

104<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. CON. RES. 55

To correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

APRIL 24, 1996

Mr. HATCH submitted the following concurrent resolution; which was considered and agreed to

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## CONCURRENT RESOLUTION

To correct the enrollment of the bill S. 735, to prevent and punish acts of terrorism, and for other purposes.

1        *Resolved by the Senate (the House of Representatives*  
2 *concurring)*, That the Secretary of the Senate, in the en-  
3 rollment of the bill (S. 735) shall make the following cor-  
4 rections:

5        In the table of contents of the bill, strike the item  
6 relating to section 431 and redesignate the items relating  
7 to sections 432 through 444 as relating to sections 431  
8 through 443, respectively.

1       Strike section 1605(g) of title 28, United States  
2 Code, proposed to be added by section 221 of the bill, and  
3 insert the following:

4       “(g) LIMITATION ON DISCOVERY.—

5           “(1) IN GENERAL.—(A) Subject to paragraph  
6 (2), if an action is filed that would otherwise be  
7 barred by section 1604, but for subsection (a)(7),  
8 the court, upon request of the Attorney General,  
9 shall stay any request, demand, or order for discov-  
10 ery on the United States that the Attorney General  
11 certifies would significantly interfere with a criminal  
12 investigation or prosecution, or a national security  
13 operation, related to the incident that gave rise to  
14 the cause of action, until such time as the Attorney  
15 General advises the court that such request, de-  
16 mand, or order will no longer so interfere.

17           “(B) A stay under this paragraph shall be in  
18 effect during the 12-month period beginning on the  
19 date on which the court issues the order to stay dis-  
20 covery. The court shall renew the order to stay dis-  
21 covery for additional 12-month periods upon motion  
22 by the United States if the Attorney General cer-  
23 tifies that discovery would significantly interfere  
24 with a criminal investigation or prosecution, or a na-

1 tional security operation, related to the incident that  
2 gave rise to the cause of action.

3 “(2) SUNSET.—(A) Subject to subparagraph  
4 (B), no stay shall be granted or continued in effect  
5 under paragraph (1) after the date that is 10 years  
6 after the date on which the incident that gave rise  
7 to the cause of action occurred.

8 “(B) After the period referred to in subpara-  
9 graph (A), the court, upon request of the Attorney  
10 General, may stay any request, demand, or order for  
11 discovery on the United States that the court finds  
12 a substantial likelihood would—

13 “(i) create a serious threat of death or se-  
14 rious bodily injury to any person;

15 “(ii) adversely affect the ability of the  
16 United States to work in cooperation with for-  
17 eign and international law enforcement agencies  
18 in investigating violations of United States law;  
19 or

20 “(iii) obstruct the criminal case related to  
21 the incident that gave rise to the cause of ac-  
22 tion or undermine the potential for a conviction  
23 in such case.

24 “(3) EVALUATION OF EVIDENCE.—The court’s  
25 evaluation of any request for a stay under this sub-

1 section filed by the Attorney General shall be con-  
2 ducted ex parte and in camera.

3 “(4) BAR ON MOTIONS TO DISMISS.—A stay of  
4 discovery under this subsection shall constitute a bar  
5 to the granting of a motion to dismiss under rules  
6 12(b)(6) and 56 of the Federal Rules of Civil Proce-  
7 dure.

8 “(5) CONSTRUCTION.—Nothing in this sub-  
9 section shall prevent the United States from seeking  
10 protective orders or asserting privileges ordinarily  
11 available to the United States.”.

12 In section 620G(a), proposed to be inserted after sec-  
13 tion 620F of the Foreign Assistance Act of 1961, by sec-  
14 tion 325 of the bill, strike “may” and insert “shall”.

15 In section 620H(a), proposed to be inserted after sec-  
16 tion 620G of the Foreign Assistance Act of 1961, by sec-  
17 tion 326 of the bill—

18 (1) strike “may” and insert “shall”;

19 (2) strike “shall be provided”; and

20 (3) insert “section” before “6(j)”.

21 In section 219, proposed to be inserted in title II of  
22 the Immigration and Nationality Act, by section 302 of  
23 the bill—

24 (1) in subsection (a)(1), insert “foreign” before  
25 “terrorist organization”;

- 1           (2) in subsection (a)(2)(A)(i), strike “an”  
2           before “organization under” and insert “a foreign”;  
3           (3) in subsection (a)(2)(C), insert “foreign”  
4           before “organization”; and  
5           (4) in subsection (a)(4)(B), insert “foreign”  
6           before “terrorist organization”.

7           In section 2339B(g), proposed to be added at the end  
8 of chapter 113B of title 18, United States Code, by section  
9 303 of the bill, strike paragraph (5) and redesignate para-  
10 graphs (6) and (7) as paragraphs (5) and (6), respectively.

11           In section 2332d(a), proposed to be added to chapter  
12 113B of title 18, United States Code, by section 321(a)  
13 of the bill—

- 14           (1) strike “by the Secretary of State” and in-  
15           sert “by the Secretary of the Treasury”;  
16           (2) strike “with the Secretary of the Treasury”  
17           and insert “with the Secretary of State”; and  
18           (3) add the words “the government of” after  
19           “engages in a financial transaction with”.

20           At the end of section 321 of the bill, add the  
21 following:

22           “(c) EFFECTIVE DATE.—The amendments made by  
23 this section shall become effective 120 days after the date  
24 of enactment of this Act.”.

1 In section 414(b) and 422(c) of the bill, strike “90”  
2 and insert “180”.

3 In section 40A(b), proposed to be added to chapter  
4 3 of the Arms Export Control Act, by section 330 of the  
5 bill strike “essential” and insert “important”.

6 In section 40A(b), proposed to be added to chapter  
7 3 of the Arms Export Control Act, by section 330 of the  
8 bill, strike “security”.

9 Strike section 431 of the bill and redesignate sections  
10 432 through 444 as sections 431 through 443, respec-  
11 tively.

12 In section 511(c) of the bill, strike “amended—” and  
13 all that follows through “(2)” and insert “amended”.

14 In section 801 of the bill, strike “subject to the con-  
15 currence of” and insert “in consultation with”.

16 In section 443, by striking subsection (d) in its en-  
17 tirety and inserting:

18 “(d) EFFECTIVE DATE.—The amendments made by  
19 this section shall become effective no later than 60 days  
20 after the publication by the Attorney General of imple-  
21 menting regulations that shall be published on or before  
22 January 1, 1997.”.

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