

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—117th Cong., 2d Sess.

S. 4240

To amend section 2441 of title 18, United States Code, to broaden the scope of individuals subject to prosecution for war crimes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Justice for Victims
5 of War Crimes Act”.

6 **SEC. 2. WAR CRIMES.**

7 Section 2441 of title 18, United States Code, is
8 amended—

9 (1) by striking subsection (b) and inserting the
10 following:

1 “(b) JURISDICTION.—There is jurisdiction over an
2 offense described in subsection (a) if—

3 “(1) the offense occurs in whole or in part with-
4 in the United States; or

5 “(2) regardless of where the offense occurs—

6 “(A) the victim or offender is—

7 “(i) a national of the United States or
8 an alien lawfully admitted for permanent
9 residence; or

10 “(ii) a member of the Armed Forces
11 of the United States, regardless of nation-
12 ality; or

13 “(B) the offender is present in the United
14 States, regardless of the nationality of the vic-
15 tim or offender.”; and

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

17 “(e) NONAPPLICABILITY OF CERTAIN LIMITA-
18 TIONS.—In the case of an offense described in subsection
19 (a) and further described in subsections (c)(1) and (c)(3),
20 an indictment may be found or an information may be
21 instituted at any time without limitation.

22 “(f) CERTIFICATION REQUIREMENT.—

23 “(1) IN GENERAL.—No prosecution for an of-
24 fense described in subsection (a) shall be undertaken
25 by the United States except on written certification

1 of the Attorney General, the Deputy Attorney Gen-
2 eral, or an Assistant Attorney General, which func-
3 tion of approving prosecutions may not be delegated,
4 that a prosecution by the United States is in the
5 public interest and necessary to secure substantial
6 justice.

7 “(2) OFFENDER PRESENT IN UNITED
8 STATES.—For an offense for which jurisdiction ex-
9 ists under subsection (b)(2)(B) (and does not exist
10 under any other provision of subsection (b)), the
11 written certification required under paragraph (1) of
12 this subsection that a prosecution by the United
13 States is in the public interest and necessary to se-
14 cure substantial justice shall be made by the Attor-
15 ney General or the Deputy Attorney General, which
16 function may not be delegated. In issuing such cer-
17 tification, the same official shall weigh and consider,
18 among other relevant factors—

19 “(A) whether the alleged offender can be
20 removed from the United States for purposes of
21 prosecution in another jurisdiction; and

22 “(B) potential adverse consequences for
23 nationals, servicemembers, or employees of the
24 United States.

1 “(g) INPUT FROM OTHER AGENCY HEADS.—The
2 Secretary of Defense and Secretary of State may submit
3 to the Attorney General for consideration their views gen-
4 erally regarding potential benefits, or potential adverse
5 consequences for nationals, servicemembers, or employees
6 of the United States, of prosecutions of offenses for which
7 jurisdiction exists under subsection (b)(2)(B).

8 “(h) NO JUDICIAL REVIEW.—Certifications under
9 subsection (f) and input from other agency heads under
10 subsection (g) are not subject to judicial review.

11 “(i) RULES OF CONSTRUCTION.—Nothing in this sec-
12 tion shall be construed as—

13 “(1) support for ratification of or accession to
14 the Rome Statute of the International Criminal
15 Court, which entered into force on July 1, 2002; or

16 “(2) consent by the United States to any asser-
17 tion or exercise of jurisdiction by any international,
18 hybrid, or foreign court.”.