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An Overview of H.R. 40 – the “Commission to Study Reparation Proposals for African-Americans Act”

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Summary

H.R. 40 would establish a federal commission to study the capture, transport, sale, and treatment of slaves from the colonial period through the civil war, and to detail how the institution of slavery deprived its victims of family, freedom, culture, and property. The bill also tasks the commission to examine federal and state laws that perpetuated the institution of slavery and the de facto or de jure discrimination against African-Americans after slavery’s abolishment. The bill also directs the commission to evaluate slavery’s lingering effects on African-Americans today. A primary purpose of the commission is to determine whether remedies in consideration of the foregoing are warranted, and, if so, to recommend appropriate reparations.

This report describes the commission’s purpose and function, and examines its administrative powers and structure. It will be updated as circumstances warrant.

H.R. 40, the “Commission to Study Reparation Proposals for African-Americans Act,” creates a commission to study the historical treatment of African-Americans and recommend appropriate reparations. This report reviews the commission’s purpose, function, power, and structure.

Purpose. The commission is to study the historical treatment of African-Americans by public and private entities, and to make recommendations on, among other considerations:

- whether the United States government should apologize for human rights violations arising out of the institution of slavery and other acts of violence and discrimination toward slaves and their descendants;
- whether African-Americans still suffer from lingering, negative effects arising out of the institution of slavery and other public and private wrongs;

- whether, in consideration of the commission's historical, economic, and sociological findings, compensation to descendants of slaves is warranted; and, if so,
- how much is warranted, what form should that compensation take, and who should be eligible.

Function. The commission's function is investigatory and advisory.

The commission would be tasked to analyze the nature of slavery, examining legal, economic, political, and other social infrastructures that enabled and perpetuated the institution of slavery. This study would include an analysis of how Federal and State governments supported the institution through statutory provisions, court opinions, and constitutional norms. It would also involve an examination of the capture, transport, sale, and treatment of slaves. Moreover, it would analyze de facto and de jure discrimination against freed slaves and their descendants from the Civil War to the present.

Synthesizing the above findings, the commission would determine how the treatment of slaves deprived them of family, freedom, culture, and property. Also, it would examine how slavery and other forms of discrimination against African-Americans influence contemporary American culture, particularly the lives of African-Americans.

The commission's advisory duties are two-pronged. First, the commission would advise Congress on ways to educate the American people on its findings. Second, the commission would apply its findings to address the four issues noted above, and to advise Congress accordingly.

Power. The commission and its subcommittees would be authorized to hold hearings. They would enjoy subpoena powers to require the attendance and testimony of witnesses, and to compel the production of books, records, correspondence, memoranda, papers, and documents that the commission deems appropriate. Also, upon a commissioner's or subcommittee's request, heads of federal executive departments, agencies, and instrumentalities would be directed to provide the commission with information deemed "useful" by the requester. The commission's powers would terminate 90 days after filing its report to Congress, which must be done one year after its first, organizational meeting.

Structure. The commission would be comprised of seven members, three appointed by the Speaker of the House, three by the President, and one by the President pro tempore of the Senate. The members would serve for the life of the commission. The bill specifies that the membership should be "especially qualified," emphasizing the importance of education, training, and experience in the area of African-American studies. A vacancy would not affect the powers of the commission, and would be filled in the same manner as the preceding-vacating-commissioner. Four members would constitute a quorum, but a lesser number would still be able to hold hearings. It would appear that vacancies exceeding three would affect the powers of the commission, except to the extent that the commission may act in absence of a quorum. The bill also calls for the election of a chair and vice chair by the commission's membership. Additionally, the bill sets the membership's compensation level, and authorizes appropriations.

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