

107TH CONGRESS
1ST SESSION

S. 864

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2001

Mr. LEAHY (for himself, Mr. LIEBERMAN and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

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 “Anti-Atrocity Alien De-
3 portation Act of 2001”.

4 **SEC. 2. INADMISSIBILITY AND REMOVABILITY OF ALIENS**
5 **WHO HAVE COMMITTED ACTS OF TORTURE**
6 **OR EXTRAJUDICIAL KILLINGS ABROAD.**

7 (a) INADMISSIBILITY.—Section 212(a)(3)(E) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1182(a)(3)(E)) is amended—

10 (1) in clause (ii), by striking “has engaged in
11 conduct that is defined as genocide for purposes of
12 the International Convention on the Prevention and
13 Punishment of Genocide is inadmissible” and insert-
14 ing “ordered, incited, assisted, or otherwise partici-
15 pated in conduct outside the United States that
16 would, if committed in the United States or by a
17 United States national, be genocide, as defined in
18 section 1091(a) of title 18, United States Code, is
19 inadmissible”;

20 (2) by adding at the end the following:

21 “(iii) COMMISSION OF ACTS OF TOR-
22 TURE OR EXTRAJUDICIAL KILLINGS.—Any
23 alien who, outside the United States, has
24 committed, ordered, incited, assisted, or
25 otherwise participated in the commission
26 of—

1 “(I) any act of torture, as de-
2 fined in section 2340 of title 18,
3 United States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of Tor-
7 ture Victim Protection Act of 1991;

8 is inadmissible.”; and

9 (3) in the subparagraph heading, by striking
10 “PARTICIPANTS IN NAZI PERSECUTION OR GENO-
11 CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-
12 CUTION, GENOCIDE, OR THE COMMISSION OF ANY
13 ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

14 (b) REMOVABILITY.—Section 237(a)(4)(D) of such
15 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

16 (1) by striking “clause (i) or (ii)” and inserting
17 “clause (i), (ii), or (iii)”; and

18 (2) in the subparagraph heading, by striking
19 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
20 GENOCIDE” and inserting “ASSISTED IN NAZI PER-
21 SECUTION, PARTICIPATED IN GENOCIDE, OR COM-
22 MITTED ANY ACT OF TORTURE OR EXTRAJUDICIAL
23 KILLING”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to offenses committed before, on,
3 or after the date of the enactment of this Act.

4 **SEC. 3. INADMISSIBILITY AND REMOVABILITY OF FOREIGN**
5 **GOVERNMENT OFFICIALS WHO HAVE COM-**
6 **MITTED PARTICULARLY SEVERE VIOLATIONS**
7 **OF RELIGIOUS FREEDOM.**

8 (a) Section 212(a)(2)(G) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read
10 as follows:

11 “(G) FOREIGN GOVERNMENT OFFICIALS
12 WHO HAVE COMMITTED PARTICULARLY SEVERE
13 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
14 alien who, while serving as a foreign govern-
15 ment official, was responsible for or directly
16 carried out, at any time, particularly severe vio-
17 lations of religious freedom, as defined in sec-
18 tion 3 of the International Religious Freedom
19 Act of 1998, are inadmissible.”.

20 (b) Section 237(a)(4) of such Act (8 U.S.C.
21 1227(a)(4)) is amended by adding at the end the fol-
22 lowing:

23 “(E) PARTICIPATED IN THE COMMISSION
24 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-

1 DOM.—Any alien described in section
2 212(a)(2)(G) is deportable.”.

3 **SEC. 4. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
4 **WHO HAVE COMMITTED ACTS OF TORTURE,**
5 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
6 **LATIONS OF RELIGIOUS FREEDOM.**

7 Section 101(f) of the Immigration and Nationality
8 Act (8 U.S.C. 1101(f)) is amended—

9 (1) by striking the period at the end of para-
10 graph (8) and inserting “; and”; and

11 (2) by adding at the end the following:

12 “(9) one who at any time has engaged in con-
13 duct described in section 212(a)(3)(E) (relating to
14 assistance in Nazi persecution, participation in geno-
15 cide, or commission of acts of torture or
16 extrajudicial killings) or 212(a)(2)(G) (relating to
17 severe violations of religious freedom).”.

18 **SEC. 5. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
19 **VESTIGATIONS.**

20 (a) AMENDMENT OF THE IMMIGRATION AND NA-
21 TIONALITY ACT.—Section 103 of the Immigration and
22 Nationality Act (8 U.S.C. 1103) is amended by adding
23 at the end the following:

24 “(g) The Attorney General shall establish within the
25 Criminal Division of the Department of Justice an Office

1 of Special Investigations with the authority of inves-
2 tigating, and, where appropriate, taking legal action to re-
3 move, denaturalize, prosecute, or extradite any alien found
4 to be in violation of clause (i), (ii), or (iii) of section
5 212(a)(3)(E). In determining such appropriate legal ac-
6 tion, consideration shall be given to—

7 “(1) the availability of prosecution under the
8 laws of the United States for any conduct that may
9 form the basis for removal and denaturalization; or

10 “(2) removal of the alien to a foreign jurisdic-
11 tion that is prepared to undertake a prosecution for
12 such conduct.”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—

14 (1) IN GENERAL.—There are authorized to be
15 appropriated to the Department of Justice such
16 sums as may be necessary to carry out the addi-
17 tional duties established under section 103(g) of the
18 Immigration and Nationality Act (as added by this
19 Act) in order to ensure that the Office of Special In-
20 vestigations fulfills its continuing obligations regard-
21 ing Nazi war criminals.

22 (2) AVAILABILITY OF FUNDS.—Amounts appro-
23 priated pursuant to paragraph (1) are authorized to
24 remain available until expended.

1 **SEC. 6. REPORT ON IMPLEMENTATION OF THE ACT.**

2 Not later than 180 days after the date of enactment
3 of this Act, the Attorney General, in consultation with the
4 Commissioner of Immigration and Naturalization, shall
5 submit to the Committees on the Judiciary of the Senate
6 and the House of Representatives a report on implementa-
7 tion of this Act that includes a description of—

8 (1) the procedures used to refer matters to the
9 Office of Special Investigations in a manner con-
10 sistent with the amendments made by this Act;

11 (2) the revisions, if any, made to immigration
12 forms to reflect changes in the Immigration and Na-
13 tionality Act made by the amendments contained in
14 this Act; and

15 (3) the procedures developed, with adequate due
16 process protection, to obtain sufficient evidence to
17 determine whether an alien may be inadmissible
18 under the terms of the amendments made by this
19 Act.

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