

103D CONGRESS
1ST SESSION

S. 72

To amend section 481(c) of the Foreign Assistance Act of 1961.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. MOYNIHAN (for himself and Mr. SIMON) introduced the following bill;
which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend section 481(c) of the Foreign Assistance Act of
1961.

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. FINDINGS.**

4 The Congress finds that—

5 (A) In 1976 the Congress adopted the Inter-
6 national Security Assistance and Arms Export Con-
7 trol Act which amended section 481(c) of the For-
8 eign Assistance Act of 1961 to prohibit United
9 States officials from participating in any direct ar-
10 rest in a foreign country with respect to narcotics
11 control efforts;

1 (B) In adopting this provision, known as the
2 Mansfield Amendment, the Committee on Foreign
3 Affairs stated that its purpose was “to insure the
4 United States personnel [in foreign states] do not
5 . . . adversely affect U.S. relations with that coun-
6 try”;

7 (C) Close cooperation between the United
8 States and other nations, including the extradition
9 of criminals to the United States, is essential to
10 combat international crime;

11 (D) The abduction of a Mexican citizen by per-
12 sons acting at the direction of the United States
13 Drug Enforcement Agency and the decision of the
14 United States Supreme Court holding that this ab-
15 duction did not violate an existing extradition treaty
16 between the United States and Mexico cast doubt on
17 the meaning of this and other extradition treaties
18 ratified by the United States and threaten to disrupt
19 cooperation between the United States and Mexico,
20 Canada, and the 101 other nations with which the
21 United States has extradition treaties;

22 (E) The Government of Mexico vigorously pro-
23 tested the abduction and the Supreme Court’s deci-
24 sion, threatened to suspend cooperation with the
25 United States on drug enforcement matters and an-

1 nounced that it will no longer accept United States
2 foreign assistance intended to prevent drugs from
3 entering the United States;

4 (F) The Department of External Affairs of the
5 Government of Canada, which receives approxi-
6 mately 50 percent of all United States extradition
7 requests, vigorously protested the abduction and the
8 Supreme Court's decision;

9 (G) In the past, persons have been abducted
10 from the United States to stand trial abroad and the
11 United States vigorously protested such actions; and

12 (H) This abduction and subsequent Supreme
13 Court decision have placed American citizens at risk
14 by creating a precedent for the kidnapping of Ameri-
15 cans.

16 **SEC. 2. AMENDMENT TO SECTION 481(C) OF THE FOREIGN**
17 **ASSISTANCE ACT.**

18 Section 481(c)(1) of the Foreign Assistance Act is
19 amended to read as follows:

20 “(1) PROHIBITION ON DIRECT ARREST AND AB-
21 DUCTION.—

22 (A) Notwithstanding any other provision of
23 law, no officer, agent or employee of the United
24 States may directly effect an arrest in any for-

1 eign country as part of any foreign police ac-
2 tion; and

3 (B) Notwithstanding any other provision of
4 law, no officer, agent or employee of the United
5 States Government may, directly or indirectly,
6 authorize, carry out or assist in the abduction
7 of any person within the territory of any foreign
8 state exercising effective sovereignty over such
9 territory without the express consent of such
10 state.”

11 **SEC. 3. VIOLATIONS OF THE LAWS OF WAR.**

12 Section 481(c) of the Foreign Assistance Act of 1961
13 is amended by adding at the end thereof the following new
14 provision:

15 “(7) This subsection does not prohibit the cap-
16 ture of any official, agent or employee of a state
17 during armed hostilities for purposes of bringing
18 such person to trial for violations of the internation-
19 ally recognized laws of war.”.

20 **SEC. 4. SANCTION FOR VIOLATION.**

21 Section 481(c) of the Foreign Assistance Act of 1961
22 is amended by adding at the end thereof the following new
23 provision:

24 “(8) A person brought to the United States in
25 violation of subsection (1)(b) hereof shall not be

1 prosecuted by the United States Government if the
2 state in which such abduction occurred objects and
3 in the event of such an objection such person shall
4 be promptly returned to the state in which the ab-
5 duction occurred.”.

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