

113TH CONGRESS
1ST SESSION

H. R. 1778

To mandate training of members of the Foreign Service to protect the rights of United States citizens in the custody of foreign governments, to deny entry into the United States of officials of any foreign government, including their immediate family members, who commit or who fail to rectify fundamental due process and human rights violations of United States citizens in the custody of a foreign government, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2013

Mr. SMITH of New Jersey (for himself and Ms. VELÁZQUEZ) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to 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

A BILL

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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 “Justice for Imprisoned
5 Americans Overseas Act of 2013” or the “Jacob’s Law
6 of 2013”.

7 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

8 (a) FINDINGS.—Congress finds the following:

9 (1) The President is required under section
10 2001 of the Revised Statutes of the United States
11 (22 U.S.C. 1732) to demand the release of any cit-
12 izen who has been unjustly deprived of his liberty by
13 or under the authority of any foreign government,
14 and to undertake appropriate means to obtain the
15 release of such citizen.

16 (2) In a statement submitted to the Committee
17 on the Judiciary of the Senate on July 27, 2011,
18 former Secretary of State Hillary Clinton stated that
19 “[t]he State Department has no greater responsi-
20 bility than the protection of U.S. citizens overseas—
21 particularly when Americans find themselves in the
22 custody of a foreign government, facing an unfam-
23 iliar, and at times unfair, legal system.”.

24 (3) Some United States citizens in the custody
25 of a foreign government have been and continue to

1 be denied fundamental due process and human
2 rights under both local and international law by for-
3 eign government officials.

4 (4) Mr. Jacob Ostreicher, who was detained in
5 the notorious Palmasola prison in Santa Cruz de la
6 Sierra, Bolivia, from June 4, 2011, until December
7 18, 2012, and was subsequently placed under house
8 arrest, is one of the United States citizens who cur-
9 rently is enduring multiple, egregious, and contin-
10 uous violations of his fundamental due process and
11 human rights under both local and international law.

12 (b) SENSE OF CONGRESS.—It is the sense of Con-
13 gress that foreign government officials responsible for vio-
14 lations of fundamental due process and human rights of
15 United States citizens in the custody of a foreign govern-
16 ment, as well as immediate family members of such offi-
17 cials, should not have the privilege of traveling to the
18 United States while such violations are occurring.

19 **SEC. 3. DEPARTMENT OF STATE PROTECTION OF UNITED**
20 **STATES CITIZENS ABROAD.**

21 (a) TRAINING FOR FOREIGN SERVICE OFFICERS.—
22 Subsection (a) of section 703 of the Foreign Service Act
23 of 1980 (22 U.S.C. 4023) is amended—

24 (1) in the first sentence, by striking “The Sec-
25 retary” and inserting “(1) The Secretary”; and

1 (2) by adding at the end the following new
2 paragraph:

3 “(2) The professional development program referred
4 to in paragraph (1) shall include the following:

5 “(A) The protocol that members of the Service
6 are to follow to protect the human rights and due
7 process rights of United States citizens who are in
8 the custody of a foreign government and who have
9 notified the Department of State that one or more
10 of such rights is being violated.

11 “(B) Information relating to the international
12 human rights that may be relevant in the case of a
13 United States citizen described in paragraph (1), in-
14 cluding the right of an individual charged with a
15 criminal offense to be presumed innocent until prov-
16 en guilty according to law as stated in the Inter-
17 national Covenant on Civil and Political Rights.

18 “(C) The means by which a member of the
19 Service assigned to a new post in a foreign country
20 will be informed of the legal rights of a United
21 States citizen who is in the custody of the govern-
22 ment of such country pursuant to the laws of such
23 country.”.

24 (b) REPORT TO CONGRESS.—Not later than 90 days
25 after the date of the enactment of this Act, the Secretary

1 of State shall submit to the appropriate congressional
2 committees a report that describes the implementation of
3 the new requirements of the professional development pro-
4 gram required under paragraph (2) of subsection (a) of
5 section 703 of the Foreign Service Act of 1980, as added
6 by subsection (a)(2) of this section.

7 **SEC. 4. DENIAL OF ENTRY INTO THE UNITED STATES OF**
8 **CERTAIN FOREIGN GOVERNMENT OFFICIALS.**

9 (a) DENIAL OF ENTRY.—Notwithstanding any other
10 provision of law, the Secretary of State may not issue any
11 visa to, and the Secretary of Homeland Security shall deny
12 entry to the United States of, any foreign government offi-
13 cial identified pursuant to subsection (d)(1)(C) or any im-
14 mediate family members of such official.

15 (b) PERMANENT BAN.—Notwithstanding any other
16 provision of law, if any United States citizen identified
17 pursuant to subsection (d)(1)(A) dies from any cause
18 while in the custody of a foreign government, the govern-
19 ment officials identified pursuant to subsection (d)(1)(C)
20 in relation to such citizen and the immediate family mem-
21 bers of such officials may not be issued any visa by the
22 Secretary of State, and may not be admitted by the Sec-
23 retary of Homeland Security, to the United States at any
24 time on or after the date of the death of such citizen.

1 (c) CURRENT VISAS REVOKED.—Notwithstanding
2 any other provision of law, the Secretary of State shall
3 revoke, in accordance with section 221(i) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1201(i)), the visa or
5 other documentation of any alien who would be ineligible
6 to receive such a visa or documentation under subsection
7 (a) or (b) of this section.

8 (d) DESIGNATION OF INADMISSIBLE FOREIGN OFFI-
9 CIALS.—

10 (1) REPORT TO CONGRESS.—Not later than 30
11 days after the date of the enactment of this Act and
12 every 180 days thereafter for five years, the Sec-
13 retary of State shall submit to the appropriate con-
14 gressional committees a report that contains the fol-
15 lowing:

16 (A) An identification of United States citi-
17 zens who are in the custody of a foreign govern-
18 ment and whose fundamental due process or
19 human rights pursuant to the laws of such gov-
20 ernment or international standards binding on
21 such government are being violated.

22 (B) An identification of the fundamental
23 due process or human rights violations that are
24 being committed against the citizens identified
25 in subparagraph (A).

1 (C) A list of the government officials who,
2 based on credible information, are responsible
3 for the violations of, or are failing to fulfill their
4 official responsibility to protect, the rights identified in subparagraph (B) of any citizen identified in subparagraph (A).

7 (2) ADDITIONAL REPORTING REQUIREMENT.—
8 In the case of each semi-annual report required
9 under paragraph (1), the Secretary of State shall include a list of the names and titles of those government officials identified in subparagraph (C) of such paragraph, and the names and relationships of the
12 immediate family members of such officials who
13 were denied a visa or entry to the United States
14 pursuant to subsection (a) or (b), or whose visa was
15 revoked pursuant to subsection (c), during the immediately preceding 180-day period.

18 (3) FORM.—Each report required under paragraph (1) shall be submitted in unclassified form.

20 (4) EXCEPTION FOR CLASSIFIED ANNEX.—The
21 name of a person to be included in each report required under paragraph (1) may be submitted in a
22 classified annex only if the President—

24 (A) determines that it is in the best interest of a United States citizen identified pursuant

1 ant to subparagraph (A) of such paragraph, or
2 that it is vital for the national security interests
3 of the United States to do so;

4 (B) uses the annex in such a manner con-
5 sistent with congressional intent and the pur-
6 poses of this Act; and

7 (C) 15 days before submitting the name in
8 a classified annex, provides to the appropriate
9 congressional committees notice of, and a jus-
10 tification for, including or continuing to include
11 each person in such a classified annex despite
12 any publicly available credible information indi-
13 cating that the government official concerned is
14 responsible for the violations of, or is failing to
15 fulfill an official responsibility to protect, the
16 rights of a United States citizen identified in
17 subparagraph (A) of paragraph (1).

18 (5) PUBLIC AVAILABILITY.—The unclassified
19 portion of the report required under paragraph (1)
20 shall be made available to the public and published
21 in the Federal Register.

22 (e) REMOVAL FROM REPORT DESIGNATION.—A gov-
23 ernment official may be removed from the lists required
24 under subsection (d)(1)(C) if the President determines
25 and reports to the appropriate congressional committees

1 not less than 15 days before the removal from any such
2 list of such governmental official that—

3 (1) credible information exists that such gov-
4 ernment official is not responsible for the violations
5 of, or is fulfilling any official responsibility to pro-
6 tect, the rights identified in subsection (d)(1)(B) of
7 any United States citizen identified in subsection
8 (d)(1)(A) who is in the custody of a foreign govern-
9 ment; or

10 (2) such citizen has been released.

11 (f) REQUESTS BY CHAIRPERSONS AND RANKING
12 MEMBERS OF APPROPRIATE CONGRESSIONAL COMMIT-
13 TEES.—

14 (1) IN GENERAL.—Not later than 120 days
15 after receiving a written request from the chair-
16 person and ranking member of one of the appro-
17 priate congressional committees with respect to
18 whether a person meets the criteria for being in-
19 cluded on the list required under subsection
20 (d)(1)(C), the President shall transmit a response to
21 the chairperson and ranking member of the com-
22 mittee which made the request with respect to the
23 status of such person.

24 (2) FORM.—The President may submit a re-
25 sponse required under paragraph (1) in classified

1 form if the President determines that it is in the
2 best interest of a United States citizen identified
3 pursuant to subsection (d)(1)(A), or that it is nec-
4 essary for the national security interests of the
5 United States to do so.

6 (3) REMOVAL.—If the President removes from
7 the list required under subsection (d)(1)(C) a person
8 who has been included on such list at the request of
9 the chairperson and ranking member of one of the
10 appropriate congressional committees, the President
11 shall provide the chairperson and ranking member
12 with any information that contributed to such re-
13 moval decision. The President may transmit such in-
14 formation in classified form if the President deter-
15 mines that such is in the best interest of a United
16 States citizen identified pursuant to subsection
17 (d)(1)(A), or that it is in the national security inter-
18 ests of the United States.

19 (g) NONAPPLICABILITY OF CONFIDENTIALITY RE-
20 QUIREMENT WITH RESPECT TO VISA RECORDS.—The
21 President shall publish the list required under subsection
22 (d)(1)(C) without regard to the requirements of section
23 222(f) of the Immigration and Nationality Act (8 U.S.C.
24 1202(f)) with respect to confidentiality of records per-

1 taining to the issuance or refusal of visas or permits to
2 enter the United States.

3 **SEC. 5. PROHIBITION ON CERTAIN FOREIGN ASSISTANCE.**

4 Notwithstanding any other provision of law, no as-
5 sistance may be provided to an agency, instrumentality,
6 or other entity of a foreign government that, based on
7 credible information, is responsible for the violation of, or
8 is failing to fulfill a responsibility to protect, the rights
9 identified in section 4(d)(1)(B) of a United States citizen
10 identified in section 4(d)(1)(A).

11 **SEC. 6. EMBASSY WEBSITE POSTINGS.**

12 It is the sense of Congress that the website of the
13 lead United States diplomatic or consular mission located
14 in a country where a United States citizen identified in
15 section 4(d)(1)(A) is in the custody of a foreign govern-
16 ment should—

17 (1) prominently indicate that the fundamental
18 due process or human rights of such citizen in the
19 custody of the government of such country are being
20 violated, and

21 (2) provide sufficient details about the case of
22 such citizen to alert other United States citizens of
23 the potential dangers of visiting such country.

24 **SEC. 7. DEFINITIONS.**

25 In this Act:

1 (1) APPROPRIATE CONGRESSIONAL COMMIT-
2 TEES.—The term “appropriate congressional com-
3 mittees” means the Committee on Foreign Affairs
4 and the Committee on the Judiciary of the House of
5 Representatives, and the Committee on Foreign Re-
6 lations and the Committee on the Judiciary of the
7 Senate.

8 (2) IMMEDIATE FAMILY MEMBERS.—The term
9 “immediate family members” means a spouse,
10 daughter or son regardless of age, parent, brother,
11 sister, and fiancé or fiancée.

12 (3) INTERNATIONAL STANDARDS.—The term
13 “international standards” means standards specified
14 in international agreements to which the country
15 concerned is a party, taking into account any appli-
16 cable reservations.

17 (4) IN THE CUSTODY OF A FOREIGN GOVERN-
18 MENT.—The term “in the custody of a foreign gov-
19 ernment” means to be incarcerated, under house ar-
20 rest, or otherwise deprived of one’s liberty, including
21 through the refusal of permission to leave the coun-
22 try concerned, by the government of such country.

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