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S. 669

To provide for the appropriate balance of empowering diplomats to pursue vital diplomatic goals and mitigating security risks at United States diplomatic posts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2021

Mr. MURPHY introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide for the appropriate balance of empowering diplomats to pursue vital diplomatic goals and mitigating security risks at United States diplomatic posts, 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 “Expeditionary Diplo-
5 macy Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) A robust overseas diplomatic presence is the
2 sine qua non of an effective foreign policy, particu-
3 larly in unstable environments where a flexible and
4 timely diplomatic response can be decisive in pre-
5 venting and addressing violent conflict.

6 (2) Diplomats routinely put themselves and
7 their families at great personal risk to serve their
8 country overseas where they increasingly face
9 threats related to international terrorism, violent
10 conflict, and public health, among others.

11 (3) The Department of State has a remarkable
12 record of protecting personnel while enabling an
13 enormous amount of global diplomatic activity, often
14 in insecure and remote places and facing a variety
15 of evolving risks and threats, from terrorism to sonic
16 attacks. With support from Congress, the Depart-
17 ment of State has revised policy, improved physical
18 security through retrofitting and replacing old facili-
19 ties, deployed additional security personnel and ar-
20 mored vehicles, and greatly enhanced training re-
21 quirements and facilities, including the new Foreign
22 Affairs Security Training Center in Blackstone, Vir-
23 ginia.

24 (4) However, there is broad consensus that the
25 pendulum has swung too far toward eliminating risk,

1 excessively inhibiting diplomatic activity; instead of
2 protecting diplomats that authorize calculated risks,
3 human psychology combined with Department of
4 State policy incentivize extending embassy closures,
5 reducing footprints, and postponing or denying travel
6 requests.

7 (5) Congress must accept responsibility for its
8 part in perpetuating a risk-averse culture, as its
9 oversight too often promotes the myth that all security
10 incidents are avoidable and appears more focused
11 on finding scapegoats than improving policy;
12 the Accountability Review Board requirement in the
13 Diplomatic Security Act (22 U.S.C. 4801 et seq.)
14 particularly furthers this perception.

15 (6) The impact of reduced diplomatic engagement
16 is both difficult to distill and undeniable; while
17 the cost of an embassy closure or cancelled meeting
18 is hard to measure, diplomatic missions rely on robust
19 staffing and ambitious external engagement to
20 advance United States interests as diverse as fighting
21 terrorism and transnational organized crime,
22 preventing and addressing violent conflict and humanitarian
23 disasters, promoting United States businesses and trade,
24 protecting the rights of

1 marginalized groups, addressing climate change, and
2 preventing pandemic disease.

3 (7) Despite the fact that Congress currently
4 provides annual appropriations in excess of
5 \$1,900,000,000 for embassy security, construction,
6 and maintenance, the Department of State is unable
7 to fully transform this considerable investment into
8 true overseas presence given excessive restrictions
9 that inhibit the ability of diplomats to—

10 (A) meet with foreign leaders to explain,
11 defend, and advance United States priorities;

12 (B) understand and report on foreign po-
13 litical, social, and economic conditions;

14 (C) provide United States citizen services
15 that are often a matter of life and death in in-
16 secure places; and

17 (D) collaborate and, at times, compete
18 with other diplomatic missions.

19 (8) Such restrictions present a clear and
20 present danger to the core interests of the United
21 States and contribute to the larger militarization of
22 our national security, as military and intelligence
23 agencies benefit from fewer security restrictions,
24 greater risk tolerance, and less congressional scru-
25 tiny in the wake of security incidents.

1 (9) Given these stakes, Congress has a respon-
 2 sibility to empower, support, and hold the Depart-
 3 ment of State accountable for implementing an ag-
 4 gressive presence strategy that mitigates potential
 5 risks and adequately considers the myriad direct and
 6 indirect consequences of a lack of presence.

7 **SEC. 3. ENCOURAGING EXPEDITIONARY DIPLOMACY.**

8 (a) PURPOSE.—Subsection (b) of section 102 of the
 9 Diplomatic Security Act (22 U.S.C. 4801(b)) is amend-
 10 ed—

11 (1) by amending paragraph (3) to read as fol-
 12 lows:

13 “(3) to promote strengthened security meas-
 14 ures, institutionalize a culture of learning, and, in
 15 the case of apparent gross negligence or breach of
 16 duty, recommend the Director General of the For-
 17 eign Service investigate accountability for United
 18 States Government personnel with security-related
 19 responsibilities;”;

20 (2) by redesignating paragraphs (4) and (5) as
 21 paragraphs (5) and (6), respectively; and

22 (3) by inserting after paragraph (3) the fol-
 23 lowing new paragraph:

24 “(4) to support a culture of risk management,
 25 instead of risk avoidance, that enables to Depart-

1 ment of State to pursue its vital goals with full
 2 knowledge that it is not desirable nor possible for
 3 the Department to avoid all risks;”.

4 (b) BRIEFINGS ON EMBASSY SECURITY.—Section
 5 105(a) of the Diplomatic Security Act (22 U.S.C.
 6 4804(a)) is amended—

7 (1) by striking “monthly briefings” and insert-
 8 ing “quarterly briefings”; and

9 (2) in paragraph (1)—

10 (A) by striking “any plans to open or re-
 11 open a high risk, high threat post” and insert-
 12 ing “progress towards opening or reopening
 13 high risk, high threat posts, the risk to national
 14 security of the continued closure and remaining
 15 barriers to doing so”;

16 (B) in subparagraph (A), by striking “the
 17 type and level of security threats such post
 18 could encounter” and inserting “the risk to na-
 19 tional security of the post’s continued closure”;
 20 and

21 (C) in subparagraph (C), by inserting “the
 22 type and level of security threats such post
 23 could encounter, and” before “security
 24 ‘tripwires’ ”.

1 **SEC. 4. REPLACEMENT OF ACCOUNTABILITY REVIEW**
 2 **BOARD WITH SECURITY REVIEW COMMITTEE.**

3 (a) IN GENERAL.—Section 301 of the Diplomatic Se-
 4 curity Act (22 U.S.C. 4831) is amended—

5 (1) in the section heading, by striking “**AC-**
 6 **COUNTABILITY REVIEW BOARDS**” and inserting
 7 “**SECURITY REVIEW COMMITTEES**”;

8 (2) in subsection (a)—

9 (A) in paragraph (1), by striking “shall
 10 convene an Accountability Review Board (in
 11 this title referred to as the ‘Board’). The Sec-
 12 retary shall not convene the Board” and insert-
 13 ing “shall convene the Security Review Com-
 14 mittee (in this title referred to as the ‘SRC’).
 15 The Secretary shall not convene the SRC”;

16 (B) in paragraph (2), by striking “Board”
 17 and inserting “SRC”; and

18 (C) in paragraph (3)(A)—

19 (i) in the subparagraph heading, by
 20 striking “BOARD” and inserting “SRCs”;
 21 and

22 (ii) by striking “Board” and inserting
 23 “SRC”;

24 (3) in subsection (b)—

25 (A) in the subsection heading, by striking
 26 “BOARDS” and inserting “SRCs”; and

1 (B) by striking “Board” each place it ap-
 2 pears and inserting “SRC”; and

3 (4) in subsection (c), by striking “Board” each
 4 place it appears and inserting “SRC”.

5 (b) MEMBERSHIP.—Section 302 of the Diplomatic
 6 Security Act (22 U.S.C. 4832) is amended—

7 (1) in the section heading, by striking “**AC-**
 8 **COUNTABILITY REVIEW BOARD**” and inserting
 9 “**SECURITY REVIEW COMMITTEE**”;

10 (2) in subsection (a)—

11 (A) by striking “MEMBERSHIP.—” and all
 12 that follows through “Chairperson of the
 13 Board. Members of the Board” and inserting
 14 the following: “MEMBERSHIP.—

15 “(1) IN GENERAL.—The Secretary shall deter-
 16 mine the composition of the SRC and designate a
 17 Chairperson. Members of the SRC”;

18 (B) by striking “vested in the Board.
 19 Members of the Board” and inserting “vested
 20 in the SRC. Members of the SRC”; and

21 (C) by adding at the end the following new
 22 paragraph:

23 “(2) REGULATIONS.—The Secretary of State
 24 shall promulgate regulations defining the member-
 25 ship and operating procedures for the SRC and pro-

1 vide to the Chairmen and ranking members of the
 2 Committee on Foreign Relations of the Senate and
 3 the Committee on Foreign Affairs of the House of
 4 Representatives, in writing, a description of how the
 5 SRC will be structured with respect to any other
 6 standing committees.”; and

7 (3) in subsection (b), by striking “Board” each
 8 place it appears and inserting “SRC”.

9 (c) TECHNICAL AND CONFORMING AMENDMENTS.—
 10 Section 303 of the Diplomatic Security Act (22 U.S.C.
 11 4833) is amended—

12 (1) by striking “Board” each place it appears
 13 and inserting “SRC”; and

14 (2) in the subsection heading for subsection (d),
 15 by striking “BOARDS” and inserting “SRCs”.

16 **SEC. 5. FINDINGS AND RECOMMENDATIONS OF SECURITY**
 17 **REVIEW COMMITTEE.**

18 Section 304 of the Diplomatic Security Act (22
 19 U.S.C. 4834) is amended—

20 (1) in the section heading, by striking “**A**
 21 **BOARD**” and inserting “**THE SECURITY REVIEW**
 22 **COMMITTEE**”;

23 (2) by striking “A Board” both places it ap-
 24 pears and inserting “The Security Review Com-
 25 mittee”;

1 (3) by striking “Board” each place it appears
2 and inserting “Security Review Committee”;

3 (4) in subsection (a)—

4 (A) in paragraph (2), by inserting after
5 “were adequate” the following: “, in the context
6 of the inherent security risks, mitigation efforts,
7 and what was known at the time of the incident
8 in question, including—

9 “(A) if the attack was against a diplomatic
10 compound, motorcade, residence, or other mis-
11 sion facility, whether the security systems, secu-
12 rity countermeasures, and security procedures
13 operated as intended, and whether such systems
14 worked to materially mitigate the attack or
15 were found to be inadequate to mitigate the
16 threat and attack;

17 “(B) if the attack was on any personnel
18 conducting an approved operation outside the
19 mission, if a valid process was followed in evalu-
20 ating the requested operation and weighing the
21 risk and diplomatic value of the operation; and

22 “(C) if gross negligence or serious breach
23 of duty by an individual described in section
24 303(a)(1)(B) may have been a factor.”;

1 (B) in paragraph (4), by striking “; and”
2 and inserting a semicolon;

3 (C) by redesignating paragraph (5) as
4 paragraph (6); and

5 (D) by inserting after paragraph (4) the
6 following new paragraph:

7 “(5) the diplomatic value of operations or phys-
8 ical presence relating to the incident in question, in-
9 cluding a counterfactual for the impact of not under-
10 taking the type of operation or physical presence re-
11 lated to the incident; and”;

12 (5) in subsection (b), by inserting “and to pro-
13 mote a culture of risk management, rather than risk
14 avoidance for valuable diplomatic activity” after
15 “has reviewed”;

16 (6) by amending subsection (c) to read as fol-
17 lows:

18 “(c) PERSONNEL RECOMMENDATIONS.—If the SRC
19 suspects that an individual described in section
20 303(a)(1)(B) has engaged in gross negligence or serious
21 breach of duty, and such misconduct has significantly con-
22 tributed to the serious injury, loss of life, or significant
23 destruction of property, or the serious breach of security
24 that is the subject of the SRC’s examination as described
25 in subsection (a), the SRC shall report to the Director

1 General of the Foreign Service for any appropriate ac-
 2 tion.”; and

3 (7) in subsection (d)—

4 (A) by striking “REPORTS.—” and all that
 5 follows through “(1) PROGRAM RECOMMENDA-
 6 TIONS.—In any case” and inserting “RE-
 7 PORTS.—In any case”;

8 (B) by striking “Congress” and inserting
 9 “Chairmen and ranking members of the Com-
 10 mittee on Foreign Relations of the Senate and
 11 the Committee on Foreign Affairs of the House
 12 of Representatives”; and

13 (C) by striking paragraph (2).

14 **SEC. 6. REPORTING REQUIREMENT.**

15 Not later than 150 days after the date of the enact-
 16 ment of this Act, the Secretary of State shall provide a
 17 report and oral briefing to the Chairmen and ranking
 18 members of the Committee on Foreign Relations of the
 19 Senate and the Committee on Foreign Affairs of the
 20 House of Representatives on the regulations promulgated
 21 under paragraph (2) of section 302(a) of the Diplomatic
 22 Security Act (22 U.S.C. 4832(a)), as added by section
 23 4(b)(2)(C) of this Act.

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