

116TH CONGRESS  
2D SESSION

# S. 4424

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 SENATE OF THE UNITED STATES

AUGUST 4, 2020

Mrs. LOEFFLER (for herself and Mr. COTTON) introduced the following bill; which was read twice and 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:

8 (1) Opportunistic rioters and violent extremists  
9 are destroying public and private property with im-  
10 punity.

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

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

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

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

13          (6) The Office of Justice Programs of the De-  
14          partment of Justice provided approximately  
15          \$5,000,000,000 in grants and funding to State and  
16          local governments in fiscal year 2020.

17          (7) District attorney and State attorney general  
18          offices that have abused the use of prosecutorial dis-  
19          cretion and fail to protect private and public prop-  
20          erty or fail to confront and address violent riots and  
21          looting should not receive Federal support.

22          (b) PURPOSE.—The purpose of this Act is to provide  
23          authority for the Attorney General to withhold Federal  
24          grant amounts and other funding provided to State and  
25          local prosecutors, district attorneys, and State attorney

1 general offices if such prosecutors or offices fail to faith-  
 2 fully uphold the rule of law by failing to properly prosecute  
 3 criminal acts committed during riots and protests.

4 **SEC. 3. WITHHOLDING OF PERCENTAGE OF DEPARTMENT**  
 5 **OF JUSTICE GRANTS AND OTHER FUNDING**  
 6 **SOURCES FROM STATE AND LOCAL PROSECU-**  
 7 **TORS, DISTRICT ATTORNEYS, AND STATE AT-**  
 8 **TORNEYS GENERAL.**

9 (a) IN GENERAL.—The Attorney General may with-  
 10 hold not more than 10 percent of all amounts that would  
 11 otherwise be awarded or made available under part JJ of  
 12 title I of the Omnibus Crime Control and Safe Streets Act  
 13 of 1968 (34 U.S.C. 10671 et seq.) or a COVID–19 related  
 14 emergency funding program to a State prosecutor’s office,  
 15 a district attorney’s office, or a State attorney general’s  
 16 office in a fiscal year by the Department of Justice if the  
 17 Attorney General determines, in accordance with sub-  
 18 section (b), that the office has abused the use of prosecu-  
 19 torial discretion by failing to prosecute crimes stemming  
 20 from riots or other violent or destructive protest activities.

21 (b) STANDARD FOR DETERMINATION.—

22 (1) IN GENERAL.—A State prosecutor’s office,  
 23 a district attorney’s office, or a State attorney gen-  
 24 eral’s office shall be determined to have abused the  
 25 prosecutorial discretion of the office under sub-

1 section (a) if the office refuses, as a general policy  
2 rather than on a case-by-case determination, to seek  
3 prosecution for crimes committed by individuals en-  
4 gaged in or connected to rioting, looting, or other  
5 violent or destructive activities, unless such policy is  
6 in accordance with an order issued by a court of law.

7 (2) LIMITATION.—A State prosecutor’s office, a  
8 district attorney’s office, or a State attorney gen-  
9 eral’s office shall not be determined to have abused  
10 the prosecutorial discretion of the office under sub-  
11 section (a) if the Attorney General determines that  
12 such exercise of prosecutorial discretion is properly  
13 made based on the strength of evidence, individual  
14 facts in the case, cooperation of the defendant, or  
15 other appropriate prosecutorial decision making fac-  
16 tors.

17 (3) REQUIREMENT.—The Attorney General  
18 shall establish criteria for determining whether a  
19 State prosecutor’s office, a district attorney’s office,  
20 or a State attorney general’s office has abused the  
21 prosecutorial discretion of the office under sub-  
22 section (a).

23 (c) REVIEW OF RELEVANT INFORMATION.—In mak-  
24 ing a determination under subsection (a), the Attorney  
25 General shall—

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

5           (2) review any prosecution statistics, informa-  
6 tion, or documents, provided by the office being re-  
7 viewed relating to indictment, dismissal, or convic-  
8 tion of individuals charged with any crime connected  
9 to a riot or other violent or destructive protest activ-  
10 ity; and

11           (3) review any statements, orders, or other in-  
12 formation made by an executive political leader with  
13 responsibility for appointing or otherwise overseeing  
14 the operations and activities of the office being re-  
15 viewed.

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

22           (1) make the amounts made available under a  
23 program described in subsection (a) available for use  
24 by the local government; and

1           (2) to the maximum extent practicable, expend  
2           the amounts made available under a program de-  
3           scribed in subsection (a) in any community or loca-  
4           tion subject to the jurisdiction of the local govern-  
5           ment.

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