

Public Law 97-351
97th Congress

An Act

To amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

Oct. 18, 1982

[H.R. 5228]

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

Convention on
the Physical
Protection of
Nuclear
Material
Implementation
Act of 1982.
18 USC 831 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982".

IMPLEMENTATION OF CONVENTION AND PROHIBITION OF RELATED
OFFENSES

SEC. 2. (a) Chapter 39 of title 18 of the United States Code is amended by inserting after the table of sections at the beginning of such chapter the following new section:

"§ 831. Prohibited transactions involving nuclear materials

18 USC 831.

"(a) Whoever, if one of the circumstances described in subsection (c) of this section occurs—

"(1) without lawful authority, intentionally receives, possesses, uses, transfers, alters, disposes of, or disperses any nuclear material and—

"(A) thereby knowingly causes the death of or serious bodily injury to any person or substantial damage to property; or

"(B) knows that circumstances exist which are likely to cause the death of or serious bodily injury to any person or substantial damage to property;

"(2) with intent to deprive another of nuclear material, knowingly—

"(A) takes and carries away nuclear material of another without authority;

"(B) makes an unauthorized use, disposition, or transfer, of nuclear material belonging to another; or

"(C) uses fraud and thereby obtains nuclear material belonging to another;

"(3) knowingly—

"(A) uses force; or

"(B) threatens or places another in fear that any person other than the actor will imminently be subject to bodily injury;

and thereby takes nuclear material belonging to another from the person or presence of any other;

"(4) intentionally intimidates any person and thereby obtains nuclear material belonging to another;

"(5) with intent to compel any person, international organization, or governmental entity to do or refrain from doing any act, knowingly threatens to engage in conduct described in paragraph (2)(A) or (3) of this subsection;

"(6) knowingly threatens to use nuclear material to cause death or serious bodily injury to any person or substantial damage to property under circumstances in which the threat may reasonably be understood as an expression of serious purposes;

"(7) attempts to commit an offense under paragraph (1), (2), (3), or (4) of this subsection; or

"(8) is a party to a conspiracy of two or more persons to commit an offense under paragraph (1), (2), (3), or (4) of this subsection, if any of the parties intentionally engages in any conduct in furtherance of such offense;

shall be punished as provided in subsection (b) of this section.

"(b) The punishment for an offense under—

"(1) paragraphs (1) through (7) of subsection (a) of this section is—

"(A) a fine of not more than \$250,000; and

"(B) imprisonment—

"(i) for any term of years or for life (I) if, while committing the offense, the offender knowingly causes the death of any person; or (II) if, while committing an offense under paragraph (1) or (3) of subsection (a) of this section, the offender, under circumstances manifesting extreme indifference to the life of an individual, knowingly engages in any conduct and thereby recklessly causes the death of or serious bodily injury to any person; and

"(ii) for not more than 20 years in any other case; and

"(2) paragraph (8) of subsection (a) of this section is—

"(A) a fine of not more than \$250,000; and

"(B) imprisonment—

"(i) for not more than 20 years if the offense which is the object of the conspiracy is punishable under paragraph (1)(B)(i); and

"(ii) for not more than 10 years in any other case.

"(c) The circumstances referred to in subsection (a) of this section are that—

"(1) the offense is committed in the United States or the special maritime and territorial jurisdiction of the United States, or the special aircraft jurisdiction of the United States (as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. 1301));

"(2) the defendant is a national of the United States, as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101);

"(3) at the time of the offense the nuclear material is in use, storage, or transport, for peaceful purposes, and after the conduct required for the offense occurs the defendant is found in the United States, even if the conduct required for the offense occurs outside the United States; or

"(4) the conduct required for the offense occurs with respect to the carriage of a consignment of nuclear material for peaceful purposes by any means of transportation intended to go beyond the territory of the state where the shipment originates begin-

ning with the departure from a facility of the shipper in that state and ending with the arrival at a facility of the receiver within the state of ultimate destination and either of such states is the United States.

“(d) The Attorney General may request assistance from the Secretary of Defense under chapter 18 of title 10 in the enforcement of this section and the Secretary of Defense may provide such assistance in accordance with chapter 18 of title 10, except that the Secretary of Defense may provide such assistance through any Department of Defense personnel. 10 USC 371 *et seq.*

“(e)(1) The Attorney General may also request assistance from the Secretary of Defense under this subsection in the enforcement of this section. Notwithstanding section 1385 of this title, the Secretary of Defense may, in accordance with other applicable law, provide such assistance to the Attorney General if— 18 USC 1385.

“(A) an emergency situation exists (as jointly determined by the Attorney General and the Secretary of Defense in their discretion); and

“(B) the provision of such assistance will not adversely affect the military preparedness of the United States (as determined by the Secretary of Defense in such Secretary’s discretion).

“(3) As used in this subsection, the term ‘emergency situation’ means a circumstance— “Emergency situation.”

“(A) that poses a serious threat to the interests of the United States; and

“(B) in which—

“(i) enforcement of the law would be seriously impaired if the assistance were not provided; and

“(ii) civilian law enforcement personnel are not capable of enforcing the law.

“(4) Assistance under this section may include—

“(A) use of personnel of the Department of Defense to arrest persons and conduct searches and seizures with respect to violations of this section; and

“(B) such other activity as is incidental to the enforcement of this section, or to the protection of persons or property from conduct that violates this section.

“(5) The Secretary of Defense may require reimbursement as a condition of assistance under this section.

“(6) The Attorney General may delegate the Attorney General’s function under this subsection only to a Deputy, Associate, or Assistant Attorney General.

“(f) As used in this section—

Definitions.

“(1) the term ‘nuclear material’ means material containing any—

“(A) plutonium with an isotopic concentration not in excess of 80 percent plutonium 238;

“(B) uranium not in the form of ore or ore residue that contains the mixture of isotopes as occurring in nature;

“(C) uranium that contains the isotope 233 or 235 or both in such amount that the abundance ratio of the sum of those isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; or

“(D) uranium 233;

“(2) the term ‘international organization’ means a public international organization designated as such pursuant to section 1 of the International Organizations Immunities Act (22

U.S.C. 288) or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs;

"(3) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; or

"(D) protracted loss or impairment of the function of a bodily member, organ, or mental faculty; and

"(4) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of a function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary."

(b) The table of sections for chapter 39 of title 18 of the United States Code is amended by striking out the items relating to sections 831 through 835 and inserting in lieu thereof the following:

"831. Prohibited transactions involving nuclear materials."

AMENDMENT TO DEFINITION OF INTERNATIONAL ORGANIZATIONS USED
IN DEFINING OFFENSES AGAINST INTERNATIONALLY PROTECTED PER-
SONS

SEC. 3. Section 1116(b)(5) of title 18 of the United States Code is amended by inserting before the period the following: "or a public organization created pursuant to treaty or other agreement under international law as an instrument through or by which two or more foreign governments engage in some aspect of their conduct of international affairs".

Approved October 18, 1982.

LEGISLATIVE HISTORY—H.R. 5228 (S. 1446):

HOUSE REPORT No. 97-624 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 128 (1982):

July 19, 20, considered and passed House.

Sept. 14, considered and passed Senate, amended.

Sept. 28, House concurred in Senate amendment No. 1; disagreed to certain amendments; concurred in others with amendments.

Oct. 1, Senate concurred in House amendments and receded from its disagreements.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 42 (1982):

Oct. 19, Presidential statement.