114TH CONGRESS
2D Session

H. R. ______

To provide for relief of victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, for accountability for perpetrators of these crimes, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on __________________________

A BILL

To provide for relief of victims of genocide, crimes against humanity, and war crimes in Iraq and Syria, for accountability for perpetrators of these crimes, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Iraq and Syria Genocide Relief and Accountability Act of 2016”.

6 SEC. 2. FINDINGS.

7 Congress finds the following:
(1) On March 17, 2016, Secretary of State John Kerry stated, “in my judgment, Daesh is responsible for genocide against groups in areas under its control, including Yezidis, Christians, and Shia Muslims. Daesh is genocidal by self-proclamation, by ideology, and by actions – in what it says, what it believes, and what it does. Daesh is also responsible for crimes against humanity and ethnic cleansing directed at these same groups and in some cases also against Sunni Muslims, Kurds, and other minorities. . . the full facts must be brought to light by an independent investigation and through formal legal determination made by a competent court or tribunal. . . the United States will strongly support efforts to collect, document, preserve, and analyze the evidence of atrocities, and we will do all we can to see that the perpetrators are held accountable. . . the best response to genocide is a reaffirmation of the fundamental right to survive of every group targeted for destruction. What Daesh wants to erase, we must preserve.”.

(2) Secretary of State Kerry stated in the “Atrocities Prevention Report”, transmitted to Congress on March 17, 2016, “We assess that violent extremists have committed mass atrocities in the
Middle East and that Yezidis, Christians, and Shia Muslims and members of other ethnic and religious minority groups are among the victims. It is important that the international community collectively support the victims of all Da’esh atrocities. We continue to work on responding to the situation on the ground and we continue to investigate and assess all relevant information as it becomes available. The United States supports accountability efforts for those responsible for atrocities, human rights violations and abuses and violations of international humanitarian law. The United States strongly supports a comprehensive approach towards transitional justice, including accountability for atrocities, compensation and rehabilitation for victims, and steps towards national reconciliation.

The Department of State has a longstanding commitment to providing support for the urgent humanitarian needs of conflict-affected populations in Iraq, Syria, and across the world, including but not limited to members of ethnic and religious minorities.”

(3) The Independent International Commission of Inquiry on the Syrian Arab Republic stated in its February 3, 2016, report, “Detainees held by the Government were beaten to death, or died as a re-
result of injuries sustained due to torture. Others perished as a consequence of inhuman living conditions. The Government has committed the crimes against humanity of extermination, murder, rape or other forms of sexual violence, torture, imprisonment, enforced disappearance and other inhuman acts. Based on the same conduct, war crimes have also been committed. . . Jabhat Al-Nusra has set up detention facilities in Idlib where deaths in detention were documented. The terrorist group also conducted mass executions of captured Government soldiers. Both Jabhat Al-Nusra and some anti-Government armed groups have committed the war crimes of murder, cruel treatment, and torture. ISIS subjected detainees to serious abuses, including torture and summary executions. Detainees were frequently executed after unauthorised courts issued a death sentence. ISIS has committed the crimes against humanity of murder and torture, and war crimes.”.

(4) The International Criminal Investigative Training Assistance Program and the Office of Overseas Prosecutorial Development Assistance and Training of the Department of Justice have provided technical assistance to governmental judicial and law
enforcement entities in Iraq, including with funding
support from the Department of State.

(5) The Chaldean Catholic Archdiocese of Erbil
(Iraq) is an example of an entity that has not re-
ceived funding from any government and has been
providing assistance to internally displaced families
of Yezidis, Muslims, and Christians, including food,
resettlement from tents to permanent housing, and
rent for Yezidis, medical care and education for
Yezidis and Muslims through clinics, schools, and a
university that are open to all, and some form of
these types of assistance to all of the estimated
10,500 internally displaced Christian families in the
greater Erbil region.

(6) In fiscal year 2015, the United States Gov-
ernment admitted to the United States through the
U.S. Refugee Admissions Program persons from
Priority Two groups of special humanitarian con-
cern, as designated by Congress, including—

(A) Jews, Evangelical Christians, Ukrain-
ian Catholics, and Ukrainian Orthodox, from
the former Soviet Union;

(B) Iraqis at-risk because they were or are
employed in Iraq by the United States Govern-
ment, a media or nongovernmental organization
headquartered in the United States, or an organization or entity that received funding from the United States Government, or are related to someone who is or was so employed;

(C) religious minorities in Iran; or

(D) members of other groups as designated by the United States Government, including former political prisoners, active members of persecuted religious minorities, human rights activists, and forced labor conscripts in Cuba, minors in Honduras, El Salvador, and Guatemala, ethnic minorities from Burma in Malaysia, Bhutanese in Nepal, and Congolese in Rwanda.

(7) Through the U.S. Refugee Admissions Program, the United States Government—

(A) admitted 12,676 Iraqi refugees in fiscal year 2015, including at least 2,113 Christians, 213 Yezidis, and 4,554 Shia Muslims;

(B) admitted 8,313 Iraqi refugees in fiscal year 2016 as of August 31, 2016, including at least 1,173 Christians, 295 Yezidis, and 2,629 Shia Muslims;
(C) admitted 1,682 Syrian refugees in fiscal year 2015, including at least 30 Christians and 10 Shia Muslims; and

(D) admitted 10,740 Syrian refugees in fiscal year 2016 as of August 31, 2016, including at least 51 Christians, 17 Yezidis, and 20 Shia Muslims.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on the Judiciary, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on the Judiciary, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(2) CAPACITY-BUILDING.—The term “capacity-building”, with respect to cases of genocide, crimes against humanity, war crimes, and terrorism in Iraq or Syria, means developing domestic skills to efficiently adjudicate such cases, consistent with due
process and respect for the rule of law, through the
use of experts in international criminal investiga-
tions and experts in international criminal law to
partner with, mentor, provide technical advice for,
formally train, and provide equipment and infra-
structure where necessary and appropriate to, inves-
tigators and judicial personnel in Iraq, including the
Kurdistan region of Iraq, and domestic investigators
and lawyers in Syria.

(3) **FOREIGN TERRORIST ORGANIZATION.**—The
term “foreign terrorist organization” mean an orga-
nization designated by the Secretary of State as a
foreign terrorist organization pursuant to section
219(a) of the Immigration and Nationality Act (8
U.S.C. 1189(a)).

(4) **HUMANITARIAN, STABILIZATION, AND RE-
COVERY NEEDS.**—The term “humanitarian, sta-
bilization, and recovery needs”, with respect to an
individual, includes water, sanitation, hygiene, food
security and nutrition, shelter and housing, medical,
education, and psychosocial needs.

(5) **HYBRID COURT.**—The term “hybrid court”
means a court with a combination of domestic and
international lawyers, judges, and personnel.
(6) INTERNATIONALIZED DOMESTIC COURT.—

The term “internationalized domestic court” means a domestic court with the support of international advisers.

SEC. 4. ACTIONS TO PROMOTE ACCOUNTABILITY IN IRAQ AND SYRIA.

(a) ASSISTANCE TO SUPPORT CERTAIN ENTITIES.—

(1) IN GENERAL.—The Secretary of State, acting through the Assistant Secretary for Democracy, Human Rights, and Labor and the Assistant Secretary for International Narcotics and Law Enforcement Affairs, and Administrator of the United States Agency for International Development shall provide assistance, including financial assistance, to support entities that are taking the actions described in paragraph (2) with respect to individuals who are suspected to have committed genocide, crimes against humanity, or war crimes in Iraq since January 2014 or Syria since March 2011.

(2) ACTIONS DESCRIBED.—The actions described in this paragraph are the following:

(A) Conducting criminal investigations.

(B) Developing investigative and judicial capacities.

(C) Collecting evidence.
(D) Preserving the chain of evidence for prosecution in domestic courts, hybrid courts, and internationalized domestic courts.

(E) Capacity-building.

(3) AVAILABILITY OF AMOUNTS.—Amounts authorized to be appropriated or otherwise made available for programs, projects, and activities carried out by the Assistant Secretary for Democracy, Human Rights, and Labor and the Assistant Secretary for International Narcotics and Law Enforcement Affairs are authorized to be made available to carry out this subsection.

(b) ACTIONS BY FOREIGN GOVERNMENTS.—The Secretary of State, in consultation with the Attorney General, the Secretary of Homeland Security, and the Director of the Federal Bureau of Investigation, shall seek to encourage governments of foreign countries—

(1) to include in appropriate security databases and security screening procedures of such countries information to identify individuals who are suspected to have committed genocide, crimes against humanity, or war crimes in Iraq since January 2014 or Syria since March 2011, including individuals who are suspected to be members of foreign terrorist organizations operating within Iraq or Syria; and
(2) to prosecute such individuals for genocide, crimes against humanity, or war crimes, as appropriate.

(c) REVIEW OF CERTAIN CRIMINAL STATUTES.—The Attorney General, in consultation with the Secretary of State, shall conduct a review of existing criminal statutes concerning genocide, crimes against humanity, and war crimes to determine the following:

(1) The extent to which United States courts are currently authorized by statute to exercise jurisdiction over such crimes where the direct perpetrators, accomplices or victims are United States nationals, United States residents or persons physically present in territory of the United States either during the commission of the crime or subsequent to the commission of the crime.

(2) What statutes are currently in effect that would apply to conduct constituting war crimes or crimes against humanity, and whether those statutes provide for extraterritorial jurisdiction, what the statute of limitations for offenses under such statutes are, what penalties apply under such statutes, and whether offenders would be subject to extradition or mutual legal assistance treaties.
(3) The extent to which the absence of criminal statutes defining the crimes, or granting jurisdiction, would impede the prosecution of genocide, crimes against humanity, and war crimes in United States courts, including when United States military forces capture persons outside the United States known to have committed such crimes in a third country that is either unable or unwilling to prosecute the crimes.

(4) Whether additional statutory authorities are necessary to prosecute a United States person, or a foreign person within the territory of the United States, for genocide, crimes against humanity, and war crimes.

SEC. 5. IDENTIFICATION OF AND ASSISTANCE TO ADDRESS HUMANITARIAN, STABILIZATION, AND RECOVERY NEEDS OF CERTAIN PERSONS IN IRAQ AND SYRIA.

(a) Identification.—The Secretary of State, in consultation with the Secretary of Defense, the Ambassador at Large for International Religious Freedom, the Special Advisor for Religious Minorities in the Near East and South/Central Asia, the Assistant Secretary for Population, Refugees, and Migration, the Administrator of the United States Agency for International Development, and
Director of National Intelligence, shall identify the following:

(1) The threats of persecution and other warning signs of genocide, crimes against humanity, and war crimes against individuals—

(A) who are or were nationals and residents of Iraq or Syria and are members of the religious or ethnic groups and with respect to which the Secretary of State has determined the Islamic State of Iraq and Syria (ISIS) has committed genocide, crimes against humanity, or war crimes in Iraq or Syria since January 2014; or

(B) who are members of other religious or ethnic groups identified by the Secretary of State (or the Secretary’s designee) as persecuted groups.

(2) The humanitarian, stabilization, and recovery needs of individuals described in paragraph (1).

(3) The religious and ethnic groups with respect to which the Secretary of State has determined ISIS has committed genocide, crimes against humanity, or war crimes in Iraq or Syria since January 2014, or are other religious or ethnic groups identified by the Secretary of State (or the Sec-
retary’s designee), as a persecuted group, and are at
risk of forced migration, within or across the borders
of Iraq, or Syria, or a country of first asylum, and
the primary reasons for such risk.

(4) The assistance provided by the United
States to address humanitarian, stabilization, and
recovery needs of individual described in paragraph
(1), including assistance to mitigate the risks of
forced migration of such persons from Iraq or Syria.

(5) The mechanisms of the United States Gov-
ernment to identify, assess, and respond to humani-
tarian, stabilization, and recovery needs, and risks of
forced migration, of individuals described in para-
graph (1).

(6) The assistance provided by the United Na-
tions to address humanitarian, stabilization, and re-
covery needs of individuals described in paragraph
(1), including assistance to mitigate the risks of
forced migration of such individuals within or across
the borders of Iraq, or Syria, or a country of first
asylum from Iraq or Syria.

(7) The entities, including faith-based entities,
that are providing assistance to address humani-
tarian, stabilization, and recovery needs of individ-
uals described in paragraph (1).
(8) If the United States Government—

(A) is funding entities described in paragraph (7) for purposes of providing assistance described in such paragraph, the sources of such funding; and

(B) is not funding entities described in paragraph (7) for purposes of providing assistance described in such paragraph, a justification for not funding such entities, including whether funding such entities is prohibited under United States law.

(b) ADDITIONAL CONSULTATION.—In carrying out subsection (a), the Secretary of State shall consult with, and consider credible information from, individuals described in paragraph (1) of subsection (a) and entities described in paragraph (7) of such subsection.

(c) ASSISTANCE.—The Secretary of State and Administrator of the United States Agency for International Development shall provide assistance, including cash assistance, to support entities described in paragraph (7) of subsection (a) that the Secretary and Administrator determine are effectively providing assistance described in such paragraph, including entities that have received funding from the United States Government for such purposes before the date of the enactment of this Act.
SEC. 6. REFUGEE ADMISSIONS OF NATIONALS AND RESIDENTS OF IRAQ OR SYRIA.

(a) Section 599D of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (8 U.S.C. 1157 note) is amended as follows:

(1) In subsection (b)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “and” at the end;

(ii) in subparagraph (C), by redesignating such subparagraph as subparagraph (D); and

(iii) by inserting after subparagraph (B) the following:

“(C) one or more categories of aliens who are or were nationals and residents of Iraq or Syria and who share common characteristics that identify them as targets of persecution on account of religion or membership in an ethnic minority in such respective foreign state on such an account; and”; and

(B) in paragraph (2), by adding at the end the following:

“(D) Aliens who are or were nationals and residents of Iraq or Syria and who are members of a religious or ethnic community against which geno-
cide has been committed, as determined by the Secretary of State, or that has otherwise been identified by the Secretary of State, or the designee of the Secretary, as a persecuted group, shall be deemed a category of alien established under paragraph (1)(C).”.

(2) In subsection (e), by striking “October 1, 2016” each place such term appears and inserting “October 1, 2017”.

(3) By adding at the end the following:

“(f) IN-COUNTRY AND OUT-OF-COUNTRY PROCESSING.—Aliens described in subsection (b)(2)(D) may apply and interview for admission to the United States, through the same refugee processing mechanisms available to an alien under the Refugee Crisis in Iraq Act of 2007, in Iraq and in other countries wherein aliens described in subsection (b)(2)(D) may apply and interview for admission to the United States as refugees.

“(g) APPLICABILITY OF OTHER REQUIREMENTS.—Aliens under this section who qualify for Priority 2 processing under the refugee resettlement priority system may only be admitted to the United States after satisfying the requirements of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) and having cleared a background check and appropriate screening, as determined by the Secretary of Homeland Security.”.
(b) Section 599E(b)(2) of such Act (8 U.S.C. 1255 note) is amended by striking “September 30, 2016” and inserting “September 30, 2017”.

SEC. 7. REPORTS.

(a) SECTION 4(a) and (b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the following:

(1) A detailed description of the efforts taken, and efforts proposed to be taken, by the Secretary of State to implement section 4(a) and section 4(b).

(2) An assessment of the feasibility and advisability of prosecuting individuals who are suspected to have committed genocide, crimes against humanity, or war crimes in Iraq since January 2014 or Syria since March 2011 in domestic courts in Iraq, hybrid courts, and internationalized domestic courts, and of the capacity-building, and other measures, needed to ensure effective criminal investigations of such individuals.

(b) SECTION 4(c) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Attorney General shall submit to the appropriate congressional committees a report on the following:
(1) The results of the review conducted under section 4(c).

(2) Such recommendations for legislative and administrative actions to implement the results of the review as the Attorney General determines appropriate.

(e) SECTIONS 5 AND 6 REPORT.—Not later than 30 days after the date of the enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the following:

(1) A detailed description of the efforts taken, and efforts proposed to be taken, by the Secretary of State to implement section 5 and the amendments made by section 6.

(2) A detailed description of the identifications under section 5(a).

(d) FORM.—Each report required under this section shall be submitted in unclassified form, but may contain a classified annex if necessary.

SEC. 8. PROHIBITION ON ADDITIONAL FUNDING.

No additional funds are authorized to be appropriated to carry out this Act or the amendments made by this Act.