

116TH CONGRESS  
2D SESSION

# H. R. 8301

To withhold a percentage of Federal funding from State and local prosecutors who fail to faithfully prosecute crimes related to protests and riots.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2020

Mrs. LESKO (for herself, Mr. JORDAN, Mr. TIFFANY, Mr. DUNCAN, Mr. RESCHENTHALER, Mr. HICE of Georgia, Mr. STEUBE, Mr. BUDD, Mr. BURGESS, Mr. GIBBS, Mr. YOHO, Mr. WEBER of Texas, Mr. GAETZ, Mr. COLLINS of Georgia, Mr. GUEST, and Mr. KELLER) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To withhold a percentage of Federal funding from State and local prosecutors who fail to faithfully prosecute crimes related to protests and riots.

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 “Holding Rioters Ac-  
5 countable Act of 2020”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

1           (1) Opportunistic rioters and violent extremists  
2           are destroying public and private property with im-  
3           punity.

4           (2) Local and Federal law enforcement officers  
5           are on the front lines every night attempting to pre-  
6           vent the mass destruction of property.

7           (3) Law enforcement officers are doing their  
8           jobs by arresting those who are found to be commit-  
9           ting the violence and destruction.

10          (4) In certain jurisdictions, however, local and  
11          State prosecutors are turning a blind eye to the de-  
12          struction and violence.

13          (5) These actions do a disservice to the law en-  
14          forcement officers faithfully carrying out their re-  
15          sponsibility to uphold the rule of law.

16          (6) The Office of Justice Programs of the De-  
17          partment of Justice provided approximately  
18          \$5,000,000,000 in grants and funding to State and  
19          local governments in fiscal year 2020.

20          (7) District attorney and State attorney general  
21          offices have abused the use of prosecutorial discre-  
22          tion and fail to protect private and public property  
23          or fail to confront and address violent riots and  
24          looting should not receive Federal support.

1 (b) PURPOSE.—The purpose of this Act is to provide  
2 authority for the Attorney General to withhold Federal  
3 grant amounts and other funding provided to State and  
4 local prosecutors, district attorneys, and State attorney  
5 general offices if such prosecutors or offices fail to faith-  
6 fully uphold the rule of law by failing to properly prosecute  
7 criminal acts committed during riots and protests.

8 **SEC. 3. WITHHOLDING OF PERCENTAGE OF DEPARTMENT**  
9 **OF JUSTICE GRANTS AND OTHER FUNDING**  
10 **SOURCES FROM STATE AND LOCAL PROSECU-**  
11 **TORS, DISTRICT ATTORNEYS, AND STATE AT-**  
12 **TORNEYS GENERAL.**

13 (a) IN GENERAL.—The Attorney General may with-  
14 hold from all amounts that would otherwise be awarded  
15 or made available under part JJ of title I of the Omnibus  
16 Crime Control and Safe Streets Act of 1968 (34 U.S.C.  
17 10671 et seq.) or a COVID–19 related emergency funding  
18 program to a State prosecutor’s office, a district attor-  
19 ney’s office, or a State attorney general’s office in a fiscal  
20 year by the Department of Justice—

21 (1) not more than 10 percent of such amounts  
22 if the Attorney General determines, in accordance  
23 with subsection (b), that the office has abused the  
24 use of prosecutorial discretion by failing to prosecute

1 crimes stemming from riots or other violent or de-  
2 structive protest activities; and

3 (2) not more than 20 percent of such amounts  
4 if the Attorney General determines that, in the  
5 course of an abuse of the use of prosecutorial discre-  
6 tion determined under paragraph (1), if a crime that  
7 was not prosecuted was an assault against a law en-  
8 forcement officer.

9 (b) STANDARD FOR DETERMINATION.—

10 (1) IN GENERAL.—A State prosecutor’s office,  
11 a district attorney’s office, or a State attorney gen-  
12 eral’s office shall be determined to have abused the  
13 prosecutorial discretion of the office under sub-  
14 section (a) if the office refuses, as a general policy  
15 rather than on a case-by-case determination, to seek  
16 prosecution for crimes committed by individuals en-  
17 gaged in or connected to rioting, looting, or other  
18 violent or destructive activities, unless such policy is  
19 in accordance with an order issued by a court of law.

20 (2) LIMITATION.—A State prosecutor’s office, a  
21 district attorney’s office, or a State attorney gen-  
22 eral’s office shall not be determined to have abused  
23 the prosecutorial discretion of the office under sub-  
24 section (a) if the Attorney General determines that  
25 such exercise of prosecutorial discretion is properly

1       made based on the strength of evidence, individual  
2       facts in the case, cooperation of the defendant, or  
3       other appropriate prosecutorial decision making fac-  
4       tors.

5           (3) REQUIREMENT.—The Attorney General  
6       shall establish criteria for determining whether a  
7       State prosecutor’s office, a district attorney’s office,  
8       or a State attorney general’s office has abused the  
9       prosecutorial discretion of the office under sub-  
10      section (a).

11      (c) REVIEW OF RELEVANT INFORMATION.—In mak-  
12      ing a determination under subsection (a), the Attorney  
13      General shall—

14           (1) review any arrest statistics, information, or  
15      documents, provided by a law enforcement agency  
16      that conducted authorized operations connected to a  
17      riot or other violent or destructive protest activity;

18           (2) review any prosecution statistics, informa-  
19      tion, or documents, provided by the office being re-  
20      viewed relating to indictment, dismissal, or convic-  
21      tion of individuals charged with any crime connected  
22      to a riot or other violent or destructive protest activ-  
23      ity; and

24           (3) review any statements, orders, or other in-  
25      formation made by an executive political leader with

1 responsibility for appointing or otherwise overseeing  
2 the operations and activities of the office being re-  
3 viewed.

4 (d) RESTRICTED USE OF FUNDS.—In the case of a  
5 State that the Attorney General determines is a State de-  
6 scribed in subsection (a) because a local district attorney  
7 or prosecutor has abused prosecutorial discretion by fail-  
8 ing to prosecute crimes stemming from riots or other vio-  
9 lent or destructive protest activities, the State may not—

10 (1) make the amounts made available under a  
11 program described in subsection (a) available for use  
12 by the local government; and

13 (2) to the maximum extent practicable, expend  
14 the amounts made available under a program de-  
15 scribed in subsection (a) in any community or loca-  
16 tion subject to the jurisdiction of the local govern-  
17 ment.

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