

Union Calendar No. 258

103^D CONGRESS
2^D SESSION

H. R. 4032

[Report No. 103-466]

A BILL

To provide the penalty of death for certain crimes.

MARCH 25, 1994

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MARCH 15, 1994

Mr. SCHUMER introduced the following bill; which was referred to the
Committee on the Judiciary

MARCH 25, 1994

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 15, 1994]

A BILL

To provide the penalty of death for certain crimes.

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. SENTENCE OF DEATH.**

4 *A defendant who has been found guilty of—*

5 *(1) an offense described in section 794 or section*
6 *2381 of title 18, United States Code;*

1 (2) *any other offense for which a sentence of*
2 *death is provided, if the defendant, as determined be-*
3 *yond a reasonable doubt at the hearing under section*
4 *3593—*

5 (A) *intentionally killed the victim;*

6 (B) *intentionally inflicted serious bodily in-*
7 *jury that resulted in the death of the victim;*

8 (C) *intentionally participated in an act,*
9 *contemplating that the life of a person would be*
10 *taken or intending that lethal force would be*
11 *used in connection with a person, other than one*
12 *of the participants in the offense, and the victim*
13 *died as a direct result of the act; or*

14 (D) *intentionally and specifically engaged*
15 *in an act of violence, knowing that the act cre-*
16 *ated a grave risk of death to a person, other than*
17 *one of the participants in the offense, such that*
18 *participation in the act constituted a reckless*
19 *disregard for human life and the victim died as*
20 *a direct result of the act,*

21 (3) *an offense referred to in section 408(c)(1) of*
22 *the Controlled Substances Act (21 U.S.C. 848(c)(1)),*
23 *committed as part of a continuing criminal enter-*
24 *prise offense under the conditions described in sub-*
25 *section (b) of that section which involved not less than*

1 *twice the quantity of controlled substance described in*
2 *subsection (b)(2)(A) of that section or twice the gross*
3 *receipts described in subsection (b)(2)(B) of that sec-*
4 *tion; or*

5 *(4) an offense referred to in section 408(c)(1) of*
6 *the Controlled Substances Act (21 U.S.C. 848(c)(1)),*
7 *committed as part of a continuing criminal enter-*
8 *prise offense under that section, where the defendant*
9 *is a principal administrator, organizer, or leader of*
10 *such an enterprise, and the defendant, in order to ob-*
11 *struct the investigation or prosecution of the enter-*
12 *prise or an offense involved in the enterprise, at-*
13 *tempts to kill or knowingly directs, advises, author-*
14 *izes, or assists another to attempt to kill any public*
15 *officer, juror, witness, or members of the family or*
16 *household of such a person;*

17 *shall be sentenced to death if, after consideration of the fac-*
18 *tors set forth in section 3592 in the course of a hearing*
19 *held pursuant to section 3593, it is determined that imposi-*
20 *tion of a sentence of death is justified, except that no person*
21 *may be sentenced to death who was less than 18 years of*
22 *age at the time of the offense.*

1 **SEC. 2. CONFORMING CHANGES TO SPECIFIC OFFENSES**
2 **FOR WHICH DEATH PENALTY IS AUTHORIZED.**

3 (a) *CONFORMING CHANGES IN TITLE 18.*—Title 18,
4 *United States Code, is amended as follows:*

5 (1) *ESPIONAGE.*—Section 794(a) of title 18,
6 *United States Code, is amended by striking the period*
7 *at the end of the subsection and inserting “, except*
8 *that the sentence of death shall not be imposed unless*
9 *the jury or, if there is no jury, the court, further finds*
10 *that the offense resulted in the identification by a for-*
11 *foreign power (as defined in section 101(a) of the For-*
12 *foreign Intelligence Surveillance Act of 1978) of an indi-*
13 *vidual acting as an agent of the United States and*
14 *consequently in the death of that individual, or di-*
15 *rectly concerned nuclear weaponry, military space-*
16 *craft or satellites, early warning systems, or other*
17 *means of defense or retaliation against large-scale at-*
18 *tack; war plans; communications intelligence or cryp-*
19 *tographic information; or any other major weapons*
20 *system or major element of defense strategy.”.*

21 (2) *MURDER.*—The second undesignated para-
22 *graph of section 1111(b) of title 18, United States*
23 *Code, is amended to read as follows:*

24 “Whoever is guilty of murder in the first degree shall
25 *be punished by death or by imprisonment for life;”.*

1 (3) *KILLING OF FOREIGN OFFICIALS OR INTER-*
2 *NATIONALLY PROTECTED PERSONS.*—Section 1116(a)
3 *of title 18, United States Code, is amended by strik-*
4 *ing “any such person who is found guilty of murder*
5 *in the first degree shall be sentenced to imprisonment*
6 *for life, and”.*

7 (4) *KIDNAPPING.*—Section 1201(a) of title 18,
8 *United States Code, is amended by inserting after “or*
9 *for life” the following: “and, if the death of any per-*
10 *son results, shall be punished by death or life impris-*
11 *onment”.*

12 (5) *NONMAILABLE INJURIOUS ARTICLES.*—The
13 *last paragraph of section 1716 of title 18, United*
14 *States Code, is amended by striking the comma after*
15 *“imprisonment for life” and inserting a period and*
16 *striking the remainder of the paragraph.*

17 (6) *WRECKING TRAINS.*—The second to the last
18 *undesignated paragraph of section 1992 of title 18,*
19 *United States Code, is amended by striking the*
20 *comma after “imprisonment for life” and inserting a*
21 *period and striking the remainder of the section.*

22 (7) *BANK ROBBERY.*—Section 2113(e) of title 18,
23 *United States Code, is amended by striking “or pun-*
24 *ished by death if the verdict of the jury shall so di-*

1 *rect” and inserting “or if death results shall be pun-*
2 *ished by death or life imprisonment”.*

3 (8) *EXPLOSIVE MATERIALS.—(A) Section 844(d)*
4 *of title 18, United States Code, is amended by strik-*
5 *ing “as provided in section 34 of this title”.*

6 (B) *Section 844(f) of title 18, United States*
7 *Code, is amended by striking “as provided in section*
8 *34 of this title”.*

9 (C) *Section 844(i) of title 18, United States*
10 *Code, is amended by striking “as provided in section*
11 *34 of this title”.*

12 (9) *DEATH PENALTY FOR THE MURDER OF FED-*
13 *ERAL LAW ENFORCEMENT OFFICIALS.—Section 1114*
14 *of title 18, United States Code, is amended by strik-*
15 *ing “punished as provided under sections 1111 and*
16 *1112 of this title,” and inserting “punished, in the*
17 *case of murder, by a sentence of death or life impris-*
18 *onment as provided under section 1111 of this title,*
19 *or, in the case of manslaughter, a sentence as pro-*
20 *vided under section 1112 of this title,”.*

21 (b) *CONFORMING AMENDMENT TO FEDERAL AVIATION*
22 *ACT OF 1954.—Section 903 of the Federal Aviation Act of*
23 *1958 (49 U.S.C. 1473) is amended by striking subsection*
24 *(c) and by striking the item relating to subsection (c) in*
25 *the table of contents at the beginning of such Act.*

1 (c) *AIRCRAFT AND MOTOR VEHICLES.*—Section 34 of
2 title 18, United States Code, is amended by striking the
3 comma after “imprisonment for life” and inserting a period
4 and striking the remainder of the section.

5 **SEC. 3. AUTHORIZATION OF DEATH PENALTY FOR EXISTING**
6 **OFFENSES.**

7 (a) *HOSTAGE TAKING.*—Section 1203(a) of title 18,
8 United States Code, is amended by inserting after “or for
9 life” the following: “and, if the death of any person results,
10 shall be punished by death or life imprisonment”.

11 (b) *MURDER FOR HIRE.*—Section 1958(a) of title 18,
12 United States Code, is amended by striking “and if death
13 results, shall be subject to imprisonment for any term of
14 years or for life, or shall be fined not more than \$50,000,
15 or both” and inserting “and if death results, shall be pun-
16 ished by death or life imprisonment, or shall be fined under
17 this title, or both”.

18 (c) *RACKETEERING.*—Section 1959(a)(1) of title 18,
19 United States Code, is amended to read as follows:

20 “(1) for murder, by death or life imprisonment,
21 or a fine under this title, or both; and for kidnapping,
22 by imprisonment for any term of years or for life, or
23 a fine under this title, or both;”.

24 (d) *GENOCIDE.*—Section 1091(b)(1) of title 18, United
25 States Code, is amended by striking “, a fine of not more

1 *than \$1,000,000 and imprisonment for life;” and inserting*
2 *“, where death results, by death or imprisonment for life*
3 *and a fine under this title, or both;”.*

4 *(e) CARJACKING.—Section 2119(3) of title 18, United*
5 *States Code, is amended to read as follows:*

6 *“(3) if death results, be punished by death or im-*
7 *prisoned for any term of years or for life, fined under*
8 *this title, or both.”*

9 *(f) DEATH PENALTY FOR RAPE AND CHILD MOLESTA-*
10 *TION MURDERS.—*

11 *(1) OFFENSE.—Chapter 109A of title 18, United*
12 *States Code, is amended by redesignating section*
13 *2245 as section 2246, and by inserting after section*
14 *2244 the following:*

15 **“§ 2245. Sexual abuse resulting in death**

16 *“Whoever, in the course of an offense under this chap-*
17 *ter, engages in conduct that results in the death of a person,*
18 *shall be punished by death or imprisoned for any term of*
19 *years or for life.”.*

20 *(2) CLERICAL AMENDMENT.—The table of sec-*
21 *tions at the beginning of chapter 109A of title 18,*
22 *United States Code, is amended by striking the item*
23 *for section 2245 and adding the following:*

“2245. Sexual abuse resulting in death.

“2246. Definitions for chapter.”.

1 (g) *DEATH PENALTY FOR SEXUAL EXPLOITATION OF*
2 *CHILDREN.*—Section 2251(d) of title 18, United States
3 Code, is amended by adding at the end the following: “Who-
4 ever, in the course of an offense under this section, engages
5 in conduct that results in the death of a person, shall be
6 punished by death or imprisoned for any term of years or
7 for life.”.

8 (h) *HOMICIDES AND ATTEMPTED HOMICIDES INVOLV-*
9 *ING FIREARMS IN FEDERAL FACILITIES.*—Section 930 of
10 title 18, United States Code, is amended—

11 (1) by redesignating subsections (c), (d), (e), (f),
12 and (g) as subsections (d), (e), (f), (g), and (h), re-
13 spectively;

14 (2) in subsection (a), by striking “(c)” and in-
15 sserting “(d)”;

16 (3) inserting after subsection (b) the following:

17 “(c) Whoever kills or attempts to kill any person in
18 the course of a violation of subsection (a) or (b), or in the
19 course of an attack on a Federal facility involving the use
20 of a firearm or other dangerous weapon, shall be punished
21 as provided in sections 1111, 1112, and 1113 of this title.”;

22 (4) in subsection (e)(2) (as so redesignated), by
23 striking “(c)” and inserting “(d)”;

24 (5) in subsection (h) (as so redesignated)—

1 (A) by striking “and (b)” and inserting “,
2 (b), and (c)”; and

3 (B) by striking “(d)” each place it appears
4 and inserting “(e)”.

5 (i) *DEATH PENALTY FOR MURDER OF FEDERAL WIT-*
6 *NESSES.*—Section 1512(a)(2)(A) of title 18, United States
7 *Code, is amended to read as follows:*

8 “(A) in the case of murder as defined in section
9 1111 of this title, the death penalty or imprisonment
10 for life, and in the case of any other killing, the pun-
11 ishment provided in section 1112 of this title; and”.

12 (j) *PROTECTION OF COURT OFFICERS AND JURORS.*—
13 *Section 1503 of title 18, United States Code, is amended—*

14 (1) by designating the current text as subsection
15 (a);

16 (2) by striking “fined not more than \$5,000 or
17 imprisoned not more than five years, or both.” and
18 inserting “punished as provided in subsection (b).”;

19 (3) by adding at the end the following:

20 “(b) The punishment for an offense under this section
21 *is—*

22 “(1) in the case of a killing, the punishment pro-
23 vided in sections 1111 and 1112 of this title;

24 “(2) in the case of an attempted killing, or a
25 case in which the offense was committed against a

1 *petit juror and in which a class A or B felony was*
2 *charged, imprisonment for not more than twenty*
3 *years, a fine under this title, or both; and*

4 *“(3) in any other case, imprisonment for not*
5 *more than ten years, a fine under this title, or both.”;*
6 *and*

7 *(4) in subsection (a), as so designated by this*
8 *section, by striking “commissioner” each place it ap-*
9 *pears and inserting “magistrate judge”.*

10 *(k) FOREIGN MURDER OF UNITED STATES NATION-*
11 *ALS.—*

12 *(1) IN GENERAL.—Chapter 51 of title 18, United*
13 *States Code, is amended by adding at the end thereof*
14 *the following new section:*

15 ***“§ 1118. Foreign murder of United States nationals***

16 *“(a) Whoever, being a national of the United States,*
17 *kills or attempts to kill a national of the United States*
18 *while such national is outside the United States but within*
19 *the jurisdiction of another country shall be punished as pro-*
20 *vided under sections 1111, 1112, and 1113 of this title.*

21 *“(b) No prosecution may be instituted against any*
22 *person under this section except upon the written approval*
23 *of the Attorney General, the Deputy Attorney General, or*
24 *an Assistant Attorney General, which function of approving*
25 *prosecutions may not be delegated. No prosecution shall be*

1 *approved if prosecution has been previously undertaken by*
2 *a foreign country for the same conduct.*

3 *“(c) No prosecution shall be approved under this sec-*
4 *tion unless the Attorney General, in consultation with the*
5 *Secretary of State, determines that the conduct took place*
6 *in a country in which the person is no longer present, and*
7 *the country lacks the ability to lawfully secure the person’s*
8 *return. A determination by the Attorney General under this*
9 *subsection is not subject to judicial review.*

10 *“(d) As used in this section, the term ‘national of the*
11 *United States’ has the meaning given such term in section*
12 *101(a)(22) of the Immigration and Nationality Act (8*
13 *U.S.C. 1101(a)(22)).”.*

14 *(2) CONFORMING AMENDMENT.—Section 1117 of*
15 *title 18, United States Code, is amended by striking*
16 *“or 1116” and inserting “1116, or 1118”.*

17 *(3) CLERICAL AMENDMENT.—The table of sec-*
18 *tions at the beginning of chapter 51 of title 18, Unit-*
19 *ed States Code, is amended by adding at the end the*
20 *following new item:*

“1118. Foreign murder of United States nationals.”.

21 *(l) DEATH PENALTY FOR CIVIL RIGHTS MURDERS.—*

22 *(1) CONSPIRACY AGAINST RIGHTS.—Section 241*
23 *of title 18, United States Code, is amended by strik-*
24 *ing the period at the end of the last sentence and in-*
25 *serting “, or may be sentenced to death.”.*

1 (2) *DEPRIVATION OF RIGHTS UNDER COLOR OF*
2 *LAW.*—Section 242 of title 18, United States Code, is
3 *amended by striking the period at the end of the last*
4 *sentence and inserting “; or may be sentenced to*
5 *death.”.*

6 (3) *FEDERALLY PROTECTED ACTIVITIES.*—Sec-
7 *tion 245(b) of title 18, United States Code, is amend-*
8 *ed in the matter following paragraph (5) by inserting*
9 *“; or may be sentenced to death” after “or for life”.*

10 (4) *DAMAGE TO RELIGIOUS PROPERTY; OBSTRUC-*
11 *TION OF THE FREE EXERCISE OF RELIGIOUS*
12 *RIGHTS.*—Section 247(c)(1) of title 18, United States
13 *Code, is amended by inserting “; or may be sentenced*
14 *to death” after “or both”.*

15 **SEC. 4. DEATH PENALTY FOR MURDER BY A FEDERAL PRIS-**
16 **ONER.**

17 (a) *IN GENERAL.*—Chapter 51 of title 18, United
18 *States Code, is amended by adding at the end the following:*

19 **“§ 1119. Murder by a Federal prisoner**

20 “(a) *OFFENSE.*—Whoever, while confined in a Federal
21 *correctional institution under a sentence for a term of life*
22 *imprisonment, commits the murder of another shall be pun-*
23 *ished by death or by life imprisonment.*

24 “(b) *DEFINITIONS.*—For the purposes of this section—

1 “(1) the term ‘Federal correctional institution’
2 means any Federal prison, Federal correctional facil-
3 ity, Federal community program center, or Federal
4 halfway house;

5 “(2) the term ‘term of life imprisonment’ means
6 a sentence for the term of natural life, a sentence com-
7 muted to natural life, an indeterminate term of a
8 minimum of at least fifteen years and a maximum of
9 life, or an unexecuted sentence of death; and

10 “(3) the term ‘murder’ means a first degree or
11 second degree murder as defined by section 1111 of
12 this title.”.

13 (b) *CLERICAL AMENDMENT.*—The table of sections at
14 the beginning of chapter 51 of title 18, United States Code,
15 is amended by adding at the end thereof the following:

 “1119. Murder by a Federal prisoner.”.

16 **SEC. 5. MURDER BY ESCAPED PRISONERS.**

17 (a) *IN GENERAL.*—Chapter 51 of title 18, United
18 States Code, is amended by adding at the end the following:

19 **“§ 1120. Murder by escaped prisoners**

20 “(a) *IN GENERAL.*—Whoever, having escaped from a
21 Federal prison where such person was confined under a sen-
22 tence for a term of life imprisonment, kills another shall
23 be punished as provided in sections 1111 and 1112 of this
24 title.

1 “(b) *DEFINITION.*—As used in this section, the terms
2 ‘Federal prison’ and ‘term of life imprisonment’ have the
3 meanings given those terms in section 1119 of this title.”.

4 (b) *CLERICAL AMENDMENT.*—The table of sections at
5 the beginning of chapter 51 of title 18, United States Code,
6 is amended by adding at the end the following:

“1120. Murder by escaped prisoners.”.

7 **SEC. 6. DRIVE-BY SHOOTINGS.**

8 (a) *IN GENERAL.*—Section 922 of title 18, United
9 States Code, is amended by adding at the end thereof the
10 following:

11 “(v) It shall be unlawful for any person knowingly
12 to—

13 “(1) discharge a firearm from within a motor
14 vehicle and

15 “(2) thereby create a grave risk to human life.”.

16 (b) *PENALTY.*—Section 924(a) of such title is amended
17 by adding at the end the following:

18 “(6) Whoever knowingly violates section 922(v) shall
19 be fined under this title or imprisoned not more than 25
20 years, or both, and if death results, shall be punished by
21 death or imprisonment for life or any term of years.”.

1 **SEC. 7. DEATH PENALTY FOR GUN MURDERS DURING FED-**
2 **ERAL CRIMES OF VIOLENCE AND DRUG TRAF-**
3 **FICKING CRIMES.**

4 *Section 924 of title 18, United States Code, is amended*
5 *by adding after the subsections added by [subtitle B of title*
6 *V of this Act] the following:*

7 *“(j) Whoever, in the course of a violation of subsection*
8 *(c) of this section, causes the death of a person through the*
9 *use of a firearm, shall—*

10 *“(1) if the killing is a murder as defined in sec-*
11 *tion 1111 of this title, be punished by death or by im-*
12 *prisonment for any term of years or for life; and*

13 *“(2) if the killing is manslaughter as defined in*
14 *section 1112 of this title, be punished as provided in*
15 *that section.”.*

16 **SEC. 8. DEATH PENALTY FOR THE MURDER OF STATE OR**
17 **LOCAL OFFICIALS ASSISTING FEDERAL LAW**
18 **ENFORCEMENT OFFICIALS AND STATE COR-**
19 **RECTIONAL OFFICERS.**

20 *(a) IN GENERAL.—Chapter 51 of title 18, United*
21 *States Code is amended by adding at the end the following:*

22 **“§ 1121. Killing persons aiding Federal investigations**
23 **or State correctional officers**

24 *“(a) Whoever intentionally kills—*

25 *“(1) a State or local official, law enforcement of-*
26 *ficer, or other officer or employee while working with*

1 *Federal law enforcement officials in furtherance of a*
2 *Federal criminal investigation—*

3 “(A) *while the victim is engaged in the per-*
4 *formance of official duties;*

5 “(B) *because of the performance of the vic-*
6 *tim’s official duties; or*

7 “(C) *because of the victim’s status as a pub-*
8 *lic servant; or*

9 “(2) *any person assisting a Federal criminal in-*
10 *vestigation, while that assistance is being rendered*
11 *and because of it,*

12 *shall be sentenced according to the terms of section 1111*
13 *of this title, including by sentence of death or by imprison-*
14 *ment for life.*

15 “(b)(1) *Whoever, in a circumstance described in para-*
16 *graph (3) of this subsection, while incarcerated, inten-*
17 *tionally kills any State correctional officer engaged in, or*
18 *on account of the performance of such officer’s official du-*
19 *ties, shall be sentenced to a term of imprisonment which*
20 *shall not be less than 20 years, and may be sentenced to*
21 *life imprisonment or death.*

22 “(2) *As used in this section, the term, ‘State correc-*
23 *tional officer’ includes any officer or employee of any pris-*
24 *on, jail, or other detention facility, operated by, or under*
25 *contract to, either a State or local governmental agency,*

1 *whose job responsibilities include providing for the custody*
 2 *of incarcerated individuals.*

3 “(3) *The circumstance referred to in paragraph (1) of*
 4 *this subsection is that.—*

5 “(A) *the correctional officer is engaged in trans-*
 6 *porting the incarcerated person interstate; or*

7 “(B) *the incarcerated person is incarcerated*
 8 *pursuant to a conviction for an offense against the*
 9 *United States.”.*

10 (b) *CLERICAL AMENDMENT.—The table of sections at*
 11 *the beginning of chapter 51 of title 18, United States Code,*
 12 *is amended by adding at the end the following:*

“1121. Killing persons aiding Federal investigations or State correctional offi-
cers.”.

13 ***SEC. 9. PROHIBITION OF RETALIATORY KILLINGS OF WIT-***
 14 ***NESSES, VICTIMS AND INFORMANTS.***

15 *Section 1513 of title 18, United States Code, is*
 16 *amended—*

17 (1) *by redesignating subsections (a) and (b) as*
 18 *subsections (b) and (c), respectively; and*

19 (2) *by inserting after the section heading a new*
 20 *subsection (a) as follows:*

21 “(a)(1) *Whoever kills or attempts to kill another person*
 22 *with intent to retaliate against any person for—*

23 “(A) *the attendance of a witness or party at an*
 24 *official proceeding, or any testimony given or any*

1 *record, document, or other object produced by a wit-*
2 *ness in an official proceeding; or*

3 *“(B) any information relating to the commission*
4 *or possible commission of a Federal offense or a viola-*
5 *tion of conditions of probation, parole or release*
6 *pending judicial proceedings given by a person to a*
7 *law enforcement officer; shall be punished as provided*
8 *in paragraph (2).*

9 *“(2) The punishment for an offense under this sub-*
10 *section is—*

11 *“(A) in the case of a killing, the punishment pro-*
12 *vided in sections 1111 and 1112 of this title; and*

13 *“(B) in the case of an attempt, imprisonment for*
14 *not more than twenty years, a fine under this title,*
15 *or both.”.*

16 **SEC. 10. WEAPONS OF MASS DESTRUCTION.**

17 *(a) OFFENSE.—Chapter 113A of title 18, United*
18 *States Code, is amended by inserting after section 2332 the*
19 *following new section:*

20 **“§ 2332a. Use of weapons of mass destruction**

21 *“(a) Whoever uses, or attempts or conspires to use, a*
22 *weapon of mass destruction—*

23 *“(1) against a national of the United States*
24 *while such national is outside of the United States;*

1 “(2) against any person within the United
2 States; or

3 “(3) against any property that is owned, leased
4 or used by the United States or by any department
5 or agency of the United States, whether the property
6 is within or outside of the United States;

7 shall be imprisoned for any term of years or for life, and
8 if death results, shall be punished by death or imprisoned
9 for any term of years or for life.

10 “(b) For purposes of this section—

11 “(1) the term ‘national of the United States’ has
12 the meaning given in section 101(a)(22) of the Immi-
13 gration and Nationality Act (8 U.S.C. 1101(a)(22));
14 and

15 “(2) the term ‘weapon of mass destruction’
16 means—

17 “(A) any destructive device as defined in
18 section 921 of this title;

19 “(B) poison gas;

20 “(C) any weapon involving a disease orga-
21 nism; or

22 “(D) any weapon that is designed to release
23 radiation or radioactivity at a level dangerous to
24 human life.”.

1 (b) *CLERICAL AMENDMENT.*—The table of sections at
2 the beginning of chapter 113A of title 18, United States
3 Code, is amended by inserting after the item relating to
4 section 2332 the following:

“2332a. Use of weapons of mass destruction.”.

5 **SEC. 11. VIOLENCE AT AIRPORTS SERVING INTERNATIONAL**
6 **CIVIL AVIATION.**

7 (a) *OFFENSE.*—Chapter 2 of title 18, United States
8 Code, is amended by adding at the end the following:

9 **“§ 36. Violence at international airports**

10 “(a) Whoever unlawfully and intentionally, using any
11 device, substance or weapon—

12 “(1) performs an act of violence against a person
13 at an airport serving international civil aviation
14 which causes or is likely to cause serious bodily in-
15 jury (as defined in section 1365 of this title) or death;
16 or

17 “(2) destroys or seriously damages the facilities
18 of an airport serving international civil aviation or
19 a civil aircraft not in service located thereon or
20 disrupts the services of the airport;

21 if such an act endangers or is likely to endanger safety at
22 that airport, or attempts to do such an act, shall be fined
23 under this title or imprisoned not more than twenty years,
24 or both; and if the death of any person results from conduct

1 *prohibited by this subsection, shall be punished by death*
2 *or imprisoned for any term of years or for life.*

3 *“(b) There is jurisdiction over the prohibited activity*
4 *in subsection (a) if—*

5 *“(1) the prohibited activity takes place in the*
6 *United States; or*

7 *“(2) the prohibited activity takes place outside of*
8 *the United States and the offender is later found in*
9 *the United States.*

10 *“(c) It is a bar to Federal prosecution under subsection*
11 *(a) for conduct that occurred within the United States that*
12 *the conduct involved—*

13 *“(1) a domestic dispute solely affecting and be-*
14 *tween members of the same family or household or be-*
15 *tween social acquaintances; or*

16 *“(2) was during or in relation to a labor dis-*
17 *pute, and such conduct was prohibited as a felony*
18 *under the law of the State in which it was committed.*

19 *For purposes of this section, the term ‘labor dispute’ has*
20 *the meaning set forth in section 2(c) of the Norris-*
21 *LaGuardia Act (29 U.S.C. 113(c)).”.*

22 *(b) CLERICAL AMENDMENT.—The table of sections at*
23 *the beginning of chapter 2 of title 18, United States Code,*
24 *is amended by adding at the end the following:*

“36. Violence at international airports.”.

1 (c) *EFFECTIVE DATE.*—*This section shall take effect*
2 *on the later of—*

3 (1) *the date of the enactment of this Act; or*

4 (2) *the date the Protocol for the Suppression of*
5 *Unlawful Acts of Violence at Airports Serving Inter-*
6 *national Civil Aviation, Supplementary to the Con-*
7 *vention for the Suppression of Unlawful Acts Against*
8 *the Safety of Civil Aviation, done at Montreal on 23*
9 *September 1971, has come into force and the United*
10 *States has become a party to the Protocol.*

11 ***SEC. 12. OFFENSES OF VIOLENCE AGAINST MARITIME NAVI-***
12 ***GATION OR FIXED PLATFORMS.***

13 (a) *OFFENSES.*—*Chapter 111 of title 18, United States*
14 *Code, is amended by adding at the end the following:*

15 ***“§ 2280. Violence against maritime navigation***

16 “(a) *Whoever unlawfully and intentionally—*

17 “(1) *seizes or exercises control over a ship by*
18 *force or threat thereof or any other form of intimidat-*
19 *ion;*

20 “(2) *performs an act of violence against a person*
21 *on board a ship if that act is likely to endanger the*
22 *safe navigation of that ship;*

23 “(3) *destroys a ship or causes damage to a ship*
24 *or to its cargo which is likely to endanger the safe*
25 *navigation of that ship;*

1 “(4) places or causes to be placed on a ship, by
2 any means whatsoever, a device or substance which is
3 likely to destroy that ship, or cause damage to that
4 ship or its cargo which endangers or is likely to en-
5 danger the safe navigation of that ship;

6 “(5) destroys or seriously damages maritime
7 navigational facilities or seriously interferes with
8 their operation, if such act is likely to endanger the
9 safe navigation of a ship;

10 “(6) communicates information, knowing the in-
11 formation to be false and under circumstances in
12 which such information may reasonably be believed,
13 thereby endangering the safe navigation of a ship;

14 “(7) injures or kills any person in connection
15 with the commission or the attempted commission of
16 any of the offenses set forth in paragraphs (1) through
17 (6); or

18 “(8) attempts to do any act prohibited under
19 paragraphs (1) through (7);

20 shall be fined under this title or imprisoned not more than
21 twenty years, or both; and if the death of any person results,
22 from conduct prohibited by this subsection, shall be pun-
23 ished by death or imprisoned for any term of years or for
24 life.

1 “(b) Whoever threatens to do any act prohibited under
2 paragraph (2), (3) or (5) of subsection (a), with apparent
3 determination and will to carry the threat into execution,
4 if the threatened act is likely to endanger the safe naviga-
5 tion of the ship in question, shall be fined under this title
6 or imprisoned not more than five years, or both.

7 “(c) There is jurisdiction over the prohibited activity
8 in subsections (a) and (b)—

9 “(1) in the case of a covered ship, if—

10 “(A) such activity is committed—

11 “(i) against or on board a ship flying
12 the flag of the United States at the time the
13 prohibited activity is committed;

14 “(ii) in the United States and the ac-
15 tivity is not prohibited as a crime by the
16 State in which the activity takes place; or

17 “(iii) the activity takes place on a ship
18 flying the flag of a foreign country or out-
19 side the United States, by a national of the
20 United States or by a stateless person whose
21 habitual residence is in the United States;

22 “(B) during the commission of such activ-
23 ity, a national of the United States is seized,
24 threatened, injured or killed; or

1 “(C) the offender is later found in the Unit-
2 ed States after such activity is committed;

3 “(2) in the case of a ship navigating or sched-
4 uled to navigate solely within the territorial sea or
5 internal waters of a country other than the United
6 States, if the offender is later found in the United
7 States after such activity is committed; and

8 “(3) in the case of any vessel, if such activity is
9 committed in an attempt to compel the United States
10 to do or abstain from doing any act.

11 “(d) It is a bar to Federal prosecution under sub-
12 section (a) for conduct that occurred within the United
13 States that the conduct involved—

14 “(1) a domestic dispute solely affecting and be-
15 tween members of the same family or household or be-
16 tween social acquaintances; or

17 “(2) was during or in relation to a labor dis-
18 pute, and such conduct was prohibited as a felony
19 under the law of the State in which it was committed.

20 For purposes of this section, the term ‘labor dispute’ has
21 the meaning set forth in section 2(c) of the Norris-
22 LaGuardia Act (29 U.S.C. 113(c)).

23 “(e) The master of a covered ship flying the flag of
24 the United States who has reasonable grounds to believe that
25 there is on board that ship any person who has committed

1 *an offense under Article 3 of the Convention for the Sup-*
2 *pression of Unlawful Acts Against the Safety of Maritime*
3 *Navigation may deliver such person to the authorities of*
4 *a State Party to that Convention. Before delivering such*
5 *person to the authorities of another country, the master*
6 *shall notify in an appropriate manner the Attorney General*
7 *of the United States of the alleged offense and await instruc-*
8 *tions from the Attorney General as to what action to take.*
9 *When delivering the person to a country which is a State*
10 *Party to the Convention, the master shall, whenever prac-*
11 *ticable, and if possible before entering the territorial sea of*
12 *such country, notify the authorities of such country of the*
13 *master's intention to deliver such person and the reasons*
14 *therefor. If the master delivers such person, the master shall*
15 *furnish to the authorities of such country the evidence in*
16 *the master's possession that pertains to the alleged offense.*

17 “(f) As used in this section, the term—

18 “(1) the term ‘ship’ means a vessel of any type
19 whatsoever not permanently attached to the sea-bed,
20 including dynamically supported craft, submersibles
21 or any other floating craft; but such term does not in-
22 clude a warship, a ship owned or operated by a gov-
23 ernment when being used as a naval auxiliary or for
24 customs or police purposes, or a ship which has been
25 withdrawn from navigation or laid up;

1 “(2) the term ‘covered ship’ means a ship that is
2 navigating or is scheduled to navigate into, through
3 or from waters beyond the outer limit of the terri-
4 torial sea of a single country or a lateral limit of that
5 country’s territorial sea with an adjacent country;

6 “(3) the term ‘national of the United States’ has
7 the meaning given such term in section 101(a)(22) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1101(a)(22));

10 “(4) the term ‘territorial sea of the United
11 States’ means all waters extending seaward to 12
12 nautical miles from the baselines of the United States
13 determined in accordance with international law; and

14 “(5) the term ‘United States’, when used in a
15 geographical sense, includes the Commonwealth of
16 Puerto Rico, the Commonwealth of the Northern Mar-
17 ianas Islands and all territories and possessions of
18 the United States.

19 **“§ 2281. Violence against maritime fixed platforms**

20 “(a) Whoever unlawfully and intentionally—

21 “(1) seizes or exercises control over a fixed plat-
22 form by force or threat thereof or any other form of
23 intimidation;

1 “(2) performs an act of violence against a person
2 on board a fixed platform if that act is likely to en-
3 danger its safety;

4 “(3) destroys a fixed platform or causes damage
5 to it which is likely to endanger its safety;

6 “(4) places or causes to be placed on a fixed
7 platform, by any means whatsoever, a device or sub-
8 stance which is likely to destroy that fixed platform
9 or likely to endanger its safety;

10 “(5) injures or kills any person in connection
11 with the commission or the attempted commission of
12 any of the offenses set forth in paragraphs (1) through
13 (4); or

14 “(6) attempts to do anything prohibited under
15 paragraphs (1) through (5);

16 shall be fined under this title or imprisoned not more than
17 twenty years, or both; and if death results to any person
18 from conduct prohibited by this subsection, shall be pun-
19 ished by death or imprisoned for any term of years or for
20 life.

21 “(b) Whoever threatens to do anything prohibited
22 under paragraph (2) or (3) of subsection (a), with apparent
23 determination and will to carry the threat into execution,
24 if the threatened act is likely to endanger the safety of the

1 *fixed platform, shall be fined under this title or imprisoned*
2 *not more than five years, or both.*

3 “(c) *There is jurisdiction over the prohibited activity*
4 *in subsections (a) and (b) if—*

5 “(1) *such activity is committed against or on*
6 *board a fixed platform—*

7 “(A) *that is located on the continental shelf*
8 *of the United States;*

9 “(B) *that is located on the continental shelf*
10 *of another country, by a national of the United*
11 *States or by a stateless person whose habitual*
12 *residence is in the United States; or*

13 “(C) *in an attempt to compel the United*
14 *States to do or abstain from doing any act;*

15 “(2) *during the commission of such activity*
16 *against or on board a fixed platform located on a*
17 *continental shelf, a national of the United States is*
18 *seized, threatened, injured or killed; or*

19 “(3) *such activity is committed against or on*
20 *board a fixed platform located outside the United*
21 *States and beyond the continental shelf of the United*
22 *States and the offender is later found in the United*
23 *States.*

1 “(d) It is a bar to Federal prosecution under sub-
2 section (a) for conduct that occurred within the United
3 States that the conduct involved—

4 “(1) a domestic dispute solely affecting and be-
5 tween members of the same family or household or be-
6 tween social acquaintances; or

7 “(2) was during or in relation to a labor dis-
8 pute, and such conduct was prohibited as a felony
9 under the law of the State in which it was committed.
10 For purposes of this section, the term ‘labor dispute’ has
11 the meaning set forth in section 2(c) of the Norris-
12 LaGuardia Act (29 U.S.C. 113(c)).

13 “(e) As used in this section, the term—

14 “(1) ‘continental shelf’ means the sea-bed and
15 subsoil of the submarine areas that extend beyond a
16 country’s territorial sea to the limits provided by cus-
17 tomary international law as reflected in Article 76 of
18 the 1982 Convention on the Law of the Sea;

19 “(2) ‘fixed platform’ means an artificial island,
20 installation or structure permanently attached to the
21 sea-bed for the purpose of exploration or exploitation
22 of resources or for other economic purposes;

23 “(3) ‘national of the United States’ has the
24 meaning given such term in section 101(a)(22) of the

1 *Immigration and Nationality Act (8 U.S.C.*
2 *1101(a)(22));*

3 “(4) ‘territorial sea of the United States’ means
4 *all waters extending seaward to 12 nautical miles*
5 *from the baselines of the United States determined in*
6 *accordance with international law; and*

7 “(5) ‘United States’, when used in a geographi-
8 *cal sense, includes the Commonwealth of Puerto Rico,*
9 *the Commonwealth of the Northern Marianas Islands*
10 *and all territories and possessions of the United*
11 *States.”.*

12 (b) *CLERICAL AMENDMENTS.—The table of sections at*
13 *the beginning of chapter 111 of title 18, United States Code,*
14 *is amended by adding at the end thereof the following:*

“2280. Violence against maritime navigation.
“2281. Violence against maritime fixed platforms.”.

15 (c) *EFFECTIVE DATES.—This section and the amend-*
16 *ments made by this section shall take effect on the later of—*

17 (1) *the date of the enactment of this Act; or*

18 (2)(A) *in the case of section 2280 of title 18,*
19 *United States Code, the date the Convention for the*
20 *Suppression of Unlawful Acts Against the Safety of*
21 *Maritime Navigation has come into force and the*
22 *United States has become a party to that Convention;*
23 *and*

1 (B) in the case of section 2281 of title 18, United
 2 States Code, the date the Protocol for the Suppression
 3 of Unlawful Acts Against the Safety of Fixed Plat-
 4 forms Located on the Continental Shelf has come into
 5 force and the United States has become a party to
 6 that Protocol.

7 **SEC. 13. TORTURE.**

8 (a) *IN GENERAL.*—Part I of title 18, United States
 9 Code, is amended by inserting after chapter 113A the fol-
 10 lowing new chapter:

11 **“CHAPTER 113B—TORTURE**

 “Sec.
 2340. Definitions.
 2340A. Torture.
 2340B. Exclusive remedies.

12 **“§ 2340. Definitions**

13 “As used in this chapter—

14 “(1) the term ‘torture’ means an act committed
 15 by a person acting under the color of law specifically
 16 intended to inflict severe physical or mental pain or
 17 suffering (other than pain or suffering incidental to
 18 lawful sanctions) upon another person within his cus-
 19 tody or physical control;

20 “(2) the term ‘severe mental pain or suffering’
 21 means the prolonged mental harm caused by or re-
 22 sulting from (A) the intentional infliction or threat-
 23 ened infliction of severe physical pain or suffering;

1 *(B) the administration or application, or threatened*
2 *administration or application, of mind altering sub-*
3 *stances or other procedures calculated to disrupt pro-*
4 *foundly the senses or the personality; (C) the threat*
5 *of imminent death; or (D) the threat that another*
6 *person will imminently be subjected to death, severe*
7 *physical pain or suffering, or the administration or*
8 *application of mind altering substances or other pro-*
9 *cedures calculated to disrupt profoundly the senses or*
10 *personality;*

11 *“(3) the term ‘United States’ includes all areas*
12 *under the jurisdiction of the United States including*
13 *any of the places within the provisions of sections 5*
14 *and 7 of this title and section 101(38) of the Federal*
15 *Aviation Act of 1958, as amended (49 U.S.C. App.*
16 *1301(38)).*

17 **“§ 2340A. Torture**

18 *“(a) Whoever, outside the United States and in a cir-*
19 *cumstance described in subsection (b) of this section, com-*
20 *mits or attempts to commit torture—*

21 *“(1) shall be fined under this title or imprisoned*
22 *not more than twenty years, or both; and*

23 *“(2) if death results to any person from conduct*
24 *prohibited by this subsection, shall be punished by*
25 *death or imprisoned for any term of years or for life.*

1 “(b) The circumstance referred to in subsection (a) of
2 this section is if—

3 “(1) the alleged offender is a national of the
4 United States; or

5 “(2) the alleged offender is present in the United
6 States, irrespective of the nationality of the victim or
7 the alleged offender.

8 **“§ 2340B. Exclusive remedies**

9 “Nothing in this chapter shall be construed as preclud-
10 ing the application of State or local laws on the same sub-
11 ject, nor shall anything in this chapter be construed as cre-
12 ating any substantive or procedural right enforceable by
13 law by any party in any civil proceeding.”

14 (b) CLERICAL AMENDMENT.—The table of chapters for
15 part I of title 18, United States Code, is amended by insert-
16 ing after the item for chapter 113A the following new item:

“113B. Torture 2340”.

17 (c) EFFECTIVE DATE.—This section shall take effect
18 on the later of—

19 (1) the date of enactment of this section; or

20 (2) the date the United States has become a
21 party to the Convention Against Torture and Other
22 Cruel, Inhuman or Degrading Treatment or
23 Punishment.

1 **SEC. 14. APPLICABILITY TO UNIFORM CODE OF MILITARY**

2 **JUSTICE.**

3 *The provisions of chapter 228 of title 18, United States*
4 *Code, as added by (), shall not apply to prosecutions*
5 *under the Uniform Code of Military Justice (10 U.S.C.*
6 *801).*

7 **SEC. 15. PROTECTION OF JURORS AND WITNESSES IN CAP-**

8 **ITAL CASES.**

9 *Section 3432 of title 18, United States Code, is amend-*
10 *ed by inserting before the period the following: “, except that*
11 *such list of the veniremen and witnesses need not be fur-*
12 *nished if the court finds by a preponderance of the evidence*
13 *that providing the list may jeopardize the life or safety of*
14 *any person”.*

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