

118TH CONGRESS
2D SESSION

S. _____

To modernize diplomatic security, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. RUBIO (for himself and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To modernize diplomatic security, 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. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Diplomatic Security Modernization Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

TITLE I—BUREAU OF DIPLOMATIC SECURITY ORGANIZATION
AND MANAGEMENT

Sec. 101. Report on the Bureau of Diplomatic Security direct reporting structure to Deputy Secretary of State for Management and Resources.

2

- Sec. 102. Expansion of counter-intelligence personnel security program to include non-security staff.
- Sec. 103. Counter-intelligence training for certain Diplomatic Security special agents.
- Sec. 104. Role of Regional Security Officers as principal security and lead law enforcement representatives at overseas missions.

TITLE II—AUTHORITIES

- Sec. 201. Delegation of preapproval relating to interception of wire, oral, and electronic communications.
- Sec. 202. Administrative subpoena authority.
- Sec. 203. Investigation of cyber crimes.
- Sec. 204. Authority to provide direct assistance to crime victims.
- Sec. 205. Authority to investigate transnational human trafficking.
- Sec. 206. Revision of certain license exception under Export Administration Regulations to apply with respect to security contractors of Department of State.
- Sec. 207. Expansion of Rewards for Justice Program.
- Sec. 208. Exemption of Department of State from the Secure Federal LEASES Act.

TITLE III—PERSONNEL POLICIES

- Sec. 301. Modernization of timekeeping process.
- Sec. 302. Availability for work credit for purposes of calculating unscheduled duty hours.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) APPROPRIATE CONGRESSIONAL COMMIT-
 4 TEES.—The term “appropriate congressional com-
 5 mittees” means—

6 (A) the Committee on Foreign Relations of
 7 the Senate;

8 (B) the Committee on Appropriations of
 9 the Senate;

10 (C) the Committee on Foreign Affairs of
 11 the House of Representatives; and

12 (D) the Committee on Appropriations of
 13 the House of Representatives.

1 (2) DIPLOMATIC SECURITY SPECIAL AGENT.—
2 The term “Diplomatic Security special agent”
3 means a special agent of the Department of State or
4 the Foreign Service under section 37 of the State
5 Department Basic Authorities Act of 1956 (22
6 U.S.C. 2709).

7 **TITLE I—BUREAU OF DIPLO-**
8 **MATIC SECURITY ORGANIZA-**
9 **TION AND MANAGEMENT**

10 **SEC. 101. REPORT ON THE BUREAU OF DIPLOMATIC SECU-**
11 **RITY ORGANIZATIONAL REPORTING STRUC-**
12 **TURE.**

13 Not later than 180 days after the date of the enact-
14 ment of this Act, the Secretary of State shall submit a
15 report to Congress that—

16 (1) assesses and justifies keeping the Assistant
17 Secretary of State for Diplomatic Security under the
18 supervision of the Under Secretary of State for
19 Management; and

20 (2) explains how requiring the Assistant Sec-
21 retary of State for Diplomatic Security to report di-
22 rectly to the Deputy Secretary of State for Manage-
23 ment and Resources would enhance or detract from
24 the ability of the Bureau of Diplomatic Security to

1 meets its obligations of providing a safe and secure
2 environment for the conduct of diplomacy.

3 **SEC. 102. EXPANSION OF COUNTER-INTELLIGENCE PER-**
4 **SONNEL SECURITY PROGRAM TO INCLUDE**
5 **NONSECURITY STAFF.**

6 (a) IN GENERAL.—Section 155(a) of the Foreign Re-
7 lations Authorization Act, 1988 and 1989 (Public Law
8 100–204; 22 U.S.C. 4802 note) is amended by striking
9 “high intelligence threat countries who are responsible for
10 security at those posts” and inserting “critical human in-
11 telligence threat countries and countries designated by the
12 Under Secretary of State for Management”.

13 (b) EFFECTIVE DATE.—The amendment made by
14 subsection (a) shall take effect on the date that is 90 days
15 after the date of the enactment of this Act.

16 (c) REPORT TO CONGRESS.—Not later than 180 days
17 after the date of the enactment of this Act, the Secretary
18 of State shall submit a report to the appropriate congres-
19 sional committees that describes the implementation of the
20 expanded special personnel security program required
21 under section 155(a) of the Foreign Relations Authoriza-
22 tion Act, 1988 and 1989, as amended by subsection (a).

1 **SEC. 103. COUNTER-INTELLIGENCE TRAINING FOR CER-**
2 **TAIN DIPLOMATIC SECURITY SPECIAL**
3 **AGENTS.**

4 (a) IN GENERAL.—Title IV of the Omnibus Diplo-
5 matic Security and Antiterrorism Act of 1986 (22 U.S.C.
6 4851 et seq.) is amended by adding at the end the fol-
7 lowing:

8 **“SEC. 418. COUNTER-INTELLIGENCE TRAINING FOR CER-**
9 **TAIN DIPLOMATIC SECURITY SPECIAL**
10 **AGENTS.**

11 “Diplomatic Security special agents who are assigned
12 to positions with a primary counterintelligence role or a
13 diplomatic post rated as High or Critical for Human Intel-
14 ligence on the Department of State’s Security Environ-
15 ment Threat List shall receive specific and substantive
16 mandatory Counter-Intelligence training.”.

17 (b) CLERICAL AMENDMENT.—The table of contents
18 of the Omnibus Diplomatic Security and Antiterrorism
19 Act of 1986 (Public Law 99–399) is amended by inserting
20 after the item relating to section 417 the following:

“418. Counter-intelligence training for certain Diplomatic Security special
agents.”.

1 **SEC. 104. ROLE OF REGIONAL SECURITY OFFICERS AS**
2 **PRINCIPAL SECURITY AND LEAD LAW EN-**
3 **FORCEMENT REPRESENTATIVES AT OVER-**
4 **SEAS MISSIONS.**

5 Section 103(a)(1)(A) of the Omnibus Diplomatic and
6 Security Antiterrorism Act of 1986 (22 U.S.C.
7 4802(a)(1)(A)) is amended by inserting “, including by
8 acting through appropriate personnel, such as Diplomatic
9 Security special agents assigned as Regional Security Offi-
10 cers, as the principal security and lead law enforcement
11 representatives to Chiefs of Mission and the Secretary of
12 State for purposes of directing executive branch personnel
13 assigned overseas under Chief of Mission authority” be-
14 fore the semicolon at the end.

15 **TITLE II—AUTHORITIES**

16 **SEC. 201. DELEGATION OF PREAPPROVAL RELATING TO**
17 **INTERCEPTION OF WIRE, ORAL, AND ELEC-**
18 **TRONIC COMMUNICATIONS.**

19 (a) SENSE OF CONGRESS.—It is the sense of Con-
20 gress that—

21 (1) Diplomatic Security special agents should
22 be able to conduct recordings, like those of other
23 United States Federal law enforcement agencies,
24 during the course of their official activities to ensure
25 accountability and promote public confidence in law
26 enforcement efforts; and

1 (2) the Department of State’s current process
2 of obtaining the Secretary of State’s pre-approval
3 for creating each instance of these objective accounts
4 of key investigations and interactions significantly
5 restricts Diplomatic Security special agents from ob-
6 taining timely approval from an appropriate law en-
7 forcement entity for critical information.

8 (b) IN GENERAL.—The Secretary of State should del-
9 egate to the Assistant Secretary of State for Diplomatic
10 Security or the Principal Deputy Assistant Secretary of
11 State for Diplomatic Security as the preapproval authority
12 for Diplomatic Security special agents seeking authoriza-
13 tion under section 2516 of title 18, United States Code,
14 to carry out the interception of wire, oral, or electronic
15 communications—

16 (1) in furtherance of carrying out the duties de-
17 scribed in section 37(a) of the State Department
18 Basic Authorities Act of 1956 (22 U.S.C. 2709(a));
19 and

20 (2) in accordance with the requirements under
21 chapter 119 of title 18, United States Code.

22 (c) UPDATE TO THE FOREIGN AFFAIRS MANUAL.—
23 Not later than 90 days after the date of the enactment
24 of this Act, the Secretary shall revise section 221.5 of vol-
25 ume 12 of the Foreign Affairs Manual to reflect the dele-

1 gation to the Assistant Secretary of State for Diplomatic
2 Security or the Principal Deputy Assistant Secretary of
3 State for Diplomatic Security under subsection (b).

4 **SEC. 202. ADMINISTRATIVE SUBPOENA AUTHORITY.**

5 Section 3486(a)(1)(A) of title 18, United States
6 Code, is amended—

7 (1) in clause (ii), by striking “or” at the end;

8 and

9 (2) in clause (iii), by striking the comma at the
10 end and inserting “; or”; and

11 (3) by inserting after clause (iii) the following:

12 “(iv) a threat against a person, a foreign mis-
13 sion, or an international organization authorized to
14 receive protection by special agents of the Depart-
15 ment of State and the Foreign Service that the Ex-
16 ecutive Director of the Bureau of Diplomatic Secu-
17 rity determines to be imminent; an offense under
18 chapter 75 or 77 of title 18, United States Code; or
19 any offense under section 878 of title 18, United
20 States Code, the Secretary of State,”.

21 **SEC. 203. INVESTIGATION OF CYBER CRIMES.**

22 Section 37(a)(1) of the State Department Basic Au-
23 thorities Act of 1956 (22 U.S.C. 2709(a)(1)) is amend-
24 ed—

1 (1) in subparagraph (B), by striking “or” at
2 the end; and

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

4 “(D) cyber crimes committed against the
5 Department of State computers or systems, or
6 overseas systems maintained by the Department
7 of State; or”.

8 **SEC. 204. AUTHORITY TO PROVIDE DIRECT ASSISTANCE TO**
9 **CRIME VICTIMS.**

10 In addition to the services described in section
11 503(c)(1) of the Victims’ Rights and Restitution Act of
12 1990 (34 U.S.C. 20141), including services provided
13 through the Victims’ Resource Advocacy Program of the
14 Diplomatic Security Service, the Secretary of State may
15 provide direct assistance, including emergency lodging,
16 meals, clothing, transportation, and other incidentals, to
17 a United States citizen victim involved in matters being
18 investigated by the Diplomatic Security Service.

19 **SEC. 205. AUTHORITY TO INVESTIGATE TRANSNATIONAL**
20 **HUMAN TRAFFICKING.**

21 Section 37(a)(1) of the State Department Basic Au-
22 thorities Act of 1956 (22 U.S.C. 2709(a)(1)), as amended
23 by section 203, is further amended by adding at the end
24 the following:

1 “(E) transnational violations of chapter 77
2 of title 18, United States Code, in which any
3 part of the offense conduct occurred outside the
4 United States or involved one or more foreign
5 nationals;”.

6 **SEC. 206. REVISION OF CERTAIN LICENSE EXCEPTION**
7 **UNDER EXPORT ADMINISTRATION REGULA-**
8 **TIONS TO APPLY WITH RESPECT TO SECU-**
9 **RITY CONTRACTORS OF DEPARTMENT OF**
10 **STATE.**

11 The Secretary of Commerce shall revise section
12 740.11 of title 15, Code of Federal Regulations, to apply
13 the license exception under subsection (b) of such section
14 to private security contractors of the United States Gov-
15 ernment who support the Bureau of Diplomatic Security
16 of the Department of State and other overseas security
17 operations of the Department of State.

18 **SEC. 207. EXPANSION OF REWARDS FOR JUSTICE PRO-**
19 **GRAM.**

20 Section 36(b) of the State Department Basic Au-
21 thorities Act of 1956 (22 U.S.C. 2708(b)) is amended—

22 (1) in paragraph (13), by striking “or” at the
23 end;

24 (2) in paragraph (14), by striking the period at
25 the end and inserting a semicolon; and

1 (3) by adding at the end the following:

2 “(15) the identification of any individual who
3 commits a major cybercrime described in section
4 1030(a) of title 18, United States Code, against the
5 United States; or

6 “(16) the identification of any individual who
7 has criminally violated a United States sanction if
8 the information received leads to—

9 “(A) prosecution of such individual by the
10 Department of Justice; or

11 “(B) the imposition of a civil fine by the
12 Office of Foreign Assets Control of the Depart-
13 ment of Treasury.”.

14 **SEC. 208. EXEMPTION OF DEPARTMENT OF STATE FROM**
15 **THE SECURE FEDERAL LEASES ACT.**

16 Section 2(6) of the Secure Federal LEASEs Act
17 (Public Law 116–276; 40 U.S.C. 585 note) is amended
18 by inserting “and the Department of State” after “the
19 Department of Defense”.

20 **TITLE III—PERSONNEL**
21 **POLICIES**

22 **SEC. 301. MODERNIZATION OF TIMEKEEPING PROCESS.**

23 Not later than 180 days after the date of the enact-
24 ment of this Act, the Comptroller for the Department of
25 State shall develop and begin implementing a plan to mod-

1 ernize and automate the Diplomatic Service special agent
2 time and attendance timekeeping process.

3 **SEC. 302. AVAILABILITY FOR WORK CREDIT FOR PURPOSES**
4 **OF CALCULATING UNSCHEDULED DUTY**
5 **HOURS.**

6 Not later than 180 days after the date of the enact-
7 ment of this Act, the Director of the Office of Personnel
8 Management shall amend section 550.182(a) of title 5,
9 Code of Federal Regulations, to provide that—

10 (1) Diplomatic Security special agents are
11 treated like other criminal investigators for the pur-
12 pose of calculating availability pay; and

13 (2) unscheduled duty hours include hours dur-
14 ing which a Diplomatic Security special agent is de-
15 termined by the Department of State to be available
16 for work.