

Suspend the Rules and Pass the Bill, H.R. 35, With Amendments

(The amendments strike all after the enacting clause and insert a new text and a new title)

116TH CONGRESS
1ST SESSION

H. R. 35

To amend section 249 of title 18, United States Code, to specify lynching as a hate crime act.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 3, 2019

Mr. RUSH introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 249 of title 18, United States Code, to specify lynching as a hate crime act.

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 “Emmett Till
5 Antilynching Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

4 (2) Lynching was a widely acknowledged prac-
5 tice in the United States until the middle of the
6 20th century.

7 (3) Lynching was a crime that occurred
8 throughout the United States, with documented inci-
9 dents in all but 4 States.

10 (4) At least 4,742 people, predominantly Afri-
11 can Americans, were reported lynched in the United
12 States between 1882 and 1968.

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

16 (6) Lynching prompted African Americans to
17 form the National Association for the Advancement
18 of Colored People (referred to in this section as the
19 “NAACP”) and prompted members of B’nai B’rith
20 to found the Anti-Defamation League.

21 (7) Mr. Walter White, as a member of the
22 NAACP and later as the executive secretary of the
23 NAACP from 1931 to 1955, meticulously inves-
24 tigated lynchings in the United States and worked
25 tirelessly to end segregation and racialized terror.

1 (8) Nearly 200 anti-lynching bills were intro-
2 duced in Congress during the first half of the 20th
3 century.

4 (9) Between 1890 and 1952, 7 Presidents peti-
5 tioned Congress to end lynching.

6 (10) Between 1920 and 1940, the House of
7 Representatives passed 3 strong anti-lynching meas-
8 ures.

9 (11) Protection against lynching was the min-
10 imum and most basic of Federal responsibilities, and
11 the Senate considered but failed to enact anti-lynch-
12 ing legislation despite repeated requests by civil
13 rights groups, Presidents, and the House of Rep-
14 resentatives to do so.

15 (12) The publication of “Without Sanctuary:
16 Lynching Photography in America” helped bring
17 greater awareness and proper recognition of the vic-
18 tims of lynching.

19 (13) Only by coming to terms with history can
20 the United States effectively champion human rights
21 abroad.

22 (14) An apology offered in the spirit of true re-
23 pentance moves the United States toward reconcili-
24 ation and may become central to a new under-

1 standing, on which improved racial relations can be
2 forged.

3 (15) Having concluded that a reckoning with
4 our own history is the only way the country can ef-
5 fectively champion human rights abroad, 90 Mem-
6 bers of the United States Senate agreed to Senate
7 Resolution 39, 109th Congress, on June 13, 2005,
8 to apologize to the victims of lynching and the de-
9 scendants of those victims for the failure of the Sen-
10 ate to enact anti-lynching legislation.

11 (16) The National Memorial for Peace and Jus-
12 tice, which opened to the public in Montgomery, Ala-
13 bama, on April 26, 2018, is the Nation's first memo-
14 rial dedicated to the legacy of enslaved Black people,
15 people terrorized by lynching, African Americans hu-
16 miliated by racial segregation and Jim Crow, and
17 people of color burdened with contemporary pre-
18 sumptions of guilt and police violence.

19 (17) Notwithstanding the Senate's apology and
20 the heightened awareness and education about the
21 Nation's legacy with lynching, it is wholly necessary
22 and appropriate for the Congress to enact legisla-
23 tion, after 100 years of unsuccessful legislative ef-
24 forts, finally to make lynching a Federal crime.

1 (18) Further, it is the sense of Congress that
2 criminal action by a group increases the likelihood
3 that the criminal object of that group will be suc-
4 cessfully attained and decreases the probability that
5 the individuals involved will depart from their path
6 of criminality. Therefore, it is appropriate to specify
7 criminal penalties for the crime of lynching, or any
8 attempt or conspiracy to commit lynching.

9 (19) The United States Senate agreed to unani-
10 mously Senate Resolution 118, 115th Congress, on
11 April 5, 2017, “[c]ondemning hate crime and any
12 other form of racism, religious or ethnic bias, dis-
13 crimination, incitement to violence, or animus tar-
14 geting a minority in the United States” and taking
15 notice specifically of Federal Bureau of Investigation
16 statistics demonstrating that “among single-bias
17 hate crime incidents in the United States, 59.2 per-
18 cent of victims were targeted due to racial, ethnic,
19 or ancestral bias, and among those victims, 52.2
20 percent were victims of crimes motivated by the of-
21 fenders’ anti-Black or anti-African American bias”.

22 (20) On September 14, 2017, President Donald
23 J. Trump signed into law Senate Joint Resolution
24 49 (Public Law 115–58; 131 Stat. 1149), wherein
25 Congress “condemn[ed] the racist violence and do-

1 mestic terrorist attack that took place between Au-
2 gust 11 and August 12, 2017, in Charlottesville,
3 Virginia” and “urg[ed] the President and his admin-
4 istration to speak out against hate groups that
5 espouse racism, extremism, xenophobia, anti-Semi-
6 tism, and White supremacy; and use all resources
7 available to the President and the President’s Cabi-
8 net to address the growing prevalence of those hate
9 groups in the United States”.

10 (21) Senate Joint Resolution 49 (Public Law
11 115–58; 131 Stat. 1149) specifically took notice of
12 “hundreds of torch-bearing White nationalists,
13 White supremacists, Klansmen, and neo-Nazis [who]
14 chanted racist, anti-Semitic, and anti-immigrant slo-
15 gans and violently engaged with counter-demonstra-
16 tors on and around the grounds of the University of
17 Virginia in Charlottesville” and that these groups
18 “reportedly are organizing similar events in other
19 cities in the United States and communities every-
20 where are concerned about the growing and open
21 display of hate and violence being perpetrated by
22 those groups”.

23 (22) Lynching was a pernicious and pervasive
24 tool that was used to interfere with multiple aspects
25 of life—including the exercise of Federally protected

1 rights, as enumerated in section 245 of title 18,
2 United States Code, housing rights, as enumerated
3 in section 901 of the Civil Rights Act of 1968 (42
4 U.S.C. 3631), and the free exercise of religion, as
5 enumerated in section 247 of title 18, United States
6 Code. Interference with these rights was often effec-
7 tuated by multiple offenders and groups, rather than
8 isolated individuals. Therefore, prohibiting conspir-
9 acies to violate each of these rights recognizes the
10 history of lynching in the United States and serves
11 to prohibit its use in the future.

12 **SEC. 3. LYNCHING.**

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

15 **“§ 250. Lynching**

16 “Whoever conspires with another person to violate
17 section 245, 247, or 249 of this title or section 901 of
18 the Civil Rights Act of 1968 (42 U.S.C. 3631) shall be
19 punished in the same manner as a completed violation of
20 such section, except that if the maximum term of impris-
21 onment for such completed violation is less than 10 years,
22 the person may be imprisoned for not more than 10
23 years.”.

24 (b) TABLE OF SECTIONS AMENDMENT.—The table of
25 sections for chapter 13 of title 18, United States Code,

1 is amended by inserting after the item relating to section
2 249 the following:

“250. Lynching.”.

3 **SEC. 4. DETERMINATION OF BUDGETARY EFFECTS.**

4 The budgetary effects of this Act, for the purpose of
5 complying with the Statutory Pay-As-You-Go Act of 2010,
6 shall be determined by reference to the latest statement
7 titled “Budgetary Effects of PAYGO Legislation” for this
8 Act, submitted for printing in the Congressional Record
9 by the Chairman of the House Budget Committee, pro-
10 vided that such statement has been submitted prior to the
11 vote on passage.

Amend the title so as to read: “A bill to amend title
18, United States Code, to specify lynching as a depriva-
tion of civil rights, and for other purposes.”.