

Union Calendar No. 447

104TH CONGRESS
2D Session

H. R. 1281

[Report No. 104-819, Part I]

A BILL

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II.

SEPTEMBER 24, 1996

Reported from the Committee on Government Reform
and Oversight with amendments

SEPTEMBER 24, 1996

Referral to the Permanent Select Committee on Intelligence and the Committee on the Judiciary extended for a period ending not later than September 24, 1996

SEPTEMBER 24, 1996

The Permanent Select Committee on Intelligence and the Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 21, 1995

Mrs. MALONEY introduced the following bill; which was referred to the Committee on Government Reform and Oversight, and in addition to the Permanent Select Committee on Intelligence and the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 24, 1996

Additional sponsors: Mr. SAXTON, Mr. DEUTSCH, Mr. GEJDENSON, Mr. FROST, Mr. BERMAN, Mr. PORTER, Mr. ACKERMAN, Mr. SCHUMER, Mr. TORRES, Mr. SERRANO, Mr. SANDERS, Mr. NADLER, Mr. LANTOS, Mr. YATES, Mr. MCHALE, Mr. TORRICELLI, Mr. FILNER, Ms. ROSLEHTINEN, Mr. MANTON, Mrs. MEEK of Florida, Mr. TOWNS, Mr. OWENS, Mr. WAXMAN, Mrs. LOWEY, Mrs. MORELLA, Mr. VENTO, Mr. WAMP, Mr. HASTINGS of Florida, and Ms. FURSE

SEPTEMBER 24, 1996

Reported from the Committee on Government Reform and Oversight with amendments

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 24, 1996

Referral to the Permanent Select Committee on Intelligence and the Committee on the Judiciary extended for a period ending not later than September 24, 1996

SEPTEMBER 24, 1996

The Permanent Select Committee on Intelligence and the Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on March 21, 1995]

A BILL

To amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes during the period in which the United States was involved in World War II.

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 “War Crimes Disclosure*
 5 *Act”.*

6 **SEC. 2. REQUIREMENT OF DISCLOSURE UNDER FOIA OF IN-**

7 **FORMATION REGARDING INDIVIDUALS WHO**

8 **COMMITTED NAZI WAR CRIMES.**

9 (a) *IN GENERAL.*—Section 552 of title 5, United
 10 *States Code, is amended—*

11 (1) *by redesignating subsections (d), (e), and (f)*
 12 *as subsections (e), (f), and (g), respectively; and*

13 (2) *by inserting after subsection (c) the following*
 14 *new subsection:*

1 “(d)(1)(A) Notwithstanding subsection (b), this section
2 shall apply to any matter, in the possession or control of
3 a specified agency, that relates to any individual as to
4 whom there exist reasonable grounds to believe that such
5 individual, during the period beginning on March 23, 1933,
6 and ending on May 8, 1945, under the direction of, or in
7 association with—

8 “(i) the Nazi government of Germany,

9 “(ii) any government in any area occupied by
10 the military forces of the Nazi government of Ger-
11 many,

12 “(iii) any government established with the assist-
13 ance or cooperation of the Nazi government of Ger-
14 many, or

15 “(iv) any government which was an ally of the
16 Nazi government of Germany,
17 ordered, incited, assisted, or otherwise participated in the
18 persecution of any person because of race, religion, national
19 origin, or political opinion.

20 “(B) For purposes of subparagraph (A), the term ‘spec-
21 ified agency’ means the following entities, any predecessor
22 of such an entity, and any component of such an entity
23 (or of such a predecessor):

24 “(i) The Central Intelligence Agency.

25 “(ii) The Department of Defense.

1 “(iii) *The National Security Agency.*

2 “(iv) *The National Security Council.*

3 “(v) *The Department of State.*

4 “(vi) *The Federal Bureau of Investigation.*

5 “(vii) *The United States Information Agency.*

6 “(2) *Paragraph (1) shall not apply to—*

7 “(A) *any matter that is referred to in subsection*
8 *(b)(6);*

9 “(B) *any matter the disclosure of which would—*

10 “(i) *reveal an intelligence agent regarding*
11 *whom there is clear and convincing evidence that*
12 *the identity of such agent currently requires pro-*
13 *tection;*

14 “(ii) *by revealing the name or identity of a*
15 *living person who provided confidential informa-*
16 *tion to the United States, constitute a substan-*
17 *tial risk of harm to such person (as determined*
18 *by clear and convincing evidence); or*

19 “(iii) *compromise the existence of an under-*
20 *standing of confidentiality currently requiring*
21 *protection between an agent of the Government*
22 *and a cooperating individual or a foreign gov-*
23 *ernment, and (as determined by clear and con-*
24 *vincing evidence) cause harm that substantially*
25 *outweighs the public interest in the disclosure;*

1 “(C) any matter regarding which there is clear
2 and convincing evidence that the current or future
3 threat to national security, military defense, intel-
4 ligence operations, or the conduct of foreign relations
5 of the United States substantially outweighs the pub-
6 lic interest in disclosure of the matter;

7 “(D) any matter created (by any person) in con-
8 nection with an investigation, inquiry, or prosecution
9 by the Office of Special Investigations of the Depart-
10 ment of Justice; or

11 “(E) any portion, of any matter, that—

12 “(i) does not relate to any individual re-
13 ferred to in paragraph (1); and

14 “(ii) is reasonably segregable from any
15 other portions of the matter that relate to an in-
16 dividual referred to in paragraph (1).

17 “(3) Any reasonably segregable portion of a matter re-
18 ferred to in subparagraph (A), (B), or (C) of paragraph
19 (2) shall be provided, after deletion of all portions of the
20 matter that are referred to in such subparagraph, to any
21 person requesting the matter under this section if the rea-
22 sonably segregable portion would otherwise be required to
23 be disclosed under this section.

24 “(4) In the case of a request under this section for any
25 matter required to be disclosed under this subsection, if the

1 *agency receiving such request is unable to locate the records*
 2 *so requested, such agency shall promptly supply, to the per-*
 3 *son making such request, a description of the steps which*
 4 *were taken by such agency to search the indices and other*
 5 *locator systems of the agency to determine whether such*
 6 *records are in the possession or control of the agency.”.*

7 *(b) INAPPLICABILITY OF NATIONAL SECURITY ACT OF*
 8 *1947 EXEMPTION.—Section 701 of the National Security*
 9 *Act of 1947 (50 U.S.C. 431) is amended—*

10 *(1) by redesignating subsections (e) and (f) as*
 11 *subsections (f) and (g), respectively; and*

12 *(2) by inserting after subsection (d) the following*
 13 *new subsection:*

14 *“(e) Subsection (a) shall not apply to any operational*
 15 *file, or any portion of any operational file, required to be*
 16 *disclosed under section 552(d) of title 5, United States Code*
 17 *(Freedom of Information Act).”.*

18 **SEC. 3. EFFECTIVE DATE.**

19 *The amendments made by this Act shall apply to re-*
 20 *quests made after the expiration of the 180-day period be-*
 21 *ginning on the date of the enactment of this Act.*

Amend the title so as to read: “A bill to amend title 5, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act of information regarding certain individuals who participated in Nazi war crimes.”.