

Calendar No. 451

117TH CONGRESS }
2d Session }

SENATE

{ REPORT
117-134 }

CIVIL RIGHTS COLD CASE
INVESTIGATIONS SUPPORT ACT OF 2022

R E P O R T

OF THE

COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 3655

TO AMEND THE CIVIL RIGHTS COLD CASE RECORDS
COLLECTION ACT OF 2018 TO EXTEND THE TERMINATION DATE
OF THE CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD



JULY 21, 2022.—Ordered to be printed

U.S. GOVERNMENT PUBLISHING OFFICE

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WASHINGTON : 2022

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ACT OF 2022

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Mr. PETERS, from the Committee on Homeland Security and
Governmental Affairs, submitted the following

R E P O R T

[To accompany S. 3655]

[Including cost estimate of the Congressional Budget Office]

The Committee on Homeland Security and Governmental Affairs, to which was referred the bill (S. 3655) to amend the Civil Rights Cold Case Records Collection Act of 2018 to extend the termination date of the Civil Rights Cold Case Records Review Board, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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I. PURPOSE AND SUMMARY

S. 3655, the Civil Rights Cold Case Investigations Support Act of 2022, changes the initial term of the Civil Rights Cold Case Records Review Board (Review Board) from four years to seven years and allows the Review Board to retain the option of extending their term by one more year if the members find they are unable to complete their work within the initial time allotted. The extension gives the Review Board members approximately five years to fulfill their mission, as originally envisioned.

II. BACKGROUND AND THE NEED FOR LEGISLATION

The Civil Rights Cold Case Records Collection Act of 2018, signed into law on January 8, 2019, requires cold case files of offenses committed during the civil rights era in the possession of federal agencies to be transferred to the National Archives and Records Administration for public disclosure.¹ Alternatively, the government agency could request postponement of a decision to disclose the information publicly. The purpose of the law is to make these cold case records publicly available without members of the public having to go through Freedom of Information Act (FOIA) or other administrative document requests.

The law also created a five-person Review Board that would review agency decisions to postpone public disclosure. The Review Board has the power to compel federal government offices to provide civil rights cold case records to the Review Board. The Review Board also can independently investigate additional facts surrounding these records and subpoena private persons to compel the production of documents and other records to the Review Board. After reviewing this information, the Review Board is required to submit a report to the President with a recommendation as to whether all or part of a cold case record should be disclosed publicly. The President then has the sole and nondelegable authority to act on any recommendations.

Section 5(n) of the law included a termination provision that says the Review Board would terminate four years after the enactment of the bill into law, with the option of extending its work by one more year if the majority of the Review Board decided another year was necessary. Accordingly, under current law, the Review Board must terminate its work no later than January 8, 2024, even if a one-year extension were agreed to by the Review Board.

No members of the Review Board had been nominated until President Biden nominated four members to serve on the Review Board in 2021. Those four members were subsequently confirmed by the Senate on February 17, 2022, meaning that, under existing law, they would have approximately two years to investigate the cold case crimes committed during the civil rights era.

S. 3655 would extend the term of the Review Board from four to seven years with the option to extend for an additional year, potentially extending the Review Board's authority to January 8, 2027.

III. LEGISLATIVE HISTORY

Senator Jon Ossoff (D-GA) introduced S. 3655, the Civil Rights Cold Case Investigations Support Act of 2022, on February 16, 2022, with Senator Ted Cruz (R-TX). The bill was referred to the Committee on Homeland Security and Governmental Affairs. Senators Thomas Carper (D-DE), Margaret Hassan (D-NH), and Gary Peters (D-MI) joined as cosponsors on March 10, 2022.

The Committee considered S. 3655 at a business meeting on March 30, 2022. The bill was ordered reported favorably by voice vote *en bloc*. Senators Peters, Carper, Hassan, Sinema, Rosen, Padilla, Ossoff, Paul, Lankford, Romney, Scott, and Hawley were present.

¹ Pub. L. No. 115-426 (2019).

IV. SECTION-BY-SECTION ANALYSIS OF THE BILL, AS REPORTED

Section 1. Short title. This section establishes the short title as the “Civil Rights Cold Case Investigations Support Act of 2022.”

Section 2. Civil Rights Cold Case Records Review Board Extension of Tenure. This section amends Section 5(n)(1) of the Civil Rights Cold Case Records Collection Act of 2018 by extending the termination date of the Civil Rights Cold Case Records Review Board from four years to seven years, from the date of the Review Board’s enactment.

V. EVALUATION OF REGULATORY IMPACT

Pursuant to the requirements of paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of this bill and determined that the bill will have no regulatory impact within the meaning of the rules. The Committee agrees with the Congressional Budget Office’s statement that the bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

VI. CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 14, 2022.

Hon. GARY PETERS,
Chairman, Committee on Homeland Security and Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3655, the Civil Rights Cold Case Investigations Support Act of 2022.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Matthew Pickford.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

S. 3655, Civil Rights Cold Case Investigations Support Act of 2022			
As ordered reported by the Senate Committee on Homeland Security and Governmental Affairs on March 30, 2022			
By Fiscal Year, Millions of Dollars	2022	2022-2027	2022-2032
Direct Spending (Outlays)	0	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	5	not estimated
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2033?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and zero.			

S. 3655 would extend the authorization of the Civil Rights Cold Case Records Review Board within the National Archives and Records Administration (NARA) through 2027. The five-member board facilitates investigations of unsolved civil rights cases by increasing the volume of documents available to the public. Under current law, the board's authority will end in 2024.

According to the Department of Justice, about 115 civil rights cases remain unsolved. Using information from NARA, CBO expects that the costs of implementing the bill would be similar to the costs for other boards, such as the John F. Kennedy Assassination Records Review Board. On that basis, CBO estimates that implementing S. 3655 would cost \$5million over the 2025–2027 period; such spending would be subject to the availability of appropriations.

NARA is authorized to charge fees to cover some or all of the costs of processing certain requests; those fees are classified as offsetting receipts (or as reductions in direct spending) and are available to spend without further appropriation. Thus, CBO estimates that enacting the bill would have a negligible effect on net direct spending.

The costs of the legislation, detailed in Table 1, fall within budget function 800 (general government).

TABLE 1.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER S. 3655

	By fiscal year, millions of dollars—						
	2022	2023	2024	2025	2026	2027	2022–2027
Estimated Authorization	0	0	0	2	2	1	5
Estimated Outlays	0	0	0	2	2	1	5

The CBO staff contact for this estimate is Matthew Pickford. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

UNITED STATES CODE

* * * * *

TITLE 44—PUBLIC PRINTING AND DOCUMENTS

* * * * *

**CHAPTER 21—NATIONAL ARCHIVES AND RECORDS
ADMINISTRATION**

* * * * *

**SEC. 2107. ACCEPTANCE OF RECORDS FOR HISTORICAL PRESERVA-
TION**

* * * * *

STATUTORY NOTES AND RELATED SUBSIDIARIES

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**SEC. 5. ESTABLISHMENT AND POWERS OF THE CIVIL RIGHTS COLD
CASE RECORDS REVIEW BOARD**

* * * * *

(n) **TERMINATION.**—

(1) **IN GENERAL.**—The Review Board shall terminate not later than **[4 years]** *7 years* after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if the Review Board has not completed its work within that **[4-year period]** *7-year period*.