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S. 712

To provide assistance for United States citizens and nationals taken hostage or unlawfully or wrongfully detained abroad, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2019

Mr. MENENDEZ (for himself, Mr. RUBIO, Mr. LEAHY, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide assistance for United States citizens and 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Robert Levinson Hos-
5 tage Recovery and Hostage-Taking Accountability Act”.

1 **SEC. 2. ASSISTANCE FOR UNITED STATES CITIZENS AND**
2 **NATIONALS UNLAWFULLY OR WRONGFULLY**
3 **DETAINED ABROAD.**

4 (a) REVIEW.—The Secretary of State shall review the
5 cases of citizens and nationals of the United States de-
6 tained abroad to determine if there is credible information
7 that they are being detained unlawfully or wrongfully,
8 based on criteria including whether—

9 (1) the detained individual has presented cred-
10 ible information of factual innocence to United
11 States officials;

12 (2) information exists that the individual is de-
13 tained solely or substantially because he or she is a
14 citizen or national of the United States;

15 (3) information exists that the individual is
16 being detained in violation of internationally pro-
17 tected rights and freedoms, such as freedom of ex-
18 pression, association, assembly, and religion;

19 (4) the individual is being detained in violation
20 of the laws of the detaining country;

21 (5) independent nongovernmental organizations
22 or journalists have raised legitimate questions about
23 the innocence of the detained individual;

24 (6) the United States embassy in the country
25 where the individual is detained has received credible
26 reports that the detention is a pretext;

1 (7) police reports show evidence of the lack of
2 a credible investigation;

3 (8) the individual is detained in a country
4 where the Department of State has determined in its
5 annual human rights reports that the judicial system
6 is not independent or impartial, is susceptible to cor-
7 ruption, or is incapable of rendering just verdicts;

8 (9) the individual is detained in inhumane con-
9 ditions; and

10 (10) the international right to due process of
11 law has been sufficiently impaired so as to render
12 the detention arbitrary.

13 (b) REFERRALS TO THE SPECIAL ENVOY.—Upon a
14 determination by the Secretary of State that there is cred-
15 ible information that the detention of a United States na-
16 tional abroad is unlawful or wrongful, and regardless of
17 whether the detention is by a foreign government or a non-
18 governmental actor, the Secretary shall transfer responsi-
19 bility for such case from the Bureau of Consular Affairs
20 of the Department of State to the Special Envoy for Hos-
21 tage Affairs created pursuant to section 3.

22 (c) REPORT.—

23 (1) BIENNIAL REPORT.—With respect to
24 United States nationals for whom the Secretary de-
25 termines there is credible information of unlawful or

1 wrongful detention abroad, the Secretary shall sub-
2 mit a biannual report to the appropriate congres-
3 sional committees.

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

8 (A) the name of the individual, unless the
9 provision of such information is inconsistent
10 with section 552a of title 5, United States Code
11 (commonly known as the “Privacy Act of
12 1974”);

13 (B) basic facts about the case;

14 (C) a summary of the information that
15 such individual may be detained unlawfully or
16 wrongfully;

17 (D) a description of specific efforts, legal
18 and diplomatic, taken on behalf of the indi-
19 vidual since the last reporting period, including
20 a description of accomplishments and setbacks;
21 and

22 (E) a description of intended next steps.

23 (d) RESOURCE MANUAL.—

24 (1) ESTABLISHMENT.—Not later than 180 days
25 after the date of the enactment of this Act and after

1 consulting with relevant organizations that advocate
2 on behalf of United States citizens and national de-
3 tained abroad, the Secretary of State shall publish
4 a resource manual for government officials and fam-
5 ilies of unjustly or wrongfully detained individuals.

6 (2) CONTENT.—The resource manual required
7 under paragraph (1) shall include suggested actions
8 designed to obtain the release of unjustly or wrong-
9 fully detained individuals, including—

10 (A) acting through traditional diplomatic
11 and consular channels to ensure prompt and
12 regular access for the detained individual to
13 legal counsel, family members, humane treat-
14 ment, and other services;

15 (B) sanctions tools including withholding
16 assistance to the foreign government, in cases
17 where relevant, and denying or revoking visas
18 and freezing assets of individuals perpetrating
19 the unjust or wrongful detention;

20 (C) submitting public or private letters
21 from members of Congress or other individuals
22 who may be influential in securing the release
23 of an individual; and

24 (D) consulting with relevant legal and
25 human rights organizations.

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, by and with the advice and consent of the Sen-
5 ate, who shall report to the Secretary of State.

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

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

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

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

17 (3) coordinate with the Hostage Recovery Fu-
18 sion Cell proposals for diplomatic engagements and
19 strategy in support of hostage recovery efforts;

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

24 (5) in coordination with the Hostage Recovery
25 Fusion Cell as appropriate, coordinate diplomatic
26 engagements regarding cases in which a foreign gov-

1 ernment confirms that it has detained a United
2 States national but the United States Government
3 regards such detention as unlawful or wrongful.

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

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

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

11 (1) The Department of State.

12 (2) The Department of the Treasury.

13 (3) The Department of Defense.

14 (4) The Department of Justice.

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

17 (6) The Federal Bureau of Investigation.

18 (7) The Central Intelligence Agency.

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

21 (c) PERSONNEL.—The Hostage Recovery Fusion Cell
22 shall have—

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

1 (2) a Family Engagement Coordinator; and

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

4 (d) DUTIES.—The Hostage Recovery Fusion Cell
5 shall—

6 (1) coordinate efforts by participating agencies
7 to ensure that all relevant information, expertise,
8 and resources are brought to bear to secure the safe
9 recovery of United States nationals held hostage
10 abroad;

11 (2) if directed, coordinate the United States
12 Government’s response to other hostage-takings oc-
13 curring abroad in which the United States has a na-
14 tional interest; and

15 (3) pursuant to policy guidance coordinated
16 through the National Security Council—

17 (A) identify and recommend hostage recov-
18 ery options and strategies to the President
19 through the National Security Council;

20 (B) coordinate efforts by participating
21 agencies to ensure that information regarding
22 hostage events, including potential recovery op-
23 tions and engagements with families and exter-
24 nal actors (including foreign governments), is
25 appropriately shared within the United States

1 Government to facilitate a coordinated response
2 to a hostage-taking;

3 (C) assess and track all hostage-takings of
4 United States nationals abroad and provide reg-
5 ular reports to the President on the status of
6 such cases and any measures being taken to-
7 ward the hostages' safe recovery;

8 (D) provide a forum for intelligence shar-
9 ing and, with the support of the Director of Na-
10 tional Intelligence, coordinate the declassifica-
11 tion of relevant information;

12 (E) coordinate efforts by participating
13 agencies to provide appropriate support and as-
14 sistance to hostages and their families in a co-
15 ordinated and consistent manner and to provide
16 families with timely information regarding sig-
17 nificant events in their cases;

18 (F) make recommendations to agencies in
19 order to reduce the likelihood of United States
20 nationals' being taken hostage abroad and en-
21 hance United States Government preparation to
22 maximize the probability of a favorable outcome
23 following a hostage-taking; and

1 (G) coordinate with agencies regarding
2 congressional, media, and other public inquiries
3 pertaining to hostage events.

4 **SEC. 5. HOSTAGE RESPONSE GROUP.**

5 (a) ESTABLISHMENT.—The President shall establish
6 a Hostage Response Group, to be convened on a regular
7 basis, as well as upon the request of the National Security
8 Council, to further the safe recovery of United States na-
9 tionals held abroad, and to be tasked with coordinating
10 the United States Government response to other hostage-
11 takings occurring abroad in which the United States has
12 a national interest.

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

23 (c) DUTIES.—The Hostage Recovery Group shall—

1 (1) identify and recommend hostage recovery
2 options and strategies to the President through the
3 National Security Council;

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

7 (3) receive regular updates from the Hostage
8 Recovery Fusion Cell on the status of United States
9 nationals being held hostage abroad and measures
10 being taken to effect the hostages' safe recovery;

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

16 (5) where higher-level guidance is required,
17 make recommendations to the National Security
18 Council.

19 (d) MEETINGS.—The Hostage Response Group shall
20 meet regularly.

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

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

2 (a) IN GENERAL.—The President may impose the
3 sanctions described in subsection (b) with respect to any
4 foreign person the President determines, based on credible
5 evidence—

6 (1) is responsible for or complicit in, or respon-
7 sible for ordering, controlling, or otherwise directing,
8 the unlawful or wrongful detention abroad of a
9 United States national;

10 (2) acts as an agent of or on behalf of a foreign
11 person in a matter relating to an activity described
12 in paragraph (1); or

13 (3) materially assists, sponsors, or provides fi-
14 nancial, material, or technological support for, or
15 goods or services in support of, an activity described
16 in paragraph (1).

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

19 (1) INADMISSIBILITY TO UNITED STATES.—

20 (A) IN GENERAL.—In the case of a foreign
21 person who is an individual—

22 (i) ineligibility to receive a visa to
23 enter the United States or to be admitted
24 to the United States; or

25 (ii) if the individual has been issued a
26 visa or other documentation, revocation, in

1 accordance with section 221(i) of the Im-
2 migration and Nationality Act (8 U.S.C.
3 1201(i)), of the visa or other documenta-
4 tion.

5 (B) EXCEPTION TO COMPLY WITH UNITED
6 NATIONS HEADQUARTERS AGREEMENT AND
7 LAW ENFORCEMENT OBJECTIVES.—Sanctions
8 under subparagraph (A) shall not apply to an
9 individual if admitting the individual into the
10 United States would further important law en-
11 forcement objectives or is necessary to permit
12 the United States to comply with the Agree-
13 ment regarding the Headquarters of the United
14 Nations, signed at Lake Success June 26,
15 1947, and entered into force November 21,
16 1947, between the United Nations and the
17 United States, or other applicable international
18 obligations of the United States.

19 (2) BLOCKING OF PROPERTY.—

20 (A) IN GENERAL.—The blocking, in ac-
21 cordance with the International Emergency
22 Economic Powers Act (50 U.S.C. 1701 et seq.),
23 of all transactions in all property and interests
24 in property of a foreign person if such property
25 and interests in property are in the United

1 States, come within the United States, or are or
 2 come within the possession or control of a
 3 United States person.

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

9 (C) EXCEPTION RELATING TO IMPORTA-
 10 TION OF GOODS.—

11 (i) IN GENERAL.—The authority to
 12 block and prohibit all transactions in all
 13 property and interests in property under
 14 subparagraph (A) shall not include the au-
 15 thority to impose sanctions on the importa-
 16 tion of goods.

17 (ii) GOOD.—In this subparagraph, the
 18 term “good” means any article, natural or
 19 man-made substance, material, supply or
 20 manufactured product, including inspection
 21 and test equipment, and excluding tech-
 22 nical data.

23 (c) ENFORCEMENT OF BLOCKING OF PROPERTY.—
 24 A person that violates, attempts to violate, conspires to
 25 violate, or causes a violation of subsection (b)(2) or any

1 regulation, license, or order issued to carry out that sub-
2 section shall be subject to the penalties set forth in sub-
3 sections (b) and (c) of section 206 of the International
4 Emergency Economic Powers Act (50 U.S.C. 1705) to the
5 same extent as a person that commits an unlawful act de-
6 scribed in subsection (a) of that section.

7 (d) TERMINATION OF SANCTIONS.—The President
8 may terminate the application of sanctions under this sec-
9 tion with respect to a person if the President determines
10 and reports to the appropriate congressional committees
11 not later than 15 days before the termination of the sanc-
12 tions that—

13 (1) credible information exists that the person
14 did not engage in the activity for which sanctions
15 were imposed;

16 (2) the person has been prosecuted appro-
17 priately for the activity for which sanctions were im-
18 posed;

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

1 (4) the termination of the sanctions is in the
2 national security interests of the United States.

3 (e) REGULATORY AUTHORITY.—The President shall
4 issue such regulations, licenses, and orders as are nec-
5 essary to carry out this section.

6 (f) DEFINITIONS.—In this section:

7 (1) FOREIGN PERSON.—The term “foreign per-
8 son” has the meaning given that term in section
9 595.304 of title 31, Code of Federal Regulations (as
10 in effect on the day before the date of the enactment
11 of this Act).

12 (2) UNITED STATES PERSON.—The term
13 “United States person” has the meaning given that
14 term in section 595.315 of title 31, Code of Federal
15 Regulations (as in effect on the day before the date
16 of the enactment of this Act).

17 **SEC. 7. DEFINITIONS.**

18 (a) DEFINITIONS.—

19 (1) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES.—In this Act, the term “appropriate congres-
21 sional committees” means—

22 (A) the Committee on Foreign Relations,
23 the Committee on Appropriations, the Com-
24 mittee on Banking, Housing, and Urban Af-
25 fairs, the Committee on the Judiciary, the Com-

1 committee on Armed Services, and the Select Com-
2 mittee on Intelligence of the United States Sen-
3 ate; and

4 (B) the Committee on Foreign Affairs, the
5 Committee on Appropriations, the Committee
6 on Financial Services, the Committee on the
7 Judiciary, the Committee on Armed Services,
8 and the Permanent Select Committee on Intel-
9 ligence of the House of Representatives.

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

12 (A) a United States national as defined in
13 section 101(a)(22) or section 308 of the Immi-
14 gration and Nationality Act (8 U.S.C.
15 1101(a)(22), 8 U.S.C. 1408); and

16 (B) a lawful permanent resident alien with
17 significant ties to the United States.

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