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To deter terrorism, provide justice for victims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 23, 2009

Mr. SPECTER (for himself, Mr. SCHUMER, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

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

6 **SEC. 2. FINDINGS AND PURPOSE.**

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

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

1 (2) The Constitution confers upon Congress the
2 power to punish crimes against the law of nations
3 and to carry out the treaty obligations of the United
4 States, and therefore Congress may by law impose
5 penalties relating to the provision of material sup-
6 port to foreign organizations engaged in terrorist ac-
7 tivity, and allow for victims of international ter-
8 rorism to recover damages from those who have
9 harmed them.

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

16 (4) Some foreign terrorist organizations, acting
17 through affiliated groups or individuals, raise signifi-
18 cant funds outside the United States for conduct di-
19 rected and targeted at the United States.

20 (5) Foreign organizations that engage in ter-
21 rorist activity are so tainted by their criminal con-
22 duct that any contribution to such an organization
23 facilitates that conduct.

24 (6) The imposition of civil liability at every
25 point along the causal chain of terrorism is nec-

1 essary to deter the flow of terrorism’s lifeblood,
2 money. As recognized by Judge Richard Posner in
3 *Boim v. Holy Land Foundation for Relief and De-*
4 *velopment*, Nos. 05–1815, 05–1816, 05–1821, 05–
5 1822, __ F.3d __ (7th Cir. 2008) (en banc), “Dam-
6 ages are a less effective remedy against terrorists
7 and their organizations than against their financial
8 angels . . . suits against financiers of terrorism can
9 cut the terrorists’ lifeline.” Moreover, the statute of
10 limitations for such claims must be extensive for
11 such claims, for as the Seventh Circuit notes, “Seed
12 money for terrorism can sprout acts of violence long
13 after the investment”.

14 (7) The reasoning and decision of the United
15 States Court of Appeals for the Second Circuit in *In*
16 *Re: Terrorists Attacks on September 11, 2001*, 538
17 F.3d 71 (2d Cir. 2008) undermine important
18 counter-terrorism policies of the United States, by
19 affording undue protection from civil liability to per-
20 sons, entities and states that provide material sup-
21 port or resources to foreign terrorist organizations,
22 and by depriving victims of international terrorism
23 of meaningful access to court to seek redress for
24 their injuries.

1 (8) Persons, entities or states that knowingly or
2 recklessly contribute material support or resources,
3 directly or indirectly, to persons or organizations
4 that pose a significant risk of committing acts of
5 terrorism that threaten the security of United States
6 nationals or the national security, foreign policy, or
7 economy of the United States, necessarily direct
8 their conduct at the United States, and should rea-
9 sonably anticipate being haled into court in the
10 United States to answer for such activities.

11 (9) The United States has a vital interest in
12 providing persons and entities injured as a result of
13 terrorist attacks committed within the United States
14 with full access to court to pursue civil claims
15 against persons, entities, or states that have know-
16 ingly or recklessly provided material support or re-
17 sources, directly or indirectly, to the persons or or-
18 ganizations responsible for their injuries.

19 (b) PURPOSE.—The purpose of this Act is to provide
20 civil litigants with the fullest possible basis, consistent
21 with the Constitution, to seek relief against persons, enti-
22 ties and foreign states, wherever acting and wherever they
23 may be found, which have provided material support or
24 resources, directly or indirectly, to foreign organizations
25 that engage in terrorist activities.

1 **SEC. 3. FOREIGN SOVEREIGN IMMUNITY.**

2 (a) EXCEPTIONS.—Section 1605(a)(5) of title 28,
3 United States Code, is amended—

4 (1) in the matter before subparagraph (A),
5 by—

6 (A) inserting “in tort” after “in which
7 money damages are sought”;

8 (B) inserting “regardless of where the un-
9 derlying tortious act or omission is committed,
10 and to include without limitation any tort claim
11 in relation to an act of extrajudicial killing, air-
12 craft sabotage, hostage taking, terrorism, or the
13 provision of material support or resources (as
14 defined in section 2339A of title 18) for such
15 an act, or any claim for contribution or indem-
16 nity in relation to a claim arising from such an
17 act,” after “United States”; and

18 (C) striking “and caused by the tortious
19 act or omission of that foreign state or of any
20 official or employee of that foreign state while
21 acting within the scope of his office or employ-
22 ment”; and

23 (2) in subparagraph (A), by inserting “, subject
24 to the limitations of international and other gov-
25 erning law and fundamental precepts of humanity,”
26 after “function”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply retroactively to—

3 (1) all proceedings pending in any court at the
4 date of enactment of this Act as provided in sub-
5 section (c) and commenced after the date of enact-
6 ment of this Act; and

7 (2) dismissed actions as provided in subsection
8 (d).

9 (c) PENDING ACTIONS.—With respect to any action
10 that—

11 (1) was brought under section 1605(a)(5) of
12 title 28, United States Code, before the date of the
13 enactment of this Act;

14 (2) relied upon said provision as establishing
15 subject matter jurisdiction; and

16 (3) as of such date of enactment, is before the
17 courts in any form, including on appeal or motion
18 under rule 60(b) of the Federal Rules of Civil Proce-
19 dure;

20 that action shall, on motion made by plaintiffs to the court
21 where the action is then pending, be given effect as if the
22 action had originally been filed under section 1605(a)(5)
23 of title 28, United States Code, as amended by this Act.

24 (d) DISMISSED ACTIONS.—With respect to any action
25 that—

1 (1) was brought under section 1605(a)(5) of
2 title 28, United States Code, before the date of the
3 enactment of this Act;

4 (2) relied upon said provision as establishing
5 subject matter jurisdiction; and

6 (3) has been finally dismissed on the grounds
7 that said provision did not provide a basis for sub-
8 ject matter jurisdiction in relation to claims arising
9 from an act of terrorism;

10 that action shall, on motion made by plaintiffs to the
11 United States district court where the action was origi-
12 nally filed, be reinstated.

13 **SEC. 4. JURISDICTION OVER FOREIGN STATES FOR AC-**
14 **TIONS OF FOREIGN OFFICIALS.**

15 (a) IN GENERAL.—Section 1604 of title 28, United
16 States Code, is amended by inserting at the end the fol-
17 lowing:

18 “Except as provided under section 1605A, any claim
19 based on an act or omission of an official or employee of
20 a foreign state or of an official or employee of an organ
21 of a foreign state, while acting within the scope of his of-
22 fice or employment, shall be asserted against the foreign
23 state or organ of the foreign state.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to all proceedings commenced after
3 the date of enactment of this Act.

4 **SEC. 5. AIDING AND ABETTING LIABILITY UNDER THE**
5 **ANTI-TERRORISM ACT OF 1991.**

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

9 “(d) LIABILITY.—In a suit arising under subsection
10 (a) of this section, liability may be asserted as to the per-
11 son or persons who committed such act of international
12 terrorism or any person or entity that aided, abetted, pro-
13 vided material support or resources (as defined in Section
14 2339A(b)(1) of this title) to, or conspired with the person
15 or persons who committed such an act of international ter-
16 rorism.

17 “(e) NON-APPLICABILITY OF DOCTRINE OF CLAIM
18 PRECLUSION.—Any action that seeks recovery under this
19 chapter, as amended, for conduct that was the basis of
20 a previous suit dismissed for lack of subject matter juris-
21 diction under the Foreign Sovereign Immunities Act (28
22 U.S.C. 1330, 1602 et seq.), shall not, to that extent, be
23 subject to dismissal under the doctrine of claim pre-
24 clusion.”.

1 (b) EFFECTIVE DATE.—This amendment shall apply
2 retroactively to all proceedings pending in any form on the
3 date of enactment of this Act and to all proceedings com-
4 menced after the date of enactment of this Act.

5 **SEC. 6. JURISDICTION UNDER THE ANTI-TERRORISM ACT**
6 **OF 1991.**

7 (a) IN GENERAL.—Section 2334 of title 18, United
8 States Code, is amended by inserting at the end the fol-
9 lowing:

10 “(e) JURISDICTION.—The district courts shall have
11 personal jurisdiction, to the maximum extent permissible
12 under the Fifth Amendment of the United States Con-
13 stitution, over any person who aids and abets an act of
14 international terrorism or who provides material support
15 or resources as set forth in sections 2339A, 2339B, or
16 2339C of this title, for acts of international terrorism in
17 which any national of the United States suffers injury in
18 his or her person, property or business by reason of such
19 an act in violation of section 2333 of this title.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply retroactively to all proceedings
22 pending in any form at on date of enactment of this Act
23 and to all proceedings commenced after the date of enact-
24 ment of this Act.

1 **SEC. 7. LIABILITY FOR GOVERNMENT OFFICIALS UNDER**
2 **THE ANTI-TERRORISM ACT OF 1991.**

3 (a) IN GENERAL.—Section 2337 of title 18, United
4 States Code, is amended to read as follows:

5 **“SEC. 2337. SUITS AGAINST GOVERNMENT OFFICIALS.**

6 “No action shall be maintained under section 2333
7 of this title against the United States, an agency of the
8 United States, or an officer or employee of the United
9 States or any agency thereof acting within his or her offi-
10 cial capacity or under color of legal authority.”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 this section shall apply retroactively to all proceedings
13 pending in any form on the date of enactment of this Act
14 and to all proceedings commenced after the date of enact-
15 ment of this Act.

16 **SEC. 8. STATUTE OF LIMITATIONS UNDER THE ANTI-TER-**
17 **RORISM ACT OF 1991.**

18 (a) IN GENERAL.—Section 2335 of title 18, United
19 States Code, is amended—

20 (1) in subsection (a), by striking “four years”
21 and inserting “10 years”; and

22 (2) in subsection (b), by striking “four years”
23 and inserting “10 years”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 this section shall apply retroactively to all proceedings
26 pending in any form on the date of enactment of this Act

1 and to all proceedings commenced after the date of enact-
2 ment of this Act.

3 (c) EFFECT ON DISMISSED CAUSES OF ACTION.—

4 Any private civil action arising from a violation of the
5 Anti-Terrorism Act of 1991—

6 (1) that was dismissed as time barred prior to
7 the date of enactment of this Act; and

8 (2) which would have been timely filed pursuant
9 to section 2335 of title 18, United States Code, as
10 amended by this section, may be refiled not later
11 than 90 days after the date of enactment of this
12 Act.

13 **SEC. 9. SEVERABILITY.**

14 If any provision of this Act or the amendments made
15 by this Act or the application thereof to any person or
16 circumstance is held invalid, the remainder of this Act,
17 the amendments made by this Act, or the application
18 thereof to other persons not similarly situated or to other
19 circumstances shall not be affected by such invalidation.

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