117TH CONGRESS
2D SESSION

H. R.

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of fentanyl overdoses in the United States.

IN THE HOUSE OF REPRESENTATIVES

Mrs. WALORSKI introduced the following bill; which was referred to the Committee on

A BILL

To amend title 28, United States Code, to strip foreign sovereign immunity of certain foreign states to secure justice for victims of fentanyl overdoses in the United States.

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 “Civil Justice for Vic-
5    tims of International Fentanyl Trafficking Act”.
SEC. 2. RESPONSIBILITY OF FOREIGN STATES.

(a) RESPONSIBILITY.—Chapter 97 of title 28, United States Code, is amended by inserting after section 1605B the following:

"§ 1605C. Responsibility of Foreign States for Death or Injury from International Fentanyl Trafficking in the United States.

(a) RESPONSIBILITY OF FOREIGN STATES.—A foreign state shall not be immune from the jurisdiction of the courts of the United States in any case in which money damages are sought against a foreign state for death or physical injury to a person caused by fentanyl use or exposure that occurs in the United States following any reckless action of a covered person, that caused or substantially contributed to the unlawful trafficking of fentanyl from the foreign state into and within the United States.

(b) COVERED PERSON DEFINED.—In this section, the term ‘covered person’ means—

(1) an alien who is unlawfully present in the United States;

(2) a foreign opioid trafficker, as identified in the report submitted under section 7211(a) of the Fentanyl Sanctions Act; or

(3) a significant foreign narcotics trafficker, as identified in the report submitted under sub-
section (b) or (h)(1) of section 804 of the Foreign
Narcotics Kingpin Designation Act.

"(c) RULE OF CONSTRUCTION.—A foreign state shall
not be subject to the jurisdiction of the courts of the
United States under subsection (a) on the basis of an
omission or act that constitutes mere negligence.

"(d) EXCLUSIVE JURISDICTION.—The courts of the
United States shall have exclusive jurisdiction in any ac-
tion in which a foreign state is subject to the jurisdiction
of a court of the United States under subsection (a).

"(e) INTERVENTION.—The Attorney General may in-
tervene in any action in which a foreign state is subject
to the jurisdiction of a court of the United States under
subsection (a) for the purpose of seeking a stay of the
civil action, in whole or in part.

"(f) STAY.—

"(1) IN GENERAL.—A court of the United
States may stay a proceeding against a foreign state
if the Secretary of State certifies that the United
States is engaged in good faith discussions with the
foreign state defendant concerning the resolution of
the claims against the foreign state, or any other
parties as to whom a stay of claims is sought. In ex-
ercising its discretion under this subsection, the
court shall balance the interests of the United States
with the interests of the plaintiffs in a timely review of their claims.

"(2) DURATION.—

"(A) IN GENERAL.—A stay under this section may be granted for not more than 180 days.

"(B) EXTENSION.—

"(i) IN GENERAL.—The Attorney General may petition the court for an extension of the stay for additional periods not to exceed 180 days.

"(ii) RECTIFICATION.—A court may grant an extension under subparagraph (A) if the Secretary of State re-certifies that the United States remains engaged in good faith discussions with the foreign state defendant concerning the resolution of the claims against the foreign state, or any other parties as to whom a stay of claims is sought. In choosing whether to grant an extension, the court shall balance the interests of the United States with the interests of the plaintiffs in a timely review of their claims.
“(g) Enforcement by State Attorneys General.—Any State, on its own behalf or on behalf of the citizens or residents of the State, may bring a civil action in a district court of the United States under the circumstances described in subsection (a). Nothing in this Act may be construed to prevent a State from exercising its powers under State law.”

(b) Applicability.—Section 1605C of title 28, United States Code, as added by such subsection (a), shall apply to any conduct occurring before, on, or after the date of enactment of this Act.

(c) Technical and Conforming Amendment.—The table of sections for chapter 97 of title 28, United States Code, is amended by inserting after the item relating to section 1605B the following:

“1605C. Responsibility of Foreign States for Death or Injuy from International Fentanyl Trafficking in the United States.”