing law**  
5                                   **enforcement officials**

6           “(a) OFFENSE.—It shall be unlawful for any person  
7           to move or travel in interstate or foreign commerce with  
8           intent to avoid prosecution, or custody or confinement  
9           after conviction, under the laws of the place from which  
10          the person flees or under section 1114 or 1123, for a crime  
11          consisting of the killing, an attempted killing, or a con-  
12          spiracy to kill a Federal judge or Federal law enforcement  
13          officer (as those terms are defined in section 115), or a  
14          federally funded public safety officer (as that term is de-  
15          fined in section 1123).

16          “(b) PENALTY.—Any person that violates subsection  
17          (a) shall be fined under this title and imprisoned for not  
18          less than 10 years, in addition to any other term of impris-  
19          onment for any other offense relating to the conduct de-  
20          scribed in subsection (a).”.

21               (2) TABLE OF SECTIONS.—The table of sections  
22               for chapter 49 of title 18, United States Code, is  
23               amended by adding at the end the following:

“1075. Flight to avoid prosecution for killing law enforcement officials.”.



1 **SEC. 3. SPECIFIC AGGRAVATING FACTOR FOR FEDERAL**  
2 **DEATH PENALTY KILLING OF LAW ENFORCE-**  
3 **MENT OFFICER.**

4 (a) AGGRAVATING FACTORS FOR HOMICIDE.—Sec-  
5 tion 3592(c) of title 18, United States Code, is amended  
6 by inserting after paragraph (16) the following:

7 “(17) KILLING OF A LAW ENFORCEMENT OFFI-  
8 CER, PROSECUTOR, JUDGE, OR FIRST RESPONDER.—  
9 The defendant killed or attempted to kill a person  
10 who is authorized by law—

11 “(A) to engage in or supervise the preven-  
12 tion, detention, or investigation of any criminal  
13 violation of law;

14 “(B) to arrest, prosecute, or adjudicate an  
15 individual for any criminal violation of law; or

16 “(C) to be a firefighter or other first re-  
17 sponder.”.

18 **SEC. 4. LIMITATION ON FEDERAL HABEAS RELIEF FOR**  
19 **MURDERS OF LAW ENFORCEMENT OFFICERS.**

20 (a) JUSTICE FOR LAW ENFORCEMENT OFFICERS  
21 AND THEIR FAMILIES.—

22 (1) IN GENERAL.—Section 2254 of title 28,  
23 United States Code, is amended by adding at the  
24 end the following:

25 “(j)(1) For an application for a writ of habeas corpus  
26 on behalf of a person in custody pursuant to the judgment

1 of a State court for a crime that involved the killing of  
2 a public safety officer (as that term is defined in section  
3 1204 of title I of the Omnibus Crime Control and Safe  
4 Streets Act of 1968 (42 U.S.C. 3796b)) or judge, while  
5 the public safety officer or judge was engaged in the per-  
6 formance of official duties, or on account of the perform-  
7 ance of official duties by or status as a public safety officer  
8 or judge of the public safety officer or judge—

9           “(A) the application shall be subject to the time  
10       limitations and other requirements under sections  
11       2263, 2264, and 2266; and

12           “(B) the court shall not consider claims relating  
13       to sentencing that were adjudicated in a State court.

14       “(2) Sections 2251, 2262, and 2101 are the exclusive  
15       sources of authority for Federal courts to stay a sentence  
16       of death entered by a State court in a case described in  
17       paragraph (1).”.

18           (2) RULES.—Rule 11 of the Rules Governing  
19       Section 2254 Cases in the United States District  
20       Courts is amended by adding at the end the fol-  
21       lowing: “Rule 60(b)(6) of the Federal Rules of Civil  
22       Procedure shall not apply to a proceeding under  
23       these rules in a case that is described in section  
24       2254(j) of title 28, United States Code.”.

1           (3) FINALITY OF DETERMINATION.—Section  
2           2244(b)(3)(E) of title 28, United States Code, is  
3           amended by striking “the subject of a petition” and  
4           all that follows and inserting: “reheard in the court  
5           of appeals or reviewed by writ of certiorari.”.

6           (4) EFFECTIVE DATE AND APPLICABILITY.—

7           (A) IN GENERAL.—This paragraph and the  
8           amendments made by this paragraph shall  
9           apply to any case pending on or after the date  
10          of enactment of this Act.

11          (B) TIME LIMITS.—In a case pending on  
12          the date of enactment of this Act, if the amend-  
13          ments made by this paragraph impose a time  
14          limit for taking certain action, the period of  
15          which began before the date of enactment of  
16          this Act, the period of such time limit shall  
17          begin on the date of enactment of this Act.

18          (C) EXCEPTION.—The amendments made  
19          by this paragraph shall not bar consideration  
20          under section 2266(b)(3)(B) of title 28, United  
21          States Code, of an amendment to an application  
22          for a writ of habeas corpus that is pending on  
23          the date of enactment of this Act, if the amend-  
24          ment to the petition was adjudicated by the  
25          court prior to the date of enactment of this Act.

1 **SEC. 5. SELF-DEFENSE RIGHTS FOR LAW ENFORCEMENT**  
2 **OFFICERS.**

3 (a) IN GENERAL.—Chapter 203 of title 18, United  
4 States Code, is amended by inserting after section 3053  
5 the following:

6 **“§ 3054. Authority of law enforcement officers to**  
7 **carry firearms**

8 “Any sworn officer, agent, or employee of the United  
9 States, a State, or a political subdivision thereof, who is  
10 authorized by law to engage in or supervise the prevention,  
11 detection, investigation, or prosecution of any violation of  
12 law, or to supervise or secure the safety of incarcerated  
13 inmates, may carry firearms if authorized by law to do  
14 so. Such authority to carry firearms, with respect to the  
15 lawful performance of the official duties of a sworn officer,  
16 agent, or employee of a State or a political subdivision  
17 thereof, shall include possession incident to depositing a  
18 firearm within a secure firearms storage area for use by  
19 all persons who are authorized to carry a firearm within  
20 any building or structure classified as a Federal facility  
21 or Federal court facility, as those terms are defined under  
22 section 930, and any grounds appurtenant to such a facil-  
23 ity.”.

24 (b) CARRYING OF CONCEALED FIREARMS BY QUALI-  
25 FIED LAW ENFORCEMENT OFFICERS.—Section

1 926B(e)(2) of title 18, United States Code, is amended  
2 by inserting “any magazine and” after “includes”.

3 (c) CARRYING OF CONCEALED FIREARMS BY QUALI-  
4 FIED RETIRED LAW ENFORCEMENT OFFICERS.—Section  
5 926C(e)(1)(B) of title 18, United States Code, is amended  
6 by inserting “any magazine and” after “includes”.

7 (d) SCHOOL ZONES.—Section 922(q)(2)(B)(vi) of  
8 title 18, United States Code, is amended by inserting “or  
9 a qualified law enforcement officer (as defined in section  
10 926B(c))” before the semicolon.

11 (e) REGULATIONS REQUIRED.—Not later than 60  
12 days after the date of enactment of this Act, the Attorney  
13 General shall promulgate regulations allowing persons de-  
14 scribed in section 3054 of title 18, United States Code,  
15 to possess firearms in a manner described by that section.  
16 With respect to Federal justices, judges, bankruptcy  
17 judges, and magistrate judges, such regulations shall be  
18 prescribed after consultation with the Judicial Conference  
19 of the United States.

20 (f) TABLE OF SECTIONS.—The table of sections for  
21 chapter 203 of title 18, United States Code, is amended  
22 by inserting after the item relating to section 3053 the  
23 following:

“3054. Authority of law enforcement officers to carry firearms.”.

24 (g) FURTHER AMENDMENT.—Section 930 of title 18,  
25 United States Code, is amended—

1 (1) in subsection (d)—

2 (A) in paragraph (2), by striking “or” at  
3 the end;

4 (B) in paragraph (3), by striking the pe-  
5 riod at the end and inserting “or”; and

6 (C) by adding at the end the following:

7 “(4) the possession of a firearm or ammunition  
8 in a Facility Security Level I or II civilian public ac-  
9 cess facility by a qualified law enforcement officer  
10 (as defined in section 926B(e)) or a qualified retired  
11 law enforcement officer (as defined in section  
12 926C(e)).”; and

13 (2) in subsection (g), by adding at the end the  
14 following:

15 “(4) The term ‘Facility Security Level’ means  
16 a security risk assessment level assigned to a Fed-  
17 eral facility by the security agency of the facility in  
18 accordance with the biannually issued Interagency  
19 Security Committee Standard.

20 “(5) The term ‘civilian public access facility’  
21 means a facility open to the general public.”.

○