

116TH CONGRESS
2D SESSION

S. 712

AN ACT

To provide assistance for United States nationals taken hostage or unlawfully or wrongfully detained abroad, 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 “Robert Levinson Hos-
3 tage Recovery and Hostage-Taking Accountability Act”.

4 **SEC. 2. ASSISTANCE FOR UNITED STATES NATIONALS UN-**
5 **LAWFULLY OR WRONGFULLY DETAINED**
6 **ABROAD.**

7 (a) REVIEW.—The Secretary of State shall review the
8 cases of United States nationals detained abroad to deter-
9 mine if there is credible information that they are being
10 detained unlawfully or wrongfully, based on criteria which
11 may include whether—

12 (1) United States officials receive or possess
13 credible information indicating innocence of the de-
14 tained individual;

15 (2) the individual is being detained solely or
16 substantially because he or she is a United States
17 national;

18 (3) the individual is being detained solely or
19 substantially to influence United States Government
20 policy or to secure economic or political concessions
21 from the United States Government;

22 (4) the detention appears to be because the in-
23 dividual sought to obtain, exercise, defend, or pro-
24 mote freedom of the press, freedom of religion, or
25 the right to peacefully assemble;

1 (5) the individual is being detained in violation
2 of the laws of the detaining country;

3 (6) independent nongovernmental organizations
4 or journalists have raised legitimate questions about
5 the innocence of the detained individual;

6 (7) the United States mission in the country
7 where the individual is being detained has received
8 credible reports that the detention is a pretext for an
9 illegitimate purpose;

10 (8) the individual is detained in a country
11 where the Department of State has determined in its
12 annual human rights reports that the judicial system
13 is not independent or impartial, is susceptible to cor-
14 ruption, or is incapable of rendering just verdicts;

15 (9) the individual is being detained in inhumane
16 conditions;

17 (10) due process of law has been sufficiently
18 impaired so as to render the detention arbitrary; and

19 (11) United States diplomatic engagement is
20 likely necessary to secure the release of the detained
21 individual.

22 (b) REFERRALS TO THE SPECIAL ENVOY.—Upon a
23 determination by the Secretary of State, based on the to-
24 tality of the circumstances, that there is credible informa-
25 tion that the detention of a United States national abroad

1 is unlawful or wrongful, and regardless of whether the de-
 2 tention is by a foreign government or a nongovernmental
 3 actor, the Secretary shall transfer responsibility for such
 4 case from the Bureau of Consular Affairs of the Depart-
 5 ment of State to the Special Envoy for Hostage Affairs
 6 created pursuant to section 3.

7 (c) REPORT.—

8 (1) ANNUAL REPORT.—

9 (A) IN GENERAL.—The Secretary of State
 10 shall submit to the appropriate congressional
 11 committees an annual report with respect to
 12 United States nationals for whom the Secretary
 13 determines there is credible information of un-
 14 lawful or wrongful detention abroad.

15 (B) FORM.—The report required under
 16 this paragraph shall be submitted in unclassi-
 17 fied form, but may include a classified annex if
 18 necessary.

19 (2) COMPOSITION.—The report required under
 20 paragraph (1) shall include current estimates of the
 21 number of individuals so detained, as well as rel-
 22 evant information about particular cases, such as—

23 (A) the name of the individual, unless the
 24 provision of such information is inconsistent
 25 with section 552a of title 5, United States Code

1 (commonly known as the “Privacy Act of
2 1974”);

3 (B) basic facts about the case;

4 (C) a summary of the information that
5 such individual may be detained unlawfully or
6 wrongfully;

7 (D) a description of specific efforts, legal
8 and diplomatic, taken on behalf of the indi-
9 vidual since the last reporting period, including
10 a description of accomplishments and setbacks;
11 and

12 (E) a description of intended next steps.

13 (d) RESOURCE GUIDANCE.—

14 (1) ESTABLISHMENT.—Not later than 180 days
15 after the date of the enactment of this Act and after
16 consulting with relevant organizations that advocate
17 on behalf of United States nationals detained abroad
18 and the Family Engagement Coordinator established
19 pursuant to section 4(c)(2), the Secretary of State
20 shall provide resource guidance in writing for gov-
21 ernment officials and families of unjustly or wrong-
22 fully detained individuals.

23 (2) CONTENT.—The resource guidance required
24 under paragraph (1) should include—

1 (A) information to help families under-
2 stand United States policy concerning the re-
3 lease of United States nationals unlawfully or
4 wrongfully held abroad;

5 (B) contact information for officials in the
6 Department of State or other government agen-
7 cies suited to answer family questions;

8 (C) relevant information about options
9 available to help families obtain the release of
10 unjustly or wrongfully detained individuals,
11 such as guidance on how families may engage
12 with United States diplomatic and consular
13 channels to ensure prompt and regular access
14 for the detained individual to legal counsel,
15 family members, humane treatment, and other
16 services;

17 (D) guidance on submitting public or pri-
18 vate letters from members of Congress or other
19 individuals who may be influential in securing
20 the release of an individual; and

21 (E) appropriate points of contacts, such as
22 legal resources and counseling services, who
23 have a record of assisting victims' families.

1 **SEC. 3. SPECIAL ENVOY FOR HOSTAGE AFFAIRS.**

2 (a) ESTABLISHMENT.—There shall be a Special Pres-
3 idential Envoy for Hostage Affairs, appointed by the
4 President, who shall report to the Secretary of State.

5 (b) RANK.—The Special Envoy shall have the rank
6 and status of ambassador.

7 (c) RESPONSIBILITIES.—The Special Presidential
8 Envoy for Hostage Affairs shall—

9 (1) lead diplomatic engagement on United
10 States hostage policy;

11 (2) coordinate all diplomatic engagements and
12 strategy in support of hostage recovery efforts, in
13 coordination with the Hostage Recovery Fusion Cell
14 and consistent with policy guidance communicated
15 through the Hostage Response Group;

16 (3) in coordination with the Hostage Recovery
17 Fusion Cell as appropriate, coordinate diplomatic
18 engagements regarding cases in which a foreign gov-
19 ernment has detained a United States national and
20 the United States Government regards such deten-
21 tion as unlawful or wrongful;

22 (4) provide senior representation from the Spe-
23 cial Envoy's office to the Hostage Recovery Fusion
24 Cell established under section 4 and the Hostage Re-
25 sponse Group established under section 5; and

1 (5) ensure that families of United States na-
2 tionals unlawfully or wrongly detained abroad re-
3 ceive updated information about developments in
4 cases and government policy.

5 **SEC. 4. HOSTAGE RECOVERY FUSION CELL.**

6 (a) ESTABLISHMENT.—The President shall establish
7 an interagency Hostage Recovery Fusion Cell.

8 (b) PARTICIPATION.—The President shall direct the
9 heads of each of the following executive departments,
10 agencies, and offices to make available personnel to par-
11 ticipate in the Hostage Recovery Fusion Cell:

12 (1) The Department of State.

13 (2) The Department of the Treasury.

14 (3) The Department of Defense.

15 (4) The Department of Justice.

16 (5) The Office of the Director of National Intel-
17 ligence.

18 (6) The Federal Bureau of Investigation.

19 (7) The Central Intelligence Agency.

20 (8) Other agencies as the President, from time
21 to time, may designate.

22 (c) PERSONNEL.—The Hostage Recovery Fusion Cell
23 shall include—

1 (1) a Director, who shall be a full-time senior
2 officer or employee of the United States Govern-
3 ment;

4 (2) a Family Engagement Coordinator who
5 shall—

6 (A) work to ensure that all interactions by
7 executive branch officials with a hostage’s fam-
8 ily occur in a coordinated fashion and that the
9 family receives consistent and accurate informa-
10 tion from the United States Government; and

11 (B) if directed, perform the same function
12 as set out in subparagraph (A) with regard to
13 the family of a United States national who is
14 unlawfully or wrongfully detained abroad; and

15 (3) other officers and employees as deemed ap-
16 propriate by the President.

17 (d) DUTIES.—The Hostage Recovery Fusion Cell
18 shall—

19 (1) coordinate efforts by participating agencies
20 to ensure that all relevant information, expertise,
21 and resources are brought to bear to secure the safe
22 recovery of United States nationals held hostage
23 abroad;

24 (2) if directed, coordinate the United States
25 Government’s response to other hostage-takings oc-

1 curring abroad in which the United States has a na-
2 tional interest;

3 (3) if directed, coordinate or assist the United
4 States Government's response to help secure the re-
5 lease of United States nationals unlawfully or
6 wrongfully detained abroad; and

7 (4) pursuant to policy guidance coordinated
8 through the National Security Council—

9 (A) identify and recommend hostage recov-
10 ery options and strategies to the President
11 through the National Security Council or the
12 Deputies Committee of the National Security
13 Council;

14 (B) coordinate efforts by participating
15 agencies to ensure that information regarding
16 hostage events, including potential recovery op-
17 tions and engagements with families and exter-
18 nal actors (including foreign governments), is
19 appropriately shared within the United States
20 Government to facilitate a coordinated response
21 to a hostage-taking;

22 (C) assess and track all hostage-takings of
23 United States nationals abroad and provide reg-
24 ular reports to the President and Congress on

1 the status of such cases and any measures
2 being taken toward the hostages' safe recovery;

3 (D) provide a forum for intelligence shar-
4 ing and, with the support of the Director of Na-
5 tional Intelligence, coordinate the declassifica-
6 tion of relevant information;

7 (E) coordinate efforts by participating
8 agencies to provide appropriate support and as-
9 sistance to hostages and their families in a co-
10 ordinated and consistent manner and to provide
11 families with timely information regarding sig-
12 nificant events in their cases;

13 (F) make recommendations to agencies in
14 order to reduce the likelihood of United States
15 nationals' being taken hostage abroad and en-
16 hance United States Government preparation to
17 maximize the probability of a favorable outcome
18 following a hostage-taking; and

19 (G) coordinate with agencies regarding
20 congressional, media, and other public inquiries
21 pertaining to hostage events.

22 (e) ADMINISTRATION.—The Hostage Recovery Fu-
23 sion Cell shall be located within the Federal Bureau of
24 Investigation for administrative purposes.

1 **SEC. 5. HOSTAGE RESPONSE GROUP.**

2 (a) ESTABLISHMENT.—The President shall establish
3 a Hostage Response Group, chaired by a designated mem-
4 ber of the National Security Council or the Deputies Com-
5 mittee of the National Security Council, to be convened
6 on a regular basis, to further the safe recovery of United
7 States nationals held hostage abroad or unlawfully or
8 wrongfully detained abroad, and to be tasked with coordi-
9 nating the United States Government response to other
10 hostage-takings occurring abroad in which the United
11 States has a national interest.

12 (b) MEMBERSHIP.—The regular members of the Hos-
13 tage Response Group shall include the Director of the
14 Hostage Recovery Fusion Cell, the Hostage Recovery Fu-
15 sion Cell’s Family Engagement Coordinator, the Special
16 Envoy appointed pursuant to section 3, and representa-
17 tives from the Department of the Treasury, the Depart-
18 ment of Defense, the Department of Justice, the Federal
19 Bureau of Investigation, the Office of the Director of Na-
20 tional Intelligence, the Central Intelligence Agency, and
21 other agencies as the President, from time to time, may
22 designate.

23 (c) DUTIES.—The Hostage Recovery Group shall—
24 (1) identify and recommend hostage recovery
25 options and strategies to the President through the
26 National Security Council;

1 (2) coordinate the development and implemen-
2 tation of United States hostage recovery policies,
3 strategies, and procedures;

4 (3) receive regular updates from the Hostage
5 Recovery Fusion Cell and the Special Envoy for
6 Hostage Affairs on the status of United States na-
7 tionals being held hostage or unlawfully or wrong-
8 fully detained abroad and measures being taken to
9 effect safe recoveries;

10 (4) coordinate the provision of policy guidance
11 to the Hostage Recovery Fusion Cell, including re-
12 viewing recovery options proposed by the Hostage
13 Recovery Fusion Cell and working to resolve dis-
14 putes within the Hostage Recovery Fusion Cell;

15 (5) as appropriate, direct the use of resources
16 at the Hostage Recovery Fusion Cell to coordinate
17 or assist in the safe recovery of United States na-
18 tionals unlawfully or wrongfully detained abroad;
19 and

20 (6) as appropriate, direct the use of resources
21 at the Hostage Recovery Fusion Cell to coordinate
22 the United States Government response to other
23 hostage-takings occurring abroad in which the
24 United States has a national interest.

1 (d) MEETINGS.—The Hostage Response Group shall
2 meet regularly.

3 (e) REPORTING.—The Hostage Response Group shall
4 regularly provide recommendations on hostage recovery
5 options and strategies to the National Security Council.

6 **SEC. 6. AUTHORIZATION OF IMPOSITION OF SANCTIONS.**

7 (a) IN GENERAL.—The President may impose the
8 sanctions described in subsection (b) with respect to any
9 foreign person the President determines, based on credible
10 evidence—

11 (1) is responsible for or is complicit in, or re-
12 sponsible for ordering, controlling, or otherwise di-
13 recting, the hostage-taking of a United States na-
14 tional abroad or the unlawful or wrongful detention
15 of a United States national abroad; or

16 (2) knowingly provides financial, material, or
17 technological support for, or goods or services in
18 support of, an activity described in paragraph (1).

19 (b) SANCTIONS DESCRIBED.—The sanctions de-
20 scribed in this subsection are the following:

21 (1) INELIGIBILITY FOR VISAS, ADMISSION, OR
22 PAROLE.—

23 (A) VISAS, ADMISSION, OR PAROLE.—An
24 alien described in subsection (a) may be—

25 (i) inadmissible to the United States;

1 (ii) ineligible to receive a visa or other
 2 documentation to enter the United States;
 3 and

4 (iii) otherwise ineligible to be admitted
 5 or paroled into the United States or to re-
 6 ceive any other benefit under the Immigra-
 7 tion and Nationality Act (8 U.S.C. 1101 et
 8 seq.).

9 (B) CURRENT VISAS REVOKED.—

10 (i) IN GENERAL.—An alien described
 11 in subsection (a) may be subject to revoca-
 12 tion of any visa or other entry documenta-
 13 tion regardless of when the visa or other
 14 entry documentation is or was issued.

15 (ii) IMMEDIATE EFFECT.—A revoca-
 16 tion under clause (i) may—

17 (I) take effect immediately; and

18 (II) cancel any other valid visa or
 19 entry documentation that is in the
 20 alien's possession.

21 (2) BLOCKING OF PROPERTY.—

22 (A) IN GENERAL.—The President may ex-
 23 ercise all of the powers granted to the President
 24 under the International Emergency Economic
 25 Powers Act (50 U.S.C. 1701 et seq.), to the ex-

1 tent necessary to block and prohibit all trans-
 2 actions in property and interests in property of
 3 a foreign person described in subsection (a) if
 4 such property and interests in property are in
 5 the United States, come within the United
 6 States, or are or come within the possession or
 7 control of a United States person.

8 (B) INAPPLICABILITY OF NATIONAL EMER-
 9 GENCY REQUIREMENT.—The requirements of
 10 section 202 of the International Emergency
 11 Economic Powers Act (50 U.S.C. 1701) shall
 12 not apply for purposes of this section.

13 (c) EXCEPTIONS.—

14 (1) EXCEPTION FOR INTELLIGENCE ACTIVI-
 15 TIES.—Sanctions under this section shall not apply
 16 to any activity subject to the reporting requirements
 17 under title V of the National Security Act of 1947
 18 (50 U.S.C. 3091 et seq.) or any authorized intel-
 19 ligence activities of the United States.

20 (2) EXCEPTION TO COMPLY WITH INTER-
 21 NATIONAL OBLIGATIONS AND FOR LAW ENFORCE-
 22 MENT ACTIVITIES.—Sanctions under subsection
 23 (b)(1) shall not apply with respect to an alien if ad-
 24 mitting or paroling the alien into the United States
 25 is necessary—

1 (A) to permit the United States to comply
2 with the Agreement regarding the Head-
3 quarters of the United Nations, signed at Lake
4 Success June 26, 1947, and entered into force
5 November 21, 1947, between the United Na-
6 tions and the United States, or other applicable
7 international obligations; or

8 (B) to carry out or assist law enforcement
9 activity in the United States.

10 (3) EXCEPTION RELATING TO IMPORTATION OF
11 GOODS.—

12 (A) IN GENERAL.—The authorities and re-
13 quirements to impose sanctions authorized
14 under subsection (b)(2) shall not include the
15 authority or a requirement to impose sanctions
16 on the importation of goods.

17 (B) GOOD DEFINED.—In this paragraph,
18 the term “good” means any article, natural or
19 manmade substance, material, supply or manu-
20 factured product, including inspection and test
21 equipment, and excluding technical data.

22 (d) PENALTIES.—A person that violates, attempts to
23 violate, conspires to violate, or causes a violation of sub-
24 section (b)(2) or any regulation, license, or order issued
25 to carry out that subsection shall be subject to the pen-

1 alties set forth in subsections (b) and (c) of section 206
2 of the International Emergency Economic Powers Act (50
3 U.S.C. 1705) to the same extent as a person that commits
4 an unlawful act described in subsection (a) of that section.

5 (e) TERMINATION OF SANCTIONS.—The President
6 may terminate the application of sanctions under this sec-
7 tion with respect to a person if the President determines
8 that—

9 (1) information exists that the person did not
10 engage in the activity for which sanctions were im-
11 posed;

12 (2) the person has been prosecuted appro-
13 priately for the activity for which sanctions were im-
14 posed;

15 (3) the person has credibly demonstrated a sig-
16 nificant change in behavior, has paid an appropriate
17 consequence for the activity for which sanctions were
18 imposed, and has credibly committed to not engage
19 in an activity described in subsection (a) in the fu-
20 ture; or

21 (4) the termination of the sanctions is in the
22 national security interests of the United States.

23 (f) REPORTING REQUIREMENT.—If the President
24 terminates sanctions pursuant to subsection (d), the Presi-
25 dent shall report to the appropriate congressional commit-

1 tees a written justification for such termination within 15
2 days.

3 (g) IMPLEMENTATION OF REGULATORY AUTHOR-
4 ITY.—The President may exercise all authorities provided
5 under sections 203 and 205 of the International Emer-
6 gency Economic Powers Act (50 U.S.C. 1702 and 1704)
7 to carry out this section.

8 (h) DEFINITIONS.—In this section:

9 (1) FOREIGN PERSON.—The term “foreign per-
10 son” means—

11 (A) any citizen or national of a foreign
12 country (including any such individual who is
13 also a citizen or national of the United States);
14 or

15 (B) any entity not organized solely under
16 the laws of the United States or existing solely
17 in the United States.

18 (2) UNITED STATES PERSON.—The term
19 “United States person” means—

20 (A) an individual who is a United States
21 citizen or an alien lawfully admitted for perma-
22 nent residence to the United States;

23 (B) an entity organized under the laws of
24 the United States or any jurisdiction within the

1 United States, including a foreign branch of
2 such an entity; or

3 (C) any person in the United States.

4 **SEC. 7. DEFINITIONS.**

5 In this Act:

6 (1) APPROPRIATE CONGRESSIONAL COMMIT-
7 TEES.—The term “appropriate congressional com-
8 mittees” means—

9 (A) the Committee on Foreign Relations,
10 the Committee on Appropriations, the Com-
11 mittee on Banking, Housing, and Urban Af-
12 fairs, the Committee on the Judiciary, the Com-
13 mittee on Armed Services, and the Select Com-
14 mittee on Intelligence of the United States Sen-
15 ate; and

16 (B) the Committee on Foreign Affairs, the
17 Committee on Appropriations, the Committee
18 on Financial Services, the Committee on the
19 Judiciary, the Committee on Armed Services,
20 and the Permanent Select Committee on Intel-
21 ligence of the House of Representatives.

22 (2) UNITED STATES NATIONAL.—The term
23 “United States national” means—

24 (A) a United States national as defined in
25 section 101(a)(22) or section 308 of the Immi-

1 gration and Nationality Act (8 U.S.C.
2 1101(a)(22), 8 U.S.C. 1408); and
3 (B) a lawful permanent resident alien with
4 significant ties to the United States.

5 **SEC. 8. RULE OF CONSTRUCTION.**

6 Nothing in this Act shall be construed to authorize
7 a private right of action.

Passed the Senate June 15, 2020.

Attest:

Secretary.

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