

112TH CONGRESS  
2D SESSION

# H. R. 6029

To amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2012

Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. GOODLATTE, Mr. WATT, Mr. COBLE, Mr. BERMAN, Mr. WOLF, Mr. SCHIFF, Mr. CHAFFETZ, Mr. DEUTCH, Mr. POE of Texas, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, 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 “Foreign and Economic  
5 Espionage Penalty Enhancement Act of 2012”.

1 **SEC. 2. PROTECTING U.S. BUSINESSES FROM FOREIGN ES-**  
2 **PIONAGE.**

3 (a) FOR OFFENSES COMMITTED BY INDIVIDUALS.—  
4 Section 1831(a) of title 18, United States Code, is amend-  
5 ed, in the matter after paragraph (5)—

6 (1) by striking “15 years” and inserting “20  
7 years”; and

8 (2) by striking “not more than \$500,000” and  
9 inserting “not more than \$5,000,000”.

10 (b) FOR OFFENSES COMMITTED BY ORGANIZA-  
11 TIONS.—Section 1831(b) of such title is amended by strik-  
12 ing “not more than \$10,000,000” and inserting “not more  
13 than the greater of \$10,000,000 or 3 times the value of  
14 the stolen trade secret to the organization, including ex-  
15 penses for research and design and other costs of repro-  
16 ducing the trade secret that the organization has thereby  
17 avoided”.

18 **SEC. 3. REVIEW BY THE UNITED STATES SENTENCING COM-**  
19 **MISSION.**

20 (a) IN GENERAL.—Pursuant to its authority under  
21 section 994(p) of title 28, United States Code, the United  
22 States Sentencing Commission shall review and, if appro-  
23 priate, amend the Federal sentencing guidelines and policy  
24 statements applicable to persons convicted of offenses re-  
25 lating to the transmission or attempted transmission of  
26 a stolen trade secret outside of the United States or eco-

1 nomic espionage, in order to reflect the intent of Congress  
2 that penalties for such offenses under the Federal sen-  
3 tencing guidelines and policy statements appropriately, re-  
4 flect the seriousness of these offenses, account for the po-  
5 tential and actual harm caused by these offenses, and pro-  
6 vide adequate deterrence against such offenses.

7 (b) REQUIREMENTS.—In carrying out this section,  
8 the United States Sentencing Commission shall—

9 (1) consider the extent to which the Federal  
10 sentencing guidelines and policy statements appro-  
11 priately account for the simple misappropriation of  
12 a trade secret, including the sufficiency of the exist-  
13 ing enhancement for these offenses to address the  
14 seriousness of this conduct;

15 (2) consider whether additional enhancements  
16 in the Federal sentencing guidelines and policy  
17 statements are appropriate to account for—

18 (A) the transmission or attempted trans-  
19 mission of a stolen trade secret outside of the  
20 United States; and

21 (B) the transmission or attempted trans-  
22 mission of a stolen trade secret outside of the  
23 United States that is committed or attempted  
24 to be committed for the benefit of a foreign

1 government, foreign instrumentality, or foreign  
2 agent;

3 (3) ensure the Federal sentencing guidelines  
4 and policy statements reflect the seriousness of these  
5 offenses and the need to deter such conduct;

6 (4) ensure reasonable consistency with other  
7 relevant directives, Federal sentencing guidelines  
8 and policy statements, and related Federal statutes;

9 (5) make any necessary conforming changes to  
10 the Federal sentencing guidelines and policy state-  
11 ments; and

12 (6) ensure that the Federal sentencing guide-  
13 lines adequately meet the purposes of sentencing as  
14 set forth in section 3553(a)(2) of title 18, United  
15 States Code.

16 (c) CONSULTATION.—In carrying out the review re-  
17 quired under this section, the Commission shall consult  
18 with individuals or groups representing law enforcement,  
19 owners of trade secrets, victims of economic espionage of-  
20 fenses, the United States Department of Justice, the  
21 United States Department of Homeland Security, the  
22 United States Department of State and the Office of the  
23 United States Trade Representative.

1           (d) REVIEW.—Not later than 180 days after the date  
2 of enactment of this Act, the Commission shall complete  
3 its consideration and review under this section.

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