

Sebelius were such that Medicaid spending accounts were over 20 percent of the average State's total budget.

No one is claiming that Federal economic development funds, however defined, would constitute anything near 20 percent of a State's total budget.

In *NFIB v. Sebelius*, the court also cited the *Pennhurst v. Halderman* case and characterized its holdings as, though Congress' power to legislate under the Spending Clause is broad, it does not include surprising participating States with post-acceptance or retroactive conditions.

That, of course, is not the case with the bill, which applies its prohibition upon the receipt of Federal economic development funds only after a State had been found by a court, in a final judgment on the merits, to have violated the act.

Finally, not only is it implausible that the bill would ever run afoul of Supreme Court precedent due to the relatively small size of Federal economic development funds in the context of a State or a locality's entire annual budget; the bill contains a further safety valve in that it gives the attorney general the discretion to promulgate precisely which Federal funding streams are Federal economic development funds under the bill. So, if a constitutional issue ever arose, the attorney general could simply scale back the size of its promulgated list accordingly.

It seems to me it can't be claimed this bill is unconstitutional under any reasonable reading of any existing Supreme Court precedent.

Regarding federalism values generally, the key point is that there actually is a very close nexus between Federal development funding and eminent domain, even if the funding is not used on eminent domain projects.

Money is fungible, of course. If the bill were amended to disallow only the use of Federal economic development funds on eminent domain projects, it would be very easy for an offending jurisdiction to game the system by artificially segmenting a project into parts that use eminent domain and parts that don't. That segmentation would happen both vertically, by dividing a project into stages, and horizontally, by dividing a single project into very small geographic segments.

The entirely appropriate federalism message the base bill sends to States and localities is that, if you are going to do economic development but abuse eminent domain, that is fine, but you will be on your own for a while and go without Federal taxpayer complicity in your abuse of eminent domain.

Mr. Speaker, this is good legislation. The concerns addressed by the minority are addressed clearly in this legislation. There is strong bipartisan support for this bill. Mr. Speaker, I urge my colleagues to pass this and, once again, send it to the United States Senate, where we can only hope that they will someday see the wisdom of pro-

tecting the constitutional rights of law-abiding citizens.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 1689.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

#### ANTI-TERRORISM CLARIFICATION ACT OF 2018

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5954) to amend title 18, United States Code, to clarify the meaning of the terms "act of war" and "blocked asset", and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 5954

*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 "Anti-Terrorism Clarification Act of 2018".

##### SEC. 2. CLARIFICATION OF THE TERM "ACT OF WAR".

(a) IN GENERAL.—Section 2331 of title 18, United States Code, is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'military force' does not include any person that—

"(A) has been designated as a—

"(i) foreign terrorist organization by the Secretary of State under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

"(ii) specially designated global terrorist (as such term is defined in section 594.310 of title 31, Code of Federal Regulations) by the Secretary of State or the Secretary of the Treasury; or

"(B) has been determined by the court to not be a 'military force'."

(b) APPLICABILITY.—The amendments made by this section shall apply to any civil action pending on or commenced after the date of the enactment of this Act.

##### SEC. 3. SATISFACTION OF JUDGMENTS AGAINST TERRORISTS.

(a) IN GENERAL.—Section 2333 of title 18, United States Code, is amended by inserting at the end following:

"(e) USE OF BLOCKED ASSETS TO SATISFY JUDGMENTS OF U.S. NATIONALS.—For purposes of section 201 of the Terrorism Risk Insurance Act of 2002 (28 U.S.C. 1610 note), in any action in which a national of the United States has obtained a judgment against a terrorist party pursuant to this section, the term 'blocked asset' shall include any asset of that terrorist party (including the blocked assets of any agency or instrumentality of that party) seized or frozen by the United States under section 805(b) of the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1904(b))."

(b) APPLICABILITY.—The amendments made by this section shall apply to any judgment

entered before, on, or after the date of enactment of this Act.

##### SEC. 4. CONSENT OF CERTAIN PARTIES TO PERSONAL JURISDICTION.

(a) IN GENERAL.—Section 2334 of title 18, United States Code, is amended by adding at the end the following:

"(e) CONSENT OF CERTAIN PARTIES TO PERSONAL JURISDICTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), for purposes of any civil action under section 2333 of this title, a defendant shall be deemed to have consented to personal jurisdiction in such civil action if, regardless of the date of the occurrence of the act of international terrorism upon which such civil action was filed, the defendant—

"(A) after the date that is 120 days after the date of enactment of this subsection, accepts—

"(i) any form of assistance, however provided, under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.);

"(ii) any form of assistance, however provided, under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291) for international narcotics control and law enforcement; or

"(iii) any form of assistance, however provided, under chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.); or

"(B) in the case of a defendant benefiting from a waiver or suspension of section 1003 of the Anti-Terrorism Act of 1987 (22 U.S.C. 5202) after the date that is 120 days after the date of enactment of this subsection—

"(i) continues to maintain any office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States; or

"(ii) establishes or procures any office, headquarters, premises, or other facilities or establishments within the jurisdiction of the United States.

"(2) APPLICABILITY.—Paragraph (1) shall not apply to any defendant who ceases to engage in the conduct described in paragraphs (1)(A) and (1)(B) for 5 consecutive calendar years."

(b) APPLICABILITY.—The amendments made by this section shall take effect on the date of enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from New York (Mr. NADLER) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia.

□ 1615

##### GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous materials on H.R. 5954, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Congress enacted the Anti-Terrorism Act of 1992 in order to help combat international terrorism and to provide some level of financial

justice to American victims of terrorism. The 1992 act added a civil remedy to the ATA's existing criminal regime, removing jurisdictional hurdles that often confounded terrorism victims' ability to get their day in court. The act has been largely successful.

However, from time to time, the 1992 act has also needed modifications to ensure that it is fully serving its purposes. For instance, just last Congress, in the Justice Against Sponsors of Terrorism Act, I helped lead the charge in the House to amend the civil liability provision to make sure that those who aid and abet or conspire with foreign terrorist organizations are liable under the ATA.

In addition, in 2012, the Judiciary Committee worked to lengthen the statute of limitations on civil ATA claims to provide victims with the time they need to file these often complex lawsuits.

The bill we are considering today, the Anti-terrorism Clarification Act, builds on these previous technical amendments to the ATA. It makes three needed improvements in order to better ensure that victims of international terrorism can obtain justice in U.S. courts against terrorists and their supporters.

First, the bill clarifies the ATA's act of war exception. Defendants accused of aiding and abetting acts of international terrorism have been attempting to use this exception as a means of avoiding civil liability, even in cases in which the plaintiffs' injuries were caused by the actions of designated terrorist groups.

For example, in *Kaplan v. Central Bank of Iran*, the defendant financial institution successfully argued that rocket attacks against civilians carried out by Hezbollah, a designated foreign terrorist organization, were acts of war and, thus, outside the scope of the ATA's civil liability provisions.

The act of war exception should not be a liability shield for those who aid or abet attacks carried out by designated terrorist organizations.

This legislation amends the definition of "act of war" in the ATA to clarify that the exception does not apply to U.S. Government-designated foreign terrorist organizations or specially designated global terrorists.

Second, at the urging of Representative POSEY, the author of the CAPTIVE Act, we included language in the bill to strengthen the ATA's civil enforcement regime by permitting victims of narcoterrorism to satisfy their court-awarded judgments with the assets of foreign narcotics drug kingpins. Assets blocked by the Federal Government under the Kingpin Designation Act are not currently available to victims, leaving victims of the FARC and other narcoterrorists without a meaningful method of getting compensation for their injuries.

Finally, this legislation addresses recent Federal court decisions that have called into question the continued abil-

ity of victims to bring terrorists and their supporters to justice under the ATA's civil liability regime.

The ATA was specifically designed to provide extraterritorial jurisdiction over terrorists who attack U.S. nationals overseas. However, these recent cases have severely limited the extraterritorial scope of the ATA.

The Anti-terrorism Clarification Act amends the jurisdiction and venue section of the ATA to make clear that defendants who take advantage of certain benefits provided by the U.S. Government shall be deemed to have consented to personal jurisdiction in U.S. courts in ATA civil actions. No defendant should be able to accept U.S. foreign assistance while simultaneously dodging responsibility in U.S. courts for supporting or carrying out terrorist attacks that harm Americans.

I want to thank Ranking Member NADLER, along with Senate Judiciary Committee Chairman GRASSLEY and Senate Commerce, Science, and Transportation Committee Ranking Member NELSON for joining me in introducing this bicameral and bipartisan bill.

I urge my colleagues to support us in passing this legislation to clarify ambiguities in the ATA that terrorist sponsors have exploited to evade liability so that we can help ensure that Americans are able to hold terrorists and their supporters accountable.

Mr. Speaker, I reserve the balance of my time.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5954, the Anti-terrorism Clarification Act of 2018. This bipartisan bill, of which I am proud to be the lead Democratic sponsor, amends the Anti-Terrorism Act, or ATA, to make it easier for American victims of international terrorism to have their day in court, to obtain some measure of justice for their injuries, and to hold terrorists accountable for their heinous acts.

The ATA provides that U.S. nationals, or their survivors or heirs, may recover treble damages and attorney's fees and costs for any civil action arising from an injury sustained by an act of international terrorism.

H.R. 5954 seeks to minimize certain procedural obstacles that ATA plaintiffs have encountered in their attempts to obtain full relief for their injuries. For example, the ATA contains an exception for injuries caused by an "act of war," which it defines, in relevant part, as including "armed conflict between military forces of any origin."

Unfortunately, this ambiguous statutory language has led to considerable confusion among Federal courts as to the proper scope of the act of war exception, and even as to the proper kind of analysis to apply when the armed conflict at issue involves a terrorist group such as Hamas or Hezbollah.

For example, in one case, the court found that the act of war exception prevented U.S. civilians injured by

Hezbollah rocket attacks into Israel from pursuing their claims under the ATA. Yet, in another case, a different court concluded that gunshots fired into Israel by Hamas that resulted in injury to a U.S. civilian did not constitute an act of war and, therefore, was compensable.

H.R. 5954 resolves this confusion by specifying, among other things, that a foreign terrorist organization or a specially designated global terrorist, as designated by the executive branch, is not a "military force" and, therefore, is subject to ATA liability.

This change makes it clear that violent actions targeted at U.S. civilians by a terrorist group are acts of terrorism that could give rise to liability under the ATA. Indeed, to read the act of war exception otherwise, as some courts have done, threatens to undermine the ATA's entire purpose.

Even if victims successfully obtain a judgment under the ATA, many plaintiffs find it impossible to obtain full compensation for their injuries because there are not sufficient assets available to satisfy the judgment. This bill would address that problem as well.

Under current law, terrorism victims can reach assets blocked pursuant to the Trading with the Enemy Act or the International Emergency Economic Powers Act to satisfy terrorism-related court judgments. This bill would simply allow terrorism victims also to attach assets that have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act.

The final hurdle to bringing ATA claims that this bill helps overcome is an overly narrow reading of personal jurisdiction that some courts have applied, which has prevented some victims from bringing those responsible for their injuries to justice.

Most recently, this occurred in the Second Circuit's misguided decision in *Sokolow v. PLO*. In *Sokolow*, several plaintiffs, including Morris and Eva Waldman, two of my constituents, sought relief under the ATA for injuries sustained as a result of various terrorist attacks in Israel that killed or injured U.S. citizens.

Although a district court awarded the plaintiffs \$655 million in damages, the Second Circuit reversed, wrongly concluding, in my view, that the district court lacked personal jurisdiction over the defendants in that case; namely, the Palestinian Liberation Organization and the Palestinian Authority. The court reasoned that the defendants' contacts, including maintaining offices in Washington and New York and the activities associated with those offices, were insufficient to support personal jurisdiction.

This bill responds to the Second Circuit's decision by deeming a party to have consented to personal jurisdiction if the party accepts foreign assistance of any kind from the United States beginning 120 days after the bill's enactment date. In the case of the PLO, or affiliated entities, it would also deem

consent if the defendant maintains an office in the U.S. jurisdiction 120 days or more after the enactment date. By undertaking one of these acts, a potential defendant is sufficiently on notice that it is consenting to personal jurisdiction in an ATA case.

My support for H.R. 5954 is part of my longstanding efforts to secure a measure of justice for terrorism victims, including leading House efforts to reauthorize the 9/11 Victims Compensation Fund. I was also the lead House Democratic sponsor of the Justice Against Sponsors of Terrorism Act, which helped ensure that 9/11 victims and other victims of terrorism on American soil can bring their claims in court, regardless of where the foreign conduct occurred. This bill is a natural extension of those efforts.

For these reasons, I support this important bipartisan measure.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. POSEY), who has been a real champion in protecting the rights of the victims of terrorism.

Mr. POSEY. Mr. Speaker, I thank my good friend Chairman GOODLATTE for introducing this legislation.

Mr. Speaker, this bill we are considering is, obviously, as you heard from both sides, a great piece of legislation that will ensure American victims of international terrorism can obtain justice in U.S. courts by holding accountable those who commit, aid, or abet terrorist activity abroad.

I have long been fighting for victims of terrorism. In fact, in 2014, I introduced legislation that would allow victims of narcoterrorism to recover court-awarded damages. A version of the bill, known as the CAPTIVE Act, passed the House by unanimous consent in 2016.

I am ecstatic that we have a bill that seeks to help a number of victims, including those I have been fighting for since 2014.

On February 13, 2003, four Americans who were Department of Defense contractors on a U.S. Government counternarcotics flight mission in Colombia were shot down by the Revolutionary Armed Forces of Colombia, also known as FARC. It is a violent guerilla gang heavily involved in narcotics trafficking.

The pilot, Tom Janis, who was immediately executed by the terrorists, and three Floridians, Keith Stansell, Mark Gonsalves, and Tom Howes, who is my constituent, were kidnapped, held hostage in the jungle, and tortured for more than 5½ years until they were rescued by the Colombian army. These heroes are seeking long-deserved justice for themselves and their families against those who carried out unthinkable acts of violence.

Today, victims cannot access frozen assets under the Kingpin Act. The bill before us, the Anti-terrorism Clarifica-

tion Act, would change that by finally closing the loophole to allow these former hostages and the family of the slain pilot access to the assets of narcotics-trafficking partners of the foreign terrorist organization FARC and other organizations that are frozen under the Kingpin Act. We owe it to these brave Americans and others, and their families, to make them whole again.

Mr. Speaker, it is a simple piece of legislation. It would make it easier for all victims of narcoterrorism to recover court-awarded damages. I urge support.

Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, although nothing can ever bring back the lives lost to terrorism or repair the emotional scars of the survivors, terrorism victims deserve the chance to achieve some justice through our courts. Congress' purpose in passing the ATA was to give them that chance.

I believe H.R. 5954 will help further that purpose by addressing procedural barriers that have unfairly stood in their way.

In closing, I thank Judiciary Committee Chairman BOB GOODLATTE for his leadership on this important measure. I strongly support H.R. 5954, and I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, this is a good bill. I urge my colleagues to support it, and I yield back the balance of my time.

Ms. JACKSON LEE. Mr. Speaker, I rise in support of H.R. 5954, the Anti-Terrorism Clarification Act of 2018, which amends title 18 of the United States Code to clarify the meaning of the terms "act of war" and "blocked asset."

Mr. Speaker, it is vital that we correctly classify terrorist activities.

H.R. 5954 (1) clarifies ambiguities in the Anti-terrorism Act of 1992 (ATA's) "act of war" exception that allow designated foreign terrorists and their supporters to avoid liability; (2) closes a loophole that prevents victims of narco-terrorism from enforcing their judgments against terrorist assets that have been blocked by the Treasury Department; and (3) addresses lower court decisions that have allowed entities that sponsor terrorist activity against U.S. nationals overseas to avoid the jurisdiction of U.S. courts.

This will amend the Anti-Terrorism Act (ATA) to make it easier for plaintiffs to pursue claims under that statute.

H.R. 5954 has three principal provisions.

First, it would clarify and narrow the "act of war" exception to liability under the ATA.

Second, the bill would provide that ATA plaintiffs may reach the assets of a defendant that have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act to satisfy an ATA judgment.

Third, H.R. 5954 would establish that for purposes of any ATA civil action, a defendant is "deemed to have consented" to personal jurisdiction in such civil action regardless of when the act of international terrorism at issue took place if the defendant accepted U.S. foreign assistance funds or, in certain cir-

cumstances, the defendant maintains an office or other facilities within U.S. jurisdiction.

H.R. 5954 legislation is necessary to allow injured persons to pursue their claims and I offer my support.

I urge my colleagues to join me in supporting H.R. 5954.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5954, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1630

#### FOUNDATION OF THE FEDERAL BAR ASSOCIATION CHARTER AMENDMENTS ACT OF 2017

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4100) to amend title 36, United States Code, to revise the Federal charter for the Foundation of the Federal Bar Association.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4100

*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 "Foundation of the Federal Bar Association Charter Amendments Act of 2017".

#### SEC. 2. ORGANIZATION.

Section 70501 of title 36, United States Code, is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

#### SEC. 3. MEMBERSHIP.

Section 70503 of title 36, United States Code, is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ELIGIBILITY.—Except as provided in this chapter, eligibility for membership in the corporation and the rights and privileges of members are as provided in the bylaws.”;

(2) by redesignating subsection (c) as subsection (b); and

(3) by adding at the end the following:

“(c) NONDISCRIMINATION.—The terms of membership may not discriminate on the basis of race, color, religion, sex, disability, age, sexual orientation, or national origin.”.

#### SEC. 4. GOVERNING BODY.

Section 70504 of title 36, United States Code, is amended to read as follows:

##### “§ 70504. Governing body

“(a) BOARD OF DIRECTORS.—The board of directors is the governing body of the corporation. The board may exercise, or provide for the exercise of, the powers of the corporation. The board of directors and the responsibilities of the board are as provided in the bylaws.

“(b) OFFICERS.—The officers and the election of the officers are as provided for in the bylaws.

“(c) NONDISCRIMINATION.—The requirements for serving as a director or officer may not discriminate on the basis of race, color, religion, sex, disability, age, sexual orientation, or national origin.”.