

13. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE
CARTER OF TEXAS, OR HIS
DESIGNEE, DEBATABLE FOR 20 MINUTES:

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AMENDMENT TO H.R. 3199
OFFERED BY MR. CARTER OF TEXAS

Add at the end the following:

1 **TITLE ____—TERRORIST DEATH**
2 **PENALTY ENHANCEMENT**

3 **SEC. _01. SHORT TITLE.**

4 This title may be cited as the “Terrorist Death Pen-
5 alty Enhancement Act of 2005”.

6 **Subtitle A—Terrorist Penalties**
7 **Enhancement Act**

8 **SEC. _11. TERRORIST OFFENSE RESULTING IN DEATH.**

9 (a) **NEW OFFENSE.**—Chapter 113B of title 18,
10 United States Code, is amended by adding at the end the
11 following:

12 **“§ 2339E. Terrorist offenses resulting in death**

13 “(a) Whoever, in the course of committing a terrorist
14 offense, engages in conduct that results in the death of
15 a person, shall be punished by death or imprisoned for
16 any term of years or for life.

17 “(b) As used in this section, the term ‘terrorist of-
18 fense’ means—

19 “(1) a Federal felony offense that is—



1 “(A) a Federal crime of terrorism as de-
2 fined in section 2332b(g) except to the extent
3 such crime is an offense under section 1363; or

4 “(B) an offense under this chapter, section
5 175, 175b, 229, or 831, or section 236 of the
6 Atomic Energy Act of 1954; or

7 “(2) a Federal offense that is an attempt or
8 conspiracy to commit an offense described in para-
9 graph (1).”.

10 (b) CLERICAL AMENDMENT.—The table of sections
11 at the beginning of chapter 113B of title 18, United
12 States Code, is amended by adding at the end the fol-
13 lowing new item:

 “2339E. Terrorist offenses resulting in death.”.

14 **SEC. __12. DENIAL OF FEDERAL BENEFITS TO TERRORISTS.**

15 (a) IN GENERAL.—Chapter 113B of title 18, United
16 States Code, as amended by section __11 of this subtitle,
17 is further amended by adding at the end the following:

18 **“§ 2339F. Denial of Federal benefits to terrorists**

19 “(a) An individual or corporation who is convicted of
20 a terrorist offense (as defined in section 2339E) shall, as
21 provided by the court on motion of the Government, be
22 ineligible for any or all Federal benefits for any term of
23 years or for life.

24 “(b) As used in this section, the term ‘Federal ben-
25 efit’ has the meaning given that term in section 421(d)



1 of the Controlled Substances Act, and also includes any
2 assistance or benefit described in section 115(a) of the
3 Personal Responsibility and Work Opportunity Reconcili-
4 ation Act of 1996, with the same limitations and to the
5 same extent as provided in section 115 of that Act with
6 respect to denials of benefits and assistance to which that
7 section applies.”.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of the chapter 113B of title 18, United
10 States Code, as amended by section __11 of this subtitle,
11 is further amended by adding at the end the following new
12 item:

“2339E. Denial of federal benefits to terrorists.”.

13 **SEC. __13. DEATH PENALTY PROCEDURES FOR CERTAIN**
14 **AIR PIRACY CASES OCCURRING BEFORE EN-**
15 **ACTMENT OF THE FEDERAL DEATH PENALTY**
16 **ACT OF 1994.**

17 Section 60003 of the Violent Crime Control and Law
18 Enforcement Act of 1994, (Public Law 103–322), is
19 amended, as of the time of its enactment, by adding at
20 the end the following:

21 “(c) DEATH PENALTY PROCEDURES FOR CERTAIN
22 PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual
23 convicted of violating section 46502 of title 49, United
24 States Code, or its predecessor, may be sentenced to death
25 in accordance with the procedures established in chapter



1 228 of title 18, United States Code, if for any offense com-
2 mitted before the enactment of the Violent Crime Control
3 and Law Enforcement Act of 1994 (Public Law 103-322),
4 but after the enactment of the Antihijacking Act of 1974
5 (Public Law 93-366), it is determined by the finder of
6 fact, before consideration of the factors set forth in sec-
7 tions 3591(a)(2) and 3592(a) and (c) of title 18, United
8 States Code, that one or more of the factors set forth in
9 former section 46503(c)(2) of title 49, United States
10 Code, or its predecessor, has been proven by the Govern-
11 ment to exist, beyond a reasonable doubt, and that none
12 of the factors set forth in former section 46503(c)(1) of
13 title 49, United States Code, or its predecessor, has been
14 proven by the defendant to exist, by a preponderance of
15 the information. The meaning of the term ‘especially heinous,
16 cruel, or depraved’, as used in the factor set forth
17 in former section 46503(c)(2)(B)(iv) of title 49, United
18 States Code, or its predecessor, shall be narrowed by add-
19 ing the limiting language ‘in that it involved torture or
20 serious physical abuse to the victim’, and shall be construed
21 as when that term is used in section 3592(c)(6)
22 of title 18, United States Code.”.



1 **SEC. _14. ENSURING DEATH PENALTY FOR TERRORIST OF-**
2 **FENSES WHICH CREATE GRAVE RISK OF**
3 **DEATH.**

4 (a) ADDITION OF TERRORISM TO DEATH PENALTY
5 OFFENSES NOT RESULTING IN DEATH.—Section
6 3591(a)(1) of title 18, United States Code, is amended
7 by inserting “, section 2339E,” after “section 794”.

8 (b) MODIFICATION OF AGGRAVATING FACTORS FOR
9 TERRORISM OFFENSES.—Section 3592(b) of title 18,
10 United States Code, is amended—

11 (1) in the heading, by inserting “, terrorism,”
12 after “espionage”; and

13 (2) by inserting immediately after paragraph
14 (3) the following:

15 “(4) SUBSTANTIAL PLANNING.—The defendant
16 committed the offense after substantial planning.”.

17 **SEC. _15. POSTRELEASE SUPERVISION OF TERRORISTS.**

18 Section 3583(j) of title 18, United States Code, is
19 amended in subsection (j), by striking “, the commission”
20 and all that follows through “person,” .

21 **Subtitle B—Prevention of Terrorist**
22 **Access to Destructive Weapons Act**

23 **SEC. _21. DEATH PENALTY FOR CERTAIN TERROR RE-**
24 **LATED CRIMES.**

25 (a) PARTICIPATION IN NUCLEAR AND WEAPONS OF
26 MASS DESTRUCTION THREATS TO THE UNITED



1 STATES.—Section 832(c) of title 18, United States Code,
2 is amended by inserting “punished by death or” after
3 “shall be”.

4 (b) MISSILE SYSTEMS TO DESTROY AIRCRAFT.—Sec-
5 tion 2332g(c)(3) of title 18, United States Code, is
6 amended by inserting “punished by death or” after “shall
7 be”.

8 (c) ATOMIC WEAPONS.—Section 222b.of the Atomic
9 Energy Act of 1954 (42 U.S.C. 2272) is amended by in-
10 serting “death or” before “imprisonment for life”.

11 (d) RADIOLOGICAL DISPERSAL DEVICES.—Section
12 2332h(c)(3) of title 18, United States Code, is amended
13 by inserting “death or” before “imprisonment for life”.

14 (e) VARIOLA VIRUS.—Section 175c(c)(3) of title 18,
15 United States Code, is amended by inserting “death or”
16 before “imprisonment for life”.

17 **Subtitle C—Federal Death Penalty** 18 **Procedures**

19 **SEC. 31. MODIFICATION OF DEATH PENALTY PROVI-** 20 **SIONS.**

21 (a) ELIMINATION OF PROCEDURES APPLICABLE
22 ONLY TO CERTAIN CONTROLLED SUBSTANCES ACT
23 CASES.—Section 408 of the Controlled Substances Act
24 (21 U.S.C. 848) is amended—



1 (1) in subsection (e)(2), by striking “(1)(b)”
2 and inserting (1)(B);

3 (2) by striking subsection (g) and all that fol-
4 lows through subsection (p);

5 (3) by striking subsection (r); and

6 (4) in subsection (q), by striking paragraphs
7 (1) through (3).

8 (b) MODIFICATION OF MITIGATING FACTORS.—Sec-
9 tion 3592(a)(4) of title 18, United States Code, is
10 amended—

11 (1) by striking “Another” and inserting “The
12 Government could have, but has not, sought the
13 death penalty against another”; and

14 (2) by striking “, will not be punished by
15 death”.

16 (c) MODIFICATION OF AGGRAVATING FACTORS FOR
17 OFFENSES RESULTING IN DEATH.—Section 3592(c) of
18 title 18, United States Code, is amended—

19 (1) in paragraph (7), by inserting “or by cre-
20 ating the expectation of payment,” after “or promise
21 of payment,”;

22 (2) in paragraph (1), by inserting “section
23 2339E (terrorist offenses resulting in death),” after
24 “destruction),”;



1 (3) by inserting immediately after paragraph
2 (16) the following:

3 “(17) OBSTRUCTION OF JUSTICE.—The defend-
4 ant engaged in any conduct resulting in the death of
5 another person in order to obstruct investigation or
6 prosecution of any offense.”.

7 (d) ADDITIONAL GROUND FOR IMPANELING NEW
8 JURY.—Section 3593(b)(2) of title 18, United States
9 Code, is amended—

10 (1) by striking “or” at the end of subparagraph
11 (C);

12 (2) by inserting after subparagraph (D) the fol-
13 lowing:

14 “(E) a new penalty hearing is necessary
15 due to the inability of the jury to reach a unan-
16 imous penalty verdict as required by section
17 3593(e); or”.

18 (e) JURIES OF LESS THAN 12 MEMBERS.—Sub-
19 section (b) of section 3593 of title 18, United States Code,
20 is amended by striking “unless” and all that follows
21 through the end of the subsection and inserting “unless
22 the court finds good cause, or the parties stipulate, with
23 the approval of the court, a lesser number.”.

24 (f) IMPANELING OF NEW JURY WHEN UNANIMOUS
25 RECOMMENDATION CANNOT BE REACHED.—Section



1 3594 of title 18, United States Code, is amended by in-
2 serting after the first sentence the following: “If the jury
3 is unable to reach any unanimous recommendation under
4 section 3593(e), the court, upon motion by the Govern-
5 ment, may impanel a jury under section 3593(b)(2)(E) for
6 a new sentencing hearing.”.

7 (g) PEREMPTORY CHALLENGES.—Rule 24(c) of the
8 Federal Rules of Criminal Procedure is amended—

9 (1) in paragraph (1), by striking “6” and in-
10 serting “9”; and

11 (2) in paragraph (4), by adding at the end the
12 following:

13 “(C) SEVEN, EIGHT OR NINE ALTER-
14 NATES.—Four additional peremptory challenges
15 are permitted when seven, eight, or nine alter-
16 nates are impaneled.”.

Strike section 12.

