

117TH CONGRESS
2D SESSION

S. 4320

To enhance security at United States diplomatic facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 26, 2022

Mr. RISCH introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To enhance security at United States diplomatic facilities, 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 “Secure Embassy Con-
5 struction and Counterterrorism Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

8 (1) The Secure Embassy Construction and
9 Counterterrorism Act of 1999 (title VI of division A
10 of appendix G of Public Law 106–113) was a nec-

1 necessary response to bombings on August 7, 1998, at
2 the United States embassies in Nairobi, Kenya, and
3 in Dar es Salaam, Tanzania that were destroyed by
4 simultaneously exploding bombs. The resulting ex-
5 plosions killed 220 persons and injured more than
6 4,000 others. Twelve Americans and 40 Kenyan and
7 Tanzanian employees of the United States Foreign
8 Service were killed in the attacks.

9 (2) Those bombings, followed by the expedi-
10 tionary diplomatic efforts in Iraq and Afghanistan,
11 demonstrated the need to prioritize the security of
12 United States posts and personnel abroad above
13 other considerations.

14 (3) Between 1999 and 2022, the risk calculus
15 of the Department of State has swung too far to-
16 ward the elimination of risk, leading to a marked de-
17 crease in the ability of United States diplomats
18 around the world to advance the interests of the
19 United States through access to local populations,
20 leaders, and places.

21 (4) America's competitors and adversaries do
22 not have the same restrictions that United States
23 diplomats have, especially in critically important me-
24 dium-threat and high-threat posts.

1 (5) The Department of State’s 2021 Overseas
2 Security Panel report states that—

3 (A) the requirement for setback and col-
4 location of diplomatic posts under paragraphs
5 (2) and (3) of section 606(a) of the Secure Em-
6 bassy Construction and Counterterrorism Act of
7 1999 has led to sky-rocketing costs of new em-
8 bassies and consulates; and

9 (B) the locations of such posts have be-
10 come less desirable, creating an extremely sub-
11 optimal nexus that further hinders United
12 States diplomats who are willing to accept more
13 risk in order to advance United States inter-
14 ests.

15 **SEC. 3. SENSE OF CONGRESS.**

16 It is the sense of Congress that—

17 (1) the setback and collocation requirements re-
18 ferred to in section 2(5)(A), even with available
19 waivers, no longer provide the security such require-
20 ments used to provide because of advancement in
21 technologies, such as remote controlled drones, that
22 can evade walls and other such static barriers;

23 (2) the Department of State should focus on
24 creating performance security standards that—

1 (A) attempt to keep the setback require-
2 ments of diplomatic posts as limited as possible;
3 and

4 (B) provide diplomats access to local popu-
5 lations as much as possible, while still providing
6 a necessary level of security;

7 (3) collocation of diplomatic facilities is often
8 not feasible or advisable, particularly for public di-
9 plomacy spaces in countries with repressive govern-
10 ments, since such spaces are required to permit the
11 foreign public to enter and exit the space easily and
12 openly;

13 (4) the Bureau of Diplomatic Security should—

14 (A) fully utilize the waiver process pro-
15 vided under paragraphs (2)(B) and (3)(B) of
16 section 606(a) of the Secure Embassy Con-
17 struction and Counterterrorism Act of 1999;
18 and

19 (B) appropriately exercise such waiver
20 process as a tool to right-size the appropriate
21 security footing at each diplomatic post rather
22 than only approving waivers in extreme cir-
23 cumstances;

24 (5) the return of great power competition re-
25 quires—

1 (A) United States diplomats to do all they
2 can to outperform our adversaries; and

3 (B) the Department of State to better uti-
4 lize taxpayer funding to advance United States
5 national interests; and

6 (6) this Act will rebalance the Department of
7 State’s risk and provide United States diplomats the
8 tools they need to compete in the 21st century, while
9 saving United States taxpayers potentially billions of
10 dollars in reduced property and maintenance costs at
11 embassies and consulates abroad.

12 **SEC. 4. DEFINITION OF UNITED STATES DIPLOMATIC FA-**
13 **CILITY.**

14 Section 603 of the Secure Embassy Construction and
15 Counterterrorism Act of 1999 (title VI of division A of
16 appendix G of Public Law 106–113) is amended to read
17 as follows:

18 **“SEC. 603. UNITED STATES DIPLOMATIC FACILITY DE-**
19 **FINED.**

20 “In this title, the terms ‘United States diplomatic fa-
21 cility’ and ‘diplomatic facility’—

22 “(1) mean any chancery, consulate, or other of-
23 fice considered diplomatic or consular premises, con-
24 sistent with the Vienna Convention on Diplomatic
25 Relations, done at Vienna April 18, 1961, and the

1 Vienna Convention on Consular Relations, done at
2 Vienna April 24, 1963, or otherwise subject to a
3 publicly available bilateral agreement with the host
4 government (contained in the records of the United
5 States Department of State) that recognizes the offi-
6 cial status of the United States Government per-
7 sonnel present at the facility; and

8 “(2) do not include—

9 “(A) U.S. Customs and Border Protection
10 preclearance facilities, as established pursuant
11 to section 629 of the Tariff Act of 1930 (19
12 U.S.C. 1629) and section 103(a)(7) of the Im-
13 migration and Nationality Act (8 U.S.C.
14 1103(a)(7)) and Open Source Centers;

15 “(B) contractor-owned facilities; and

16 “(C) facilities at which United States Gov-
17 ernment personnel will be present not more
18 than 60 consecutive days and where the Sec-
19 retary determines that operational conditions,
20 security considerations, and mission goals sup-
21 port exclusion.”.

1 **SEC. 5. SECURITY REQUIREMENTS FOR UNITED STATES**
2 **DIPLOMATIC FACILITIES.**

3 Section 606(a) of the Secure Embassy Construction
4 and Counterterrorism Act of 1999 (title VI of division A
5 of appendix G of Public Law 106–113) is amended—

6 (1) in paragraph (1)(A), by striking “the
7 threat” and inserting “a range of threats, including
8 that”;

9 (2) in paragraph (2)—

10 (A) in subparagraph (A)—

11 (i) by striking “abroad” and inserting
12 “in a high risk, high threat post”; and

13 (ii) by inserting “and Voice of Amer-
14 ica correspondents on official assignment”
15 after “military commander”; and

16 (B) in subparagraph (B)—

17 (i) in clause (i), by inserting “if appli-
18 cable,” after “at the site,”;

19 (ii) in clause (ii)—

20 (I) in subclause (I), by inserting
21 “at a post designated as high risk,
22 high threat under section 104 of the
23 Omnibus Diplomatic Security and
24 Antiterrorism Act of 1986 (22 U.S.C.
25 4803)” before the period at the end;
26 and

1 (II) in subclause (II), by insert-
2 ing “at a post designated as high risk,
3 high threat under such section 104”
4 after “consulate building”; and

5 (iii) in clause (iii), by striking “waiv-
6 ers” and inserting “instances of split oper-
7 ations in which United States diplomatic
8 facilities are not colocated”; and

9 (3) in paragraph (3)—

10 (A) by amending subparagraph (A) to read
11 as follows:

12 “(A) REQUIREMENT.—

13 “(i) IN GENERAL.—Each newly ac-
14 quired United States diplomatic facility
15 shall be constructed or modified to meet
16 the measured building blast performance
17 standard applicable to a facility sited not
18 less than 100 feet from the perimeter.

19 “(ii) LEASED FACILITIES.—If the De-
20 partment of State is required to commence
21 or restart diplomatic operations in a coun-
22 try or city without a previously constructed
23 diplomatic facility and there is insufficient
24 time to construct a facility before such
25 commencement, the Secretary of State—

1 “(I) shall make every effort to
2 lease an existing facility with the max-
3 imum setback and security features
4 that can be reasonably expected; and

5 “(II) shall submit a setback waiv-
6 er, with a period of 1 year after leased
7 occupancy to process the setback
8 waiver.”; and

9 (B) in subparagraph (B)(ii)—

10 (i) in subclause (I), by inserting “at a
11 post designated as high risk, high threat
12 under section 104 of the Omnibus Diplo-
13 matic Security and Antiterrorism Act of
14 1986 (22 U.S.C. 4803)” before the period
15 at the end;

16 (ii) in subclause (II), by inserting “at
17 a post designated as high risk, high threat
18 under such section 104” after “consulate
19 building”; and

20 (iii) in subclause (III), by striking “an
21 annual” and inserting “a quarterly”.

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