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H. R. 1392

IN THE SENATE OF THE UNITED STATES

APRIL 22, 2021

Received; read twice and referred to the Committee on Foreign Relations

AN ACT

To protect Saudi dissidents in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Protection of Saudi Dissidents Act of 2021''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Jamal Khashoggi, a United States resident, Saudi journalist, and Washington Post columnist, was killed and dismembered in the Saudi consulate in Istanbul, Turkey on October 2, 2018.

(2) At the time of his murder, Khashoggi was living in Virginia under an ''O'' visa and was in the process of applying for a permanent residency.

(3) A report by the Office of the Director of National Intelligence (ODNI) found that Saudi Arabia's Crown Prince Muhammad bin Salman approved an operation in Istanbul, Turkey to capture or kill Khashoggi.

(4) The assessment of the ODNI was based on ''the Crown Prince's control of decisionmaking in the Kingdom, the direct involvement of a key adviser and members of Muhammad bin Salman's protective detail in the operation, and the Crown Prince's support for using violent measures to silence dissidents abroad''.

(5) The report also reiterates that ''the Crown Prince has had absolute control of the Kingdom's security and intelligence organizations'' since 2017.

SEC. 3. RESTRICTIONS ON TRANSFERS OF DEFENSE ARTICLES AND SERVICES, DESIGN AND CONSTRUCTION SERVICES, AND MAJOR DEFENSE EQUIPMENT TO SAUDI ARABIA.

(a) INITIAL PERIOD.—During the 120-day period beginning on the date of the enactment of this Act, the President may not sell, authorize a license for the export of, or otherwise transfer any defense articles or defense services, design and construction services, or major defense equipment under the Arms Export Control Act (22 U.S.C. 2751 et seq.) to an intelligence, internal security, or law enforcement agency or instrumentality of the Government of Saudi Arabia, or to any person acting as an agent of or on behalf of such agency or instrumentality.

(b) SUBSEQUENT PERIODS.—

(1) IN GENERAL.—During the 120-day period beginning after the end of the 120-day period described in subsection (a), and each 120-day period thereafter, the President may not sell, authorize a license for the export of, or otherwise transfer any defense articles or services, design and construction services, or major defense equipment under the

Arms Export Control Act (22 U.S.C. 2751 et seq.), regardless of the amount of such articles, services, or equipment, to an intelligence, internal security, or law enforcement agency or instrumentality of the Government of Saudi Arabia, or to any person acting as an agent of or on behalf of such agency or instrumentality, unless the President has submitted to the chairman and ranking member of the appropriate congressional committees a certification described in paragraph (2).

(2) CERTIFICATION.—A certification described in this paragraph is a certification that contains a determination of the President that, during the 120-day period preceding the date of submission of the certification, the United States Government has not determined that the Government of Saudi Arabia has conducted any of the following activities:

(A) Forced repatriation, intimidation, or killing of dissidents in other countries.

(B) The unjust imprisonment in Saudi Arabia of United States citizens or aliens lawfully admitted for permanent residence or the prohibition on these individuals and their family members from exiting Saudi Arabia.

(C) Torture of detainees in the custody of the Government of Saudi Arabia.

(c) EXCEPTION.—The restrictions in this section shall not apply with respect to the sale, authorization of a license for export, or transfer of any defense articles or services, design and construction services, or major defense equipment under the Arms Export Control Act (22 U.S.C. 2751 et seq.) for use in—

(1) the defense of the territory of Saudi Arabia from external threats; or

(2) the defense of United States military or diplomatic personnel or United States facilities located in Saudi Arabia.

(d) WAIVER.—

(1) IN GENERAL.—The President may waive the restrictions in this section if the President submits to the appropriate congressional committees a report not later than 15 days before the granting of such waiver that contains—

(A) a determination of the President that such a waiver is in the vital national security interests of the United States; and

(B) a detailed justification for the use of such waiver and the reasons why the restrictions in this section cannot be met.

(2) FORM.—The report required by this subsection shall be submitted in unclassified form, but may contain a classified annex.

(e) SUNSET.—This section shall terminate on the date that is 3 years after the date of the enactment of this Act.

(f) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Foreign Affairs, the Permanent Select Committee on Intelligence, and the Committee on Armed Services of the House of Representatives; and

(2) the Committee on Foreign Relations, the Select Committee on Intelligence, and the Committee on Armed Services of the Senate.

SEC. 4. REPORT ON CONSISTENT PATTERN OF ACTS OF INTIMIDATION OR HARASSMENT DIRECTED AGAINST INDIVIDUALS IN THE UNITED STATES.

(a) FINDINGS.—Congress finds the following:

(1) Section 6 of the Arms Export Control Act (22 U.S.C. 2756) states that ''no transfers or letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued

under this Act with respect to any country determined by the President to be engaged in a consistent pattern of acts of intimidation or harassment directed against individuals in the United States''.

(2) Section 6 of the Arms Export Control Act further requires the President to report any such determination promptly to the Speaker of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, and to the chairman of the Committee on Foreign Relations of the Senate.

(b) REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report on—

(1) whether any official of the Government of Saudi Arabia engaged in a consistent pattern of acts of intimidation or harassment directed against Jamal Khashoggi or any individual in the United States; and

(2) whether any United States-origin defense articles were used in the activities described in paragraph (1).

(c) FORM.—The report required by subsection (b) shall be submitted in unclassified form but may contain a classified annex.

(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ''appropriate congressional committees'' means—

(1) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives; and

(2) the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

SEC. 5. REPORT AND CERTIFICATION WITH RESPECT TO SAUDI DIPLOMATS AND DIPLOMATIC FACILITIES IN THE UNITED STATES.

(a) REPORT.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to the appropriate congressional committees a report covering the three-year period preceding such date of enactment regarding whether and to what extent covered persons used diplomatic credentials, visas, or covered facilities to facilitate monitoring, tracking, surveillance, or harassment of, or harm to, other nationals of Saudi Arabia living in the United States.

(b) CERTIFICATION.—

(1) IN GENERAL.—Not later than 120 days after the date of the enactment of this Act, and each 120-day period thereafter, the President shall, if the President determines that such is the case, submit

to the appropriate congressional committees a certification that the United States Government has not determined covered persons to be using diplomatic credentials, visas, or covered facilities to facilitate serious harassment of, or harm to, other nationals of Saudi Arabia living in the United States during the time period covered by each such certification.

(2) FAILURE TO SUBMIT CERTIFICATION.—If the President does not submit a certification under paragraph (1), the President shall—

(A) close one or more covered facilities for such period of time until the President does submit such a certification; and

(B) submit to the appropriate congressional committee a report that contains—

(i) a detailed explanation of why the President is unable to make such a certification;

(ii) a list and summary of engagements of the United States Government with the Government of Saudi Arabia regarding the use of diplomatic credentials, visas, or covered facilities described in paragraph (1); and

(iii) a description of actions the United States Government has taken or intends to take in response to the use of diplomatic credentials, visas, or covered facilities described in paragraph (1).

(c) FORM.—The report required by subsection (a) and the certification and report required by subsection (b) shall be submitted in unclassified form but may contain a classified annex.

(d) WAIVER.—

(1) IN GENERAL.—The President may waive the restrictions in this section if the President submits to the appropriate congressional committees a report not later than 15 days before the granting of such waiver that contains—

(A) a determination of the President that such a waiver is in the vital national security interests of the United States; and

(B) a detailed justification for the use of such waiver and the reasons why the restrictions in this section cannot be met.

(2) FORM.—The report required by this subsection shall be submitted in unclassified form, but may contain a classified annex.

(e) SUNSET.—This section shall terminate on the date that is 3 years after the date of the enactment of this Act.

(f) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

(2) COVERED FACILITY.—The term ''covered facility'' means a diplomatic or consular facility of Saudi Arabia in the United States.

(3) COVERED PERSON.—The term ''covered person'' means a national of Saudi Arabia credentialed to a covered facility.

SEC. 6. REPORT ON THE DUTY TO WARN OBLIGATION OF THE GOVERNMENT OF THE UNITED STATES.

(a) FINDINGS.—Congress finds that Intelligence Community Directive 191 provides that—

(1) when an element of the intelligence community of the United States collects or acquires credible

and specific information indicating an impending threat of intentional killing, serious bodily injury, or kidnapping directed at a person, the agency must ''warn the intended victim or those responsible for protecting the intended victim, as appropriate'' unless an applicable waiver of the duty is granted by the appropriate official within the element; and

(2) when issues arise with respect to whether the threat information rises to the threshold of ''duty to warn'', the directive calls for resolution in favor of warning the intended victim.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Director of National Intelligence, in coordination with the heads of other relevant United States intelligence agencies, shall submit to the appropriate congressional committees a report with respect to—

(1) whether and how the intelligence community fulfilled its duty to warn Jamal Khashoggi of threats to his life and liberty pursuant to Intelligence Community Directive 191; and

(2) in the case of the intelligence community not fulfilling its duty to warn as described in paragraph (1), why the intelligence community did not fulfill this duty.

(c) FORM.—The report required by subsection (b) shall be submitted in unclassified form but may contain a classified annex.

(d) DEFINITIONS.—In this section:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ''appropriate congressional committees'' means—

(A) the Committee on Foreign Affairs and the Permanent Select Committee on Intelligence of the House of Representatives; and

(B) the Committee on Foreign Relations and the Select Committee on Intelligence of the Senate.

(2) DUTY TO WARN.—The term ''duty to warn'' has the meaning given that term in Intelligence Community Directive 191, as in effect on July 21, 2015.

(3) INTELLIGENCE COMMUNITY.—The term ''intelligence community'' has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 3003(4)).

(4) RELEVANT UNITED STATES INTELLIGENCE AGENCY.—The term ''relevant United States intelligence agency'' means any element of the intelligence community that may have possessed intel-

ligence reporting regarding threats to Jamal Khashoggi.

SEC. 7. DETERMINATION OF BUDGETARY EFFECTS.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

Passed the House of Representatives April 21, 2021.

Attest: CHERYL L. JOHNSON,

Clerk.