

105TH CONGRESS  
2D SESSION

# S. 1379

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## AN ACT

To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, 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 “Nazi War Crimes Dis-  
5        closure Act”.

1 **SEC. 2. ESTABLISHMENT OF NAZI WAR CRIMINAL RECORDS**

2 **INTERAGENCY WORKING GROUP.**

3 (a) DEFINITIONS.—In this section the term—

4 (1) “agency” has the meaning given such term  
5 under section 551 of title 5, United States Code;

6 (2) “Interagency Group” means the Nazi War  
7 Criminal Records Interagency Working Group estab-  
8 lished under subsection (b);

9 (3) “Nazi war criminal records” has the mean-  
10 ing given such term under section 3 of this Act; and

11 (4) “record” means a Nazi war criminal record.

12 (b) ESTABLISHMENT OF INTERAGENCY GROUP.—

13 (1) IN GENERAL.—Not later than 60 days after  
14 the date of enactment of this Act, the President  
15 shall establish the Nazi War Criminal Records Inter-  
16 agency Working Group, which shall remain in exist-  
17 ence for 3 years after the date the Interagency  
18 Group is established.

19 (2) MEMBERSHIP.—The President shall appoint  
20 to the Interagency Group individuals whom the  
21 President determines will most completely and effec-  
22 tively carry out the functions of the Interagency  
23 Group within the time limitations provided in this  
24 section, including the Director of the Holocaust Mu-  
25 seum, the Historian of the Department of State, the  
26 Archivist of the United States, the head of any other

1 agency the President considers appropriate, and no  
2 more than 3 other persons. The head of an agency  
3 appointed by the President may designate an appro-  
4 priate officer to serve on the Interagency Group in  
5 lieu of the head of such agency.

6 (3) INITIAL MEETING.—Not later than 90 days  
7 after the date of enactment of this Act, the Inter-  
8 agency Group shall hold an initial meeting and begin  
9 the functions required under this section.

10 (c) FUNCTIONS.—Not later than 1 year after the date  
11 of enactment of this Act, the Interagency Group shall, to  
12 the greatest extent possible consistent with section 3 of  
13 this Act—

14 (1) locate, identify, inventory, recommend for  
15 declassification, and make available to the public at  
16 the National Archives and Records Administration,  
17 all classified Nazi war criminal records of the United  
18 States;

19 (2) coordinate with agencies and take such ac-  
20 tions as necessary to expedite the release of such  
21 records to the public; and

22 (3) submit a report to Congress, including the  
23 Committee on the Judiciary of the Senate and the  
24 Committee on Government Reform and Oversight of  
25 the House of Representatives, describing all such

1 records, the disposition of such records, and the ac-  
2 tivities of the Interagency Group and agencies under  
3 this section.

4 (d) FUNDING.—There are authorized to be appro-  
5 priated such sums as may be necessary to carry out the  
6 provisions of this Act.

7 **SEC. 3. REQUIREMENT OF DISCLOSURE OF RECORDS RE-**  
8 **GARDING PERSONS WHO COMMITTED NAZI**  
9 **WAR CRIMES.**

10 (a) NAZI WAR CRIMINAL RECORDS.—For purposes  
11 of this Act, the term “Nazi war criminal records” means  
12 classified records or portions of records that—

13 (1) pertain to any person with respect to whom  
14 the United States Government, in its sole discretion,  
15 has grounds to believe ordered, incited, assisted, or  
16 otherwise participated in the persecution of any per-  
17 son because of race, religion, national origin, or po-  
18 litical opinion, during the period beginning on March  
19 23, 1933, and ending on May 8, 1945, under the di-  
20 rection of, or in association with—

21 (A) the Nazi government of Germany;

22 (B) any government in any area occupied  
23 by the military forces of the Nazi government  
24 of Germany;

1 (C) any government established with the  
2 assistance or cooperation of the Nazi govern-  
3 ment of Germany; or

4 (D) any government which was an ally of  
5 the Nazi government of Germany; or

6 (2) pertain to any transaction as to which the  
7 United States Government, in its sole discretion, has  
8 grounds to believe—

9 (A) involved assets taken from persecuted  
10 persons during the period beginning on March  
11 23, 1933, and ending on May 8, 1945, by,  
12 under the direction of, on behalf of, or under  
13 authority granted by the Nazi government of  
14 Germany or any nation then allied with that  
15 government; and

16 (B) such transaction was completed with-  
17 out the assent of the owners of those assets or  
18 their heirs or assigns or other legitimate rep-  
19 resentatives.

20 (b) RELEASE OF RECORDS.—

21 (1) IN GENERAL.—Subject to paragraphs (2),  
22 (3), and (4), the Nazi War Criminal Records Inter-  
23 agency Working Group shall release in their entirety  
24 Nazi war criminal records that are described in sub-  
25 section (a).

1           (2) EXCEPTION FOR PRIVACY, ETC.—An agency  
2 head may exempt from release under paragraph (1)  
3 specific information, that would—

4           (A) constitute a clearly unwarranted inva-  
5 sion of personal privacy;

6           (B) reveal the identity of a confidential  
7 human source, or reveal information about the  
8 application of an intelligence source or method,  
9 or reveal the identity of a human intelligence  
10 source when the unauthorized disclosure of that  
11 source would clearly and demonstrably damage  
12 the national security interests of the United  
13 States;

14           (C) reveal information that would assist in  
15 the development or use of weapons of mass de-  
16 struction;

17           (D) reveal information that would impair  
18 United States cryptologic systems or activities;

19           (E) reveal information that would impair  
20 the application of state-of-the-art technology  
21 within a United States weapon system;

22           (F) reveal actual United States military  
23 war plans that remain in effect;

24           (G) reveal information that would seriously  
25 and demonstrably impair relations between the

1 United States and a foreign government, or se-  
2 riously and demonstrably undermine ongoing  
3 diplomatic activities of the United States;

4 (H) reveal information that would clearly  
5 and demonstrably impair the current ability of  
6 United States Government officials to protect  
7 the President, Vice President, and other offi-  
8 cials for whom protection services, in the inter-  
9 est of national security, are authorized;

10 (I) reveal information that would seriously  
11 and demonstrably impair current national secu-  
12 rity emergency preparedness plans; or

13 (J) violate a treaty or international agree-  
14 ment.

15 (3) APPLICATION OF EXEMPTIONS.—

16 (A) IN GENERAL.—In applying the exemp-  
17 tions listed in subparagraphs (B) through (J)  
18 of paragraph (2), there shall be a presumption  
19 that the public interest in the release of Nazi  
20 war criminal records will be served by disclosure  
21 and release of the records. Assertion of such ex-  
22 emption may only be made when the agency  
23 head determines that disclosure and release  
24 would be harmful to a specific interest identi-  
25 fied in the exemption. An agency head who

1 makes such a determination shall promptly re-  
2 port it to the committees of Congress with ap-  
3 propriate jurisdiction, including the Committee  
4 on the Judiciary of the Senate and the Commit-  
5 tee on Government Reform and Oversight of  
6 the House of Representatives. The exemptions  
7 set forth in paragraph (2) shall constitute the  
8 only authority pursuant to which an agency  
9 head may exempt records otherwise subject to  
10 release under paragraph (1).

11 (B) APPLICATION OF TITLE 5.—A deter-  
12 mination by an agency head to apply an exemp-  
13 tion listed in subparagraphs (B) through (I) of  
14 paragraph (2) shall be subject to the same  
15 standard of review that applies in the case of  
16 records withheld under section 552(b)(1) of title  
17 5, United States Code.

18 (4) LIMITATION ON APPLICATION.—This sub-  
19 section shall not apply to records—

20 (A) related to or supporting any active or  
21 inactive investigation, inquiry, or prosecution by  
22 the Office of Special Investigations of the De-  
23 partment of Justice; or

24 (B) solely in the possession, custody, or  
25 control of that office.

1 (c) INAPPLICABILITY OF NATIONAL SECURITY ACT  
2 OF 1947 EXEMPTION.—Section 701(a) of the National  
3 Security Act of 1947 (50 U.S.C. 431) shall not apply to  
4 any operational file, or any portion of any operational file,  
5 that constitutes a Nazi war criminal record under section  
6 3 of this Act.

7 **SEC. 4. EXPEDITED PROCESSING OF FOIA REQUESTS FOR**  
8 **NAZI WAR CRIMINAL RECORDS.**

9 (a) EXPEDITED PROCESSING.—For purposes of expe-  
10 dited processing under section 552(a)(6)(E) of title 5,  
11 United States Code, any requester of a Nazi war criminal  
12 record shall be deemed to have a compelling need for such  
13 record.

14 (b) REQUESTER.—For purposes of this section, the  
15 term “requester” means any person who was persecuted  
16 in the manner described under section 3(a)(1) of this Act  
17 who requests a Nazi war criminal record.

1 **SEC. 5. EFFECTIVE DATE.**

2       This Act and the amendments made by this Act shall  
3 take effect on the date that is 90 days after the date of  
4 enactment of this Act.

Passed the Senate June 19, 1998.

Attest:

*Secretary.*

105<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

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To amend section 552 of title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclose Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence matters, and for other purposes.

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