

Calendar No. 250

116TH CONGRESS
1ST SESSION

S. 2132

To promote security and provide justice for United States victims of international terrorism.

IN THE SENATE OF THE UNITED STATES

JULY 16, 2019

Mr. LANKFORD (for himself, Ms. DUCKWORTH, Mr. GRASSLEY, and Mr. BLUMENTHAL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

OCTOBER 21, 2019

Reported by Mr. GRAHAM, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To promote security and provide justice for United States victims of international terrorism.

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 “Promoting Security
5 and Justice for Victims of Terrorism Act of 2019”.

1 **SEC. 2. FACILITATION OF THE SETTLEMENT OF TER-**
2 **RORISM-RELATED CLAIMS OF NATIONALS OF**
3 **THE UNITED STATES.**

4 (a) COMPREHENSIVE PROCESS TO FACILITATE THE
5 RESOLUTION OF ANTI-TERRORISM ACT CLAIMS.—The
6 Secretary of State, in consultation with the Attorney Gen-
7 eral, shall, not later than 30 days after the date of enact-
8 ment of this Act, develop and initiate a comprehensive
9 process for the Department of State to facilitate the reso-
10 lution and settlement of covered claims.

11 (b) ELEMENTS OF COMPREHENSIVE PROCESS.—The
12 comprehensive process developed under subsection (a)
13 shall include, at a minimum, the following:

14 (1) Not later than 45 days after the date of en-
15 actment of this Act, the Department of State shall
16 publish a notice in the Federal Register identifying
17 the method by which a national of the United
18 States, or a representative of a national of the
19 United States, who has a covered claim, may contact
20 the Department of State to give notice of the cov-
21 ered claim.

22 (2) Not later than 120 days after the date of
23 enactment of this Act, the Secretary of State, or a
24 designee of the Secretary, shall meet (and make
25 every effort to continue to meet on a regular basis
26 thereafter) with any national of the United States,

1 or a representative of a national of the United
2 States, who has a covered claim and has informed
3 the Department of State of the covered claim using
4 the method established pursuant to paragraph (1) to
5 discuss the status of the covered claim, including the
6 status of any settlement discussions with the Pales-
7 tinian Authority or the Palestine Liberation Organi-
8 zation.

9 (3) Not later than 180 days after the date of
10 enactment of this Act, the Secretary of State, or a
11 designee of the Secretary, shall make every effort to
12 meet (and make every effort to continue to meet on
13 a regular basis thereafter) with representatives of
14 the Palestinian Authority and the Palestine Libera-
15 tion Organization to discuss the covered claims iden-
16 tified pursuant to subsection (a) and potential settle-
17 ment of the covered claims.

18 (c) REPORT TO CONGRESS.—The Secretary of State
19 shall, not later than 240 days after the date of enactment
20 of this Act, and annually thereafter for 5 years, submit
21 to the Committee on the Judiciary and the Committee on
22 Foreign Relations of the Senate and the Committee on
23 the Judiciary and the Committee on Foreign Affairs of
24 the House of Representatives a report describing activities
25 that the Department of State has undertaken to comply

1 with this section, including specific updates regarding
2 paragraphs (2) and (3) of subsection (b).

3 (d) SENSE OF CONGRESS.—It is the sense of Con-
4 gress that—

5 (1) covered claims should be resolved in a man-
6 ner that provides just compensation to the victims;

7 (2) covered claims should be resolved and set-
8 tled in favor of the victim to the fullest extent pos-
9 sible and without subjecting victims to unnecessary
10 or protracted litigation;

11 (3) the United States Government should take
12 all practicable steps to facilitate the resolution and
13 settlement of all covered claims, including engaging
14 directly with the victims or their representatives and
15 the Palestinian Authority and the Palestine Libera-
16 tion Organization; and

17 (4) the United States Government should
18 strongly urge the Palestinian Authority and the Pal-
19 estine Liberation Organization to commit to good-
20 faith negotiations to resolve and settle all covered
21 claims.

22 (e) DEFINITION.—In this section, the term “covered
23 claim” means any pending action by, or final judgment
24 in favor of, a national of the United States, or any action
25 by a national of the United States dismissed for lack of

1 personal jurisdiction, under section 2333 of title 18,
 2 United States Code, against the Palestinian Authority or
 3 the Palestine Liberation Organization.

4 **SEC. 3. JURISDICTIONAL AMENDMENTS TO FACILITATE**
 5 **RESOLUTION OF TERRORISM-RELATED**
 6 **CLAIMS OF NATIONALS OF THE UNITED**
 7 **STATES.**

8 (a) IN GENERAL.—Section 2334(e) of title 18,
 9 United States Code, is amended—

10 (1) in paragraph (1)—

11 (A) in subparagraph (A)—

12 (i) in the matter preceding clause (i),
 13 by striking “after the date that is 120
 14 days after the date of enactment of this
 15 subsection, accepts” and inserting “after
 16 January 31, 2019, and except as provided
 17 in paragraph (3), enters into a new con-
 18 tract, grant, or other agreement, or ex-
 19 pands the scope of or extends in any way
 20 an existing contract, grant, or other agree-
 21 ment, with the United States Government
 22 that obligates”;

23 (ii) in clause (i), by adding “or” at
 24 the end;

25 (iii) by striking clause (ii); and

1 (iv) by redesignating clause (iii) as
2 clause (ii); and

3 (B) by striking subparagraph (B) and in-
4 serting the following:

5 (1) in paragraph (1), by striking subparagraphs
6 (A) and (B) and inserting the following:

7 “(A) after the date that is 120 days after
8 the date of the enactment of the Promoting Secu-
9 rity and Justice for Victims of Terrorism Act of
10 2019, makes any payment, directly or indi-
11 rectly—

12 “(i) to any payee designated by any
13 individual who, after being fairly tried or
14 pleading guilty, has been imprisoned for
15 committing any act of terrorism that in-
16 jured or killed a national of the United
17 States, if such payment is made by reason
18 of such imprisonment; or

19 “(ii) to any family member of any in-
20 dividual, following such individual’s death
21 while committing an act of terrorism that
22 injured or killed a national of the United
23 States, if such payment is made by reason
24 of the death of such individual; or

1 “(B)(i) after 15 days after the date of en-
2 actment of the Promoting Security and Justice
3 for Victims of Terrorism Act of 2019—

4 “(I) continues to maintain any office,
5 headquarters, premises, or other facilities
6 or establishments in the United States;

7 “(II) establishes or procures any of-
8 fice, headquarters, premises, or other fa-
9 cilities or establishments in the United
10 States; or

11 “(III) conducts any activity while
12 physically present in the United States on
13 behalf of the Palestine Liberation Organi-
14 zation or the Palestinian Authority;

15 “(ii)(I) after 120 days after the date of en-
16 actment of the Promoting Security and Justice
17 for Victims of Terrorism Act of 2019, has not
18 submitted a notice of withdrawal from all spe-
19 cialized agencies of the United Nations of which
20 the defendant has the same standing as a mem-
21 ber state in the United Nations or any special-
22 ized agency thereof outside an agreement nego-
23 tiated between Israel and the Palestinians; or

24 “(II) after 2 years after the date of enact-
25 ment of the Promoting Security and Justice for

1 Victims of Terrorism Act of 2019, has the same
 2 standing as a member state in the United Na-
 3 tions or any specialized agency thereof outside
 4 an agreement negotiated between Israel and the
 5 Palestinians; or

6 “(iii) after the date of enactment of this
 7 clause, makes, renews, promotes, or advances
 8 any application in order to obtain the same
 9 standing as a member state in the United Na-
 10 tions or any specialized agency thereof, or ac-
 11 cepts such standing, outside an agreement ne-
 12 gotiated between Israel and the Palestinians.”;

13 and

14 ~~(2) by adding at the end the following:~~

15 ~~“(3) EXCEPTION FOR CERTAIN PAYMENTS AND~~
 16 ~~ASSISTANCE.—In determining whether a defendant~~
 17 ~~shall be deemed to have consented to personal juris-~~
 18 ~~isdiction under paragraph (1)(A), no court may con-~~
 19 ~~sider any payment or assistance described in section~~
 20 ~~1004(b)(1) of the Taylor Force Act (22 U.S.C.~~
 21 ~~2378c-1(b)(1)).~~

22 ~~“(4)~~

23 ~~(2) in paragraph (2), by adding at the end the~~
 24 ~~following: “For purposes of paragraph (1)(A), no~~
 25 ~~court may consider the receipt of any assistance by~~

1 *a nongovernmental organization, whether direct or*
2 *indirect, as a basis for consent to jurisdiction by a*
3 *defendant.”; and*

4 *(3) by adding at the end the following:*

5 “(3) EXCEPTION FOR CERTAIN ACTIVITIES AND
6 LOCATIONS.—In determining whether a defendant
7 shall be deemed to have consented to personal juris-
8 diction under ~~paragraph (1)(B)~~ *paragraph (1)(B)(i)*,
9 no court may consider—

10 “(A) any office, headquarters, premises, or
11 other facility or establishment used exclusively
12 for the purpose of conducting official business
13 of the United Nations;

14 “(B) any activity undertaken exclusively
15 for the purpose of conducting official business
16 of the United Nations;

17 “(C) any activity involving officials of the
18 United States that the Secretary of State deter-
19 mines is in the national security interest of the
20 United States if the Secretary reports to the
21 appropriate congressional committees annually
22 on the use of the authority under this subpara-
23 graph;

24 “(D) any activity undertaken exclusively
25 for the purpose of meetings with officials of the

1 United States or participation in training and
 2 related activities funded or arranged by the
 3 United States Government; or

4 “(E) any activity related to legal represen-
 5 tation—

6 “(i) for matters related to activities
 7 described in this paragraph;

8 “(ii) for the purpose of adjudicating
 9 or resolving claims filed in courts of the
 10 United States; or

11 “(iii) to comply with this subsection.

12 ~~“(5) SUSPENSION.—~~

13 ~~“(A) IN GENERAL.—In determining wheth-~~
 14 ~~er a defendant shall be deemed to have con-~~
 15 ~~sented to personal jurisdiction under this sub-~~
 16 ~~section, no court may consider assistance under~~
 17 ~~paragraph (1)(A) if such assistance is obligated~~
 18 ~~under any new contract, grant, or other agree-~~
 19 ~~ment, or expansion of the scope of or extension~~
 20 ~~of an existing contract, grant, or other agree-~~
 21 ~~ment with the United States Government dur-~~
 22 ~~ing a period in which the Secretary of State, in~~
 23 ~~consultation with the Attorney General, certifies~~
 24 ~~in writing to the President pro tempore of the~~

1 Senate and Speaker of the House of Represent-
2 atives that—

3 “(i) all covered claims have been re-
4 solved and settled; or are proceeding to-
5 ward settlement because the defendant is
6 actively engaged in settlement discussions
7 with victims who have covered claims; and

8 “(ii) any claims similar to those de-
9 scribed in section 2 Promoting Security
10 and Justice for Victims of Terrorism Act
11 of 2019 and that have been filed after the
12 date of enactment of this paragraph are
13 proceeding toward settlement because the
14 defendant is actively engaged in settlement
15 discussions with victims who have such
16 claims.

17 “(B) RECERTIFICATION.—A certification
18 under this paragraph may be made for renew-
19 able periods of up to 1 year.

20 “(6)(4) RULE OF CONSTRUCTION.—Notwith-
21 standing any other law (including any treaty), any
22 office, headquarters, premises, or other facility or es-
23 tablishment within the territory of the United States
24 that is not specifically exempted by paragraph
25 (4)(A) (3)(A) shall be considered to be in the United

1 States for purposes of subclauses (I) and (II) of
 2 paragraph (1)(B)(i).

3 ~~“(7) SUNSET.—Paragraph (1)(A) shall termi-~~
 4 ~~nate on the date on which the Secretary of State, in~~
 5 ~~consultation with the Attorney General, certifies in~~
 6 ~~writing to the President pro tempore of the Senate~~
 7 ~~and Speaker of the House of Representatives that—~~

8 ~~“(A) all covered claims have been resolved~~
 9 ~~and settled in a manner that is satisfactory to~~
 10 ~~the parties; and~~

11 ~~“(B) on or after the 2-year period begin-~~
 12 ~~ning on the date of enactment of this para-~~
 13 ~~graph, there are no similar claims under section~~
 14 ~~2333 against a defendant that—~~

15 ~~“(i) were filed on or after the date of~~
 16 ~~enactment of this paragraph; and~~

17 ~~“(ii) that are pending.~~

18 ~~“(8) DEFINITIONS.—In this subsection—~~

19 ~~“(A) the term ‘covered claim’ has the~~
 20 ~~meaning given the term in section 2 Promoting~~
 21 ~~Security and Justice for Victims of Terrorism~~
 22 ~~Act of 2019; and~~

23 ~~“(B) term ‘defendant’ means—~~

24 ~~“(i) the Palestinian Authority;~~

1 ~~“(ii) the Palestine Liberation Organi-~~
2 ~~zation;~~

3 ~~“(iii) any organization or other entity~~
4 ~~that is a successor to or affiliated with the~~
5 ~~Palestinian Authority or the Palestine Lib-~~
6 ~~eration Organization; or~~

7 ~~“(iv) any organization or other enti-~~
8 ~~ty—~~

9 ~~“(I) identified in clause (i), (ii),~~
10 ~~or (iii); and~~

11 ~~“(II) that self-identifies as, holds~~
12 ~~itself out to be, or carries out conduct~~
13 ~~in the name of, the ‘State of Pal-~~
14 ~~estine’ or ‘Palestine’ in connection~~
15 ~~with official business of the United~~
16 ~~Nations.”.~~

17 ~~“(5) DEFINED TERM.—In this subsection, the~~
18 ~~term ‘defendant’ means—~~

19 ~~“(A) the Palestinian Authority;~~

20 ~~“(B) the Palestine Liberation Organization;~~

21 ~~“(C) any organization or other entity that~~
22 ~~is a successor to or affiliated with the Pales-~~
23 ~~tinian Authority or the Palestine Liberation Or-~~
24 ~~ganization; or~~

1 “(D) any organization or other entity
2 that—

3 “(i) is identified in subparagraph (A),
4 (B), or (C); and

5 “(ii) self identifies as, holds itself out
6 to be, or carries out conduct in the name of,
7 the ‘State of Palestine’ or ‘Palestine’ in con-
8 nection with official business of the United
9 Nations.”.

10 (b) PRIOR CONSENT NOT ABROGATED.—The amend-
11 ments made by this section shall not abrogate any consent
12 deemed to have been given under section 2334(e) of title
13 18, United States Code, as in effect on the day before
14 the date of enactment of this Act.

15 **SEC. 4. SEVERABILITY.**

16 *If any provision of this Act, an amendment made by*
17 *this Act, or the application of such provision or amendment*
18 *to any person or circumstance is held to be unconstitu-*
19 *tional, the remainder of this Act, the amendments made by*
20 *this Act, and the application of such provisions to any per-*
21 *son or circumstance shall not be affected thereby.*

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