

111TH CONGRESS
2D SESSION

S. 2979

To amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2010

Mr. LEAHY (for himself and Mr. KAUFMAN) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to provide accountability for the criminal acts of Federal contractors and employees outside the United States, 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 “Civilian
5 Extraterritorial Jurisdiction Act (CEJA) of 2010”.

1 **SEC. 2. ACCOUNTABILITY FOR CRIMINAL ACTS OF FED-**
 2 **ERAL CONTRACTORS AND EMPLOYEES OUT-**
 3 **SIDE THE UNITED STATES.**

4 (a) EXTRATERRITORIAL JURISDICTION OVER FED-
 5 ERAL CONTRACTORS AND EMPLOYEES.—Chapter 212A of
 6 title 18, United States Code, is amended—

7 (1) by transferring the text of section 3272 to
 8 the end of section 3271, redesignating such text as
 9 subsection (c) of section 3271, and, in such text, as
 10 so redesignated, by striking “this chapter” and in-
 11 serting “this section”;

12 (2) by striking the heading of section 3272; and

13 (3) by adding after section 3271, as amended
 14 by this subsection, the following new sections:

15 **“§ 3272. Offenses committed by Federal contractors**
 16 **and employees outside the United States**

17 “(a) Whoever, while employed by or accompanying
 18 any department or agency of the United States other than
 19 the Armed Forces, knowingly engages in conduct (or con-
 20 spires or attempts to engage in conduct) outside the
 21 United States that would constitute an offense enumer-
 22 ated in subsection (c) had the conduct been engaged in
 23 within the United States or within the special maritime
 24 and territorial jurisdiction of the United States shall be
 25 punished as provided for that offense.

1 “(b) No prosecution for an offense may be com-
2 menced against a person under this section if a foreign
3 government, in accordance with jurisdiction recognized by
4 the United States, has prosecuted or is prosecuting such
5 person for the conduct constituting the offense, except
6 upon the approval of the Attorney General or the Deputy
7 Attorney General (or a person acting in either such capac-
8 ity), which function of approval may not be delegated.

9 “(c) The offenses covered by subsection (a) are the
10 following:

11 “(1) Any offense under chapter 5 (arson) of
12 this title.

13 “(2) Any offense under section 111 (assaulting,
14 resisting, or impeding certain officers or employees),
15 113 (assault within maritime and territorial jurisdic-
16 tion), or 114 (maiming within maritime and terri-
17 torial jurisdiction) of this title, but only if the of-
18 fense is subject to a maximum sentence of imprison-
19 ment of one year or more.

20 “(3) Any offense under section 201 (bribery of
21 public officials and witnesses) of this title.

22 “(4) Any offense under section 499 (military,
23 naval, or official passes) of this title.

24 “(5) Any offense under section 701 (official
25 badges, identifications cards, and other insignia),

1 702 (uniform of armed forces and Public Health
2 Service), 703 (uniform of friendly nation), or 704
3 (military medals or decorations) of this title.

4 “(6) Any offense under chapter 41 (extortion
5 and threats) of this title, but only if the offense is
6 subject to a maximum sentence of imprisonment of
7 three years or more.

8 “(7) Any offense under chapter 42 (extortionate
9 credit transactions) of this title.

10 “(8) Any offense under section 924(c) (use of
11 firearm in violent or drug trafficking crime) or
12 924(o) (conspiracy to violate section 924(c)) of this
13 title.

14 “(9) Any offense under chapter 50A (genocide)
15 of this title.

16 “(10) Any offense under section 1111 (murder),
17 1112 (manslaughter), 1113 (attempt to commit
18 murder or manslaughter), 1114 (protection of offi-
19 cers and employees of the United States), 1116
20 (murder or manslaughter of foreign officials, official
21 guests, or internationally protected persons), 1117
22 (conspiracy to commit murder), or 1119 (foreign
23 murder of United States nationals) of this title.

24 “(11) Any offense under chapter 55 (kidnap-
25 ping) of this title.

1 “(12) Any offense under section 1503 (influ-
2 encing or injuring officer or juror generally), 1505
3 (obstruction of proceedings before departments,
4 agencies, and committees), 1510 (obstruction of
5 criminal investigations), 1512 (tampering with a wit-
6 ness, victim, or informant), or 1513 (retaliating
7 against a witness, victim, or an informant) of this
8 title.

9 “(13) Any offense under section 1951 (inter-
10 ference with commerce by threats or violence), 1952
11 (interstate and foreign travel or transportation in
12 aid of racketeering enterprises), 1956 (laundering of
13 monetary instruments), 1957 (engaging in monetary
14 transactions in property derived from specified un-
15 lawful activity), 1958 (use of interstate commerce
16 facilities in the commission of murder for hire), or
17 1959 (violent crimes in aid of racketeering activity)
18 of this title.

19 “(14) Any offense under section 2111 (robbery
20 or burglary within special maritime and territorial
21 jurisdiction) of this title.

22 “(15) Any offense under chapter 109A (sexual
23 abuse) of this title.

24 “(16) Any offense under chapter 113B (ter-
25 rorism) of this title.

1 “(17) Any offense under chapter 113C (torture)
2 of this title.

3 “(18) Any offense under chapter 115 (treason,
4 sedition, and subversive activities) of this title.

5 “(19) Any offense under chapter 118 (war
6 crimes) of this title.

7 “(20) Any offense under section 401 (manufac-
8 ture, distribution, or possession with intent to dis-
9 tribute a controlled substance) or 408 (continuing
10 criminal enterprise) of the Controlled Substances
11 Act (21 U.S.C. 841, 848), or under section 1002
12 (importation of controlled substances), 1003 (expor-
13 tation of controlled substances), or 1010 (import or
14 export of a controlled substance) of the Controlled
15 Substances Import and Export Act (21 U.S.C. 952,
16 953, 960), but only if the offense is subject to a
17 maximum sentence of imprisonment of 20 years or
18 more.

19 “(d) In this section:

20 “(1) The term ‘employed by any department or
21 agency of the United States other than the Armed
22 Forces’ means—

23 “(A) employed as a civilian employee, a
24 contractor (including a subcontractor at any
25 tier), an employee of a contractor (or a subcon-

1 contractor at any tier), a grantee (including a con-
2 tractor of a grantee or a subgrantee or subcon-
3 tractor at any tier), or an employee of a grantee
4 (or a contractor of a grantee or a subgrantee or
5 subcontractor at any tier) of any department or
6 agency of the United States other than the
7 Armed Forces;

8 “(B) present or residing outside the
9 United States in connection with such employ-
10 ment;

11 “(C) in the case of such a contractor, con-
12 tractor employee, grantee, or grantee employee,
13 such employment supports a program, project,
14 or activity for a department or agency of the
15 United States other than the Armed Forces;
16 and

17 “(D) not a national of or ordinarily resi-
18 dent in the host nation.

19 “(2) The term ‘accompanying any department
20 or agency of the United States other than the
21 Armed Forces’ means—

22 “(A) a dependant of—

23 “(i) a civilian employee of any depart-
24 ment or agency of the United States other
25 than the Armed Forces; or

1 “(ii) a contractor (including a subcon-
2 tractor at any tier), an employee of a con-
3 tractor (or a subcontractor at any tier), a
4 grantee (including a contractor of a grant-
5 ee or a subgrantee or subcontractor at any
6 tier), or an employee of a grantee (or a
7 contractor of a grantee or a subgrantee or
8 subcontractor at any tier) of any depart-
9 ment or agency of the United States other
10 than the Armed Forces, which contractor,
11 contractor employee, grantee, or grantee
12 employee is supporting a program, project,
13 or activity for a department or agency of
14 the United States other than the Armed
15 Forces;

16 “(B) residing with such civilian employee,
17 contractor, contractor employee, grantee, or
18 grantee employee outside the United States;
19 and

20 “(C) not a national of or ordinarily resi-
21 dent in the host nation.

22 “(3) The term ‘grant agreement’ means a legal
23 instrument described in section 6304 or 6305 of title
24 31, other than an agreement between the United

1 States and a State, local, or foreign government or
 2 an international organization.

3 “(4) The term ‘grantee’ means a party, other
 4 than the United States, to a grant agreement.

5 “(5) The term ‘Armed Forces’ has the meaning
 6 given the term ‘armed forces’ in section 101(a)(4) of
 7 title 10.

8 **“§ 3273. Regulations**

9 “The Attorney General, after consultation with the
 10 Secretary of Defense, the Secretary of State, and the Di-
 11 rector of National Intelligence, shall prescribe regulations
 12 governing the investigation, apprehension, detention, de-
 13 livery, and removal of persons described in sections 3271
 14 and 3272 of this title.”.

15 (b) CONFORMING AMENDMENT.—The heading of
 16 chapter 212A of such title is amended to read as follows:

17 **“CHAPTER 212A—EXTRATERRITORIAL JU-**
 18 **RISDICTION OVER OFFENSES OF CON-**
 19 **TRACTORS AND CIVILIAN EMPLOYEES**
 20 **OF THE FEDERAL GOVERNMENT”.**

21 (c) CLERICAL AMENDMENTS.—

22 (1) TABLE OF SECTIONS.—The table of sections
 23 at the beginning of chapter 212A of title 18, United
 24 States Code, is amended by striking the item relat-

1 ing to section 3272 and inserting the following new
2 items:

“3272. Offenses committed by Federal contractors and employees outside the
United States.

“3273. Regulations.”.

3 (2) TABLE OF CHAPTERS.—The item relating
4 to chapter 212A in the table of chapters at the be-
5 ginning of part II of such title is amended to read
6 as follows:

**“212A. Extraterritorial Jurisdiction Over Offenses of
Contractors and Civilian Employees of the
Federal Government 3271”.**

7 **SEC. 3. INVESTIGATIVE UNITS FOR CONTRACTOR AND EM-**
8 **PLOYEE OVERSIGHT.**

9 (a) ESTABLISHMENT OF INVESTIGATIVE UNITS FOR
10 CONTRACTOR AND EMPLOYEE OVERSIGHT.—

11 (1) IN GENERAL.—The Attorney General, in
12 consultation with the Secretary of Defense, the Sec-
13 retary of State, the Secretary of Homeland Security,
14 and the heads of any other departments or agencies
15 of the Federal Government responsible for employing
16 contractors or persons overseas—

17 (A) shall assign adequate personnel and re-
18 sources through the creation of units (to be
19 known as “Investigative Units for Contractor
20 and Employee Oversight”) to investigate allega-
21 tions of criminal offenses under chapter 212A
22 of title 18, United States Code (as amended by

1 section 2(a) of this Act), and may authorize the
2 overseas deployment of law enforcement agents
3 and other government personnel for that pur-
4 pose; and

5 (B) shall include in the regulations pre-
6 scribed under section 3273 of title 18, United
7 States Code (as added by section 2(a) of this
8 Act), provisions setting forth responsibility for
9 the investigation of any incident in which—

10 (i) a weapon is allegedly discharged
11 unlawfully by a person, while employed by
12 or accompanying any department or agen-
13 cy of the United States other than the
14 Armed Forces; or

15 (ii) a person or persons are killed or
16 seriously injured, or property valued great-
17 er than \$10,000 is destroyed, as a result
18 of conduct by a person, while employed by
19 or accompanying any department or agen-
20 cy of the United States other than the
21 Armed Forces.

22 (2) RULE OF CONSTRUCTION.—Nothing in this
23 subsection shall be construed to limit any authority
24 of the Attorney General or any Federal law enforce-

1 ment agency to investigate violations of Federal law
2 or deploy personnel overseas.

3 (b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

4 (1) INVESTIGATION.—The Attorney General
5 shall have principal authority for the enforcement of
6 chapter 212A of title 18, United States Code (as so
7 amended), and shall have the authority to initiate,
8 conduct, and supervise investigations of any alleged
9 offenses under such chapter.

10 (2) ARREST.—The Attorney General may des-
11 ignate and authorize any person serving in a law en-
12 forcement position in the Department of Justice or
13 any person serving in a law enforcement position in
14 any other department or agency of the Federal Gov-
15 ernment, including a member of the Diplomatic Se-
16 curity Service of the Department of State or a mili-
17 tary police officer of the Armed Forces, to arrest
18 outside the United States, in accordance with appli-
19 cable international treaties, any person described in
20 section 3271 or 3272 of title 18, United States Code
21 (as so amended), if there is probable cause to believe
22 such person committed an offense or offenses in
23 such section 3271 or 3272.

24 (3) PROSECUTION.—The Attorney General may
25 establish such procedures the Attorney General con-

1 siders appropriate to ensure that Federal law en-
2 forcement agencies refer offenses under section 3271
3 or 3272 of title 18, United States Code (as so
4 amended), to the Attorney General for prosecution
5 in a uniform and timely manner.

6 (4) ASSISTANCE ON REQUEST OF ATTORNEY
7 GENERAL.—Notwithstanding any statute, rule, or
8 regulation to the contrary, the Attorney General
9 may request assistance from the Secretary of De-
10 fense, the Secretary of State, or the head of any
11 other Executive agency to enforce section 3271 or
12 3272 of title 18, United States Code (as so amend-
13 ed). The assistance requested may include the fol-
14 lowing:

15 (A) The assignment of additional personnel
16 and resources to an Investigative Unit for Con-
17 tractor and Employee Oversight established by
18 the Attorney General under subsection (a).

19 (B) An investigation into alleged mis-
20 conduct or arrest of an individual suspected of
21 alleged misconduct by agents of the Diplomatic
22 Security Service of the Department of State
23 present in the nation in which the alleged mis-
24 conduct occurs.

1 (5) ANNUAL REPORT.—Not later than one year
2 after the date of the enactment of this Act, and an-
3 nually thereafter for five years, the Attorney General
4 shall, in consultation with the Secretary of Defense
5 and the Secretary of State, submit to Congress a re-
6 port containing the following:

7 (A) The number of offenses under chapter
8 212A of title 18, United States Code (as so
9 amended), received, investigated, and referred
10 for prosecution by Federal law enforcement au-
11 thorities during the previous year.

12 (B) The number of prosecutions under
13 chapter 212A of title 18, United States Code
14 (as so amended), including the nature of the of-
15 fenses and any dispositions reached, during the
16 previous year.

17 (C) The number, location, and any deploy-
18 ments of Investigative Units for Contractor and
19 Employee Oversight to investigate offenses
20 under chapter 212A of title 18, United States
21 Code (as so amended), during the previous
22 year.

23 (D) Such recommendations for legislative
24 or administrative action as the Attorney Gen-
25 eral considers appropriate to enforce chapter

1 212A of title 18, United States Code (as so
2 amended), and the provisions of this section.

3 (c) EXECUTIVE AGENCY.—In this section, the term
4 “Executive agency” has the meaning given that term in
5 section 105 of title 5, United States Code.

6 **SEC. 4. EFFECTIVE DATE.**

7 (a) IMMEDIATE EFFECTIVENESS.—This Act and the
8 amendments made by this Act shall take effect on the date
9 of the enactment of this Act.

10 (b) IMPLEMENTATION.—The Attorney General and
11 the head of any other department or agency of the Federal
12 Government to which this Act applies shall have 90 days
13 after the date of the enactment of this Act to ensure com-
14 pliance with the provisions of this Act.

15 **SEC. 5. RULE OF CONSTRUCTION.**

16 Nothing in this Act or any amendment made by this
17 Act shall be construed to limit or affect the application
18 of extraterritorial jurisdiction related to any other Federal
19 law.

20 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

21 For each of the fiscal years 2010 through 2015, there
22 are authorized to be appropriated to the Attorney General
23 such sums as are necessary to carry out this Act.

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