

103^D CONGRESS
2^D SESSION

H. R. 4032

To provide the penalty of death for certain crimes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1994

Mr. SCHUMER introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To provide the penalty of death for certain crimes.

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. SENTENCE OF DEATH.**

4 A defendant who has been found guilty of—

5 (1) an offense described in section 794 or sec-
6 tion 2381 of title 18, United States Code; or

7 (2) any other offense for which a sentence of
8 death is provided, if the defendant, as determined
9 beyond a reasonable doubt at the hearing under sec-
10 tion 3593—

11 (A) intentionally killed the victim;

1 (B) intentionally inflicted serious bodily in-
2 jury that resulted in the death of the victim;

3 (C) intentionally participated in an act,
4 contemplating that the life of a person would be
5 taken or intending that lethal force would be
6 used in connection with a person, other than
7 one of the participants in the offense, and the
8 victim died as a direct result of the act; or

9 (D) intentionally and specifically engaged
10 in an act of violence, knowing that the act cre-
11 ated a grave risk of death to a person, other
12 than one of the participants in the offense, such
13 that participation in the act constituted a reck-
14 less disregard for human life and the victim
15 died as a direct result of the act,

16 shall be sentenced to death if, after consideration of the
17 factors set forth in section 3592 in the course of a hearing
18 held pursuant to section 3593, it is determined that impo-
19 sition of a sentence of death is justified, except that no
20 person may be sentenced to death who was less than 18
21 years of age at the time of the offense.

1 **SEC. 2. CONFORMING CHANGES TO SPECIFIC OFFENSES**
2 **FOR WHICH DEATH PENALTY IS AUTHOR-**
3 **IZED.**

4 (a) CONFORMING CHANGES IN TITLE 18.—Title 18,
5 United States Code, is amended as follows:

6 (1) ESPIONAGE.—Section 794(a) of title 18,
7 United States Code, is amended by striking the pe-
8 riod at the end of the subsection and inserting “, ex-
9 cept that the sentence of death shall not be imposed
10 unless the jury or, if there is no jury, the court, fur-
11 ther finds that the offense directly concerned nuclear
12 weaponry, military spacecraft or satellites, early
13 warning systems, or other means of defense or retal-
14 iation against large-scale attack; war plans; commu-
15 nications intelligence or cryptographic information;
16 or any other major weapons system or major ele-
17 ment of defense strategy.”.

18 (2) MURDER.—The second undesignated para-
19 graph of section 1111(b) of title 18, United States
20 Code, is amended to read as follows:

21 “Whoever is guilty of murder in the first degree shall
22 be punished by death or by imprisonment for life;”.

23 (3) KILLING OF FOREIGN OFFICIALS OR INTER-
24 NATIONALLY PROTECTED PERSONS.—Section
25 1116(a) of title 18, United States Code, is amended
26 by striking “any such person who is found guilty of

1 murder in the first degree shall be sentenced to im-
2 prisonment for life, and”.

3 (4) KIDNAPPING.—Section 1201(a) of title 18,
4 United States Code, is amended by inserting after
5 “or for life” the following: “and, if the death of any
6 person results, shall be punished by death or life im-
7 prisonment”.

8 (5) NONMAILABLE INJURIOUS ARTICLES.—The
9 last paragraph of section 1716 of title 18, United
10 States Code, is amended by striking the comma
11 after “imprisonment for life” and inserting a period
12 and striking the remainder of the paragraph.

13 (6) WRECKING TRAINS.—The second to the last
14 undesignated paragraph of section 1992 of title 18,
15 United States Code, is amended by striking the
16 comma after “imprisonment for life” and inserting
17 a period and striking the remainder of the section.

18 (7) BANK ROBBERY.—Section 2113(e) of title
19 18, United States Code, is amended by striking “or
20 punished by death if the verdict of the jury shall so
21 direct” and inserting “or if death results shall be
22 punished by death or life imprisonment”.

23 (8) EXPLOSIVE MATERIALS.—(A) Section
24 844(d) of title 18, United States Code, is amended
25 by striking “as provided in section 34 of this title”.

1 (B) Section 844(f) of title 18, United States
2 Code, is amended by striking “as provided in section
3 34 of this title”.

4 (C) Section 844(i) of title 18, United States
5 Code, is amended by striking “as provided in section
6 34 of this title”.

7 (9) DEATH PENALTY FOR THE MURDER OF
8 FEDERAL LAW ENFORCEMENT OFFICIALS.—Section
9 1114 of title 18, United States Code, is amended by
10 striking “punished as provided under sections 1111
11 and 1112 of this title,” and inserting “punished, in
12 the case of murder, by a sentence of death or life
13 imprisonment as provided under section 1111 of this
14 title, or, in the case of manslaughter, a sentence as
15 provided under section 1112 of this title,”.

16 (b) CONFORMING AMENDMENT TO FEDERAL AVIA-
17 TION ACT OF 1954.—Section 903 of the Federal Aviation
18 Act of 1958 (49 U.S.C. 1473) is amended by striking sub-
19 section (c) and by striking the item relating to subsection
20 (c) in the table of contents at the beginning of such Act.

21 (c) AIRCRAFT AND MOTOR VEHICLES.—Section 34
22 of title 18, United States Code, is amended by striking
23 the comma after “imprisonment for life” and inserting a
24 period and striking the remainder of the section.

1 **SEC. 3. AUTHORIZATION OF DEATH PENALTY FOR EXIST-**
2 **ING OFFENSES.**

3 (a) **HOSTAGE TAKING.**—Section 1203(a) of title 18,
4 United States Code, is amended by inserting after “or for
5 life” the following: “and, if the death of any person re-
6 sults, shall be punished by death or life imprisonment”.

7 (b) **MURDER FOR HIRE.**—Section 1958(a) of title 18,
8 United States Code, is amended by striking “and if death
9 results, shall be subject to imprisonment for any term of
10 years or for life, or shall be fined not more than \$50,000,
11 or both” and inserting “and if death results, shall be pun-
12 ished by death or life imprisonment, or shall be fined
13 under this title, or both”.

14 (c) **RACKETEERING.**—Section 1959(a)(1) of title 18,
15 United States Code, is amended to read as follows:

16 “(1) for murder, by death or life imprisonment,
17 or a fine under this title, or both; and for kidnap-
18 ping, by imprisonment for any term of years or for
19 life, or a fine under this title, or both;”.

20 (d) **GENOCIDE.**—Section 1091(b)(1) of title 18, Unit-
21 ed States Code, is amended by striking “, a fine of not
22 more than \$1,000,000 and imprisonment for life;” and in-
23 serting “, where death results, by death or imprisonment
24 for life and a fine under this title, or both;”.

25 (e) **CARJACKING.**—Section 2119(3) of title 18, Unit-
26 ed States Code, is amended to read as follows:

1 “(3) if death results, be punished by death or
2 imprisoned for any term of years or for life, fined
3 under this title, or both.”

4 (f) DEATH PENALTY FOR RAPE AND CHILD MOLES-
5 TATION MURDERS.—

6 (1) OFFENSE.—Chapter 109A of title 18, Unit-
7 ed States Code, is amended by redesignating section
8 2245 as section 2246, and by inserting after section
9 2244 the following:

10 **“§ 2245. Sexual abuse resulting in death**

11 “Whoever, in the course of an offense under this
12 chapter, engages in conduct that results in the death of
13 a person, shall be punished by death or imprisoned for
14 any term of years or for life.”.

15 (2) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of chapter 109A of title 18,
17 United States Code, is amended by striking the item
18 for section 2245 and adding the following:

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

19 (g) DEATH PENALTY FOR SEXUAL EXPLOITATION
20 OF CHILDREN.—Section 2251(d) of title 18, United
21 States Code, is amended by adding at the end the follow-
22 ing: “Whoever, in the course of an offense under this sec-
23 tion, engages in conduct that results in the death of a per-

1 son, shall be punished by death or imprisoned for any term
2 of years or for life.”.

3 (h) HOMICIDES AND ATTEMPTED HOMICIDES IN-
4 VOLVING FIREARMS IN FEDERAL FACILITIES.—Section
5 930 of title 18, United States Code, is amended—

6 (1) by redesignating subsections (c), (d), (e),
7 (f), and (g) as subsections (d), (e), (f), (g), and (h),
8 respectively;

9 (2) in subsection (a), by striking “(c)” and in-
10 sserting “(d)”;

11 (3) inserting after subsection (b) the following:

12 “(c) Whoever kills or attempts to kill any person in
13 the course of a violation of subsection (a) or (b), or in
14 the course of an attack on a Federal facility involving the
15 use of a firearm or other dangerous weapon, shall be pun-
16 ished as provided in sections 1111, 1112, and 1113 of this
17 title.”;

18 (4) in subsection (e)(2) (as so redesignated), by
19 striking “(c)” and inserting “(d)”;

20 (5) in subsection (h) (as so redesignated)—

21 (A) by striking “and (b)” and inserting “,
22 (b), and (c)”;

23 (B) by striking “(d)” each place it appears
24 and inserting “(e)”.

1 (i) DEATH PENALTY FOR MURDER OF FEDERAL
2 WITNESSES.—Section 1512(a)(2)(A) of title 18, United
3 States Code, is amended to read as follows:

4 “(A) in the case of murder as defined in section
5 1111 of this title, the death penalty or imprisonment
6 for life, and in the case of any other killing, the pun-
7 ishment provided in section 1112 of this title; and”.

8 (j) PROTECTION OF COURT OFFICERS AND JU-
9 RORS.—Section 1503 of title 18, United States Code, is
10 amended—

11 (1) by designating the current text as sub-
12 section (a);

13 (2) by striking “fined not more than \$5,000 or
14 imprisoned not more than five years, or both.” and
15 inserting “punished as provided in subsection (b).”;

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

17 “(b) The punishment for an offense under this sec-
18 tion is—

19 “(1) in the case of a killing, the punishment
20 provided in sections 1111 and 1112 of this title;

21 “(2) in the case of an attempted killing, or a
22 case in which the offense was committed against a
23 petit juror and in which a class A or B felony was
24 charged, imprisonment for not more than twenty
25 years, a fine under this title, or both; and

1 “(3) in any other case, imprisonment for not
2 more than ten years, a fine under this title, or
3 both.”; and

4 (4) in subsection (a), as so designated by this
5 section, by striking “commissioner” each place it ap-
6 pears and inserting “magistrate judge”.

7 (k) FOREIGN MURDER OF UNITED STATES NATION-
8 ALS.—

9 (1) IN GENERAL.—Chapter 51 of title 18, Unit-
10 ed States Code, is amended by adding at the end
11 thereof the following new section:

12 **“§ 1119. Foreign murder of United States nationals**

13 “(a) Whoever, being a national of the United States,
14 kills or attempts to kill a national of the United States
15 while such national is outside the United States but within
16 the jurisdiction of another country shall be punished as
17 provided under sections 1111, 1112, and 1113 of this title.

18 “(b) No prosecution may be instituted against any
19 person under this section except upon the written approval
20 of the Attorney General, the Deputy Attorney General, or
21 an Assistant Attorney General, which function of approv-
22 ing prosecutions may not be delegated. No prosecution
23 shall be approved if prosecution has been previously un-
24 dertaken by a foreign country for the same conduct.

1 “(c) No prosecution shall be approved under this sec-
2 tion unless the Attorney General, in consultation with the
3 Secretary of State, determines that the conduct took place
4 in a country in which the person is no longer present, and
5 the country lacks the ability to lawfully secure the person’s
6 return. A determination by the Attorney General under
7 this subsection is not subject to judicial review.

8 “(d) As used in this section, the term ‘national of
9 the United States’ has the meaning given such term in
10 section 101(a)(22) of the Immigration and Nationality Act
11 (8 U.S.C. 1101(a)(22)).”.

12 (2) CONFORMING AMENDMENT.—Section 1117
13 of title 18, United States Code, is amended by strik-
14 ing “or 1116” and inserting “1116, or 1118”.

15 (3) CLERICAL AMENDMENT.—The table of sec-
16 tions at the beginning of chapter 51 of title 18,
17 United States Code, is amended by adding at the
18 end the following new item:

“1119. Foreign Murder of United States Nationals.”.

19 (l) DEATH PENALTY FOR CIVIL RIGHTS MUR-
20 DERS.—

21 (1) CONSPIRACY AGAINST RIGHTS.—Section
22 241 of title 18, United States Code, is amended by
23 striking the period at the end of the last sentence
24 and inserting “, or may be sentenced to death.”.

1 (2) DEPRIVATION OF RIGHTS UNDER COLOR OF
2 LAW.—Section 242 of title 18, United States Code,
3 is amended by striking the period at the end of the
4 last sentence and inserting “, or may be sentenced
5 to death.”.

6 (3) FEDERALLY PROTECTED ACTIVITIES.—Sec-
7 tion 245(b) of title 18, United States Code, is
8 amended in the matter following paragraph (5) by
9 inserting “, or may be sentenced to death” after “or
10 for life”.

11 (4) DAMAGE TO RELIGIOUS PROPERTY; OB-
12 STRUCTION OF THE FREE EXERCISE OF RELIGIOUS
13 RIGHTS.—Section 247(c)(1) of title 18, United
14 States Code, is amended by inserting “, or may be
15 sentenced to death” after “or both”.

16 **SEC. 4. DEATH PENALTY FOR MURDER BY A FEDERAL PRIS-**
17 **ONER.**

18 (a) IN GENERAL.—Chapter 51 of title 18, United
19 States Code, is amended by adding at the end thereof the
20 following new section:

21 **“§ 1118. Murder by a Federal prisoner**

22 “(a) OFFENSE.—Whoever, while confined in a Fed-
23 eral correctional institution under a sentence for a term
24 of life imprisonment, commits the murder of another shall
25 be punished by death or by life imprisonment.

1 “(b) DEFINITIONS.—For the purposes of this sec-
2 tion—

3 “(1) the term ‘Federal correctional institution’
4 means any Federal prison, Federal correctional facil-
5 ity, Federal community program center, or Federal
6 halfway house;

7 “(2) the term ‘term of life imprisonment’ means
8 a sentence for the term of natural life, a sentence
9 commuted to natural life, an indeterminate term of
10 a minimum of at least fifteen years and a maximum
11 of life, or an unexecuted sentence of death; and

12 “(3) the term ‘murder’ means a first degree or
13 second degree murder as defined by section 1111 of
14 this title.”.

15 (b) AMENDMENT OF CHAPTER ANALYSIS.—The table
16 of sections at the beginning of chapter 51 of title 18,
17 United States Code, is amended by adding at the end
18 thereof the following:

“1118. Murder by a Federal prisoner.”.

19 **SEC. 5. MURDER BY ESCAPED PRISONERS.**

20 (a) IN GENERAL.—Chapter 51 of title 18, United
21 States Code, is amended by adding at the end the follow-
22 ing:

23 **“§ 1120. Murder by escaped prisoners**

24 “(a) IN GENERAL.—Whoever, having escaped from
25 a Federal prison where such person was confined under

1 a sentence for a term of life imprisonment, kills another
2 shall be punished as provided in sections 1111 and 1112
3 of this title.

4 “(b) DEFINITION.—As used in this section, the terms
5 ‘Federal prison’ and ‘term of life imprisonment’ have the
6 meanings given those terms in section 1118 of this title.”.

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of chapter 51 of title 18, United States
9 Code, is amended by adding at the end the following:

“1120. Murder by escaped prisoners.”.

10 **SEC. 6. DRIVE-BY SHOOTINGS.**

11 (a) IN GENERAL.—Section 922 of title 18, United
12 States Code, is amended by adding at the end thereof the
13 following:

14 “(v) It shall be unlawful for any person knowingly
15 to—

16 “(1) discharge a firearm from within a motor
17 vehicle and

18 “(2) thereby create a grave risk to human
19 life.”.

20 (b) PENALTY.—Section 924(a) of such title is amend-
21 ed by adding at the end the following:

22 “(6) Whoever knowingly violates section 922(v) shall
23 be fined under this title or imprisoned not more than 25
24 years, or both, and if death results, shall be punished by
25 death or imprisonment for life or any term of years.”.

1 **SEC. 7. DEATH PENALTY FOR GUN MURDERS DURING FED-**
2 **ERAL CRIMES OF VIOLENCE AND DRUG**
3 **TRAFFICKING CRIMES.**

4 Section 924 of title 18, United States Code, is
5 amended by adding after the subsections added by (sub-
6 title B of title V of this Act) the following:

7 “(j) Whoever, in the course of a violation of sub-
8 section (c) of this section, causes the death of a person
9 through the use of a firearm, shall—

10 “(1) if the killing is a murder as defined in sec-
11 tion 1111 of this title, be punished by death or by
12 imprisonment for any term of years or for life; and

13 “(2) if the killing is manslaughter as defined in
14 section 1112 of this title, be punished as provided in
15 that section.”.

16 **SEC. 8. DEATH PENALTY FOR THE MURDER OF STATE OR**
17 **LOCAL OFFICIALS ASSISTING FEDERAL LAW**
18 **ENFORCEMENT OFFICIALS.**

19 (a) IN GENERAL.—Chapter 51 of title 18, United
20 States Code (, as amended by section 205 of this Act,) is
21 amended by adding at the end the following:

22 **“§ 1121. Killing persons aiding Federal investigations**

23 “Whoever intentionally kills—

24 “(1) a State or local official, law enforcement
25 officer, or other officer or employee while working

1 with Federal law enforcement officials in furtherance
2 of a Federal criminal investigation—

3 “(A) while the victim is engaged in the
4 performance of official duties;

5 “(B) because of the performance of the
6 victim’s official duties; or

7 “(C) because of the victim’s status as a
8 public servant; or

9 “(2) any person assisting a Federal criminal in-
10 vestigation, while that assistance is being rendered
11 and because of it,

12 shall be sentenced according to the terms of section 1111
13 of title 18, United States Code, including by sentence of
14 death or by imprisonment for life.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of chapter 51 of title 18, United States
17 Code, is amended by adding at the end the following:

“1121. Killing persons aiding Federal investigations.”.

18 **SEC. 9. PROHIBITION OF RETALIATORY KILLINGS OF WIT-**
19 **NESSES, VICTIMS AND INFORMANTS.**

20 Section 1513 of title 18, United States Code, is
21 amended—

22 (1) by redesignating subsections (a) and (b) as
23 subsections (b) and (c), respectively; and

24 (2) by inserting after the section heading a new
25 subsection (a) as follows:

1 “(a)(1) Whoever kills or attempts to kill another per-
2 son with intent to retaliate against any person for—

3 “(A) the attendance of a witness or party at an
4 official proceeding, or any testimony given or any
5 record, document, or other object produced by a wit-
6 ness in an official proceeding; or

7 “(B) any information relating to the commis-
8 sion or possible commission of a Federal offense or
9 a violation of conditions of probation, parole or re-
10 lease pending judicial proceedings given by a person
11 to a law enforcement officer; shall be punished as
12 provided in paragraph (2).

13 “(2) The punishment for an offense under this sub-
14 section is—

15 “(A) in the case of a killing, the punishment
16 provided in sections 1111 and 1112 of this title; and

17 “(B) in the case of an attempt, imprisonment
18 for not more than twenty years, a fine under this
19 title, or both.”.

20 **SEC. 10. WEAPONS OF MASS DESTRUCTION.**

21 (a) OFFENSE.—Chapter 113A of title 18, United
22 States Code, is amended by inserting after section 2332
23 the following new section:

1 **“§ 2332a. Use of weapons of mass destruction**

2 “(a) Whoever uses, or attempts or conspires to use,
3 a weapon of mass destruction—

4 “(1) against a national of the United States
5 while such national is outside of the United States;

6 “(2) against any person within the United
7 States; or

8 “(3) against any property that is owned, leased
9 or used by the United States or by any department
10 or agency of the United States, whether the property
11 is within or outside of the United States;

12 shall be imprisoned for any term of years or for life, and
13 if death results, shall be punished by death or imprisoned
14 for any term of years or for life.

15 “(b) For purposes of this section—

16 “(1) the term ‘national of the United States’
17 has the meaning given in section 101(a)(22) of the
18 Immigration and Nationality Act (8 U.S.C.
19 1101(a)(22)); and

20 “(2) the term ‘weapon of mass destruction’
21 means—

22 “(A) any destructive device as defined in
23 section 921 of this title;

24 “(B) poison gas;

25 “(C) any weapon involving a disease orga-
26 nism; or

1 “(D) any weapon that is designed to re-
2 lease radiation or radioactivity at a level dan-
3 gerous to human life.”.

4 (b) CLERICAL AMENDMENT.—The table of sections
5 at the beginning of chapter 113A of title 18, United States
6 Code, is amended by inserting after the item relating to
7 section 2332 the following:

“2332a. Use of weapons of mass destruction.”.

8 **SEC. 11. VIOLENCE AT AIRPORTS SERVING INTER-**
9 **NATIONAL CIVIL AVIATION.**

10 (a) OFFENSE.—Chapter 2 of title 18, United States
11 Code, is amended by adding at the end the following:

12 **“§ 36. Violence at international airports**

13 “(a) Whoever unlawfully and intentionally, using any
14 device, substance or weapon—

15 “(1) performs an act of violence against a per-
16 son at an airport serving international civil aviation
17 which causes or is likely to cause serious bodily in-
18 jury (as defined in section 1365 of this title) or
19 death; or

20 “(2) destroys or seriously damages the facilities
21 of an airport serving international civil aviation or a
22 civil aircraft not in service located thereon or
23 disrupts the services of the airport;

24 if such an act endangers or is likely to endanger safety
25 at that airport, or attempts to do such an act, shall be

1 fined under this title or imprisoned not more than twenty
2 years, or both; and if the death of any person results from
3 conduct prohibited by this subsection, shall be punished
4 by death or imprisoned for any term of years or for life.

5 “(b) There is jurisdiction over the prohibited activity
6 in subsection (a) if—

7 “(1) the prohibited activity takes place in the
8 United States; or

9 “(2) the prohibited activity takes place outside
10 of the United States and the offender is later found
11 in the United States.

12 “(c) It is a bar to Federal prosecution under sub-
13 section (a) for conduct that occurred within the United
14 States that the conduct involved—

15 “(1) a domestic dispute solely affecting and be-
16 tween members of the same family or household or
17 between social acquaintances; or

18 “(2) was during or in relation to a labor dis-
19 pute, and such conduct was prohibited as a felony
20 under the law of the State in which it was commit-
21 ted.

22 For purposes of this section, the term ‘labor dispute’ has
23 the meaning set forth in section 2(c) of the Norris-
24 LaGuardia Act (29 U.S.C. 113(c)).’.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 2 of title 18, United States
3 Code, is amended by adding at the end the following:

“36. Violence at international airports.”.

4 (c) EFFECTIVE DATE.—This section shall take effect
5 on the later of—

6 (1) the date of the enactment of this Act; or

7 (2) the date the Protocol for the Suppression of
8 Unlawful Acts of Violence at Airports Serving Inter-
9 national Civil Aviation, Supplementary to the Con-
10 vention for the Suppression of Unlawful Acts
11 Against the Safety of Civil Aviation, done at Mon-
12 treal on 23 September 1971, has come into force
13 and the United States has become a party to the
14 Protocol.

15 **SEC. 12. OFFENSES OF VIOLENCE AGAINST MARITIME**
16 **NAVIGATION OR FIXED PLATFORMS.**

17 (a) OFFENSES.—Chapter 111 of title 18, United
18 States Code, is amended by adding at the end the follow-
19 ing:

20 **“§ 2280. Violence against maritime navigation**

21 “(a) Whoever unlawfully and intentionally—

22 “(1) seizes or exercises control over a ship by
23 force or threat thereof or any other form of intimi-
24 dation;

1 “(2) performs an act of violence against a per-
2 son on board a ship if that act is likely to endanger
3 the safe navigation of that ship;

4 “(3) destroys a ship or causes damage to a ship
5 or to its cargo which is likely to endanger the safe
6 navigation of that ship;

7 “(4) places or causes to be placed on a ship, by
8 any means whatsoever, a device or substance which
9 is likely to destroy that ship, or cause damage to
10 that ship or its cargo which endangers or is likely
11 to endanger the safe navigation of that ship;

12 “(5) destroys or seriously damages maritime
13 navigational facilities or seriously interferes with
14 their operation, if such act is likely to endanger the
15 safe navigation of a ship;

16 “(6) communicates information, knowing the
17 information to be false and under circumstances in
18 which such information may reasonably be believed,
19 thereby endangering the safe navigation of a ship;

20 “(7) injures or kills any person in connection
21 with the commission or the attempted commission of
22 any of the offenses set forth in paragraphs (1)
23 through (6); or

24 “(8) attempts to do any act prohibited under
25 paragraphs (1) through (7);

1 shall be fined under this title or imprisoned not more than
2 twenty years, or both; and if the death of any person re-
3 sults, from conduct prohibited by this subsection, shall be
4 punished by death or imprisoned for any term of years
5 or for life.

6 “(b) Whoever threatens to do any act prohibited
7 under paragraph (2), (3) or (5) of subsection (a), with
8 apparent determination and will to carry the threat into
9 execution, if the threatened act is likely to endanger the
10 safe navigation of the ship in question, shall be fined
11 under this title or imprisoned not more than five years,
12 or both.

13 “(c) There is jurisdiction over the prohibited activity
14 in subsections (a) and (b)—

15 “(1) in the case of a covered ship, if—

16 “(A) such activity is committed—

17 “(i) against or on board a ship flying
18 the flag of the United States at the time
19 the prohibited activity is committed;

20 “(ii) in the United States and the ac-
21 tivity is not prohibited as a crime by the
22 State in which the activity takes place; or

23 “(iii) the activity takes place on a ship
24 flying the flag of a foreign country or out-
25 side the United States, by a national of the

1 United States or by a stateless person
2 whose habitual residence is in the United
3 States;

4 “(B) during the commission of such activ-
5 ity, a national of the United States is seized,
6 threatened, injured or killed; or

7 “(C) the offender is later found in the
8 United States after such activity is committed;

9 “(2) in the case of a ship navigating or sched-
10 uled to navigate solely within the territorial sea or
11 internal waters of a country other than the United
12 States, if the offender is later found in the United
13 States after such activity is committed; and

14 “(3) in the case of any vessel, if such activity
15 is committed in an attempt to compel the United
16 States to do or abstain from doing any act.

17 “(d) It is a bar to Federal prosecution under sub-
18 section (a) for conduct that occurred within the United
19 States that the conduct involved—

20 “(1) a domestic dispute solely affecting and be-
21 tween members of the same family or household or
22 between social acquaintances; or

23 “(2) was during or in relation to a labor dis-
24 pute, and such conduct was prohibited as a felony

1 under the law of the State in which it was commit-
2 ted.

3 For purposes of this section, the term ‘labor dispute’ has
4 the meaning set forth in section 2(c) of the Norris-
5 LaGuardia Act (29 U.S.C. 113(c)).

6 “(e) The master of a covered ship flying the flag of
7 the United States who has reasonable grounds to believe
8 that there is on board that ship any person who has com-
9 mitted an offense under Article 3 of the Convention for
10 the Suppression of Unlawful Acts Against the Safety of
11 Maritime Navigation may deliver such person to the au-
12 thorities of a State Party to that Convention. Before deliv-
13 ering such person to the authorities of another country,
14 the master shall notify in an appropriate manner the At-
15 torney General of the United States of the alleged offense
16 and await instructions from the Attorney General as to
17 what action to take. When delivering the person to a coun-
18 try which is a State Party to the Convention, the master
19 shall, whenever practicable, and if possible before entering
20 the territorial sea of such country, notify the authorities
21 of such country of the master’s intention to deliver such
22 person and the reasons therefor. If the master delivers
23 such person, the master shall furnish to the authorities
24 of such country the evidence in the master’s possession
25 that pertains to the alleged offense.

1 “(f) As used in this section, the term—

2 “(1) the term ‘ship’ means a vessel of any type
3 whatsoever not permanently attached to the sea-bed,
4 including dynamically supported craft, submersibles
5 or any other floating craft; but such term does not
6 include a warship, a ship owned or operated by a
7 government when being used as a naval auxiliary or
8 for customs or police purposes, or a ship which has
9 been withdrawn from navigation or laid up;

10 “(2) the term ‘covered ship’ means a ship that
11 is navigating or is scheduled to navigate into,
12 through or from waters beyond the outer limit of the
13 territorial sea of a single country or a lateral limit
14 of that country’s territorial sea with an adjacent
15 country;

16 “(3) the term ‘national of the United States’
17 has the meaning given such term in section
18 101(a)(22) of the Immigration and Nationality Act
19 (8 U.S.C. 1101(a)(22));

20 “(4) the term ‘territorial sea of the United
21 States’ means all waters extending seaward to 12
22 nautical miles from the baselines of the United
23 States determined in accordance with international
24 law; and

1 “(5) the term ‘United States’, when used in a
2 geographical sense, includes the Commonwealth of
3 Puerto Rico, the Commonwealth of the Northern
4 Marianas Islands and all territories and possessions
5 of the United States.

6 **“§ 2281. Violence against maritime fixed platforms**

7 “(a) Whoever unlawfully and intentionally—

8 “(1) seizes or exercises control over a fixed
9 platform by force or threat thereof or any other
10 form of intimidation;

11 “(2) performs an act of violence against a per-
12 son on board a fixed platform if that act is likely to
13 endanger its safety;

14 “(3) destroys a fixed platform or causes dam-
15 age to it which is likely to endanger its safety;

16 “(4) places or causes to be placed on a fixed
17 platform, by any means whatsoever, a device or sub-
18 stance which is likely to destroy that fixed platform
19 or likely to endanger its safety;

20 “(5) injures or kills any person in connection
21 with the commission or the attempted commission of
22 any of the offenses set forth in paragraphs (1)
23 through (4); or

24 “(6) attempts to do anything prohibited under
25 paragraphs (1) through (5);

1 shall be fined under this title or imprisoned not more than
2 twenty years, or both; and if death results to any person
3 from conduct prohibited by this subsection, shall be pun-
4 ished by death or imprisoned for any term of years or for
5 life.

6 “(b) Whoever threatens to do anything prohibited
7 under paragraph (2) or (3) of subsection (a), with appar-
8 ent determination and will to carry the threat into execu-
9 tion, if the threatened act is likely to endanger the safety
10 of the fixed platform, shall be fined under this title or
11 imprisoned not more than five years, or both.

12 “(c) There is jurisdiction over the prohibited activity
13 in subsections (a) and (b) if—

14 “(1) such activity is committed against or on
15 board a fixed platform—

16 “(A) that is located on the continental
17 shelf of the United States;

18 “(B) that is located on the continental
19 shelf of another country, by a national of the
20 United States or by a stateless person whose
21 habitual residence is in the United States; or

22 “(C) in an attempt to compel the United
23 States to do or abstain from doing any act;

24 “(2) during the commission of such activity
25 against or on board a fixed platform located on a

1 continental shelf, a national of the United States is
2 seized, threatened, injured or killed; or

3 “(3) such activity is committed against or on
4 board a fixed platform located outside the United
5 States and beyond the continental shelf of the
6 United States and the offender is later found in the
7 United States.

8 “(d) It is a bar to Federal prosecution under sub-
9 section (a) for conduct that occurred within the United
10 States that the conduct involved—

11 “(1) a domestic dispute solely affecting and be-
12 tween members of the same family or household or
13 between social acquaintances; or

14 “(2) was during or in relation to a labor dis-
15 pute, and such conduct was prohibited as a felony
16 under the law of the State in which it was commit-
17 ted.

18 For purposes of this section, the term ‘labor dispute’ has
19 the meaning set forth in section 2(c) of the Norris-
20 LaGuardia Act (29 U.S.C. 113(c)).

21 “(e) As used in this section, the term—

22 “(1) ‘continental shelf’ means the sea-bed and
23 subsoil of the submarine areas that extend beyond a
24 country’s territorial sea to the limits provided by

1 customary international law as reflected in Article
2 76 of the 1982 Convention on the Law of the Sea;

3 “(2) ‘fixed platform’ means an artificial island,
4 installation or structure permanently attached to the
5 sea-bed for the purpose of exploration or exploitation
6 of resources or for other economic purposes;

7 “(3) ‘national of the United States’ has the
8 meaning given such term in section 101(a)(22) of
9 the Immigration and Nationality Act (8 U.S.C.
10 1101(a)(22));

11 “(4) ‘territorial sea of the United States’ means
12 all waters extending seaward to 12 nautical miles
13 from the baselines of the United States determined
14 in accordance with international law; and

15 “(5) ‘United States’, when used in a geographi-
16 cal sense, includes the Commonwealth of Puerto
17 Rico, the Commonwealth of the Northern Marianas
18 Islands and all territories and possessions of the
19 United States.”.

20 (b) CLERICAL AMENDMENTS.—The table of sections
21 at the beginning of chapter 111 of title 18, United States
22 Code, is amended by adding at the end thereof the follow-
23 ing:

“2280. Violence against maritime navigation.

“2281. Violence against maritime fixed platforms.”.

1 (c) EFFECTIVE DATES.—This section and the
2 amendments made by this section shall take effect on the
3 later of—

4 (1) the date of the enactment of this Act; or

5 (2)(A) in the case of section 2280 of title 18,
6 United States Code, the date the Convention for the
7 Suppression of Unlawful Acts Against the Safety of
8 Maritime Navigation has come into force and the
9 United States has become a party to that Conven-
10 tion; and

11 (B) in the case of section 2281 of title 18,
12 United States Code, the date the Protocol for the
13 Suppression of Unlawful Acts Against the Safety of
14 Fixed Platforms Located on the Continental Shelf
15 has come into force and the United States has
16 become a party to that Protocol.

17 **SEC. 13. TORTURE.**

18 (a) IN GENERAL.—Part I of title 18, United States
19 Code, is amended by inserting after chapter 113A the fol-
20 lowing new chapter:

21 **“CHAPTER 113B—TORTURE**

“Sec.

“2340. Definitions.

“2340A. Torture.

“2340B. Exclusive remedies.

1 **“§ 2340. Definitions**

2 “As used in this chapter—

3 “(1) the term ‘torture’ means an act committed
4 by a person acting under the color of law specifically
5 intended to inflict severe physical or mental pain or
6 suffering (other than pain or suffering incidental to
7 lawful sanctions) upon another person within his
8 custody or physical control;

9 “(2) the term ‘severe mental pain or suffering’
10 means the prolonged mental harm caused by or re-
11 sulting from (A) the intentional infliction or threat-
12 ened infliction of severe physical pain or suffering;
13 (B) the administration or application, or threatened
14 administration or application, of mind altering sub-
15 stances or other procedures calculated to disrupt
16 profoundly the senses or the personality; (C) the
17 threat of imminent death; or (D) the threat that an-
18 other person will imminently be subjected to death,
19 severe physical pain or suffering, or the administra-
20 tion or application of mind altering substances or
21 other procedures calculated to disrupt profoundly
22 the senses or personality;

23 “(3) the term ‘United States’ includes all areas
24 under the jurisdiction of the United States including
25 any of the places within the provisions of sections 5
26 and 7 of this title and section 101(38) of the Fed-

1 eral Aviation Act of 1958, as amended (49 U.S.C.
2 App. 1301(38)).

3 **“§ 2340A. Torture**

4 “(a) Whoever, outside the United States and in a cir-
5 cumstance described in subsection (b) of this section, com-
6 mits or attempts to commit torture—

7 “(1) shall be fined under this title or impris-
8 oned not more than twenty years, or both; and

9 “(2) if death results to any person from con-
10 duct prohibited by this subsection, shall be punished
11 by death or imprisoned for any term of years or for
12 life.

13 “(b) The circumstance referred to in subsection (a)
14 of this section is if—

15 “(1) the alleged offender is a national of the
16 United States; or

17 “(2) the alleged offender is present in the
18 United States, irrespective of the nationality of the
19 victim or the alleged offender.

20 **“§ 2340B. Exclusive remedies**

21 “Nothing in this chapter shall be construed as pre-
22 cluding the application of State or local laws on the same
23 subject, nor shall anything in this chapter be construed
24 as creating any substantive or procedural right enforceable
25 by law by any party in any civil proceeding.”.

1 (b) CLERICAL AMENDMENT.—The table of chapters
 2 for part I of title 18, United States Code, is amended by
 3 inserting after the item for chapter 113A the following
 4 new item:

“**113B. Torture** **2340.**”.

5 (c) EFFECTIVE DATE.—This section shall take effect
 6 on the later of—

7 (1) the date of enactment of this section; or

8 (2) the date the United States has become a
 9 party to the Convention Against Torture and Other
 10 Cruel, Inhuman or Degrading Treatment or
 11 Punishment.

12 **SEC. 14. APPLICABILITY TO UNIFORM CODE OF MILITARY**
 13 **JUSTICE.**

14 The provisions of chapter 228 of title 18, United
 15 States Code, as added by (), shall not apply to pros-
 16 ecutions under the Uniform Code of Military Justice (10
 17 U.S.C. 801).

18 **SEC. 15. PROTECTION OF JURORS AND WITNESSES IN CAP-**
 19 **ITAL CASES.**

20 Section 3432 of title 18, United States Code, is
 21 amended by inserting before the period the following: “,
 22 except that such list of the veniremen and witnesses need
 23 not be furnished if the court finds by a preponderance of
 24 the evidence that providing the list may jeopardize the life
 25 or safety of any person”.



HR 4032 IH—2

HR 4032 IH—3