

109TH CONGRESS
2^D SESSION

S. 3848

To amend title 18, United States Code, to support the war on terrorism,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 6, 2006

Mr. KYL (for himself, Mr. DEWINE, and Mr. CORNYN) 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 support the war
on terrorism, and for other purposes.

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 “Terrorism Prevention
5 Act of 2006”.

6 **SEC. 2. PROVIDING MATERIAL SUPPORT TO TERRORIST**
7 **GROUPS.**

8 (a) OFFENSE OF REWARDING OR FACILITATING
9 INTERNATIONAL TERRORIST ACTS.—

1 (1) IN GENERAL.—Chapter 113B of title 18,
2 United States Code, is amended by adding at the
3 end the following section:

4 **“§ 2339E. Providing material support to international**
5 **terrorism**

6 “(a) DEFINITIONS.—In this section:

7 “(1) The term ‘material support or resources’
8 has the same meaning as in section 2339A(b).

9 “(2) The term ‘the perpetrator of an act’ in-
10 cludes any person who—

11 “(A) commits the act;

12 “(B) aids, abets, counsels, commands, in-
13 duces, or procures its commission; or

14 “(C) attempts, plots, or conspires to com-
15 mit the act.

16 “(3) The term ‘international terrorism’ has the
17 same meaning as in section 2331.

18 “(4) The term ‘facility of interstate or foreign
19 commerce’ has the same meaning as in section
20 1958(b)(2).

21 “(5) The term ‘serious bodily injury’ has the
22 same meaning as in section 1365.

23 “(6) The term ‘national of the United States’
24 has the same meaning as in section 101(a)(22) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1101(a)(22)).

3 “(b) PROHIBITION.—Whoever, in a circumstance pro-
4 vided in subsection (c), provides material support or re-
5 sources to the perpetrator of an act of international ter-
6 rorism, or to a family member or other person associated
7 with such perpetrator, with the intent to facilitate, reward,
8 or encourage that act or other acts of international ter-
9 rorism, shall be fined under this title and imprisoned for
10 any term of years not less than 10 or for life, and, if death
11 results, shall be imprisoned for any term of years not less
12 than 30 or for life.

13 “(c) JURISDICTIONAL BASES.—A circumstance re-
14 ferred to in subsection (b) is—

15 “(1) the offense occurs in or affects interstate
16 or foreign commerce;

17 “(2) the offense involves the use of the mails or
18 a facility of interstate or foreign commerce;

19 “(3) an offender intends to facilitate, reward, or
20 encourage an act of international terrorism that af-
21 fects interstate or foreign commerce or would have
22 affected interstate or foreign commerce had it been
23 consummated;

1 “(4) an offender intends to facilitate, reward, or
2 encourage an act of international terrorism that vio-
3 lates the criminal laws of the United States;

4 “(5) an offender intends to facilitate, reward, or
5 encourage an act of international terrorism that is
6 designed to influence the policy or affect the conduct
7 of the United States Government;

8 “(6) an offender intends to facilitate, reward, or
9 encourage an act of international terrorism that oc-
10 curs in part within the United States and is de-
11 signed to influence the policy or affect the conduct
12 of a foreign government;

13 “(7) an offender intends to facilitate, reward, or
14 encourage an act of international terrorism that
15 causes or is designed to cause death or serious bod-
16 ily injury to a national of the United States while
17 that national is outside the United States, or sub-
18 stantial damage to the property of a legal entity or-
19 ganized under the laws of the United States (includ-
20 ing any of its States, districts, commonwealths, ter-
21 ritories, or possessions) while that property is out-
22 side of the United States;

23 “(8) the offense occurs in whole or in part with-
24 in the United States, and an offender intends to fa-
25 cilitate, reward or encourage an act of international

1 terrorism that is designed to influence the policy or
 2 affect the conduct of a foreign government; or

3 “(9) the offense occurs in whole or in part out-
 4 side of the United States, and an offender is a na-
 5 tional of the United States, a stateless person whose
 6 habitual residence is in the United States, or a legal
 7 entity organized under the laws of the United States
 8 (including any of its States, districts, common-
 9 wealths, territories, or possessions).”.

10 (2) TECHNICAL AND CONFORMING AMEND-
 11 MENTS.—

12 (A) TABLE OF SECTIONS.—The table of
 13 sections for chapter 113B of title 18, United
 14 States Code, is amended by adding at the end
 15 the following:

“2339D. Receiving military-type training from a foreign terrorist organization.
 “2339E. Providing material support to international terrorism.”.

16 (B) OTHER AMENDMENT.—Section
 17 2332b(g)(5)(B)(i) of title 18, United States
 18 Code, is amended by striking all after “2339C”
 19 and inserting “(relating to financing of ter-
 20 rorism), 2339E (relating to providing material
 21 support to international terrorism), or 2340A
 22 (relating to torture);”.

23 (b) INCREASED PENALTIES FOR PROVIDING MATE-
 24 RIAL SUPPORT TO TERRORISTS.—

1 (1) PROVIDING MATERIAL SUPPORT.—Section
2 2339A(a) of title 18, United States Code, is amend-
3 ed by striking “, imprisoned not more than 15
4 years,” and all that follows through “life.” and in-
5 serting “and imprisoned for any term of years not
6 less than 10 or for life, and, if the death of any per-
7 son results, shall be imprisoned for any term of
8 years not less than 25 or for life.”.

9 (2) PROVIDING MATERIAL SUPPORT OR RE-
10 SOURCES TO DESIGNATED FOREIGN TERRORIST OR-
11 GANIZATIONS.—Section 2339B(a) of title 18, United
12 States Code, is amended by striking “or imprisoned
13 not more than 15 years,” and all that follows
14 through “life.” and inserting “and imprisoned for
15 not less than 5 years and not more than 25 years,
16 and, if the death of any person results, shall be im-
17 prisoned for any term of years not less than 20 or
18 for life.”.

19 (3) RECEIVING MILITARY-TYPE TRAINING FROM
20 A FOREIGN TERRORIST ORGANIZATION.—Section
21 2339D of title 18, United States Code, is amended
22 by striking “or imprisoned for ten years, or both.”
23 and inserting “and imprisoned for not less than 3
24 years and not more than 15 years.”.

1 (c) EXCEPTIONS TO PROHIBITION.—Section
 2 2339A(b)(1) of title 18, United States Code, is amended
 3 by striking “, except medicine or religious materials”.

4 (d) ADDITION OF ATTEMPTS AND CONSPIRACIES TO
 5 AN OFFENSE RELATING TO MILITARY TRAINING.—Sec-
 6 tion 2339D of title 18, United States Code, is amended
 7 by inserting “, or attempts or conspires to receive,” after
 8 “receives”.

9 (e) DENIAL OF FEDERAL BENEFITS TO CONVICTED
 10 TERRORISTS.—

11 (1) IN GENERAL.—Chapter 113B of title 18,
 12 United States Code, as amended by this section, is
 13 further amended by adding at the end the following:

14 **“§ 2339F. Denial of Federal benefits to terrorists**

15 “(a) IN GENERAL.—Any individual who is convicted
 16 of a Federal crime of terrorism (as defined in section
 17 2332b(g)) shall, as provided by the court on motion of
 18 the Government, be ineligible for any or all Federal bene-
 19 fits for any term of years or for life.

20 “(b) FEDERAL BENEFIT DEFINED.—In this section,
 21 ‘Federal benefit’ has the meaning given that term in sec-
 22 tion 421(d) of the Controlled Substances Act (21 U.S.C.
 23 862(d)).”.

24 (2) TECHNICAL AND CONFORMING AMEND-
 25 MENT.—The table of sections for chapter 113B of

1 title 18, United States Code, as amended by this
 2 section, is further amended by adding at the end the
 3 following:

“2339F. Denial of Federal benefits to terrorists.”.

4 **SEC. 3. IMPROVEMENTS TO THE CLASSIFIED INFORMATION**
 5 **PROCEDURES ACT.**

6 (a) **SHORT TITLE.**—This section may be cited as the
 7 “Classified Information Procedures Reform Act of 2006”.

8 (b) **INTERLOCUTORY APPEALS UNDER THE CLASSI-**
 9 **FIED INFORMATION PROCEDURES ACT.**—Section 7(a) of
 10 the Classified Information Procedures Act (18 U.S.C.
 11 App.) is amended by adding at the end “The Govern-
 12 ment’s right to appeal under this section applies without
 13 regard to whether the order appealed from was entered
 14 under this Act.”.

15 (c) **EX PARTE AUTHORIZATIONS UNDER THE CLAS-**
 16 **SIFIED INFORMATION PROCEDURES ACT.**—Section 4 of
 17 the Classified Information Procedures Act (18 U.S.C.
 18 App.) is amended—

19 (1) in the second sentence—

20 (A) by striking “may” and inserting
 21 “shall”; and

22 (B) by striking “written statement to be
 23 inspected” and inserting “statement to be made
 24 ex parte and to be considered”; and

25 (2) in the third sentence—

1 (A) by striking “If the court enters an
2 order granting relief following such an ex parte
3 showing, the” and inserting “The”; and

4 (B) by inserting “, as well as any summary
5 of the classified information the defendant
6 seeks to obtain,” after “text of the statement of
7 the United States”.

8 (d) APPLICATION OF CLASSIFIED INFORMATION
9 PROCEDURES ACT TO NON-DOCUMENTARY INFORMA-
10 TION.—Section 4 of the Classified Information Procedures
11 Act (18 U.S.C. App.) is amended—

12 (1) in the section heading, by inserting “, AND
13 ACCESS TO,” after “OF”;

14 (2) by inserting “(a) DISCOVERY OF CLASSI-
15 FIED INFORMATION FROM DOCUMENTS.—” before
16 the first sentence; and

17 (3) by adding at the end the following:

18 “(b) ACCESS TO OTHER CLASSIFIED INFORMA-
19 TION.—

20 “(1) If the defendant seeks access through dep-
21 osition under the Federal Rules of Criminal Proce-
22 dure or otherwise to non-documentary information
23 from a potential witness or other person which he
24 knows or reasonably believes is classified, he shall
25 notify the attorney for the United States and the

1 district court in writing. Such notice shall specify
2 with particularity the classified information sought
3 by the defendant and the legal basis for such access.
4 At a time set by the court, the United States may
5 oppose access to the classified information.

6 “(2) If, after consideration of any objection
7 raised by the United States, including any objection
8 asserted on the basis of privilege, the court deter-
9 mines that the defendant is legally entitled to have
10 access to the information specified in the notice re-
11 quired by paragraph (1), the United States may re-
12 quest the substitution of a summary of the classified
13 information or the substitution of a statement ad-
14 mitting relevant facts that the classified information
15 would tend to prove.

16 “(3) The court shall permit the United States
17 to make its objection to access or its request for
18 such substitution in the form of a statement to be
19 made ex parte and to be considered by the court
20 alone. The entire text of the statement of the United
21 States, as well as any summary of the classified in-
22 formation the defendant seeks to obtain, shall be
23 sealed and preserved in the records of the court and
24 made available to the appellate court in the event of
25 an appeal.

1 “(4) The court shall grant the request of the
2 United States to substitute a summary of the classi-
3 fied information or to substitute a statement admit-
4 ting relevant facts that the classified information
5 would tend to prove if it finds that the summary or
6 statement will provide the defendant with substan-
7 tially the same ability to make his defense as would
8 disclosure of the specific classified information.

9 “(5) A defendant may not obtain access to clas-
10 sified information subject to this subsection except
11 as provided in this subsection. Any proceeding,
12 whether by deposition under the Federal Rules of
13 Criminal Procedure or otherwise, in which a defend-
14 ant seeks to obtain access to such classified informa-
15 tion not previously authorized by a court for diselo-
16 sure under this subsection must be discontinued or
17 may proceed only as to lines of inquiry not involving
18 such classified information.”.

19 **SEC. 4. IMPROVEMENTS TO THE TERRORIST HOAX STAT-**
20 **UTE.**

21 (a) **HOAX STATUTE.**—Section 1038 of title 18,
22 United States Code, is amended—

23 (1) in subsections (a)(1) and (b), by striking “a
24 violation” and all that follows through “title 49”

1 and inserting “an offense listed under section
2 2332b(g)(5)(B) of this title”; and

3 (2) in subsection (a)(2)—

4 (A) in subparagraph (A), by striking “, im-
5 prisoned not more than 5 years, or both” and
6 inserting “and imprisoned for not less than 2
7 years nor more than 10 years”;

8 (B) in subparagraph (B), by striking “,
9 imprisoned not more than 20 years, or both”
10 and inserting “and imprisoned for not less than
11 5 years nor more than 25 years”; and

12 (C) in subparagraph (C), by striking “, im-
13 prisoned for any term of years or for life, or
14 both” and inserting “and imprisoned for any
15 term of years not less than 10 or for life”.

16 (b) THREATENING COMMUNICATIONS.—

17 (1) MAILED WITHIN THE UNITED STATES.—

18 Section 876 of title 18, United States Code, is
19 amended by adding at the end thereof the following
20 new subsection:

21 “(e) For purposes of this section, the term ‘addressed
22 to any other person’ includes an individual (other than the
23 sender), a corporation or other legal person, and a govern-
24 ment or agency or component thereof.”.

1 (2) MAILED TO A FOREIGN COUNTRY.—Section
2 877 of title 18, United States Code, is amended by
3 adding at the end thereof the following new para-
4 graph:

5 “For purposes of this section, the term ‘addressed to
6 any person’ includes an individual, a corporation or other
7 legal person, and a government or agency or component
8 thereof.”.

9 **SEC. 5. TERRORIST MURDERS, KIDNAPPINGS, AND AS-**
10 **SAULTS.**

11 (a) HOMICIDE.—Section 2332(a) of title 18, United
12 States Code, is amended—

13 (1) by inserting “, or attempts or conspires to
14 kill,” after “Whoever kills”; and

15 (2) in paragraph (1), by striking “this title”
16 and all that follows and inserting “this title and
17 punished by death or imprisonment for any term of
18 years not less than 30 or for life;”

19 (b) KIDNAPPING.—Section 2332(b) of title 18,
20 United States Code, is amended to read as follows:

21 “(b) KIDNAPPING.—Whoever outside the United
22 States unlawfully seizes, confines, inveigles, decoys, kid-
23 naps, abducts, or carries away, or attempts or conspires
24 to seize, confine, inveigle, decoy, kidnap, abduct or carry
25 away, a national of the United States, shall be fined under

1 this title and punished by imprisonment for any term of
2 years not less than 20 or for life; and, if the death of any
3 person results, shall be fined under this title and punished
4 by death or imprisonment for life.”.

5 (c) OTHER CONDUCT.—Section 2332(e) of title 18,
6 United States Code, is amended—

7 (1) by inserting “(as defined in section 1365,
8 including any conduct that, if the conduct occurred
9 in the special maritime and territorial jurisdiction of
10 the United States, would violate section 2241 or
11 2242)” after “injury” in paragraphs (1) and (2);
12 and

13 (2) in the matter following paragraph (2), by
14 striking “or imprisoned” and all that follows and in-
15 serting “and imprisoned for any term of years not
16 less than 10 or for life.”.

17 (d) TERRORIST OFFENSES RESULTING IN DEATH.—

18 (1) IN GENERAL.—Chapter 113B of title 18,
19 United States Code, as amended by this Act, is fur-
20 ther amended by adding at the end the following:

21 **“§ 2339G. Terrorist offenses resulting in death**

22 “(a) Whoever, in the course of committing a terrorist
23 offense, engages in conduct that results in the death of
24 a person, shall be punished by death or imprisoned for
25 any term of years not less than 20 or for life.

1 “(b) In this section, the term ‘terrorist offense’
2 means—

3 “(1) a felony offense that is—

4 “(A) a Federal crime of terrorism as de-
5 fined in section 2332b(g), other than an offense
6 under section 1363; or

7 “(B) an offense under this chapter, section
8 175, 175b, 229, or 831, or section 236 of the
9 Atomic Energy Act of 1954; or

10 “(2) a Federal offense that is an attempt or
11 conspiracy to commit an offense described in para-
12 graph (1).”.

13 (2) TECHNICAL AND CONFORMING AMEND-
14 MENT.—The table of sections for chapter 113B of
15 title 18, United States Code, as amended by this
16 Act, is further amended by adding at the end the
17 following:

“2339G. Terrorist offenses resulting in death.”.

18 (e) DEATH PENALTIES.—

19 (1) MASS DESTRUCTION.—Section 832 of title
20 18, United States Code, is amended—

21 (A) in subsection (a), by striking “not
22 more than 20 years.” and inserting “any term
23 of years not less than 15 or for life.”; and

24 (B) in subsection (e), by striking “or for
25 life.” and inserting “not less than 15 or for life

1 and, if the death of any person results, shall be
2 punished by death or imprisonment for life.”

3 (2) MISSILE SYSTEMS DESIGNED TO DESTROY
4 AIRCRAFT.—Section 2332g(c)(3) of title 18, United
5 States Code, is amended by inserting “death or” be-
6 fore “imprisonment for life”.

7 (3) NUCLEAR MATERIAL.—Section 222b. of the
8 Atomic Energy Act of 1954 (42 U.S.C. 2272) is
9 amended by inserting “death or” before “imprison-
10 ment for life” the last place it appears.

11 (4) RADIOLOGICAL DISPERSAL DEVICES.—Sec-
12 tion 2332h(c)(3) of title 18, United States Code, is
13 amended by inserting “death or” before “imprison-
14 ment for life”.

15 (5) VARIOLA VIRUSES.—Section 175c(c)(3) of
16 title 18, United States Code, is amended by insert-
17 ing “death or” before “imprisonment for life”.

18 **SEC. 6. INVESTIGATION OF TERRORIST CRIMES.**

19 (a) NONDISCLOSURE OF FISA INVESTIGATIONS.—
20 The following provisions of the Foreign Intelligence Sur-
21 veillance Act of 1978 are each amended by inserting
22 “(other than in proceedings or other civil matters under
23 the immigration laws, as that term is defined in section
24 101(a)(17) of the Immigration and Nationality Act (8

1 U.S.C. 1101(a)(17)))” after “authority of the United
2 States”:

3 (1) Subsections (c), (e), and (f) of section 106
4 (50 U.S.C. 1806).

5 (2) Subsections (d), (f), and (g) of section 305
6 (50 U.S.C. 1825).

7 (3) Subsections (c), (e), and (f) of section 405
8 (50 U.S.C. 1845).

9 (b) MULTIDISTRICT SEARCH WARRANTS IN TER-
10 RORISM INVESTIGATIONS.—Rule 41(b)(3) of the Federal
11 Rules of Criminal Procedure is amended to read as fol-
12 lows:

13 “(3) a magistrate judge—in an investigation
14 of—

15 “(A) a Federal crime of terrorism (as de-
16 fined in section 2332b(g)(g) of title 18, United
17 States Code); or

18 “(B) an offense under section 1001 or
19 1505 of title 18, United States Code, relating
20 to information or purported information con-
21 cerning a Federal crime of terrorism (as de-
22 fined in section 2332b(g)(5) of title 18, United
23 States Code)—having authority in any district
24 in which activities related to the Federal crime
25 of terrorism or offense may have occurred, may

1 issue a warrant for a person or property within
2 or outside that district.”.

3 (c) INCREASED PENALTIES FOR OBSTRUCTION OF
4 JUSTICE IN TERRORISM CASES.—Sections 1001(a) and
5 1505 of title 18, United States Code, are amended by
6 striking “8 years” and inserting “10 years”.

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