Calendar No. 552

102D CONGRESS 2D SESSION

S. 3006

[Report No. 102-328]

To provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

IN THE SENATE OF THE UNITED STATES

July 22 (legislative day, July 20), 1992

Mr. GLENN, from the Committee on Governmental Affairs, reported the following original bill; which was read twice and placed on the calendar

A BILL

To provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

- 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 MITLE.
- 4 This Act may be cited as the "President John F.
- 5 Kennedy Assassination Records Collection Act of 1992".
- 6 sec. 2. findings, declarations, and purposes.
- 7 (a) FINDINGS AND DECLARATIONS.—The Congress
- 8 finds and declares that—

- (1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;
 - (2) all government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;
- (3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;
- (4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;
- (5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;
- (6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified informa-

1	tion across government and has prevented the timely
2	public disclosure of records relating to the assassina-
3	tion of President John F. Kennedy; and
4	(7) most of the records related to the assassina-
5	tion of President John F. Kennedy are almost 30
б	years old, and only in the rarest cases is there any
7	legitimate need for continued protection of such
8	records.
9	(b) Purposes.—The purposes of this Act are—
10	(1) to provide for the creation of the President
11	John F. Kennedy Assassination Records Collection
12	at the National Archives and Records Administra-
13	tion; and
14	(2) to require the expeditious public trans-
15	mission to the Archivist and public disclosure of
16	such records.
17	SEC. 3. DEFINITIONS.
18	In this Act:
19	"Archivist" means the Archivist of the United
20	States.
21	"Assassination record" means a record that is
22	related to the assassination of President John F.
23	Kennedy, that was created or made available for use
24	by, obtained by, or otherwise came into the posses-
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1	(A) the Commission to Investigate the As-
2	sassination of President John F. Kennedy (the
3	"Warren Commission");
Ą	(B) the Commission on Central Intel-
5	ligence Agency Activities Within the United
б	States (the "Rockefeller Commission");
7	(C) the Senate Select Committee to Study
8	Governmental Operations with Respect to Intel-
9	ligence Activities (the "Church Committee");
10	(D) the Select Committee on Intelligence
11	(the "Pike Committee") of the House of Rep-
12	resentatives;
13	(E) the Select Committee on Assassina-
14 .	tions (the "House Assassinations Committee")
15	of the House of Representatives;
16	(F) the Library of Congress;
17	(G) the National Archives and Records Ad-
18	ministration;
19	(H) any Presidential library;
20	(I) any Executive agency;
21	(J) any independent agency;
22	(K) any other office of the Federal Govern-
23	ment; and
24	(L) any State or local law enforcement of-
25	fice that provided support or assistance or per-

1	formed work in connection with a Federal in-
2	quiry into the assassination of President John
3	F. Kennedy,
4	but does not include the autopsy records donated by
5	the Kennedy family to the National Archives pursu-
6	ant to a deed of gift regulating access to those
7	records, or copies and reproductions made from such
8	records.
9	"Collection" means the President John F. Ken-
10	nedy Assassination Records Collection established
11	under section 4.
12	"Executive agency" means an Executive agency
13	as defined in subsection 552(f) of title 5, United
14	States Code, and includes any Executive depart-
15	ment, military department, Government corporation,
16	Government controlled corporation, or other estab-
17	lishment in the executive branch of the Government,
18	including the Executive Office of the President, or
19	any independent regulatory agency.
20	"Government office" means any office of the
21	Federal Government that has possession or control
22	of assassination records, including—
23	(A) the House Committee on Administra-
D61	tion with record to the Color Committee on As

1	sassinations of the records of the House of Rep-
2	resentatives;
3	(B) the Select Committee on Intelligence
4	of the Senate with regard to records of the Sen-
5	ate Select Committee to Study Governmental
6	Operations with Respect to Intelligence Activi-
7	ties and other assassination records;
8	(C) the Library of Congress;
9	(D) the National Archives as custodian of
10	assassination records that it has obtained or
11	possesses, including the Commission to Inves-
12	tigate the Assassination of President John F.
13	Kennedy and the Commission on Central Intel-
14	ligence Agency Activities in the United States;
15	and
16	(E) any other executive branch office or
17	agency, and any independent agency.
18	"Identification aid" means the written descrip-
19	tion prepared for each record as required in section
20	4.
21	"National Archives" means the National Ar-
22	chives and Records Administration and all compo-
23	nents thereof, including Presidential archival deposi-
24	tories established under section 2112 of title 44,
25	United States Code.

•	"Official investigation" means the reviews of
	the assassination of President John F. Kennedy con-
	ducted by any Presidential commission, any author-
	ized congressional committee, and any Government
	agency either independently, at the request of any
	Presidential commission or congressional committee,
٠	or at the request of any Government official.

"Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

"Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

"Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

"Review Board" means the Assassination Records Review Board established by section 7.

1	"Third agency" means a Government agency
2	that originated an assassination record that is in the
3	possession of another agency.
4	sec. 4. priesident Joien F. Kennedy Assassination
5	records collection at the national
6	AIRCHIVIES AND RIECORDS ADMINISTRATION.
7	(a) In GENERAL.—(1) Not later than 60 days after
8	the date of enactment of this Act, the National Archives
9	and Records Administration shall commence establish-
10	ment of a collection of records to be known as the Presi-
11	dent John F. Kennedy Assassination Records Collection.
12	In so doing, the Archivist shall ensure the physical integ-
13	rity and original provenance of all records. The Collection
14	shall consist of record copies of all Government records
15	relating to the assassination of President John F. Ken-
16	nedy, which shall be transmitted to the National Archives
17	in accordance with section 2107 of title 44, United States
18	Code. The Archivist shall prepare and publish a subject
19	guidebook and index to the collection.
20	(2) The Collection shall include—
21	(A) all assassination records—
22	(i) that have been transmitted to the Na-
23	tional Archives or disclosed to the public in an
24	unredacted form prior to the date of enactment
25	of this Act;

1	(ii) that are required to be transmitted to
2	the National Archives; or
3	(iii) the disclosure of which is postponed
4	under this Act;
5	(B) a central directory comprised of identifica-
6	tion aids created for each record transmitted to the
7	Archivist the under section 5; and
00	(C) all Review Board records as required by
9	this Act.
10	(b) Disclosure of Records.—All assassination
11	records transmitted to the National Archives for disclosure
12	to the public shall be included in the Collection and shall
13	be available to the public for inspection and copying at
14	the National Archives within 30 days after their trans-
15	mission to the National Archives.
16	(c) Fees for Copying.—The Archivist shall—
17	(1) charge fees for copying assassination
18	records; and
19	(2) grant waivers of such fees pursuant to the
20	standards established by section 552(a)(4) of title 5,
21	United States Code.
22	(d) Additional Requirements.—(1) The Collec-
23	tion shall be preserved, protected, archived, and made
<u>)</u> 4	available to the public at the National Archives using ap-

- 1 propriations authorized, specified, and restricted for use
- 2 under the terms of this Act.
- 3 (2) The National Archives, in consultation with the
- 4 Information Security Oversight Office, shall ensure the se-
- 5 curity of the postponed assassination records in the Collec-
- 6 tion.
- 7 (e) Oversight.—The Committee on Government
- 8 Operations of the House of Representatives and the Com-
- 9 mittee on Governmental Affairs of the Senate shall have
- 10 continuing oversight jurisdiction with respect to the Col-
- 11 lection.
- 12 sec. 5. rieview, identification, transmission to the
- -13 NATIONAL ARCHIVES, AND PUBLIC DISCLO-
- . 14 SURE OF ASSASSINATION RECORDS BY GOV-
- 15 ERNMENT OFFICIES.
- 16 (a) IN GENERAL.—(1) As soon as practicable after
- 17 the date of enactment of this Act, each Government office
- 18 shall identify and organize its records relating to the as-
- 19 sassination of President John F. Kennedy and prepare
- 20 them for transmission to the Archivist for inclusion in the
- 21 Collection.
- 22 (2) No assassination record shall be destroyed, al-
- 23 tered; or mutilated in any way.
- 24 (3) No assassination record made available or dis-
- 25 closed to the public prior to the date of enactment of this

1	Act may be withheld, redacted, postponed for public dis-
2	closure, or reclassified.
3	(4) No assassination record created by a person or
Ą	entity outside government (excluding names or identities
5	consistent with the requirements of section 6) shall be
6	withheld, redacted, postponed for public disclosure, or re-
7	classified.
8	(b) Custody of Assassination Records Pending
9	REVIEW.—During the review by Government offices and
10	pending review activity by the Review Board, each Govern-
11	ment office shall retain custody of its assassination
12	records for purposes of preservation, security, and effi-
13	ciency, unless—
14	(1) the Review Board requires the physical
15	transfer of records for purposes of conducting an
16	independent and impartial review;
17	(2) transfer is necessary for an administrative
18	hearing or other Review Board function; or
19	(3) it is a third agency record described in sub-
20	section (c)(2)(C).
21	(c) REVIEW.—(1) Not later than 300 days after the
22	date of enactment of this Act, each Government office

23 shall review, identify and organize each assassination

24 record in its custody or possession for disclosure to the

1	public, review by the Review Board, and transmission to
2	the Archivist.
3	(2) In carrying out paragraph (1), a Government of-
Đ,	fice shall—
5	(A) determine which of its records are assas-
6	sination records;
7	(B) determine which of its assassination records
8	have been officially disclosed or publicly available in
9	a complete and unredacted form;
10	(C)(i) determine which of its assassination
11	records, or particular information contained in such
12	a record, was created by a third agency or by an-
13	other Government office; and
14	(ii) transmit to a third agency or other govern-
15	ment office those records, or particular information
16	contained in those records, or complete and accurate
17	copies thereof;
18	(D)(i) determine whether its assassination
19	records or particular information in assassination
20	records are covered by the standards for postpone-
21	ment of public disclosure under this Act; and
22	(ii) specify on the identification aid required by
23	subsection (d) the applicable postponement provision
24	contained in section 6;

ĺ	(E) organize and make available to the Review
2	Board all assassination records identified under sub
. 3	paragraph (D) the public disclosure of which is
4	whole or in part may be postponed under this Act
5	(F) organize and make available to the Review
6	Board any record concerning which the office ha
7	any uncertainty as to whether the record is an as
8	sassination record governed by this Act;
9	(G) give priority to the identification, review
10	and transmission, under the standards for postpone
11	ment set forth in this Act, of assassination record
12	that on the date of enactment of this Act are the
13	subject of litigation under section 552 of title 5
14	United States Code; and
15	(H) make available to the Review Board any
16	additional information and records that the Review
17	Board has reason to believe it requires for conduct
18	ing a review under this Act.
19	(3) The Director of each archival depository estab
20	lished under section 2112 of title 44, United States Code
21	shall have as a priority the expedited review for public dis
22	closure of assassination records in the possession and cus
23	tody of the depository, and shall make such records avail
24	able to the Review Board as required by this Act.

1	(d) Identification Aids.—(1)(A) Not later than 45
2	days after the date of enactment of this Act, the Archivist,
3	in consultation with the appropriate Government offices,
4	shall prepare and make available to all Government offices
5	a standard form of identification or finding aid for use
6	with each assassination record subject to review under this
7	Act.
8	(B) The Archivist shall ensure that the identification
9	aid program is established in such a manner as to result
10	in the creation of a uniform system of electronic records
11	by Government offices that are compatible with each
12	other.
13	(2) Upon completion of an identification aid, a Gov-
14	ernment office shall—
15	(A) attach a printed copy to the record it de-
16	scribes;
17	(B) transmit to the Review Board a printed
18	copy; and
19	(C) attach a printed copy to each assassination
20	record it describes when it is transmitted to the Ar-
21	chivist.
22	(3) Assassination records which are in the possession
23	of the National Archives on the date of enactment of this
24	Act, and which have been publicly available in their en-
25	tirety without redaction, shall be made available in the

- 1 Collection without any additional review by the Review
- 2 Board or another authorized office under this Act, and
- 3 shall not be required to have such an identification aid
- 4 unless required by the Archivist.
- 5 (e) Transmission to the National Archives.—
- 6 Each Government office shall—
- able to the public not later than 300 days after the date of enactment of this Act, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and
 - (2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.
- 22 (f) Custody of Postponed Assassination
- 23 RECORDS.—An assassination record the public disclosure
- 24 of which has been postponed shall, pending transmission
- 25 to the Archivist, be held for reasons of security and preser-

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- 1 vation by the originating body until such time as the infor-
- 2 mation security program has been established at the Na-
- 3 tional Archives as required in section 4(e)(2).
- 4 (g) Periodic Review of Postponed Assassina-
- 5 TION RECORDS.—(1) All postponed or redacted records
- 6 shall be reviewed periodically by the originating agency
- 7 and the Archivist consistent with the recommendations of
- 8 the Review Board under section 9(c)(3)(B).
- 9 (2)(A) A periodic review shall address the public dis-
- 10 closure of additional assassination records in the Collec-
- 11 tion under the standards of this Act.
- 12 (B) All postponed assassination records determined
- 13 to require continued postponement shall require an unclas-
- 14 sified written description of the reason for such continued
- 15 postponement. Such description shall be provided to the
- 16 Archivist and published in the Federal Register upon de-
- 17 termination.
- 18 . (C) The periodic review of postponed assassination
- 19 records shall serve to downgrade and declassify security
- 20 classified information.
- 21 (D) Each assassination record shall be publicly dis-
- 22 closed in full, and available in the Collection no later than
- 23 the date that is 25 years after the date of enactment of
- 24 this Act, unless the President certifies, as required by this
- 25 Act, that—

1	(i) continued postponement is made necessary
2	by an identifiable harm to the military defense, intel-
3	ligence operations, or conduct of foreign relations;
4	and
5	(ii) the identifiable harm is of such gravity that
6	it outweighs the public interest in disclosure.
7	(h) FEES FOR COPYING.—Executive branch agencies
8	shall—
9	(1) charge fees for copying assassination
10	records; and
11	(2) grant waivers of such fees pursuant to the
12	standards established by section 552(a)(4) of title 5,
13	United States Code.
14	SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLO-
15	surie of records.
16	Disclosure of assassination records or particular in-
17	formation in assassination records to the public may be
18	postponed subject to the limitations of this Act if there
19	is clear and convincing evidence that—
20	(1) the threat to the military defense, intel-
21	ligence operations, or conduct of foreign relations of
22	the United States posed by the public disclosure of
23	the assassination is of such gravity that it outweighs
24	the public interest, and such public disclosure would
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1	(A) an intelligence agent whose identity
2	currently requires protection;
3	(B) an intelligence source or method which
Ą	is currently utilized, or reasonably expected to
5	be utilized, by the United States Government
6	and which has not been officially disclosed, the
7	disclosure of which would interfere with the
8	conduct of intelligence activities; or
9	(C) any other matter currently relating to
10	the military defense, intelligence operations or
11	conduct of foreign relations of the United
12	States, the disclosure of which would demon-
13	strably impair the national security of the Unit-
4	ed States;
15	(2) the public disclosure of the assassination
16	record would reveal the name or identity of a living
7	person who provided confidential information to the
.8	United States and would pose a substantial risk of
9	harm to that person;
20	(3) the public disclosure of the assassination
.1	record could reasonably be expected to constitute an
2	unwarranted invasion of personal privacy, and that
3	invasion of privacy is so substantial that it out-

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weighs the public interest;

1	(4) the public disclosure of the assassination
2	record would compromise the existence of an under-
3	standing of confidentiality currently requiring pro-
4	tection between a Government agent and a cooperat-
5	ing individual or a foreign government, and public
6	disclosure would be so harmful that it outweighs the
7	public interest; or
8	(5) the public disclosure of the assassination
9	record would reveal a security or protective proce-
10	dure currently utilized, or reasonably expected to be
11	utilized, by the Secret Service or another Govern-
12	ment agency responsible for protecting Government
13	officials, and public disclosure would be so harmful
14	that it outweighs the public interest.
15	SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSIVA-
16	TION RECORDS REVIEW BOARD.
17	(a) Establishment.—There is established as an
18	independent agency a board to be known as the Assassina-
19	tions Records Review Board.
20	(b) APPOINTMENT.—(1) The President, by and with
21	the advice and consent of the Senate, shall appoint, with-
22	out regard to political affiliation, 5 citizens to serve as

23 members of the Review Board to ensure and facilitate the

24 review, transmission to the Archivist, and public disclosure

- 1 of government records related to the assassination of
- 2 President John F. Kennedy.
- 3 (2) The President shall make nominations to the Re-
- 4 view Board not later than 90 calendar days after the date
- 5 of enactment of this Act.
- 6 (3) If the Senate votes not to confirm a nomination
- 7 to the Review Board, the President shall make an addi-
- 8 tional nomination not later than 30 days thereafter.
- 9 (4)(A) The President shall make nominations to the
- 10 Review Board after considering persons recommended by
- 11 the American Historical Association, the Organization of
- 12 American Historians, the Society of American Archivists,
- 13 and the American Bar Association.
- 14 (B) If an organization described in subparagraph (A)
- 15 does not recommend at least 2 nominees meeting the
- 16 qualifications stated in paragraph (5) by the date that is
- 17 45 days after the date of enactment of this Act, the Presi-
- 18 dent shall consider for nomination the persons rec-
- 19 ommended by the other organizations described in sub-
- 20 paragraph (A).
- 21 (C) The President may request an organization de-
- 22 scribed in subparagraph (A) to submit additional nomina-
- 23 tions.
- 24 (5) Persons nominated to the Review Board—

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- (A) shall be impartial private citizens, none of 2 whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy:
 - (B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and
- (C) shall include at least 1 professional histo-18 19 rian and 1 attorney.
- 20 (c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard 23 procedures for granting such clearances.

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1	(2) All nominees shall qualify for the necessary secu-
2	rity clearance prior to being considered for confirmation
3	by the Committee on Governmental Affairs of the Senate.
Q,	(d) Confirmation Hearings.—(1) The Committee
5	on Governmental Affairs of the Senate shall hold con-
б	firmation hearings within 30 days in which the Senate is
7	in session after the nomination of 3 Review Board mem-
8	bers.
9	(2) The Committee on Governmental Affairs shall
10	vote on the nominations within 14 days in which the Sen-
11	ate is in session after the confirmation hearings, and shall
12	report its results to the full Senate immediately.
13	(3) The Senate shall vote on each nominee to confirm
14	or reject within 14 days in which the Senate is in session
15	after receiving the report from the Committee on Govern-
16	mental Affairs.
17	(e) VACANCY.—A vacancy on the Review Board shall
18	be filled in the same manner as specified for original ap-
19	
20	(f) Charperson.—The Members of the Review
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22	its initial meeting.
	(g) Removal of Review Board Member.—(1) No
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LQ.	member of the Review Board shall be removed from office,

25 other than—

1	(A) by impeachment and conviction; or
2	(B) by the action of the President for ineffi-
3	ciency, neglect of duty, malfeasance in office, phys-
Ą,	ical disability, mental incapacity, or any other condi-
5	tion that substantially impairs the performance of
6	the member's duties.
7	(2)(A) If a member of the Review Board is removed
8	from office, and that removal is by the President, not later
9	than 10 days after the removal the President shall submit
10	to the Committee on Government Operations of the House
11	of Representatives and the Committee on Governmental
12	Affairs of the Senate a report specifying the facts found
13	and the grounds for the removal.
14	(B) The President shall publish in the Federal Reg-
15	ister a report submitted under paragraph (2)(A), except
16	that the President may, if necessary to protect the rights
17	of a person named in the report or to prevent undue inter-
18	ference with any pending prosecution, postpone or refrain
19	from publishing any or all of the report until the comple-
20	tion of such pending cases or pursuant to privacy protec-
21	tion requirements in law.
22	(3)(A) A member of the Review Board removed from
23	office may obtain judicial review of the removal in a civil
24	action commenced in the United States District Court for
25	the District of Columbia

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1	(B) The member may be reinstated or granted other
2	appropriate relief by order of the court.
3	(h) Compensation of Members.—(1) A member of
Ą	the Review Board shall be compensated at a rate equal
5	to the daily equivalent of the annual rate of basic pay pre-
6	scribed for level IV of the Executive Schedule under sec-
7	tion 5315 of title 5, United States Code, for each day (in-
8	cluding travel time) during which the member is engaged
. 9	in the performance of the duties of the Review Board.
10	(2) A member of the Review Board shall be allowed
11	reasonable travel expenses, including per diem in lieu of
12	subsistence, at rates for employees of agencies under sub-
13	chapter I of chapter 57 of title 5, United States Code,
14	while away from the member's home or regular place of
15	business in the performance of services for the Review
16	Board.
17	(i) Duties of the Review Board.—(1) The Re-
18	view Board shall consider and render decisions on a deter-
19	mination by a Government office to seek to postpone the
20	disclosure of assassination records.
21	(2) In carrying out paragraph (1), the Review Board
22	shall consider and render decisions—
23	(A) whether a record constitutes an assassina-
24	tion record; and
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Ţ	(B) whether an assassination record or particu
2	lar information in a record qualifies for postpone
3	ment of disclosure under this Act.
Ą	(j) POWERS.—(1) The Review Board shall have the
5	authority to act in a manner prescribed under this Ac
б	including authority to—
7	(A) direct Government offices to create identi
8	fication aids and organize assassination records;
9	(B) direct Government offices to transmit to
10	the Archivist assassination records as required under
11	this Act, including segregable portions of assassina-
12	tion records, and substitutes and summaries of as-
13	sassination records that can be publicly disclosed to
14	the fullest extent;
15	(C)(i) obtain access to assassination records
16	that have been identified and organized by a Govern-
17	ment office;
18	(ii) direct a Government office to make avail-
19	able to the Review Board, and if necessary inves-
20	tigate the facts surrounding, additional information,
21	records, or testimony from individuals, which the
22	Review Board has reason to believe is required to
23	fulfill its functions and responsibilities under this
24	Act; and

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1	(iii) subpoena private persons to compel testi-
2	mony, records, and other information relevant to its
3	responsibilities under this Act;
4	(D) require any Government office to account
5	in writing for the destruction of any records relating
6	to the assassination of President John F. Kennedy;
7	(E) receive information from the public regard-
8	ing the identification and public disclosure of assas-
9	sination records; and
10	(F) hold hearings, administer oaths, and sub-
11	poena witnesses and documents.
12	(2) A subpoena issued under paragraph (1)(C)(iii)
13	may be enforced by any appropriate Federal court acting
14	pursuant to a lawful request of the Review Board.
15	(k) WITNESS LIMUNITY.—The Review Board shall
16	be considered to be an agency of the United States for
17	purposes of section 6001 of title 18, United States Code.
18	(1) Oversight.—(1) The Committee on Government
19	Operations of the House of Representatives and the Com-
20	mittee on Governmental Affairs of the Senate shall have
21	continuing oversight jurisdiction with respect to the offi-
22	cial conduct of the Review Board and the disposition of
23	postponed records after termination of the Review Board,
24	and shall have access to any records held or created by
25	the Review Board.

- 1 (2) The Review Board shall have the duty to cooper-
- 2 ate with the exercise of such oversight jurisdiction.
- 3 (m) SUPPORT SERVICES.—The Administrator of the
- 4 General Services Administration shall provide administra-
- 5 tive services for the Review Board on a reimbursable basis.
- 6 (n) Interpretive Regulations.—The Review
- 7 Board may issue interpretive regulations.

- 8 (o) TERMINATION AND WINDING UP.—(1) The Re-
- 9 view Board and the terms of its members shall terminate
- 10 not later than 2 years after the date of enactment of this
- 11 Act, except that the Review Board may, by majority vote,
- 12 extend its term for an additional 1-year period if it has
- 13 not completed its work within that 2-year period.
- 14 (2) Upon its termination, the Review Board shall
- 15 submit reports to the President and the Congress includ-
- 16 ing a complete and accurate accounting of expenditures
- 17 during its existence, and shall complete all other reporting
- 18 requirements under this Act.
- 19 (3) Upon termination and winding up, the Review
- 20 Board shall transfer all of its records to the Archivist for
- 21 inclusion in the Collection, and no record of the Review
- 22 Board shall be destroyed.

1	SEC. S. ASSASSINATION RECORDS REVIEW BOARD PERSON-
2	NEL
3	(a) Executive Director.—(1) Not later than 45
Ą	days after the initial meeting of the Review Board, the
5	Review Board shall appoint one citizen, without regard to
6	political affiliation, to the position of Executive Director.
7	(2) The person appointed as Executive Director shall
8	be a private citizen of integrity and impartiality who is
9	a distinguished professional and who is not a present em-
10	ployee of any branch of the Government and has had no
11	previous involvement with any official investigation or in-
12	quiry relating to the assassination of President John F.
13	Kennedy.
14	(3)(A) A candidate for Executive Director shall be
15	granted the necessary security clearances in an accelerated
16	manner subject to the standard procedures for granting
17	such clearances.
18	(B) A candidate shall qualify for the necessary secu-
19	rity clearance prior to being approved by the Review
20	Board.
21	(4) The Executive Director shall—
22	(A) serve as principal liaison to Government of-
23	fices;
14	(B) be responsible for the administration and
25	coordination of the Review Board's review of
2.6	reeards

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1	(C) be responsible for the administration of all
2	official activities conducted by the Review Board;
3	and
Ą	(D) have no authority to decide or determine
5	whether any record should be disclosed to the public
6	or postponed for disclosure.
7	(5) The Executive Director shall not be removed for
8	reasons other than by a majority vote of the Review Board
9	for cause on the grounds of inefficiency, neglect of duty,
10	malfeasance in office, physical disability, mental incapac-
11	ity, or any other condition that substantially impairs the
12	performance of the responsibilities of the Executive Direc-
13	tor or the staff of the Review Board.
14	(b) STAFF.—(1) The Review Board may, in accord-
15	ance with the civil service laws but without regard to civil
16	service law and regulation for competitive service as de-
17	fined in subchapter 1, chapter 33 of title 5, United States
18	Code, appoint and terminate additional personnel as are
19	necessary to enable the Review Board and its Executive
20	Director to perform its duties.
21	(2) A person appointed to the staff of the Review
22	Board shall be a private citizen of integrity and impartial-
23	ity who is not a present employee of any branch of the
24	Government and who has had no previous involvement

- 1 with any official investigation or inquiry relating to the
- 2 assassination of President John F. Kennedy.
- 3 (3)(A) A candidate for staff shall be granted the nec-
- 4 essary security clearances in an accelerated manner sub-
- 5 ject to the standard procedures for granting such clear-
- 6 ances.
- 7 (B) A candidate for the staff shall qualify for the nec-
- 8 essary security clearance prior to being approved by the
- 9 Review Board.
- 10 (c) COMPENSATION.—The Review Board shall fix the
- 11 compensation of the Executive Director and other person-
- 12 nel in accordance with title 5, United States Code, except
- 13 that the rate of pay for the Executive Director and other

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- 14 personnel may not exceed the rate payable for level V of
- 15 the Executive Schedule under section 5316 of that title.
- 16 (d) ADVISORY COMMITTEES.—(1) The Review Board
- 17 shall have the authority to create advisory committees to
- 18 assist in fulfilling the responsibilities of the Review Board
- 19 under this Act.
- 20 (2) Any advisory committee created by the Review
- 21 Board shall be subject to the Federal Advisory Committee
- 22 Act (5 U.S.C. App.).

1	SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION
2	RECORDS REVIEW BOARD.
3	(a) Custody of Records Reviewed by Board.—
4	Pending the outcome of the Review Board's review activ
5	ity, a Government office shall retain custody of its assas
б	sination records for purposes of preservation, security, and
7	efficiency, unless—
8	(1) the Review Board requires the physica
9	transfer of records for reasons of conducting ar
10	independent and impartial review; or
11	(2) such transfer is necessary for an adminis-
12	trative hearing or other official Review Board func-
13	tion.
14	(b) Startup Requirements.—The Review Board
15	shall—
16	(1) not later than 90 days after the date of its
17	appointment, publish a schedule for review of all as-
18	sassination records in the Federal Register; and
19	(2) not later than 180 days after the date of
20	enactment of this Act, begin its review of assassina-
21	tion records under this Act.
22	(c) Determinations of the Review Board.—(1)
23	The Review Board shall direct that all assassination
4	records be transmitted to the Archivist and disclosed to
25	the public in the Collection in the absence of clear and
6	convincing evidence that—

1	(A) a Government record is not an assassina-
2	tion record; or
3	(B) a Government record or particular informa-
4	tion within an assassination record qualifies for
5	postponement of public disclosure under this Act.
6	(2) In approving postponement of public disclosure
7	of an assassination record, the Review Board shall seek
8	to—
9	(A) provide for the disclosure of segregable
10	parts, substitutes, or summaries of such a record;
11	and
12	(B) determine, in consultation with the origi-
13	nating body and consistent with the standards for
14	postponement under this Act, which of the following
15	alternative forms of disclosure shall be made by the
16	originating body:
17	(i) Any reasonably segregable particular
18	information in an assassination record.
19	(ii) A substitute record for that informa-
20	tion which is postponed.
21	(iii) A summary of an assassination record.
22	(3) With respect to each assassination record or par-
23	ticular information in assassination records the public dis-
24	closure of which is postponed pursuant to section 6, or
25	for which only substitutions or summaries have been dis-

- 1 closed to the public, the Review Board shall create and
- 2 transmit to the Archivist a report containing-
- 3 (A) a description of actions by the Review
- 4 Board, the originating body, the President, or any
- 5 Government office (including a justification of any
- 6 such action to postpone disclosure of any record or
- 7 part of any record) and of any official proceedings
- 8 conducted by the Review Board with regard to spe-
- 9 cific assassination records; and
- 10 (B) a statement, based on a review of the pro-
- 11 ceedings and in conformity with the decisions re-
- 12 flected therein, designating a recommended specified
- 13 time at which or a specified occurrence following
- which the material may be appropriately disclosed to
- 15 the public under this Act.
- 16 (4)(A) Following its review and a determination that
- 17 an assassination record shall be publicly disclosed in the
- 18 Collection or postponed for disclosure and held in the pro-
- 19 tected Collection, the Review Board shall notify the head
- 20 of the originating body of its determination and publish
- 21 a copy of the determination in the Federal Register within
- 22 14 days after the determination is made.
- 23 (B) Contemporaneous notice shall be made to the
- 24 President for Review Board determinations regarding ex-
- 25 ecutive branch assassination records, and to the oversight

- 1 committees designated in this Act in the case of legislative
- 2 branch records. Such notice shall contain a written unclas-
- 3 sified justification for public disclosure or postponement
- 4 of disclosure, including an explanation of the application
- 5 of any standards contained in section 6.
- 6 (d) Presidential Authority Over Review
- 7 BOARD DETERMINATION.—

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(1) Public disclosure or postponement of DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement

- under section 6, accompanied by a copy of the identification aid required under section 4.
- 3 (2) Periodic Review.—Any executive branch
 4 assassination record postponed by the President
 5 shall be subject to the requirements of periodic re6 view, downgrading and declassification of classified
 7 information, and public disclosure in the collection
 8 set forth in section 4.
- 9 (3) RECORD OF PRESIDENTIAL POSTPONE10 MENT.—The Review Board shall, upon its receipt,
 11 publish in the Federal Register a copy of any unclas12 sified written certification, statement, and other ma13 terials transmitted by or on behalf of the President
 14 with regard to postponement of assassination
 15 records.
- (e) NOTICE TO PUBLIC.—Every 30 calendar days, be17 ginning on the date that is 60 calendar days after the date
 18 on which the Review Board first approves the postpone19 ment of disclosure of an assassination record, the Review
 20 Board shall publish in the Federal Register a notice that
 21 summarizes the postponements approved by the Review
 22 Board or initiated by the President, the House of Rep23 resentatives, or the Senate, including a description of the
 24 subject, originating agency, length or other physical de-

1	scription, and each ground for postponement that is remed
2	upon.
3	(f) Reports by the Review Board.—(1) The Re-
Ó,	view Board shall report its activities to the leadership of
5	the Congress, the Committee on Government Operations
6	of the House of Representatives, the Committee on Gov-
7	ernmental Affairs of the Senate, the President, the Archi-
8	vist, and the head of any Government office whose records
9	have been the subject of Review Board activity.
10	(2) The first report shall be issued on the date that
11	is I year after the date of enactment of this Act, and sub-
12	sequent reports every 12 months thereafter until termi-
13	nation of the Review Board.
14	(3) A report under paragraph (1) shall include the
15	following information:
16	(A) A financial report of the expenses for all of-
17	ficial activities and requirements of the Review
18	Board and its personnel.
19	(B) The progress made on review, transmission
20	to the Archivist, and public disclosure of assassina-
21	tion records.
22	(C) The estimated time and volume of assas-
23	sination records involved in the completion of the
24	Review Board's performance under this Act.

1	(D) Any special problems, including request
2	and the level of cooperation of government office:
3	with regard to the ability of the Review Board to op
4	erate as required by this Act.
5	(E) A record of review activities, including
6	record of postponement decisions by the Review
7	Board or other related actions authorized by thi
8	Act, and a record of the volume of records reviewed
9	and postponed.
10	(F) Suggestions and requests to Congress fo
11	additional legislative authority needs.
12	(G) An appendix containing copies of reports o
13	postponed records to the Archivist required under
14	section 9(c)(3) made since the date of the preceding
15	report under this subsection.
.16	(4) At least 90 calendar days before completing its
17	work, the Review Board shall provide written notice to the
18	President and Congress of its intention to terminate its
19	operations at a specified date.
20	SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDI
21	TIONAL STUDY.
22	(a) Materials Under Seal of Court.—
23	(1) The Review Board may request the Attor-
24	ney General to petition any court in the United

States or abroad to release any information relevant

1	to the assassination of President John F. Kennedy
2	that is held under seal of the court.
3	(2)(A) The Review Board may request the At-
Ą	torney General to petition any court in the United
5	States to release any information relevant to the as-
б	sassination of President John F. Kennedy that is
7	held under the injunction of secrecy of a grand jury.
8	(B) A request for disclosure of assassination
9	materials under this Act shall be deemed to con-
10	stitute a showing of particularized need under Rule
11	6 of the Federal Rules of Criminal Procedure.
12	(b) SENSE OF CONGRESS.—It is the sense of the Con-
13	gress that—
14	(1) the Attorney General should assist the Re-
15	view Board in good faith to unseal any records that
16	the Review Board determines to be relevant and held
17	under seal by a court or under the injunction of se-
18	crecy of a grand jury;
19	(2) the Secretary of State should contact the
20	Government of the Republic of Russia and seek the
21	disclosure of all records of the government of the
22	former Soviet Union, including the records of the
23	Komitet Gosudarstvennoy Bezopasnosti (KGB) and
9 <u>a</u>	the Glaynove Razvedyvatelnoye Upravleniye (GRU),

relevant to the assassination of President Kennedy,

- and contact any other foreign government that may
- 2 hold information relevant to the assassination of
- 3 President Kennedy and seek disclosure of such infor-
- 4 mation; and
- 5 (3) all Executive agencies should cooperate in
- 6 full with the Review Board to seek the disclosure of
- 7 all information relevant to the assassination of
- 8 President John F. Kennedy consistent with the pub-
- 9 lic interest.
- 10 SEC. 11. RULLES OF CONSTRUCTION.
- 11 (a) PRECEDENCE OVER OTHER LAW.—When this
- 12 Act requires transmission of a record to the Archivist or
- 13 public disclosure, it shall take precedence over any other
- 14 law (except section 6103 of the Internal Revenue Code),
- 15 judicial decision construing such law, or common law doc-
- 16 trine that would otherwise prohibit such transmission or
- 17 disclosure, with the exception of deeds governing access
- 18 to or transfer or release of gifts and donations of records
- 19 to the United States Government.
- 20 (b) Freedom of Information Act.—Nothing in
- 21 this Act shall be construed to eliminate or limit any right
- 22 to file requests with any Executive agency or seek judicial
- 23 review of the decisions pursuant to section 552 of title 5,
- 24 United States Code.

1	(c) JUDICIAL REVIEW.—Nothing in this Act shall be
2	construed to preclude judicial review, under chapter 7 o
3	title 5, United States Code, of final actions taken or re
4	quired to be taken under this Act.
5	(d) Existing Authority.—Nothing in this Act re
6	vokes or limits the existing authority of the President, any
7	executive agency, the Senate, or the House of Rep
8	resentatives, or any other entity of the Government to
9	publicly disclose records in its possession.
10	(e) Rules of the Senate and House of Rep
11	RESENTATIVES To the extent that any provision of this
12	Act establishes a procedure to be followed in the Senate
13	or the House of Representatives, such provision is
4	adopted—
15	(1) as an exercise of the rulemaking power of
16	the Senate and House of Representatives, respec-
17	tively, and is deemed to be part of the rules of each
.8	House, respectively, but applicable only with respect
.9	to the procedure to be followed in that House, and
20	it supersedes other rules only to the extent that it
,1	is inconsistent with such rules; and
2	(2) with full recognition of the constitutional

right of either House to change the rules (so far as

they relate to the procedure of that House) at any

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- time, in the same manner, and to the same extent
- 2 as in the case of any other rule of that House.
- 3 SEC. 12. TERMINATION OF EFFECT OF ACT.
- 4 (a) Provisions Pertaining to the Review
- 5 Board.—The provisions of this Act that pertain to the
- 6 appointment and operation of the Review Board shall
- 7 cease to be effective when the Review Board and the terms
- 8 of its members have terminated pursuant to section 7(0).
- 9 (b) OTHER PROVISIONS.—The remaining provisions
- 10 of this Act shall continue in effect until such time as the
- 11 Archivist certifies to the President and the Congress that
- 12 all assassination records have been made available to the
- 13 public in accordance with this Act.
- 14 SEC. 13. AUTHORIZATION OF APPROPRIATIONS.
- 15 (a) IN GENERAL.—There are authorized to be appro-
- 16 priated such sums as are necessary to carry out this Act,
- 17 to remain available until expended.
- 18 (b) INTERIM FUNDING.—Until such time as funds
- 19 are appropriated pursuant to subsection (a), the President
- 20 may use such sums as are available for discretionary use
- 21 to carry out this Act.
- 22 SEC. 14. SEVERABILITY.
- 23 If any provision of this Act or the application thereof
- 24 to any person or circumstance is held invalid, the remain-
- 25 der of this Act and the application of that provision to

- 1 other persons not similarly situated or to other cir-
- 2 cumstances shall not be affected by the invalidation.

102D CONDRESS S SOU

[Report No. 102–323]

A BILL

To provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

JULY 22 (legislative day, JULY 20), 1992 Read twice and placed on the calendar