

109TH CONGRESS
1ST SESSION

H. R. 3060

To provide the death penalty for certain terrorism related crimes and make other modifications of law relating to the penalty of death.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2005

Mr. CARTER (for himself and Mr. GREEN of Wisconsin) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide the death penalty for certain terrorism related crimes and make other modifications of law relating to the penalty of death.

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 “Terrorist Death Pen-
5 alty Enhancement Act of 2005”.

1 **TITLE I—TERRORIST PENALTIES**
2 **ENHANCEMENT ACT**

3 **SEC. 101. TERRORIST OFFENSE RESULTING IN DEATH.**

4 (a) NEW OFFENSE.—Chapter 113B of title 18,
5 United States Code, is amended by adding at the end the
6 following:

7 **“§ 2339E. Terrorist offenses resulting in death**

8 “(a) Whoever, in the course of committing a terrorist
9 offense, engages in conduct that results in the death of
10 a person, shall be punished by death or imprisoned for
11 any term of years or for life.

12 “(b) As used in this section, the term ‘terrorist of-
13 fense’ means—

14 “(1) a Federal felony offense that is—

15 “(A) a Federal crime of terrorism as de-
16 fined in section 2332b(g) except to the extent
17 such crime is an offense under section 1363; or

18 “(B) an offense under this chapter, section
19 175, 175b, 229, or 831, or section 236 of the
20 Atomic Energy Act of 1954; or

21 “(2) a Federal offense that is an attempt or
22 conspiracy to commit an offense described in para-
23 graph (1).”.

24 (b) CLERICAL AMENDMENT.—The table of sections
25 at the beginning of chapter 113B of title 18, United

1 States Code, is amended by adding at the end the fol-
2 lowing new item:

“2339E. Terrorist offenses resulting in death.”.

3 **SEC. 102. DENIAL OF FEDERAL BENEFITS TO TERRORISTS.**

4 (a) IN GENERAL.—Chapter 113B of title 18, United
5 States Code, as amended by section 101 of this title, is
6 further amended by adding at the end the following:

7 **“§ 2339F. Denial of Federal benefits to terrorists**

8 “(a) An individual or corporation who is convicted of
9 a terrorist offense (as defined in section 2339E) shall, as
10 provided by the court on motion of the Government, be
11 ineligible for any or all Federal benefits for any term of
12 years or for life.

13 “(b) As used in this section, the term ‘Federal ben-
14 efit’ has the meaning given that term in section 421(d)
15 of the Controlled Substances Act, and also includes any
16 assistance or benefit described in section 115(a) of the
17 Personal Responsibility and Work Opportunity Reconcili-
18 ation Act of 1996, with the same limitations and to the
19 same extent as provided in section 115 of that Act with
20 respect to denials of benefits and assistance to which that
21 section applies.”.

22 (b) CLERICAL AMENDMENT.—The table of sections
23 at the beginning of the chapter 113B of title 18, United
24 States Code, as amended by section 101 of this title, is

1 further amended by adding at the end the following new
 2 item:

“2339E. Denial of Federal benefits to terrorists.”.

3 **SEC. 103. DEATH PENALTY PROCEDURES FOR CERTAIN AIR**
 4 **PIRACY CASES OCCURRING BEFORE ENACT-**
 5 **MENT OF THE FEDERAL DEATH PENALTY**
 6 **ACT OF 1994.**

7 Section 60003 of the Violent Crime Control and Law
 8 Enforcement Act of 1994, (Public Law 103–322), is
 9 amended, as of the time of its enactment, by adding at
 10 the end the following:

11 “(c) DEATH PENALTY PROCEDURES FOR CERTAIN
 12 PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual
 13 convicted of violating section 46502 of title 49, United
 14 States Code, or its predecessor, may be sentenced to death
 15 in accordance with the procedures established in chapter
 16 228 of title 18, United States Code, if for any offense com-
 17 mitted before the enactment of the Violent Crime Control
 18 and Law Enforcement Act of 1994 (Public Law 103–322),
 19 but after the enactment of the Antihijacking Act of 1974
 20 (Public Law 93–366), it is determined by the finder of
 21 fact, before consideration of the factors set forth in sec-
 22 tions 3591(a)(2) and 3592(a) and (c) of title 18, United
 23 States Code, that one or more of the factors set forth in
 24 former section 46503(c)(2) of title 49, United States
 25 Code, or its predecessor, has been proven by the Govern-

1 ment to exist, beyond a reasonable doubt, and that none
2 of the factors set forth in former section 46503(c)(1) of
3 title 49, United States Code, or its predecessor, has been
4 proven by the defendant to exist, by a preponderance of
5 the information. The meaning of the term ‘especially heinous,
6 cruel, or depraved’, as used in the factor set forth
7 in former section 46503(c)(2)(B)(iv) of title 49, United
8 States Code, or its predecessor, shall be narrowed by adding
9 the limiting language ‘in that it involved torture or
10 serious physical abuse to the victim’, and shall be construed
11 as when that term is used in section 3592(c)(6)
12 of title 18, United States Code.”.

13 **SEC. 104. ENSURING DEATH PENALTY FOR TERRORIST OFFENSES WHICH CREATE GRAVE RISK OF DEATH.**

14 (a) ADDITION OF TERRORISM TO DEATH PENALTY
15 OFFENSES NOT RESULTING IN DEATH.—Section
16 3591(a)(1) of title 18, United States Code, is amended
17 by inserting “, section 2339D,” after “section 794”.

18 (b) MODIFICATION OF AGGRAVATING FACTORS FOR
19 TERRORISM OFFENSES.—Section 3592(b) of title 18,
20 United States Code, is amended—

21 (1) in the heading, by inserting “, terrorism,”
22 after “espionage”; and

1 (2) by inserting immediately after paragraph
2 (3) the following:

3 “(4) SUBSTANTIAL PLANNING.—The defendant
4 committed the offense after substantial planning.”.

5 **TITLE II—PREVENTION OF TER-**
6 **RORIST ACCESS TO DESTRUC-**
7 **TIVE WEAPONS ACT**

8 **SEC. 201. DEATH PENALTY FOR CERTAIN TERROR RE-**
9 **LATED CRIMES.**

10 (a) PARTICIPATION IN NUCLEAR AND WEAPONS OF
11 MASS DESTRUCTION THREATS TO THE UNITED
12 STATES.—Section 832(c) of title 18, United States Code,
13 is amended by inserting “punished by death or” after
14 “shall be”.

15 (b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—Sec-
16 tion 2332g(c)(3) of title 18, United States Code, is
17 amended by inserting “punished by death or” after “shall
18 be”.

19 (c) ATOMIC WEAPONS.—Section 222b. of the Atomic
20 Energy Act of 1954 (42 U.S.C. 2272) is amended by in-
21 serting “death or” before “imprisonment for life”.

22 (d) RADIOLOGICAL DISPERSAL DEVICES.—Section
23 2332h(c)(3) of title 18, United States Code, is amended
24 by inserting “death or” before “imprisonment for life”.

1 (e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18,
 2 United States Code, is amended by inserting “death or”
 3 before “imprisonment for life”.

4 **TITLE III—FEDERAL DEATH**
 5 **PENALTY PROCEDURES**

6 **SEC. 301. MODIFICATION OF DEATH PENALTY PROVISIONS.**

7 (a) ELIMINATION OF PROCEDURES APPLICABLE
 8 ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT
 9 CASES.—Section 408 of the Controlled Substances Act
 10 (21 U.S.C. 848) is amended by striking subsection (g) and
 11 all that follows through subsection (r).

12 (b) MODIFICATION OF MITIGATING FACTORS.—Sec-
 13 tion 3592(a)(4) of title 18, United States Code, is amend-
 14 ed—

15 (1) by striking “Another” and inserting “The
 16 Government could have, but has not, sought the
 17 death penalty against another”; and

18 (2) by striking “, will not be punished by
 19 death”.

20 (c) MODIFICATION OF AGGRAVATING FACTORS FOR
 21 OFFENSES RESULTING IN DEATH.—Section 3592(c) of
 22 title 18, United States Code, is amended—

23 (1) in paragraph (7), by inserting “or by cre-
 24 ating the expectation of payment,” after “or promise
 25 of payment,”;

1 (2) in paragraph (1), by inserting “section
2 2339D (terrorist offenses resulting in death),” after
3 “destruction,”;

4 (3) by inserting immediately after paragraph
5 (16) the following:

6 “(17) OBSTRUCTION OF JUSTICE.—The defend-
7 ant engaged in any conduct resulting in the death of
8 another person in order to obstruct investigation or
9 prosecution of any offense.”.

10 (d) ADDITIONAL GROUND FOR IMPANELING NEW
11 JURY.—Section 3593(b)(2) of title 18, United States
12 Code, is amended—

13 (1) by striking “or” at the end of subparagraph
14 (C);

15 (2) by inserting after subparagraph (D) the fol-
16 lowing:

17 “(E) a new penalty hearing is necessary
18 due to the inability of the jury to reach a unan-
19 imous penalty verdict as required by section
20 3593(e); or”.

21 (e) JURIES OF LESS THAN 12 MEMBERS.—Sub-
22 section (b) of section 3593 of title 18, United States Code,
23 is amended by striking “unless” and all that follows
24 through the end of the subsection and inserting “unless

1 the court finds good cause, or the parties stipulate, with
2 the approval of the court, a lesser number.”.

3 (f) IMPANELING OF NEW JURY WHEN UNANIMOUS
4 RECOMMENDATION CANNOT BE REACHED.—Section
5 3594 of title 18, United States Code, is amended by in-
6 serting after the first sentence the following: “If the jury
7 is unable to reach any unanimous recommendation under
8 section 3593(e), the court, upon motion by the Govern-
9 ment, may impanel a jury under section 3593(b)(2)(E) for
10 a new sentencing hearing.”.

11 (g) PEREMPTORY CHALLENGES.—Rule 24(e) of the
12 Federal Rules of Criminal Procedure is amended—

13 (1) in paragraph (1), by striking “6” and in-
14 serting “9”; and

15 (2) in paragraph (4), by adding at the end the
16 following:

17 “(C) SEVEN, EIGHT OR NINE ALTER-
18 NATES.—Four additional peremptory challenges
19 are permitted when seven, eight, or nine alter-
20 nates are impaneled.”.

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