

TO ENHANCE THE AUTHORITIES OF SPECIAL AGENTS AND PROVIDE LIMITED AUTHORITIES TO UNIFORMED OFFICERS RESPONSIBLE FOR THE PROTECTION OF DOMESTIC DEPARTMENT OF STATE OCCUPIED FACILITIES

SEPTEMBER 19, 2001.—Ordered to be printed

Mr. HYDE, from the Committee on International Relations, submitted the following

R E P O R T

[To accompany H.R. 2541]

[Including cost estimate of the Congressional Budget Office]

The Committee on International Relations, to whom was referred the bill (H.R. 2541) to enhance the authorities of special agents and provide limited authorities to uniformed officers responsible for the protection of domestic Department of State occupied facilities, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

This bill contains three provisions, each of which amends current law to facilitate the performance by Diplomatic Security Special Agents of their statutory law enforcement functions.

Section 1(a) authorizes Diplomatic Security Special Agents to obtain and execute search warrants, subpoenas or summonses as those authorities relate to their protective duties and passport and visa fraud investigations. It also permits agents to make arrests without warrant for an offense committed in their presence or cognizable under law, while conducting their specific investigative or protective duties. Under current law agents may exercise these authorities only for offenses involving passport and visa cases. This limitation may handicap agents, for example, who are carrying out their protective functions in a situation in which an individual wanted on a Federal warrant poses a threat to the protected person. The broader authority provided in this section is similar to authority possessed by numerous law enforcement agents across the Federal Government.

Section 1(b) allows a Diplomatic Security agent performing protective functions to make a misdemeanor arrest of anyone obstructing or impeding that agent. Agents from other agencies will be covered by this provision when they are detailed to assist Diplomatic Security in protective duties. The same protection is afforded under current law to the Secret Service and any Federal law enforcement officer assisting the Secret Service.(18 U.S.C. 3056).

Finally, section 1(b) also provides for penalties against persons who threaten distinguished visitors whose protection has been authorized by the Secretary of State, thereby also providing Diplomatic Security Service Agents with arrest authority for attacks on such visitors. Presently such penalties and arrest authority do not exist. Attacks on other persons protected by Diplomatic Security agents are covered by 18 U.S.C. sections 112 and 878. However, distinguished visitors who are eligible for Diplomatic Security protection, but who are not considered "official" visitors because they are not directly connected to a foreign government, are not covered by current law.

BACKGROUND AND NEED FOR THE LEGISLATION

This bill was drafted in consultation with the State Department. The Bureau of Diplomatic Security brought to the Committee's attention certain circumstances in which enhanced authorities would improve Special Agents' ability to execute their current investigative and protective duties. The provisions clarify the circumstances where subpoena and arrest authority is available for State Department Diplomatic Security officers.

HEARINGS

No hearings held.

COMMITTEE CONSIDERATION

On August 1, 2001, the Committee met in open session and by unanimous consent directed the Chairman to seek consideration of the bill by the House.

VOTES OF THE COMMITTEE

There were no votes.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 2541, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 4, 2001.

Hon. HENRY J. HYDE, *Chairman,*
Committee on International Relations,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2541, a bill to enhance the authorities of special agents and provide limited authorities to uniformed officers responsible for the protection of domestic Department of State occupied facilities.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Sunita D'Monte, who can be reached at 226-2840.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable Tom Lantos
Ranking Democratic Member

H.R. 2541—A bill to enhance the authorities of special agents and provide limited authorities to uniformed officers responsible for the protection of domestic Department of State occupied facilities.

The bill would expand the law enforcement authorities of special agents and uniformed officers who are responsible for security at facilities occupied by the Department of State and establish a new federal crime for intentionally interfering with federal law enforcement agents or with persons under their protection. CBO estimates

that implementing H.R. 2541 would not result in any significant cost to the federal government. Because enactment of H.R. 2541 could affect direct spending and receipts, pay-as-you-go procedures would apply to the bill. However, CBO estimates that any impact on direct spending and receipts would not be significant. H.R. 2541 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

Because H.R. 2541 would establish a new federal crime, the government would be able to prosecute cases that it otherwise would not be able to pursue. Based on information from the State Department, CBO estimates that the bill would apply to a small number of offenders and any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds. Because those prosecuted and convicted under H.R. 2541 could be subject to criminal fines, the federal government might collect additional fines if the legislation is enacted. Collections of such fines are recorded in the budget as governmental receipts (revenues), which are deposited in the Crime Victims Fund and later spent. CBO expects that any additional receipts and direct spending would be negligible because of the small number of cases involved.

The CBO staff contacts for this estimate are Sunita D'Monte (for the State Department), who can be reached at 226–2840 and Mark Grabowicz (for law enforcement), who can be reached at 226–2860. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The new authorities will allow the Diplomatic Security Service officers to more effectively carry out their protective responsibilities.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 1, 3, and 18 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1(a)—Special Agent Authorities. This section amends section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) to authorize Diplomatic Security Special Agents to obtain and execute search warrants, subpoenas or summonses as those authorities relate to their protective duties and passport and visa fraud investigations. It permits agents to make arrests without warrant for offenses committed in their presence or cognizable under law, while conducting their specific investigative or protective duties.

Section 1(a)(2) amends section 37(a)(3)(F) to include the protection of the president-elect.

Section 1(a)(3) amends section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) to authorize Diplomatic Security Special Agents to make arrests without warrants

for certain offenses while conducting their statutory investigative or protective functions.

Section 1(b) amends section 37 of the State Department Basic Authorities Act of 1956 by inserting a new subsection (d) to allow a Diplomatic Security agent performing protective functions to make a misdemeanor arrest for anyone obstructing or impeding that agent. Agents from other agencies will be covered when they are detailed to assist Diplomatic Security in protective duties. The same protection is afforded under current law to the Secret Service and any Federal law enforcement officer assisting the Secret Service. (18 U.S.C. 3056)

It also inserts a new subsection (e) which provides Diplomatic Security Service Agents with arrest authority for attacks on distinguished visitors who are under the protective authority of the Diplomatic Security Service. Such attacks are established as a violation of section 112 or 878 of title 18.

NEW ADVISORY COMMITTEES

H.R. 2541 does not establish or authorize any new advisory committees.

CONGRESSIONAL ACCOUNTABILITY ACT

H.R. 2541 does not apply to the legislative branch.

FEDERAL MANDATES

H.R. 2541 provides no Federal mandates.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 37 OF THE STATE DEPARTMENT BASIC AUTHORITIES ACT OF 1956

* * * * *

SPECIAL AGENTS

SEC. 37. (a) GENERAL AUTHORITY.—Under such regulations as the Secretary of State may prescribe, special agents of the Department of State and the Foreign Service may—

(1) * * *

[(2) For the purpose of conducting such investigation—

[(A) obtain and execute search and arrest warrants,

[(B) make arrests without warrant for any offense concerning passport or visa issuance or use of the special agent has reasonable grounds to believe that the person has committed or is committing such offense, and

[(C) obtain and serve subpoenas and summonses issued under the authority of the United States;]

(2) *in the course of performing the functions set forth in paragraphs (1) and (3), obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses, issued under the authority of the United States;*

(3) *protect and perform protective functions directly related to maintaining the security and safety of—*

(A) * * *

* * * * *

(F) *an individual who has been designated by the President or President-elect to serve as Secretary of State, prior to that individual's appointment.*

* * * * *

[(5) *arrest without warrant any person for a violation of section 111, 112, 351, 970, or 1028 , of title 18, United States Code—*

[(A) *in the case of a felony violation, if the special agent has reasonable grounds to believe that such person—*

[(i) *has committed or is committing such violation; and*

[(ii) *is in or is fleeing from the immediate area of such violation; and*

[(B) *in the case of a felony or misdemeanor violation, if the violation is committed in the presence of the special agent.*]

(5) *in the course of performing the functions set forth in paragraphs (1) and (3), make arrests without warrant for any offense against the United States committed in the presence of the special agent, or for any felony cognizable under the laws of the United States if the special agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.*

* * * * *

(d) *INTERFERENCE WITH AGENTS.—Whoever knowingly and willfully obstructs, resists, or interferes with a Federal law enforcement agent engaged in the performance of the protective functions authorized by this section shall be fined under title 18 or imprisoned not more than one year, or both.*

(e) *PERSONS UNDER PROTECTION OF SPECIAL AGENTS.—Whoever engages in any conduct—*

(1) *directed against an individual entitled to protection under this section, and*

(2) *which would constitute a violation of section 112 or 878 of title 18, United States Code, if such individual were a foreign official, an official guest, or an internationally protected person, shall be subject to the same penalties as are provided for such conduct directed against an individual subject to protection under such section of title 18.*