

118TH CONGRESS
2D SESSION

S. 4484

To impose sanctions with respect to foreign persons of the International Criminal Court engaged in any effort to investigate, arrest, detain, or prosecute any protected person of the United States and its allies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2024

Mr. COTTON (for himself, Mr. McCONNELL, Mr. RISCH, Mr. GRAHAM, Mr. SCOTT of South Carolina, Mr. RUBIO, Mr. CRUZ, Ms. COLLINS, Mr. SULLIVAN, and Mr. RICKETTS) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions with respect to foreign persons of the International Criminal Court engaged in any effort to investigate, arrest, detain, or prosecute any protected person of the United States and its allies, 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.**

4 This Act may be cited as the “Illegitimate Court
5 Counteraction Act”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) The United States and Israel are not par-
4 ties to the Rome Statute or members of the Inter-
5 national Criminal Court, and therefore the Inter-
6 national Criminal Court has no legitimacy or juris-
7 diction over the United States or Israel.

8 (2) On May 20, 2024, the Prosecutor of the
9 International Criminal Court, Karim Khan, an-
10 nounced arrest warrant applications for Israeli
11 Prime Minister Benjamin Netanyahu and Minister
12 of Defense Yoav Gallant and should be condemned
13 in the strongest possible terms.

14 (3) The bipartisan American Servicemembers'
15 Protection Act (22 U.S.C. 7421 et seq.) was enacted
16 in 2002 to protect United States military personnel,
17 United States officials, and officials and military
18 personnel of certain allied countries against criminal
19 prosecution by an international criminal court to
20 which the United States is not party, stating, "In
21 addition to exposing members of the Armed Forces
22 of the United States to the risk of international
23 criminal prosecution, the Rome Statute creates a
24 risk that the President and other senior elected and
25 appointed officials of the United States Government

1 may be prosecuted by the International Criminal
2 Court.”.

3 (4) The International Criminal Court’s actions
4 against Israel are illegitimate and baseless, including
5 the preliminary examination and investigation of
6 Israel and applications for arrest warrants against
7 Israeli officials, which create a damaging precedent
8 that threatens the United States, Israel, and all
9 United States partners who have not submitted to
10 the International Criminal Court’s jurisdiction.

11 (5) The United States must oppose any action
12 by the International Criminal Court against the
13 United States, Israel, or any other ally of the United
14 States that has not consented to International
15 Criminal Court jurisdiction or is not a state party to
16 the Rome Statute.

17 **SEC. 3. SANCTIONS WITH RESPECT TO THE INTER-**
18 **NATIONAL CRIMINAL COURT.**

19 (a) IN GENERAL.—Not later than 60 days after the
20 date of the enactment of this Act, and on an ongoing basis
21 thereafter, if the International Criminal Court is engaging
22 in any attempt to investigate, arrest, detain, or prosecute
23 any protected person, the President shall impose—

1 (1) the sanctions described in subsection (b)
2 with respect to any foreign person the President de-
3 termines—

4 (A) has directly engaged in or otherwise
5 aided any effort by the International Criminal
6 Court to investigate, arrest, detain, or prosecute
7 a protected person;

8 (B) has materially assisted, sponsored, or
9 provided financial, material, or technological
10 support for, or goods or services to or in sup-
11 port of any effort by the International Criminal
12 Court to investigate, arrest, detain, or prosecute
13 a protected person; or

14 (C) is owned or controlled by, or is cur-
15 rently acting or purports to have acted, directly
16 or indirectly, for or on behalf of any person
17 that directly engages in any effort by the Inter-
18 national Criminal Court to investigate, arrest,
19 detain, or prosecute a protected person; and

20 (2) the sanctions described in subsection (b)(2)
21 with respect to the immediate family members of
22 each foreign person who is subject to sanctions pur-
23 suant to paragraph (1).

1 (b) SANCTIONS DESCRIBED.—The sanctions de-
2 scribed in this subsection with respect to a foreign person
3 described in subsection (a) are the following:

4 (1) PROPERTY BLOCKING.—The President shall
5 exercise all of the powers granted by the Inter-
6 national Emergency Economic Powers Act (50
7 U.S.C. 1701 et seq.) to the extent necessary to block
8 and prohibit all transactions in all property and in-
9 terests in property of any foreign person described
10 in subsection (a)(1) if such property and interests in
11 property are in the United States, come within the
12 United States, or are or come within the possession
13 or control of a United States person.

14 (2) ALIENS INADMISSIBLE FOR VISAS, ADMIS-
15 SION, OR PAROLE.—

16 (A) VISAS, ADMISSION, OR PAROLE.—In
17 the case of an alien described in subsection (a),
18 the alien is—

19 (i) inadmissible to the United States;

20 (ii) ineligible to receive a visa or other
21 documentation to enter the United States;

22 and

23 (iii) otherwise ineligible to be admitted
24 or paroled into the United States or to re-
25 ceive any other benefit under the Immigra-

1 tion and Nationality Act (8 U.S.C. 1101 et
2 seq.).

3 (B) CURRENT VISAS REVOKED.—

4 (i) IN GENERAL.—The visa or other
5 entry documentation of an alien described
6 in subparagraph (A) shall be revoked, re-
7 gardless of when such visa or other entry
8 documentation was issued.

9 (ii) IMMEDIATE EFFECT.—A revoca-
10 tion under clause (i) shall—

11 (I) take effect immediately; and

12 (II) automatically cancel any
13 other valid visa or entry documenta-
14 tion that is in the alien's possession.

15 (c) IMPLEMENTATION; PENALTIES.—

16 (1) IMPLEMENTATION.—The President may ex-
17 ercise all authorities provided under sections 203
18 and 205 of the International Emergency Economic
19 Powers Act (50 U.S.C. 1702 and 1704) to carry out
20 this section.

21 (2) PENALTIES.—A person that violates, at-
22 tempts to violate, conspires to violate, or causes a
23 violation of this section or any regulation, license, or
24 order issued to carry out this section shall be subject
25 to the penalties set forth in subsections (b) and (c)

1 of section 206 of the International Emergency Eco-
2 nomic Powers Act (50 U.S.C. 1705) to the same ex-
3 tent as a person that commits an unlawful act de-
4 scribed in subsection (a) of that section.

5 (d) NOTIFICATION TO CONGRESS.—Not later than 10
6 days after any imposition of sanctions pursuant to sub-
7 section (a), the President shall brief and provide written
8 notification to the appropriate congressional committees
9 regarding the imposition of sanctions that shall include—

10 (1) a description of the foreign person or per-
11 sons subject to the imposition of such sanctions, in-
12 cluding the foreign person’s role at or relation to the
13 International Criminal Court;

14 (2) a description of any activity undertaken by
15 such foreign person or persons in support of efforts
16 to investigate, arrest, detain, or prosecute any pro-
17 tected person; and

18 (3) the specific sanctions imposed on such for-
19 eign person or persons.

20 (e) WAIVER.—

21 (1) IN GENERAL.—The President may, on a
22 case-by-case basis and for periods not to exceed 90
23 days each, waive the application of sanctions im-
24 posed or maintained with respect to a foreign person
25 under this section if the President submits to the

1 appropriate congressional committees before the
2 waiver is to take effect a report that contains a de-
3 termination of the President that the waiver is vital
4 to the national security interests of the United
5 States.

6 (2) CONTENTS.—Each report required by para-
7 graph (1) with respect to a waiver of the application
8 of sanctions imposed or maintained with respect to
9 a foreign person under this section, or the renewal
10 of such a waiver, shall include—

11 (A) a specific and detailed rationale for the
12 determination that the waiver is vital to the na-
13 tional security interests of the United States;

14 (B) a description of the activity that re-
15 sulted in the foreign person being subject to
16 sanctions; and

17 (C) a detailed description and list of ac-
18 tions the United States has taken to—

19 (i) stop the International Criminal
20 Court from engaging in any effort to inves-
21 tigate, arrest, detain, or prosecute all pro-
22 tected persons; and

23 (ii) permanently close, withdraw, end,
24 or otherwise terminate any preliminary ex-
25 amination, investigation, or any other ef-

1 fort to investigate, arrest, detain, or pros-
2 ecute all protected persons.

3 (3) FORM.—Each report required by paragraph
4 (1) shall be submitted in unclassified form but may
5 include a classified annex.

6 (f) SPECIAL RULE.—The President may terminate
7 the sanctions with respect to the foreign persons described
8 in subsection (a) if the President certifies in writing to
9 the appropriate congressional committees that the Inter-
10 national Criminal Court—

11 (1) has ceased engaging in any effort to inves-
12 tigate, arrest, detain, or prosecute all protected per-
13 sons; and

14 (2) has permanently closed, withdrawn, ended,
15 and otherwise terminated any preliminary examina-
16 tion, investigation, or any other effort by the Inter-
17 national Criminal Court to investigate, arrest, de-
18 tain, or prosecute all protected persons.

19 **SEC. 4. RESCISSION OF FUNDS FOR INTERNATIONAL**
20 **CRIMINAL COURT.**

21 (a) IN GENERAL.—Effective on the date of the enact-
22 ment of this Act, any amounts appropriated for the Inter-
23 national Criminal Court and available for obligation as of
24 such date of enactment are hereby rescinded.

1 (b) PROHIBITION ON FUTURE APPROPRIATIONS.—
2 On and after the date of the enactment of this Act, no
3 appropriated funds may be used for the International
4 Criminal Court.

5 **SEC. 5. DEFINITIONS.**

6 In this Act:

7 (1) ADMITTED ALIEN.—The terms “admitted”
8 and “alien” have the meanings given those terms in
9 section 101 of the Immigration and Nationality Act
10 (8 U.S.C. 1101).

11 (2) ALLY OF THE UNITED STATES.—The term
12 “ally of the United States” means—

13 (A) a government of a member country of
14 the North Atlantic Treaty Organization; or

15 (B) a government of a major non-NATO
16 ally, as that term is defined by section 2013(7)
17 of the American Service-Members’ Protection
18 Act (22 U.S.C. 7432(7)).

19 (3) APPROPRIATE CONGRESSIONAL COMMIT-
20 TEES DEFINED.—The term “appropriate congres-
21 sional committees” means—

22 (A) the Committee on Foreign Relations,
23 the Committee on Banking, Housing, and
24 Urban Affairs, and the Committee on the Judi-
25 ciary of the Senate; and

1 (B) the Committee on Foreign Affairs, the
2 Committee on Financial Services, and the Com-
3 mittee on the Judiciary of the House of Rep-
4 resentatives.

5 (4) FOREIGN PERSON.—The term “foreign per-
6 son” means a person that is not a United States
7 person.

8 (5) IMMEDIATE FAMILY MEMBER.—The term
9 “immediate family member”, with respect to a for-
10 eign person, means the spouse, parent, sibling, or
11 adult child of the person.

12 (6) INTERNATIONAL CRIMINAL COURT; ROME
13 STATUTE.—The terms “International Criminal
14 Court” and “Rome Statute” have the meaning given
15 those terms in section 2013 of the American Service-
16 Members’ Protection Act (22 U.S.C. 7432).

17 (7) PROTECTED PERSON.—The term “protected
18 person” means—

19 (A) any United States person, unless the
20 United States provides formal consent to Inter-
21 national Criminal Court jurisdiction and is a
22 state party to the Rome Statute of the Inter-
23 national Criminal Court, including—

24 (i) current or former members of the
25 Armed Forces of the United States;

1 (ii) current or former elected or ap-
2 pointed officials of the United States Gov-
3 ernment; and

4 (iii) any other person currently or for-
5 merly employed by or working on behalf of
6 the United States Government; and

7 (B) any foreign person that is a citizen or
8 lawful resident of an ally of the United States
9 that has not consented to International Crimi-
10 nal Court jurisdiction or is not a state party to
11 the Rome Statute of the International Criminal
12 Court, including—

13 (i) current or former members of the
14 Armed Forces of such ally of the United
15 States;

16 (ii) current or former elected or ap-
17 pointed government officials of such ally of
18 the United States; and

19 (iii) any other person currently or for-
20 merly employed by or working on behalf of
21 such a government.

22 (8) UNITED STATES PERSON.—The term
23 “United States person” means—

1 (A) an individual who is a United States
2 citizen or an alien lawfully admitted for perma-
3 nent residence to the United States;

4 (B) an entity organized under the laws of
5 the United States or any jurisdiction within the
6 United States, including a foreign branch of
7 such an entity; or

8 (C) any person in the United States.

○