

117TH CONGRESS
2D SESSION

H. R. 8194

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of fentanyl overdoses in the United States.

IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2022

Mrs. WALORSKI introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of fentanyl overdoses in the United States.

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 “Civil Justice for Vic-
5 tims of International Fentanyl Trafficking Act”.

1 **SEC. 2. RESPONSIBILITY OF FOREIGN STATES.**

2 (a) RESPONSIBILITY.—Chapter 97 of title 28, United
3 States Code, is amended by inserting after section 1605B
4 the following:

5 **“§ 1605C. Responsibility of foreign states for death or**
6 **injury from international fentanyl traf-**
7 **ficking in the United States.**

8 “(a) RESPONSIBILITY OF FOREIGN STATES.—A for-
9 eign state shall not be immune from the jurisdiction of
10 the courts of the United States in any case in which money
11 damages are sought against a foreign state for death or
12 physical injury to a person caused by fentanyl use or expo-
13 sure that occurs in the United States following any reck-
14 less action of a covered person, that caused or substan-
15 tially contributed to the unlawful trafficking of fentanyl
16 from the foreign state into and within the United States.

17 “(b) COVERED PERSON DEFINED.—In this section,
18 the term ‘covered person’ means—

19 “(1) an alien who is unlawfully present in the
20 United States;

21 “(2) a foreign opioid trafficker, as identified in
22 the report submitted under section 7211(a) of the
23 Fentanyl Sanctions Act; or

24 “(3) a significant foreign narcotics trafficker,
25 as identified in the report submitted under sub-

1 section (b) or (h)(1) of section 804 of the Foreign
2 Narcotics Kingpin Designation Act.

3 “(c) RULE OF CONSTRUCTION.—A foreign state shall
4 not be subject to the jurisdiction of the courts of the
5 United States under subsection (a) on the basis of an
6 omission or act that constitutes mere negligence.

7 “(d) EXCLUSIVE JURISDICTION.—The courts of the
8 United States shall have exclusive jurisdiction in any ac-
9 tion in which a foreign state is subject to the jurisdiction
10 of a court of the United States under subsection (a).

11 “(e) INTERVENTION.—The Attorney General may in-
12 tervene in any action in which a foreign state is subject
13 to the jurisdiction of a court of the United States under
14 subsection (a) for the purpose of seeking a stay of the
15 civil action, in whole or in part.

16 “(f) STAY.—

17 “(1) IN GENERAL.—A court of the United
18 States may stay a proceeding against a foreign state
19 if the Secretary of State certifies that the United
20 States is engaged in good faith discussions with the
21 foreign state defendant concerning the resolution of
22 the claims against the foreign state, or any other
23 parties as to whom a stay of claims is sought. In ex-
24 ercising its discretion under this subsection, the
25 court shall balance the interests of the United States

1 with the interests of the plaintiffs in a timely review
2 of their claims.

3 “(2) DURATION.—

4 “(A) IN GENERAL.—A stay under this sec-
5 tion may be granted for not more than 180
6 days.

7 “(B) EXTENSION.—

8 “(i) IN GENERAL.—The Attorney
9 General may petition the court for an ex-
10 tension of the stay for additional periods
11 not to exceed 180 days.

12 “(ii) RECERTIFICATION.—A court
13 may grant an extension under subpara-
14 graph (A) if the Secretary of State recer-
15 tifies that the United States remains en-
16 gaged in good faith discussions with the
17 foreign state defendant concerning the res-
18 olution of the claims against the foreign
19 state, or any other parties as to whom a
20 stay of claims is sought. In choosing
21 whether to grant an extension, the court
22 shall balance the interests of the United
23 States with the interests of the plaintiffs in
24 a timely review of their claims.

1 “(g) ENFORCEMENT BY STATE ATTORNEYS GEN-
2 ERAL.—Any State, on its own behalf or on behalf of the
3 citizens or residents of the State, may bring a civil action
4 in a district court of the United States under the cir-
5 cumstances described in subsection (a). Nothing in this
6 Act may be construed to prevent a State from exercising
7 its powers under State law.”.

8 (b) APPLICABILITY.—Section 1605C of title 28,
9 United States Code, as added by such subsection (a), shall
10 apply to any conduct occurring before, on, or after the
11 date of enactment of this Act.

12 (c) TECHNICAL AND CONFORMING AMENDMENT.—
13 The table of sections for chapter 97 of title 28, United
14 States Code, is amended by inserting after the item relat-
15 ing to section 1605B the following:

“1605C. Responsibility of foreign states for death or injury from international
fentanyl trafficking in the United States.”.

