Section 418 Prevention of consulate shopping

This section directs the State Department to examine the concerns, if any, created by the practice of certain aliens to “shop” for a visa between issuing posts.

Section 421 Special Immigrant Status

The section provides permanent residence as special immigrants to the spouses and children of certain victims of the terrorist attacks. It also provides permanent residence to aliens who did not obtain permanent residence through a family or employment-based category, but for death, disability, or loss of employment as a direct result of the terrorist attacks on September 11, 2001. Permanent residence would be granted to the fiancé(e) or fiancée (and children) of a U.S. citizen who died in the attacks. Permanent residence would also be granted to the grandparents of a child whose parents died in attacks, if either parent was a U.S. citizen or a permanent resident.

Section 422 Extension of Filing or Reentry Deadlines

This section creates safeguards so that aliens seeking immigration benefits are not adversely affected by the terrorist attacks. For aliens in lawful nonimmigrant status at the time of the terrorist attacks, this section extends the filing deadline for an extension of status, aliens unable to enter during the period of visa validity or parole, and aliens unable to depart within their period of lawful status or voluntary departure. The section also protects recipients of diversity visas who were adversely affected by the terrorist attacks.

Section 423 Humanitarian Relief for Certain Surviving Spouses and Children

Current law provides that an alien who was the spouse of a U.S. citizen for at least two years before the citizen died shall remain eligible for immigrant status as an immediate relative. This eligibility also applies to the children of the alien. This section provides that if the U.S. citizen died as a direct result of the attacks, the alien can seek permanent residence even if the marriage was less than two years old.

This section also protects the spouse and unmarriage children of a permanent resident killed in the terrorist attacks by allowing them to seek permanent residence either through a pending visa petition (filed by or on behalf of the deceased) or by filing a “self-petition” based on their relationship to the deceased permanent resident.

Section 424 “Age-Out” Protection for Children

By providing a brief filing extension, this provision enables an alien with no children of eligibility to immigrate as the result of the terrorist attacks. Aliens who turn 21 years of age while their applications are pending are no longer considered children under the INA, and therefore “age out” of eligibility to immigrate.

Section 425 Temporary Administrative Relief

This section provides temporary administrative relief to an alien lawfully present on September 11, 1993, the spouse, parents, and child of someone killed or disabled by the terrorist attacks and otherwise not entitled to relief.

Section 426 Evidence of Death, Disability, or Loss Employment

This section directs the Attorney General to establish evidentiary standards regarding on constitutes death, disability, or loss of employment “as a direct result” of the terrorist attacks. Regulations are not required to implement the provisions of this subtitle.

Section 427 No Benefit to Terrorists or Family

No benefit under this subtitle will be provided to anyone involved in the terrorist attacks on September 11 or to any family member of such individual.

Section 428 Definitions

The term “specified terrorist activity” means any terrorist activity conducted against the United States, its government, or its people on the United States on September 11, 2001.

Title VIII

Mr. GRAHAM. Mr. President, several provisions of title VIII would establish criminal prohibitions or expand existing criminal laws to deter terrorist conduct. My understanding is that the Senate certainly does not intend title VIII to criminalize otherwise lawful and authorized United States Government activities. Would the Senator confirm my understanding of the intent and application of title VIII?

Mr. LEAHY. The Senator’s understanding is absolutely correct. Unless expressly provided, none of the general restrictions in title VIII are intended to criminalize lawful and authorized United States Government activities.

Mr. BIDEN. Mr. President, 6 years ago I stood on this floor and called upon the Senate to join the fight against terrorism in the wake of the horrific bombing in Oklahoma City. Back then, the Senator argued terrorism was not something that usually happened far away, in distant lands, over distant conflicts. Well, that’s all changed.

Terrorism has come to America.

We have to be a little proactive now. Back then, I proposed a series of precise anti-terrorism tools to help law enforcement catch terrorists before they commit their deadly act, not ever imagining the events of September 11.

In particular, I said that it simply didn’t make sense that many of our law enforcement tools were not available for terrorism cases.

For example, the FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What’s good for the mob should be good for terrorists.

Anyway, some of my proposals were enacted into law in 1996, a number were not.

There were those who decided that the threat to Americans was apparently not serious enough to give the President all the changes in law he requested.

Today, 5 years later, I again call on my colleagues to provide law enforcement with a number of the tools which they declined to pass back then. The anti-terrorism bill we consider today is measured and prudent. It has been strengthened considerably since the Administration originally proposed it in mid-September. It takes a number of important steps in waging an effective war on terrorism.
bona fide research reason. If not, you’re going to be charged with a felony and you face up to ten years in Federal prison.

Finally, section 1005 of this bill incorporates my First Responders Assistance Act, which is spoken with by many local police officers, chiefs, firemen and women, and others who feel left out of our fight against terrorism. I commend FBI Director Mueller for recently pledging to do a better job sharing information with our State and local law enforcement people, but clearly more needs to be done. Who responds first to a terrorist incident? On September 11 it was the New York City and Arlington County, VA police and fire departments. That’s always going to be the case, local law enforcement is our first line of defense against terrorists, and we need to give them the tools they need to get that job done well.

My provision will, for the first time, give local law enforcement and fire personnel the opportunity to apply directly to the Justice Department to receive terrorism prevention assistance. Specifically, departments will now be able to get help purchasing gas masks, hazardous material suits, intelligence equipment, twenty-first century communications devices and other tools to help them respond to terrorist threats. This section also creates a new anti-terrorism training grant program that will fund seminars and workshops to assist local police departments to better analyze intelligence information they come across, help local fire departments acquire the knowledge they need to respond to critical incidents, and assist those agencies who may be called upon to stabilize a community after a terrorist incident. It is my intent that these funds go to professional law enforcement organizations who are in some instances already delivering this type of training. The Department of Justice’s Office for Domestic Preparedness does some of this, but their program is a block grant sent to the Governor. I want to involve local police and fire departments directly in the fight against terrorism, and this section is an important step towards achieving that goal. The funds authorized, $100 million over the next four years, may not be enough to get the job done, but it’s a good start. I thank the Police Executives Research Forum for working with me to craft this proposal, and I look forward to seeing significant dollars allocated to it in future spending bills.

So this bill contains many provisions critical to law enforcement. Some may say it doesn’t go far enough. I have to say, I was disappointed that the Administration dropped some proposals from an early draft of its bill, measures which I called for five years ago. Those measures are in the bill we consider today, but I continue to believe that they’re common-sense tools we ought to be giving to our men and women of law enforcement.

We should be extending 48-hour emergency wiretaps and pen-registers, caller-ID-type devices that track incoming and outgoing phone calls from suspects, to terrorism crimes. This would allow police, in an emergency situation, to immediately obtain a surveillance order. Right now, police are required to go to a judge within 48 hours and show that they had the right to get the wiretap and that emergency circumstances prevented them from going to the judge in the first place. Now, the new provision is available only for organized crime cases and the bill we consider today does not expand this power to terrorist investigations. We should be extending the Supreme Court’s “good faith” exception to wiretaps. This well-accepted doctrine prevents criminals in other types of offenses from going free when the police make an honest mistake in seizing evidence or statements from a suspect. We should apply this good faith exception to terrorist crimes as well, to prevent terrorists from getting away when the police make an honest mistake in obtaining a wiretap.

I’m pleased Chairman LEAHY and the Administration were able to reach consensus on the two areas which gave me some pause in the Administration’s original proposal: those provisions dealing with mandatory detention of illegal aliens and with greater information sharing between the intelligence and law enforcement communities.

The agreement reached has satisfied me that these provisions will not upset the balance between strong law enforcement and protection of our valued civil liberties.

This bill is not perfect. No one here claims it embodies all the answers to the question of how best to fight terrorism. But I am confident that by updating our surveillance laws, by taking terrorism as seriously as we do organized crime, we’ll be better able to deter and detect terrorist crimes as well, to prevent terrorists from getting away when the police make an honest mistake in obtaining a wiretap.

One particularly important provision, which was included in both the CJS bill and the current bill, updates the law to keep pace with technology. The provision on pen registers and trap and trace devices: one, would allow judges to enter pen/trap orders with nationwide scope; and two, would codify current case law that holds that pen/trap orders apply to modern communication technologies such as e-mail and the Internet, in addition to traditional phone lines.

Nationwide jurisdiction for a court order will help law-enforcement to quickly identify other members of a criminal organization such as a terrorist cell. Indeed, last year Director Freeh testified before the Terrorism Subcommittee that one of the problems law-enforcement faces is “the jurisdictional limitation of pen registers and trap-and-trace orders issued by federal courts.”

He continued: “Today’s electronic crimes, which occur at the speed of light, cannot be effectively investigated with procedural devices forged in the last millennium during the infancy of the information technology age.”

Prior to the legislation we passed today, in order to track a communication that was purposely routed through Internet Service Providers located in different States, law-enforcement was required to obtain multiple court orders. This is because, under existing law, a Federal court can order only those communications carriers within its district to provide tracing information to law enforcement.