

Calendar No. 247

105TH CONGRESS
1ST Session

S. 759

A BILL

To provide for an annual report to Congress
concerning diplomatic immunity.

NOVEMBER 4, 1997

Reported with an amendment and an amendment to the
title

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105TH CONGRESS
1ST SESSION**S. 759**

To provide for an annual report to Congress concerning diplomatic immunity.

IN THE SENATE OF THE UNITED STATES

MAY 16, 1997

Mr. COVERDELL introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

NOVEMBER 4, 1997

Reported by Mr. HELMS, with an amendment and an amendment to the title
[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide for an annual report to Congress concerning diplomatic immunity.

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. REPORTS AND POLICY CONCERNING DIPLO-**
4 **MATIC IMMUNITY.**5 (a) **FINDINGS.**—The Congress makes the following
6 findings:

1 (1) The United States was founded on the prin-
2 ciple that all men are equal before the law and any-
3 one, rich or poor, is entitled to the protection of the
4 law and also subject to just penalties under the law.

5 (2) International treaties regarding diplomatic
6 and consular immunity place diplomatic and con-
7 sular officials from foreign countries in the unique
8 situation of being above the law and not subject to
9 prosecution for criminal offenses committed in the
10 country in which they serve, or their home country.

11 (3) Recent events indicate that this situation is
12 endangering the safety and security of citizens and
13 other persons residing in the United States.

14 (4) It is incumbent on the President and the
15 Secretary of State to alleviate the injustice of the
16 situation regarding diplomatic and consular immu-
17 nity.

18 (b) ANNUAL REPORT CONCERNING DIPLOMATIC IM-
19 MUNITY.—

20 (1) REPORT TO CONGRESS.—The Secretary of
21 State shall prepare and submit to the Congress, an-
22 nually, a report concerning diplomatic immunity en-
23 titled “Report on Cases Involving Diplomatic Immu-
24 nity”.

1 (2) ~~CONTENT OF REPORT.~~—In addition to such
2 other information as the Secretary of State may con-
3 sider appropriate, the report under paragraph ~~(1)~~
4 shall include the following:

5 (A) The number of persons residing in the
6 United States who enjoy full immunity from the
7 criminal jurisdiction of the United States under
8 laws extending diplomatic privileges and immu-
9 nities.

10 (B) Each case involving an alien described
11 in subparagraph (A) in which the appropriate
12 authorities of a State, a political subdivision of
13 a State, or the United States reported to the
14 Department of State that the authority had
15 reasonable cause to believe the alien committed
16 a serious criminal offense within the United
17 States.

18 (C) Each case in which the United States
19 has certified that a person enjoys full immunity
20 from the criminal jurisdiction of the United
21 States under laws extending diplomatic privi-
22 leges and immunities.

23 (D) The number of United States citizens
24 who are residing in a receiving State and who
25 enjoy full immunity from the criminal jurisdic-

1 tion of such State under laws extending diplo-
2 matic privileges and immunities.

3 ~~(E)~~ Each case involving a United States
4 citizen under subparagraph ~~(D)~~ in which the
5 United States has been requested by the gov-
6 ernment of a receiving State to waive the im-
7 munity from criminal jurisdiction of the United
8 States citizen.

9 ~~(3)~~ SERIOUS CRIMINAL OFFENSE DEFINED.—

10 The term “serious criminal offense” means—

11 ~~(A)~~ any felony under Federal, State, or
12 local law;

13 ~~(B)~~ any Federal, State, or local offense
14 punishable by a term of imprisonment of more
15 than 1 year;

16 ~~(C)~~ any crime of violence as defined for
17 purposes of section 16 of title 18, United States
18 Code; or

19 ~~(D)~~ driving under the influence of alcohol
20 or drugs or driving while intoxicated if the case
21 involves personal injury to another individual.

22 ~~(c)~~ UNITED STATES POLICY CONCERNING REFORM
23 OF DIPLOMATIC IMMUNITY.—It is the sense of the Con-
24 gress that the Secretary of State should explore, in appro-

1 p r i a t e f o r a , w h e t h e r S t a t e s s h o u l d e n t e r i n t o a g r e e m e n t s
2 a n d a d o p t l e g i s l a t i o n —

3 (1) t o p r o v i d e j u r i s d i c t i o n i n t h e s e n d i n g S t a t e
4 t o p r o s e c u t e c r i m e s c o m m i t t e d i n t h e r e c e i v i n g S t a t e
5 b y p e r s o n s e n t i t l e d t o i m m u n i t y f r o m c r i m i n a l j u r i s -
6 d i c t i o n u n d e r l a w s e x t e n d i n g d i p l o m a t i c p r i v i l e g e s
7 a n d i m m u n i t i e s ; a n d

8 (2) t o p r o v i d e t h a t w h e r e t h e r e i s p r o b a b l e
9 c a u s e t o b e l i e v e t h a t a n i n d i v i d u a l w h o i s e n t i t l e d t o
10 i m m u n i t y f r o m t h e c r i m i n a l j u r i s d i c t i o n o f t h e r e -
11 c e i v i n g S t a t e u n d e r l a w s e x t e n d i n g d i p l o m a t i c p r i v i -
12 l e g e s a n d i m m u n i t i e s c o m m i t t e d a s e r i o u s c r i m e , t h e
13 s e n d i n g S t a t e w i l l w a i v e s u c h i m m u n i t y o r t h e s e n d -
14 i n g S t a t e w i l l p r o s e c u t e s u c h i n d i v i d u a l .

15 **SECTION 1. REPORTS AND POLICY CONCERNING DIPLO-**
16 **MATIC IMMUNITY.**

17 *Title I, of the State Department Basic Authorities Act*
18 *of 1956 (22 U.S.C. 4301 et seq.; commonly referred to as*
19 *the “Foreign Missions Act”)* is amended by inserting after
20 *section 204A the following new section:*

21 **“SEC. 204B. CRIMES COMMITTED BY DIPLOMATS.**

22 “(a) *ANNUAL REPORT CONCERNING DIPLOMATIC IM-*
23 *MUNITY.—*

24 “(1) *REPORT TO CONGRESS.—The Secretary of*
25 *State shall prepare and submit to the Congress, annu-*

1 *ally, a report concerning diplomatic immunity enti-*
2 *tled “Report on Cases Involving Diplomatic Immu-*
3 *nity”.*

4 *“(2) CONTENT OF REPORT.—In addition to such*
5 *other information as the Secretary of State may con-*
6 *sider appropriate, the report under paragraph (1)*
7 *shall include the following:*

8 *“(A) The number of persons residing in the*
9 *United States who enjoy full immunity from the*
10 *criminal jurisdiction of the United States under*
11 *laws extending diplomatic privileges and immu-*
12 *nities.*

13 *“(B) Each case involving an alien described*
14 *in subparagraph (A) in which an appropriate*
15 *authority of a State, a political subdivision of a*
16 *State, or the United States reported to the De-*
17 *partment of State that the authority had reason-*
18 *able cause to believe the alien committed a seri-*
19 *ous criminal offense within the United States,*
20 *and any additional information provided to the*
21 *Secretary relating to other serious criminal of-*
22 *fenses that any such authority had reasonable*
23 *cause to believe the alien committed before the*
24 *period covered by the report. The Secretary may*
25 *omit from such report any matter the provision*

1 *of which the Secretary reasonably believes would*
2 *compromise a criminal investigation or prosecu-*
3 *tion or which would directly compromise law en-*
4 *forcement or intelligence sources or methods.*

5 “(C) *Each case described in subparagraph*
6 *(B) in which the Secretary of State has certified*
7 *that a person enjoys full immunity from the*
8 *criminal jurisdiction of the United States under*
9 *laws extending diplomatic privileges and immu-*
10 *nities.*

11 “(D) *The number of United States citizens*
12 *who are residing in a receiving state and who*
13 *enjoy full immunity from the criminal jurisdic-*
14 *tion of such state under laws extending diplo-*
15 *matic privileges and immunities.*

16 “(E) *Each case involving a United States*
17 *citizen under subparagraph (D) in which the*
18 *United States has been requested by the govern-*
19 *ment of a receiving state to waive the immunity*
20 *from criminal jurisdiction of the United States*
21 *citizen.*

22 “(F) *Whether the Secretary has made the*
23 *notifications referred to in subsection (c) during*
24 *the period covered by the report.*

1 “(3) *SERIOUS CRIMINAL OFFENSE DEFINED.*—
 2 *For the purposes of this section, the term ‘serious*
 3 *criminal offense’ means—*

4 “(A) *any felony under Federal, State, or*
 5 *local law;*

6 “(B) *any Federal, State, or local offense*
 7 *punishable by a term of imprisonment of more*
 8 *than 1 year;*

9 “(C) *any crime of violence as defined for*
 10 *purposes of section 16 of title 18, United States*
 11 *Code; or*

12 “(D)(i) *driving under the influence of alco-*
 13 *hol or drugs;*

14 “(i) *reckless driving; or*

15 “(iii) *driving while intoxicated.*

16 “(b) *UNITED STATES POLICY CONCERNING REFORM*
 17 *OF DIPLOMATIC IMMUNITY.*—*It is the sense of the Congress*
 18 *that the Secretary of State should explore, in appropriate*
 19 *fora, whether states should enter into agreements and adopt*
 20 *legislation—*

21 “(1) *to provide jurisdiction in the sending state*
 22 *to prosecute crimes committed in the receiving state*
 23 *by persons entitled to immunity from criminal juris-*
 24 *diction under laws extending diplomatic privileges*
 25 *and immunities; and*

1 “(2) to provide that where there is probable cause
2 to believe that an individual who is entitled to immu-
3 nity from the criminal jurisdiction of the receiving
4 state under laws extending diplomatic privileges and
5 immunities committed a serious crime, the sending
6 state will waive such immunity or the sending state
7 will prosecute such individual.

8 “(c) NOTIFICATION OF DIPLOMATIC CORPS.—The Sec-
9 retary should periodically notify each foreign mission of
10 United States policies relating to criminal offenses commit-
11 ted by individuals with immunity from the criminal juris-
12 diction of the United States under laws extending diplo-
13 matic privileges and immunities.”.

Amend the title to read as follows: “A Bill to amend the State Department Basic Authorities Act of 1956 to require the Secretary of State to submit an annual report to Congress concerning diplomatic immunity.”.