

Document 165  
Papers as President: Official File

75TH CONGRESS  
1ST SESSION

S. 1709

---

IN THE SENATE OF THE UNITED STATES

FEBRUARY 24 (calendar day, FEBRUARY 25), 1937

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

---

**A BILL**

For the better assurance of the protection of persons from mob violence and lynching.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That the provisions of this Act are enacted in exercise of the  
4       power of Congress to enforce, by appropriate legislation, the  
5       provisions of the fourteenth amendment of the Constitution  
6       of the United States and for the purpose of better assuring  
7       under said amendment equal protection to the lives and per-  
8       sons of citizens and due process of law to all persons charged  
9       with or suspected or convicted of any offense within the  
10      jurisdiction of the several States. A State shall be deemed  
11      to have denied to any victim or victims of lynching equal

1 protection and due process of law whenever that State or  
2 any legally competent governmental subdivision thereof shall  
3 have failed, neglected, or refused to employ the lawful means  
4 at its disposal for the protection of that person or those  
5 persons against lynching or against seizure and abduction  
6 followed by lynching.

7       SEC. 2. Any assemblage of three or more persons which  
8 shall exercise or attempt to exercise by physical violence and  
9 without authority of law any power of correction or punish-  
10 ment over any citizen or citizens or other person or persons  
11 in the custody of any peace officer or suspected of, charged  
12 with, or convicted of the commission of any offense, with the  
13 purpose or consequence of preventing the apprehension or  
14 trial or punishment by law of such citizen or citizens, person  
15 or persons, shall constitute a "mob" within the meaning of  
16 this Act. Any such violence by a mob which results in the  
17 death or maiming of the victim or victims thereof shall con-  
18 stitute "lynching" within the meaning of this Act: *Provided,*  
19 *however,* That "lynching" shall not be deemed to include  
20 violence occurring between members of groups of lawbreak-  
21 ers such as are commonly designated as gangsters or racket-  
22 eers, nor violence occurring during the course of picketing  
23 or boycotting or any incident in connection with any "labor  
24 dispute" as that term is defined and used in the Act of March  
25 23, 1932 (47 Stat. 70).

1        SEC. 3. Whenever a lynching of any person or persons  
2 shall occur, any officer or employee of a State or any gov-  
3 ernmental subdivision thereof who shall have been charged  
4 with the duty or shall have possessed the authority as such  
5 officer or employee to protect such person or persons from  
6 lynching and shall have willfully neglected, refused, or failed  
7 to make all diligent efforts to protect such person or persons  
8 from lynching and any officer or employee of a State or  
9 governmental subdivision thereof who shall have had cus-  
10 tody of the person or persons lynched and shall have will-  
11 fully neglected, refused, or failed to make all diligent efforts  
12 to protect such person or persons from lynching, and any  
13 officer or employee of a State or governmental subdivision  
14 thereof who, having the duty as such officer or employee,  
15 shall willfully neglect, refuse, or fail to make all diligent  
16 efforts to apprehend, keep in custody, or prosecute the mem-  
17 bers or any member of the lynching mob, shall be guilty  
18 of a felony and upon conviction thereof shall be punished  
19 by a fine not exceeding \$5,000 or by imprisonment not  
20 exceeding five years, or by both such fine and imprisonment.

21        SEC. 4. Whenever a lynching of any person or persons  
22 shall occur, and information on oath is submitted to the  
23 Attorney General of the United States that any officer or  
24 employee of a State or any governmental subdivision thereof  
25 who shall have been charged with the duty or shall have

1 possessed the authority as such officer or employee to protect  
2 such person or persons from lynching, or who shall have had  
3 custody of the person or persons lynched, has willfully neg-  
4 lected, refused, or failed to make all diligent efforts to pro-  
5 tect such person or persons from lynching or that any officer  
6 or employee of a State or governmental subdivision thereof,  
7 in violation of his duty as such officer or employee, has will-  
8 fully neglected, refused, or failed to make all diligent efforts  
9 to apprehend, keep in custody, or prosecute the members or  
10 any member of the lynching mob, the Attorney General of  
11 the United States shall cause an investigation to be made to  
12 determine whether there has been any violation of this Act.

13       SEC. 5. (1) Every governmental subdivision of a State  
14 to which the State shall have delegated functions of police  
15 shall be responsible for any lynching occurring within its ter-  
16 ritorial jurisdiction. Every such governmental subdivision  
17 shall also be responsible for any lynching occurring outside  
18 of its territorial jurisdiction, whether within or without the  
19 same State, which follows upon the seizure and abduction  
20 of the victim or victims within its territorial jurisdiction.  
21 Any such governmental subdivision which shall fail to pre-  
22 vent any such lynching or any such seizure and abduction  
23 followed by lynching shall be liable to each person injured,  
24 or to his or her next of kin if such injury results in death,  
25 for a sum not less than \$2,000 and not more than \$10,000

1 as monetary compensation for such injury or death: *Pro-*  
2 *vided, however,* That the governmental subdivision may  
3 prove by a preponderance of evidence as an affirmative de-  
4 fense that the officers thereof charged with the duty of pre-  
5 serving the peace, and the citizens thereof when called upon  
6 by any such officer, used all diligence and all powers vested  
7 in them for the protection of the person lynched: *And pro-*  
8 *vided further,* That the satisfaction of judgment against one  
9 governmental subdivision responsible for a lynching shall  
10 bar further proceedings against any other governmental sub-  
11 division which may also be responsible for that lynching.

12 (2) Liability arising under this section may be enforced  
13 and the compensation herein provided for may be recovered  
14 in a civil action in the United States district court for the  
15 judicial district of which the defendant governmental sub-  
16 division is a part. Such action shall be brought and prose-  
17 cuted by the Attorney General of the United States or his  
18 duly authorized representative in the name of the United  
19 States for the use of the real party in interest, or, if the  
20 claimant or claimants shall so elect, by counsel employed  
21 by the claimant or claimants, but in any event without pre-  
22 payment of costs. If the amount of any such judgment shall  
23 not be paid upon demand, payment thereof may be enforced  
24 by any process available under the State law for the enforce-  
25 ment of any other money judgment against such a govern-

1 mental subdivision. Any officer of such governmental sub-  
2 division or any other person who shall disobey or fail to  
3 comply with any lawful order or decree of the court for  
4 the enforcement of the judgment shall be guilty of contempt  
5 of that court and punished accordingly. The cause of action  
6 accruing hereunder to a person injured by lynching shall  
7 not abate with the subsequent death of that person before  
8 final judgment but shall survive to his or her next of kin.  
9 For the purpose of this Act the next of kin of a deceased  
10 victim of lynching shall be determined according to the laws  
11 of intestate distribution in the State of domicile of the de-  
12 cedent. Any judgment or award under this Act shall be  
13 exempt from all claims of creditors.

14 (3) Any judge of the United States district court for  
15 the judicial district wherein any suit shall be instituted under  
16 the provisions of this Act may by order direct that such  
17 suit be tried in any division of such district as he may desig-  
18 nate in such order.

19 SEC. 6. The essential purpose of this Act being the  
20 furtherance of protection of the lives and persons of citizens  
21 and other persons against unlawful and violent interference  
22 with or prevention of the orderly processes of justice, and  
23 equal protection and due process of law, and against possible  
24 dereliction of duty in this respect by States, or any govern-  
25 mental subdivision thereof, or any officer or employee of

1 either a State or governmental subdivision thereof. There-  
2 fore if any particular provision, sentence, or clause, or pro-  
3 visions, sentences or clauses, of this Act or the application  
4 thereof to any particular person or circumstance, is held  
5 invalid, the remainder of this Act, and the application of  
6 such provision to other persons or circumstances, shall not  
7 be affected thereby.