

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1058

To provide a comprehensive program of support for victims of torture.

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## IN THE SENATE OF THE UNITED STATES

JULY 21 (legislative day, JULY 10), 1995

Mr. WELLSTONE (for himself, Mr. SPECTER, Mr. HATFIELD, Mr. JEFFORDS, Mr. HARKIN, Mr. MOYNIHAN, and Mr. KENNEDY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide a comprehensive program of support for victims of torture.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Tor-  
5 ture Victims Relief Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

8 (1) The American people abhor torture by re-  
9 pressive governments and other parties. The exist-

1       ence of torture creates a climate of fear and inter-  
2       national insecurity that affects all people.

3               (2) Torture is the strategic use of pain to de-  
4       stroy both individuals and society. The effects of tor-  
5       ture are long term. Those effects can last a lifetime  
6       for the survivors and affect future generations.

7               (3) By eliminating leadership of their opposi-  
8       tion and frightening the general public, repressive  
9       governments use torture as a weapon against democ-  
10      racy.

11              (4) Torture victims remain under physical and  
12      psychological threats, especially in communities  
13      where the perpetrators are not brought to justice. In  
14      many nations, even those who treat torture victims  
15      are threatened with reprisals, including torture, for  
16      carrying out their ethical duties to provide care.  
17      Both the survivors of torture and their treatment  
18      providers deserve, and often require, protection from  
19      further repression.

20              (5) A significant number of refugees and  
21      asylees entering the United States have been victims  
22      of governmental torture. Those claiming asylum de-  
23      serve prompt consideration of their applications for  
24      political asylum to minimize their insecurity and  
25      sense of danger. Many torture survivors now live in

1 the United States. They should be provided with the  
2 rehabilitation services which would enable them to  
3 become productive members of our communities.

4 (6) The development of a treatment movement  
5 for torture survivors has created new opportunities  
6 for action by the United States and other nations to  
7 oppose state-sponsored and other acts of torture.

8 (7) There is a need for a comprehensive strat-  
9 egy to protect and support torture victims and their  
10 treatment providers together with overall efforts to  
11 eliminate torture.

12 (8) By acting to heal the survivors of torture  
13 and protect their families, the United States can  
14 help to heal the effects of torture and prevent its use  
15 around the world.

16 (9) The United States has ratified the Conven-  
17 tion Against Torture and Other Cruel, Inhuman, or  
18 Degrading Treatment or Punishment, but has not  
19 implemented all provisions of the convention.

20 **SEC. 3. DEFINITIONS.**

21 As used in this Act:

22 (1) IN GENERAL.—Except as otherwise pro-  
23 vided, the terms used in this Act have the meaning  
24 given such terms in section 101(a) of the Immigra-  
25 tion and Nationality Act.

1           (2) TORTURE.—The term “torture” has the  
2           meaning given such term in section 2340(1) of title  
3           18, United States Code, and includes the use of rape  
4           and other forms of sexual violence by a person act-  
5           ing under the color of law upon another person  
6           under his custody or physical control.

7   **SEC. 4. PROHIBITION ON INVOLUNTARY RETURN OF PER-**  
8                                   **SONS FEARING SUBJECTION TO TORTURE.**

9           (a) PROHIBITION.—The United States shall not  
10          expel, extradite, or return involuntarily an individual to  
11          a country if there is substantial evidence of circumstances  
12          that would lead a reasonable person to believe that the  
13          individual would fear subjection to torture.

14          (b) DEFINITION.—For purposes of this section, the  
15          term “to return involuntarily”, in the case of an individual  
16          in any locale, means the following:

17                 (1) To return the individual without the individ-  
18                 ual’s consent, whether or not the return is induced  
19                 by physical force.

20                 (2) To take an action by which it is reasonably  
21                 foreseeable that the individual will be returned,  
22                 whether or not the return is induced by physical  
23                 force.

1 **SEC. 5. IMMIGRATION PROCEDURES FOR TORTURE VIC-**  
2 **TIMS.**

3 (a) IN GENERAL.—Any alien—

4 (1) who presents a credible claim of having  
5 been subjected to torture in the alien's country of  
6 nationality, or, in the case of an alien having no na-  
7 tionality, the country in which the alien last habit-  
8 ually resided, and

9 (2) who applies for—

10 (A) refugee status under section 207 of the  
11 Immigration and Nationality Act,

12 (B) asylum under section 208 of that Act,

13 or

14 (C) withholding of deportation under sec-  
15 tion 243(h) of that Act,

16 shall be processed in accordance with this section.

17 (b) CONSIDERATION OF THE EFFECTS OF TOR-  
18 TURE.—In considering applications for refugee status,  
19 asylum, or withholding of deportation made by aliens de-  
20 scribed in subsection (a), the appropriate officials shall  
21 take into account—

22 (1) the manner in which the effects of torture  
23 can affect the applicant's responses in the applica-  
24 tion and in the interview process or other immigra-  
25 tion proceedings, as the case may be;

1           (2) the difficulties torture victims often have in  
2           recounting their suffering under torture; and

3           (3) the fear victims have of returning to their  
4           country of nationality where, even if torture is no  
5           longer practiced or the incidence of torture is re-  
6           duced, their torturers may have gone unpunished  
7           and may remain in positions of authority.

8           (c) EXPEDITED PROCESSING OF REFUGEE ADMIS-  
9           SIONS.—For purposes of section 207(c) of the Immigra-  
10          tion and Nationality Act, a refugee who presents a credible  
11          claim of having been subjected to torture shall be consid-  
12          ered to be a refugee of special humanitarian concern to  
13          the United States and shall be accorded priority in selec-  
14          tion from the waiting list of such refugees based on com-  
15          pelling humanitarian concerns.

16          (d) EXPEDITED PROCESSING FOR ASYLUM AND  
17          WITHHOLDING OF DEPORTATION.—Upon the request of  
18          the alien, the alien's counsel, or a health care professional  
19          treating the alien, an asylum officer or special inquiry offi-  
20          cer may expedite the scheduling of an asylum interview  
21          or an exclusion or deportation proceeding for an alien de-  
22          scribed in subsection (a), if such officer determines that  
23          an undue delay in making a determination regarding asy-  
24          lum or withholding of deportation with respect to the alien

1 would aggravate the physical or psychological effects of  
2 torture upon the alien.

3 (e) PAROLE IN LIEU OF DETENTION.—The finding,  
4 upon inspection at a port of entry of the United States,  
5 that an alien described in subsection (a) suffers from the  
6 effects of torture, such as depressive and anxiety dis-  
7 orders, shall be a strong presumptive basis for a grant  
8 of parole, under section 212(d)(5) of the Immigration and  
9 Nationality Act, in lieu of detention.

10 (f) SENSE OF CONGRESS.—It is the sense of Con-  
11 gress that the Attorney General shall allocate resources  
12 sufficient to maintain in the Resource Information Center  
13 of the Immigration and Naturalization Service informa-  
14 tion relating to the use of torture in foreign countries.

15 **SEC. 6. SPECIALIZED TRAINING FOR CONSULAR, IMMIGRA-**  
16 **TION, AND ASYLUM PERSONNEL.**

17 (a) IN GENERAL.—The Attorney General shall pro-  
18 vide training for immigration inspectors and examiners,  
19 immigration officers, asylum officers, special inquiry offi-  
20 cers, and all other relevant officials of the Department of  
21 Justice, and the Secretary of State shall provide training  
22 for consular officers, with respect to—

- 23 (1) the identification of the evidence of torture;  
24 (2) the identification of the surrounding cir-  
25 cumstances in which torture is practiced;



1           (1) the estimated number and geographic dis-  
2           tribution of such persons;

3           (2) the needs of such persons for recovery serv-  
4           ices; and

5           (3) the availability of such services.

6           (b) REPORT.—Not later than December 31, 1997,  
7 the National Institutes of Health shall submit a report to  
8 the Judiciary Committees of the House of Representatives  
9 and the Senate setting forth the findings of the study con-  
10 ducted under subsection (a), together with any rec-  
11 ommendation for increasing the services available to per-  
12 sons described in subsection (a), including any rec-  
13 ommendation for legislation, if necessary.

14 **SEC. 8. DOMESTIC TREATMENT CENTERS.**

15           (a) AMENDMENT OF THE IMMIGRATION AND NA-  
16 TIONALITY ACT.—Section 412 of the Immigration and  
17 Nationality Act (8 U.S.C. 1522) is amended by adding  
18 at the end the following new subsection:

19           “(g) ASSISTANCE FOR TREATMENT OF TORTURE  
20 VICTIMS.—(1) The Secretary may provide grants to pro-  
21 grams in the United States to cover the cost of the follow-  
22 ing services:

23           “(A) Services for the rehabilitation of victims of  
24           torture, including treatment of the physical and psy-  
25           chological effects of torture.

1           “(B) Social services for victims of torture.

2           “(C) Research and training for health care pro-  
3           viders outside of treatment centers or programs for  
4           the purpose of enabling such providers to provide  
5           the services described in subparagraph (A).

6           “(2) For purposes of this subsection, the term ‘tor-  
7           ture’ has the meaning given to such term in section 3 of  
8           the Comprehensive Torture Victims Relief Act.”.

9           (b) FUNDING.—Of the amounts authorized to be ap-  
10          propriated for the Department of Health and Human  
11          Services for fiscal year 1996, there is authorized to be ap-  
12          propriated such sums as may be necessary to carry out  
13          section 412(g) of that Act (relating to assistance for do-  
14          mestic centers and programs for the treatment of victims  
15          of torture), as added by subsection (a). Amounts appro-  
16          priated pursuant to this subsection shall remain available  
17          until expended.

18          (c) EFFECTIVE DATE.—The amendment made by  
19          subsection (a) shall take effect on October 1, 1995.

20       **SEC. 9. FOREIGN TREATMENT CENTERS.**

21          (a) AMENDMENTS OF THE FOREIGN ASSISTANCE  
22          ACT OF 1961.—Part I of the Foreign Assistance Act of  
23          1961 is amended by adding at the end of chapter 1 the  
24          following new section:

1       “SEC. 129. ASSISTANCE FOR VICTIMS OF TOR-  
2 TURE.—(a) The President is authorized to provide assist-  
3 ance for the rehabilitation of victims of torture.

4       “(b) Such assistance shall be provided in the form  
5 of grants to treatment centers and programs in foreign  
6 countries which are carrying out projects or activities spe-  
7 cifically designed to treat victims of torture for the phys-  
8 ical and psychological effect of the torture.

9       “(c) Such assistance shall be available—

10           “(1) for direct services to victims of torture;  
11       and

12           “(2) to provide research and training to health  
13 care providers outside of treatment centers or pro-  
14 grams for the purpose of enabling such providers to  
15 provide the services described in paragraph (1).

16       “(d) For purposes of this section, the term ‘torture’  
17 has the meaning given such term in section 3 of the Com-  
18 prehensive Torture Victims Relief Act.’’.

19       (b) FUNDING.—Of the total amount authorized to be  
20 appropriated in fiscal years 1996 and 1997 pursuant to  
21 chapter 1 of part I and chapter 4 of part II of the Foreign  
22 Assistance Act of 1961 and pursuant to section 31 of the  
23 Arms Export Control Act, there is authorized to be appro-  
24 priated such sums as may be necessary to carry out sec-  
25 tion 129 of the Foreign Assistance Act, as added by sub-

1 section (a). Amounts appropriated pursuant to this sub-  
2 section shall remain available until expended.

3 (c) EFFECTIVE DATE.—The amendment made by  
4 subsection (a) shall take effect on October 1, 1995.

5 **SEC. 10. MULTILATERAL ASSISTANCE.**

6 (a) FUNDING.—Of the amounts authorized to be ap-  
7 propriated in fiscal years 1996 and 1997 pursuant to  
8 chapter 1 of part I and chapter 4 of part II of the Foreign  
9 Assistance Act of 1961 and pursuant to section 31 of the  
10 Arms Export Control Act, there are authorized to be ap-  
11 propriated to the United Nations Voluntary Fund for Vic-  
12 tims of Torture (in this section referred to as the “Fund”)  
13 the following amounts for the following fiscal years:

14 (1) For fiscal year 1996, \$4,000,000.

15 (2) For fiscal year 1997, \$5,000,000.

16 (b) AVAILABILITY OF FUNDS.—Amounts appro-  
17 priated pursuant to subsection (a) shall remain available  
18 until expended.

19 (c) SENSE OF CONGRESS.—It is the sense of the Con-  
20 gress that the President, acting through the United States  
21 Permanent Representative to the United Nations,  
22 should—

23 (1) request the Fund—

24 (A) to find new ways to support and pro-  
25 tect treatment centers and programs that are

1 carrying out rehabilitative services for victims  
2 of torture; and

3 (B) to encourage the development of new  
4 such centers and programs;

5 (2) use the voice and vote of the United States  
6 to support the work of the Special Rapporteur on  
7 Torture and the Committee Against Torture estab-  
8 lished under the Convention Against Torture and  
9 Other Cruel, Inhuman or Degrading Treatment or  
10 Punishment; and

11 (3) use the voice and vote of the United States  
12 to establish a country rapporteur or similar proce-  
13 dural mechanism to investigate human rights viola-  
14 tions in a country if either the Special Rapporteur  
15 or the Committee Against Torture indicates that a  
16 systematic practice of torture is prevalent in that  
17 country.

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