

1 Purpose: In the nature of a substitute.

2
3

4 S. 4240

5 To amend section 2441 of title 18, United States Code, to
6 broaden the scope of individuals subject to prosecution for war
7 crimes.

8 Referred to the Committee on _____ and ordered to be
9 printed

10 Ordered to lie on the table and to be printed

11 AMENDMENT IN THE NATURE OF A SUBSTITUTE INTENDED TO BE
12 PROPOSED BY _____

13 Viz:

14 Strike all after the enacting clause and insert the following:

15 **SECTION 1. SHORT TITLE.**

16 This Act may be cited as the “Justice for Victims of War Crimes Act”.

17 **SEC. 2. WAR CRIMES.**

18 Section 2441 of title 18, United States Code, is amended—

19 (1) by striking subsection (b) and inserting the following:

20 “(b) Jurisdiction.—There is jurisdiction over an offense described in subsection (a) if—

21 “(1) the offense occurs in whole or in part within the United States; or

22 “(2) regardless of where the offense occurs—

23 “(A) the victim or offender is—

24 “(i) a national of the United States or an alien lawfully admitted for permanent
25 residence; or

26 “(ii) a member of the Armed Forces of the United States, regardless of
27 nationality; or

28 “(B) the offender is present in the United States, regardless of the nationality of the
29 victim or offender.”; and

30 (2) by adding at the end the following:

31 “(e) Nonapplicability of Certain Limitations.—In the case of an offense described in
32 subsection (a) and further described in subsections (c)(1) and (c)(3), an indictment may be found

1 or an information may be instituted at any time without limitation.

2 “(f) Certification Requirement.—

3 “(1) IN GENERAL.—No prosecution for an offense described in subsection (a) shall be
4 undertaken by the United States except on written certification of the Attorney General, the
5 Deputy Attorney General, or an Assistant Attorney General, which function of approving
6 prosecutions may not be delegated, that a prosecution by the United States is in the public
7 interest and necessary to secure substantial justice.

8 “(2) OFFENDER PRESENT IN UNITED STATES.—For an offense for which jurisdiction exists
9 under subsection (b)(2)(B) (and does not exist under any other provision of subsection (b)),
10 the written certification required under paragraph (1) of this subsection that a prosecution
11 by the United States is in the public interest and necessary to secure substantial justice shall
12 be made by the Attorney General or the Deputy Attorney General, which function may not
13 be delegated. In issuing such certification, the same official shall weigh and consider,
14 among other relevant factors—

15 “(A) whether the alleged offender can be removed from the United States for
16 purposes of prosecution in another jurisdiction; and

17 “(B) potential adverse consequences for nationals, servicemembers, or employees of
18 the United States.

19 “(g) Input From Other Agency Heads.—The Secretary of Defense and Secretary of State may
20 submit to the Attorney General for consideration their views generally regarding potential
21 benefits, or potential adverse consequences for nationals, servicemembers, or employees of the
22 United States, of prosecutions of offenses for which jurisdiction exists under subsection
23 (b)(2)(B).

24 “(h) No Judicial Review.—Certifications under subsection (f) and input from other agency
25 heads under subsection (g) are not subject to judicial review.

26 “(i) Rules of Construction.—Nothing in this section shall be construed as—

27 “(1) support for ratification of or accession to the Rome Statute of the International
28 Criminal Court, which entered into force on July 1, 2002; or

29 “(2) consent by the United States to any assertion or exercise of jurisdiction by any
30 international, hybrid, or foreign court.”