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116TH CONGRESS
1ST SESSION

H. R. 4192

To amend title 18, United States Code, to provide for an offense for acts of terrorism occurring in the territorial jurisdiction of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 16, 2019

Mr. SCHIFF 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 an offense for acts of terrorism occurring in the territorial jurisdiction of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Confronting the Threat of Domestic Terrorism Act''.

SEC. 2. ACTS OF TERRORISM OCCURRING IN THE TERRITORIAL JURISDICTION OF THE UNITED STATES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332i the following:

"§ 2332j. Acts of terrorism occurring in the territorial jurisdiction of the United States

''(a) PROHIBITED ACTS.—

''(1) OFFENSES.—Whoever, in a circumstance described in subsection (b), and with the intent to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping—

''(A) knowingly kills, kidnaps, maims, commits an assault resulting in serious bodily injury, or assaults with a dangerous weapon any person within the United States; or

''(B) creates a substantial risk of serious bodily injury to any other person by knowingly destroying or damaging any structure, conveyance, or other real or personal property within the United States or by attempting or conspiring to destroy or damage any structure,

conveyance, or other real or personal property within the United States,

in violation of the laws of any State, or the United States, shall be punished under section 2332b(c).

''(2) TREATMENT OF THREATS, ATTEMPTS AND CONSPIRACIES.—Whoever threatens to commit an offense under paragraph (1), or attempts or conspires to do so, shall be punished under section 2332b(c).

''(b) JURISDICTIONAL BASES.—

''(1) CIRCUMSTANCES.—The circumstances referred to in subsection (a) are—

''(A) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

''(B) the offense obstructs, delays, or affects interstate or foreign commerce, or would have so obstructed, delayed, or affected interstate or foreign commerce if the offense had been consummated;

''(C) the offense occurs during the course of, or as a result of, the travel of the defendant or the victim—

''(i) across a State line or national border; or

"(ii) using a facility of interstate or foreign commerce;

"(D) the victim, or intended victim, is the United States Government, a member of the uniformed services, or any official, officer, employee, or agent of the legislative, executive, or judicial branches, or of any department or agency, of the United States;

"(E) the structure, conveyance, or other real or personal property is, in whole or in part, owned, possessed, or leased to the United States, or any department or agency of the United States;

"(F) in connection with the conduct described in subsection (a), the defendant employs a firearm, dangerous weapon, weapon of mass destruction, or other weapon that has traveled in interstate or foreign commerce;

"(G) the offense is committed in the territorial sea (including the airspace above and the seabed and subsoil below, and artificial islands and fixed structures erected thereon) of the United States; or

''(H) the offense is committed within the special maritime and territorial jurisdiction of the United States.

''(2) CO-CONSPIRATORS AND ACCESSORIES AFTER THE FACT.—Jurisdiction shall exist over all principals and co-conspirators of an offense under this section, and accessories after the fact to any offense under this section, if at least one of the circumstances described in subparagraphs (A) through (H) of paragraph (1) is applicable to at least one offender.

''(c) PROOF REQUIREMENTS.—The following shall apply to prosecutions under this section:

''(1) KNOWLEDGE.—The prosecution is not required to prove knowledge by any defendant of a jurisdictional base alleged in the indictment.

''(2) STATE LAW.—In a prosecution under this section that is based upon the adoption of State law, only the elements of the offense under State law, and not any provisions pertaining to criminal procedure or evidence, are adopted.

''(d) DEFINITIONS.—As used in this section—

''(1) the term 'facility of interstate or foreign commerce' has the meaning given that term in section 1958(b)(2);

''(2) the term 'serious bodily injury' has the meaning given that term in section 1365(h)(3);

''(3) the term 'firearm' has the meaning given that term in section 921(a)(3);

''(4) the term 'weapon of mass destruction' has the meaning given that term in section 2332a(c)(2); and

''(5) the term 'territorial sea of the United States' means all waters extending seaward to 12 nautical miles from the baselines of the United States, determined in accordance with international law.

''(e) LIMITATION ON PROSECUTION.—No prosecution for any offense described in this section shall be undertaken by the United States except on written certification of the Attorney General or the highest ranking subordinate of the Attorney General with responsibility for criminal prosecutions of the offenses in this chapter that, in the judgment of the certifying official, such offense was intended to intimidate or coerce a civilian population, influence the policy of a government by intimidation or coercion, or affect the conduct of a government by mass destruction, assassination, or kidnapping.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is

amended by inserting after the item relating to section 2332i the following:

"2332j. Acts of terrorism occurring in the territorial jurisdiction of the United States.".

(c) CONFORMING AMENDMENTS.—

(1) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5) of title 18, United States Code, is amended by inserting after "2332i (relating to acts of nuclear terrorism)," the following: "2332j (relating to acts of terrorism occurring in the territorial jurisdiction of the United States),".

(2) PROVIDING MATERIAL SUPPORT TO TERRORISTS.—Section 2339A(a) of title 18, United States Code, is amended by inserting after "2332f," the following: "2332j,".

(d) PENALTY CLARIFICATION.—Section 2332b(c)(1)(E) of title 18, United States Code, is amended by inserting after "for" the following: "creating a substantial risk of serious bodily injury to any other person by".

(e) REPORT ON CIVIL LIBERTIES.—

(1) IN GENERAL.—Not later than 4 years after the date of the enactment of this Act, the Privacy and Civil Liberties Oversight Board established by section 1061 of the Intelligence Reform and Terrorism Prevention Act of 2004 (42 U.S.C. 2000ee)

shall make publicly available a report on any civil liberties issues arising from the implementation of section 2332j of title 18, United States Code, as added by subsection (a), including with respect to both the investigation and the prosecution of offenses under such section.

(2) CONSULTATION.—In determining the scope of the report under paragraph (1), the chair of the Privacy and Civil Liberties Oversight Board shall consult with the chairs and ranking members of the following committees:

(A) The Committee on the Judiciary, the Committee on Homeland Security, and the Permanent Select Committee on Intelligence of the House of Representatives.

(B) The Committee on the Judiciary, the Committee on Homeland Security and Governmental Affairs, and the Select Committee on Intelligence of the Senate.

(3) FORM.—The report under paragraph (1) shall be in unclassified form.

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