

107TH CONGRESS
1ST SESSION

H.R. _____

To combat terrorism and defend the Nation against terrorist acts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

September __, 2001

A BILL

To combat terrorism and defend the Nation against terrorist acts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This act may be cited as the "Mobilization Against Terrorism Act".

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TITLE I--INTELLIGENCE GATHERING

Subtitle A--Electronic Surveillance

SEC. 101. TERRORISM AS A PREDICATE ACT FOR AUTHORIZATION OF WIRETAPS.

Section 2516(1) of title 18, United States Code, is amended--

(1) by redesignating paragraph (p), as so redesignated by section 434(2) of Public Law 104-132 (110 Stat. 1274), as paragraph (r); and

(2) by inserting after paragraph (p), as so redesignated by section 201(3) of division C of Public Law 104-208 (110 Stat. 3009-565), the following new paragraph:

"(q) any violation of section 2332d or of a provision listed in section 2332b(g)(5)(B) (relating to terrorism); or"

SEC. 102. EMERGENCY WIRETAP AND PEN REGISTER AUTHORITIES

Title 18, United States Code, is amended--

(1) in section 2518(7)(a)(iii), by inserting ", or domestic terrorism or international terrorism (as defined in section 2331)," after "organized crime";

(2) in section 2331--

(A) in subsection (1)(B)(iii), by replacing "assassination" with "mass destruction, assassination,"; and

(B) by inserting the following after subsection (4):

(1) in subsection (a)--

(A) by inserting "in a position not lower than Deputy Assistant Director at Bureau headquarters or Special Agent in Charge in Bureau field offices" after "designee" the first place it appears; and

(B) by replacing "writing that" and all that follows through the end with "writing such information is necessary for the conduct of an authorized foreign counterintelligence investigation.";

(2) in subsection (b)--

(A) by inserting "(in a position not lower than Deputy Assistant Director at Bureau headquarters or Special Agent in Charge in Bureau field offices)" after "designee" the first place it appears; and

(B) by replacing "writing that" and all that follows through the end with "writing that such information is necessary for the conduct of an authorized foreign counterintelligence investigation."; and

(3) in subsection (c)--

(A) by inserting "(in a position not lower than Deputy Assistant Director at Bureau headquarters or Special Agent in Charge in Bureau field offices)" after "designee"; and

(B) by replacing "camera that" and all that follows through "States." with "camera that the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation."

Title II--IMMIGRATION

SEC. 201. ADMINISTRATIVE REMOVAL OF TERRORISTS.

Section 238 of the Immigration and Nationality Act of 1952

(8 U.S.C. 1228) is amended—

(1) in the heading, by replacing "Aliens Convicted Of Committing Aggravated Felonies" with "Certain Aliens";

(2) in the heading of subsection (a), by inserting "Institutional" before "Removal";

(3) in paragraph (a)(1), by replacing "241" each place it appears with "237";

(4) by amending the heading of subsection (b) to read "Proceedings for the Administrative Removal of Aliens";

(5) in subsection (b)(1), by inserting "or, in the case of an alien certified under paragraph (2)(C), under any provision of section 237," after "felony";

(6) in subparagraph (b)(2)(A), by striking "or" at the end;

(7) at the end of subparagraph (b)(2)(B), by replacing the period with "or", and by inserting thereafter a new subparagraph as follows:

"(C) has been certified by the Attorney General, pursuant to paragraph (6), which certification is not reviewable except as provided in paragraph (b)(7).";

(8) at the end of paragraph (b)(5), by inserting two new paragraphs as follows:

"(6) Recommendation to the Attorney General.—The Commissioner, after consultation with the Director of the Federal Bureau of Investigation, may recommend to the Attorney General that an alien be certified as an alien the Service has reason to believe may further or facilitate acts of terrorism as described in section 237(a)(4)(a)(i), or 237(a)(4)(a)(iii), or 237(a)(4)(B), or any other activity that endangers the national security of the United States, which recommendation is not reviewable by any court.

"(7) Notwithstanding any other provision of law, judicial review of an order under subparagraph (b)(2)(C) shall be available only by a

filing in the United States Court of Appeals for the District of Columbia."

(9) by replacing the subsection (c) not redesignated as such by section 671(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 with the following:

"(c) **Presumption Of Removability.**--An alien convicted of an aggravated felony, or certified pursuant to section 238(b)(2)(C), shall be conclusively presumed to be removable from the United States.";

(10) by redesignating the subsection (c) redesignated as such by section 671(b)(13) of Illegal Immigration Reform and Immigrant Responsibility Act of 1996 as subsection (d).

SEC. 202. DEFINITIONS RELATING TO TERRORISM.

The Immigration and Nationality Act of 1952 is amended--

(1) in Section 212(a)(3)(B) (8 U.S.C. 1182)--

(A) in clause (ii)--

(i) by inserting "it had been" before "committed in the United States"; and

(ii) by replacing "or firearm" with ", firearm, or other weapon";

(B) by amending clause (iii) to read as follows:

"(iii) **Engage in terrorist activity defined**

"As used in this chapter, the term "engage in terrorist activity" means, in an individual capacity or as a member of an organization--

"(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or serious bodily injury, an act of terrorist activity;

"(II) to prepare or plan a terrorist activity;

"(II) to gather information on potential targets for terrorist activity;

"(III) to solicit funds or other things of value for terrorist activity or for any terrorist organization;

"(IV) to solicit any individual for membership in a terrorist organization, terrorist government, or to engage in a terrorist activity; or

"(V) otherwise to commit an act that the actor knows, or reasonably should know, affords material support (including, without limitation, a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons, explosives, or training), to any organization that the actor knows, or reasonably should know, is a terrorist organization, or to any individual whom the actor knows, or reasonably should know, has committed or plans to commit any terrorist activity.

"This clause shall not be construed to encompass any material support the alien affords to an individual who had previously committed terrorist activity if the alien establishes by clear and convincing evidence that such support was afforded only after that individual had permanently and publicly renounced and rejected the use of, and had ceased to commit or support, any terrorist activity."; and

(C) by adding a new clause after clause (iv) to read as follows:

"(v) Terrorist organization defined

"As used in clause (iii), the term "terrorist organization" means any organization-

"(I) designated or redesignated under section 219;

"(II) that commits or materially supports, or that has a significant subgroup that commits or materially supports, terrorist activity, regardless of any other activities conducted by the organization or its subgroups;

"(III) that intends to commit or materially support, or that has a significant subgroup that intends to commit or materially support, terrorist activity, regardless of any other activities conducted by the organization or its subgroups; or

"(IV) that has committed or materially supported, or that has a significant subgroup that has committed or materially supported, terrorist activity, regardless of any other activities conducted by the organization or its subgroups, unless the alien establishes by clear and convincing evidence that the material support was only afforded after the organization and all of its significant subgroups had permanently and publicly renounced and rejected the use of, and had ceased to commit or support, any terrorist activity."; and

(2) in Section 219(a) (8 U.S.C. 1189(a))--

(A) in subparagraph (1)(B), by inserting "or terrorism (as defined in section 140(d)(2) of the State Department Authorization Act,

Public Law 100-204 (22 U.S.C. 2656f(d)(2)))” after “212(a)(3)(B))”;

(B) in subparagraph (1)(C), by inserting “or terrorism” after “terrorist activity”;

(C) by amending subparagraph (2)(A) to read as follows:

“(A) NOTICE.—

“(i) Seven days before making a designation under this subsection, the Secretary shall, by classified communication, notify the Speaker and Minority Leader of the House of Representatives, the President pro tempore, Majority Leader, and Minority Leader of the Senate, and the members of the relevant committees, in writing, of the intent to designate an organization under this subsection, together with the findings made under paragraph (1) with respect to that organization, and the factual basis therefor.

“(ii) The Secretary shall publish the designation in the Federal Register seven days after providing the notification under clause (i).”;

(D) in clause (2)(B)(i), by replacing “subparagraph (A)” with “subparagraph (A)(ii)”;

(E) in subparagraph (2)(C), by replacing “paragraph (2)” with “paragraph (2)(A)(i)”;

(F) in subparagraph (3)(B), by replacing “subsection (c)” with “subsection (b)”;

(G) in subparagraph (4)(B), by inserting after the first sentence the following:

“The Secretary also may redesignate such organization at the end of any 2-year redesignation period (but not sooner than 60 days prior to the termination of such period) for

an additional 2-year period upon a finding that the relevant circumstances described in paragraph (1) still exist. Any redesignation shall be effective immediately following the end of the prior 2-year designation or redesignation period unless a different effective date is provided in such redesignation.”;

(H) in subparagraph (6)(A),

(i) by inserting “or a redesignation made under paragraph (4)(B)” after “paragraph (1)”;

(ii) in clause (i), by

(I) inserting “or redesignation” after “designation” the first time it appears; and

(II) striking “of the designation”; and

(iii) in clause (i), by striking “of the designation”;

(I) in subparagraph (6)(B), by

(i) replacing “through (4)” with “and (3)”;

(ii) inserting the following new sentence at the end:

“Any revocation shall take effect on the date specified in the revocation or upon publication in the Federal Register if no effective date is specified.”;

(J) in paragraph (7), by inserting “, or the revocation of a redesignation under paragraph (6),” after “paragraph (5) or (6)”, and

(K) in paragraph (8), by

(i) replacing “paragraph (1)(B)” with “paragraph (2)(B), or if a redesignation under this subsection has become effective under paragraph (4)(B)”;

(ii) inserting “or an alien in a removal proceeding” after “criminal action”; and

(iii) inserting “or redesignation” before “as a defense”.

SEC. 203. MANDATORY DETENTION OF SUSPECTED TERRORISTS.

Section 236 of the Immigration and Nationality Act is amended—

(1) by redesignating subsection (e) as (f) and by inserting before the same the following new subsection:

“(e) Detention of Terrorist Aliens.--

“(1) Custody.—Upon concurrence with such recommendation, the Attorney General shall take into custody any alien who is certified under paragraph (3).

“(2) Release.—The Attorney General shall maintain custody any such alien until such alien is removed from the United States. Such custody shall be maintained irrespective of any relief from removal the alien may be eligible for or granted until the Attorney General deems such alien is no longer an alien who may be certified pursuant to paragraph (3).

“(3) Certification.—The Commissioner, after consultation with the Director of the Federal Bureau of Investigation, may recommend to the Attorney General that an alien be certified as an alien the Service has reason to believe may further or facilitate acts of terrorism as described in section 237(a)(4)(A)(i), or 237(a)(4)(A)(iii), or 237(a)(4)(B), or any other activity that endangers the national security of the United States. Such recommendation is not reviewable by any court.”

SEC. 204. HABEAS CORPUS AND JUDICIAL REVIEW.

Except as provided herein and notwithstanding any other provision of law, including section 2241 of title 28, United States Code, no court shall have jurisdiction to review, by habeas corpus petition or otherwise, any action taken, administrative proceeding brought, or determination made—

(1) to detain an alien under section 203 of this Act; without regard to the place of detention, judicial review of the detention of suspected terrorists is available only by habeas corpus petition filed in the United States District Court

for the District of Columbia, and only upon issuance of a final order of removal pursuant to sections 238 or 240 of the Immigration and Nationality Act of 1952; and

(2) to remove an alien under section 201 of this Act; without regard to the place in which the immigration court or other administrative proceedings were conducted, judicial review of an order of removal of an alien terrorist entered under section 238 or 240 of the Immigration and Nationality Act of 1952, and of any cause of claim raised with respect to the proceedings which resulted in such order, is available only by petition for review filed in the United States Court of Appeals for the District of Columbia Circuit, in accordance with the procedures and limitations specified in section 242 of such Immigration and Nationality Act.

**SEC. 205: FELONY PUNISHMENT FOR VIOLENCE COMMITTED
ALONG THE UNITED STATES BORDER.**

(a) **IN GENERAL-** Chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements

"(a) **IN GENERAL-** Whoever attempts to commit or commits a crime of violence or recklessly operates any conveyance during and in relation to-

"(1)(A) attempting to elude or eluding immigration, customs, or agriculture inspection; or

"(B) failing to stop at the command of an officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States along any border of the United States; or

"(2) an intentional violation of arrival, reporting, entry, or clearance requirements, as set forth in section 107 of the Federal Plant Pest Act (7 U.S.C. 150ff), section 10 of the Act of August 20, 1912

(commonly known as the 'Plant Quarantine Act' (7 U.S.C. 164a)), section 7 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2807), section 431, 433, 434, or 459 of the Tariff Act of 1930 (19 U.S.C. 1431, 1433, 1434, and 1459), section 10 of the Act of August 30, 1890 (26 Stat. 417; chapter 839 (21 U.S.C. 105)), section 2 of the Act of February 2, 1903 (32 Stat. 792; chapter 349; 21 U.S.C. 111), section 4197 of the Revised Statutes (46 U.S.C. App. 91), or sections 231, 232, and 234 through 238 of the Immigration and Nationality Act (8 U.S.C. 1221, 1222, and 1224 through 1228) shall be-

"(A) fined under this title, imprisoned not more than 5 years, or both;

"(B) if bodily injury (as defined in section 1365(g)) results, fined under this title, imprisoned not more than 10 years, or both; or

"(C) if death results, fined under this title, imprisoned for any term of years or for life, or both, and may be sentenced to death.

"(b) CONSPIRACY- If 2 or more persons conspire to commit an offense under subsection (a), and 1 or more of those persons do any act to effect the object of the conspiracy, each shall be punishable as a principal, except that a sentence of death may not be imposed pursuant to this subsection."

(b) CLERICAL AMENDMENT- The analysis for chapter 27 of title 18, United States Code, is amended by adding at the end the following:

"554. Violence while eluding inspection or during violation of arrival, reporting, entry, or clearance requirements."

(c) RECKLESS ENDANGERMENT- Section 111 of title 18, United States Code, is amended-

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) RECKLESS ENDANGERMENT- Whoever-

"(1) knowingly disregards or disobeys the lawful authority or command of any officer or employee of the United States charged with enforcing the immigration, customs, or other laws of the United States along any border of the United States while engaged in, or on account of, the performance of official duties of that officer or employee; and

"(2) as a result of disregarding or disobeying an authority or command referred to in paragraph (1), endangers the safety of any person or property,

shall be fined under this title, imprisoned not more than 6 months, or both."

SEC. 206. TECHNICAL CLARIFICATIONS.

(s) Notwithstanding any other provision of law, the amendments made by this title shall apply to all aliens, regardless of whether any such aliens entered the United States before or after the date of the enactment of this Act, or whether any relevant activity by any such aliens occurred before or after such date, and shall apply to all past, pending, or future deportation, exclusion, removal, or other immigration proceedings.

(b) If any provision of this Act or any application of any such provision to any person or circumstance be held to be unconstitutional, the remainder of this Act, and the application of such remainder to any person or circumstance shall not be affected thereby.

Title III--CRIMINAL JUSTICE

Subtitle A--Substantive Criminal Law

SEC. 301. NO STATUTE OF LIMITATION FOR PROSECUTING TERRORISM OFFENSES.

(a) **IN GENERAL.**— Section 3286 of title 18, United States Code, is amended to read as follows:

"§ 3286. **Terrorism offenses**

"Notwithstanding any other provision of law, an indictment may be