

Status of ICC Legislation  
from the Washington Working Group on the ICC  
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American Servicemembers' Protection Act (S. 587, H.R. 1794) -- NOT ADOPTED Despite multiple attempts to attach the American Servicemembers' Protection Act (ASPA) to bills in the House and Senate, no version of this legislation became law in 2001. In the House, the ASPA was attached to the Foreign Relations Authorization Act (H.R. 1646) on May 7, which is being brought to House-Senate conference after the Easter recess. In the Senate, Senator Helms offered increasingly weaker versions of the ASPA to various bills throughout the fall. The Bush Administration reluctantly endorsed a version of ASPA after Sen. Helms added a number of waivers that would permit the United States to cooperate with the ICC in most, but not all, circumstances. On December 7, after the very narrow, mostly party-line vote failure of an amendment by Senator Dodd requesting that the Senate not take action on ASPA until the President communicated his preferences, the Senate adopted ASPA as an amendment to the Defense Appropriations Act (S.1419) by a margin of 78-21. (This Dodd amendment was not the same as the Dodd- Delahunt legislation below.) The ASPA amendment was dropped when this bill went to conference committee largely due to the strong opposition of Sen. Inouye who, fortuitously, was the chair of the Senate side of the conference.

Currently the US Senate and the House of Representatives are conferencing two bills - the House passed State Department Authorization Act and the Senate passed Security Assistance bill. The former includes the American Servicemembers' Protection Act. The Senate's Security Assistance bill doesn't contain ICC language; they will use a legislative maneuver be able to move the Foreign Relations Authorization bill forward without a floor vote. The Security Assistance bill only very slightly overlaps parts of the House Foreign Relations bill, so senators are taking the committee passed version of the Senate foreign relations bill directly to House-Senate conference, using the Security Assistance bill as the official Senate vehicle.

ICC advocates should weigh in with these Senate conferees: Senator Biden (D-DE); Senator Sarbanes (D-MD); Senator Dodd (D- CT); Senator Kerry (D-MA); Senator Lugar (R-IN). There is a strong possibility that some version of ASPA will be included in the final bill, given the large majorities by which it has already passed both the House and Senate, but there is also the possibility that it will be further weakened and modified before adoption.

**Hyde Amendment -- ADOPTED**

On November 28, The House of Representatives approved the Hyde Amendment to the FY 2002 Defense Appropriations Act (H.R. 3338), an amendment that would restrict funds under the bill from being used to cooperate with the ICC. In signing the bill in on January 16, President Bush indicated that he would only execute the amendment to the extent that it does not encroach upon foreign policy powers granted within the constitution. The amendment remains law only through FY 2002, until the next Defense Appropriations Act is adopted.

**Craig Amendment -- ADOPTED**

On September 10, the Senate passed the Commerce, Justice, State and Judiciary Appropriations bill (S. 1215), which included the Craig Amendment, an amendment that would restrict funds under the bill from being used to cooperate with the ICC. When President Bush signed the bill into law, he said that he does not intend to abide by constraints of the amendment that breach his constitutionally granted foreign policy powers. The main import of this statement is that the Bush Administration will send representatives to the ICC PrepComs notwithstanding the Craig Amendment if it deems it to be in the US national interest to do so.

**Dodd-Delahunt Legislation -- NOT ADOPTED, NO HEARINGS**

Senator Christopher Dodd (D-CT), Rep. William D. Delahunt (D-MA), Rep. Amo Haughton (R-NY), Rep. Tom Lantos (D-CA) introduced the American Citizens Protection Act and War Criminal Prosecution Act 2001(S 1296 and HR 2699) to the House of Representatives and the Senate. The bill has been referred to the Senate Committee on Foreign Relations and the House International Relations Committee. Action has yet to be taken, but the bill is still alive.