AN ACT

To amend title 18, United States Code, to specify lynching as a deprivation of civil rights, 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,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Justice for Victims of Lynching Act of 2018”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction.

(2) Lynching was a widely acknowledged practice in the United States until the middle of the 20th century.

(3) Lynching was a crime that occurred throughout the United States, with documented incidents in all but 4 States.

(4) At least 4,742 people, predominantly African Americans, were reported lynched in the United States between 1882 and 1968.

(5) Ninety-nine percent of all perpetrators of lynching escaped from punishment by State or local officials.

(6) Lynching prompted African Americans to form the National Association for the Advancement of Colored People (referred to in this section as the “NAACP”) and prompted members of B’nai B’rith to found the Anti-Defamation League.
(7) Mr. Walter White, as a member of the NAACP and later as the executive secretary of the NAACP from 1931 to 1955, meticulously investigated lynchings in the United States and worked tirelessly to end segregation and racialized terror.

(8) Nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century.

(9) Between 1890 and 1952, 7 Presidents petitioned Congress to end lynching.

(10) Between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures.

(11) Protection against lynching was the minimum and most basic of Federal responsibilities, and the Senate considered but failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives to do so.

(12) The publication of “Without Sanctuary: Lynching Photography in America” helped bring greater awareness and proper recognition of the victims of lynching.
(13) Only by coming to terms with history can the United States effectively champion human rights abroad.

(14) An apology offered in the spirit of true repentance moves the United States toward reconciliation and may become central to a new understanding, on which improved racial relations can be forged.

(15) Having concluded that a reckoning with our own history is the only way the country can effectively champion human rights abroad, 90 Members of the United States Senate agreed to Senate Resolution 39, 109th Congress, on June 13, 2005, to apologize to the victims of lynching and the descendants of those victims for the failure of the Senate to enact anti-lynching legislation.

(16) The National Memorial for Peace and Justice, which opened to the public in Montgomery, Alabama, on April 26, 2018, is the Nation’s first memorial dedicated to the legacy of enslaved Black people, people terrorized by lynching, African Americans humiliated by racial segregation and Jim Crow, and people of color burdened with contemporary presumptions of guilt and police violence.
(17) Notwithstanding the Senate’s apology and the heightened awareness and education about the Nation’s legacy with lynching, it is wholly necessary and appropriate for the Congress to enact legislation, after 100 years of unsuccessful legislative efforts, finally to make lynching a Federal crime.

(18) Further, it is the sense of Congress that criminal action by a group increases the likelihood that the criminal object of that group will be successfully attained and decreases the probability that the individuals involved will depart from their path of criminality. Therefore, it is appropriate to specify criminal penalties for the crime of lynching, or any attempt or conspiracy to commit lynching.

(19) The United States Senate agreed to unanimously Senate Resolution 118, 115th Congress, on April 5, 2017, “[c]ondemning hate crime and any other form of racism, religious or ethnic bias, discrimination, incitement to violence, or animus targeting a minority in the United States” and taking notice specifically of Federal Bureau of Investigation statistics demonstrating that “among single-bias hate crime incidents in the United States, 59.2 percent of victims were targeted due to racial, ethnic, or ancestral bias, and among those victims, 52.2
percent were victims of crimes motivated by the of-
fenders’ anti-Black or anti-African American bias”.

(20) On September 14, 2017, President Donald J. Trump signed into law Senate Joint Resolution 49 (Public Law 115–58; 131 Stat. 1149), wherein Congress “condemned the racist violence and do-
mestic terrorist attack that took place between Au-
gust 11 and August 12, 2017, in Charlottesville, Virginia” and “urged the President and his admin-
istration to speak out against hate groups that espouse racism, extremism, xenophobia, anti-Semi-
tism, and White supremacy; and use all resources available to the President and the President’s Cabi-
et to address the growing prevalence of those hate groups in the United States”.

(21) Senate Joint Resolution 49 (Public Law 115–58; 131 Stat. 1149) specifically took notice of “hundreds of torch-bearing White nationalists, White supremacists, Klansmen, and neo-Nazis [who] chanted racist, anti-Semitic, and anti-immigrant slo-
gans and violently engaged with counter-demonstrators on and around the grounds of the University of Virginia in Charlottesville” and that these groups “reportedly are organizing similar events in other cities in the United States and communities every-
where are concerned about the growing and open
display of hate and violence being perpetrated by
those groups”.

SEC. 3. LYNCHING.

(a) Offense. — Chapter 13 of title 18, United States
Code, is amended by adding at the end the following:

“§ 250. Lynching

“(a) In General. —

“(1) Offenses involving actual or per-
ceived race, color, religion, or national ori-
gin. — If 2 or more persons willfully cause bodily in-
jury to any other person, because of the actual or
perceived race, color, religion, or national origin of
any person—

“(A) each shall be imprisoned not more
than 10 years, fined in accordance with this
title, or both, if bodily injury results from the
offense; or

“(B) each shall be imprisoned for any term
of years or for life, fined in accordance with
this title, or both, if death results from the of-
fense or if the offense includes kidnapping or
aggravated sexual abuse.

“(2) Offenses involving actual or per-
ceived religion, national origin, gender, sex-
UAL ORIENTATION, GENDER IDENTITY, OR DIS-

ABILITY.—

“(A) IN GENERAL.—If 2 or more persons,
in any circumstance described in subparagraph
(B), willfully cause bodily injury to any other
person because of the actual or perceived reli-
gion, national origin, gender, sexual orientation,
gender identity, or disability of any person—

“(i) each shall be imprisoned not more
than 10 years, fined in accordance with
this title, or both, if bodily injury results
from the offense; or

“(ii) each shall be imprisoned for any
term of years or for life, fined in accord-
ance with this title, or both, if death re-
sults from the offense or if the offense in-
cludes kidnapping or aggravated sexual
abuse.

“(B) CIRCUMSTANCES DESCRIBED.—For
purposes of subparagraph (A), the cir-
cumstances described in this subparagraph are
that—

“(i) the conduct described in subpara-
graph (A) occurs during the course of, or
as the result of, the travel of the defendant
or the victim—

“(I) across a State line or na-
tional border; or

“(II) using a phone, the internet,
the mail, or any other channel, facil-
ity, or instrumentality of interstate or
foreign commerce;

“(ii) the defendant uses a phone, the
internet, the mail, or any other channel,
facility, or instrumentality of interstate or
foreign commerce in connection with the
conduct described in subparagraph (A);

“(iii) in connection with the conduct
described in subparagraph (A), the defend-
ant employs a firearm, dangerous weapon,
explosive or incendiary device, or other
weapon that has traveled in interstate or
foreign commerce; or

“(iv) the conduct described in sub-
paragraph (A)—

“(I) interferes with commercial
or other economic activity in which
the victim is engaged at the time of
the conduct;
“(II) otherwise affects interstate or foreign commerce; or

“(III) occurs within the special maritime or territorial jurisdiction of the United States.

“(3) Offenses occurring in the special maritime or territorial jurisdiction of the United States.—Whoever, within the special maritime or territorial jurisdiction of the United States, engages in conduct described in paragraph (1) or in paragraph (2)(A) (without regard to whether that conduct occurred in a circumstance described in paragraph (2)(B)) shall be subject to the same penalties as prescribed in those paragraphs.

“(b) Attempt.—Whoever attempts to commit any offense under this section—

“(1) shall be imprisoned for not more than 10 years, fined in accordance with this title, or both; or

“(2) if the offense includes kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, shall be imprisoned for any term of years of for life, fined in accordance with this title, or both.
“(c) CONSPIRACY.—If 2 or more persons conspire to commit any offense under this section, and 1 or more of such persons do any act to effect the object of the conspiracy, each shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

“(d) CERTIFICATION REQUIREMENT.—

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

“(A) the State does not have jurisdiction;

“(B) the State has requested that the Federal Government assume jurisdiction;

“(C) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence; or

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

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

(b) TABLE OF SECTIONS AMENDMENT.—The table of sections for chapter 13 of title 18, United States Code, is amended by inserting after the item relating to section 249 the following:

“250. Lynching.”.

Passed the Senate December 19, 2018.

Attest:

Secretary.
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To amend title 18, United States Code, to specify lynching as a deprivation of civil rights, and for other purposes.

S. 3178
115TH CONGRESS 2D SESSION