

117TH CONGRESS
1ST SESSION

S. 816

To amend the Diplomatic Security Act of 1986 to provide for improved serious security incident investigations, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17 (legislative day, MARCH 16), 2021

Mr. RISCH introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the Diplomatic Security Act of 1986 to provide for improved serious security incident investigations, 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Diplomatic Support
5 and Security Act of 2021”.

6 **SEC. 2. INVESTIGATION OF SERIOUS SECURITY INCIDENTS.**

7 Section 301 of the Diplomatic Security Act of 1986
8 (22 U.S.C. 4831) is amended—

9 (1) in the section heading, by striking “**AC-**
10 **COUNTABILITY REVIEW BOARDS**” and inserting

1 **“INVESTIGATION OF SERIOUS SECURITY INCI-**
2 **DENTS”;**

3 (2) in subsection (a)—

4 (A) by amending paragraph (1) to read as
5 follows:

6 “(1) CONVENING THE SERIOUS SECURITY INCI-
7 DENT INVESTIGATION PERMANENT COORDINATING
8 COMMITTEE PROCESS.—

9 “(A) IN GENERAL.—In any case of a seri-
10 ous security incident involving loss of life, seri-
11 ous injury, or significant destruction of prop-
12 erty at, or related to, a United States Govern-
13 ment (USG) diplomatic mission abroad, and in
14 any case of a serious breach of security involv-
15 ing intelligence activities of a foreign govern-
16 ment directed at a USG mission abroad, a Seri-
17 ous Security Incident Investigation (SSII) into
18 the event shall be convened by the Department
19 of State and a report produced for the Sec-
20 retary providing a full account of what oc-
21 curred, including—

22 “(i) whether security provisions perti-
23 nent to the incident were in place and
24 functioning;

1 “(ii) whether any malfeasance or
 2 breach of duty took place that materially
 3 contributed to the outcome of the incident;
 4 and

5 “(iii) any recommendations of relevant
 6 security improvements or follow-up meas-
 7 ures.

8 “(B) EXCEPTION.—A Serious Security In-
 9 cident Investigation need not be convened where
 10 the Secretary determines that a case clearly in-
 11 volves only causes unrelated to security.”;

12 (B) in paragraph (2), by striking “Board”
 13 and inserting “Serious Security Incident Inves-
 14 tigation”; and

15 (C) by striking paragraph (3);

16 (3) in subsection (b)—

17 (A) in paragraph (1)—

18 (i) by striking “Except as” and all
 19 that follows through “Board” and insert-
 20 ing “The Secretary of State shall convene
 21 a Serious Security Incident Investigation
 22 and the subsequent Permanent Coordin-
 23 ating Committee process (SSII/PCC)”;
 24 and

1 (ii) by striking “for the convening of
2 the Board”; and

3 (B) in paragraph (2), by striking “Board”
4 each place it appears and inserting “SSII/
5 PCC”; and

6 (4) in subsection (c)—

7 (A) by striking “Board” and inserting
8 “Serious Security Incident Investigation and
9 begins the SSII/PCC process”;

10 (B) by adding “and ranking member”
11 after “chairman”; and

12 (C) by striking “Speaker” and all that fol-
13 lows through the period at the end of para-
14 graph (3) and inserting “chairman and ranking
15 member of the Committee of Foreign Affairs of
16 the House of Representatives.”.

17 **SEC. 3. SERIOUS SECURITY INCIDENT INVESTIGATION PER-**
18 **MANENT COORDINATING COMMITTEE.**

19 Section 302 of the Diplomatic Security Act of 1986
20 (22 U.S.C. 4832) is amended to read as follows:

21 **“SEC. 302. SERIOUS SECURITY INCIDENT INVESTIGATION**
22 **PERMANENT COORDINATING COMMITTEE.**

23 “(a) BUREAU OF DIPLOMATIC SECURITY RESPONSI-
24 BILITY FOR INVESTIGATIONS.—The Bureau of Diplomatic
25 Security shall be responsible for carrying out investiga-

1 tions of serious security incidents, utilizing such investiga-
 2 tive personnel and other resources as may necessary.

3 “(b) SERIOUS SECURITY INCIDENT PERMANENT CO-
 4 ORDINATING COMMITTEE.—

5 “(1) IN GENERAL.—The Serious Security Inci-
 6 dent Investigation Permanent Coordinating Com-
 7 mittee (SSII/PCC) shall be convened to review each
 8 serious security incident. The SSII/PCC shall review
 9 the Report of Investigation prepared under section
 10 303(b) and any other available reporting and evi-
 11 dence, including video recordings, and shall prepare
 12 the SSII/PCC Report under section 304(b).

13 “(2) COMPOSITION.—The SSII/PCC shall be
 14 primarily composed of Assistant Secretary-level per-
 15 sonnel in the Department of State, and shall at a
 16 minimum include the following personnel:

17 “(A) A representative of the Under Sec-
 18 retary of State for Management, who shall
 19 serve as chair of the SSII/PCC.

20 “(B) The Assistant Secretary responsible
 21 for the region where the incident occurred.

22 “(C) The Assistant Secretary for Diplo-
 23 matic Security.

24 “(D) The Assistant Secretary for the Bu-
 25 reau of Intelligence and Research.

1 “(E) An Assistant Secretary-level rep-
 2 resentative from any involved United States
 3 Government department or agency.

4 “(F) Other personnel as determined nec-
 5 essary or appropriate.

6 “(3) REPORT.—The SSII/PCC shall, upon com-
 7 pleting review of the Report of Investigation, submit
 8 to the Secretary of State a report on the incident
 9 and outcomes, including any recommendations re-
 10 lated to preventing or responding to similar inci-
 11 dents.”.

12 **SEC. 4. SERIOUS SECURITY INCIDENT INVESTIGATION**
 13 **PROCESS.**

14 Section 303 of the Diplomatic Security Act of 1986
 15 (22 U.S.C. 4833) is amended to read as follows:

16 **“SEC. 303. SERIOUS SECURITY INCIDENT INVESTIGATION**
 17 **PROCESS.**

18 “(a) INVESTIGATION PROCESS.—

19 “(1) INITIATION.—The Serious Security Inci-
 20 dent Investigation process begins when a United
 21 States mission reports a serious security incident at
 22 the mission, including detailed information about the
 23 incident, within three days after it occurred.

24 “(2) INVESTIGATION.—The Diplomatic Security
 25 Service shall assemble an investigative team to carry

1 out the investigation of an incident reported under
2 paragraph (1). The investigation shall cover the fol-
3 lowing matters:

4 “(A) An assessment of what occurred, who
5 perpetrated or is suspected of having per-
6 petrated the attack, and whether applicable se-
7 curity procedures were followed.

8 “(B) In the event the security incident was
9 an attack on a United States diplomatic com-
10 pound, motorcade, residence, or other facility, a
11 determination whether adequate security coun-
12 termeasures were in effect.

13 “(C) If the incident was an attack on an
14 individual or group of officers, employees, or
15 family members under chief of mission author-
16 ity conducting approved operations or move-
17 ments outside the United States mission, a de-
18 termination whether proper security briefings
19 and procedures were in place and whether ade-
20 quate consideration of threat and weighing of
21 risk of the operation or movement took place.

22 “(D) An assessment of whether any offi-
23 cials’ or employees’ failure to follow procedures
24 or perform their duties contributed to the secu-
25 rity incident.

1 “(b) REPORT OF INVESTIGATION.—The investigative
2 team shall prepare a Report of Investigation at the conclu-
3 sion of the Serious Security Incident Investigation and
4 submit the report to the Serious Security Incident Inves-
5 tigation Permanent Coordinating Committee (SSII/PCC).

6 The report shall include the following elements:

7 “(1) A detailed description of the matters set
8 forth in subparagraphs (A) through (D) of sub-
9 section (a)(2), including all related findings.

10 “(2) An accurate account of the casualties, in-
11 jured, and damage resulting from the incident.

12 “(3) A review of security procedures and direc-
13 tives in place at the time of the incident.

14 “(c) CONFIDENTIALITY.—The investigative team
15 shall adopt such procedures with respect to confidentiality
16 as determined necessary, including procedures relating to
17 the conduct of closed proceedings or the submission and
18 use of evidence in camera, to ensure in particular the pro-
19 tection of classified information relating to national de-
20 fense, foreign policy, or intelligence matters. The Director
21 of National Intelligence shall establish the level of protec-
22 tion required for intelligence information and for informa-
23 tion relating to intelligence personnel included in the re-
24 port under subsection (b). The SSII/PCC shall determine
25 the level of classification of the final report prepared under

1 section 304(b), but shall incorporate the same confiden-
 2 tiality measures in such report to the maximum extent
 3 practicable.”.

4 **SEC. 5. FINDINGS AND RECOMMENDATIONS BY THE SERI-**
 5 **OUS SECURITY INCIDENT INVESTIGATION**
 6 **PERMANENT COORDINATING COMMITTEE.**

7 Section 304 of the Diplomatic Security Act of 1986
 8 (22 U.S.C. 4834) is amended to read as follows:

9 **“SEC. 304. SERIOUS SECURITY INCIDENT INVESTIGATION**
 10 **PERMANENT COORDINATING COMMITTEE**
 11 **FINDINGS AND REPORT.**

12 “(a) FINDINGS.—The Serious Security Incident In-
 13 vestigation Permanent Coordinating Committee (SSII/
 14 PCC) shall review the Report of Investigation prepared
 15 under section 303(b), all other evidence, reporting, and
 16 relevant information relating to a serious security incident
 17 at a United States mission abroad, including an examina-
 18 tion of the facts and circumstances surrounding any seri-
 19 ous injuries, loss of life, or significant destruction of prop-
 20 erty resulting from the incident and shall make the fol-
 21 lowing written findings:

22 “(1) Whether the incident abroad was security
 23 related and constituted a serious security incident.

24 “(2) If the incident involved a diplomatic com-
 25 pound, motorcade, residence, or other mission facil-

1 ity, whether the security systems, security counter-
2 measures, and security procedures operated as in-
3 tended, and whether such systems worked to materi-
4 ally mitigate the attack or were found to be inad-
5 equate to mitigate the threat and attack.

6 “(3) If the incident involved an individual or
7 group of officers conducting an approved operation
8 outside the mission, a determination whether a valid
9 process was followed in evaluating the requested op-
10 eration and weighing the risk of the operation. Such
11 determination shall not seek to assign accountability
12 for the incident unless the SSII/PCC determines
13 that an official breached their duty.

14 “(4) An assessment of the impact of intelligence
15 and information availability, and whether the mis-
16 sion was aware of the general operating threat envi-
17 ronment or any more specific threat intelligence or
18 information and took that into account in ongoing
19 and specific operations.

20 “(5) Such other facts and circumstances that
21 may be relevant to the appropriate security manage-
22 ment of United States missions abroad.

23 “(b) SSII/PCC REPORT.—Not later than 30 days
24 after receiving the Report of Investigation prepared under
25 section 303(b), the SSII/PCC shall submit a report to the

1 Secretary of State including the findings under subsection
 2 (a) and any related recommendations. Not later than 90
 3 days after receiving the report, the Secretary of State shall
 4 submit the report to the Committee on Foreign Relations
 5 of the Senate and the Committee on Foreign Affairs of
 6 the House of Representatives.

7 “(c) PERSONNEL RECOMMENDATIONS.—If in the
 8 course of conducting an investigation under section 303,
 9 the investigative team finds reasonable cause to believe
 10 any individual described in section 303(a)(2)(D) has
 11 breached the duty of that individual or finds lesser failures
 12 on the part of an individual in the performance of his or
 13 her duties related to the incident, it shall be reported to
 14 the SSII/PCC. If the SSII/PCC find reasonable cause to
 15 support the determination, it shall be reported to the Di-
 16 rector General of the Foreign Service for appropriate ac-
 17 tion.”.

18 **SEC. 6. RELATION TO OTHER PROCEEDINGS.**

19 Section 305 of the Diplomatic Security Act of 1986
 20 (22 U.S.C. 4835) is amended—

21 (1) by inserting “(a) NO EFFECT ON EXISTING
 22 REMEDIES OR DEFENSES.—” before “Nothing in
 23 this title”; and

24 (2) by adding at the end the following new sub-
 25 section:

1 “(b) FUTURE INQUIRIES.—Nothing in this title shall
2 be construed to preclude the Secretary of State from con-
3 vening a follow-up public board of inquiry to investigate
4 any security incident if the incident was of such magnitude
5 or significance that an internal process is deemed insuffi-
6 cient to understand and investigate the incident. All mate-
7 rials gathered during the procedures provided under this
8 title shall be provided to any related board of inquiry con-
9 vened by the Secretary.”.

○