

117TH CONGRESS
1ST SESSION

H. R. 4424

To direct the Secretary of Defense to notify Congress if the Secretary determines, with high confidence, that a foreign government or foreign official has taken, or plans to take, steps intended to cause the death of, or serious bodily injury to, a member of the United States Armed Forces.

IN THE HOUSE OF REPRESENTATIVES

JULY 13, 2021

Mrs. MURPHY of Florida (for herself and Ms. SALAZAR) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To direct the Secretary of Defense to notify Congress if the Secretary determines, with high confidence, that a foreign government or foreign official has taken, or plans to take, steps intended to cause the death of, or serious bodily injury to, a member of the United States Armed Forces.

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 “Deadly Escalation by
5 Foreign Entities Notification and Disclosure Act” or the
6 “DEFEND Act”.

1 **SEC. 2. NOTIFICATION OF CERTAIN THREATS TO UNITED**
2 **STATES ARMED FORCES BY FOREIGN GOV-**
3 **ERNMENTS.**

4 (a) DETERMINATION THAT FOREIGN GOVERNMENT
5 INTENDS TO CAUSE THE DEATH OF OR SERIOUS BODILY
6 INJURY TO MEMBERS OF THE ARMED FORCES.—The
7 Secretary of Defense shall carry out the notification re-
8 quirements under subsection (b) whenever the Secretary,
9 in consultation with the Director of National Intelligence,
10 determines with high confidence that, on or after the date
11 of the enactment of this Act, an official of a foreign gov-
12 ernment plans or takes some other substantial step that
13 is intended to cause the death of, or serious bodily injury
14 to, any member of the United States Armed Forces,
15 whether through direct means or indirect means, including
16 through a promise or agreement by the foreign govern-
17 ment to pay anything of pecuniary value to an individual
18 or organization in exchange for causing such death or in-
19 jury.

20 (b) NOTICE TO CONGRESS.—

21 (1) NOTIFICATION.—Except as provided in
22 paragraph (3), not later than 14 days after making
23 a determination under subsection (a), the Secretary
24 shall notify the congressional leadership, the con-
25 gressional intelligence committees and, consistent
26 with the protection of sources and methods, the ap-

1 appropriate congressional committees of such deter-
2 mination. Such notification shall include, at a min-
3 imum, the following:

4 (A) A description of the nature and extent
5 of the effort by the foreign government to tar-
6 get members of the United States Armed
7 Forces.

8 (B) An assessment of what specific offi-
9 cials, agents, entities, and departments within
10 the foreign government ordered, authorized, or
11 had knowledge of the effort.

12 (C) An assessment of the motivations of
13 the foreign government for undertaking such an
14 effort.

15 (D) An assessment of whether the effort of
16 the foreign government was a substantial factor
17 in the death or serious bodily injury of any
18 member of the United States Armed Forces.

19 (E) Any other information the Secretary
20 determines appropriate.

21 (2) OPTION FOR BRIEFING.—Upon the request
22 of a congressional recipient specified in paragraph
23 (1) after being notified of a determination under
24 such paragraph, the Secretary shall provide to the

1 recipient a briefing on the contents of the notifica-
2 tion.

3 (3) PROTECTION OF SOURCES AND METH-
4 ODS.—This subsection shall be carried out in a man-
5 ner that is consistent with the protection of sources
6 and methods.

7 (c) DEFINITIONS.—In this section:

8 (1) The term “anything of pecuniary value” has
9 the meaning given that term in section 1958(b)(1)
10 of title 18, United States Code.

11 (2) The term “appropriate congressional com-
12 mittees” means the following:

13 (A) The Committee on Armed Services and
14 the Committee on Foreign Affairs of the House
15 of Representatives.

16 (B) The Committee on Armed Services and
17 the Committee on Foreign Relations of the Sen-
18 ate.

19 (3) The terms “congressional intelligence com-
20 mittees” and “intelligence community” have the
21 meaning given those terms in section 3 of the Na-
22 tional Security Act of 1947 (50 U.S.C. 3003).

23 (4) The term “congressional leadership” in-
24 cludes the following:

25 (A) The majority leader of the Senate.

1 (B) The minority leader of the Senate.

2 (C) The Speaker of the House of Rep-
3 resentatives.

4 (D) The minority leader of the House of
5 Representatives.

6 (5) The term “determines with high con-
7 fidence”—

8 (A) means that the official making the de-
9 termination—

10 (i) has concluded that the judgments
11 in the determination are based on sound
12 analytic argumentation and high-quality,
13 consistent reporting from multiple sources,
14 including through clandestinely obtained
15 documents, clandestine and open source re-
16 porting, and in-depth expertise;

17 (ii) with respect to such judgments,
18 has concluded that the intelligence commu-
19 nity has few intelligence gaps and few as-
20 sumptions underlying the analytic line and
21 that the intelligence community has con-
22 cluded that the potential for deception is
23 low; and

1 (iii) has examined long-standing ana-
2 lytic judgments and considered alternatives
3 in making the determination; but

4 (B) does not mean that the official making
5 the determination has concluded that the judg-
6 ments in the determination are fact or cer-
7 tainty.

8 (6) The term “direct means” means without the
9 use of intermediaries.

10 (7) The term “foreign government” means the
11 government of a foreign country with which the
12 United States is at peace.

13 (8) The term “indirect means” means through,
14 or with the assistance of, intermediaries.

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