

(Mr. BARRASSO) was added as a cosponsor of S. 2218, a bill to amend the Internal Revenue Code of 1986 to treat certain amounts paid for physical activity, fitness, and exercise as amounts paid for medical care.

S. 2248

At the request of Mr. DURBIN, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 2248, a bill to amend the Public Health Service Act to coordinate Federal congenital heart disease research efforts and to improve public education and awareness of congenital heart disease, and for other purposes.

S. 2292

At the request of Mr. TESTER, the name of the Senator from New Hampshire (Mrs. SHAHEEN) was added as a cosponsor of S. 2292, a bill to reform laws relating to small public housing agencies, and for other purposes.

S. 2373

At the request of Ms. CANTWELL, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 2373, a bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of certain lymphedema compression treatment items as items of durable medical equipment.

S. 2423

At the request of Mrs. SHAHEEN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 2423, a bill making appropriations to address the heroin and opioid drug abuse epidemic for the fiscal year ending September 30, 2016, and for other purposes.

S. 2496

At the request of Mr. COONS, the name of the Senator from New Hampshire (Ms. AYOTTE) was added as a cosponsor of S. 2496, a bill to provide flexibility for the Administrator of the Small Business Administration to increase the total amount of general business loans that may be guaranteed under section 7(a) of the Small Business Act.

S. 2499

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr. KIRK) was added as a cosponsor of S. 2499, a bill to amend the Internal Revenue Code of 1986 to improve access to health care through expanded health savings accounts, and for other purposes.

S. 2517

At the request of Mr. JOHNSON, the name of the Senator from New Jersey (Mr. BOOKER) was added as a cosponsor of S. 2517, a bill to require a report on United States strategy to combat terrorist use of social media, and for other purposes.

S. RES. 99

At the request of Mr. NELSON, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Res. 99, a resolution calling on the Government of Iran to follow through

on repeated promises of assistance in the case of Robert Levinson, the long-est held United States civilian in our Nation's history.

S. RES. 349

At the request of Mr. ROBERTS, the names of the Senator from Oklahoma (Mr. INHOFE) and the Senator from Delaware (Mr. CARPER) were added as cosponsors of S. Res. 349, a resolution congratulating the Farm Credit System on the celebration of its 100th anniversary.

S. RES. 368

At the request of Mr. CARDIN, the names of the Senator from New Jersey (Mr. MENENDEZ) and the Senator from Florida (Mr. RUBIO) were added as cosponsors of S. Res. 368, a resolution supporting efforts by the Government of Colombia to pursue peace and the end of the country's enduring internal armed conflict and recognizing United States support for Colombia at the 15th anniversary of Plan Colombia.

AMENDMENT NO. 3069

At the request of Mr. HEINRICH, the name of the Senator from Colorado (Mr. GARDNER) was added as a cosponsor of amendment No. 3069 intended to be proposed to S. 2012, an original bill to provide for the modernization of the energy policy of the United States, and for other purposes.

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REID (for himself, Mr. DURBIN, Mrs. MURRAY, Mr. LEAHY, Mr. MENENDEZ, Ms. HIRONO, Mr. FRANKEN, Mr. UDALL, and Mr. BROWN):

S. 2540. A bill to provide access to counsel for unaccompanied children and other vulnerable populations; to the Committee on the Judiciary.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2540

*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 "Fair Day in Court for Kids Act of 2016".

#### SEC. 2. IMPROVING IMMIGRATION COURT EFFICIENCY AND REDUCING COSTS BY INCREASING ACCESS TO LEGAL INFORMATION.

(a) APPOINTMENT OF COUNSEL IN CERTAIN CASES; RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL PROCEEDINGS.—Section 240(b) of the Immigration and Nationality Act (8 U.S.C. 1229a(b)) is amended—

- (1) in paragraph (4)—
- (A) in subparagraph (A)—
- (i) by striking “, at no expense to the Government.”; and
- (ii) by striking the comma at the end and inserting a semicolon;
- (B) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E), respectively;
- (C) by inserting after subparagraph (A) the following:

“(B) the Attorney General may appoint or provide counsel, at Government expense, to aliens in immigration proceedings;

“(C) the alien shall, at the beginning of the proceedings or as expeditiously as possible, automatically receive a complete copy of all relevant documents in the possession of the Department of Homeland Security, including all documents (other than documents protected from disclosure by privilege, including national security information referred to in subparagraph (D), law enforcement sensitive information, and information prohibited from disclosure pursuant to any other provision of law) contained in the file maintained by the Government that includes information with respect to all transactions involving the alien during the immigration process (commonly referred to as an ‘A-file’), and all documents pertaining to the alien that the Department of Homeland Security has obtained or received from other government agencies, unless the alien waives the right to receive such documents by executing a knowing and voluntary written waiver in a language that he or she understands fluently.”; and

(D) in subparagraph (D), as redesignated, by striking “, and” and inserting “; and”; and

(2) by adding at the end the following:

“(8) FAILURE TO PROVIDE ALIEN REQUIRED DOCUMENTS.—In the absence of a waiver under paragraph (4)(C), a removal proceeding may not proceed until the alien—

“(A) has received the documents as required under such paragraph; and

“(B) has been provided meaningful time to review and assess such documents.”.

(b) CLARIFICATION REGARDING THE AUTHORITY OF THE ATTORNEY GENERAL TO APPOINT COUNSEL TO ALIENS IN IMMIGRATION PROCEEDINGS.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362) is amended—

(1) by striking “In any” and inserting the following:

“(a) IN GENERAL.—In any”;

(2) in subsection (a), as redesignated—

(A) by striking “(at no expense to the Government)”; and

(B) by striking “he shall” and inserting “the person shall”; and

(3) by adding at the end the following:

“(b) ACCESS TO COUNSEL.—The Attorney General may appoint or provide counsel to aliens in any proceeding conducted under section 235, 236, 238, 240, or 241 or any other section of this Act. The Secretary of Homeland Security shall ensure that aliens have access to counsel inside all immigration detention and border facilities.”.

(c) APPOINTMENT OF COUNSEL FOR UNACCOMPANIED ALIEN CHILDREN AND VULNERABLE ALIENS.—

(1) IN GENERAL.—Section 292 of the Immigration and Nationality Act (8 U.S.C. 1362), as amended by subsection (b), is further amended by adding at the end the following:

“(c) UNACCOMPANIED ALIEN CHILDREN AND VULNERABLE ALIENS.—Notwithstanding subsection (b), the Attorney General shall appoint counsel, at the expense of the Government if necessary, at the beginning of the proceedings or as expeditiously as possible, to represent in such proceedings any alien who has been determined by the Secretary of Homeland Security or the Attorney General to be—

“(1) an unaccompanied alien child (as defined in section 462(g) of the Homeland Security Act of 2002 (6 U.S.C. 279(g)));

“(2) a particularly vulnerable individual, such as—

“(A) a person with a disability; or

“(B) a victim of abuse, torture, or violence; or

“(3) an individual whose circumstances are such that the appointment of counsel is necessary to help ensure fair resolution and efficient adjudication of the proceedings.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Executive Office of Immigration Review of the Department of Justice such sums as may be necessary to carry out this section.”.

(2) **RULEMAKING.**—The Attorney General shall promulgate regulations to implement section 292(c) of the Immigration and Nationality Act, as added by paragraph (1), in accordance with the requirements set forth in section 3006A of title 18, United States Code.

**SEC. 3. ACCESS BY COUNSEL AND LEGAL ORIENTATION AT DETENTION FACILITIES.**

(a) **ACCESS TO COUNSEL.**—The Secretary of Homeland Security shall facilitate access to counsel for all aliens detained in facilities under the supervision of U.S. Immigration and Customs Enforcement or of U.S. Customs and Border Protection, including providing information to aliens in detention about legal services programs at detention facilities.

(b) **ACCESS TO LEGAL ORIENTATION PROGRAMS.**—The Secretary of Homeland Security, in consultation with the Attorney General, shall establish procedures to ensure that legal orientation programs are available for all detained aliens, including aliens held in U.S. Customs and Border Protection facilities, to inform such aliens of the basic procedures of immigration hearings, their rights relating to those hearings under Federal immigration laws, information that may deter such aliens from filing frivolous legal claims, and any other information that the Attorney General considers appropriate, such as a contact list of potential legal resources and providers. Access to legal orientation programs shall not be limited by the alien's current immigration status, prior immigration history, or potential for immigration relief.

(c) **PILOT PROJECT FOR NONDETAINED ALIENS IN REMOVAL PROCEEDINGS.**—The Attorney General shall develop and administer a 2-year pilot program at not fewer than 2 immigration courts to provide nondetained aliens with pending asylum claims access to legal information. At the conclusion of the pilot program, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives that describes the extent to which nondetained aliens are provided with access to counsel.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Executive Office of Immigration Review of the Department of Justice such sums as may be necessary to carry out this section.

**SEC. 4. CASE MANAGEMENT PILOT PROGRAM TO INCREASE COURT APPEARANCE RATES.**

(a) **CONTRACT AUTHORITY.**—The Secretary of Homeland Security shall establish a pilot program to increase the court appearance rates of aliens described in paragraphs (2) and (3) of section 292(c) of the Immigration and Nationality Act, as added by section 2(c)(1), by contracting with nongovernmental, community-based organizations to provide appropriate case management services to such aliens.

(b) **SCOPE OF SERVICES.**—Case management services provided under subsection (a) shall include assisting aliens with—

- (1) accessing legal counsel;
- (2) complying with court-imposed deadlines and other legal obligations;
- (3) procuring appropriate housing;
- (4) enrolling their minor children in school; and

(5) acquiring health services, including, if needed, mental health services.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Department of Homeland Security such sums as may be necessary to carry out this section.

**SEC. 5. REPORT ON ACCESS TO COUNSEL.**

(a) **REPORT.**—Not later than December 31 of each year, the Secretary of Homeland Security, in consultation with the Attorney General, shall prepare and submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives regarding the extent to which aliens described in section 292(c) of the Immigration and Nationality Act, as added by section 2(c)(1), have been provided access to counsel.

(b) **CONTENTS.**—Each report submitted under paragraph (a) shall include, for the immediately preceding 1-year period—

(1) the number and percentage of aliens described in paragraphs (1), (2), and (3), respectively, of section 292(c) of the Immigration and Nationality Act, as added by section 2(c)(1), who were represented by counsel, including information specifying—

(A) the stage of the legal process at which the alien was represented; and

(B) whether the alien was in government custody; and

(2) the number and percentage of aliens who received legal orientation presentations.

By Mr. LEAHY (for himself, Ms. COLLINS, Mr. DURBIN, and Mr. KIRK):

S. 2544. A bill to increase public safety by punishing and deterring firearms trafficking; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, I see my distinguished colleague from Maine on the floor. Both of us would like to speak about how for years law enforcement in Vermont and elsewhere have sought more effective tools to go after straw purchasers and gun traffickers. Straw purchasers are people who do not have a criminal record but who purchase firearms for other people, and all too often they enable violent criminals, drug traffickers, and terrorists to obtain guns and to circumvent the background check requirements of Federal law.

This Senator finds it frustrating. I am a gun owner. I go through background checks, but when I think of drug traffickers getting guns through a straw purchaser, that is wrong. In fact, they ship guns with impunity across State lines, not only from Vermont to other parts of New England but also along the Southwest border, allowing them to conduct illegal gun transactions in our cities and towns. Law enforcement officers who have tried to stop this have been hamstrung because under current law there is no Federal statute specifically prohibiting either the practice of straw purchasing or firearms trafficking. So today I am reintroducing legislation with the distinguished Senator from Maine, Ms. COLLINS, to plug those gaps in the law. The Stop Illegal Trafficking in Firearms Act of 2016 would make it a Federal crime to act as a straw purchaser of firearms or to illegally traffic firearms. It would also establish tough penalties

for anyone who transfers a firearm when they have reasonable cause to believe it would be used in a drug transaction, crime or an act of terrorism. It will fix a loophole in the existing law and make it clear that it is a crime to smuggle firearms out of the United States just as it is a crime to smuggle firearms into the United States. This legislation answers the call from law enforcement to strengthen our investigative and prosecutorial tools to keep guns out of the hands of criminals and terrorists.

We have to do more to protect our communities. The heartbreaking reports of mass shootings have become all too common and no corner of our country is immune from the tragedies that accompany everyday gun violence—not even Vermont. Criminals in search of firearms exploit gaping loopholes in our gun laws, and they utilize straw purchasers and trafficking networks or unregulated gun markets. In addition, the rise in addiction to heroin and opioids in the Northeast has exposed a new so-called iron pipeline of firearms trafficking. We are seeing firearms serve as a currency. You can use a firearm to buy illegal drugs like heroin. Addicts are being directed to straw purchase firearms for dealers because dealers who have criminal backgrounds could not pass a background check. In Vermont, for example, Federal investigators are reporting increasing instances of straw purchasers buying guns for drug dealers or finding guns that were purchased in Vermont being trafficked to criminals in other States, such as New York, Massachusetts, and Connecticut, where the guns are traded for heroin or used in violent crimes.

This morning the Judiciary Committee approved bipartisan legislation that takes a comprehensive approach to dealing with heroin and opioid addiction. I fought to include provisions to help law enforcement and to provide assistance to rural communities like we have in Vermont. Passing a gun trafficking bill is another way we can keep our communities safe.

Remember, straw purchasing and gun trafficking is not just tied to drug trafficking. Even terrorists, like the suspected San Bernardino shooters, have utilized straw purchasers to acquire their guns. In the San Bernardino case, the prosecutors did not have the option of charging the friend of the terrorists with a straw purchasing offense. Instead, the only charge that was available against him for unlawfully purchasing the two rifles used in the mass shooting was a paperwork violation of making a false statement. This Senator has heard from many prosecutors, Republicans and Democrats alike, that these paperwork charges are wholly inadequate to deter or stop such dangerous conduct.

It is time to take action. Only Congress can fill the gap. Congress must not become so numb to tragedy after tragedy that we fail to fulfill our responsibility to legislate. It is true that

no one piece of legislation can prevent all criminals from acquiring firearms, and it certainly will not solve the epidemic of gun violence, but that is not an excuse for inaction.

I would hope all of us would agree that criminals and terrorists should not have guns and that we should investigate and prosecute the straw purchasers and gun traffickers who help criminals and terrorists get guns. Law enforcement officials have complained for years that they lack the statutory tools to effectively investigate and deter straw purchasers and gun traffickers. That is why this bill has such strong support from law enforcement groups such as the National Fraternal Order of Police, the International Association of Chiefs of Police, the Major Cities Chiefs Association, the Federal Law Enforcement Officers Association, the National Tactical Officers Association, the National District Attorneys Association, and the Association of Prosecuting Attorneys. This bill builds on the progress we made last Congress when I worked with Senator DURBIN to introduce similar legislation. I want to acknowledge the tireless efforts of Senator DURBIN and others on this issue, and I am glad he is an original cosponsor of this important legislation.

As are many others, I am proud to be a responsible gun owner. I enjoy target shooting in the backyard of my farmhouse—with a nice safe backdrop I might add. I am deeply committed to the fundamental and individual rights afforded in the Second Amendment. I know Senator COLLINS shares my commitment to protecting those constitutional rights, but we also share a desire to go after violent criminals, drug traffickers, and terrorists. We do not want to hand guns to violent criminals, drug traffickers, and terrorists, and if they do get guns we want to make sure law enforcement officials arrest the people who gave them the guns to keep guns out of their hands. This legislation does just that.

Mr. President, I yield the floor to my good friend, the senior Senator from Maine.

Ms. COLLINS. Mr. President, I am very pleased to join my colleague from New England, Senator LEAHY, in introducing our bill, the Stop Illegal Trafficking in Firearms Act. Our bill would strengthen Federal law to make it easier for prosecutors to effectively go after gun traffickers while protecting fully the rights of the vast majority of gun owners who are law-abiding.

The practice of straw purchasing is intended to achieve one result, and that is to put a gun in the hands of criminals. Today traffickers target individuals who can lawfully purchase firearms and then use those weapons to commit crimes. They exploit weaknesses in Federal law that make prosecuting straw purchasers difficult and punishment for such a crime generally minimal.

The guns we are targeting in our bill are frequently sold and resold and traf-

ficked across State lines, resulting in the proliferation of illegal firearms in our communities. This practice has fueled the violence across our southern border associated with the Mexican drug cartels; it has spurred gun violence in our cities; and it has contributed to the heroin crisis that is so devastating to our families and is undermining public safety in our communities.

Current Federal law makes preventing and prosecuting these offenses very difficult for law enforcement. Right now, a straw purchaser can only be prosecuted for lying on a Federal form. Essentially, that is treated as if it were a paperwork violation. Our bill would create new, specific criminal offenses for straw purchasing and trafficking in firearms. Instead of a slap on the wrist, these crimes would be punishable for up to 15 years in prison for those who knowingly purchase a firearm for a prohibited person or had reason to believe they would use the firearm in a prohibited way. For those straw purchasers who know or have reasonable cause to believe that the firearm would be used to commit a crime of violence, that crime will be punishable for up to 25 years in prison.

It is not surprising that so many law enforcement groups have endorsed our commonsense proposal. It would provide them with an effective tool to fight the violence that too often goes hand in hand with drug trafficking. Straw purchasing and the trafficking of firearms puts guns directly into the hands of drug dealers and violent criminals who smuggle heroin into my State and so many other States. The heroin flooding our communities is reaching crisis proportions. In 2014, there were a record 208 overdose deaths in the State of Maine, including 57 caused by heroin, and the problem is only getting worse.

The problem of straw purchasing and drug and gun trafficking is directly linked to the heroin crisis. Law enforcement officers tell me they have seen a major influx of drug dealers coming from out of State, straight up I-95's "iron pipeline" and other interstate highways with direct ties to gangs in major cities and ready to sell or trade prescription opiates and heroin for guns.

Oftentimes drug dealers and gang members follow a similar pattern. They seek out and target addicts and they trade or sell them heroin for guns. These gang members with criminal records cross into Maine and approach these drug addicts to be their straw buyers because these addicts usually have clean records, so they can legally purchase the firearms these criminals are seeking. The addict exchanges the gun for heroin to support his or her drug dependency, and that cycle is repeated time and again. Those guns might be used in out-of-State crimes or resold at a profit.

Recently, I received a truly shocking briefing from Federal law enforcement

officials about the cases in Maine that fit this pattern. Let me tell you about one. Gang members trafficked in crack cocaine and heroin between New Haven, CT, and Bangor, ME, where I live. They were later charged with acts of violence, including assault, armed robberies, attempted murder, and murder. Law enforcement's investigation revealed that they had gotten the firearms by trading narcotics for them in Bangor, ME. They then distributed these guns to other gang members.

The terrorist attack in San Bernardino, CA, is another tragic example of how straw purchasing can lead to horrific crimes. In this case it is believed that the individual straw-purchased two assault rifles that were later used in the terrorist attack that killed 14 people. He has been charged with making a false statement in relation to the purchase of those firearms. Our bill, the Stop Illegal Trafficking in Firearms Act could have allowed law enforcement officials to charge this individual with straw purchasing and the trafficking of firearms rather than just a paperwork violation.

Our bill also strengthens existing laws that prohibit gun smuggling. Right now it is illegal for someone to smuggle a firearm into the United States with the intent to engage in drug trafficking or violent crime.

To combat the drug cartels operating across our southern border, we must also prohibit firearms from being trafficked out of the United States for these illegal purchases and purposes. In doing so, our bill would provide an important tool to combatting the trafficking organizations that are exporting firearms and ammunition from the United States and into Mexico, where they are used by drug cartels that are fueling the heroin crisis here at home.

According to the Bureau of Alcohol, Tobacco, Firearms and Explosives, out of the nearly 105,000 firearms recovered in Mexico in the last 5 years, more than 73,000 were sourced to the United States. Similarly, a large percentage of guns used in crimes in our largest cities were trafficked across State lines.

Let me emphasize that our bill protects the Second Amendment rights of law-abiding citizens. It protects legitimate, private gun sales and is drafted to avoid sweeping in innocent transactions and placing unnecessary burdens on lawful, private sales. It expressly exempts certain transactions that are allowed under current law, such as gifts, raffles or auctions. There is absolutely nothing in our bill that would, for example, prohibit a father from giving a hunting rifle to his daughter as a gift. Furthermore, our bill expressly prohibits the act from being used to establish a Federal firearms registry, which I strongly oppose.

This Stop Illegal Trafficking in Firearms Act takes guns out of the hands of criminals without infringing upon the constitutional rights of law-abiding citizens.

We have had many discussions in this Chamber, in our caucuses, and in our

committees about the heroin crisis that is gripping far too many families and communities in States across the Nation, including the State of Maine.

We need to take a comprehensive approach that includes strengthening law enforcement, providing treatment, and increasing education and prevention efforts. This bill is one piece of the law enforcement puzzle as we seek to combat this terrible epidemic that is ruining so many lives.

I urge our colleagues to join Senator LEAHY and me in supporting our legislation.

By Mr. KAINE (for himself and Mr. WARNER):

S. 2548. A bill to establish the 400 Years of African-American History Commission, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KAINE. Mr. President, today I am introducing the 400 Years of African American History Commission Act.

During my tenure as Governor of Virginia I presided over the 400th anniversary of the founding of Jamestown, VA, by the English colonists in 1604. Last year I attended the 450th anniversary of the founding of St. Augustine, FL, which celebrated Hispanic heritage. Both commemorations included activities sponsored by federal commissions, which were voted on and passed by Congress. In three years, in 2019, we will mark another key anniversary in American history. August 2019 will mark 400 years after the first documented arrival of Africans who came to English America by way of Point Comfort, Virginia. Although in 1619 slavery was not yet an institution the “20 and odd” Africans, as it was recorded, were the first recorded group of Africans to be sold as involuntary laborers or indentured servants in the colonies.

Having commemorated the English and Spanish heritage of our founding there is no reason it should be any different for the arrival and continuous presence of Africans and African Americans in the English settlements in 1619. There is no dispute that the beginning of African and African American presence in what is now the United States was both tragic and regrettable. Slavery as an institution broke up families, resulted in the deaths of thousands, and caused irreparable damage to our American psyche. Though we should never forget that period of stain on our history, slavery is not the only part of African American history. We must remember the whole story. African Americans have contributed to the economic, academic, social, cultural and moral well-being of this nation.

So today with my cosponsor Senator MARK WARNER, I introduce the 400 Years of African American History Commission Act, which would establish a commission that would plan programs and activities across the country to recognize the arrival and influence of African Americans since 1619. It is

my hope the establishment of a “400th” commission would create an opportunity to bring continued national education about the significance the arrival of African Americans has made to the U.S., and the contributions that have been made since 1619. Additionally, the commission would create space to discuss race relations in America and focus on dismantling the institutional systems that have adversely hindered African American progress.

By Mr. CARDIN (for himself, Mr. TILLIS, Mr. MURPHY, Mr. MENENDEZ, Mrs. SHAHEEN, Mr. BROWN, Mrs. GILLIBRAND, Mr. BLUMENTHAL, Mr. COONS, Ms. MIKULSKI, Mr. MARKEY, Mr. MERKLEY, Mrs. BOXER, Mr. CASEY, and Ms. WARREN):

S. 2551. A bill to help prevent acts of genocide and mass atrocities, which threaten national and international security, by enhancing United States civilian capacities to prevent and mitigate such crises; to the Committee on Foreign Relations.

Mr. CARDIN. Mr. President, on April 10, 2014, I introduced the Syrian War Crimes Accountability Act in this Chamber. Three days earlier, the world had marked the 20th anniversary of the genocide in Rwanda, one of the most horrific events in modern history that unfolded as the world stood back and watched. At that time I noted that, “[u]nfortunately, we have not learned the lessons of the past. We must do better to not only see that sort of atrocities never again occur under our watch . . .” That statement was not only a reflection of my beliefs, but a promise to keep the issue of atrocity prevention in front of the Senate and the American people.

So today, under the heavy cloud of atrocities occurring in Syria, South Sudan, and elsewhere, I come to address this body again. I am here today not to look backward about actions not taken. I am here today to stress that our job, our responsibility, is to make sure the United States has the tools—diplomatic, political, economic, and legal—to take effective action before atrocities occur. Essential to this is authorizing the Atrocities Prevention Board, and ensuring that the United States Government has structures in place and the mechanisms at hand to better prevent and respond to potential atrocities.

President Obama, when he established the Atrocities Prevention Board in 2012, said that, “preventing genocide [is] an ‘achievable goal’ but one that require[s] a degree of governmental organization that matches the kind of methodical organization that accompanies mass killings”.

I am introducing the Genocide and Atrocities Prevention Act of 2016 to ensure that we do just that. I am joined in this effort by Senators TILLIS, MURPHY, MENENDEZ, SHAHEEN, BROWN, GILLIBRAND, BLUMENTHAL, COONS, MI-

KULSKI, MARKEY, MERKLEY, and BOXER. This bill authorizes the Board, which is a transparent, accountable, high-level, interagency board that includes representatives at the assistant secretary level or higher from departments and agencies across the U.S. Government.

The Board will meet monthly to oversee the development and implementation of atrocity prevention and response policy, and additionally address over the horizon potential atrocities through the use of a wide variety of tools, so that we can take effective action to prevent atrocities from occurring.

This bill gives our Foreign Service Officers the training they need to recognize patterns of escalation and early warning signs of potential atrocities and conflict. With this training, we will, over time, build atrocity prevention into the core skillset of our people on the ground. They will be equipped to see the warning signs, analyze the events, and engage early.

This bill also codifies the Complex Crises Fund, which has been a crucial tool to our ability to quickly respond to emerging crises overseas, including potential mass atrocities and conflict. We used the Complex Crises Fund in Tunisia during their Arab Spring and in Sri Lanka after its civil war. We’ve used it to respond quickly in Kenya and Cote d’Ivoire, where it has helped save lives.

Importantly, this bill builds greater transparency and accountability into the structure of the Atrocities Prevention Board. Civil society will have a say, and Congress will have a greater oversight role to make sure we are getting this right.

Mr. President, this is a good bill. It does good things, and places the United States on solid moral ground. But the moral argument alone is not enough. We must also remember that America’s security, and that of our allies, is affected when civilians are slaughtered. Our security is impacted when desperate refugees stream across borders. Our security is affected when perpetrators of extraordinary violence wreak havoc on regional stability, destroying communities, families, and livelihoods. We have seen groups like ISIS systematically targeting communities on the basis of their ethnicity or religious beliefs and practices, including Yazidi, Christian, and Turkmen populations, but over sixty years after the Holocaust, we still lack a comprehensive framework to prevent and respond to mass atrocities and genocide.

So, let this bill act as our framework, and also our call to action, so that when we use the phrase ‘never again’, we know that we are taking meaningful preventative action.

By Mrs. FEINSTEIN (for herself, Mr. DURBIN, Mr. WHITEHOUSE, and Ms. KLOBUCHAR):

S. 2552. A bill to amend section 875(c) of title 18, United States Code, to include an intent requirement; to the Committee on the Judiciary.

Mrs. FEINSTEIN. Mr. President, I rise to introduce the Interstate Threats Clarification Act, which is a necessary bill to clarify the “level of intent” required to convict someone for making threats to injure or kidnap another person.

I would like to thank Senators DURBIN, WHITEHOUSE, and KLOBUCHAR for cosponsoring the bill.

In June 2015, the Supreme Court issued a decision in *Elonis v. United States*, a case involving a man who was convicted for posting on Facebook “crude, degrading, and violent” threats against his co-workers, ex-wife, law enforcement personnel, and a kindergarten class.

The man started posting the violent and threatening posts after his wife of nearly 7 years left him and took with her their two young children.

The threats made over Facebook caused his ex-wife to feel “extremely afraid” for her life, leading her to obtain a restraining order against him.

But that did not stop the man, who then posted on Facebook to communicate to his ex-wife that she “[f]old up your [restraining order] and put it in your pocket / Is it thick enough to stop a bullet?”

That same month, he continued to make violent posts, including one that indicated that “[e]nough elementary schools in a ten mile radius to initiate the most heinous school shooting ever imagined / And hell hath no fury like a crazy man in a Kindergarten class.”

After viewing the posts, an FBI agent and another investigator visited the man at his home, where he was “polite but uncooperative.” After they left, he posted the following:

Little Agent lady stood so close  
Took all the strength I had not to turn the  
b\*\*\*\* ghost

Pull my knife, flick my wrist, and slit her throat

Leave her bleedin’ from her jugular in the arms of her partner.

The post went on to threaten what would happen if he was visited again by the agent, including the possible use of explosives.

Due to these threats and others, the man was convicted for making threats to inflict bodily harm under Section 875(c) of Title 18.

This law prohibits the transmission of a communication that contains a threat to injure or kidnap another person.

The man appealed, saying the lower court did not apply the correct level of intent for a conviction.

When the case reached the Supreme Court, the Court overturned the conviction.

The Court found that the law requires the government to prove some type of “wrongful” intent by the man—“negligence” was not enough for a criminal conviction under this law.

The Court’s opinion, however, left significant ambiguity regarding what the government must prove for a conviction under the statute.

The Supreme Court simply did not specify the exact “level of intent” required for a conviction.

Justice Alito highlighted the problem of the ambiguity in his partial dissent, stating, “[a]ttorneys and judges are left to guess” as to the level of intent required.

This ambiguity has left judges and prosecutors in the dark about what the law requires, and has raised concerns among domestic violence victims because prosecutors and judges may now be hesitant to fully enforce the law.

This is why Congressional action is necessary.

The Interstate Threats Clarification Act solves this ambiguity.

It clarifies that, under Section 875(c) of Title 18, the Government has three options to obtain a conviction. It can prove that a defendant either intended, had knowledge, or recklessly disregarded the risk, that the communication would be reasonably interpreted as a threat.

This is exactly what Justice Alito said would be sufficient in his opinion.

As Justice Alito stated when analyzing the statute in the context of the case, “[s]omeone who acts recklessly with respect to conveying a threat necessarily grasps that he is not engaged in innocent conduct.”

I agree.

Someone who posts violent and crude threats to harm or kidnap judges, domestic violence victims, vulnerable members of society, military personnel, and law enforcement personnel, must be held accountable for their reckless conduct.

This bill clarifies for judges and attorneys alike the proof required to convict those who make such threats to injure or kidnap such persons.

I also appreciate the work done by a coalition of domestic violence organizations that have worked with me on the bill, including the National Network to End Domestic Violence, the Domestic Violence Legal Empowerment and Appeals Project, the National Center for Victims of Crime, the American Association of University Women, Futures Without Violence, Jewish Women International, Legal Momentum, National Alliance to End Sexual Violence, National Coalition Against Domestic Violence, the National Domestic Violence Hotline, and the National Resource Center on Domestic Violence.

I also appreciate the strong support for the bill from law enforcement, including the National District Attorneys Association, the Fraternal Order of Police, the Federal Law Enforcement Officers Association, and the Major Cities Chiefs Association.

This bill is necessary to clarify Federal law about criminal threats and ensure that those who send them are prosecuted. I urge my colleagues to support it.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 3306. Mr. MCCONNELL (for Mr. BLUMENTHAL) proposed an amendment to the resolution S. Res. 298, recognizing Connecticut’s Submarine Century, the 100th anniversary of the establishment of Naval Submarine Base New London, and Connecticut’s historic role in supporting the undersea capabilities of the United States.

### TEXT OF AMENDMENTS

SA 3306. Mr. MCCONNELL (for Mr. BLUMENTHAL) proposed an amendment to the resolution S. Res. 298, recognizing Connecticut’s Submarine Century, the 100th anniversary of the establishment of Naval Submarine Base New London, and Connecticut’s historic role in supporting the undersea capabilities of the United States; as follows:

In the second whereas clause in the preamble, strike “donated land and provided funding” and insert “gifted land”.

In the ninth whereas clause in the preamble, strike “Warfare” and insert “Warfighting”.

In the twelfth whereas clause of the preamble, strike “historic ship Nautilus” and insert “Historic Ship NAUTILUS (SSN 571)”.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON ARMED SERVICES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m., to conduct a hearing entitled “The Semiannual Monetary Policy Report to the Congress.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FINANCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m., in room SD-215 of the Dirksen Senate Office Building, to conduct a hearing entitled “The President’s Budget for Fiscal Year 2017.”

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMITTEE ON FOREIGN RELATIONS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on February 11, 2016, at 10:15 a.m., to conduct a hearing entitled “Nominations.”

The PRESIDING OFFICER. Without objection, it is so ordered.