

114TH CONGRESS  
2D SESSION

# H. R. 5809

To protect law enforcement officers, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 14, 2016

Mr. POE of Texas (for himself, Mr. NEUGEBAUER, Mr. SESSIONS, Mr. SMITH of Texas, Mr. MCCAUL, Mr. WILLIAMS, and Mr. SAM JOHNSON of Texas) 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 2016”.

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 arrest powers, involved in crime  
5 or juvenile delinquency control or reduction or en-  
6 forcement 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) kill, or attempt or conspire to kill—

20 “(A) a United States judge;

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

22 “(C) a federally funded public safety offi-  
23 cer while that officer is engaged in official du-  
24 ties, or on account of the performance of offi-  
25 cial duties; or

1           “(2) kill a former United States judge, Federal  
2 law enforcement officer, or federally funded public  
3 safety officer on account of the past performance of  
4 official duties.

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

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

“1123. Killing of law enforcement officers.”.

13           (b) ASSAULT OF LAW ENFORCEMENT OFFICERS.—

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

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

18           “(a) DEFINITION.—In this section, the term ‘feder-  
19 ally funded State or local law enforcement officer’ means  
20 an individual involved in crime and juvenile delinquency  
21 control or reduction, or enforcement of the laws (including  
22 a police, corrections, probation, or parole officer) who  
23 works for a public agency (that receives Federal financial  
24 assistance) of a State of the United States or the District  
25 of Columbia.

1       “(b) OFFENSE.—It shall be unlawful to assault a fed-  
2 erally funded State or local law enforcement officer while  
3 engaged in or on account of the performance of official  
4 duties, or assaults any person who formerly served as a  
5 federally funded State or local law enforcement officer on  
6 account of the performance of such person’s official duties  
7 during such service, or because of the actual or perceived  
8 status of the person as a federally funded State or local  
9 law enforcement officer.

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

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

15               “(2) if the assault resulted in substantial bodily  
16 injury (as defined in section 113), shall be impris-  
17 oned not less than 5 years and not more than 20  
18 years;

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

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

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

3           “(d) CERTIFICATION REQUIREMENT.—

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

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

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

12           “(C) the verdict or sentence obtained pur-  
13 suant to State charges left demonstratively  
14 unvindicated the Federal interest in eradicating  
15 bias-motivated violence; or

16           “(D) a prosecution by the United States is  
17 in the public interest and necessary to secure  
18 substantial justice.

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

23           “(e) STATUTE OF LIMITATIONS.—

24           “(1) OFFENSES NOT RESULTING IN DEATH.—

25           Except as provided in paragraph (2), no person shall

1 be prosecuted, tried, or punished for any offense  
2 under this section unless the indictment for such of-  
3 fense is found, or the information for such offense  
4 is instituted, not later than 7 years after the date  
5 on which the offense was committed.

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

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

“120. Killing of law enforcement officers.”.

13 (c) FLIGHT TO AVOID PROSECUTION FOR KILLING  
14 LAW ENFORCEMENT OFFICIALS.—

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

18 “§ 1075. **Flight to avoid prosecution for killing law**  
19 **enforcement officials**

20 “(a) OFFENSE.—It shall be unlawful for any person  
21 to move or travel in interstate or foreign commerce with  
22 intent to avoid prosecution, or custody or confinement  
23 after conviction, under the laws of the place from which  
24 the person flees or under section 1114 or 1123, for a crime  
25 consisting of the killing, an attempted killing, or a con-

1 spiracy to kill a Federal judge or Federal law enforcement  
 2 officer (as those terms are defined in section 115), or a  
 3 federally funded public safety officer (as that term is de-  
 4 fined in section 1123).

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

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

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

13 **SEC. 3. SPECIFIC AGGRAVATING FACTOR FOR FEDERAL**  
 14 **DEATH PENALTY KILLING OF LAW ENFORCE-**  
 15 **MENT OFFICER.**

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

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

23 “(A) to engage in or supervise the preven-  
 24 tion, detention, or investigation of any criminal  
 25 violation of law;



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

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

5 **SEC. 4. LIMITATION ON FEDERAL HABEAS RELIEF FOR**  
6 **MURDERS OF LAW ENFORCEMENT OFFICERS.**

7       (a) **JUSTICE FOR LAW ENFORCEMENT OFFICERS**  
8 **AND THEIR FAMILIES.—**

9           (1) **IN GENERAL.**—Section 2254 of title 28,  
10 United States Code, is amended by adding at the  
11 end the following:

12       “(j)(1) For an application for a writ of habeas corpus  
13 on behalf of a person in custody pursuant to the judgment  
14 of a State court for a crime that involved the killing of  
15 a public safety officer (as that term is defined in section  
16 1204 of the Omnibus Crime Control and Safe Streets Act  
17 of 1968 (42 U.S.C. 3796b)) or judge, while the public  
18 safety officer or judge was engaged in the performance  
19 of official duties, or on account of the performance of offi-  
20 cial duties by or status as a public safety officer or judge  
21 of the public safety officer or judge—

22           “(A) the application shall be subject to the time  
23 limitations and other requirements under sections  
24 2263, 2264, and 2266; and

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

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

7           (2) RULES.—Rule 11 of the Rules Governing  
8 Section 2254 Cases in the United States District  
9 Courts is amended by adding at the end the fol-  
10 lowing: “Rule 60(b)(6) of the Federal Rules of Civil  
11 Procedure shall not apply to a proceeding under  
12 these rules in a case that is described in section  
13 2254(j) of title 28, United States Code.”.

14           (3) FINALITY OF DETERMINATION.—Section  
15 2244(b)(3)(E) of title 28, United States Code, is  
16 amended by striking “the subject of a petition” and  
17 all that follows and inserting: “reheard in the court  
18 of appeals or reviewed by writ of certiorari.”.

19           (4) EFFECTIVE DATE AND APPLICABILITY.—

20           (A) IN GENERAL.—This paragraph and the  
21 amendments made by this paragraph shall  
22 apply to any case pending on or after the date  
23 of enactment of this Act.

24           (B) TIME LIMITS.—In a case pending on  
25 the date of enactment of this Act, if the amend-

1           ments made by this paragraph impose a time  
2           limit for taking certain action, the period of  
3           which began before the date of enactment of  
4           this Act, the period of such time limit shall  
5           begin on the date of enactment of this Act.

6           (C) EXCEPTION.—The amendments made  
7           by this paragraph shall not bar consideration  
8           under section 2266(b)(3)(B) of title 28, United  
9           States Code, of an amendment to an application  
10          for a writ of habeas corpus that is pending on  
11          the date of enactment of this Act, if the amend-  
12          ment to the petition was adjudicated by the  
13          court prior to the date of enactment of this Act.

14 **SEC. 5. LIMITATION ON RECOVERY OF CERTAIN DAMAGES**  
15                           **FOR INDIVIDUALS ENGAGED IN FELONIES OR**  
16                           **CRIMES OF VIOLENCE.**

17          (a) IN GENERAL.—Section 1979 of the Revised Stat-  
18          utes (42 U.S.C. 1983) is amended by—

19               (1) striking “except that in any action” and all  
20               that follows through “relief was unavailable.” and  
21               inserting the following: “except that—

22                       “(1) in any action brought against a judicial of-  
23                       ficer for an act or omission taken in the judicial ca-  
24                       pacity of that officer, injunctive relief shall not be

1 granted unless a declaratory decree was violated or  
2 declaratory relief was unavailable; and

3 “(2) in any action seeking redress for any dep-  
4 rivation that was incurred in the course of, or as a  
5 result of, or is related to, conduct by the injured  
6 party that, more likely than not, constituted a felony  
7 or a crime of violence (as that term is defined in sec-  
8 tion 16 of title 18, United States Code) (including  
9 any deprivation in the course of arrest or apprehen-  
10 sion for, or the investigation, prosecution, or adju-  
11 dication of, such an offense), a court may not award  
12 damages other than for necessary out-of-pocket ex-  
13 penditures and other monetary loss.”; and

14 (2) indenting the last sentence as an undesig-  
15 nated paragraph.

16 (b) ATTORNEY’S FEES.—Section 722(b) of the Re-  
17 vised Statutes (42 U.S.C. 1988(b)) is amended by striking  
18 “except that in any action” and all that follows and insert-  
19 ing the following: “except that—

20 “(1) in any action brought against a judicial of-  
21 ficer for an act or omission taken in the judicial ca-  
22 pacity of that officer, such officer shall not be held  
23 liable for any costs, including attorneys fees, unless  
24 such action was clearly in excess of the jurisdiction  
25 of that officer; and

1           “(2) in any action seeking redress for any dep-  
 2           rivation that was incurred in the course of, or as a  
 3           result of, or is related to, conduct by the injured  
 4           party that, more likely than not, constituted a felony  
 5           or a crime of violence (as that term is defined in sec-  
 6           tion 16 of title 18, United States Code) (including  
 7           any deprivation in the course of arrest or apprehen-  
 8           sion for, or the investigation, prosecution, or adju-  
 9           dication of, such an offense), the court may not  
 10          allow such party to recover attorney’s fees.”.

11 **SEC. 6. SELF-DEFENSE RIGHTS FOR LAW ENFORCEMENT**  
 12                                   **OFFICERS.**

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

16 **“§ 3054. Authority of law enforcement officers to**  
 17                                   **carry firearms**

18           “Any sworn officer, agent, or employee of the United  
 19          States, a State, or a political subdivision thereof, who is  
 20          authorized by law to engage in or supervise the prevention,  
 21          detection, investigation, or prosecution of any violation of  
 22          law, or to supervise or secure the safety of incarcerated  
 23          inmates, may carry firearms if authorized by law to do  
 24          so. Such authority to carry firearms, with respect to the  
 25          lawful performance of the official duties of a sworn officer,

1 agent, or employee of a State or a political subdivision  
2 thereof, shall include possession incident to depositing a  
3 firearm within a secure firearms storage area for use by  
4 all persons who are authorized to carry a firearm within  
5 any building or structure classified as a Federal facility  
6 or Federal court facility, as those terms are defined under  
7 section 930, and any grounds appurtenant to such a facil-  
8 ity.”.

9 (b) CARRYING OF CONCEALED FIREARMS BY QUALI-  
10 FIED LAW ENFORCEMENT OFFICERS.—Section  
11 926B(e)(2) of title 18, United States Code, is amended  
12 by inserting “any magazine and” after “includes”.

13 (c) CARRYING OF CONCEALED FIREARMS BY QUALI-  
14 FIED RETIRED LAW ENFORCEMENT OFFICERS.—Section  
15 926C(e)(1)(B) of title 18, United States Code, is amended  
16 by inserting “any magazine and” after “includes”.

17 (d) SCHOOL ZONES.—Section 922(q)(2)(B)(vi) title  
18 18, United States Code, is amended by inserting “or a  
19 qualified law enforcement officer (as defined in section  
20 926B(c))” before the semicolon.

21 (e) REGULATIONS REQUIRED.—Not later than 60  
22 days after the date of enactment of this Act, the Attorney  
23 General shall promulgate regulations allowing persons de-  
24 scribed in section 3054 of title 18, United States Code,  
25 to possess firearms in a manner described by that section.

1 With respect to Federal justices, judges, bankruptcy  
2 judges, and magistrate judges, such regulations shall be  
3 prescribed after consultation with the Judicial Conference  
4 of the United States.

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

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

9 **SEC. 7. IMPROVING THE RELATIONSHIP BETWEEN LAW EN-**  
10 **FORCEMENT AGENCIES AND THE COMMU-**  
11 **NITIES THEY SERVE.**

12 (a) IN GENERAL.—For each of fiscal years 2017  
13 through 2021, the Attorney General using covered  
14 amounts shall, using such amounts as are necessary not  
15 to exceed \$20,000,000, award grants to State, local, or  
16 tribal law enforcement agencies and appropriate non-  
17 governmental organizations to—

18 (1) promote trust and ensure legitimacy among  
19 law enforcement agencies and the communities they  
20 serve through procedural reforms, transparency, and  
21 accountability;

22 (2) develop comprehensive and responsive poli-  
23 cies on key topics relevant to the relationship be-  
24 tween law enforcement agencies and the commu-  
25 nities they serve;

1           (3) balance the embrace of technology and dig-  
2           ital communications with local needs, privacy, as-  
3           sessments, and monitoring;

4           (4) encourage the implementation of policies  
5           that support community-based partnerships in the  
6           reduction of crime;

7           (5) emphasize the importance of high quality  
8           and effective training and education through part-  
9           nerships with local and national training facilities;  
10          and

11          (6) endorse practices that support officer  
12          wellness and safety through the re-evaluation of offi-  
13          cer shift hours, including data collection and anal-  
14          ysis.

15          (b) COVERED AMOUNTS DEFINED.—In this section,  
16          the term “covered amounts” means—

17               (1) any unobligated balances made available  
18               under the heading “GENERAL ADMINISTRA-  
19               TION” under the heading “DEPARTMENT OF  
20               JUSTICE” in an appropriations Act in a fiscal year;

21               (2) any amounts made available for an “Ed-  
22               ward Byrne Memorial criminal justice innovation  
23               program” under the heading “STATE AND LOCAL  
24               LAW ENFORCEMENT ASSISTANCE” under the heading  
25               “OFFICE OF JUSTICE PROGRAMS” under the



1 heading “DEPARTMENT OF JUSTICE” in an ap-  
2 propriations Act in a fiscal year; or

3 (3) any combination of amounts described in  
4 paragraphs (1) and (2).

○