

117TH CONGRESS
1ST SESSION

S. 40

To address the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to study and consider a national apology and proposal for reparations for the institution of slavery, its subsequent de jure and de facto racial and economic discrimination against African Americans, and the impact of these forces on living African Americans, to make recommendations to the Congress on appropriate remedies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 25, 2021

Mr. BOOKER (for himself, Mr. DURBIN, Mrs. FEINSTEIN, Mr. COONS, Ms. HIRONO, Mr. SANDERS, Ms. DUCKWORTH, Mr. MARKEY, Mr. MERKLEY, Mr. WHITEHOUSE, Ms. KLOBUCHAR, Ms. WARREN, Mr. CASEY, Mrs. MURRAY, Mr. BLUMENTHAL, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To address the fundamental injustice, cruelty, brutality, and inhumanity of slavery in the United States and the 13 American colonies between 1619 and 1865 and to establish a commission to study and consider a national apology and proposal for reparations for the institution of slavery, its subsequent de jure and de facto racial and economic discrimination against African Americans, and the impact of these forces on living African Americans, to make recommendations to the Congress on appropriate remedies, 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 “Commission to Study
5 and Develop Reparation Proposals for African Americans
6 Act”.

7 **SEC. 2. FINDINGS AND PURPOSE.**

8 (a) FINDINGS.—The Congress finds that—

9 (1) approximately 4,000,000 Africans and their
10 descendants were enslaved in the United States and
11 colonies that became the United States from 1619 to
12 1865;

13 (2) the institution of slavery was constitu-
14 tionally and statutorily sanctioned by the Govern-
15 ment of the United States from 1789 through 1865;

16 (3) the slavery that flourished in the United
17 States constituted an immoral and inhumane depri-
18 vation of Africans’ life, liberty, African citizenship
19 rights, and cultural heritage, and denied them the
20 fruits of their own labor;

21 (4) a preponderance of scholarly, legal, commu-
22 nity evidentiary documentation and popular culture
23 markers constitute the basis for inquiry into the on-
24 going effects of the institution of slavery and its leg-
25 acy of persistent systemic structures of discrimina-

tion on living African Americans and society in the United States;

(5) following the abolition of slavery the United States Government, at the Federal, State, and local level, continued to perpetuate, condone and often profit from practices that continued to brutalize and disadvantage African Americans, including share cropping, convict leasing, Jim Crow, redlining, unequal education, and disproportionate treatment at the hands of the criminal justice system; and

(6) as a result of the historic and continued discrimination, African Americans continue to suffer debilitating economic, educational, and health hardships including but not limited to having nearly 1,000,000 Black people incarcerated; an unemployment rate more than twice the current White unemployment rate; and an average of less than $\frac{1}{16}$ of the wealth of White families, a disparity which has worsened, not improved over time.

(b) PURPOSE.—The purpose of this Act is to establish a commission to study and develop reparation proposals for African Americans as a result of—

(1) the institution of slavery, including both the Trans-Atlantic and the domestic “trade” which existed from 1565 in colonial Florida and from 1619

1 through 1865 within the other colonies that became
2 the United States, and which included the Federal
3 and State governments which constitutionally and
4 statutorily supported the institution of slavery;

5 (2) the de jure and de facto discrimination
6 against freed slaves and their descendants from the
7 end of the Civil War to the present, including eco-
8 nomic, political, educational, and social discrimina-
9 tion;

10 (3) the lingering negative effects of the institu-
11 tion of slavery and the discrimination described in
12 paragraphs (1) and (2) on living African Americans
13 and on society in the United States;

14 (4) the manner in which textual and digital in-
15 structional resources and technologies are being used
16 to deny the inhumanity of slavery and the crime
17 against humanity of people of African descent in the
18 United States;

19 (5) the role of Northern complicity in the
20 Southern based institution of slavery;

21 (6) the direct benefits to societal institutions,
22 public and private, including higher education, cor-
23 porations, religious and associational;

1 (7) and thus, recommend appropriate ways to
2 educate the American public of the Commission’s
3 findings;

4 (8) and thus, recommend appropriate remedies
5 in consideration of the Commission’s findings on the
6 matters described in paragraphs (1), (2), (3), (4),
7 (5), and (6); and

8 (9) submit to the Congress the results of such
9 examination, together with such recommendations.

10 **SEC. 3. ESTABLISHMENT AND DUTIES.**

11 (a) ESTABLISHMENT.—There is established the Com-
12 mission to Study and Develop Reparation Proposals for
13 African Americans (hereinafter in this Act referred to as
14 the “Commission”).

15 (b) DUTIES.—The Commission shall perform the fol-
16 lowing duties:

17 (1) Identify, compile and synthesize the relevant
18 corpus of evidentiary documentation of the institu-
19 tion of slavery which existed within the United
20 States and the colonies that became the United
21 States from 1619 through 1865. The Commission’s
22 documentation and examination shall include but not
23 be limited to the facts related to—

24 (A) the capture and procurement of Afri-
25 cans;

1 (B) the transport of Africans to the United
2 States and the colonies that became the United
3 States for the purpose of enslavement, including
4 their treatment during transport;

5 (C) the sale and acquisition of Africans as
6 chattel property in interstate and intrastate
7 commerce;

8 (D) the treatment of African slaves in the
9 colonies and the United States, including the
10 deprivation of their freedom, exploitation of
11 their labor, and destruction of their culture,
12 language, religion, and families; and

13 (E) the extensive denial of humanity, sex-
14 ual abuse and the chattelization of persons.

15 (2) The role which the Federal and State gov-
16 ernments of the United States supported the institu-
17 tion of slavery in constitutional and statutory provi-
18 sions, including the extent to which such govern-
19 ments prevented, opposed, or restricted efforts of
20 formerly enslaved Africans and their descendants to
21 repatriate to their homeland.

22 (3) The Federal and State laws that discrimi-
23 nated against formerly enslaved Africans and their
24 descendants who were deemed United States citizens
25 from 1868 to the present.

1 (4) The other forms of discrimination in the
2 public and private sectors against freed African
3 slaves and their descendants who were deemed
4 United States citizens from 1868 to the present, in-
5 cluding redlining, educational funding discrepancies,
6 and predatory financial practices.

7 (5) The lingering negative effects of the institu-
8 tion of slavery and the matters described in para-
9 graphs (1), (2), (3), (4), (5), and (6) on living Afri-
10 can Americans and on society in the United States.

11 (6) Recommend appropriate ways to educate
12 the American public of the Commission's findings.

13 (7) Recommend appropriate remedies in consid-
14 eration of the Commission's findings on the matters
15 described in paragraphs (1), (2), (3), (4), (5), and
16 (6). In making such recommendations, the Commis-
17 sion shall address among other issues, the following
18 questions:

19 (A) How such recommendations comport
20 with international standards of remedy for
21 wrongs and injuries caused by the State, that
22 include full reparations and special measures,
23 as understood by various relevant international
24 protocols, laws, and findings.

1 (B) How the Government of the United
2 States will offer a formal apology on behalf of
3 the people of the United States for the per-
4 petration of gross human rights violations and
5 crimes against humanity on African slaves and
6 their descendants.

7 (C) How Federal laws and policies that
8 continue to disproportionately and negatively
9 affect African Americans as a group, and those
10 that perpetuate the lingering effects, materially
11 and psycho-social, can be eliminated.

12 (D) How the injuries resulting from mat-
13 ters described in paragraphs (1), (2), (3), (4),
14 (5), and (6) can be reversed and provide appro-
15 priate policies, programs, projects and rec-
16 ommendations for the purpose of reversing the
17 injuries.

18 (E) How, in consideration of the Commis-
19 sion's findings, any form of compensation to the
20 descendants of enslaved African is calculated.

21 (F) What form of compensation should be
22 awarded, through what instrumentalities and
23 who should be eligible for such compensation.

24 (G) How, in consideration of the Commis-
25 sion's findings, any other forms of rehabilita-

1 tion or restitution to African descendants is
2 warranted and what the form and scope of
3 those measures should take.

4 (c) REPORT TO CONGRESS.—The Commission shall
5 submit a written report of its findings and recommenda-
6 tions to the Congress not later than the date which is one
7 year after the date of the first meeting of the Commission
8 held pursuant to section 4(c).

9 **SEC. 4. MEMBERSHIP.**

10 (a) NUMBER AND APPOINTMENT.—(1) The Commis-
11 sion shall be composed of 13 members, who shall be ap-
12 pointed, within 90 days after the date of enactment of this
13 Act, as follows:

14 (A) Three members shall be appointed by the
15 President.

16 (B) Three members shall be appointed by the
17 Speaker of the House of Representatives.

18 (C) One member shall be appointed by the
19 President pro tempore of the Senate.

20 (D) Six members shall be selected from the
21 major civil society and reparations organizations
22 that have historically championed the cause of
23 reparatory justice.

24 (2) All members of the Commission shall be persons
25 who are especially qualified to serve on the Commission

1 by virtue of their education, training, activism or experi-
2 ence, particularly in the field of African-American studies
3 and reparatory justice.

4 (b) TERMS.—The term of office for members shall
5 be for the life of the Commission. A vacancy in the Com-
6 mission shall not affect the powers of the Commission and
7 shall be filled in the same manner in which the original
8 appointment was made.

9 (c) FIRST MEETING.—The President shall call the
10 first meeting of the Commission within 120 days after the
11 date of the enactment of this Act or within 30 days after
12 the date on which legislation is enacted making appropria-
13 tions to carry out this Act, whichever date is later.

14 (d) QUORUM.—Seven members of the Commission
15 shall constitute a quorum, but a lesser number may hold
16 hearings.

17 (e) CHAIR AND VICE CHAIR.—The Commission shall
18 elect a Chair and Vice Chair from among its members.
19 The term of office of each shall be for the life of the Com-
20 mission.

21 (f) COMPENSATION.—(1) Except as provided in para-
22 graph (2), each member of the Commission shall receive
23 compensation at the daily equivalent of the annual rate
24 of basic pay payable for GS–18 of the General Schedule
25 under section 5332 of title 5, United States Code, for each

1 day, including travel time, during which he or she is en-
2 gaged in the actual performance of duties vested in the
3 Commission.

4 (2) A member of the Commission who is a full-time
5 officer or employee of the United States or a Member of
6 Congress shall receive no additional pay, allowances, or
7 benefits by reason of his or her service to the Commission.

8 (3) All members of the Commission shall be reim-
9 bursed for travel, subsistence, and other necessary ex-
10 penses incurred by them in the performance of their duties
11 to the extent authorized by chapter 57 of title 5, United
12 States Code.

13 **SEC. 5. POWERS OF THE COMMISSION.**

14 (a) **HEARINGS AND SESSIONS.**—The Commission
15 may, for the purpose of carrying out the provisions of this
16 Act, hold such hearings and sit and act at such times and
17 at such places in the United States, and request the at-
18 tendance and testimony of such witnesses and the produc-
19 tion of such books, records, correspondence, memoranda,
20 papers, and documents, as the Commission considers ap-
21 propriate. The Commission may invoke the aid of an ap-
22 propriate United States district court to require, by sub-
23 poena or otherwise, such attendance, testimony, or pro-
24 duction.

1 (b) POWERS OF SUBCOMMITTEES AND MEMBERS.—

2 Any subcommittee or member of the Commission may, if
3 authorized by the Commission, take any action which the
4 Commission is authorized to take by this section.

5 (c) OBTAINING OFFICIAL DATA.—The Commission
6 may acquire directly from the head of any department,
7 agency, or instrumentality of the executive branch of the
8 Government, available information which the Commission
9 considers useful in the discharge of its duties. All depart-
10 ments, agencies, and instrumentalities of the executive
11 branch of the Government shall cooperate with the Com-
12 mission with respect to such information and shall furnish
13 all information requested by the Commission to the extent
14 permitted by law.

15 **SEC. 6. ADMINISTRATIVE PROVISIONS.**

16 (a) STAFF.—The Commission may, without regard to
17 section 5311(b) of title 5, United States Code, appoint and
18 fix the compensation of such personnel as the Commission
19 considers appropriate.

20 (b) APPLICABILITY OF CERTAIN CIVIL SERVICE
21 LAWS.—The staff of the Commission may be appointed
22 without regard to the provisions of title 5, United States
23 Code, governing appointments in the competitive service,
24 and without regard to the provisions of chapter 51 and
25 subchapter III of chapter 53 of such title relating to classi-

1 fication and General Schedule pay rates, except that the
2 compensation of any employee of the Commission may not
3 exceed a rate equal to the annual rate of basic pay payable
4 for GS-18 of the General Schedule under section 5332
5 of title 5, United States Code.

6 (c) EXPERTS AND CONSULTANTS.—The Commission
7 may procure the services of experts and consultants in ac-
8 cordance with the provisions of section 3109(b) of title 5,
9 United States Code, but at rates for individuals not to
10 exceed the daily equivalent of the highest rate payable
11 under section 5332 of such title.

12 (d) ADMINISTRATIVE SUPPORT SERVICES.—The
13 Commission may enter into agreements with the Adminis-
14 trator of General Services for procurement of financial
15 and administrative services necessary for the discharge of
16 the duties of the Commission. Payment for such services
17 shall be made by reimbursement from funds of the Com-
18 mission in such amounts as may be agreed upon by the
19 Chairman of the Commission and the Administrator.

20 (e) CONTRACTS.—The Commission may—

21 (1) procure supplies, services, and property by
22 contract in accordance with applicable laws and reg-
23 ulations and to the extent or in such amounts as are
24 provided in appropriations Acts; and

1 (2) enter into contracts with departments,
2 agencies, and instrumentalities of the Federal Gov-
3 ernment, State agencies, and private firms, institu-
4 tions, and agencies, for the conduct of research or
5 surveys, the preparation of reports, and other activi-
6 ties necessary for the discharge of the duties of the
7 Commission, to the extent or in such amounts as are
8 provided in appropriations Acts.

9 **SEC. 7. TERMINATION.**

10 The Commission shall terminate 90 days after the
11 date on which the Commission submits its report to the
12 Congress under section 3(c).

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

14 To carry out the provisions of this Act, there are au-
15 thorized to be appropriated \$12,000,000.

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