

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.

## COMMITTEE ON THE JUDICIARY

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on February 11, 2016, at 10 a.m., in room SD-226 of the Dirksen Senate Office Building, to conduct an executive business meeting.

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

## SELECT COMMITTEE ON INTELLIGENCE

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on February 11, 2016, at 2:30 p.m.

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

SUBCOMMITTEE ON REGULATORY AFFAIRS AND  
FEDERAL MANAGEMENT

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Regulatory Affairs and Federal Management of the Committee on Homeland Security and Governmental Affairs be authorized to meet during the session of the Senate on February 11, 2016, at 9:30 a.m., to conduct a hearing entitled "Examining Agency Discretion in Setting and Enforcing Regulatory Fines and Penalties."

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

## PRIVILEGES OF THE FLOOR

Mr. CORNYN. Mr. President, I ask unanimous consent that my Marine Corps fellow, Capt. Matt Dalton, be granted floor privileges for the remainder of this legislative session.

The PRESIDING OFFICER (Mr. CASIDY). Without objection, it is so ordered.

## EXECUTIVE SESSION

## EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to the en bloc consideration of the following nominations under the Privileged section of the Executive Calendar: PN1039, PN1040.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the nominations.

The legislative clerk read the nominations of Morton H. Halperin, of the District of Columbia, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of two years; and Michael O. Johanns, of Nebraska, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

Thereupon, the Senate proceeded to consider the nominations en bloc.

Mr. McCONNELL. Mr. President, I know of no further debate.

The PRESIDING OFFICER. Is there further debate?

If not, the question is, Will the Senate advise and consent to the Halperin and Johanns nominations en bloc?

The nominations were confirmed en bloc.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order to the nominations; that any related statements be printed in the Record; and that the President be immediately notified of the Senate's action.

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

## EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of all nominations on the Secretary's desk in the Foreign Service; that the nominations be confirmed; that the motions to reconsider be considered made and laid upon the table with no intervening action or debate; that no further motions be in order; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate's action and the Senate then resume legislative session.

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

The nominations considered and confirmed are as follows:

NOMINATIONS PLACED ON THE SECRETARY'S  
DESK

## IN THE FOREIGN SERVICE

PN573-5 FOREIGN SERVICE nomination of Christopher Nairn Steel, which was received by the Senate and appeared in the Congressional Record of June 10, 2015.

PN830 FOREIGN SERVICE nominations (28) beginning Christopher Alexander, and ending Tipten Troild, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2015.

PN1085 FOREIGN SERVICE nominations (193) beginning Virginia Lynn Bennett, and ending Susan M. Cleary, which nominations were received by the Senate and appeared in the Congressional Record of January 19, 2016.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now resume legislative session.

TO ALLOW THE MIAMI TRIBE OF  
OKLAHOMA TO LEASE OR  
TRANSFER CERTAIN LANDS

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 349, H.R. 487.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 487) to allow the Miami Tribe of Oklahoma to lease or transfer certain lands.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed and the motion to reconsider be considered made and laid upon the table.

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

The bill (H.R. 487) was ordered to a third reading, was read the third time, and passed.

CALLING ON THE GOVERNMENT  
OF IRAN TO FULFILL ITS PROMISES  
OF ASSISTANCE IN THE  
CASE OF ROBERT LEVINSON

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 365, S. Res. 99.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 99) calling on the Government of Iran to fulfill its promises of assistance in the case of Robert Levinson, the longest held United States civilian in our Nation's history.

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations, with an amendment and an amendment to the preamble and an amendment to the title.

(Strike out all after the resolving clause and insert the part printed in italic.)

(Strike the preamble and insert the part printed in italic.)

## S. RES. 99

*Whereas United States citizen Robert Levinson is a retired agent of the Federal Bureau of Investigation (FBI), a resident of Coral Springs, Florida, the husband of Christine Levinson, and father of their seven children;*

*Whereas Robert Levinson traveled from Dubai, United Arab Emirates, to Kish Island, Iran, on March 8, 2007;*

*Whereas, after traveling to Kish Island and checking into the Hotel Maryam, Robert Levinson disappeared on March 9, 2007;*

*Whereas, in December 2007, Robert Levinson's wife, Christine, traveled to Kish Island to retrace Mr. Levinson's steps and met with officials of the Government of Iran who pledged to help in the investigation;*

*Whereas, for more than eight years, the United States Government has continually pressed the Government of Iran to provide any information on the whereabouts of Robert Levinson and to help ensure his prompt and safe return to his family;*

*Whereas officials of the Government of Iran promised their continued assistance to the relatives of Robert Levinson during the visit of the family to the Islamic Republic of Iran in December 2007;*

*Whereas, in November 2010, the Levinson family received a video of Mr. Levinson in captivity, representing the first proof of life since his disappearance and providing some initial indications that he was being held somewhere in southwest Asia;*