

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

# S. 2040

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## AN ACT

To deter terrorism, provide justice for victims, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Justice Against Spon-  
3 sors of Terrorism Act”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) International terrorism is a serious and  
7 deadly problem that threatens the vital interests of  
8 the United States.

9 (2) International terrorism affects the inter-  
10 state and foreign commerce of the United States by  
11 harming international trade and market stability,  
12 and limiting international travel by United States  
13 citizens as well as foreign visitors to the United  
14 States.

15 (3) Some foreign terrorist organizations, acting  
16 through affiliated groups or individuals, raise signifi-  
17 cant funds outside of the United States for conduct  
18 directed and targeted at the United States.

19 (4) It is necessary to recognize the substantive  
20 causes of action for aiding and abetting and con-  
21 spiracy liability under chapter 113B of title 18,  
22 United States Code.

23 (5) The decision of the United States Court of  
24 Appeals for the District of Columbia in *Halberstam*  
25 *v. Welch*, 705 F.2d 472 (D.C. Cir. 1983), which has  
26 been widely recognized as the leading case regarding

1 Federal civil aiding and abetting and conspiracy li-  
2 ability, including by the Supreme Court of the  
3 United States, provides the proper legal framework  
4 for how such liability should function in the context  
5 of chapter 113B of title 18, United States Code.

6 (6) Persons, entities, or countries that know-  
7 ingly or recklessly contribute material support or re-  
8 sources, directly or indirectly, to persons or organi-  
9 zations that pose a significant risk of committing  
10 acts of terrorism that threaten the security of na-  
11 tionals of the United States or the national security,  
12 foreign policy, or economy of the United States, nec-  
13 essarily direct their conduct at the United States,  
14 and should reasonably anticipate being brought to  
15 court in the United States to answer for such activi-  
16 ties.

17 (7) The United States has a vital interest in  
18 providing persons and entities injured as a result of  
19 terrorist attacks committed within the United States  
20 with full access to the court system in order to pur-  
21 sue civil claims against persons, entities, or countries  
22 that have knowingly or recklessly provided material  
23 support or resources, directly or indirectly, to the  
24 persons or organizations responsible for their inju-  
25 ries.

1 (b) PURPOSE.—The purpose of this Act is to provide  
 2 civil litigants with the broadest possible basis, consistent  
 3 with the Constitution of the United States, to seek relief  
 4 against persons, entities, and foreign countries, wherever  
 5 acting and wherever they may be found, that have pro-  
 6 vided material support, directly or indirectly, to foreign  
 7 organizations or persons that engage in terrorist activities  
 8 against the United States.

9 **SEC. 3. RESPONSIBILITY OF FOREIGN STATES FOR INTER-**  
 10 **NATIONAL TERRORISM AGAINST THE UNITED**  
 11 **STATES.**

12 (a) IN GENERAL.—Chapter 97 of title 28, United  
 13 States Code, is amended by inserting after section 1605A  
 14 the following:

15 **“§ 1605B. Responsibility of foreign states for inter-**  
 16 **national terrorism against the United**  
 17 **States**

18 “(a) DEFINITION.—In this section, the term ‘inter-  
 19 national terrorism’—

20 “(1) has the meaning given the term in section  
 21 2331 of title 18, United States Code; and

22 “(2) does not include any act of war (as defined  
 23 in that section).

24 “(b) RESPONSIBILITY OF FOREIGN STATES.—A for-  
 25 eign state shall not be immune from the jurisdiction of

1 the courts of the United States in any case in which money  
2 damages are sought against a foreign state for physical  
3 injury to person or property or death occurring in the  
4 United States and caused by—

5 “(1) an act of international terrorism in the  
6 United States; and

7 “(2) a tortious act or acts of the foreign state,  
8 or of any official, employee, or agent of that foreign  
9 state while acting within the scope of his or her of-  
10 fice, employment, or agency, regardless where the  
11 tortious act or acts of the foreign state occurred.

12 “(c) CLAIMS BY NATIONALS OF THE UNITED  
13 STATES.—Notwithstanding section 2337(2) of title 18, a  
14 national of the United States may bring a claim against  
15 a foreign state in accordance with section 2333 of that  
16 title if the foreign state would not be immune under sub-  
17 section (b).

18 “(d) RULE OF CONSTRUCTION.—A foreign state shall  
19 not be subject to the jurisdiction of the courts of the  
20 United States under subsection (b) on the basis of an  
21 omission or a tortious act or acts that constitute mere neg-  
22 ligence.”.

23 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

24 (1) The table of sections for chapter 97 of title  
25 28, United States Code, is amended by inserting

1 after the item relating to section 1605A the fol-  
2 lowing:

“1605B. Responsibility of foreign states for international terrorism against the  
United States.”.

3 (2) Subsection 1605(g)(1)(A) of title 28,  
4 United States Code, is amended by inserting “or  
5 section 1605B” after “but for section 1605A”.

6 **SEC. 4. AIDING AND ABETTING LIABILITY FOR CIVIL AC-**  
7 **TIONS REGARDING TERRORIST ACTS.**

8 (a) IN GENERAL.—Section 2333 of title 18, United  
9 States Code, is amended by adding at the end the fol-  
10 lowing:

11 “(d) LIABILITY.—

12 “(1) DEFINITION.—In this subsection, the term  
13 ‘person’ has the meaning given the term in section  
14 1 of title 1.

15 “(2) LIABILITY.—In an action under subsection  
16 (a) for an injury arising from an act of international  
17 terrorism committed, planned, or authorized by an  
18 organization that had been designated as a foreign  
19 terrorist organization under section 219 of the Im-  
20 migration and Nationality Act (8 U.S.C. 1189), as  
21 of the date on which such act of international ter-  
22 rorism was committed, planned, or authorized, liabil-  
23 ity may be asserted as to any person who aids and  
24 abets, by knowingly providing substantial assistance,

1 or who conspires with the person who committed  
2 such an act of international terrorism.”.

3 (b) EFFECT ON FOREIGN SOVEREIGN IMMUNITIES  
4 ACT.—Nothing in the amendment made by this section  
5 affects immunity of a foreign state, as that term is defined  
6 in section 1603 of title 28, United States Code, from juris-  
7 diction under other law.

8 **SEC. 5. STAY OF ACTIONS PENDING STATE NEGOTIATIONS.**

9 (a) EXCLUSIVE JURISDICTION.—The courts of the  
10 United States shall have exclusive jurisdiction in any ac-  
11 tion in which a foreign state is subject to the jurisdiction  
12 of a court of the United States under section 1605B of  
13 title 28, United States Code, as added by section 3(a) of  
14 this Act.

15 (b) INTERVENTION.—The Attorney General may in-  
16 tervene in any action in which a foreign state is subject  
17 to the jurisdiction of a court of the United States under  
18 section 1605B of title 28, United States Code, as added  
19 by section 3(a) of this Act, for the purpose of seeking a  
20 stay of the civil action, in whole or in part.

21 (c) STAY.—

22 (1) IN GENERAL.—A court of the United States  
23 may stay a proceeding against a foreign state if the  
24 Secretary of State certifies that the United States is  
25 engaged in good faith discussions with the foreign

1 state defendant concerning the resolution of the  
2 claims against the foreign state, or any other parties  
3 as to whom a stay of claims is sought.

4 (2) DURATION.—

5 (A) IN GENERAL.—A stay under this sec-  
6 tion may be granted for not more than 180  
7 days.

8 (B) EXTENSION.—

9 (i) IN GENERAL.—The Attorney Gen-  
10 eral may petition the court for an exten-  
11 sion of the stay for additional 180-day pe-  
12 riods.

13 (ii) RECERTIFICATION.—A court shall  
14 grant an extension under clause (i) if the  
15 Secretary of State recertifies that the  
16 United States remains engaged in good  
17 faith discussions with the foreign state de-  
18 fendant concerning the resolution of the  
19 claims against the foreign state, or any  
20 other parties as to whom a stay of claims  
21 is sought.

22 **SEC. 6. SEVERABILITY.**

23 If any provision of this Act or any amendment made  
24 by this Act, or the application of a provision or amend-  
25 ment to any person or circumstance, is held to be invalid,

1 the remainder of this Act and the amendments made by  
2 this Act, and the application of the provisions and amend-  
3 ments to any other person not similarly situated or to  
4 other circumstances, shall not be affected by the holding.

5 **SEC. 7. EFFECTIVE DATE.**

6 The amendments made by this Act shall apply to any  
7 civil action—

8 (1) pending on, or commenced on or after, the  
9 date of enactment of this Act; and

10 (2) arising out of an injury to a person, prop-  
11 erty, or business on or after September 11, 2001.

Passed the Senate May 17, 2016.

Attest:

*Secretary.*

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