

107TH CONGRESS
1ST SESSION

S. 1770

To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 5, 2001

Mr. LEAHY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, 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 **TITLE I—SUPPRESSION OF**
 2 **TERRORIST BOMBINGS**

3 **SEC. 101. SHORT TITLE.**

4 This title may be cited as the “Terrorist Bombings
 5 Convention Implementation Act of 2001”.

6 **SEC. 102. BOMBING STATUTE.**

7 (a) OFFENSE.—Chapter 113B of title 18, United
 8 States Code, relating to terrorism, is amended by adding
 9 at the end thereof the following new section:

10 **“§ 2332f. Bombings of places of public use, govern-**
 11 **ment facilities, public transportation sys-**
 12 **tems and infrastructure facilities**

13 “(a) OFFENSES.—

14 “(1) IN GENERAL.—Whoever unlawfully deliv-
 15 ers, places, discharges, or detonates an explosive or
 16 other lethal device in, into, or against a place of
 17 public use, a state or government facility, a public
 18 transportation system, or an infrastructure facility—

19 “(A) with the intent to cause death or seri-
 20 ous bodily injury, or

21 “(B) with the intent to cause extensive de-
 22 struction of such a place, facility, or system,
 23 where such destruction results in or is likely to
 24 result in major economic loss, shall be punished
 25 as prescribed in subsection (c).

1 “(2) ATTEMPTS AND CONSPIRACIES.—Whoever
2 attempts or conspires to commit an offense under
3 paragraph (1) shall be punished as prescribed in
4 subsection (c).

5 “(b) JURISDICTION.—There is jurisdiction over the
6 offenses in subsection (a) if—

7 “(1) the offense takes place in the United
8 States and—

9 “(A) the offense is committed against an-
10 other state or a government facility of such
11 state, including its embassy or other diplomatic
12 or consular premises of that state;

13 “(B) the offense is committed in an at-
14 tempt to compel another state or the United
15 States to do or abstain from doing any act;

16 “(C) at the time the offense is committed,
17 it is committed—

18 “(i) on board a vessel flying the flag
19 of another state;

20 “(ii) on board an aircraft which is
21 registered under the laws of another state;

22 or

23 “(iii) on board an aircraft which is op-
24 erated by the government of another state;

1 “(D) a perpetrator is found outside the
2 United States;

3 “(E) a perpetrator is a national of another
4 state or a stateless person; or

5 “(F) a victim is a national of another state
6 or a stateless person;

7 “(2) the offense takes place outside the United
8 States and—

9 “(A) a perpetrator is a national of the
10 United States or is a stateless person whose ha-
11 bitual residence is in the United States;

12 “(B) a victim is a national of the United
13 States;

14 “(C) a perpetrator is found in the United
15 States;

16 “(D) the offense is committed in an at-
17 tempt to compel the United States to do or ab-
18 stain from doing any act;

19 “(E) the offense is committed against a
20 state or government facility of the United
21 States, including an embassy or other diplo-
22 matic or consular premises of the United
23 States;

24 “(F) the offense is committed on board a
25 vessel flying the flag of the United States or an

1 aircraft which is registered under the laws of
2 the United States at the time the offense is
3 committed; or

4 “(G) the offense is committed on board an
5 aircraft which is operated by the United States.

6 “(c) PENALTIES.—Whoever violates this section shall
7 be imprisoned for any term of years or for life.

8 “(d) EXEMPTIONS TO JURISDICTION.—This section
9 does not apply to—

10 “(1) the activities of armed forces during an
11 armed conflict, as those terms are understood under
12 the law of war, which are governed by that law;

13 “(2) activities undertaken by military forces of
14 a state in the exercise of their official duties; or

15 “(3) offenses committed within the United
16 States, where the alleged offender and the victims
17 are United States citizens and the alleged offender
18 is found in the United States, or where jurisdiction
19 is predicated solely on the nationality of the victims
20 or the alleged offender and the offense has no sub-
21 stantial effect on interstate or foreign commerce.

22 “(e) DEFINITIONS.—As used in this section, the
23 term—

24 “(1) ‘serious bodily injury’ has the meaning
25 given that term in section 1365(g)(3) of this title;

1 “(2) ‘national of the United States’ has the
2 meaning given that term in section 101(a)(22) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1101(a)(22));

5 “(3) ‘state or government facility’ includes any
6 permanent or temporary facility or conveyance that
7 is used or occupied by representatives of a state,
8 members of Government, the legislature or the judi-
9 ciary or by officials or employees of a state or any
10 other public authority or entity or by employees or
11 officials of an intergovernmental organization in con-
12 nection with their official duties;

13 “(4) ‘intergovernmental organization’ includes
14 international organization (as defined in section
15 1116(b)(5) of this title);

16 “(5) ‘infrastructure facility’ means any publicly
17 or privately owned facility providing or distributing
18 services for the benefit of the public, such as water,
19 sewage, energy, fuel, or communications;

20 “(6) ‘place of public use’ means those parts of
21 any building, land, street, waterway, or other loca-
22 tion that are accessible or open to members of the
23 public, whether continuously, periodically, or occa-
24 sionally, and encompasses any commercial, business,
25 cultural, historical, educational, religious, govern-

1 mental, entertainment, recreational, or similar place
2 that is so accessible or open to the public;

3 “(7) ‘public transportation system’ means all
4 facilities, conveyances, and instrumentalities, wheth-
5 er publicly or privately owned, that are used in or
6 for publicly available services for the transportation
7 of persons or cargo;

8 “(8) ‘explosive’ has the meaning given in sec-
9 tion 844(j) of this title insofar that it is designed,
10 or has the capability, to cause death, serious bodily
11 injury, or substantial material damage;

12 “(9) ‘other legal device’ means any weapon or
13 device that is designed or has the capability to cause
14 death, serious bodily injury, or substantial damage
15 to property through the release, dissemination, or
16 impact of toxic chemicals, biological agents, or toxins
17 (as those terms are defined in section 178 of this
18 title) or radiation or radioactive material;

19 “(10) ‘military forces of a state’ means the
20 armed forces of a state which are organized, trained,
21 and equipped under its internal law for the primary
22 purpose of national defense or security, and persons
23 acting in support of those armed forces who are
24 under their formal command, control, and responsi-
25 bility;

1 “(11) ‘armed conflict’ does not include internal
2 disturbances and tensions, such as riots, isolated,
3 and sporadic acts of violence, and other acts of a
4 similar nature; and

5 “(12) ‘state’ has the same meaning as that
6 term has under international law, and includes all
7 political subdivisions thereof.”.

8 (b) **CLERICAL AMENDMENT.**—The table of sections
9 at the beginning of chapter 113B of title 18, United
10 States Code, is amended by adding at the end thereof the
11 following:

 “2332f. Bombings of places of public use, government facilities, public transpor-
 tation systems and infrastructure facilities.”.

12 (c) **DISCLAIMER.**—Nothing contained in this section
13 is intended to affect the applicability of any other Federal
14 or State law which might pertain to the underlying con-
15 duct.

16 **SEC. 103. EFFECTIVE DATE.**

17 Section 102 shall take effect on the date that the
18 International Convention for the Suppression of Terrorist
19 Bombings enters into force for the United States.

1 **TITLE II—SUPPRESSION OF THE**
 2 **FINANCING OF TERRORISM**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Suppression of the
 5 Financing of Terrorism Convention Implementation Act
 6 of 2001”.

7 **SEC. 202. TERRORISM FINANCING STATUTE.**

8 (a) IN GENERAL.—Chapter 113B of title 18, United
 9 States Code, relating to terrorism, is amended by adding
 10 at the end thereof the following new section:

11 **“§ 2339C. Prohibitions against the financing of ter-**
 12 **rorism**

13 “(a) OFFENSES.—

14 “(1) IN GENERAL.—Whoever, in a circumstance
 15 described in subsection (c), by any means, directly or
 16 indirectly, unlawfully and willfully provides or col-
 17 lects funds with the intention that such funds be
 18 used, or with the knowledge that such funds are to
 19 be used, in full or in part, in order to carry out—

20 “(A) an act which constitutes an offense
 21 within the scope of a treaty specified in sub-
 22 section (e)(7), as implemented by the United
 23 States, or

24 “(B) any other act intended to cause death
 25 or serious bodily injury to a civilian, or to any

1 other person not taking an active part in the
2 hostilities in a situation of armed conflict, when
3 the purpose of such act, by its nature or con-
4 text, is to intimidate a population, or to compel
5 a government or an international organization
6 to do or to abstain from doing any act,
7 shall be punished as prescribed in subsection (d)(1).

8 “(2) ATTEMPTS AND CONSPIRACIES.—Whoever
9 attempts or conspires to commit an offense under
10 paragraph (1) shall be punished as prescribed in
11 subsection (d)(1).

12 “(3) RELATIONSHIP TO PREDICATE ACT.—For
13 an act to constitute an offense set forth in this sub-
14 section, it shall not be necessary that the funds were
15 actually used to carry out a predicate act.

16 “(b) JURISDICTION.—There is jurisdiction over the
17 offenses in subsection (a) in the following circumstances—

18 “(1) the offense takes place in the United
19 States and—

20 “(A) a perpetrator was a national of an-
21 other state or a stateless person;

22 “(B) on board a vessel flying the flag of
23 another state or an aircraft which is registered
24 under the laws of another state at the time the
25 offense is committed;

1 “(C) on board an aircraft which is oper-
2 ated by the government of another state;

3 “(D) a perpetrator is found outside the
4 United States;

5 “(E) was directed toward or resulted in
6 the carrying out of a predicate act against—

7 “(i) a national of another state; or

8 “(ii) another state or a government
9 facility of such state, including its embassy
10 or other diplomatic or consular premises of
11 that state;

12 “(F) was directed toward or resulted in the
13 carrying out of a predicate act committed in an
14 attempt to compel another state or inter-
15 national organization to do or abstain from
16 doing any act; or

17 “(G) was directed toward or resulted in
18 the carrying out of a predicate act—

19 “(i) outside the United States; or

20 “(ii) within the United States, and ei-
21 ther the offense or the predicate act was
22 conducted in, or the results thereof af-
23 fected, interstate or foreign commerce;

24 “(2) the offense takes place outside the United
25 States and—

1 “(A) a perpetrator is a national of the
2 United States or is a stateless person whose ha-
3 bitual residence is in the United States;

4 “(B) a perpetrator is found in the United
5 States; or

6 “(C) was directed toward or resulted in the
7 carrying out of a predicate act against—

8 “(i) any property that is owned,
9 leased, or used by the United States or by
10 any department or agency of the United
11 States, including an embassy or other dip-
12 lomatic or consular premises of the United
13 States;

14 “(ii) any person or property within
15 the United States;

16 “(iii) any national of the United
17 States or the property of such national; or

18 “(iv) any property of any legal entity
19 organized under the laws of the United
20 States, including any of its States, dis-
21 tricts, commonwealths, territories, or pos-
22 sessions;

23 “(3) the offense is committed on board a vessel
24 flying the flag of the United States or an aircraft

1 which is registered under the laws of the United
2 States at the time the offense is committed;

3 “(4) the offense is committed on board an air-
4 craft which is operated by the United States; or

5 “(5) the offense was directed toward or resulted
6 in the carrying out of a predicate act committed in
7 an attempt to compel the United States to do or ab-
8 stain from doing any act.

9 “(c) PENALTIES.—Whoever violates subsection (a)
10 shall be fined under this title, imprisoned for not more
11 than 20 years, or both.

12 “(d) DEFINITIONS.—In this section—

13 “(1) the term ‘funds’ means assets of every
14 kind, whether tangible or intangible, movable or im-
15 movable, however acquired, and legal documents or
16 instruments in any form, including electronic or dig-
17 ital, evidencing title to, or interest in, such assets,
18 including coin, currency, bank credits, travelers
19 checks, bank checks, money orders, shares, securi-
20 ties, bonds, drafts, and letters of credit;

21 “(2) the term ‘government facility’ means any
22 permanent or temporary facility or conveyance that
23 is used or occupied by representatives of a state,
24 members of a government, the legislature, or the ju-
25 diciary, or by officials or employees of a state or any

1 other public authority or entity or by employees or
2 officials of an intergovernmental organization in con-
3 nection with their official duties;

4 “(3) the term ‘proceeds’ means any funds de-
5 rived from or obtained, directly or indirectly,
6 through the commission of an offense set forth in
7 subsection (a);

8 “(4) the term ‘provides’ includes giving, donat-
9 ing, and transmitting;

10 “(5) the term ‘collects’ includes raising and re-
11 ceiving;

12 “(6) the term ‘predicate act’ means any act re-
13 ferred to in subparagraph (A) or (B) of subsection
14 (a)(1);

15 “(7) the term ‘treaty’ means—

16 “(A) the Convention for the Suppression of
17 Unlawful Seizure of Aircraft, done at The
18 Hague on December 16, 1970;

19 “(B) the Convention for the Suppression of
20 Unlawful Acts against the Safety of Civil Avia-
21 tion, done at Montreal on September 23, 1971;

22 “(C) the Convention on the Prevention and
23 Punishment of Crimes against Internationally
24 Protected Persons, including Diplomatic

1 Agents, adopted by the General Assembly of the
2 United Nations on December 14, 1973;

3 “(D) the International Convention against
4 the Taking of Hostages, adopted by the General
5 Assembly of the United Nations on December
6 17, 1979;

7 “(E) the Convention on the Physical Pro-
8 tection of Nuclear Material, adopted at Vienna
9 on March 3, 1980;

10 “(F) the Protocol for the Suppression of
11 Unlawful Acts of Violence at Airports Serving
12 International Civil Aviation, supplementary to
13 the Convention for the Suppression of Unlawful
14 Acts against the Safety of Civil Aviation, done
15 at Montreal on February 24, 1988;

16 “(G) the Convention for the Suppression of
17 Unlawful Acts against the Safety of Maritime
18 Navigation, done at Rome on March 10, 1988;

19 “(H) the Protocol for the Suppression of
20 Unlawful Acts against the Safety of Fixed Plat-
21 forms located on the Continental Shelf, done at
22 Rome on March 10, 1988; or

23 “(I) the International Convention for the
24 Suppression of Terrorist Bombings, adopted by

1 the General Assembly of the United Nations on
2 December 15, 1997;

3 “(8) the term ‘intergovernmental organization’
4 includes international organizations;

5 “(9) the term ‘international organization’ has
6 the same meaning as in section 1116(b)(5) of this
7 title;

8 “(10) the term ‘armed conflict’ does not include
9 internal disturbances and tensions, such as riots,
10 isolated and sporadic acts of violence, and other acts
11 of a similar nature;

12 “(11) the term ‘serious bodily injury’ has the
13 same meaning as in section 1365(g)(3) of this title;

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

18 “(13) the term ‘state’ has the same meaning as
19 that term has under international law, and includes
20 all political subdivisions thereof.

21 “(e) CIVIL PENALTY.—In addition to any other
22 criminal, civil, or administrative liability or penalty, any
23 legal entity located within the United States or organized
24 under the laws of the United States, including any of the
25 laws of its States, districts, commonwealths, territories, or

1 possessions, shall be liable to the United States for the
2 sum of at least \$10,000, if a person responsible for the
3 management or control of that legal entity has, in that
4 capacity, committed an offense set forth in subsection
5 (a).”.

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 113B of title 18, United
8 States Code, is amended by adding at the end thereof the
9 following:

“2339C. Prohibitions against the financing of terrorism.”.

10 (c) DISCLAIMER.—Nothing contained in this section
11 is intended to affect the scope or applicability of any other
12 Federal or State law.

13 **SEC. 203. EFFECTIVE DATE.**

14 Except for paragraphs (1)(D) and (2)(B) of section
15 2339C(b) of title 18, United States Code, which shall be-
16 come effective on the date that the International Conven-
17 tion for the Suppression of the Financing of Terrorism
18 enters into force for the United States, and for the provi-
19 sions of section 2339C(d)(7)(I) of title 18, United States
20 Code, which shall become effective on the date that the
21 International Convention for the Suppression of Terrorist
22 Bombing enters into force for the United States, section
23 202 shall take effect on the date of enactment of this Act.

1 **TITLE III—ANCILLARY**
2 **MEASURES**

3 **SEC. 301. ANCILLARY MEASURES.**

4 (a) WIRETAP PREDICATES.—Section 2516(1)(q) of
5 title 18, United States Code, is amended by—

6 (1) inserting “2332f,” after “2332d,”; and

7 (2) striking “or 2339B” and inserting “2339B,
8 or 2339C”.

9 (b) FEDERAL CRIME OF TERRORISM.—Section
10 2332b(g)(5)(B) of title 18, United States Code, is amend-
11 ed by—

12 (1) inserting “2332f (relating to bombing of
13 public places and facilities),” after “2332b (relating
14 to acts of terrorism transcending national bound-
15 aries),”; and

16 (2) inserting “2339C (relating to financing of
17 terrorism,” before “or 2340A (relating to torture)”.

18 (c) PROVIDING MATERIAL SUPPORT TO TERRORISTS
19 PREDICATE.—Section 2339A of title 18, United States
20 Code, is amended by inserting “2332f,” before “or
21 2340A”.

22 (d) FORFEITURE OF FUNDS, PROCEEDS, AND IN-
23 STRUMENTALITIES.—Section 981(a)(1) of title 18, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 “(H) Any property, real or personal, in-
 2 volved in a violation or attempted violation, or
 3 which constitutes or is derived from proceeds
 4 traceable to a violation, of section 2339C of this
 5 title.”.

6 **TITLE IV—DISCLOSURE OF**
 7 **INTERCEPTED WIRE, ORAL,**
 8 **OR ELECTRONIC COMMU-**
 9 **NICATIONS TO FOREIGN LAW**
 10 **ENFORCEMENT**

11 **SEC. 401. SHORT TITLE.**

12 This title may be cited as the “Foreign Law Enforce-
 13 ment Cooperation Act of 2001”.

14 **SEC. 402. AMENDMENT TO WIRETAP DISCLOSURE STATUTE.**

15 Section 2517 of title 18, United States Code, relating
 16 to the interception of communications, is amended by add-
 17 ing at the end the following:

18 “(6) Disclosure otherwise prohibited under this chap-
 19 ter of knowledge of or the contents of any wire, oral, or
 20 electronic communication, or evidence derived therefrom
 21 may also be made when permitted by the court at the re-
 22 quest of an attorney for the government, upon a showing
 23 that such information may disclose a violation of the
 24 criminal laws of the United States or a foreign nation,
 25 to an appropriate official of a foreign nation or subdivision

1 thereof for the purpose of enforcing such criminal law. If
2 the court orders disclosure of any matters under this sub-
3 section, the disclosure shall be made in such manner, at
4 such time, and under such conditions as the court may
5 direct. In making any application under this subsection,
6 the attorney for the government shall certify that the offi-
7 cial or officials for whom an order permitting disclosure
8 is sought, have been informed that they may only make
9 use of the information provided under this subsection con-
10 sistent with such guidelines as the Attorney General shall
11 issue to protect confidentiality.”.

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