

**Calendar No. 678**

103D CONGRESS  
2D SESSION

**S. 825**

**A BILL**

To amend title 28 of the United States Code to permit a foreign state to be subject to the jurisdiction of Federal or State courts in any case involving an act of international terrorism.

SEPTEMBER 28 (legislative day, SEPTEMBER 12), 1994

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

APRIL 27 (legislative day, APRIL 19), 1993

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

SEPTEMBER 28 (legislative day, SEPTEMBER 12), 1994

Reported by Mr. BIDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

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**A BILL**

To amend title 28 of the United States Code to permit a foreign state to be subject to the jurisdiction of Federal or State courts in any case involving an act of international terrorism.

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. INAPPLICABILITY OF FOREIGN SOVEREIGN IM-**  
2 **MUNITY IN CASES INVOLVING ACTS OF**  
3 **INTERNATIONAL TERRORISM.**

4 (a) DEFINITION.—Section 1603 of title 28, United  
5 States Code, is amended by adding at the end the  
6 following:

7 “(f) The term ‘act of international terrorism’  
8 means an act—

9 “(1) which is violent or dangerous to  
10 human life and that is a violation of the crimi-  
11 nal laws of the United States or of any State  
12 or that would be a criminal violation if commit-  
13 ted within the jurisdiction of the United States  
14 or any State; and

15 “(2) which appears to be intended—

16 “(A) to intimidate or coerce a civilian  
17 population;

18 “(B) to influence the policy of a gov-  
19 ernment by intimidation or coercion; or

20 “(C) to affect the conduct of a gov-  
21 ernment by assassination or kidnapping.

22 “(g) The term ‘permanent resident alien’ means  
23 an alien who has been lawfully admitted to the  
24 United States for permanent residence.”.

1       (b) ~~ADDITIONAL EXCEPTION TO FOREIGN STATE IM-~~  
2 ~~MUNITY.—Section 1605(a) of title 28, United States~~  
3 ~~Code, is amended—~~

4           (1) by striking “or” at the end of paragraph  
5       (5);

6           (2) by striking the period at the end of para-  
7       graph (6) and inserting “; or”; and

8           (3) by adding at the end the following new  
9       paragraph:

10       “~~(7) in which the action is based upon an act~~  
11 ~~of international terrorism—~~

12           “~~(A) within the United States, or~~

13           “~~(B) outside the United States if money~~  
14 ~~damages are sought against a foreign state for~~  
15 ~~personal injury or death to a United States citi-~~  
16 ~~zen or permanent resident alien,~~

17 ~~which act occurred not more than 6 years previously~~  
18 ~~and which was committed or aided or abetted by a~~  
19 ~~foreign state that was designated by the Secretary of~~  
20 ~~State as a state repeatedly providing support for~~  
21 ~~acts of international terrorism under section 40(d)~~  
22 ~~of the Arms Export Control Act.”.~~

23       (c) ~~PROPERTY SUBJECT TO EXECUTION UPON A~~  
24 ~~JUDGMENT.—Section 1610(a) of title 28, United States~~  
25 ~~Code, is amended—~~

1           (1) by striking “or” at the end of paragraph  
2           (5);

3           (2) by striking the period at the end of para-  
4           graph (6) and inserting “; or”; and

5           (3) by adding at the end the following new  
6           paragraph:

7           “~~(7)~~ the execution relates to a judgment en-  
8           tered in a case based upon an act of international  
9           terrorism—

10                   “~~(A)~~ within the United States, or

11                   “~~(B)~~ outside the United States if money  
12                   damages are sought against a foreign state for  
13                   personal injury or death to a United States citi-  
14                   zen or permanent resident alien,

15           which act occurred not more than 6 years previously  
16           and which was committed or aided or abetted by a  
17           foreign state that was designated by the Secretary of  
18           State as a state repeatedly providing support for  
19           acts of international terrorism under section 40(d)  
20           of the Arms Export Control Act.”.

21           ~~(d) ATTACHMENT OF PROPERTY PRIOR TO ENTRY~~  
22           ~~OF JUDGMENT.—~~Section 1610(d) of title 28, United  
23           States Code, is amended—

24                   (1) by redesignating paragraph (1) as para-  
25                   graph (1)(A);

1           (2) by striking “and” at the end of paragraph  
2           (1)(A) and inserting “or”; and

3           (3) by inserting after paragraph (1)(A) the fol-  
4           lowing:

5           “(B) the foreign state is not immune from ju-  
6           risdiction by virtue of the operation of section  
7           1605(7); and”.

8   **SECTION 1. EXCEPTION TO FOREIGN SOVEREIGN IMMU-**  
9                   **NITY FOR CERTAIN CASES INVOLVING TOR-**  
10                   **TURE, EXTRAJUDICIAL KILLING, AIRCRAFT**  
11                   **SABOTAGE, HOSTAGE TAKING, OR GENOCIDE**  
12                   **IN A FOREIGN STATE.**

13           *Section 1605(a) of title 28, United States Code, is*  
14   *amended—*

15           (1) by striking “or” at the end of paragraph (5);

16           (2) by striking the period at the end of para-  
17           graph (6) and inserting in lieu thereof “; or”; and

18           (3) by adding at the end thereof the following  
19           new paragraph:

20           “(7) not otherwise encompassed in paragraph  
21           (2), in which money damages are sought against a  
22           foreign state for personal injury or death of a United  
23           States citizen and caused by the torture or  
24           extrajudicial killing of that citizen, or by an act of  
25           aircraft sabotage, hostage taking, or genocide commit-

1        *ted against that citizen, by such foreign state or by*  
2        *any official, employee, or agent of such foreign state*  
3        *while acting within the scope of his or her office, em-*  
4        *ployment, or agency, except that—*

5                *“(A) an action under this paragraph shall*  
6                *not be maintained unless the individual whose*  
7                *injury or death gave rise to the action was a*  
8                *United States citizen at the time the conduct*  
9                *causing such injury or death occurred;*

10                *“(B) the court shall decline to hear a claim*  
11                *under this paragraph if the claimant has not ex-*  
12                *hausted adequate and available remedies in the*  
13                *place in which the conduct giving rise to the*  
14                *claim occurred and has not afforded the foreign*  
15                *state an opportunity to arbitrate the claim before*  
16                *an international tribunal in accordance with*  
17                *international standards; and*

18                *“(C) an action under this paragraph shall*  
19                *not be maintained unless—*

20                        *“(i) the action is brought within 10*  
21                        *years after the cause of action accrues; or*

22                        *“(ii) the cause of action is based on an*  
23                        *act of genocide occurring more than 10*  
24                        *years before the date of the enactment of this*

1                    *paragraph and the action is brought within*  
2                    *18 months after such date.*

3 *For purposes of paragraph (7), the terms ‘torture’ and*  
4 *‘extrajudicial killing’ have the meanings given those terms*  
5 *in section 3 of the Torture Victim Protection Act of 1991,*  
6 *the term ‘hostage taking’ has the meaning given it in Article*  
7 *1 of the International Convention Against the Taking of*  
8 *Hostages, the term ‘aircraft sabotage’ has the meaning given*  
9 *it in Article 1 of the Convention for the Suppression of Un-*  
10 *lawful Acts Against the Safety of Civil Aviation, and the*  
11 *term ‘act of genocide’ means conduct that would be a viola-*  
12 *tion of section 1091 of title 18 if committed in the United*  
13 *States.’’.*

14 **SEC. 2. EXCEPTION TO IMMUNITY FROM ATTACHMENT.**

15            (a) *FOREIGN STATE.*—Section 1610(a) of title 28,  
16 *United States Code, is amended—*

17                    (1) *by striking the period at the end of para-*  
18                    *graph (6) and inserting in lieu thereof “, or”;* and

19                    (2) *by adding at the end thereof the following*  
20 *new paragraph:*

21                    *“(7) the judgment relates to a claim for which*  
22 *the foreign state is not immune by virtue of section*  
23 *1605(a)(7), regardless of whether the property is or*  
24 *was involved in the act upon which the claim is*  
25 *based.’’.*

1       (b)    AGENCY   OR   INSTRUMENTALITY.—Section  
2 1610(b)(2) of such title is amended—

3           (1) by striking “or (5)” and inserting in lieu  
4 thereof “(5), or (7)”; and

5           (2) by striking “used for the activity” and in-  
6 sserting in lieu thereof “involved in the act”.

7 **SEC. 3. APPLICABILITY.**

8       The amendments made by this Act shall apply to any  
9 cause of action arising before, on, or after the date of the  
10 enactment of this Act.