

112TH CONGRESS
1ST SESSION

S. 1145

To amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 6, 2011

Mr. LEAHY (for himself, Mr. BLUMENTHAL, and Mr. FRANKEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 18, United States Code, to clarify and expand Federal criminal jurisdiction over Federal contractors and employees outside the United States, 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 “Civilian
5 Extraterritorial Jurisdiction Act (CEJA) of 2011”.

1 **SEC. 2. CLARIFICATION AND EXPANSION OF FEDERAL JU-**
2 **RISDICTION OVER FEDERAL CONTRACTORS**
3 **AND EMPLOYEES.**

4 (a) **EXTRATERRITORIAL JURISDICTION OVER FED-**
5 **ERAL CONTRACTORS AND EMPLOYEES.—**

6 (1) **IN GENERAL.—**Chapter 212A of title 18,
7 United States Code, is amended—

8 (A) by transferring the text of section
9 3272 to the end of section 3271, redesignating
10 such text as subsection (c) of section 3271, and,
11 in such text, as so redesignated, by striking
12 “this chapter” and inserting “this section”;

13 (B) by striking the heading of section
14 3272; and

15 (C) by adding after section 3271, as
16 amended by this paragraph, the following new
17 sections:

18 **“§ 3272. Offenses committed by Federal contractors**
19 **and employees outside the United States**

20 “(a) Whoever, while employed by or accompanying
21 any department or agency of the United States other than
22 the Department of Defense, knowingly engages in conduct
23 (or conspires or attempts to engage in conduct) outside
24 the United States that would constitute an offense enu-
25 merated in subsection (c) had the conduct been engaged
26 in within the United States or within the special maritime

1 and territorial jurisdiction of the United States shall be
2 punished as provided for that offense.

3 “(b) No prosecution for an offense may be com-
4 menced against a person under this section if a foreign
5 government, in accordance with jurisdiction recognized by
6 the United States, has prosecuted or is prosecuting such
7 person for the conduct constituting the offense, except
8 upon the approval of the Attorney General or the Deputy
9 Attorney General (or a person acting in either such capac-
10 ity), which function of approval may not be delegated.

11 “(c) The offenses covered by subsection (a) are the
12 following:

13 “(1) Any offense under chapter 5 (arson) of
14 this title.

15 “(2) Any offense under section 111 (assaulting,
16 resisting, or impeding certain officers or employees),
17 113 (assault within maritime and territorial jurisdic-
18 tion), or 114 (maiming within maritime and terri-
19 torial jurisdiction) of this title, but only if the of-
20 fense is subject to a maximum sentence of imprison-
21 ment of one year or more.

22 “(3) Any offense under section 201 (bribery of
23 public officials and witnesses) of this title.

24 “(4) Any offense under section 499 (military,
25 naval, or official passes) of this title.

1 “(5) Any offense under section 701 (official
2 badges, identifications cards, and other insignia),
3 702 (uniform of armed forces and Public Health
4 Service), 703 (uniform of friendly nation), or 704
5 (military medals or decorations) of this title.

6 “(6) Any offense under chapter 41 (extortion
7 and threats) of this title, but only if the offense is
8 subject to a maximum sentence of imprisonment of
9 three years or more.

10 “(7) Any offense under chapter 42 (extortionate
11 credit transactions) of this title.

12 “(8) Any offense under section 924(c) (use of
13 firearm in violent or drug trafficking crime) or
14 924(o) (conspiracy to violate section 924(c)) of this
15 title.

16 “(9) Any offense under chapter 50A (genocide)
17 of this title.

18 “(10) Any offense under section 1111 (murder),
19 1112 (manslaughter), 1113 (attempt to commit
20 murder or manslaughter), 1114 (protection of offi-
21 cers and employees of the United States), 1116
22 (murder or manslaughter of foreign officials, official
23 guests, or internationally protected persons), 1117
24 (conspiracy to commit murder), or 1119 (foreign
25 murder of United States nationals) of this title.

1 “(11) Any offense under chapter 55 (kidnap-
2 ping) of this title.

3 “(12) Any offense under section 1503 (influ-
4 encing or injuring officer or juror generally), 1505
5 (obstruction of proceedings before departments,
6 agencies, and committees), 1510 (obstruction of
7 criminal investigations), 1512 (tampering with a wit-
8 ness, victim, or informant), or 1513 (retaliating
9 against a witness, victim, or an informant) of this
10 title.

11 “(13) Any offense under section 1951 (inter-
12 ference with commerce by threats or violence), 1952
13 (interstate and foreign travel or transportation in
14 aid of racketeering enterprises), 1956 (laundering of
15 monetary instruments), 1957 (engaging in monetary
16 transactions in property derived from specified un-
17 lawful activity), 1958 (use of interstate commerce
18 facilities in the commission of murder for hire), or
19 1959 (violent crimes in aid of racketeering activity)
20 of this title.

21 “(14) Any offense under section 2111 (robbery
22 or burglary within special maritime and territorial
23 jurisdiction) of this title.

24 “(15) Any offense under chapter 109A (sexual
25 abuse) of this title.

1 “(16) Any offense under chapter 113B (ter-
2 rorism) of this title.

3 “(17) Any offense under chapter 113C (torture)
4 of this title.

5 “(18) Any offense under chapter 115 (treason,
6 sedition, and subversive activities) of this title.

7 “(19) Any offense under section 2442 (child
8 soldiers) of this title.

9 “(20) Any offense under section 401 (manufac-
10 ture, distribution, or possession with intent to dis-
11 tribute a controlled substance) or 408 (continuing
12 criminal enterprise) of the Controlled Substances
13 Act (21 U.S.C. 841, 848), or under section 1002
14 (importation of controlled substances), 1003 (expor-
15 tation of controlled substances), or 1010 (import or
16 export of a controlled substance) of the Controlled
17 Substances Import and Export Act (21 U.S.C. 952,
18 953, 960), but only if the offense is subject to a
19 maximum sentence of imprisonment of 20 years or
20 more.

21 “(d) In this section:

22 “(1) The term ‘employed by any department or
23 agency of the United States other than the Depart-
24 ment of Defense’ means—

1 “(A) employed as a civilian employee, a
2 contractor (including a subcontractor at any
3 tier), an employee of a contractor (or a subcon-
4 tractor at any tier), a grantee (including a con-
5 tractor of a grantee or a subgrantee or subcon-
6 tractor at any tier), or an employee of a grantee
7 (or a contractor of a grantee or a subgrantee or
8 subcontractor at any tier) of any department or
9 agency of the United States other than the De-
10 partment of Defense;

11 “(B) present or residing outside the
12 United States in connection with such employ-
13 ment;

14 “(C) in the case of such a contractor, con-
15 tractor employee, grantee, or grantee employee,
16 such employment supports a program, project,
17 or activity for a department or agency of the
18 United States; and

19 “(D) not a national of or ordinarily resi-
20 dent in the host nation.

21 “(2) The term ‘accompanying any department
22 or agency of the United States other than the De-
23 partment of Defense’ means—

24 “(A) a dependant, family member, or
25 member of household of—

1 “(i) a civilian employee of any depart-
2 ment or agency of the United States other
3 than the Department of Defense; or

4 “(ii) a contractor (including a subcon-
5 tractor at any tier), an employee of a con-
6 tractor (or a subcontractor at any tier), a
7 grantee (including a contractor of a grant-
8 ee or a subgrantee or subcontractor at any
9 tier), or an employee of a grantee (or a
10 contractor of a grantee or a subgrantee or
11 subcontractor at any tier) of any depart-
12 ment or agency of the United States other
13 than the Department of Defense, which
14 contractor, contractor employee, grantee,
15 or grantee employee is supporting a pro-
16 gram, project, or activity for a department
17 or agency of the United States other than
18 the Department of Defense;

19 “(B) residing with such civilian employee,
20 contractor, contractor employee, grantee, or
21 grantee employee outside the United States;
22 and

23 “(C) not a national of or ordinarily resi-
24 dent in the host nation.

1 “(3) The term ‘grant agreement’ means a legal
2 instrument described in section 6304 or 6305 of title
3 31, other than an agreement between the United
4 States and a State, local, or foreign government or
5 an international organization.

6 “(4) The term ‘grantee’ means a party, other
7 than the United States, to a grant agreement.

8 “(5) The term ‘host nation’ means the country
9 outside of the United States where the employee or
10 contractor resides, the country where the employee
11 or contractor commits the alleged offense at issue,
12 or both.

13 **“§ 3273. Regulations**

14 “The Attorney General, after consultation with the
15 Secretary of Defense, the Secretary of State, and the Di-
16 rector of National Intelligence, shall prescribe regulations
17 governing the investigation, apprehension, detention, de-
18 livery, and removal of persons described in sections 3271
19 and 3272 of this title.”.

20 (2) CONFORMING AMENDMENT.—Subparagraph
21 (A) of section 3267(1) of such title is amended to
22 read as follows:

23 “(A) employed as a civilian employee, a
24 contractor (including a subcontractor at any
25 tier), or an employee of a contractor (or a sub-

1 contractor at any tier) of the Department of
2 Defense (including a nonappropriated fund in-
3 strumentality of the Department);”.

4 (b) VENUE.—Chapter 211 of such title is amended
5 by adding at the end the following new section:

6 **“§ 3245. Optional venue for offenses involving Fed-
7 eral employees and contractors overseas**

8 “In addition to any venue otherwise provided in this
9 chapter, the trial of any offense involving a violation of
10 section 3261, 3271, or 3272 of this title may be brought—

11 “(1) in the district in which is headquartered
12 the department or agency of the United States that
13 employs the offender, or any one of two or more
14 joint offenders, or

15 “(2) in the district in which is headquartered
16 the department or agency of the United States that
17 the offender is accompanying, or that any one of two
18 or more joint offenders is accompanying.”.

19 (c) SUSPENSION OF STATUTE OF LIMITATIONS.—
20 Chapter 213 of such title is amended by inserting after
21 section 3287 the following new section:

1 **“§ 3287A. Suspension of limitations for offenses in-**
 2 **volving Federal employees and contrac-**
 3 **tors overseas**

4 “The time during which a person who has committed
 5 an offense constituting a violation of section 3272 of this
 6 title is outside the United States, or is a fugitive from
 7 justice within the meaning of section 3290 of this title,
 8 shall not be taken as any part of the time limited by law
 9 for commencement of prosecution of the offense.”.

10 (d) CLERICAL AMENDMENTS.—

11 (1) HEADING AMENDMENT.—The heading of
 12 chapter 212A of such title is amended to read as fol-
 13 lows:

14 **“CHAPTER 212A—EXTRATERRITORIAL JU-**
 15 **RISDICTION OVER OFFENSES OF CON-**
 16 **TRACTORS AND CIVILIAN EMPLOYEES**
 17 **OF THE FEDERAL GOVERNMENT”.**

18 (2) TABLES OF SECTIONS.—(A) The table of
 19 sections at the beginning of chapter 211 of such title
 20 is amended by adding at the end the following new
 21 item:

“3245. Optional venue for offenses involving Federal employees and contractors
 overseas.”.

22 (B) The table of sections at the beginning of
 23 chapter 212A of such title is amended by striking

1 the item relating to section 3272 and inserting the
2 following new items:

“3272. Offenses committed by Federal contractors and employees outside the
United States.

“3273. Regulations.”.

3 (C) The table of sections at the beginning of
4 chapter 213 of such title is amended by inserting
5 after the item relating to section 3287 the following
6 new item:

“3287A. Suspension of limitations for offenses involving Federal employees and
contractors overseas.”.

7 (3) TABLE OF CHAPTERS.—The item relating
8 to chapter 212A in the table of chapters at the be-
9 ginning of part II of such title is amended to read
10 as follows:

**“212A. Extraterritorial Jurisdiction Over Offenses of
Contractors and Civilian Employees of the
Federal Government 3271”.**

11 **SEC. 3. INVESTIGATIVE TASK FORCES FOR CONTRACTOR**
12 **AND EMPLOYEE OVERSIGHT.**

13 (a) ESTABLISHMENT OF INVESTIGATIVE TASK
14 FORCES FOR CONTRACTOR AND EMPLOYEE OVER-
15 SIGHT.—

16 (1) IN GENERAL.—The Attorney General, in
17 consultation with the Secretary of Defense, the Sec-
18 retary of State, the Secretary of Homeland Security,
19 and the heads of any other departments or agencies
20 of the Federal Government responsible for employing
21 contractors or persons overseas shall assign ade-

1 quate personnel and resources, including through the
2 creation of task forces, to investigate allegations of
3 criminal offenses under chapter 212A of title 18,
4 United States Code (as amended by section 2(a) of
5 this Act), and may authorize the overseas deploy-
6 ment of law enforcement agents and other govern-
7 ment personnel for that purpose.

8 (2) RULE OF CONSTRUCTION.—Nothing in this
9 subsection shall be construed to limit any authority
10 of the Attorney General or any Federal law enforce-
11 ment agency to investigate violations of Federal law
12 or deploy personnel overseas.

13 (b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

14 (1) INVESTIGATION.—The Attorney General
15 shall have principal authority for the enforcement of
16 chapter 212A of title 18, United States Code (as so
17 amended), and shall have the authority to initiate,
18 conduct, and supervise investigations of any alleged
19 offenses under such chapter.

20 (2) LAW ENFORCEMENT AUTHORITY.—With re-
21 spect to violations of sections 3271 and 3272 of title
22 18, United States Code (as so amended), the Attor-
23 ney General may authorize any person serving in a
24 law enforcement position in any other department or
25 agency of the Federal Government, including a

1 member of the Diplomatic Security Service of the
2 Department of State or a military police officer of
3 the Armed Forces, to exercise investigative and law
4 enforcement authority, including those powers that
5 may be exercised under section 3052 of title 18,
6 United States Code, subject to such guidelines or
7 policies as the Attorney General considers appro-
8 priate for the exercise of such powers.

9 (3) PROSECUTION.—The Attorney General may
10 establish such procedures the Attorney General con-
11 siders appropriate to ensure that Federal law en-
12 forcement agencies refer offenses under section 3271
13 or 3272 of title 18, United States Code (as so
14 amended), to the Attorney General for prosecution
15 in a uniform and timely manner.

16 (4) ASSISTANCE ON REQUEST OF ATTORNEY
17 GENERAL.—Notwithstanding any statute, rule, or
18 regulation to the contrary, the Attorney General
19 may request assistance from the Secretary of De-
20 fense, the Secretary of State, or the head of any
21 other Executive agency to enforce section 3271 or
22 3272 of title 18, United States Code (as so amend-
23 ed). The assistance requested may include the fol-
24 lowing:

1 (A) The assignment of additional personnel
2 and resources to task forces established by the
3 Attorney General under subsection (a).

4 (B) An investigation into alleged mis-
5 conduct or arrest of an individual suspected of
6 alleged misconduct by agents of the Diplomatic
7 Security Service of the Department of State
8 present in the nation in which the alleged mis-
9 conduct occurs.

10 (5) ANNUAL REPORT.—Not later than one year
11 after the date of the enactment of this Act, and an-
12 nually thereafter for five years, the Attorney General
13 shall, in consultation with the Secretary of Defense
14 and the Secretary of State, submit to Congress a re-
15 port containing the following:

16 (A) The number of prosecutions under
17 chapter 212A of title 18, United States Code
18 (as so amended), including the nature of the of-
19 fenses and any dispositions reached, during the
20 previous year.

21 (B) The actions taken to implement sub-
22 section (a)(1), including the organization and
23 training of personnel and the use of task forces,
24 during the previous year.

1 (C) Such recommendations for legislative
2 or administrative action as the President con-
3 siders appropriate to enforce chapter 212A of
4 title 18, United States Code (as so amended),
5 and the provisions of this section.

6 (c) EXECUTIVE AGENCY.—In this section, the term
7 “Executive agency” has the meaning given that term in
8 section 105 of title 5, United States Code.

9 **SEC. 4. EFFECTIVE DATE.**

10 (a) IMMEDIATE EFFECTIVENESS.—This Act and the
11 amendments made by this Act shall take effect on the date
12 of the enactment of this Act.

13 (b) IMPLEMENTATION.—The Attorney General and
14 the head of any other department or agency of the Federal
15 Government to which this Act applies shall have 90 days
16 after the date of the enactment of this Act to ensure com-
17 pliance with the provisions of this Act.

18 **SEC. 5. RULES OF CONSTRUCTION.**

19 (a) IN GENERAL.—Nothing in this Act or any
20 amendment made by this Act shall be construed—

21 (1) to limit or affect the application of
22 extraterritorial jurisdiction related to any other Fed-
23 eral law; or

24 (2) to limit or affect any authority or responsi-
25 bility of a Chief of Mission as provided in section

1 207 of the Foreign Service Act of 1980 (22 U.S.C.
2 3927).

3 (b) INTELLIGENCE ACTIVITIES.—Nothing in this Act
4 or any amendment made by this Act shall be construed—

5 (1) to apply to authorized intelligence activities
6 that are carried out by or on behalf of any element
7 of the intelligence community (as that term is de-
8 fined in section 3(4) of the National Security Act of
9 1947 (50 U.S.C. 401a(4)) and conducted in accord-
10 ance with the United States laws, authorities, and
11 regulations governing such intelligence activities; or

12 (2) to provide immunity or an affirmative de-
13 fense to an individual solely on the basis that the in-
14 dividual is working for or on behalf of the intel-
15 ligence community.

16 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

17 For each of the fiscal years 2012 through 2017, there
18 are authorized to be appropriated to the Attorney General
19 such sums as are necessary to carry out this Act.

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