II

104TH CONGRESS

2D SESSION S. 2083 To amend title 18, United States Code, to set forth the civil jurisdiction

of the United States for crimes committed by persons accompanying
the Armed Forces outside of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 17, 1996 Mr. DEWINE introduced the following bill; which was read twice and referred

to the Committee on Armed Services

A BILL
To amend title 18, United States Code, to set forth the
civil jurisdiction of the United States for crimes commit-
ted by persons accompanying the Armed Forces outside
of the United States, 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. PROHIBITION ON ACCRUAL OF PAY AND AL-
4 LOWANCES BY MEMBERS OF THE ARMED

5 FORCES WHO ARE CONFINED PENDING DIS-

6 HONORABLE DISCHARGE.
7 (a) REVISION OF PROHIBITION.—

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1 (1) IN GENERAL.—Section 804 of title 37,
2 United States Code, is amended to read as follows:
3 ‘‘§ 804. Prohibition on accrual of pay and allowances

4 during confinement pending dishonor-

5 able discharge
6 ‘‘(a) PAY AND ALLOWANCES NOT TO ACCRUE.—A
7 member of the Armed Forces sentenced by a court-martial

8 to a dishonorable discharge is not entitled to pay and al-9 lowances for any period during which the member is in

10 confinement after the adjournment of the court-martial
11 that adjudged the sentence.
12 ‘‘(b) RESTORATION OF ENTITLEMENT.—If a sen-
13 tence of a member of the Armed Forces to dishonorable

14 discharge is disapproved, mitigated, changed, or set aside

15 by an official authorized to do so, the prohibition in sub-
16 section (a) shall cease to apply to the member on the basis
17 of that sentence. In such cases, the member shall be enti-

18 tled to receive the pay and allowances retroactive to the

19 date of the sentence.’’.

20 (2) CLERICAL AMENDMENT.—The item relating

21 to section 804 in the table of sections at the begin-
22 ning of chapter 15 of title 37, United States Code,
23 is amended to read as follows:

‘‘804. Prohibition on accrual of pay and allowances during confinement pending dishonorable discharge.’’.

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1 (b) PROSPECTIVE APPLICABILITY.—The amendment
2 made by subsection (a)(1) shall not apply to pay periods

3 beginning before the date of enactment of this Act.

4 SEC. 2. CRIMINAL OFFENSES COMMITTED OUTSIDE THE

5 UNITED STATES BY PERSONS ACCOMPANY-

6 ING THE ARMED FORCES.
7 (a) IN GENERAL.—Title 18, United States Code, is

8 amended by inserting after chapter 211 the following new 9 chapter:

10 ‘‘CHAPTER 212—CRIMINAL OFFENSES
11 COMMITTED OUTSIDE THE UNITED
12 STATES

‘ ‘Sec.

‘‘3261. Criminal offenses committed by persons formerly serving with, or pres- ently employed by or accompanying, the Armed Forces outside

the United States.

‘‘3262. Delivery to authorities of foreign countries.
‘ ‘3263. Regulations.

‘‘3264. Definitions for chapter.
13 ‘‘§ 3261. Criminal offenses committed by persons for-
14 merly serving with, or presently em-
15 ployed by or accompanying, the Armed
16 Forces outside the United States

17 ‘‘(a) IN GENERAL.—Whoever, while serving with, em-

18 ployed by, or accompanying the Armed Forces outside of
19 the United States, engages in conduct that would con-

20 stitute an offense punishable by imprisonment for more 21 than 1 year if the conduct had been engaged in within

22 the special maritime and territorial jurisdiction of the

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1 United States, shall be guilty of a like offense and subject
2 to a like punishment.

3 ‘‘(b) CONCURRENT JURISDICTION.—Nothing con-
4 tained in this chapter deprives courts-martial, military

5 commissions, provost courts, or other military tribunals of
6 concurrent jurisdiction with respect to offenders or of-
7 fenses that by statute or by the law of war may be tried

8 by courts-martial, military commissions, provost courts, or 9 other military tribunals.
10 ‘‘(c) ACTION BY FOREIGN GOVERNMENT.—No pros-

11 ecution may be commenced under this section if a foreign
12 government, in accordance with jurisdiction recognized by

13 the United States, has prosecuted or is prosecuting such 14 person for the conduct constituting such offense, except 15 upon the approval of the Attorney General of the United

16 States or the Deputy Attorney General of the United
17 States (or a person acting in either such capacity), which

18 function of approval shall not be delegated.
19 ‘‘(d) ARRESTS.—
20 ‘‘(1) LAW ENFORCEMENT PERSONNEL.—The

21 Secretary of Defense may designate and authorize
22 any person serving in a law enforcement position in

23 the Department of Defense to arrest outside of the
24 United States any person described in subsection (a)

25 if there is probable cause to believe that such person

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1 engaged in conduct which constitutes a criminal of-
2 fense under subsection (a).
3 ‘‘(2) RELEASE TO CIVILIAN LAW ENFORCE-

4 MENT.—A person arrested under paragraph (1)

5 shall be released to the custody of civilian law en-
6 forcement authorities of the United States for re-
7 moval to the United States for judicial proceedings

8 in relation to conduct referred to in such paragraph

9 unless—

10 ‘‘(A) such person is delivered to authorities

11 of a foreign country under section 3262; or
12 ‘‘(B) such person has had charges brought

13 against him or her under chapter 47 of title 10

14 for such conduct.
15 ‘‘§ 3262. Delivery to authorities of foreign countries
16 ‘‘(a) IN GENERAL.—Any person designated and au-
17 thorized under section 3261(d) may deliver a person de-

18 scribed in section 3261(a) to the appropriate authorities 19 of a foreign country in which the person is alleged to have 20 engaged in conduct described in subsection (a) if—

21 ‘‘(1) the appropriate authorities of that country
22 request the delivery of the person to such country
23 for trial for such conduct as an offense under the

24 laws of that country; and

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1 ‘‘(2) the delivery of such person to that country
2 is authorized by a treaty or other international

3 agreement to which the United States is a party.
4 ‘‘(b) DETERMINATION BY THE SECRETARY.—The
5 Secretary of Defense shall determine which officials of a

6 foreign country constitute appropriate authorities for pur-
7 poses of this section.
8 ‘‘§ 3263. Regulations

9 ‘‘The Secretary of Defense shall issue regulations

10 governing the apprehension, detention, and removal of
11 persons under this chapter. Such regulations shall be uni-
12 form throughout the Department of Defense.
13 ‘‘§ 3264. Definitions for chapter

14 ‘‘As used in this chapter—
15 ‘‘(1) the term ‘Armed Forces’ has the same

16 meaning as in section 101(a)(4) of title 10;
17 ‘‘(2) a person is ‘employed by the Armed

18 Forces outside of the United States’ if the person—
19 ‘‘(A) is employed as a civilian employee of

20 the Department of Defense, as a Department of
21 Defense contractor, or as an employee of a De-
22 partment of Defense contractor;

23 ‘‘(B) is present or residing outside of the
24 United States in connection with such employ-

25 ment; and

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1 ‘‘(C) is not a national of the host nation;
2 and

3 ‘‘(3) a person is ‘accompanying the Armed
4 Forces outside of the United States’ if the person—
5 ‘‘(A) is a dependent of a member of the

6 armed forces;
7 ‘‘(B) is a dependent of a civilian employee

8 of the Department of Defense; and
9 ‘‘(C) is residing with the member or civil-
10 ian employee outside of the United States.’’.

11 (b) CLERICAL AMENDMENT.—The table of chapters
12 at the beginning of part II of title 18, United States Code,

13 is amended by inserting after the item relating to chapter 14 211 the following:

‘‘212. Criminal Offenses Committed Outside the United
States.. 3261’’.

15 SEC. 3. MILITARY JUSTICE ACTIONS.

16 (a) DEFINITION.—For purposes of this section, the

17 term ‘‘Director’’ means the Director of the Federal Bu-
18 reau of Investigation.
19 (b) RECORDS OF MILITARY JUSTICE ACTIONS.—At

20 the time that a member of the Armed Forces is discharged

21 from a period of service in the Armed Forces or is released
22 from a period of active duty service in the Armed Forces,
23 the Secretary of the military department having jurisdic-
24 tion of the armed force of the member shall transmit to

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1 the Director a copy of records of any penal actions taken
2 against the member under chapter 47 of title 10, United

3 States Code (the Uniform Code of Military Justice), dur-4 ing that period.
5 (c) DNA ANALYSIS.—

6 (1) SAMPLES REQUIRED.—Any person who is
7 convicted of a crime of a sexual nature under the

8 Uniform Code of Military Justice shall, prior to mili-
9 tary discharge, transmit to the Secretary of the mili-

10 tary department having jurisdiction of the armed
11 force of the member, a sample of blood, saliva, or
12 other specimen collected from that person necessary

13 to conduct DNA analysis consistent with established
14 procedures for DNA testing by the Director.
15 (2) TRANSMISSION TO FBI.—Each sample

16 transmitted under paragraph (1) shall be transmit-
17 ted by the Secretary described in that paragraph in

18 a timely manner to the Director for inclusion in the
19 Combined DNA Identification System (CODIS) of

20 the Federal Bureau of Investigation.

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