

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

# S. 74

To amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces outside the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

JANUARY 4, 1995

Mr. INOUE introduced the following bill; which was read twice and referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to provide for jurisdiction, apprehension, and detention of members of the Armed Forces and certain civilians accompanying the Armed Forces 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,*

3 **SECTION 1. CRIMINAL OFFENSES COMMITTED OUTSIDE**

4 **THE UNITED STATES**

5 (a) IN GENERAL.—Subtitle A of title 10 of the Unit-  
6 ed States Code is amended by inserting after chapter 49  
7 the following new chapter:

1 **“CHAPTER 50—CRIMINAL OFFENSES COMMITTED**  
 2 **OUTSIDE THE UNITED STATES**

“Sec.

“991. Definitions.

“992. Criminal offenses committed by a member of the armed forces or by any person serving with, employed by, or accompanying the armed forces outside of the United States.

“993. Delivery to authorities of foreign countries.

3 **“§ 991. Definitions**

4 “In this chapter:

5 “(1) The term ‘United States’ includes the spe-  
 6 cial maritime and territorial jurisdiction of the Unit-  
 7 ed States.

8 “(2) The term ‘special maritime and territorial  
 9 jurisdiction of the United States’ has the same  
 10 meaning as is provided in section 7 of title 18.

11 “(3) The term ‘criminal offense’ means an of-  
 12 fense classified in section 1 of title 18 as a felony  
 13 or a misdemeanor (not including a petty offense).

14 **“§ 992. Criminal offenses committed by a member of**  
 15 **the armed forces or by any person serv-**  
 16 **ing with, employed by, or accompanying**  
 17 **the armed forces outside of the United**  
 18 **States**

19 “(a) Except as otherwise provided in this section, any  
 20 person who, while serving as a member of the armed forces  
 21 outside the United States, or while serving with, employed  
 22 by, or accompanying the armed forces outside of the Unit-

1 ed States, engages in conduct which would constitute a  
2 criminal offense if the conduct were engaged in within the  
3 special maritime and territorial jurisdiction of the United  
4 States shall be guilty of a like offense against the United  
5 States and shall be subject to the same punishment as  
6 is provided under the provisions of title 18 for such like  
7 offense.

8       “(b) A member of the armed forces may not be tried  
9 pursuant to an indictment or information charging an of-  
10 fense described under subsection (a) while such member  
11 is subject to trial by court-martial for the conduct charged  
12 in such indictment or information.

13       “(c) A person employed by the armed forces outside  
14 the United States is not punishable under subsection (a)  
15 of this section for conduct described in such subsection  
16 if such person is not a national of the United States and  
17 was appointed to his position of employment in the coun-  
18 try in which such person engaged in such conduct.

19       “(d)(1) Except in the case of a prosecution approved  
20 as provided in paragraph (2), prosecution of a person may  
21 not be commenced under this section for an offense de-  
22 scribed in subsection (a) if a foreign government, in ac-  
23 cordance with jurisdiction recognized by the United  
24 States, has prosecuted such person for the conduct con-  
25 stituting such offense.

1       “(2) The Attorney General of the United States, the  
2 Deputy Attorney General of the United States, the Associ-  
3 ate Attorney General of the United States, or an Assistant  
4 Attorney General of the United States may approve a  
5 prosecution which, except for this paragraph, is prohibited  
6 under paragraph (1). An approval of prosecution under  
7 this paragraph must be in writing. The authority to ap-  
8 prove a prosecution under this paragraph may not be dele-  
9 gated below the level of Assistant Attorney General.

10       “(e)(1) The Secretary of Defense may designate and  
11 authorize any member of the armed forces serving in a  
12 law enforcement position in a criminal investigative agency  
13 of the Department of Defense to apprehend and detain,  
14 outside the United States, any person described in sub-  
15 section (a) who is reasonably believed to have engaged in  
16 conduct which constitutes a criminal offense under such  
17 subsection.

18       “(2) A person apprehended and detained under para-  
19 graph (1) shall be released to the custody of civilian law  
20 enforcement authorities of the United States for removal  
21 to the United States for judicial proceedings in relation  
22 in conduct referred to in such paragraph unless (A) such  
23 person is delivered to authorities of a foreign country  
24 under section 993 of this title, or (B) such person is pend-

1 ing court-martial under chapter 47 of this title for such  
2 conduct.

3 **“§ 993. Delivery to authorities of foreign countries**

4 “(a) Any member of the armed forces designated and  
5 authorized under subsection (e) of section 992 of this title  
6 may deliver any person described in subsection (a) of such  
7 section to the appropriate authorities of a foreign country  
8 in which such person is alleged to have engaged in conduct  
9 described in such subsection (a) if—

10 “(1) the appropriate authorities of that country  
11 request the delivery of the person to such country  
12 for trial for such conduct as an offense under the  
13 laws of that country; and

14 “(2) the delivery of such person to that country  
15 is authorized by a treaty or other international  
16 agreement to which the United States is a party.

17 “(b) The Secretary of Defense may confine or other-  
18 wise restrain a person whose delivery is requested under  
19 subsection (a) until the completion of the trial of such per-  
20 son by the foreign country making such request.

21 “(c) The Secretary of Defense shall determine what  
22 officials of a foreign country constitute appropriate au-  
23 thorities for the purposes of this section.”.

24 (b) TECHNICAL AMENDMENT.—The tables of chap-  
25 ters at the beginning of such title and such subtitle are

1 each amended by inserting after the item relating to chap-  
2 ter 49 the following:

**“50. Criminal Offenses Outside the United States ..... 991”.**

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