

AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 4914
OFFERED BY MR. MCCAUL OF TEXAS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Havana Syndrome At-
3 tacks Response Act”.

4 SEC. 2. FINDINGS.

5 Congress finds the following:

6 (1) United States personnel have suffered per-
7 sistent brain injuries after being targeted in attacks
8 that have been increasing in number, geographic lo-
9 cation, and scope.

10 (2) In December 2016, a number of United
11 States Embassy personnel in Havana, Cuba, began
12 to experience the acute and sudden onset of unusual
13 symptoms, usually concurrent with the perceived
14 onset of a loud, directional noise, often accompanied
15 by pain in the ears or the head and a sensation of
16 pressure or vibration.

17 (3) Symptoms, which have been chronic for
18 some personnel, have included dizziness, hearing loss

1 and tinnitus, vertigo, cognitive and motor impair-
2 ment, severe headaches, and insomnia.

3 (4) A panel of experts convened by the Depart-
4 ment of State's Bureau of Medical Services in July
5 2017 to review triage assessments of medically eval-
6 uated personnel from the United States Embassy in
7 Havana came to consensus that the findings were
8 most likely related to neurotrauma from a non-
9 natural source.

10 (5) On August 11, 2017, Secretary of State
11 Rex Tillerson characterized these episodes as "health
12 attacks" against United States personnel in Cuba.

13 (6) On September 29, 2017, the Department of
14 State ordered the departure of non-essential per-
15 sonnel from the United States Embassy in Havana
16 and issued a formal Cuba Travel Warning that stat-
17 ed: "Over the past several months, numerous U.S.
18 Embassy Havana employees have been targeted in
19 specific attacks. These employees have suffered sig-
20 nificant injuries as a consequence of these attacks."

21 (7) Other personnel at the United States Con-
22 sulate in Guangzhou, China, reported similar experi-
23 ences beginning in 2017.

24 (8) A 2018 report, published in the Journal of
25 the American Medical Association, based on clinical

1 evaluation of affected personnel from United States
2 Embassy, Havana, stated: “These individuals ap-
3 peared to have sustained injury to widespread brain
4 networks without an associated history of head trau-
5 ma.”.

6 (9) The number and locations of suspected at-
7 tacks have expanded and, according to press report-
8 ing, as of October 2021 there have been approxi-
9 mately 200 possible cases that have occurred in
10 Asia, in Europe, and in the Western Hemisphere, in-
11 cluding within the United States.

12 (10) According to press reporting, suspected at-
13 tacks have occurred, among other places, at the
14 homes of United States personnel, at hotels, and on
15 public streets, including in the immediate vicinity of
16 the White House, in Washington, D.C.

17 (11) A 2020 report by the National Academy of
18 Sciences (NAS) found that “many of the distinctive
19 and acute signs, symptoms, and observations re-
20 ported by [affected] employees are consistent with
21 the effects of directed, pulsed radio frequency (RF)
22 energy” and that “directed pulsed RF energy . . .
23 appears to be the most plausible mechanism in ex-
24 plaining these cases”.

1 (12) According to the NAS report, “such a sce-
2 nario raises grave concerns about a world with
3 disinhibited malevolent actors and new tools for
4 causing harm to others”.

5 (13) The continuing and expanding scope of
6 these attacks is impacting the security and morale of
7 United States personnel, especially those posted at
8 overseas diplomatic missions.

9 (14) The Convention on the Prevention and
10 Punishment of Crimes against Internationally Pro-
11 tected Persons, including Diplomatic Agents, to
12 which 180 countries are a party, protects diplomatic
13 personnel from attacks on their persons, accom-
14 modations, or means of transport, and requires all
15 state parties to punish and take measures to prevent
16 such grave crimes.

17 (15) On October 8, 2021, President Joseph R.
18 Biden, Jr. stated, “We are bringing to bear the full
19 resources of the U.S. Government to make available
20 first-class medical care to those affected and to get
21 to the bottom of these incidents, including to deter-
22 mine the cause and who is responsible.”.

23 **SEC. 3. STATEMENT OF POLICY.**

24 It is the policy of the United States—

1 (1) to detect, deter, and punish any clandestine
2 attacks that cause persistent brain injury in United
3 States personnel;

4 (2) to provide appropriate assistance to United
5 States personnel harmed by such attacks;

6 (3) to hold responsible any persons, entities, or
7 governments involved in ordering or carrying out
8 such attacks, including through appropriate sanc-
9 tions, criminal prosecutions, or other tools;

10 (4) to prioritize research into effective counter-
11 measures to help protect United States personnel
12 from such attacks; and

13 (5) to convey to foreign governments through
14 official contact at the highest levels the gravity of
15 United States concern about such suspected attacks
16 and the seriousness of consequences for any actors
17 found to be involved.

18 **SEC. 4. IMPOSITION OF SANCTIONS AGAINST FOREIGN**
19 **PERSONS IN RESPONSE TO CERTAIN CLAN-**
20 **DESTINE ATTACKS ON UNITED STATES PER-**
21 **SONNEL.**

22 (a) IMPOSITION OF SANCTIONS.—The President may
23 impose the sanctions described in subsection (b) with re-
24 spect to any foreign person that the President determines,
25 on or after the date of the enactment of this Act, know-

1 ingly has directed or carried out clandestine attacks on
2 United States personnel that have resulted in brain injury
3 to those personnel.

4 (b) SANCTIONS DESCRIBED.—The sanctions de-
5 scribed in this subsection are the following:

6 (1) BLOCKING OF PROPERTY.—The President
7 shall block, in accordance with the International
8 Emergency Economic Powers Act (50 U.S.C. 1701
9 et seq.), all transactions in all property and interests
10 in property of any person subject to subsection (a)
11 if such property and interests in property are in the
12 United States, come within the United States, or are
13 or come within the possession or control of a United
14 States person.

15 (2) EXCLUSION FROM THE UNITED STATES.—
16 The Secretary of State shall deny a visa to, and the
17 Secretary of Homeland Security shall exclude from
18 the United States, any person subject to subsection
19 (a) that is an alien.

20 (c) PENALTIES.—A person that violates, attempts to
21 violate, conspires to violate, or causes a violation of sub-
22 section (b)(1) or any regulation, license, or order issued
23 to carry out that subsection shall be subject to the pen-
24 alties set forth in subsections (b) and (c) of section 206
25 of the International Emergency Economic Powers Act (50

1 U.S.C. 1705) to the same extent as a person that commits
2 an unlawful act described in subsection (a) of that section.

3 (d) EXCEPTIONS.—

4 (1) EXCEPTION FOR INTELLIGENCE ACTIVITIES.—Sanctions under this section shall not apply
5 to any activity subject to the reporting requirements
6 under title V of the National Security Act of 1947
7 (50 U.S.C. 3091 et seq.) or any authorized intel-
8 ligence activities of the United States.

10 (2) EXCEPTION TO COMPLY WITH INTER-
11 NATIONAL OBLIGATIONS AND FOR LAW ENFORCE-
12 MENT ACTIVITIES.—Sanctions under subsection
13 (b)(2) shall not apply with respect to an alien if ad-
14 mitting or paroling the alien into the United States
15 is necessary—

16 (A) to permit the United States to comply
17 with the Agreement regarding the Head-
18 quarters of the United Nations, signed at Lake
19 Success June 26, 1947, and entered into force
20 November 21, 1947, between the United Na-
21 tions and the United States, or other applicable
22 international obligations; or

23 (B) to carry out or assist law enforcement
24 activity in the United States.

1 (3) EXCEPTION RELATING TO IMPORTATION OF
2 GOODS.—

3 (A) IN GENERAL.—The authorities and re-
4 quirements to impose sanctions under this sec-
5 tion shall not include the authority or require-
6 ment to impose sanctions on the importation of
7 goods.

8 (B) GOOD DEFINED.—In this paragraph,
9 the term “good” means any article, natural or
10 man-made substance, material, supply or manu-
11 factured product, including inspection and test
12 equipment, and excluding technical data.

13 (e) DEFINITIONS.—In this section:

14 (1) FOREIGN PERSON.—The term “foreign per-
15 son” means a person that is not a United States
16 person.

17 (2) KNOWINGLY.—The term “knowingly” has
18 the meaning given that term in section 14 of the
19 Iran Sanctions Act of 1996 (Public Law 104-172;
20 50 U.S.C. 1701 note).

21 (3) UNITED STATES PERSON.—The term
22 “United States person” means—

23 (A) a United States citizen or an alien law-
24 fully admitted for permanent residence to the
25 United States; or

1 (B) an entity organized under the laws of
2 the United States or of any jurisdiction within
3 the United States, including a foreign branch of
4 such an entity.

5 **SEC. 5. IMPOSITION OF SANCTIONS AGAINST FOREIGN**
6 **GOVERNMENTS IN RESPONSE TO CERTAIN**
7 **CLANDESTINE ATTACKS ON UNITED STATES**
8 **PERSONNEL.**

9 (a) **PRESIDENTIAL DETERMINATION.**—Whenever
10 persuasive information becomes available to the executive
11 branch supporting an analytical conclusion that the gov-
12 ernment of a foreign country has directed or carried out
13 clandestine attacks on United States personnel that have
14 resulted in brain injury to such personnel, the President
15 shall, not later than 60 days after the receipt of such in-
16 formation by the executive branch, determine and report
17 to the appropriate congressional committees and leader-
18 ship whether that government has directed or carried out
19 clandestine attacks on United States personnel that have
20 resulted in brain injury to such personnel.

21 (b) **IMPOSITION OF SANCTIONS.**—If at any time the
22 President makes a determination pursuant to subsection
23 (a) that the government of a foreign country has directed
24 or carried out clandestine attacks on United States per-

1 sonnel that have resulted in brain injury to such per-
2 sonnel, the President may impose the following sanctions:

3 (1) FOREIGN ASSISTANCE.—The United States
4 Government may terminate assistance to that coun-
5 try under the Foreign Assistance Act of 1961 (22
6 U.S.C. 2151 et seq.), except for urgent humani-
7 tarian assistance and food or other agricultural com-
8 modities or products.

9 (2) COMMERCIAL EXPORTS.—The United
10 States Government may restrict exports, re-exports,
11 and in-country transfers of items requiring licenses
12 under the Export Administration Regulations with
13 respect to that country.

14 (3) ARMS SALES.—The United States Govern-
15 ment may terminate—

16 (A) sales to that country under the Arms
17 Export Control Act (22 U.S.C. 2751 et seq.) of
18 any defense articles, defense services, or design
19 and construction services; and

20 (B) licenses for the export to that country
21 of any item on the United States Munitions
22 List.

23 (4) ARMS SALES FINANCING.—The United
24 States Government may terminate all foreign mili-

1 tary financing for that country under the Arms Ex-
2 port Control Act (22 U.S.C. 2751 et seq.).

3 (5) DENIAL OF UNITED STATES GOVERNMENT
4 CREDIT OR OTHER FINANCIAL ASSISTANCE.—The
5 United States Government may deny to that country
6 any credit, credit guarantees, or other financial as-
7 sistance by any department, agency, or instrumen-
8 tality of the United States Government, including
9 the Export-Import Bank of the United States.

10 (c) REMOVAL OF SANCTIONS.—The President shall
11 remove any sanctions imposed with respect to a country
12 pursuant to this section if the President determines and
13 so certifies to the Congress, after the end of the 12-month
14 period beginning on the date on which sanctions were ini-
15 tially imposed on that country pursuant to subsection (a),
16 that—

17 (1) the government of that country has pro-
18 vided reliable assurances that it will not conduct
19 clandestine attacks on United States personnel; and

20 (2) the executive branch does not have persua-
21 sive information indicating the substantial possibility
22 of a clandestine attack on United States personnel
23 that has resulted in brain injury to such personnel
24 during the preceding six months.

25 (d) DEFINITIONS.—In this section:

1 (1) EXPORT ADMINISTRATION REGULATIONS.—
2 The term “Export Administration Regulations”
3 means the regulations set forth in subchapter C of
4 chapter VII of title 15, Code of Federal Regulations,
5 or successor regulations.

6 (2) UNITED STATES MUNITIONS LIST.—The
7 term “United States Munitions List” means the list
8 of items established and maintained under section
9 38(a)(1) of the Arms Export Control Act (22 U.S.C.
10 2778(a)(1)).

11 **SEC. 6. BRIEFING AND REPORT TO CONGRESS.**

12 (a) BRIEFING.—Not later than 60 days after the date
13 of the enactment of this Act, the President shall provide
14 the appropriate congressional committees and leadership
15 with a briefing covering the contents described in sub-
16 section (c).

17 (b) REPORT.—Not later than 180 days after the date
18 of the enactment of this Act, the President shall provide
19 the appropriate congressional committees and leadership
20 with a written report covering the contents described in
21 subsection (c), which may include a classified annex.

22 (c) CONTENTS DESCRIBED.—The contents of the
23 briefing and written report described in this subsection in-
24 clude the following:

1 (1) The dates, numbers, and locations of sus-
2 pected clandestine attacks or anomalous health inci-
3 dents on United States personnel resulting in brain
4 injury.

5 (2) A description of the official roles and re-
6 sponsibilities of United States personnel targeted in
7 such suspected attacks or anomalous health inci-
8 dents.

9 (3) Information and working hypotheses re-
10 garding the identity of the perpetrators of any such
11 suspected attacks, including an assessment of which
12 foreign states and non-state actors may have the
13 technical capacity to carry out such attacks.

14 (4) Information and working hypotheses re-
15 garding the technical method used to perpetrate
16 such suspected attacks.

17 (5) A description of the process and diagnostic
18 criteria used to screen and identify personnel af-
19 fected by such suspected attacks or anomalous
20 health incidents.

21 (6) Current advisories and other information
22 provided to United States personnel regarding such
23 suspected attacks or anomalous health incidents, in-
24 cluding any information about how to recognize,

1 react to, or protect oneself from such attacks or
2 anomalous health incidents.

3 (7) A list of the foreign states that have been
4 demarched regarding such suspected attacks or
5 anomalous health incidents, including the date and
6 the official title of the United States official deliv-
7 ering, and the foreign official receiving, any such de-
8 marche.

9 (8) A description of the nature, frequency, and
10 level of United States diplomatic engagements with
11 allied and partner governments to identify and deter
12 foreign persons, entities, or governments responsible
13 for any clandestine attacks against United States
14 personnel.

15 (9) A list of any foreign persons, entities, or
16 governments sanctioned by the United States pursu-
17 ant to or consistent with this Act.

18 (10) A description of any similarly punitive
19 measures or sanctions imposed against those foreign
20 persons, entities, or governments described in para-
21 graph (9) by other governments.

1 **SEC. 7. SENSE OF CONGRESS ON COORDINATION TO INVESTIGATE AND DETER SUSPECTED ATTACKS OR**
2 **TIGATE AND DETER SUSPECTED ATTACKS OR**
3 **ANOMALOUS HEALTH INCIDENTS.**

4 It is the sense of Congress that the President
5 should—

6 (1) continue to prioritize among executive
7 branch agencies the collection, analysis, investiga-
8 tion, and sharing of information related to suspected
9 clandestine attacks or anomalous health incidents
10 against United States personnel to determine causes
11 or perpetrators, ensure sufficient care for affected
12 personnel, and deter future threats; and

13 (2) pursue information-sharing and coordina-
14 tion to the fullest extent possible with governments
15 that are allies or partners of the United States
16 about the nature, impact, possible causes of, and re-
17 sponses to suspected clandestine attacks or anoma-
18 lous health incidents affecting United States per-
19 sonnel.

20 **SEC. 8. APPROPRIATE CONGRESSIONAL COMMITTEES AND**
21 **LEADERSHIP DEFINED.**

22 In this Act, the term “appropriate congressional com-
23 mittees and leadership” means—

24 (1) the Committee on Foreign Affairs, the Per-
25 manent Select Committee on Intelligence, the Com-
26 mittee on Financial Services, the Committee on

1 Armed Services, and the Speaker, the majority lead-
2 er, and the minority leader of the House of Rep-
3 resentatives; and

4 (2) the Committee on Foreign Relations, the
5 Select Committee on Intelligence, the Committee on
6 Banking, the Committee on Armed Services, and the
7 majority and minority leaders of the Senate.

