

114TH CONGRESS
1ST SESSION

S. _____

To deter terrorism, provide justice for victims, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. SCHUMER (for himself and Mr. CORNYN) introduced the following bill;
which was read twice and referred to the Committee on

A BILL

To deter terrorism, provide justice for victims, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice Against Spon-
5 sors of Terrorism Act”.

6 **SEC. 2. FINDINGS AND PURPOSE.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) International terrorism is a serious and
9 deadly problem that threatens the vital interests of
10 the United States.

1 (2) The Constitution confers upon Congress the
2 power to punish crimes against the law of nations
3 and therefore Congress may by law impose penalties
4 on those who provide material support to foreign or-
5 ganizations engaged in terrorist activity, and allow
6 for victims of international terrorism to recover
7 damages from those who have harmed them.

8 (3) International terrorism affects the inter-
9 state and foreign commerce of the United States by
10 harming international trade and market stability,
11 and limiting international travel by United States
12 citizens as well as foreign visitors to the United
13 States.

14 (4) Some foreign terrorist organizations, acting
15 through affiliated groups or individuals, raise signifi-
16 cant funds outside of the United States for conduct
17 directed and targeted at the United States.

18 (5) It is necessary to recognize the substantive
19 causes of action for aiding and abetting and con-
20 spiracy liability under the Anti-Terrorism Act of
21 1987 (22 U.S.C. 5201 et seq.).

22 (6) The decision of the United States Court of
23 Appeals for the District of Columbia in *Halberstam*
24 *v. Welch*, 705 F.2d 472 (D.C. Cir. 1983), which has
25 been widely recognized as the leading case regarding

1 Federal civil aiding and abetting and conspiracy li-
2 ability, including by the Supreme Court of the
3 United States, provides the proper legal framework
4 for how such liability should function in the context
5 of the Anti-Terrorism Act of 1987 (22 U.S.C. 5201
6 et seq.).

7 (7) The United Nations Security Council de-
8 clared in Resolution 1373, adopted on September
9 28, 2001, that all countries have an affirmative obli-
10 gation to “[r]efrain from providing any form of sup-
11 port, active or passive, to entities or persons involved
12 in terrorist acts,” and to “[e]nsure that any person
13 who participates in the financing, planning, prepara-
14 tion or perpetration of terrorist acts or in supporting
15 terrorist acts is brought to justice”.

16 (8) Consistent with these declarations, no coun-
17 try has the discretion to engage knowingly in the fi-
18 nancing or sponsorship of terrorism, whether di-
19 rectly or indirectly.

20 (9) Persons, entities, or countries that know-
21 ingly or recklessly contribute material support or re-
22 sources, directly or indirectly, to persons or organi-
23 zations that pose a significant risk of committing
24 acts of terrorism that threaten the security of na-
25 tionals of the United States or the national security,

1 foreign policy, or economy of the United States, nec-
2 essarily direct their conduct at the United States,
3 and should reasonably anticipate being brought to
4 court in the United States to answer for such activi-
5 ties.

6 (10) The United States has a vital interest in
7 providing persons and entities injured as a result of
8 terrorist attacks committed within the United States
9 with full access to the court system in order to pur-
10 sue civil claims against persons, entities, or countries
11 that have knowingly or recklessly provided material
12 support or resources, directly or indirectly, to the
13 persons or organizations responsible for their inju-
14 ries.

15 (b) PURPOSE.—The purpose of this Act is to provide
16 civil litigants with the broadest possible basis, consistent
17 with the Constitution of the United States, to seek relief
18 against persons, entities, and foreign countries, wherever
19 acting and wherever they may be found, that have pro-
20 vided material support, directly or indirectly, to foreign
21 organizations or persons that engage in terrorist activities
22 against the United States.

23 **SEC. 3. FOREIGN SOVEREIGN IMMUNITY.**

24 Section 1605(a) of title 28, United States Code, is
25 amended—

1 (1) by amending paragraph (5) to read as fol-
2 lows:

3 “(5) not otherwise encompassed in paragraph
4 (2), in which money damages are sought against a
5 foreign state arising out of physical injury or death,
6 or damage to or loss of property, occurring in the
7 United States and caused by the tortious act or
8 omission of that foreign state or of any official or
9 employee of that foreign state while acting within
10 the scope of the office or employment of the official
11 or employee (regardless of where the underlying
12 tortious act or omission occurs), including any statu-
13 tory or common law tort claim arising out of an act
14 of extrajudicial killing, aircraft sabotage, hostage
15 taking, terrorism, or the provision of material sup-
16 port or resources for such an act, or any claim for
17 contribution or indemnity relating to a claim arising
18 out of such an act, except this paragraph shall not
19 apply to—

20 “(A) any claim based upon the exercise or
21 performance of, or the failure to exercise or
22 perform, a discretionary function, regardless of
23 whether the discretion is abused; or

24 “(B) any claim arising out of malicious
25 prosecution, abuse of process, libel, slander,

1 misrepresentation, deceit, interference with con-
2 tract rights, or any claim for emotional distress
3 or derivative injury suffered as a result of an
4 event or injury to another person that occurs
5 outside of the United States; or”]; and

6 (2) by inserting after subsection (d) the fol-
7 lowing:

8 “(e) DEFINITIONS.—For purposes of subsection
9 (a)(5)—

10 “(1) the terms ‘aircraft sabotage’, ‘extrajudicial
11 killing’, ‘hostage taking’, and ‘material support or
12 resources’ have the meanings given those terms in
13 section 1605A(h); and

14 “(2) the term ‘terrorism’ means international
15 terrorism and domestic terrorism, as those terms are
16 defined in section 2331 of title 18.”.

17 **SEC. 4. AIDING AND ABETTING LIABILITY FOR CIVIL AC-**
18 **TIONS REGARDING TERRORIST ACTS.**

19 (a) IN GENERAL.—Section 2333 of title 18, United
20 States Code, is amended by adding at the end the fol-
21 lowing:

22 “(d) LIABILITY.—In an action under subsection (a)
23 for an injury arising from an act of international terrorism
24 committed, planned, or authorized by an organization that
25 had been designated as a foreign terrorist organization

1 under section 219 of the Immigration and Nationality Act
2 (8 U.S.C. 1189), as of the date on which such act of inter-
3 national terrorism was committed, planned, or authorized,
4 or that was so designated as a result of such act of inter-
5 national terrorism, liability may be asserted as to any per-
6 son who aided, abetted, or conspired with the person who
7 committed such an act of international terrorism.”.

8 (b) EFFECT ON FOREIGN SOVEREIGN IMMUNITIES
9 ACT.—Nothing in the amendments made by this section
10 affects immunity of a foreign state, as that term is defined
11 in section 1603 of title 28, United States Code, from juris-
12 diction under other law.

13 **SEC. 5. PERSONAL JURISDICTION FOR CIVIL ACTIONS RE-**
14 **GARDING TERRORIST ACTS.**

15 Section 2334 of title 18, United States Code, is
16 amended by inserting at the end the following:

17 “(e) PERSONAL JURISDICTION.—The district courts
18 shall have personal jurisdiction, to the maximum extent
19 permissible under the 5th Amendment to the Constitution
20 of the United States, over any person who commits or aids
21 and abets an act of international terrorism or otherwise
22 sponsors such act or the person who committed such act,
23 for acts of international terrorism in which any national
24 of the United States suffers injury in his or her person,

1 property, or business by reason of such an act in violation
2 of section 2333.”.

3 **SEC. 6. LIABILITY FOR GOVERNMENT OFFICIALS IN CIVIL**
4 **ACTIONS REGARDING TERRORIST ACTS.**

5 Section 2337 of title 18, United States Code, is
6 amended to read as follows:

7 **“§ 2337. Suits against Government officials**

8 “No action may be maintained under section 2333
9 against—

10 “(1) the United States;

11 “(2) an agency of the United States; or

12 “(3) an officer or employee of the United States
13 or any agency of the United States acting within the
14 official capacity of the officer or employee or under
15 color of legal authority.”.

16 **SEC. 7. SEVERABILITY.**

17 If any provision of this Act or any amendment made
18 by this Act, or the application of a provision or amend-
19 ment to any person or circumstance, is held to be invalid,
20 the remainder of this Act and the amendments made by
21 this Act, and the application of the provisions and amend-
22 ments to any other person not similarly situated or to
23 other circumstances, shall not be affected by the holding.

1 **SEC. 8. EFFECTIVE DATE.**

2 The amendments made by this Act shall apply to any
3 civil action—

4 (1) pending on, or commenced on or after, the
5 date of enactment of this Act; and

6 (2) arising out of an injury to a person, prop-
7 erty, or business on or after September 11, 2001.