

105TH CONGRESS
2D SESSION

S. 1603

To provide a comprehensive program of support for victims of torture.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 1998

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

A BILL

To provide a comprehensive program of support for victims of torture.

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 TITLE.**

4 This Act may be cited as the “Survivors of Torture
5 Support Act”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The American people abhor torture by any
9 government or person. The existence of torture cre-
10 ates a climate of fear and international insecurity
11 that affects all people.

1 (2) Torture is the deliberate mental and phys-
2 ical damage caused by governments to individuals to
3 destroy individual personality and terrorize society.
4 The effects of torture are long term. Those effects
5 can last a lifetime for the survivors and affect future
6 generations.

7 (3) By eliminating leadership of their opposi-
8 tion and frightening the general public, repressive
9 governments often use torture as a weapon against
10 democracy.

11 (4) Torture survivors remain under physical
12 and psychological threats, especially in communities
13 where the perpetrators are not brought to justice. In
14 many nations, even those who treat torture survivors
15 are threatened with reprisals, including torture, for
16 carrying out their ethical duties to provide care.
17 Both the survivors of torture and their treatment
18 providers should be accorded protection from further
19 repression.

20 (5) A significant number of refugees and
21 asylees entering the United States have been victims
22 of torture. Those claiming asylum deserve prompt
23 consideration of their applications for political asy-
24 lum to minimize their insecurity and sense of dan-
25 ger. Many torture survivors now live in the United

1 States. They should be provided with the rehabilita-
2 tion services which would enable them to become
3 productive members of our communities.

4 (6) The development of a treatment movement
5 for torture survivors has created new opportunities
6 for action by the United States and other nations to
7 oppose state-sponsored and other acts of torture.

8 (7) There is a need for a comprehensive strat-
9 egy to protect and support torture victims and their
10 treatment providers, together with overall efforts to
11 eliminate torture.

12 (8) By acting to heal the survivors of torture
13 and protect their families, the United States can
14 help to heal the effects of torture and prevent its use
15 around the world.

16 (9) The United States became a party to the
17 Convention Against Torture and Other Cruel, Inhu-
18 man, or Degrading Treatment or Punishment on
19 November 20, 1994.

20 **SEC. 3. DEFINITIONS.**

21 As used in this Act:

22 (1) **IN GENERAL.**—Except as otherwise pro-
23 vided, the terms used in this Act have the meanings
24 given those terms in section 101(a) of the Immigra-
25 tion and Nationality Act (8 U.S.C. 1101(a)).

1 (2) TORTURE.—The term “torture” has the
2 meaning given the term in section 2340(1) of title
3 18, United States Code, and includes the use of rape
4 and other forms of sexual violence by a person act-
5 ing under the color of law upon another person
6 under his custody or physical control.

7 **SEC. 4. UNITED STATES POLICY WITH RESPECT TO THE IN-**
8 **VOLUNTARY RETURN OF PERSONS IN DAN-**
9 **GER OF SUBJECTION TO TORTURE.**

10 (a) POLICY.—It shall be the policy of the United
11 States not to expel, extradite, or otherwise effect the invol-
12 untary return of any person to a country in which there
13 are substantial grounds for believing the person would be
14 in danger of being subjected to torture, regardless of
15 whether the person is physically present in the United
16 States.

17 (b) REGULATIONS.—Not later than 120 days after
18 the date of enactment of this Act, the heads of the appro-
19 priate agencies shall prescribe regulations to implement
20 the obligations of the United States under Article 3 of the
21 United Nations Convention Against Torture and Other
22 Forms of Cruel, Inhuman or Degrading Treatment or
23 Punishment, subject to any reservations, understandings,
24 declarations, and provisos contained in the United States
25 Senate resolution of ratification of the Convention.

1 (c) EXCLUSION OF CERTAIN ALIENS.—To the maxi-
2 mum extent consistent with the obligations of the United
3 States under the Convention, subject to any reservations,
4 understandings, declarations, and provisos contained in
5 the United States Senate resolution of ratification of the
6 Convention, the regulations described in subsection (b)
7 shall exclude from the protection of such regulations aliens
8 described in section 241(b)(3)(B) of the Immigration and
9 Nationality Act (8 U.S.C. 1231(b)(3)(B)).

10 (d) REVIEW AND CONSTRUCTION.—Notwithstanding
11 any other provision of law, and except as provided in the
12 regulations described in subsection (b), no court shall have
13 jurisdiction to review the regulations adopted to imple-
14 ment this section, and nothing in this section shall be con-
15 strued as providing any court jurisdiction to consider or
16 review claims raised under the Convention or this section,
17 or any other determination made with respect to the appli-
18 cation of the policy set forth in subsection (a), except as
19 part of the review of a final order of removal pursuant
20 to section 242 of the Immigration and Nationality Act (8
21 U.S.C. 1252).

22 (e) AUTHORITY TO DETAIN.—Nothing in this section
23 shall be construed as limiting the authority of the Attor-
24 ney General to detain any person under any provision of

1 law, including, but not limited to, any provision of the Im-
2 migration and Nationality Act.

3 (f) DEFINITIONS.—

4 (1) CONVENTION DEFINED.—In this section,
5 the term “Convention” means the United Nations
6 Convention Against Torture and Other Forms of
7 Cruel, Inhuman or Degrading Treatment or Punish-
8 ment, done at New York on December 10, 1984.

9 (2) SAME TERMS AS IN THE CONVENTION.—Ex-
10 cept as otherwise provided, the terms used in this
11 section have the meanings given those terms in the
12 Convention, subject to any reservations, understand-
13 ings, declarations, and provisos contained in the
14 United States Senate resolution of ratification of the
15 Convention.

16 **SEC. 5. IMMIGRATION PROCEDURES FOR TORTURE VIC-**
17 **TIMS.**

18 (a) COVERED ALIENS.—An alien described in this
19 section is any alien who presents a claim of having been
20 subjected to torture, or whom there is reason to believe
21 has been subjected to torture.

22 (b) CONSIDERATION OF THE EFFECTS OF TOR-
23 TURE.—In considering an application by an alien de-
24 scribed in subsection (a) for refugee status under section
25 207 of the Immigration and Nationality Act, asylum under

1 section 208 of that Act, or withholding of removal under
2 section 241(b)(3) of that Act, the appropriate officials
3 shall take into account—

4 (1) the manner in which the effects of torture
5 might affect the applicant's responses in the applica-
6 tion and in the interview process or other immigra-
7 tion proceedings, as the case may be;

8 (2) the difficulties torture victims often have in
9 recounting their suffering under torture; and

10 (3) the fear victims have of returning to their
11 country of nationality where, even if torture is no
12 longer practiced or the incidence of torture is re-
13 duced, their torturers may have gone unpunished
14 and may remain in positions of authority.

15 (c) EXPEDITED PROCESSING OF REFUGEE ADMIS-
16 SIONS.—For purposes of section 207(e) of the Immigra-
17 tion and Nationality Act (8 U.S.C. 1157(c)), refugees who
18 have been subjected to torture shall be considered to be
19 refugees of special humanitarian concern to the United
20 States and shall be accorded priority for resettlement at
21 least as high as that accorded any other group of refugees.

22 (d) PROCESSING FOR ASYLUM AND WITHHOLDING
23 OF REMOVAL.—Section 235(b)(1)(A) of the Immigration
24 and Nationality Act (8 U.S.C. 1225(b)(1)(A)) is amended
25 by adding at the end the following new clause:

1 “(iv) SPECIAL PROCEDURES FOR
2 ALIENS WHO ARE THE VICTIMS OF TOR-
3 TURE.—

4 “(I) EXPEDITED PROCEDURES.—

5 With the consent of the alien, an asy-
6 lum officer or immigration judge shall
7 expedite the scheduling of an asylum
8 interview or a removal proceeding for
9 any alien who presents a claim of hav-
10 ing been subjected to torture, unless
11 the evidence indicates that a delay in
12 making a determination regarding the
13 granting of asylum under section 208
14 of the Immigration and Nationality
15 Act or the withholding of removal
16 under section 241(b)(3) of that Act
17 with respect to the alien would not ag-
18 gravate the physical or psychological
19 effects of torture upon the alien.

20 “(II) DELAY OF PROCEEDINGS.—

21 With the consent of the alien, an asy-
22 lum officer or immigration judge shall
23 postpone an asylum interview or a re-
24 moval proceeding for any alien who
25 presents a claim of having been sub-

1 jected to torture, if the evidence indi-
2 cates that, as a result of the alien’s
3 mental or physical symptoms resulting
4 from torture, including the alien’s in-
5 ability to recall or relate the events of
6 the torture, the alien will require more
7 time to recover or be treated before
8 being required to testify.”.

9 (e) PAROLE IN LIEU OF DETENTION.—The finding
10 that an alien is a person described in subsection (a) shall
11 be a strong presumptive basis for a grant of parole, under
12 section 212(d)(5) of the Immigration and Nationality Act
13 (8 U.S.C. 1182(d)(5)), in lieu of detention.

14 (f) EXEMPTION FROM EXPEDITED REMOVAL.—Sec-
15 tion 235(b)(1)(F) of the Immigration and Nationality Act
16 (8 U.S.C. 1225(b)(1)(F)) is amended by inserting before
17 the period at the end the following: “, or to an alien de-
18 scribed in section 5(a) of the Survivors of Torture Support
19 Act”.

20 (g) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that the Attorney General should allocate resources
22 sufficient to maintain in the Resource Information Center
23 of the Immigration and Naturalization Service current in-
24 formation relating to the use of torture in foreign coun-
25 tries.

1 **SEC. 6. SPECIALIZED TRAINING FOR CONSULAR, IMMIGRA-**
2 **TION, AND ASYLUM PERSONNEL.**

3 (a) IN GENERAL.—The Attorney General shall pro-
4 vide training for immigration inspectors and examiners,
5 immigration officers, asylum officers, immigration judges,
6 and all other relevant officials of the Department of Jus-
7 tice, and the Secretary of State shall provide training for
8 consular officers, with respect to—

9 (1) the identification of torture;

10 (2) the identification of the surrounding cir-
11 cumstances in which torture is most often practiced;

12 (3) the long-term effects of torture upon a vic-
13 tim;

14 (4) the identification of the physical, cognitive,
15 and emotional effects of torture, and the manner in
16 which these effects can affect the interview or hear-
17 ing process; and

18 (5) the manner of interviewing victims of tor-
19 ture so as not to retraumatize them, eliciting the
20 necessary information to document the torture expe-
21 rience, and understanding the difficulties victims
22 often have in recounting their torture experience.

23 (b) GENDER-RELATED CONSIDERATIONS.—In con-
24 ducting training under subsection (a) (4) or (5), gender-
25 specific training shall be provided on the subject of inter-

1 acting with women and men who are victims of torture
2 by rape or any other form of sexual violence.

3 **SEC. 7. DOMESTIC TREATMENT CENTERS.**

4 (a) AMENDMENT OF THE IMMIGRATION AND NA-
5 TIONALITY ACT.—Section 412 of the Immigration and
6 Nationality Act (8 U.S.C. 1522) is amended by adding
7 at the end the following new subsection:

8 “(b) ASSISTANCE FOR TREATMENT OF TORTURE
9 VICTIMS.—The Secretary may provide grants to programs
10 in the United States to cover the cost of the following serv-
11 ices:

12 “(1) Services for the rehabilitation of victims of
13 torture, including treatment of the physical and psy-
14 chological effects of torture.

15 “(2) Social and legal services for victims of tor-
16 ture.

17 “(3) Research and training for health care pro-
18 viders outside of treatment centers, or programs for
19 the purpose of enabling such providers to provide
20 the services described in paragraph (1).”.

21 (b) FUNDING.—

22 (1) AUTHORIZATION OF APPROPRIATIONS.—Of
23 the amounts authorized to be appropriated for the
24 Department of Health and Human Services for fis-
25 cal years 1999, 2000, and 2001, there are author-

1 ized to be appropriated to carry out section 412(g)
2 of that Act (relating to assistance for domestic cen-
3 ters and programs for the treatment of victims of
4 torture), as added by subsection (a), the following
5 amounts for the following fiscal years:

6 (A) For fiscal year 1999, \$5,000,000.

7 (B) For fiscal year 2000, \$7,500,000.

8 (C) For fiscal year 2001, \$8,000,000.

9 (2) AVAILABILITY OF FUNDS.—Amounts appro-
10 priated pursuant to this subsection shall remain
11 available until expended.

12 (c) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall take effect on October 1, 1998.

14 **SEC. 8. FOREIGN TREATMENT CENTERS.**

15 (a) AMENDMENTS OF THE FOREIGN ASSISTANCE
16 ACT OF 1961.—Part I of the Foreign Assistance Act of
17 1961 (22 U.S.C. 2151 et seq.) is amended by adding at
18 the end of chapter 1 the following new section:

19 **“SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.**

20 “(a) IN GENERAL.—The President is authorized to
21 provide assistance for the rehabilitation of victims of tor-
22 ture.

23 “(b) ELIGIBILITY FOR GRANTS.—Such assistance
24 shall be provided in the form of grants to treatment cen-
25 ters and programs in foreign countries that are carrying

1 out projects or activities specifically designed to treat vic-
2 tims of torture for the physical and psychological effects
3 of the torture.

4 “(c) USE OF FUNDS.—Such assistance shall be avail-
5 able—

6 “(1) for direct services to victims of torture;
7 and

8 “(2) to provide research and training to health
9 care providers outside of treatment centers or pro-
10 grams described in subsection (b), for the purpose of
11 enabling such providers to provide the services de-
12 scribed in paragraph (1).”.

13 (b) FUNDING.—

14 (1) AUTHORIZATION OF APPROPRIATIONS.—Of
15 the amounts authorized to be appropriated for fiscal
16 years 1999, 2000, and 2001 pursuant to chapter 1
17 of part I of the Foreign Assistance Act of 1961,
18 there are authorized to be appropriated to the Presi-
19 dent \$5,000,000 for fiscal year 1999, \$7,500,000 for
20 fiscal year 2000, and \$8,000,000 for fiscal year
21 2001 to carry out section 129 of the Foreign Assist-
22 ance Act of 1961, as added by subsection (a).

23 (2) AVAILABILITY OF FUNDS.—Amounts appro-
24 priated pursuant to this subsection shall remain
25 available until expended.

1 (c) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on October 1, 1998.

3 **SEC. 9. MULTILATERAL ASSISTANCE.**

4 (a) FUNDING.—Of the amounts authorized to be ap-
5 propriated for fiscal years 1999, 2000, and 2001 pursuant
6 to chapter 1 of part I of the Foreign Assistance Act of
7 1961, there are authorized to be appropriated to the
8 United Nations Voluntary Fund for Victims of Torture
9 (in this section referred to as the “Fund”) the following
10 amounts for the following fiscal years:

11 (1) FISCAL YEAR 1999.—For fiscal year 1999,
12 \$3,000,000.

13 (2) FISCAL YEAR 2000.—For fiscal year 2000,
14 \$3,000,000.

15 (3) FISCAL YEAR 2001.—For fiscal year 2001,
16 \$3,000,000.

17 (b) AVAILABILITY OF FUNDS.—Amounts appro-
18 priated pursuant to subsection (a) shall remain available
19 until expended.

20 (c) SENSE OF CONGRESS.—It is the sense of Con-
21 gress that the President, acting through the United States
22 Permanent Representative to the United Nations,
23 should—

24 (1) request the Fund—

1 (A) to find new ways to support and pro-
2 tect treatment centers and programs that are
3 carrying out rehabilitative services for victims
4 of torture; and

5 (B) to encourage the development of new
6 such centers and programs;

7 (2) use the voice and vote of the United States
8 to support the work of the Special Rapporteur on
9 Torture and the Committee Against Torture estab-
10 lished under the Convention Against Torture and
11 Other Cruel, Inhuman or Degrading Treatment or
12 Punishment; and

13 (3) use the voice and vote of the United States
14 to establish a country rapporteur or similar proce-
15 dural mechanism to investigate human rights viola-
16 tions in a country if either the Special Rapporteur
17 or the Committee Against Torture indicates that a
18 systematic practice of torture is prevalent in that
19 country.

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