

Calendar No. 356107TH CONGRESS
2^D SESSION**S. 864****[Report No. 107-144]**

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2001

Mr. LEAHY (for himself, Mr. LIEBERMAN, and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

APRIL 25, 2002

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 the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act

with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

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 “~~Anti-Atrocity Alien De-~~
 5 ~~portation Act of 2001~~”.

6 **SEC. 2. INADMISSIBILITY AND REMOVABILITY OF ALIENS**
 7 **WHO HAVE COMMITTED ACTS OF TORTURE**
 8 **OR EXTRAJUDICIAL KILLINGS ABROAD.**

9 (a) ~~INADMISSIBILITY.~~—Section 212(a)(3)(E) of the
 10 ~~Immigration and Nationality Act (8 U.S.C.~~
 11 ~~1182(a)(3)(E))~~ is amended—

12 (1) in clause (ii), by striking “has engaged in
 13 conduct that is defined as genocide for purposes of
 14 the International Convention on the Prevention and
 15 Punishment of Genocide is inadmissible” and insert-
 16 ing “ordered, incited, assisted, or otherwise partici-
 17 pated in conduct outside the United States that
 18 would, if committed in the United States or by a
 19 United States national, be genocide, as defined in
 20 section 1091(a) of title 18, United States Code, is
 21 inadmissible”;

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

1 ~~“(iii) COMMISSION OF ACTS OF TOR-~~
 2 ~~TURE OR EXTRAJUDICIAL KILLINGS.—Any~~
 3 ~~alien who, outside the United States, has~~
 4 ~~committed, ordered, incited, assisted, or~~
 5 ~~otherwise participated in the commission~~
 6 ~~of—~~

7 ~~“(I) any act of torture, as de-~~
 8 ~~fin ed in section 2340 of title 18,~~
 9 ~~United States Code; or~~

10 ~~“(II) under color of law of any~~
 11 ~~foreign nation, any extrajudicial kill-~~
 12 ~~ing, as defined in section 3(a) of the~~
 13 ~~Torture Victim Protection Act of~~
 14 ~~1991; is inadmissible.”; and~~

15 ~~(3) in the subparagraph heading, by striking~~
 16 ~~“PARTICIPANTS IN NAZI PERSECUTION OR GENO-~~
 17 ~~CIDE” and inserting “PARTICIPANTS IN NAZI PERSE-~~
 18 ~~CUTION, GENOCIDE, OR THE COMMISSION OF ANY~~
 19 ~~ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.~~

20 ~~(b) REMOVABILITY.—Section 237(a)(4)(D) of such~~
 21 ~~Act (8 U.S.C. 1227(a)(4)(D)) is amended—~~

22 ~~(1) by striking “clause (i) or (ii)” and inserting~~
 23 ~~“clause (i), (ii), or (iii)”;~~ and

24 ~~(2) in the subparagraph heading, by striking~~
 25 ~~“ASSISTED IN NAZI PERSECUTION OR ENGAGED IN~~

1 GENOCIDE” and inserting “ASSISTED IN NAZI PER-
 2 SECUTION, PARTICIPATED IN GENOCIDE, OR COM-
 3 MITTED ANY ACT OF TORTURE OR EXTRAJUDICIAL
 4 KILLING”.

5 (e) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply to offenses committed before, on,
 7 or after the date of the enactment of this Act.

8 **SEC. 3. INADMISSIBILITY AND REMOVABILITY OF FOREIGN**
 9 **GOVERNMENT OFFICIALS WHO HAVE COM-**
 10 **MITTED PARTICULARLY SEVERE VIOLATIONS**
 11 **OF RELIGIOUS FREEDOM.**

12 (a) Section 212(a)(2)(G) of the Immigration and Na-
 13 tionality Act (8 U.S.C. 1182(a)(2)(G)) is amended to read
 14 as follows:

15 “(G) FOREIGN GOVERNMENT OFFICIALS
 16 WHO HAVE COMMITTED PARTICULARLY SEVERE
 17 VIOLATIONS OF RELIGIOUS FREEDOM.—Any
 18 alien who, while serving as a foreign govern-
 19 ment official, was responsible for or directly
 20 carried out, at any time, particularly severe vio-
 21 lations of religious freedom, as defined in sec-
 22 tion 3 of the International Religious Freedom
 23 Act of 1998, are inadmissible.”.

1 (b) Section 237(a)(4) of such Act (8 U.S.C.
2 1227(a)(4)) is amended by adding at the end the fol-
3 lowing:

4 “(E) PARTICIPATED IN THE COMMISSION
5 OF SEVERE VIOLATIONS OF RELIGIOUS FREE-
6 DOM.—Any alien described in section
7 212(a)(2)(G) is deportable.”.

8 **SEC. 4. BAR TO GOOD MORAL CHARACTER FOR ALIENS**
9 **WHO HAVE COMMITTED ACTS OF TORTURE,**
10 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
11 **LATIONS OF RELIGIOUS FREEDOM.**

12 Section 101(f) of the Immigration and Nationality
13 Act (8 U.S.C. 1101(f)) is amended—

14 (1) by striking the period at the end of para-
15 graph (8) and inserting “; and”; and

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

17 “(9) one who at any time has engaged in con-
18 duct described in section 212(a)(3)(E) (relating to
19 assistance in Nazi persecution, participation in geno-
20 cide, or commission of acts of torture or
21 extrajudicial killings) or 212(a)(2)(G) (relating to
22 severe violations of religious freedom).”.

1 **SEC. 5. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
2 **VESTIGATIONS.**

3 (a) AMENDMENT OF THE IMMIGRATION AND NA-
4 TIONALITY ACT.—Section 103 of the Immigration and
5 Nationality Act (8 U.S.C. 1103) is amended by adding
6 at the end the following:

7 “(g) The Attorney General shall establish within the
8 Criminal Division of the Department of Justice an Office
9 of Special Investigations with the authority of inves-
10 tigating, and, where appropriate, taking legal action to re-
11 move, denaturalize, prosecute, or extradite any alien found
12 to be in violation of clause (i), (ii), or (iii) of section
13 212(a)(3)(E). In determining such appropriate legal ac-
14 tion, consideration shall be given to—

15 “(1) the availability of prosecution under the
16 laws of the United States for any conduct that may
17 form the basis for removal and denaturalization; or

18 “(2) removal of the alien to a foreign jurisdic-
19 tion that is prepared to undertake a prosecution for
20 such conduct.”.

21 (b) AUTHORIZATION OF APPROPRIATIONS.—

22 (1) IN GENERAL.—There are authorized to be
23 appropriated to the Department of Justice such
24 sums as may be necessary to carry out the addi-
25 tional duties established under section 103(g) of the
26 Immigration and Nationality Act (as added by this

1 Act) in order to ensure that the Office of Special In-
2 vestigations fulfills its continuing obligations regard-
3 ing Nazi war criminals.

4 (2) AVAILABILITY OF FUNDS.—Amounts appro-
5 priated pursuant to paragraph (1) are authorized to
6 remain available until expended.

7 **SEC. 6. REPORT ON IMPLEMENTATION OF THE ACT.**

8 Not later than 180 days after the date of enactment
9 of this Act, the Attorney General, in consultation with the
10 Commissioner of Immigration and Naturalization, shall
11 submit to the Committees on the Judiciary of the Senate
12 and the House of Representatives a report on implementa-
13 tion of this Act that includes a description of—

14 (1) the procedures used to refer matters to the
15 Office of Special Investigations in a manner con-
16 sistent with the amendments made by this Act;

17 (2) the revisions, if any, made to immigration
18 forms to reflect changes in the Immigration and Na-
19 tionality Act made by the amendments contained in
20 this Act; and

21 (3) the procedures developed, with adequate due
22 process protection, to obtain sufficient evidence to
23 determine whether an alien may be inadmissible
24 under the terms of the amendments made by this
25 Act.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Anti-Atrocity Alien De-*
 3 *portation Act of 2002”.*

4 **SEC. 2. INADMISSIBILITY AND DEPORTABILITY OF ALIENS**
 5 **WHO HAVE COMMITTED ACTS OF TORTURE**
 6 **OR EXTRAJUDICIAL KILLINGS ABROAD.**

7 (a) *INADMISSIBILITY.*—*Section 212(a)(3)(E) of the*
 8 *Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(E))*
 9 *is amended—*

10 (1) *in clause (ii), by striking “has engaged in*
 11 *conduct that is defined as genocide for purposes of the*
 12 *International Convention on the Prevention and Pun-*
 13 *ishment of Genocide is inadmissible” and inserting*
 14 *“ordered, incited, assisted, or otherwise participated*
 15 *in conduct outside the United States that would, if*
 16 *committed in the United States or by a United States*
 17 *national, be genocide, as defined in section 1091(a) of*
 18 *title 18, United States Code, is inadmissible”;*

19 (2) *by adding at the end the following:*

20 “(iii) *COMMISSION OF ACTS OF TOR-*
 21 *TURE OR EXTRAJUDICIAL KILLINGS.*—*Any*
 22 *alien who, outside the United States, has*
 23 *committed, ordered, incited, assisted, or oth-*
 24 *erwise participated in the commission of—*

1 “(I) any act of torture, as defined
2 in section 2340 of title 18, United
3 States Code; or

4 “(II) under color of law of any
5 foreign nation, any extrajudicial kill-
6 ing, as defined in section 3(a) of the
7 Torture Victim Protection Act of 1991;
8 is inadmissible.”; and

9 (3) in the subparagraph heading, by striking
10 “PARTICIPANTS IN NAZI PERSECUTION OR GENOCIDE”
11 and inserting “PARTICIPANTS IN NAZI PERSECUTION,
12 GENOCIDE, OR THE COMMISSION OF ANY ACT OF TOR-
13 TURE OR EXTRAJUDICIAL KILLING”.

14 (b) *DEPORTABILITY*.—Section 237(a)(4)(D) of such
15 Act (8 U.S.C. 1227(a)(4)(D)) is amended—

16 (1) by striking “clause (i) or (ii)” and inserting
17 “clause (i), (ii), or (iii)”; and

18 (2) in the subparagraph heading, by striking
19 “ASSISTED IN NAZI PERSECUTION OR ENGAGED IN
20 GENOCIDE” and inserting “ASSISTED IN NAZI PERSE-
21 CUTION, PARTICIPATED IN GENOCIDE, OR COMMITTED
22 ANY ACT OF TORTURE OR EXTRAJUDICIAL KILLING”.

23 (c) *EFFECTIVE DATE*.—The amendments made by this
24 section shall apply to offenses committed before, on, or after
25 the date of the enactment of this Act.

1 **SEC. 3. INADMISSIBILITY AND DEPORTABILITY OF FOREIGN**
2 **GOVERNMENT OFFICIALS WHO HAVE COM-**
3 **MITTED PARTICULARLY SEVERE VIOLATIONS**
4 **OF RELIGIOUS FREEDOM.**

5 (a) **GROUND OF INADMISSIBILITY.**—Section
6 212(a)(2)(G) of the Immigration and Nationality Act (8
7 U.S.C. 1182(a)(2)(G)) is amended to read as follows:

8 “(G) **FOREIGN GOVERNMENT OFFICIALS**
9 **WHO HAVE COMMITTED PARTICULARLY SEVERE**
10 **VIOLATIONS OF RELIGIOUS FREEDOM.**—Any
11 alien who, while serving as a foreign government
12 official, was responsible for or directly carried
13 out, at any time, particularly severe violations of
14 religious freedom, as defined in section 3 of the
15 International Religious Freedom Act of 1998, are
16 inadmissible.”.

17 (b) **GROUND OF DEPORTABILITY.**—Section 237(a)(4)
18 of such Act (8 U.S.C. 1227(a)(4)) is amended by adding
19 at the end the following:

20 “(E) **PARTICIPATED IN THE COMMISSION OF**
21 **SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.**—
22 Any alien described in section 212(a)(2)(G) is
23 deportable.”.

1 **SEC. 4. BAR TO GOOD MORAL CHARACTER FOR ALIENS WHO**
2 **HAVE COMMITTED ACTS OF TORTURE,**
3 **EXTRAJUDICIAL KILLINGS, OR SEVERE VIO-**
4 **LATIONS OF RELIGIOUS FREEDOM.**

5 *Section 101(f) of the Immigration and Nationality Act*
6 *(8 U.S.C. 1101(f)) is amended—*

7 *(1) by striking the period at the end of para-*
8 *graph (8) and inserting “; and”; and*

9 *(2) by adding at the end the following:*

10 *“(9) one who at any time has engaged in con-*
11 *duct described in section 212(a)(3)(E) (relating to as-*
12 *sistance in Nazi persecution, participation in geno-*
13 *cide, or commission of acts of torture or extrajudicial*
14 *killings) or 212(a)(2)(G) (relating to severe violations*
15 *of religious freedom).”.*

16 **SEC. 5. ESTABLISHMENT OF THE OFFICE OF SPECIAL IN-**
17 **VESTIGATIONS.**

18 *(a) AMENDMENT OF THE IMMIGRATION AND NATION-*
19 *ALITY ACT.—Section 103 of the Immigration and Nation-*
20 *ality Act (8 U.S.C. 1103) is amended by adding at the end*
21 *the following:*

22 *“(g)(1) The Attorney General shall establish within the*
23 *Criminal Division of the Department of Justice an Office*
24 *of Special Investigations with the authority to detect and*
25 *investigate, and, where appropriate, to take legal action to*
26 *denaturalize any alien described in section 212(a)(3)(E).*

1 “(2) *The Attorney General may delegate to any office*
2 *or other component within the Department of Justice, all*
3 *or part of the responsibility for determinations of inadmis-*
4 *sibility of aliens described in section 212(a)(3)(E), deter-*
5 *minations of deportability under section 237(a)(4)(D), or*
6 *the removal, prosecution, or extradition of such aliens.*

7 “(3) *In determining the appropriate legal action to*
8 *take against an alien described in section 212(a)(3)(E),*
9 *consideration shall be given to—*

10 “(A) *the availability of prosecution under the*
11 *laws of the United States for any conduct that may*
12 *form the basis for removal and denaturalization; or*

13 “(B) *the removal of the alien to a foreign juris-*
14 *isdiction that is prepared to undertake a prosecution*
15 *for such conduct.”.*

16 **(b) AUTHORIZATION OF APPROPRIATIONS.—**

17 **(1) IN GENERAL.—***There are authorized to be ap-*
18 *propriated to the Department of Justice such sums as*
19 *may be necessary to carry out the additional duties*
20 *established under section 103(g) of the Immigration*
21 *and Nationality Act (as added by this Act) in order*
22 *to ensure that the Office of Special Investigations ful-*
23 *fills its continuing obligations regarding Nazi war*
24 *criminals.*

1 (2) *AVAILABILITY OF FUNDS.*—Amounts appro-
2 priated pursuant to paragraph (1) are authorized to
3 remain available until expended.

4 **SEC. 6. REPORT ON IMPLEMENTATION OF THE ACT.**

5 *Not later than 180 days after the date of enactment*
6 *of this Act, the Attorney General, in consultation with the*
7 *Commissioner of Immigration and Naturalization, shall*
8 *submit to the Committees on the Judiciary of the Senate*
9 *and the House of Representatives a report on implementa-*
10 *tion of this Act that includes a description of—*

11 (1) *the procedures used to refer matters to the*
12 *Office of Special Investigations and other components*
13 *within the Department of Justice in a manner con-*
14 *sistent with the amendments made by this Act;*

15 (2) *the revisions, if any, made to immigration*
16 *forms to reflect changes in the Immigration and Na-*
17 *tionality Act made by the amendments contained in*
18 *this Act; and*

19 (3) *the procedures developed, with adequate due*
20 *process protection, to obtain sufficient evidence to de-*
21 *termine whether an alien may be inadmissible under*
22 *the terms of the amendments made by this Act.*

Calendar No. 356

107TH CONGRESS
2^D SESSION

S. 864

[Report No. 107-144]

A BILL

To amend the Immigration and Nationality Act to provide that aliens who commit acts of torture, extrajudicial killings, or other specified atrocities abroad are inadmissible and removable and to establish within the Criminal Division of the Department of Justice an Office of Special Investigations having responsibilities under that Act with respect to all alien participants in war crimes, genocide, and the commission of acts of torture and extrajudicial killings abroad.

APRIL 25, 2002

Reported with an amendment