

118TH CONGRESS
1ST SESSION

S. 868

To amend title 18, United States Code, to make the murder of a Federal, State, or local law enforcement officer a crime punishable by life in prison or death.

IN THE SENATE OF THE UNITED STATES

MARCH 16, 2023

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to make the murder of a Federal, State, or local law enforcement officer a crime punishable by life in prison or death.

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 “Defending Our De-
5 fenders Act”.

6 **SEC. 2. MURDER OF LAW ENFORCEMENT OFFICERS.**

7 (a) IN GENERAL.—Chapter 51 of title 18, United
8 States Code, is amended by adding at the end the fol-
9 lowing:

1 **“§ 1123. Murder of law enforcement officers**

2 “(a) FEDERAL LAW ENFORCEMENT OFFICERS.—In
3 the case of an individual who commits an offense described
4 in section 1111 and the victim of the offense is a Federal
5 law enforcement officer (as defined in section 2 of the Law
6 Enforcement Congressional Badge of Bravery Act of 2008
7 (34 U.S.C. 50301)) acting in the course of the official du-
8 ties of the officer, the individual shall be punished by
9 death or by imprisonment for life.

10 “(b) STATE AND LOCAL LAW ENFORCEMENT OFFI-
11 CERS.—In the case of an individual who travels in inter-
12 state or foreign commerce or uses any facility of interstate
13 or foreign commerce, including the mail, telephone, radio,
14 or television, with the intent to commit an offense de-
15 scribed in section 1111 or who uses a weapon or instru-
16 ment that has traveled in interstate or foreign commerce
17 to commit said offense, and the victim of the offense is
18 a State or local law enforcement officer (as defined in sec-
19 tion 2 of the Law Enforcement Congressional Badge of
20 Bravery Act of 2008 (34 U.S.C. 50301)) acting in the
21 course of the official duties of the officer, the individual
22 shall be punished by death or by imprisonment for life.

23 “(c) AGGRAVATING FACTORS.—In determining
24 whether a sentence of death is to be imposed on a defend-
25 ant convicted of an offense described in subsection (a) or
26 (b), the jury, or if there is no jury, the court, shall con-

1 sider, in addition to the factors described in section
2 3592(c), each of the following aggravating factors for
3 which notice has been given and determine which, if any,
4 exist:

5 “(1) INTENT TO AMBUSH.—The defendant com-
6 mitted the offense by an act of ambush.

7 “(2) PRIOR STATEMENTS ADVOCATING FOR OR
8 PROMOTING VIOLENCE AGAINST LAW ENFORCEMENT
9 OFFICERS.—The defendant has a prior history of
10 advocating for or promoting acts of violence, includ-
11 ing murder or assault, against a law enforcement of-
12 ficer.

13 “(3) PARTICIPATION IN OR AFFILIATION WITH
14 ANARCHIST OR OTHER VIOLENCE PROMOTING ORGA-
15 NIZATION.—The defendant is a member of or affili-
16 ated with any organization that the Attorney Gen-
17 eral or other high ranking law enforcement official
18 has determined to be an anarchist organization, a
19 domestic terrorist organization, or any other organi-
20 zation or group that actively promotes violence or
21 the overthrow of the Federal Government.

22 “(4) OCCURRENCE DURING ORGANIZED ANTI-
23 LAW ENFORCEMENT OFFICER ACTIVITY.—The of-
24 fense was committed during a time and in a place

1 when there was active organized activity against or
2 targeting law enforcement officers.

3 “(5) ATTEMPT TO PREVENT LAWFUL EXECU-
4 TION OF LAW ENFORCEMENT DUTIES.—The defend-
5 ant committed the offense in attempt to evade or
6 otherwise prevent the law enforcement officer from
7 carrying out a lawful arrest or other lawful author-
8 ized law enforcement activity.

9 “(6) PRIOR THREATS.—The defendant has per-
10 sonally made prior threats of violence against a law
11 enforcement officer.

12 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion shall be construed as—

14 “(1) indicating an intent on the part of Con-
15 gress to prevent any State, any possession or Com-
16 monwealth of the United States, or the District of
17 Columbia, from exercising jurisdiction over any of-
18 fense over which the State, possession, Common-
19 wealth, or District of Columbia would have jurisdic-
20 tion in the absence of this section; or

21 “(2) depriving State and local law enforcement
22 agencies of responsibility for prosecuting acts that
23 may be violations of this section and that are viola-
24 tions of State or local law.”.

1 (b) TABLE OF SECTIONS.—The table of sections for
2 chapter 51 of title 18, United States Code, is amended
3 by inserting after the item relating to section 1122 the
4 following:

“1123. Murder of law enforcement officers.”.

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