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2D SESSION

S. 5340

To provide the United States Government with additional tools to deter state and non-state actors from wrongfully detaining United States nationals for political leverage, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 18, 2024

Mr. COONS (for himself and Mr. RISCH) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To provide the United States Government with additional tools to deter state and non-state actors from wrongfully detaining United States nationals for political leverage, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Countering Wrongful Detention Act of 2024”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DETECTING AND PREVENTING UNLAWFUL OR
WRONGFUL DETENTION

- Sec. 101. Designation of a foreign country as a State Sponsor of Unlawful or Wrongful Detention.
- Sec. 102. Options and strategies for reducing likelihood of United States nationals being unlawfully or wrongfully detained or taken hostage.
- Sec. 103. Additional funding for sanctions implementation.
- Sec. 104. Enhancing United States travel advisories.
- Sec. 105. Required certification regarding international travel advisories.
- Sec. 106. Privacy Act written consent and passport renewals.

TITLE II—STRENGTHENING PROCESSES AND SERVICES FOR
HOSTAGES AND UNLAWFUL OR WRONGFUL DETAINEES

- Sec. 201. Timeline for unlawful or wrongful detention determinations.
- Sec. 202. Declarations of invalidity.
- Sec. 203. Advisory Council on Hostage Taking and Unlawful or Wrongful Detention.
- Sec. 204. Chairmanship of the Hostage Response Group.

1 TITLE I—DETECTING AND PRE-
2 VENTING UNLAWFUL OR
3 WRONGFUL DETENTION

4 SEC. 101. DESIGNATION OF A FOREIGN COUNTRY AS A
5 STATE SPONSOR OF UNLAWFUL OR WRONG-
6 FUL DETENTION.

7 The Robert Levinson Hostage Recovery and Hostage-
8 Taking Accountability Act (22 U.S.C. 1741 et seq.) is
9 amended by inserting after section 306 the following:

10 “SEC. 306A. DESIGNATION OF A FOREIGN COUNTRY AS A
11 STATE SPONSOR OF UNLAWFUL OR WRONG-
12 FUL DETENTION.

13 “(a) IN GENERAL.—The Secretary of State, in con-
14 sultation with the heads of other relevant Federal agen-
15 cies, may designate a foreign country that has provided
16 support for or directly engaged in the unlawful or wrong-

1 ful detention of a United States national as a State Spon-
2 sor of Unlawful or Wrongful Detention based on any of
3 the following criteria:

4 “(1) The unlawful or wrongful detention of a
5 United States national occurs in the foreign country.

6 “(2) The government of the foreign country has
7 failed to release an unlawfully or wrongfully detained
8 United States national after having been notified by
9 the Department of State.

10 “(3) Actions taken by the government of the
11 foreign country indicate that the government is re-
12 sponsible for, complicit in, or materially supports the
13 unlawful or wrongful detention of a United States
14 national, including by acting as described in para-
15 graph (2) after having been notified by the Depart-
16 ment of State.

17 “(4) The actions of a state or nonstate actor in
18 the foreign country, including any previous action
19 relating to unlawful or wrongful detention or hostage
20 taking of a United States national, pose a risk to
21 the safety and security of United States nationals
22 abroad sufficient to warrant designation of the for-
23 eign country as a State Sponsor of Unlawful or
24 Wrongful Detention, as determined by the Secretary.

1 “(b) TERMINATION OF DESIGNATION.—The Sec-
2 retary may terminate the designation of a foreign country
3 under subsection (a) if the Secretary certifies to Congress
4 that the government of the foreign country—

5 “(1) has released the United States nationals
6 unlawfully or wrongfully detained within the terri-
7 tory of the foreign country;

8 “(2) has positively contributed to the release of
9 United States nationals taken hostage within the
10 territory of the foreign country or from the custody
11 of a nonstate entity;

12 “(3) has demonstrated changes in leadership or
13 policies with respect to unlawful or wrongful deten-
14 tion and hostage taking; or

15 “(4) has provided assurances that the govern-
16 ment of the foreign country will not engage or be
17 complicit in or support acts described in subsection
18 (a).

19 “(c) BRIEFING AND REPORTS TO CONGRESS; PUBLI-
20 CATION.—

21 “(1) REPORTS TO CONGRESS.—

22 “(A) IN GENERAL.—The Secretary shall
23 submit to Congress a report on—

24 “(i) each designation of a foreign
25 country as a State Sponsor of Unlawful or

Wrongful Detention under subsection (a) not later than 5 days after such designation is made; and

“(ii) each termination of a designation under subsection (b) not later than 30 days after such termination is made.

“(B) ELEMENTS.—

“(i) DESIGNATION REPORT.—In each report submitted under subparagraph (A)(i) with respect to the designation of a foreign country as a State Sponsor of Unlawful or Wrongful Detention, the Secretary shall include—

“(I) the justification for the designation; and

“(II) a description of any action taken by the United States Government, including the Secretary of State or the head of any other relevant Federal agency, in response to the designation to deter the unlawful or wrongful detention or hostage-taking of foreign nationals in the country.

“(ii) TERMINATION REPORT.—In each report submitted under clause (i)(II) with

1 respect to the termination of a designation
2 of a foreign country as a State Sponsor of
3 Unlawful or Wrongful Detention, the Sec-
4 retary shall provide the justification for the
5 termination, including the factor described
6 in subsection (b) that supports the termi-
7 nation.

8 “(2) BRIEFING REQUIRED.—Not later than 60
9 days after the date of the enactment of this section,
10 the Secretary shall brief Congress on the following:

11 “(A) Whether any of the following coun-
12 tries should be designated as a State Sponsor
13 of Unlawful or Wrongful Detention under sub-
14 section (a):

15 “(i) Afghanistan.

16 “(ii) Eritrea.

17 “(iii) The Islamic Republic of Iran.

18 “(iv) The People’s Republic of China.

19 “(v) The Russian Federation.

20 “(vi) Syria.

21 “(vii) Venezuela under the regime of
22 Nicolás Maduro.

23 “(B) The steps taken by the Secretary of
24 State and the heads of other relevant Federal
25 agencies to deter the unlawful and wrongful de-

1 tention of United States nationals and to re-
2 spond to such detentions, including—

3 “(i) any engagement with private sec-
4 tor search engine companies to optimize
5 the distribution of travel advisories; and

6 “(ii) any engagement with private
7 tourism companies responsible for pro-
8 moting travel to foreign countries engaged
9 in the unlawful or wrongful detention of
10 United States nationals.

11 “(C) An assessment of a possible expan-
12 sion of chapter 97 of title 28, United States
13 Code (commonly known as the ‘Foreign Sov-
14 ereign Immunities Act of 1976’) to include an
15 exception from asset seizure immunity for State
16 Sponsors of Unlawful or Wrongful Detention.

17 “(D) A detailed plan on the manner by
18 which a geographic travel restriction could be
19 instituted against State Sponsors of Unlawful
20 or Wrongful Detention.

21 “(E) The progress made in multilateral
22 fora, including the United Nations and other
23 international organizations, to address the un-
24 lawful and wrongful detention of United States
25 nationals, in addition to nationals of partners

1 and allies of the United States in foreign coun-
2 tries.

3 “(3) BRIEFING.—Not later than 1 year after
4 the date of the enactment of this Act, and annually
5 thereafter for 5 years, the Assistant Secretary of
6 State for Consular Affairs and the Special Presi-
7 dential Envoy for Hostage Affairs shall brief the ap-
8 propriate congressional committees on the countries
9 listed under paragraph (2)(A) and actions taken by
10 the Secretary of State and the heads of other rel-
11 evant Federal agencies to deter the wrongful deten-
12 tion of United States nationals, including any steps
13 taken in accordance with paragraph (2)(B).

14 “(4) PUBLICATION.—The Secretary shall make
15 available on a publicly accessible website of the De-
16 partment of State, and regularly update, a list of
17 foreign countries designated as State Sponsors of
18 Unlawful or Wrongful Detention under subsection
19 (a).

20 “(d) REVIEW OF AVAILABLE RESPONSES TO STATE
21 SPONSORS OF UNLAWFUL OR WRONGFUL DETENTION.—
22 Upon designation of a foreign country as a State Sponsor
23 of Unlawful or Wrongful Detention under subsection (a),
24 the Secretary, in consultation with the heads of other rel-
25 evant Federal agencies, shall conduct a comprehensive re-

1 view of the use of existing authorities to respond to and
2 deter the unlawful or wrongful detention of United States
3 nationals in the foreign country, including—

4 “(1) sanctions available under the International
5 Emergency Economic Powers Act (50 U.S.C. 1701
6 et seq.);

7 “(2) visa restrictions available under section
8 7031(c) of the Department of State, Foreign Oper-
9 ations, and Related Programs Appropriations Act,
10 2024 (division F of Public Law 118–47; 8 U.S.C.
11 1182 note) or any other provision of Federal law;

12 “(3) sanctions available under the Immigration
13 and Nationality Act (8 U.S.C. 1101 et seq.);

14 “(4) imposition of a geographic travel restric-
15 tion on citizens of the United States;

16 “(5) restrictions on assistance provided to the
17 government of the country under the Foreign Assist-
18 ance Act of 1961 (22 U.S.C. 2151 et seq.) or any
19 other provision of Federal law;

20 “(6) restrictions on the export of certain goods
21 to the country under the Arms Export Control Act
22 (22 U.S.C. 2751 et seq.), the Export Control Re-
23 form Act of 2018 (50 U.S.C. 4801 et seq.), or any
24 other Federal law; and

1 “(7) designating the government of the country
 2 as a government that has repeatedly provided sup-
 3 port for acts of international terrorism pursuant
 4 to—

5 “(A) section 1754(c)(1)(A)(i) of the Ex-
 6 port Control Reform Act of 2018 (50 U.S.C.
 7 4813(c)(1)(A)(i));

8 “(B) section 620A of the Foreign Assist-
 9 ance Act of 1961 (22 U.S.C. 2371);

10 “(C) section 40(d) of the Arms Export
 11 Control Act (22 U.S.C. 2780(d)); or

12 “(D) any other provision of law.

13 “(e) RULE OF CONSTRUCTION.—Nothing in this sec-
 14 tion shall be construed to imply that the United States
 15 Government formally recognizes any particular country or
 16 the government of such country as legitimate.”.

17 **SEC. 102. OPTIONS AND STRATEGIES FOR REDUCING LIKE-**
 18 **LIHOOD OF UNITED STATES NATIONALS**
 19 **BEING UNLAWFULLY OR WRONGFULLY DE-**
 20 **TAINED OR TAKEN HOSTAGE.**

21 The Robert Levinson Hostage Recovery and Hostage-
 22 Taking Accountability Act (22 U.S.C. 1741 et seq.) is
 23 amended by inserting after section 305 the following:

1 **“SEC. 305A. REPORT ON STRATEGIES FOR REDUCING LIKE-**
2 **LIHOOD OF UNITED STATES NATIONALS**
3 **BEING UNLAWFULLY OR WRONGFULLY DE-**
4 **TAINED OR TAKEN HOSTAGE.**

5 “Not later than 60 days after the date of the enact-
6 ment of the Countering Wrongful Detention Act of 2024,
7 the Special Presidential Envoy for Hostage Affairs, in co-
8 ordination with the Hostage Recovery Fusion Cell, the
9 Hostage Response Group, and relevant agencies, as appro-
10 priate, shall submit to the President and the appropriate
11 congressional committees a report that identifies and rec-
12 ommends options and strategies to reduce the likelihood
13 of United States nationals being unlawfully or wrongfully
14 detained abroad or taken hostage.”.

15 **SEC. 103. ADDITIONAL FUNDING FOR SANCTIONS IMPLE-**
16 **MENTATION.**

17 There are authorized to be appropriated to the Sec-
18 retary of State and the Secretary of the Treasury for fiscal
19 year 2026 \$2,000,000 to implement the sanctions authori-
20 ties provided by section 306 of the Robert Levinson Hos-
21 tage Recovery and Hostage-Taking Accountability Act (22
22 U.S.C. 1741d) and Executive Order 14078 (22 U.S.C.
23 1741 note prec.; relating to bolstering efforts to bring hos-
24 tages and wrongfully detained United States nationals
25 home).

1 **SEC. 104. ENHANCING UNITED STATES TRAVEL**
2 **ADVISORIES.**

3 (a) AUTHORIZATION OF APPROPRIATIONS.—There is
4 authorized to be appropriated \$2,000,000 to the Assistant
5 Secretary of State for Consular Affairs to expend on travel
6 advisory advertisement campaigns regarding travel made
7 by United States nationals to countries under Level 4 “Do
8 Not Travel” advisories issued by the Department of State
9 Travel Advisory System.

10 (b) BRIEFING.—If less than the \$2,000,000 author-
11 ized in subsection (a) is expended on travel advisory adver-
12 tisement campaigns during fiscal year 2025, the Assistant
13 Secretary of State for Consular Affairs shall brief Con-
14 gress on the justification of the amount expended for such
15 purpose.

16 **SEC. 105. REQUIRED CERTIFICATION REGARDING INTER-**
17 **NATIONAL TRAVEL ADVISORIES.**

18 (a) IN GENERAL.—Chapter 423 of title 49, United
19 States Code, is amended by adding at the end the fol-
20 lowing new section:

21 **“§ 42309. Required certification regarding inter-**
22 **national travel advisories**

23 “(a) IN GENERAL.—An air carrier, foreign air car-
24 rier, or ticket agent who sells, in the United States, a tick-
25 et for foreign air transportation of a passenger to a coun-
26 try or other geographic area with a ‘D’ or ‘K’ indicator

1 issued by the Department of State Travel Advisory Sys-
 2 tem shall require the passenger listed on the ticket to cer-
 3 tify that the passenger—

4 “(1) has reviewed the travel advisory of the De-
 5 partment of State applicable to such country or
 6 other geographic area; and

7 “(2) understands the risks involved with trav-
 8 eling to such country or other geographic area.

9 “(b) DEFINITIONS.—For purposes of this section:

10 “(1) ‘D’ INDICATOR.—The term “‘D’” indi-
 11 cator’ means a travel advisory issued by the Depart-
 12 ment of State that indicates a risk of wrongful de-
 13 tention of a United States national.

14 “(2) ‘K’ INDICATOR.—The term “‘K’” indi-
 15 cator’ means a travel advisory issued by the Depart-
 16 ment of State that indicates a criminal or terrorist
 17 individual or group has threatened to seize, detain,
 18 kill, or injure individuals (or has seized, detained,
 19 killed, or injured individuals) to compel a third party
 20 (including a governmental organization) to meet cer-
 21 tain requirements as a condition of release.”.

22 (b) CLERICAL AMENDMENT.—The analysis for chap-
 23 ter 423 of title 49, United States Code, is amended by
 24 inserting after the item relating to section 42308 the fol-
 25 lowing:

“42309. Required certification regarding international travel advisories.”.

1 **SEC. 106. PRIVACY ACT WRITTEN CONSENT AND PASSPORT**
2 **RENEWALS.**

3 (a) REQUIREMENT TO INCLUDE TRAVEL ADVISORY
4 INFORMATION ON UNITED STATES PASSPORTS.—Section
5 6103 of the Department of State Authorization Act of
6 2023 (division F of Public Law 118–31; 22 U.S.C. 211a
7 note) is amended, in the matter preceding paragraph (1),
8 by striking “should” and inserting “shall”.

9 (b) INCLUSION OF PRIVACY ACT WRITTEN CONSENT
10 FORM IN PASSPORT APPLICATION.—Section 1 of title IX
11 of the Act of June 15, 1917 (22 U.S.C. 213) is amended
12 by adding at the end the following: “Each passport appli-
13 cation made available to potential applicants (DS–11) and
14 each passport renewal application made available to cur-
15 rent passport holders (DS–82) shall include a form that,
16 if completed, indicates the applicant’s consent for the dis-
17 closure of information otherwise protected under section
18 552a of title 5, United States Code (commonly known as
19 the ‘Privacy Act of 1974’) in the event such applicant is
20 determined to be unlawfully or wrongfully detained by a
21 foreign government. Declining to complete such form shall
22 not impact the issuance of a passport to a qualified appli-
23 cant or diplomatic efforts to secure the release of a United
24 States national from the custody of a foreign government
25 or entity.”.

1 **TITLE II—STRENGTHENING**
 2 **PROCESSES AND SERVICES**
 3 **FOR HOSTAGES AND UNLAW-**
 4 **FUL OR WRONGFUL DETAIN-**
 5 **EES**

6 **SEC. 201. TIMELINE FOR UNLAWFUL OR WRONGFUL DE-**
 7 **TENTION DETERMINATIONS.**

8 Section 302 of the Robert Levinson Hostage Recov-
 9 ery and Hostage-Taking Accountability Act (22 U.S.C.
 10 1741) is amended—

11 (1) in subsection (d)(8), by striking “In this
 12 subsection” and inserting “In this section”; and

13 (2) by adding at the end the following:

14 “(e) TIMELINE FOR UNLAWFUL OR WRONGFUL DE-
 15 TENTION DETERMINATIONS.—

16 “(1) CREDIBLE INFORMATION DETERMINA-
 17 TIONS.—

18 “(A) IN GENERAL.—Not less frequently
 19 than every 180 days, the Assistant Secretary of
 20 State for Consular Affairs and the Special
 21 Presidential Envoy for Hostage Affairs shall re-
 22 view the cases, identified through official gov-
 23 ernment channels to either bureau, for which
 24 there is potential credible information that a

1 United States national is being unlawfully or
2 wrongfully detained abroad.

3 “(B) REPORT OF FINDINGS.—Not later
4 than 30 days after each review under subpara-
5 graph (A), the Assistant Secretary of State for
6 Consular Affairs and the Special Presidential
7 Envoy for Hostage Affairs shall jointly submit
8 to Congress a classified report identifying each
9 United States national whose case was reviewed
10 under subparagraph (A) but who has not, as of
11 the date of the submission of the report, been
12 determined by the Secretary to be unlawfully or
13 wrongfully detained under subsection (a).

14 “(C) NOTIFICATION TO FAMILY MEM-
15 BERS.—Not later than 30 days after the date
16 of the submission of the report under subpara-
17 graph (B), the Assistant Secretary of State for
18 Consular Affairs shall notify a family member
19 or legal representative of each United States
20 national identified in the report.

21 “(2) STATUS DETERMINATIONS.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraph (B), and to the extent practical,
24 not later than 180 days after the date on which
25 the Secretary of State receives an assessment

1 from the Special Presidential Envoy for Hos-
2 tage Affairs or the head of any other relevant
3 bureau of the Department of State that credible
4 information exists that a United States national
5 is being detained unlawfully or wrongfully, the
6 Secretary shall determine whether the United
7 States national is in fact being unlawfully or
8 wrongfully detained.

9 “(B) WAIVER.—

10 “(i) IN GENERAL.—The Secretary
11 may waive the requirement under subpara-
12 graph (A) to make an unlawful or wrong-
13 ful detention determination if the Sec-
14 retary—

15 “(I) determines that making such
16 a determination may jeopardize the
17 safety or interests of the United
18 States national being detained abroad
19 or the national security interests of
20 the United States; and

21 “(II) submits to Congress a re-
22 port describing the reasons for the
23 waiver.

24 “(ii) TIMING.—A waiver under clause
25 (i) shall expired on the date that is 180

1 days after the date on which the Secretary
 2 submits the report on the waiver to Con-
 3 gress pursuant to clause (i)(II).

4 “(iii) RENEWAL.—The Secretary may
 5 renew a waiver granted pursuant to clause
 6 (i) in the manner provided under such
 7 clause.”.

8 **SEC. 202. DECLARATIONS OF INVALIDITY.**

9 Section 302 of the Robert Levinson Hostage Recov-
 10 ery and Hostage-Taking Accountability Act (22 U.S.C.
 11 1741), as amended by sections 201 and 202, is further
 12 amended by adding at the end the following:

13 “(f) DECLARATIONS OF INVALIDITY.—Upon the re-
 14 lease of a United States national taken hostage or deter-
 15 mined to be unlawfully or wrongfully detained abroad and
 16 the return of that national, the President shall issue to
 17 that national a letter, to be known as a ‘declaration of
 18 invalidity’, that officially declares the detention abroad of
 19 the national as invalid for the purpose of completing any
 20 documentation that warrants a background investigation
 21 or review of prior offenses, such as a conviction.”.

22 **SEC. 203. ADVISORY COUNCIL ON HOSTAGE TAKING AND**
 23 **UNLAWFUL OR WRONGFUL DETENTION.**

24 The Robert Levinson Hostage Recovery and Hostage-
 25 Taking Accountability Act (22 U.S.C. 1741 et seq.), as

1 amended by section 102, is further amended by inserting
 2 after section 305A the following:

3 **“SEC. 305B. ADVISORY COUNCIL ON HOSTAGE TAKING AND**
 4 **UNLAWFUL OR WRONGFUL DETENTION.**

5 “(a) ESTABLISHMENT.—The President shall estab-
 6 lish an advisory council, to be known as the ‘Advisory
 7 Council on Hostage Taking and Unlawful or Wrongful De-
 8 tention’ (in this section referred to as the ‘Advisory Coun-
 9 cil’), to advise the Special Presidential Envoy for Hostage
 10 Affairs, the Hostage Response Group, and the Hostage
 11 Recovery Fusion Cell with respect to Federal policies re-
 12 garding hostage-taking and unlawful or wrongful deten-
 13 tion.

14 “(b) MEMBERSHIP.—

15 “(1) IN GENERAL.—The President shall invite
 16 individuals to the Advisory Council, which shall be
 17 comprised of—

18 “(A) United States nationals who have
 19 been unlawfully or wrongfully detained or taken
 20 hostage abroad;

21 “(B) family members of such United
 22 States nationals; and

23 “(C) not fewer than 2 experts on areas in-
 24 cluding hostage taking, wrongful detention,
 25 international relations, rule of law, and counter-

1 terrorism who have been recommended by the
2 Secretary of State.

3 “(2) TERMS.—The term of a member of the
4 Advisory Council shall be 3 years.

5 “(3) COMPENSATION AND TRAVEL EX-
6 PENSES.—A member of the Advisory Council shall
7 not be considered a Federal employee and shall not
8 be compensated for service on the Advisory Council,
9 but may be allowed travel expenses, including per
10 diem in lieu of subsistence, in accordance with sub-
11 chapter I of chapter 57 of title 5, United States
12 Code.

13 “(c) ANNUAL REPORTS.—Not later than 1 year after
14 the date of the enactment of this section, and annually
15 thereafter, the Advisory Council shall submit to the Presi-
16 dent and the appropriate congressional committees a re-
17 port setting forth the recommendations of the Advisory
18 Council.

19 “(d) TERMINATION.—The Advisory Council shall ter-
20minate on the date that is 10 years after the date of the
21 enactment of this section.”.

1 **SEC. 204. CHAIRMANSHIP OF THE HOSTAGE RESPONSE**
2 **GROUP.**

3 Section 305(a) of the Robert Levinson Hostage Re-
4 covery and Hostage-Taking Accountability Act (22 U.S.C.
5 1741c(a)) is amended to read as follows:

6 “(a) ESTABLISHMENT.—

7 “(1) IN GENERAL.—There shall be a Hostage
8 Response Group, which shall be—

9 “(A) chaired by the Special Presidential
10 Envoy for Hostage Affairs; and

11 “(B) convened on a regular basis at the
12 White House, and as needed at the request of
13 the National Security Council, to further the
14 safe recovery of United States nationals held
15 unlawfully or wrongfully abroad.

16 “(2) COORDINATION OF GOVERNMENT RE-
17 SPONSE.—The Hostage Response Group may also be
18 tasked with coordinating the United States Govern-
19 ment response to other hostage takings abroad in
20 which the United States has a national interest as
21 specifically referred to the Hostage Recovery Fusion
22 Cell by the National Security Council Deputies Com-
23 mittee.”.

○