

111TH CONGRESS
1ST SESSION

S. 1071

To protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2009

Mr. CHAMBLISS (for himself, Mr. VITTER, Mr. ISAKSON, Mr. INHOFE, Mr. BURR, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect the national security of the United States by limiting the immigration rights of individuals detained by the Department of Defense at Guantanamo Bay Naval Base.

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 “Protecting America’s
5 Communities Act”.

6 **SEC. 2. INELIGIBILITY FOR ADMISSION OR PAROLE.**

7 Section 212 of the Immigration and Nationality Act
8 (8 U.S.C. 1182) is amended—

(1) in subsection (a)(3), by adding at the end the following:

“(G) GUANTANAMO BAY DETAINEES.—An alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base, is inadmissible.”; and

(2) in subsection (d)—

(A) in paragraph (1), by inserting “or (5)(B)”;

(B) in paragraph (5)(B), by adding at the end the following: “The Attorney General may not parole any alien who, as of January 1, 2009, was being detained by the Department of Defense at Guantanamo Bay Naval Base.”.

SEC. 3. DETENTION AUTHORITY.

Section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1231(a)) is amended—

(1) by striking “Attorney General” each place it appears, except for the first reference in paragraph (4)(B)(i), and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(8) GUANTANAMO BAY DETAINEES.—

“(A) CERTIFICATION REQUIREMENT.—An alien ordered removed who, as of January 1,

1 2009, was being detained by the Department of
2 Defense at Guantanamo Bay Naval Base, shall
3 be detained for an additional 6 months beyond
4 the removal period (including any extension
5 under paragraph (1)(C)) if the Secretary of
6 Homeland Security certifies that—

7 “(i) the alien cannot be removed due
8 to the refusal of all countries designated by
9 the alien or under this section to receive
10 the alien; and

11 “(ii) the Secretary is making reason-
12 able efforts to find alternative means for
13 removing the alien.

14 “(B) RENEWAL AND DELEGATION OF CER-
15 TIFICATION.—

16 “(i) RENEWAL.—The Secretary may
17 renew a certification under subparagraph
18 (A) without limitation after providing the
19 alien with an opportunity to—

20 “(I) request reconsideration of
21 the certification; and

22 “(II) submit documents or other
23 evidence in support of the reconsider-
24 ation request.

1 “(ii) DELEGATION.—Notwithstanding
2 section 103, the Secretary may not dele-
3 gate the authority to make or renew a cer-
4 tification under this paragraph to an offi-
5 cial below the level of the Assistant Sec-
6 retary for Immigration and Customs En-
7 forcement.

8 “(C) INELIGIBILITY FOR BOND OR PA-
9 ROLE.—No immigration judge or official of
10 United States Immigration and Customs En-
11 forcement may release from detention on bond
12 or parole any alien described in subparagraph
13 (A).”.

14 **SEC. 4. ASYLUM INELIGIBILITY.**

15 Section 208(a)(2) of the Immigration and Nationality
16 Act (8 U.S.C. 1158(a)(2)) is amended by adding at the
17 end the following:

18 “(E) GUANTANAMO BAY DETAINEES.—
19 Paragraph (1) shall not apply to any alien who,
20 as of January 1, 2009, was being detained by
21 the Department of Defense at Guantanamo Bay
22 Naval Base.”.

1 **SEC. 5. MANDATORY DETENTION OF ALIENS FROM GUAN-**
2 **TANAMO BAY NAVAL BASE.**

3 Section 236(c)(1) of the Immigration and Nationality
4 Act (8 U.S.C. 1226(c)(1)) is amended—

5 (1) in each of subparagraphs (A) and (B), by
6 striking the comma at the end and inserting a semi-
7 colon;

8 (2) in subparagraph (C), by striking “, or” and
9 inserting a semicolon;

10 (3) in subparagraph (D), by striking the comma
11 at the end and inserting “; or”; and

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

14 “(A) as of January 1, 2009, was being de-
15 tained by the Department of Defense at Guan-
16 tanamo Bay Naval Base.”.

17 **SEC. 6. STATEMENT OF AUTHORITY.**

18 (a) IN GENERAL.—Congress reaffirms that—

19 (1) the United States is in an armed conflict
20 with al Qaeda, the Taliban, and associated forces;
21 and

22 (2) the entities referred to in paragraph (1)
23 continue to pose a threat to the United States and
24 its citizens, both domestically and abroad.

25 (b) AUTHORITY.—Congress reaffirms that the Presi-
26 dent is authorized to detain enemy combatants in connec-

1 tion with the continuing armed conflict with al Qaeda, the
2 Taliban, and associated forces until the termination of
3 such conflict, regardless of the place at which they are
4 captured.

5 (c) RULE OF CONSTRUCTION.—The authority de-
6 scribed in this section may not be construed to alter or
7 limit the authority of the President under the Constitution
8 of the United States to detain enemy combatants in the
9 continuing armed conflict with al Qaeda, the Taliban, and
10 associated forces, or in any other armed conflict.

○