

106TH CONGRESS  
1ST SESSION

# H. R. 3380

To amend title 18, United States Code, to establish Federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 16, 1999

Mr. CHAMBLISS (for himself and Mr. McCOLLUM) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title 18, United States Code, to establish Federal jurisdiction over offenses committed outside the United States by persons employed by or accompanying the Armed Forces, or by members of the Armed Forces who are released or separated from active duty prior to being identified and prosecuted for the commission of such offenses, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Military  
3 Extraterritorial Jurisdiction Act of 1999”.

4 **SEC. 2. FEDERAL JURISDICTION.**

5 (a) CERTAIN CRIMINAL OFFENSES COMMITTED OUT-  
6 SIDE THE UNITED STATES.—Title 18, United States  
7 Code, is amended by inserting after chapter 211 the fol-  
8 lowing new chapter:

9 **“CHAPTER 212—MILITARY EXTRATERRITORIAL**  
10 **JURISDICTION**

“Sec.

“3261. Criminal offenses committed by certain members of the Armed Forces  
and by persons employed by or accompanying the Armed  
Forces outside the United States.

“3262. Delivery to authorities of foreign countries.

“3263. Regulations.

“3264. Definitions.

11 **“§ 3261. Criminal offenses committed by certain mem-**  
12 **bers of the Armed Forces and by persons**  
13 **employed by or accompanying the Armed**  
14 **Forces outside the United States**

15 “(a) Whoever engages in conduct outside the United  
16 States that would constitute an offense punishable by im-  
17 prisonment for more than 1 year if the conduct had been  
18 engaged in within the special maritime and territorial ju-  
19 risdiction of the United States—

20 “(1) while employed by or accompanying the  
21 Armed Forces outside the United States; or

1           “(2) while a member of the Armed Forces sub-  
2           ject to chapter 47 of title 10 (the Uniform Code of  
3           Military Justice) in accordance with section 802 of  
4           such title, and thereafter ceases to be subject to  
5           such chapter without having been tried by court-  
6           martial with respect to such conduct;

7 shall be punished as provided for that offense.

8           “(b) Nothing in this chapter may be construed to de-  
9           prive a court-martial, military commission, provost court,  
10          or other military tribunal of concurrent jurisdiction with  
11          respect to offenders or offenses that by statute or by the  
12          law of war may be tried by a court-martial, military com-  
13          mission, provost court, or other military tribunal.

14          “(c) No prosecution may be commenced against a  
15          person under this section if a foreign government, in ac-  
16          cordance with jurisdiction recognized by the United  
17          States, has prosecuted or is prosecuting such person for  
18          the conduct constituting such offense, except upon the ap-  
19          proval of the Attorney General or the Deputy Attorney  
20          General (or a person acting in either such capacity), which  
21          function of approval may not be delegated.

22          “(d)(1) The Secretary of Defense may designate and  
23          authorize any person serving in a law enforcement position  
24          in the Department of Defense to arrest, in accordance  
25          with applicable international agreements, outside the

1 United States any person described in subsection (a) if  
2 there is probable cause to believe that such person engaged  
3 in conduct that constitutes a criminal offense under sub-  
4 section (a).

5 “(2) A person arrested under paragraph (1) shall be  
6 delivered as soon as practicable to the custody of civilian  
7 law enforcement authorities of the United States for re-  
8 moval to the United States for judicial proceedings in rela-  
9 tion to conduct referred to in such paragraph unless—

10 “(A) such person is delivered to authorities of  
11 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 for  
14 such conduct.

15 **“§ 3262. Delivery to authorities of foreign countries**

16 “(a) Any person designated and authorized under  
17 section 3261(d) may deliver a person described in section  
18 3261(a) to the appropriate authorities of a foreign country  
19 in which such person is alleged to have engaged in conduct  
20 described in section 3261(a) if—

21 “(1) appropriate authorities of that country re-  
22 quest the delivery of the person to such country for  
23 trial for such conduct as an offense under the laws  
24 of that country; and

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) The Secretary of Defense, in consultation with  
5 the Secretary of State, shall determine which officials of  
6 a foreign country constitute appropriate authorities for  
7 purposes of this section.

8           **“§ 3263. Regulations**

9           “(a) The Secretary of Defense, after consultation  
10 with the Secretary of State and the Attorney General,  
11 shall prescribe regulations governing the apprehension, de-  
12 tention, delivery, and removal of persons under this chap-  
13 ter. Such regulations shall be uniform throughout the De-  
14 partment of Defense.

15           “(b)(1) The Secretary of Defense, after consultation  
16 with the Secretary of State and the Attorney General,  
17 shall prescribe regulations requiring that, to the maximum  
18 extent practicable, notice shall be provided to any person  
19 employed by or accompanying the Armed Forces outside  
20 the United States who is not a national of the United  
21 States that such person is potentially subject to the crimi-  
22 nal jurisdiction of the United States under this chapter.

23           “(2) A failure to provide notice in accordance with  
24 the regulations prescribed under paragraph (1) shall not  
25 defeat the jurisdiction of a court of the United States or

1 provide a defense in any judicial proceeding arising under  
2 this chapter.

3 **“§ 3264. Definitions**

4 “As used in this chapter—

5 “(1) to be ‘employed by the Armed Forces out-  
6 side the United States’ means to be—

7 “(A) employed as a civilian employee of the  
8 Department of Defense (including a non-  
9 appropriated fund instrumentality of the De-  
10 partment), as a Department of Defense con-  
11 tractor (including a subcontractor at any tier),  
12 or as an employee of a Department of Defense  
13 contractor (including a subcontractor at any  
14 tier);

15 “(B) present or residing outside the  
16 United States in connection with such employ-  
17 ment; and

18 “(C) not a national of or ordinarily resi-  
19 dent in the host nation;

20 “(2) to be ‘accompanying the Armed Forces  
21 outside the United States’ means to be—

22 “(A) a dependent of—

23 “(i) a member of the Armed Forces;

24 “(ii) a civilian employee of a military  
25 department or of the Department of De-

1 fense (including a nonappropriated fund  
2 instrumentality of the Department); or

3 “(iii) a Department of Defense con-  
4 tractor (including a subcontractor at any  
5 tier) or an employee of a Department of  
6 Defense contractor (including a subcon-  
7 tractor at any tier);

8 “(B) residing with such member, civilian  
9 employee, contractor, or contractor employee  
10 outside the United States; and

11 “(C) not a national of or ordinarily resi-  
12 dent in the host nation; and

13 “(3) ‘Armed Forces’ has the meaning given the  
14 term ‘armed forces’ in section 101(a)(4) of title  
15 10.”.

16 (b) EFFECTIVE DATE OF REGULATIONS.—The regu-  
17 lations prescribed by the Secretary of Defense under sec-  
18 tion 3263 of title 18, United States Code, as added by  
19 subsection (a) of this section, and any amendments to  
20 those regulations, shall not take effect before the date that  
21 is 90 days after the date on which the Secretary submits  
22 a report containing those regulations or amendments (as  
23 applicable) to the Committee on the Judiciary of the  
24 House of Representatives and the Committee on the Judi-  
25 ciary of the Senate.

1           (c) CLERICAL AMENDMENT.—The table of chapters  
2 for part II of title 18, United States Code, is amended  
3 by inserting after the item relating to chapter 211 the fol-  
4 lowing new item:

**“212.    Military Extraterritorial Jurisdiction ..... 3261”.**

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