

Union Calendar No. 443

112TH CONGRESS
2^D SESSION

H. R. 6029

[Report No. 112-610]

To amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 27, 2012

Mr. SMITH of Texas (for himself, Mr. CONYERS, Mr. GOODLATTE, Mr. WATT, Mr. COBLE, Mr. BERMAN, Mr. WOLF, Mr. SCHIFF, Mr. CHAFFETZ, Mr. DEUTCH, Mr. POE of Texas, and Mr. CHABOT) introduced the following bill; which was referred to the Committee on the Judiciary

JULY 19, 2012

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To amend title 18, United States Code, to provide for increased penalties for foreign and economic espionage, 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 “Foreign and Economic
5 Espionage Penalty Enhancement Act of 2012”.

6 **SEC. 2. PROTECTING U.S. BUSINESSES FROM FOREIGN ES-**
7 **PIONAGE.**

8 (a) FOR OFFENSES COMMITTED BY INDIVIDUALS.—
9 Section 1831(a) of title 18, United States Code, is amend-
10 ed, in the matter after paragraph (5)—

11 (1) by striking “15 years” and inserting “20
12 years”; and

13 (2) by striking “not more than \$500,000” and
14 inserting “not more than \$5,000,000”.

15 (b) FOR OFFENSES COMMITTED BY ORGANIZA-
16 TIONS.—Section 1831(b) of such title is amended by strik-
17 ing “not more than \$10,000,000” and inserting “not more
18 than the greater of \$10,000,000 or 3 times the value of
19 the stolen trade secret to the organization, including ex-
20 penses for research and design and other costs of repro-
21 ducing the trade secret that the organization has thereby
22 avoided”.

1 **SEC. 3. REVIEW BY THE UNITED STATES SENTENCING COM-**
2 **MISSION.**

3 (a) IN GENERAL.—Pursuant to its authority under
4 section 994(p) of title 28, United States Code, the United
5 States Sentencing Commission shall review and, if appro-
6 priate, amend the Federal sentencing guidelines and policy
7 statements applicable to persons convicted of offenses re-
8 lating to the transmission or attempted transmission of
9 a stolen trade secret outside of the United States or eco-
10 nomic espionage, in order to reflect the intent of Congress
11 that penalties for such offenses under the Federal sen-
12 tencing guidelines and policy statements appropriately, re-
13 flect the seriousness of these offenses, account for the po-
14 tential and actual harm caused by these offenses, and pro-
15 vide adequate deterrence against such offenses.

16 (b) REQUIREMENTS.—In carrying out this section,
17 the United States Sentencing Commission shall—

18 (1) consider the extent to which the Federal
19 sentencing guidelines and policy statements appro-
20 priately account for the simple misappropriation of
21 a trade secret, including the sufficiency of the exist-
22 ing enhancement for these offenses to address the
23 seriousness of this conduct;

24 (2) consider whether additional enhancements
25 in the Federal sentencing guidelines and policy
26 statements are appropriate to account for—

1 (A) the transmission or attempted trans-
2 mission of a stolen trade secret outside of the
3 United States; and

4 (B) the transmission or attempted trans-
5 mission of a stolen trade secret outside of the
6 United States that is committed or attempted
7 to be committed for the benefit of a foreign
8 government, foreign instrumentality, or foreign
9 agent;

10 (3) ensure the Federal sentencing guidelines
11 and policy statements reflect the seriousness of these
12 offenses and the need to deter such conduct;

13 (4) ensure reasonable consistency with other
14 relevant directives, Federal sentencing guidelines
15 and policy statements, and related Federal statutes;

16 (5) make any necessary conforming changes to
17 the Federal sentencing guidelines and policy state-
18 ments; and

19 (6) ensure that the Federal sentencing guide-
20 lines adequately meet the purposes of sentencing as
21 set forth in section 3553(a)(2) of title 18, United
22 States Code.

23 (c) CONSULTATION.—In carrying out the review re-
24 quired under this section, the Commission shall consult
25 with individuals or groups representing law enforcement,

1 owners of trade secrets, victims of economic espionage of-
2 fenses, the United States Department of Justice, the
3 United States Department of Homeland Security, the
4 United States Department of State and the Office of the
5 United States Trade Representative.

6 (d) REVIEW.—Not later than 180 days after the date
7 of enactment of this Act, the Commission shall complete
8 its consideration and review under this section.

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