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S. 2979

S. 2598

To amend title 18, United States Code, to ~~provide accountability for the~~ clarify and expand Federal criminal ~~acts of~~ jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

~~February 2, 2010~~

July 14, 2014

Mr. ~~LEAHY~~ Leahy (for himself, Mr. Schumer, Mr. Blumenthal, Mr. Durbin, Mrs. McCaskill, Mrs. Shaheen, Mr. Sanders, Mr. Whitehouse, and Mr. ~~KAUFMAN~~ Heinrich) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to ~~provide accountability for the~~ clarify and expand Federal criminal ~~acts of~~ jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Civilian Extraterritorial ~~Jurisdiction Act~~ ~~-(CEJA) of 2010~~'' ''Jurisdiction Act of 2014'' or the ``CEJA''.

SEC. 2. ~~ACCOUNTABILITY FOR CRIMINAL ACTS~~ CLARIFICATION AND EXPANSION OF FEDERAL JURISDICTION OVER FEDERAL CONTRACTORS AND EMPLOYEES ~~OUTSIDE THE UNITED STATES.~~

(a) Extraterritorial Jurisdiction Over Federal Contractors and Employees. -

(1) In general.--Chapter 212A of title 18, United States Code, is amended--

~~(1)~~ (A) by transferring the text of section 3272 to the end of section 3271, redesignating such text as subsection (c) of section 3271, and, in such text, as so redesignated, by striking "this chapter" and inserting "this section";

~~(2)~~ (B) by striking the heading of section 3272; and

~~(3)~~ (C) by adding after section 3271, as amended by this ~~subsection~~ paragraph, the following new sections:

Sec. 3272. Offenses committed by Federal contractors and employees outside the United States

(a)(1) Whoever, while employed by any department or agency of the United States other than the Department of Defense or accompanying any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense, knowingly engages in conduct (or conspires or attempts to engage in conduct) outside the United States that would constitute an offense enumerated in ~~subsection (e) paragraph (3)~~ had the conduct been engaged in ~~within the United States or~~

within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

(b2) ~~No~~ A prosecution ~~for an offense~~ may not be commenced against a person under this ~~section~~ subsection if a foreign government, in accordance with jurisdiction recognized by the United States, has prosecuted or is prosecuting such person for the conduct constituting the offense, except upon the approval of the Attorney General or the Deputy Attorney General (or a person acting in either such capacity), which function of approval may not be delegated.

(e3) The offenses covered by ~~subsection (a) paragraph (1)~~ are the following:

(1A) Any offense under chapter 5 (arson) of this title.

(2B) Any offense under section 111 (assaulting, resisting, or impeding certain officers or employees), 113 (assault within maritime and territorial jurisdiction), or 114 (maiming within maritime and territorial jurisdiction) of this title, but only if the offense is subject to a maximum sentence of imprisonment of one year or more.

(3C) Any offense under section 201 (bribery of public officials and witnesses) of this title.

(4D) Any offense under section 499 (military, naval, or

official passes) of this title.

[\(5E\)](#) Any offense under section 701 (official badges, **identifications** **identification** cards, and other insignia), 702 (uniform of armed forces and Public Health Service), 703 (uniform of friendly nation), or 704 (military medals or decorations) of this title.

[\(6F\)](#) Any offense under chapter 41 (extortion and threats) of this title, but only if the offense is subject to a maximum sentence of imprisonment of three years or more.

[\(7G\)](#) Any offense under chapter 42 (extortionate credit transactions) of this title.

[\(8H\)](#) Any offense under section 924(c) (use of firearm in violent or drug trafficking crime) or 924(o) (conspiracy to violate section 924(c)) of this title.

[\(9I\)](#) Any offense under chapter 50A (genocide) of this title.

[\(10J\)](#) Any offense under section 1111 (murder), 1112 (manslaughter), 1113 (attempt to commit murder or manslaughter), 1114 (protection of officers and employees of the United States), 1116 (murder or manslaughter of foreign officials, official guests, or internationally protected persons), 1117 (conspiracy to commit murder), or 1119 (foreign murder of United States nationals) of this title.

[\(11K\)](#) Any offense under chapter 55 (kidnapping) of this title.

[\(12L\)](#) Any offense under section 1503 (influencing or injuring officer or juror generally), 1505 (obstruction of proceedings before departments, agencies, and committees), 1510 (obstruction of criminal investigations), 1512 (tampering with a witness, victim, or informant), or 1513 (retaliating against a witness, victim, or an informant) of this title.

[\(13M\)](#) Any offense under section 1951 (interference with commerce by threats or violence), 1952 (interstate and foreign travel or transportation in aid of racketeering enterprises), 1956 (laundering of monetary instruments), 1957 (engaging in monetary transactions in property derived from specified unlawful activity), 1958 (use of interstate commerce facilities in the commission of murder for hire), or 1959 (violent crimes in aid of racketeering activity) of this title.

[\(14N\)](#) Any offense under section 2111 (robbery or burglary within special maritime and territorial jurisdiction) of this title.

[\(15O\)](#) Any offense under chapter 109A (sexual abuse) of this title.

[\(16P\)](#) Any offense under chapter 113B (terrorism) of this title.

(17Q) Any offense under chapter 113C (torture) of this title.

(18R) Any offense under chapter 115 (treason, sedition, and subversive activities) of this title.

(19S) Any offense under ~~chapter 118 (war crimes)~~ section 2442 (child soldiers) of this title.

(20T) Any offense under section 401 (manufacture, distribution, or possession with intent to distribute a controlled substance) or 408 (continuing criminal enterprise) of the Controlled Substances Act (21 U.S.C. 841, 848), or under section 1002 (importation of controlled substances), 1003 (exportation of controlled substances), or 1010 (import or export of a controlled substance) of the Controlled Substances Import and Export Act (21 U.S.C. 952, 953, 960), but only if the offense is subject to a maximum sentence of imprisonment of 20 years or more.

~~(d) In this section:~~

(b) In addition to the jurisdiction under subsection (a), whoever, while employed by any department or agency of the United States other than the Department of Defense and stationed or deployed in a country outside of the United States pursuant to a treaty or executive agreement in furtherance of a border security initiative with that country, engages in conduct (or conspires or attempts to engage in conduct) outside the United States that would constitute an offense for which a person may be prosecuted in a court of the United States had the conduct been engaged in within the special maritime and territorial jurisdiction of the United States shall be punished as provided for that offense.

(c) In this section:

(1) The term "employed by any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense" means--

(A) an individual is--

(i) employed as a civilian employee, a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense;

~~(B)~~ (ii) present or residing outside the United States in connection with such employment; and

~~(C)~~ (iii) not a national of or ordinarily

resident in the host nation; and

“(B) in the case of an individual who is such a contractor, contractor employee, grantee, or grantee employee, such employment supports a program, project, or activity for a department or agency of the United States ~~other than the Armed~~

~~Forces; and~~ “(D) not a national of or ordinarily resident in the host nation.”

“(2) The term ‘accompanying any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense’ means an individual is--

“(A) a dependant, family member, or member of household of--

“(i) a civilian employee of any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense; or

“(ii) a contractor (including a subcontractor at any tier), an employee of a contractor (or a subcontractor at any tier), a grantee (including a contractor of a grantee or a subgrantee or subcontractor at any tier), or an employee of a grantee (or a contractor of a grantee or a subgrantee or subcontractor at any tier) of any department or agency of the United States other than the ~~Armed Forces~~ Department of Defense, which contractor, contractor employee, grantee, or grantee employee is supporting a program, project, or activity for a department or agency of the United States other than the ~~Armed Forces~~ Department of Defense;

“(B) residing with such civilian employee, contractor, contractor employee, grantee, or grantee employee outside the United States; and

“(C) not a national of or ordinarily resident in the host nation.

“(3) The term ‘grant agreement’ means a legal instrument described in section 6304 or 6305 of title 31, other than an agreement between the United States and a State, local, or foreign government or an international organization.

“(4) The term ‘grantee’ means a party, other than the United States, to a grant agreement.

~~“(5) The term ‘Armed Forces’ has the meaning given the term ‘armed forces’~~ “(5) The term ‘host nation’ means the country outside of

~~in section 101(a)(4) of title 10.~~ the United States where the employee or contractor resides, the

country where the employee or contractor commits the alleged

offense at issue, or both.

Sec. 3273. Regulations

The Attorney General, after consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the Director of National Intelligence, shall prescribe regulations governing the investigation, apprehension, detention, delivery, and removal of persons described in sections 3271 and 3272 of this title."

~~-(b) Conforming Amendment--The heading of chapter 212A of such title is amended~~

(2) Conforming amendment.--Subparagraph (A) of section 3267(1) of title 18, United States Code, is amended to read as follows:

"(A) employed as a civilian employee, a contractor (including a subcontractor at any tier), or an employee of a contractor (or a subcontractor at any tier) of the Department of Defense (including a nonappropriated fund instrumentality of the Department);"

(b) Venue.--Chapter 211 of title 18, United States Code, is amended by adding at the end the following new section:

Sec. 3245. Optional venue for offenses involving Federal employees and contractors overseas

"In addition to any venue otherwise provided in this chapter, the trial of any offense involving a violation of section 3261, 3271, or 3272 of this title may be brought--

(1) in the district in which is headquartered the department or agency of the United States that employs the offender, or any 1 of 2 or more joint offenders; or

(2) in the district in which is headquartered the department or agency of the United States that the offender is accompanying, or that any 1 of 2 or more joint offenders is accompanying."

(c) Suspension of Statute of Limitations.--Chapter 213 of title 18, United States Code, is amended by inserting after section 3287 the following new section:

Sec. 3287A. Suspension of limitations for offenses involving Federal employees and contractors overseas

"The statute of limitations for an offense under section 3272 of this title shall be suspended for the period during which the individual is outside the United States or is a fugitive from justice within the meaning of section 3290 of this title."

(d) Technical Amendments.--

(1) Heading amendment.--The heading of chapter 212A of title 18, United States Code, is amended to read as follows:

"CHAPTER 212A--EXTRATERRITORIAL JURISDICTION OVER OFFENSES OF CONTRACTORS AND CIVILIAN EMPLOYEES OF THE FEDERAL GOVERNMENT"

~~-(c) Clerical Amendments-~~

~~(1) TABLE OF SECTIONS-~~ (2) Tables of sections.--(A) The table of sections for chapter 211 of title 18, United States Code, is amended by adding at the ~~beginning~~end the following new item:

“3245. Optional venue for offenses involving Federal employees and contractors overseas.”.

(B) The table of sections for chapter 212A of title 18, United States Code, is amended by striking the item relating to section 3272 and inserting the following new items:

“3272. Offenses committed by Federal contractors and employees outside the United States.

“3273. Regulations.”.

~~(2) TABLE OF CHAPTERS-~~ C) The table of sections for chapter 213 of title 18, United States Code, is amended by inserting after the item relating to section 3287 the following new item:

“3287A. Suspension of limitations for offenses involving Federal employees and contractors overseas.”.

(3) Table of chapters.--The item relating to chapter 212A in the table of chapters ~~at the beginning of~~for part II of ~~such~~-title 18, United States Code, is amended to read as follows:

~~—follows:~~
~~3271’.~~

“212A. Extraterritorial Jurisdiction Over Offenses of 3271”.
Contractors and Civilian
Employees of the Federal
Government.

SEC. 3. INVESTIGATIVE ~~UNITS~~TASK FORCES FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.

(a) Establishment of Investigative ~~Units~~Task Forces for Contractor and Employee Oversight. ~~—(1) IN GENERAL—~~The Attorney General, in consultation with the Secretary of Defense, the Secretary of State, the Secretary of Homeland Security, and the ~~—heads~~head of any other ~~departments~~department or ~~agencies~~agency of the Federal

Government responsible for employing contractors or persons overseas ~~—(A),~~ shall assign adequate personnel and resources, including through the creation of

~~—units (to be known as ‘Investigative Units for Contractor and Employee Oversight’)~~task forces, to investigate allegations of criminal offenses under chapter 212A of title 18, United States Code (as amended

by section 2(a) of this Act), and may authorize the overseas deployment of law enforcement agents and other employees of the Federal Government

~~— and other government personnel for that purpose; and~~

~~— (B) shall include in the regulations prescribed under section 3273 of~~

~~— title 18, United States Code (as added by section 2(a) of this Act);~~

~~— provisions setting forth responsibility for the investigation of any~~

~~— incident in which—~~

~~— (i) a weapon is allegedly discharged unlawfully by a person, while~~

~~— employed by or accompanying any department or agency of the United~~

~~— States other than the Armed Forces; or~~

~~— (ii) a person or persons are killed or seriously injured, or property~~

~~— valued greater than \$10,000 is destroyed, as a result of conduct by a~~

~~— person, while employed by or accompanying any department or agency of~~

~~— the United States other than the Armed Forces: for that purpose.~~

~~(2) RULE OF CONSTRUCTION— Nothing in this subsection shall be construed to limit any authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy personnel~~

~~overseas: (b) Responsibilities of Attorney General.—~~

~~(1) INVESTIGATION— Investigation.— The Attorney General shall have principal authority for the enforcement of chapter 212A of title 18, United States Code (as so this Act and the~~

~~amended) amendments made by this Act, and shall have the authority to~~

~~initiate, conduct, and supervise investigations of any alleged offenses under such chapter. offense under this Act or an amendment made by this Act.~~

~~(2) Law enforcement authority.— With respect to violations of sections 3271 and 3272 of title 18, United States Code (as~~

~~(2) ARREST— The amended by section 2(a) of this Act), the Attorney General may designate and~~

~~authorize any person serving in a law enforcement position in the Department of Justice or any~~

~~person serving in a law enforcement position in any other department or agency of the Federal Government,~~

~~including a member of the Diplomatic Security Service of the~~

~~Department of State or a military police officer of the Armed~~

~~— the Armed Forces, to arrest outside the United States, in accordance with~~

~~Forces, to exercise investigative and law enforcement~~

~~authority, including those powers that may be exercised under~~

~~applicable international treaties, any person described in section 3271 or ~~3272~~ 3052 of title 18, United States Code (as so amended), if there is probable, subject to such~~

~~cause to believe such person committed an offense or offenses in such~~

~~— section 3271 or 3272. guidelines or policies as the Attorney General considers appropriate for the exercise of such powers.~~

~~(3) PROSECUTION— Prosecution.— The Attorney General may establish such procedures the Attorney General considers appropriate to ensure that Federal law enforcement agencies refer offenses under~~

section 3271 or 3272 of title 18, United States Code (as ~~so~~ amended by section 2(a) of this Act), to the Attorney General for prosecution in a uniform and timely manner.

~~(4) ASSISTANCE ON REQUEST OF ATTORNEY GENERAL--~~ (4) Assistance on request of attorney general.--

Notwithstanding any statute, rule, or regulation to the contrary, the Attorney General may request assistance from the Secretary of Defense, the Secretary of State, or the head of any other ~~Executive~~department or agency of the Federal Government to enforce section 3271 or 3272 of title 18, United States Code (as so amended). The assistance requested may include the following:

(A) The assignment of additional ~~personnel~~employees and resources to ~~an~~ Investigative Unit for Contractor and Employee Oversighttask forces established by the Attorney General under subsection (a).

(B) An investigation into alleged misconduct or arrest of an individual suspected of alleged misconduct by agents of the Diplomatic Security Service of the Department of State present in the nation in which the alleged misconduct occurs.

(5) ~~ANNUAL REPORT--~~ Annual report.-- Not later than ~~one~~1 year after the date of the enactment of this Act, and annually thereafter for ~~five~~5 years, the Attorney General shall, in consultation with the Secretary of Defense ~~and~~, the Secretary of State, and the Secretary of Homeland Security, submit to Congress a report containing the following:

(A) The number of ~~offenses~~prosecutions under chapter 212A of title 18, United States Code (as amended by section ~~Code (as so amended), received, investigated, and referred for prosecution~~ ~~by Federal law enforcement authorities during the previous year.~~

~~(B) 2(a) The number of prosecutions under chapter 212A of title 18, United States Code (as so amended)~~ of this Act), including the nature of the offenses and any dispositions reached, during the previous year.

~~(C) The number, location, and any deployments of Investigative Units for~~ (B) The actions taken to implement subsection (a),

~~Contractor and Employee Oversight to investigate offenses under chapter~~ including the organization and training of employees

~~212A of title 18, United States Code (as so amended)~~ and the use of task forces, during the previous year.

~~(D)~~ (C) Such recommendations for legislative or administrative action as the ~~Attorney General~~President considers appropriate to enforce chapter 212A of title 18, United ~~18, United~~

States Code (as ~~so~~ amended), by section 2(a) of this Act, and the provisions of this

section.

(c) ~~Executive Agency~~ Definitions.--In this section, the ~~term "Executive terms"~~ agency' has' and "department" have the ~~meaning~~ meanings given ~~that term~~ such terms in section ~~105 of title 5, United States Code.~~ 6 of title 18, United States Code.

(d) Rule of Construction.--Nothing in this section shall be construed to limit any authority of the Attorney General or any Federal law enforcement agency to investigate violations of Federal law or deploy employees overseas.

SEC. 4. EFFECTIVE DATE.

(a) Immediate Effectiveness.- This Act and the amendments made by this Act shall take effect on the date of the ~~enactment of this Act.~~

(b) Implementation.- The Attorney General and the head of any other department or agency of the Federal Government to which this Act or an amendment made by this Act applies shall have 90 days after the date of ~~the~~ enactment of this Act to ensure compliance with this Act and the ~~provisions of~~ amendments made by this Act.

SEC. 5. ~~RULE~~ RULES OF CONSTRUCTION.

(a) In General.--Nothing in this Act or any amendment made by this Act shall be construed--

(1) to limit or affect the application of extraterritorial jurisdiction related to any other Federal law; or

~~SEC. 6. AUTHORIZATION OF APPROPRIATIONS.~~

~~For each of the fiscal years 2010 through 2015, there are authorized to be~~

(2) to limit or affect any authority or responsibility of a Chief of Mission as provided in section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) Intelligence Activities.--Nothing in this Act or any amendment made by this Act shall apply to the authorized intelligence activities of the United States Government.

SEC. 6. FUNDING.

If any amounts are appropriated ~~to the Attorney General such sums as are necessary~~ to carry out this Act: or an

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amendment made by this Act, the amounts shall be from amounts which would have otherwise been made available or appropriated to the

Department of Justice.