

114TH CONGRESS
1ST SESSION

S. 1377

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

MAY 19, 2015

Mr. LEAHY (for himself, Mr. SCHUMER, Mrs. McCASKILL, Mrs. SHAHEEN, and Mr. SANDERS) 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 of 2015” or “CEJA”.

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)(1) Whoever, while employed by any department
21 or agency of the United States other than the Department
22 of Defense or accompanying any department or agency of
23 the United States other than the Department of Defense,
24 knowingly engages in conduct (or conspires or attempts
25 to engage in conduct) outside the United States that
26 would constitute an offense enumerated in paragraph (3)

1 had the conduct been engaged in within the special mari-
2 time and territorial jurisdiction of the United States shall
3 be punished as provided for that offense.

4 “(2) A prosecution may not be commenced against
5 a person under this subsection if a foreign government,
6 in accordance with jurisdiction recognized by the United
7 States, has prosecuted or is prosecuting such person for
8 the conduct constituting the offense, except upon the ap-
9 proval of the Attorney General or the Deputy Attorney
10 General (or a person acting in either such capacity), which
11 function of approval may not be delegated.

12 “(3) The offenses covered by paragraph (1) are the
13 following:

14 “(A) Any offense under chapter 5 (arson) of
15 this title.

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

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

1 “(D) Any offense under section 499 (military,
2 naval, or official passes) of this title.

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

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

12 “(G) Any offense under chapter 42 (extor-
13 tionate credit transactions) of this title.

14 “(H) Any offense under section 924(c) (use of
15 firearm in violent or drug trafficking crime) or
16 924(o) (conspiracy to violate section 924(c)) of this
17 title.

18 “(I) Any offense under chapter 50A (genocide)
19 of this title.

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

1 (conspiracy to commit murder), or 1119 (foreign
2 murder of United States nationals) of this title.

3 “(K) Any offense under chapter 55 (kidnap-
4 ping) of this title.

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

13 “(M) Any offense under section 1951 (inter-
14 ference with commerce by threats or violence), 1952
15 (interstate and foreign travel or transportation in
16 aid of racketeering enterprises), 1956 (laundering of
17 monetary instruments), 1957 (engaging in monetary
18 transactions in property derived from specified un-
19 lawful activity), 1958 (use of interstate commerce
20 facilities in the commission of murder for hire), or
21 1959 (violent crimes in aid of racketeering activity)
22 of this title.

23 “(N) Any offense under section 2111 (robbery
24 or burglary within special maritime and territorial
25 jurisdiction) of this title.

1 “(O) Any offense under chapter 109A (sexual
2 abuse) of this title.

3 “(P) Any offense under chapter 113B (ter-
4 rorism) of this title.

5 “(Q) Any offense under chapter 113C (torture)
6 of this title.

7 “(R) Any offense under chapter 115 (treason,
8 sedition, and subversive activities) of this title.

9 “(S) Any offense under section 2442 (child sol-
10 diers) of this title.

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

23 “(b) In addition to the jurisdiction under subsection
24 (a), whoever, while employed by any department or agency
25 of the United States other than the Department of De-

1 fense and stationed or deployed in a country outside of
2 the United States pursuant to a treaty or executive agree-
3 ment in furtherance of a border security initiative with
4 that country, engages in conduct (or conspires or attempts
5 to engage in conduct) outside the United States that
6 would constitute an offense for which a person may be
7 prosecuted in a court of the United States had the conduct
8 been engaged in within the special maritime and territorial
9 jurisdiction of the United States shall be punished as pro-
10 vided for that offense.

11 “(c) In this section:

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

15 “(A) being employed as a civilian em-
16 ployee, a contractor (including a subcontractor
17 at any tier), an employee of a contractor (or a
18 subcontractor at any tier), a grantee (including
19 a contractor of a grantee or a subgrantee or
20 subcontractor at any tier), or an employee of a
21 grantee (or a contractor of a grantee or a sub-
22 grantee or subcontractor at any tier) of any de-
23 partment or agency of the United States other
24 than the Department of Defense;

1 “(B) being present or residing outside the
2 United States in connection with such employ-
3 ment;

4 “(C) not being a national of or ordinarily
5 resident in the host nation; and

6 “(D) in the case of such a contractor, con-
7 tractor employee, grantee, or grantee employee,
8 that such employment supports a program,
9 project, or activity for a department or agency
10 of the United States.

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

14 “(A) being a dependant, family member, or
15 member of household of—

16 “(i) a civilian employee of any depart-
17 ment or agency of the United States other
18 than the Department of Defense; or

19 “(ii) a contractor (including a subcon-
20 tractor at any tier), an employee of a con-
21 tractor (or a subcontractor at any tier), a
22 grantee (including a contractor of a grant-
23 ee or a subgrantee or subcontractor at any
24 tier), or an employee of a grantee (or a
25 contractor of a grantee or a subgrantee or

1 subcontractor at any tier) of any depart-
2 ment or agency of the United States other
3 than the Department of Defense, which
4 contractor, contractor employee, grantee,
5 or grantee employee is supporting a pro-
6 gram, project, or activity for a department
7 or agency of the United States other than
8 the Department of Defense;

9 “(B) residing with such civilian employee,
10 contractor, contractor employee, grantee, or
11 grantee employee outside the United States;
12 and

13 “(C) not being a national of or ordinarily
14 resident in the host nation.

15 “(3) The term ‘grant agreement’ means a legal
16 instrument described in section 6304 or 6305 of title
17 31, other than an agreement between the United
18 States and a State, local, or foreign government or
19 an international organization.

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

22 “(5) The term ‘host nation’ means the country
23 outside of the United States where the employee or
24 contractor resides, the country where the employee

1 or contractor commits the alleged offense at issue,
2 or both.

3 **“§ 3273. Regulations**

4 “The Attorney General, after consultation with the
5 Secretary of Defense, the Secretary of State, the Secretary
6 of Homeland Security, and the Director of National Intel-
7 ligence, shall prescribe regulations governing the inves-
8 tigation, apprehension, detention, delivery, and removal of
9 persons described in sections 3271 and 3272 of this title.”.

10 (2) CONFORMING AMENDMENT.—Subparagraph

11 (A) of section 3267(1) of title 18, United States
12 Code, is amended to read as follows:

13 “(A) employed as a civilian employee, a
14 contractor (including a subcontractor at any
15 tier), or an employee of a contractor (or a sub-
16 contractor at any tier) of the Department of
17 Defense (including a nonappropriated fund in-
18 strumentality of the Department);”.

19 (b) VENUE.—Chapter 211 of title 18, United States
20 Code, is amended by adding at the end the following new
21 section:

1 **“§ 3245. Optional venue for offenses involving Fed-**
2 **eral employees and contractors overseas**

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

6 “(1) in the district in which is headquartered
7 the department or agency of the United States that
8 employs the offender, or any 1 of 2 or more joint
9 offenders; or

10 “(2) in the district in which is headquartered
11 the department or agency of the United States that
12 the offender is accompanying, or that any 1 of 2 or
13 more joint offenders is accompanying.”.

14 (c) SUSPENSION OF STATUTE OF LIMITATIONS.—
15 Chapter 213 of title 18, United States Code, is amended
16 by inserting after section 3287 the following new section:

17 **“§ 3287A. Suspension of limitations for offenses in-**
18 **volving Federal employees and contrac-**
19 **tors overseas**

20 “The statute of limitations for an offense under sec-
21 tion 3272 of this title shall be suspended for the period
22 during which the person is outside the United States or
23 is a fugitive from justice within the meaning of section
24 3290 of this title.”.

25 (d) TECHNICAL AMENDMENTS.—

1 (1) **HEADING AMENDMENT.**—The heading of
2 chapter 212A of title 18, United States Code, is
3 amended to read as follows:

4 **“CHAPTER 212A—EXTRATERRITORIAL JU-**
5 **RISDICTION OVER OFFENSES OF CON-**
6 **TRACTORS AND CIVILIAN EMPLOYEES**
7 **OF THE FEDERAL GOVERNMENT”.**

8 (2) **TABLES OF SECTIONS.**—(A) The table of
9 sections for chapter 211 of title 18, United States
10 Code, is amended by adding at the end the following
11 new item:

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

12 (B) The table of sections for chapter 212A of
13 title 18, United States Code, is amended by striking
14 the item relating to section 3272 and inserting the
15 following new items:

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

“3273. Regulations.”.

16 (C) The table of sections for chapter 213 of
17 title 18, United States Code, is amended by insert-
18 ing after the item relating to section 3287 the fol-
19 lowing new item:

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

20 (3) **TABLE OF CHAPTERS.**—The item relating
21 to chapter 212A in the table of chapters for part II

1 of title 18, United States Code, is amended to read
 2 as follows:

“212A. Extraterritorial jurisdiction over offenses of contractors and civilian employees of the Federal Government 3271”.

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

5 (a) ESTABLISHMENT OF INVESTIGATIVE TASK
 6 FORCES FOR CONTRACTOR AND EMPLOYEE OVER-
 7 SIGHT.—The Attorney General, in consultation with the
 8 Secretary of Defense, the Secretary of State, the Secretary
 9 of Homeland Security, and the head of any other depart-
 10 ment or agency of the Federal Government responsible for
 11 employing contractors or persons overseas, shall assign
 12 adequate personnel and resources, including through the
 13 creation of task forces, to investigate allegations of crimi-
 14 nal offenses under chapter 212A of title 18, United States
 15 Code (as amended by section 2(a) of this Act), and may
 16 authorize the overseas deployment of law enforcement
 17 agents and other employees of the Federal Government
 18 for that purpose.

19 (b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

20 (1) INVESTIGATION.—The Attorney General
 21 shall have principal authority for the enforcement of
 22 this Act and the amendments made by this Act, and
 23 shall have the authority to initiate, conduct, and su-

1 pervise investigations of any alleged offense under
2 this Act or an amendment made by this Act.

3 (2) LAW ENFORCEMENT AUTHORITY.—With re-
4 spect to violations of sections 3271 and 3272 of title
5 18, United States Code (as amended by section 2(a)
6 of this Act), the Attorney General may authorize
7 any person serving in a law enforcement position in
8 any other department or agency of the Federal Gov-
9 ernment, including a member of the Diplomatic Se-
10 curity Service of the Department of State or a mili-
11 tary police officer of the Armed Forces, to exercise
12 investigative and law enforcement authority, includ-
13 ing those powers that may be exercised under sec-
14 tion 3052 of title 18, United States Code, subject to
15 such guidelines or policies as the Attorney General
16 considers appropriate for the exercise of such pow-
17 ers.

18 (3) PROSECUTION.—The Attorney General may
19 establish such procedures the Attorney General con-
20 siders appropriate to ensure that Federal law en-
21 forcement agencies refer offenses under section 3271
22 or 3272 of title 18, United States Code (as amended
23 by section 2(a) of this Act), to the Attorney General
24 for prosecution in a uniform and timely manner.

1 (4) ASSISTANCE ON REQUEST OF ATTORNEY
2 GENERAL.—Notwithstanding any statute, rule, or
3 regulation to the contrary, the Attorney General
4 may request assistance from the Secretary of De-
5 fense, the Secretary of State, or the head of any
6 other department or agency of the Federal Govern-
7 ment to enforce section 3271 or 3272 of title 18,
8 United States Code (as so amended). The assistance
9 requested may include the following:

10 (A) The assignment of additional employ-
11 ees and resources to task forces established by
12 the Attorney General under subsection (a).

13 (B) An investigation into alleged mis-
14 conduct or arrest of an individual suspected of
15 alleged misconduct by agents of the Diplomatic
16 Security Service of the Department of State
17 present in the nation in which the alleged mis-
18 conduct occurs.

19 (5) ANNUAL REPORT.—Not later than 1 year
20 after the date of enactment of this Act, and annually
21 thereafter for 5 years, the Attorney General shall, in
22 consultation with the Secretary of Defense, the Sec-
23 retary of State, and the Secretary of Homeland Se-
24 curity, submit to Congress a report containing the
25 following:

1 (A) The number of prosecutions under
2 chapter 212A of title 18, United States Code
3 (as amended by section 2(a) of this Act), in-
4 cluding the nature of the offenses and any dis-
5 positions reached, during the previous year.

6 (B) The actions taken to implement sub-
7 section (a), including the organization and
8 training of employees and the use of task
9 forces, during the previous year.

10 (C) Such recommendations for legislative
11 or administrative action as the President con-
12 siders appropriate to enforce chapter 212A of
13 title 18, United States Code (as amended by
14 section 2(a) of this Act), and the provisions of
15 this section.

16 (c) DEFINITIONS.—In this section, the terms “agen-
17 cy” and “department” have the meanings given such
18 terms in section 6 of title 18, United States Code.

19 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
20 tion shall be construed to limit any authority of the Attor-
21 ney General or any Federal law enforcement agency to in-
22 vestigate violations of Federal law or deploy employees
23 overseas.

1 **SEC. 4. EFFECTIVE DATE.**

2 (a) IMMEDIATE EFFECTIVENESS.—This Act and the
3 amendments made by this Act shall take effect on the date
4 of enactment of this Act.

5 (b) IMPLEMENTATION.—The Attorney General and
6 the head of any other department or agency of the Federal
7 Government to which this Act or an amendment made by
8 this Act applies shall have 90 days after the date of enact-
9 ment of this Act to ensure compliance with this Act and
10 the amendments made by this Act.

11 **SEC. 5. RULES OF CONSTRUCTION.**

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

14 (1) to limit or affect the application of
15 extraterritorial jurisdiction related to any other Fed-
16 eral law; or

17 (2) to limit or affect any authority or responsi-
18 bility of a Chief of Mission as provided in section
19 207 of the Foreign Service Act of 1980 (22 U.S.C.
20 3927).

21 (b) INTELLIGENCE ACTIVITIES.—Nothing in this Act
22 or any amendment made by this Act shall apply to the
23 authorized intelligence activities of the United States Gov-
24 ernment.

1 **SEC. 6. FUNDING.**

2 If any amounts are appropriated to carry out this Act
3 or an amendment made by this Act, the amounts shall
4 be from amounts which would have otherwise been made
5 available or appropriated to the Department of Justice.

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