

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 3257

To impose sanctions on foreign persons responsible for serious violations of international law regarding the protection of civilians during armed conflict, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. CORKER

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sanctioning the Use
5 of Civilians as Defenseless Shields Act”.

6 **SEC. 2. STATEMENT OF POLICY.**

7 It shall be the policy of the United States to officially
8 and publicly condemn the use of innocent civilians as
9 human shields.

1 **SEC. 3. IMPOSITION OF SANCTIONS WITH RESPECT TO FOR-**
2 **EIGN PERSONS THAT ARE RESPONSIBLE FOR**
3 **THE USE OF CIVILIANS AS HUMAN SHIELDS.**

4 (a) IMPOSITION OF SANCTIONS.—

5 (1) MANDATORY SANCTIONS.—The President
6 shall impose sanctions described in subsection (d)
7 with respect to each person on the list required
8 under subsection (b).

9 (2) PERMISSIVE SANCTIONS.—The President
10 may impose sanctions described in subsection (d)
11 with respect to each person on the list described in
12 subsection (c).

13 (b) MANDATORY SANCTIONS LIST.—Not later than
14 one year after the date of the enactment of this Act, and
15 annually thereafter, the President shall submit to the ap-
16 propriate congressional committees a list of the following:

17 (1) Each foreign person that the President de-
18 termines, on or after the date of the enactment of
19 this Act—

20 (A) is a member of Hizballah or is know-
21 ingly acting on behalf of Hizballah; and

22 (B) knowingly orders, controls, or other-
23 wise directs the use of civilians protected as
24 such by the law of war to shield military objec-
25 tives from attack.

1 (2) Each foreign person that the President de-
2 termines, on or after the date of the enactment of
3 this Act—

4 (A) is a member of Hamas or is knowingly
5 acting on behalf of Hamas; and

6 (B) knowingly orders, controls, or other-
7 wise directs the use of civilians protected as
8 such by the law of war to shield military objec-
9 tives from attack.

10 (3) Each foreign person or agency or instru-
11 mentality of a foreign state that the President deter-
12 mines, on or after the date of the enactment of this
13 Act, knowingly and materially supports, orders, con-
14 trols, directs, or otherwise engages in—

15 (A) any act described in subparagraph (B)
16 of paragraph (1) by a person described in that
17 paragraph; or

18 (B) any act described in subparagraph (B)
19 of paragraph (2) by a person described in that
20 paragraph.

21 (c) PERMISSIVE SANCTIONS LIST.—Not later than
22 one year after the date of the enactment of this Act, and
23 annually thereafter, the President should submit to the
24 appropriate congressional committees a list of each foreign
25 person that the President determines, on or after the date

1 of the enactment of this Act, knowingly orders, controls,
2 or otherwise directs the use of civilians protected as such
3 by the law of war to shield military objectives from attack,
4 excluding foreign persons included in the most recent list
5 under subsection (b).

6 (d) SANCTIONS DESCRIBED.—The sanctions to be
7 imposed on a foreign person or an agency or instrumen-
8 tality of a foreign state under this subsection are the fol-
9 lowing:

10 (1) BLOCKING OF PROPERTY.—The President
11 shall exercise all of the powers granted to the Presi-
12 dent under the International Emergency Economic
13 Powers Act (50 U.S.C. 1701 et seq.) to the extent
14 necessary to block and prohibit all transactions in
15 property and interests in property of the foreign per-
16 son or agency or instrumentality of a foreign state
17 if such property or interests in property are in the
18 United States, come within the United States, or are
19 or come within the possession or control of a United
20 States person.

21 (2) ALIENS INELIGIBLE FOR VISAS, ADMISSION,
22 OR PAROLE.—

23 (A) VISAS, ADMISSION, OR PAROLE.—An
24 alien who the Secretary of State or the Sec-

1 retary of Homeland Security determines is sub-
2 ject to sanctions under subsection (a) is—

3 (i) inadmissible to the United States;

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

6 and

7 (iii) otherwise ineligible to be admitted
8 or paroled into the United States or to re-
9 ceive any other benefit under the Immigra-
10 tion and Nationality Act (8 U.S.C. 1101 et
11 seq.).

12 (B) CURRENT VISAS REVOKED.—Any visa
13 or other documentation issued to an alien who
14 is subject to sanctions under subsection (a), re-
15 gardless of when such visa or other documenta-
16 tion was issued, shall be revoked and such alien
17 shall be denied admission to the United States.

18 (C) EXCEPTION TO COMPLY WITH UNITED
19 NATIONS HEADQUARTERS AGREEMENT AND
20 OTHER INTERNATIONAL OBLIGATIONS.—The
21 sanctions under this paragraph shall not be im-
22 posed on an individual if admitting such indi-
23 vidual to the United States is necessary to per-
24 mit the United States to comply with the
25 Agreement regarding the Headquarters of the

1 United Nations, signed at Lake Success June
2 26, 1947, and entered into force November 21,
3 1947, between the United Nations and the
4 United States, or with other applicable inter-
5 national obligations.

6 (e) PENALTIES.—The penalties provided for in sub-
7 sections (b) and (c) of section 206 of the International
8 Emergency Economic Powers Act (50 U.S.C. 1705) shall
9 apply to a person that knowingly violates, attempts to vio-
10 late, conspires to violate, or causes a violation of regula-
11 tions prescribed to carry out this section to the same ex-
12 tent that such penalties apply to a person that knowingly
13 commits an unlawful act described in section 206(a) of
14 such Act.

15 (f) PROCEDURES FOR JUDICIAL REVIEW OF CLASSI-
16 FIED INFORMATION.—

17 (1) IN GENERAL.—If a finding under this sec-
18 tion, or a prohibition, condition, or penalty imposed
19 as a result of any such finding, is based on classified
20 information (as defined in section 1(a) of the Classi-
21 fied Information Procedures Act (18 U.S.C. App.))
22 and a court reviews the finding or the imposition of
23 the prohibition, condition, or penalty, the President
24 may submit such information to the court ex parte
25 and in camera.

1 (2) RULE OF CONSTRUCTION.—Nothing in this
2 subsection shall be construed to confer or imply any
3 right to judicial review of any finding under this sec-
4 tion or any prohibition, condition, or penalty im-
5 posed as a result of any such finding.

6 (g) WAIVER.—The President may waive the applica-
7 tion of sanctions under this section if the President deter-
8 mines and reports to the appropriate congressional com-
9 mittees that such waiver is in the national security interest
10 of the United States.

11 (h) REGULATORY AUTHORITY.—

12 (1) IN GENERAL.—The President may exercise
13 all authorities under sections 203 and 205 of the
14 International Emergency Economic Powers Act (50
15 U.S.C. 1702 and 1704) for purposes of carrying out
16 this section.

17 (2) ISSUANCE OF REGULATIONS.—Not later
18 than 180 days after the date of the enactment of
19 this Act, the President shall prescribe such regula-
20 tions as may be necessary to implement this section.

21 (i) RULE OF CONSTRUCTION.—Nothing in this sec-
22 tion may be construed—

23 (1) to limit the authorities of the President pur-
24 suant to the International Emergency Economic

1 Powers Act (50 U.S.C. 1701 et seq.) or any other
2 relevant provision of law; or

3 (2) to apply with respect to any activity subject
4 to the reporting requirements under title V of the
5 National Security Act of 1947 (50 U.S.C. 3091 et
6 seq.), or to any authorized intelligence activities of
7 the United States.

8 **SEC. 4. DEFINITIONS.**

9 In this Act:

10 (1) ADMITTED; ALIEN.—The terms “admitted”
11 and “alien” have the meanings given those terms in
12 section 101 of the Immigration and Nationality Act
13 (8 U.S.C. 1101).

14 (2) AGENCY OR INSTRUMENTALITY OF A FOR-
15 EIGN STATE.—The term “agency or instrumentality
16 of a foreign state” has the meaning given that term
17 in section 1603(b) of title 28, United States Code.

18 (3) APPROPRIATE CONGRESSIONAL COMMIT-
19 TEES.—In this section, the term “appropriate con-
20 gressional committees” means—

21 (A) the Committee on Banking, Housing,
22 and Urban Affairs, the Committee on Foreign
23 Relations, and the Committee on the Judiciary
24 of the Senate; and

1 (B) the Committee on Financial Services,
2 the Committee on Foreign Affairs, and the
3 Committee on the Judiciary of the House of
4 Representatives.

5 (4) FOREIGN PERSON.—The term “foreign per-
6 son” means—

7 (A) any citizen or national of a foreign
8 state, wherever located; or

9 (B) any entity not organized solely under
10 the laws of the United States or existing solely
11 in the United States.

12 (5) HAMAS.—The term “Hammas” means—

13 (A) the entity known as Hamas and des-
14 ignated by the Secretary of State as a foreign
15 terrorist organization pursuant to section 219
16 of the Immigration and Nationality Act (8
17 U.S.C. 1189); or

18 (B) any person identified as an agent or
19 instrumentality of Hamas on the list of spe-
20 cially designated nationals and blocked persons
21 maintained by the Office of Foreign Asset Con-
22 trol of the Department of the Treasury, the
23 property or interests in property of which are
24 blocked pursuant to the International Emer-

1 gency Economic Powers Act (50 U.S.C. 1701 et
2 seq.).

3 (6) HIZBALLAH.—The term “Hizballah”
4 means—

5 (A) the entity known as Hizballah and des-
6 ignated by the Secretary of State as a foreign
7 terrorist organization pursuant to section 219
8 of the Immigration and Nationality Act (8
9 U.S.C. 1189); or

10 (B) any person identified as an agent or
11 instrumentality of Hizballah on the list of spe-
12 cially designated nationals and blocked persons
13 maintained by the Office of Foreign Asset Con-
14 trol of the Department of the Treasury, the
15 property or interests in property of which are
16 blocked pursuant to the International Emer-
17 gency Economic Powers Act (50 U.S.C. 1701 et
18 seq.).

19 (7) UNITED STATES PERSON.—The term
20 “United States person” means any United States
21 citizen, permanent resident alien, entity organized
22 under the laws of the United States (including for-
23 eign branches), or any person in the United States.

1 **SEC. 5. SUNSET.**

2 This Act shall cease to be effective on December 31,
3 2023.