

Calendar No. 84112TH 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, Mr. FRANKEN, Mr. WHITEHOUSE, and Mr. DURBIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

JUNE 23, 2011

Reported by Mr. LEAHY, with an amendment

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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Civilian
3 Extraterritorial Jurisdiction Act (CEJA) of 2011”.

4 **SEC. 2. CLARIFICATION AND EXPANSION OF FEDERAL JU-**
5 **RISDICTION OVER FEDERAL CONTRACTORS**
6 **AND EMPLOYEES.**

7 (a) **EXTRATERRITORIAL JURISDICTION OVER FED-**
8 **ERAL CONTRACTORS AND EMPLOYEES.—**

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

11 (A) by transferring the text of section
12 ~~3272~~ to the end of section ~~3271~~, redesignating
13 such text as subsection (e) of section ~~3271~~, and,
14 in such text, as so redesignated, by striking
15 “this chapter” and inserting “this section”;

16 (B) by striking the heading of section
17 ~~3272~~; and

18 (C) by adding after section ~~3271~~, as
19 amended by this paragraph, the following new
20 sections:

21 **“§ 3272. Offenses committed by Federal contractors**
22 **and employees outside the United States**

23 “(a) Whoever, while employed by or accompanying
24 any department or agency of the United States other than
25 the Department of Defense, knowingly engages in conduct
26 (or conspires or attempts to engage in conduct) outside

1 the United States that would constitute an offense enu-
2 merated in subsection (e) had the conduct been engaged
3 in within the United States or within the special maritime
4 and territorial jurisdiction of the United States shall be
5 punished as provided for that offense.

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

14 “(c) The offenses covered by subsection (a) are the
15 following:

16 “(1) Any offense under chapter 5 (arson) of
17 this title.

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

1 ~~“(3) Any offense under section 201 (bribery of~~
2 ~~public officials and witnesses) of this title.~~

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

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

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

14 ~~“(7) Any offense under chapter 42 (extortionate~~
15 ~~credit transactions) of this title.~~

16 ~~“(8) Any offense under section 924(c) (use of~~
17 ~~firearm in violent or drug trafficking crime) or~~
18 ~~924(o) (conspiracy to violate section 924(c)) of this~~
19 ~~title.~~

20 ~~“(9) Any offense under chapter 50A (genocide)~~
21 ~~of this title.~~

22 ~~“(10) Any offense under section 1111 (murder),~~
23 ~~1112 (manslaughter), 1113 (attempt to commit~~
24 ~~murder or manslaughter), 1114 (protection of offi-~~
25 ~~cers and employees of the United States), 1116~~

1 (murder or manslaughter of foreign officials, official
2 guests, or internationally protected persons), 1117
3 (conspiracy to commit murder), or 1119 (foreign
4 murder of United States nationals) of this title.

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

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

15 “(13) Any offense under section 1951 (inter-
16 ference with commerce by threats or violence), 1952
17 (interstate and foreign travel or transportation in
18 aid of racketeering enterprises), 1956 (laundering of
19 monetary instruments), 1957 (engaging in monetary
20 transactions in property derived from specified un-
21 lawful activity), 1958 (use of interstate commerce
22 facilities in the commission of murder for hire), or
23 1959 (violent crimes in aid of racketeering activity)
24 of this title.

1 “(14) Any offense under section 2111 (robbery
2 or burglary within special maritime and territorial
3 jurisdiction) of this title.

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

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

8 “(17) Any offense under chapter 113C (torture)
9 of this title.

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

12 “(19) Any offense under section 2442 (child
13 soldiers) of this title.

14 “(20) Any offense under section 401 (manufac-
15 ture, distribution, or possession with intent to dis-
16 tribute a controlled substance) or 408 (continuing
17 criminal enterprise) of the Controlled Substances
18 Act (21 U.S.C. 841, 848), or under section 1002
19 (importation of controlled substances), 1003 (expor-
20 tation of controlled substances), or 1010 (import or
21 export of a controlled substance) of the Controlled
22 Substances Import and Export Act (21 U.S.C. 952,
23 953, 960), but only if the offense is subject to a
24 maximum sentence of imprisonment of 20 years or
25 more.

1 “(d) In this section:

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

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

15 “(B) present or residing outside the
16 United States in connection with such employ-
17 ment;

18 “(C) in the case of such a contractor, con-
19 tractor employee, grantee, or grantee employee,
20 such employment supports a program, project,
21 or activity for a department or agency of the
22 United States; and

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

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

4 “(A) a dependant, family member, or
5 member of household of—

6 “(i) a civilian employee of any depart-
7 ment or agency of the United States other
8 than the Department of Defense; or

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

24 “(B) residing with such civilian employee,
25 contractor, contractor employee, grantee, or

1 grantee employee outside the United States;
2 and

3 ~~“(C) not a national of or ordinarily resi-~~
4 ~~dent in the host nation.~~

5 ~~“(3) The term ‘grant agreement’ means a legal~~
6 ~~instrument described in section 6304 or 6305 of title~~
7 ~~31, other than an agreement between the United~~
8 ~~States and a State, local, or foreign government or~~
9 ~~an international organization.~~

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

12 ~~“(5) The term ‘host nation’ means the country~~
13 ~~outside of the United States where the employee or~~
14 ~~contractor resides, the country where the employee~~
15 ~~or contractor commits the alleged offense at issue,~~
16 ~~or both.~~

17 **“§ 3273. Regulations**

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

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

4 “(A) employed as a civilian employee, a
5 contractor (including a subcontractor at any
6 tier), or an employee of a contractor (or a sub-
7 contractor at any tier) of the Department of
8 Defense (including a nonappropriated fund in-
9 strumentality of the Department);”.

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

12 **“§ 3245. Optional venue for offenses involving Fed-
13 eral employees and contractors overseas**

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

17 “(1) in the district in which is headquartered
18 the department or agency of the United States that
19 employs the offender, or any one of two or more
20 joint offenders, or

21 “(2) in the district in which is headquartered
22 the department or agency of the United States that
23 the offender is accompanying, or that any one of two
24 or more joint offenders is accompanying.”.

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

4 **“§ 3287A. Suspension of limitations for offenses in-**
 5 **volving Federal employees and contrac-**
 6 **tors overseas**

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

13 (d) CLERICAL AMENDMENTS.—

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

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

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

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

1 (B) The table of sections at the beginning of
2 chapter 212A of such title is amended by striking
3 the item relating to section 3272 and inserting the
4 following new items:

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

“3273. Regulations.”.

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

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

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

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

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

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

18 (1) IN GENERAL.—The Attorney General, in
19 consultation with the Secretary of Defense, the Sec-
20 retary of State, the Secretary of Homeland Security,
21 and the heads of any other departments or agencies

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

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

15 (b) RESPONSIBILITIES OF ATTORNEY GENERAL.—

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

22 (2) LAW ENFORCEMENT AUTHORITY.—With re-
23 spect to violations of sections 3271 and 3272 of title
24 18, United States Code (as so amended), the Attor-
25 ney General may authorize any person serving in a

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

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

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

1 ed). The assistance requested may include the fol-
2 lowing:

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

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

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

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

23 (B) The actions taken to implement sub-
24 section (a)(1), including the organization and

1 training of personnel and the use of task forces,
 2 during the previous year.

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

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

11 **SEC. 4. EFFECTIVE DATE.**

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

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

20 **SEC. 5. RULES OF CONSTRUCTION.**

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

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

1 (2) to limit or affect any authority or responsi-
2 bility of a Chief of Mission as provided in section
3 207 of the Foreign Service Act of 1980 (22 U.S.C.
4 3927).

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

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

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

18 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

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

22 **SECTION 1. SHORT TITLE.**

23 *This Act may be cited as the “Civilian Extraterritorial*
24 *Jurisdiction Act of 2011” or the “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 3272*
 9 *to the end of section 3271, redesignating such*
 10 *text as subsection (c) of section 3271, and, in*
 11 *such text, as so redesignated, by striking “this*
 12 *chapter” and inserting “this section”;*

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

15 (C) *by adding after section 3271, as amend-*
 16 *ed by this paragraph, the following new sections:*

17 **“§3272. Offenses committed by Federal contractors**
 18 **and employees outside the United States**

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

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

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

11 “(c) *The offenses covered by subsection (a) are the fol-*
12 *lowing:*

13 “(1) *Any offense under chapter 5 (arson) of this*
14 *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 offense*
20 *is subject to a maximum sentence of imprisonment of*
21 *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), 702
3 (uniform of armed forces and Public Health Service),
4 703 (uniform of friendly nation), or 704 (military
5 medals or decorations) of this title.

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

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

1 “(11) Any offense under chapter 55 (kidnapping)
2 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, agen-
6 cies, and committees), 1510 (obstruction of criminal
7 investigations), 1512 (tampering with a witness, vic-
8 tim, or informant), or 1513 (retaliating against a
9 witness, victim, or an informant) of this title.

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

20 “(14) Any offense under section 2111 (robbery or
21 burglary within special maritime and territorial ju-
22 risdiction) of this title.

23 “(15) Any offense under chapter 109A (sexual
24 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, se-*
6 *dition, and subversive activities) of this title.*

7 “(19) *Any offense under section 2442 (child sol-*
8 *diers) 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 Act*
13 *(21 U.S.C. 841, 848), or under section 1002 (importa-*
14 *tion of controlled substances), 1003 (exportation of*
15 *controlled substances), or 1010 (import or export of a*
16 *controlled substance) of the Controlled Substances Im-*
17 *port and Export Act (21 U.S.C. 952, 953, 960), but*
18 *only if the offense is subject to a maximum sentence*
19 *of imprisonment of 20 years or more.*

20 “(d) *In this section:*

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

24 “(A) *employed as a civilian employee, a*
25 *contractor (including a subcontractor at any*

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

9 *“(B) present or residing outside the United*
10 *States in connection with such employment;*

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

16 *“(D) not a national of or ordinarily resi-*
17 *dent in the host nation.*

18 *“(2) The term ‘accompanying any department or*
19 *agency of the United States other than the Depart-*
20 *ment of Defense’ means—*

21 *“(A) a dependant, family member, or mem-*
22 *ber of household of—*

23 *“(i) a civilian employee of any depart-*
24 *ment or agency of the United States other*
25 *than the Department of Defense; or*

1 “(ii) a contractor (including a subcon-
2 tractor at any tier), an employee of a con-
3 tractor (or a subcontractor at any tier), a
4 grantee (including a contractor of a grantee
5 or a subgrantee or subcontractor at any
6 tier), or an employee of a grantee (or a con-
7 tractor of a grantee or a subgrantee or sub-
8 contractor at any tier) of any department
9 or agency of the United States other than
10 the Department of Defense, which con-
11 tractor, contractor employee, grantee, or
12 grantee employee is supporting a program,
13 project, or activity for a department or
14 agency of the United States other than the
15 Department of Defense;

16 “(B) residing with such civilian employee,
17 contractor, contractor employee, grantee, or
18 grantee employee outside the United States; and

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

21 “(3) The term ‘grant agreement’ means a legal
22 instrument described in section 6304 or 6305 of title
23 31, other than an agreement between the United
24 States and a State, local, or foreign government or an
25 international organization.

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

3 “(5) The term ‘host nation’ means the country
4 outside of the United States where the employee or
5 contractor resides, the country where the employee or
6 contractor commits the alleged offense at issue, or
7 both.

8 **“§ 3273. Regulations**

9 “The Attorney General, after consultation with the
10 Secretary of Defense, the Secretary of State, and the Direc-
11 tor of National Intelligence, shall prescribe regulations gov-
12 erning the investigation, apprehension, detention, delivery,
13 and removal of persons described in sections 3271 and 3272
14 of this title.”.

15 (2) CONFORMING AMENDMENT.—Subparagraph
16 (A) of section 3267(1) of such title is amended to read
17 as follows:

18 “(A) employed as a civilian employee, a
19 contractor (including a subcontractor at any
20 tier), or an employee of a contractor (or a sub-
21 contractor at any tier) of the Department of De-
22 fense (including a nonappropriated fund instru-
23 mentality of the Department);”.

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

1 **“§ 3245. Optional venue for offenses involving Federal**
 2 **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 sec-*
 5 *tion 3261, 3271, or 3272 of this title may be brought—*

6 *“(1) in the district in which is headquartered the*
 7 *department or agency of the United States that em-*
 8 *ployes the offender, or any one of two or more joint of-*
 9 *fenders, or*

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

14 *(c) SUSPENSION OF STATUTE OF LIMITATIONS.—*
 15 *Chapter 213 of such title is amended by inserting after sec-*
 16 *tion 3287 the following new section:*

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

20 *“The time during which a person who has committed*
 21 *an offense constituting a violation of section 3272 of this*
 22 *title is outside the United States, or is a fugitive from jus-*
 23 *tice within the meaning of section 3290 of this title, shall*
 24 *not be taken as any part of the time limited by law for*
 25 *commencement of prosecution of the offense.”.*

26 *(d) CLERICAL AMENDMENTS.—*

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

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 sec-*
 9 *tions at the beginning of chapter 211 of such title is*
 10 *amended by adding at the end the following new item:*

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

11 (B) *The table of sections at the beginning of*
 12 *chapter 212A of such title is amended by striking the*
 13 *item relating to section 3272 and inserting the fol-*
 14 *lowing new items:*

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

 “3273. *Regulations.*”.

15 (C) *The table of sections at the beginning of*
 16 *chapter 213 of such title is amended by inserting after*
 17 *the item relating to section 3287 the following new*
 18 *item:*

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

19 (3) *TABLE OF CHAPTERS.*—*The item relating to*
 20 *chapter 212A in the table of chapters at the beginning*
 21 *of part II of such title is amended to read as follows:*

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

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

3 *(a) ESTABLISHMENT OF INVESTIGATIVE TASK FORCES*
 4 *FOR CONTRACTOR AND EMPLOYEE OVERSIGHT.—*

5 *(1) IN GENERAL.—The Attorney General, in con-*
 6 *sultation with the Secretary of Defense, the Secretary*
 7 *of State, the Secretary of Homeland Security, and the*
 8 *heads of any other departments or agencies of the*
 9 *Federal Government responsible for employing con-*
 10 *tractors or persons overseas shall assign adequate per-*
 11 *sonnel and resources, including through the creation*
 12 *of task forces, to investigate allegations of criminal of-*
 13 *fenses under chapter 212A of title 18, United States*
 14 *Code (as amended by section 2(a) of this Act), and*
 15 *may authorize the overseas deployment of law enforce-*
 16 *ment agents and other government personnel for that*
 17 *purpose.*

18 *(2) RULE OF CONSTRUCTION.—Nothing in this*
 19 *subsection shall be construed to limit any authority*
 20 *of the Attorney General or any Federal law enforce-*
 21 *ment agency to investigate violations of Federal law*
 22 *or deploy personnel overseas.*

23 *(b) RESPONSIBILITIES OF ATTORNEY GENERAL.—*

1 (1) *INVESTIGATION.*—*The Attorney General shall*
2 *have principal authority for the enforcement of chap-*
3 *ter 212A of title 18, United States Code (as so amend-*
4 *ed), and shall have the authority to initiate, conduct,*
5 *and supervise investigations of any alleged offenses*
6 *under such chapter.*

7 (2) *LAW ENFORCEMENT AUTHORITY.*—*With re-*
8 *spect to violations of sections 3271 and 3272 of title*
9 *18, United States Code (as so amended), the Attorney*
10 *General may authorize any person serving in a law*
11 *enforcement position in any other department or*
12 *agency of the Federal Government, including a mem-*
13 *ber of the Diplomatic Security Service of the Depart-*
14 *ment of State or a military police officer of the*
15 *Armed Forces, to exercise investigative and law en-*
16 *forcement authority, including those powers that may*
17 *be exercised under section 3052 of title 18, United*
18 *States Code, subject to such guidelines or policies as*
19 *the Attorney General considers appropriate for the ex-*
20 *ercise of such powers.*

21 (3) *PROSECUTION.*—*The Attorney General may*
22 *establish such procedures the Attorney General con-*
23 *siders appropriate to ensure that Federal law enforce-*
24 *ment agencies refer offenses under section 3271 or*
25 *3272 of title 18, United States Code (as so amended),*

1 to the Attorney General for prosecution in a uniform
2 and timely manner.

3 (4) ASSISTANCE ON REQUEST OF ATTORNEY GEN-
4 ERAL.—Notwithstanding any statute, rule, or regula-
5 tion to the contrary, the Attorney General may re-
6 quest assistance from the Secretary of Defense, the
7 Secretary of State, or the head of any other Executive
8 agency to enforce section 3271 or 3272 of title 18,
9 United States Code (as so amended). The assistance
10 requested may include the following:

11 (A) The assignment of additional personnel
12 and resources to task forces established by the At-
13 torney General under subsection (a).

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

20 (5) ANNUAL REPORT.—Not later than one year
21 after the date of the enactment of this Act, and annu-
22 ally thereafter for five years, the Attorney General
23 shall, in consultation with the Secretary of Defense
24 and the Secretary of State, submit to Congress a re-
25 port containing the following:

1 (A) *The number of prosecutions under chap-*
2 *ter 212A of title 18, United States Code (as so*
3 *amended), including the nature of the offenses*
4 *and any dispositions reached, during the pre-*
5 *vious year.*

6 (B) *The actions taken to implement sub-*
7 *section (a)(1), including the organization and*
8 *training of personnel and the use of task forces,*
9 *during the previous year.*

10 (C) *Such recommendations for legislative or*
11 *administrative action as the President considers*
12 *appropriate to enforce chapter 212A of title 18,*
13 *United States Code (as so amended), and the*
14 *provisions of this section.*

15 (c) *EXECUTIVE AGENCY.—In this section, the term*
16 *“Executive agency” has the meaning given that term in sec-*
17 *tion 105 of title 5, United States Code.*

18 **SEC. 4. EFFECTIVE DATE.**

19 (a) *IMMEDIATE EFFECTIVENESS.—This Act and the*
20 *amendments made by this Act shall take effect on the date*
21 *of the enactment of this Act.*

22 (b) *IMPLEMENTATION.—The Attorney General and the*
23 *head of any other department or agency of the Federal Gov-*
24 *ernment to which this Act applies shall have 90 days after*

1 *the date of the enactment of this Act to ensure compliance*
2 *with the provisions of this Act.*

3 **SEC. 5. RULES OF CONSTRUCTION.**

4 *(a) IN GENERAL.—Nothing in this Act or any amend-*
5 *ment made by this Act shall be construed—*

6 *(1) to limit or affect the application of*
7 *extraterritorial jurisdiction related to any other Fed-*
8 *eral law; or*

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

12 *(b) INTELLIGENCE ACTIVITIES.—Nothing in this Act*
13 *or any amendment made by this Act shall be construed—*

14 *(1) to apply to authorized intelligence activities*
15 *that are—*

16 *(A) carried out by an employee of, or by*
17 *another person on behalf of, any element of the*
18 *intelligence community (as that term is defined*
19 *in section 3(4) of the National Security Act of*
20 *1947 (50 U.S.C. 401a(4)); and*

21 *(B) authorized in a manner consistent with*
22 *applicable United States law; or*

23 *(2) to provide immunity or an affirmative de-*
24 *fense to an individual employed by or working on be-*
25 *half of an element of the intelligence community for*

1 *actions that are not an authorized intelligence activ-*
2 *ity described in paragraph (1).*

3 **SEC. 6. FUNDING.**

4 *If any amounts are appropriated to carry out this Act,*
5 *the amounts shall be from amounts which would have other-*
6 *wise been made available or appropriated to the Depart-*
7 *ment of Justice.*

Calendar No. 84

112TH CONGRESS
1ST Session

S. 1145

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.

JUNE 23, 2011

Reported with an amendment