



U.S. Senate U.S. House of Representatives



FACT SHEET: The Due Process and Military Detention Amendments Act of 2012

- The Due Process and Military Detention Amendments Act of 2012, which is grounded in the core principles of the United States Constitution, ensures that any individual detained on U.S. soil has access to due process, the federal or state court systems and will not be detained indefinitely by the military pursuant to the Authorization for Use of Military Force (AUMF).
- The current law gives the Executive Branch too much power. The bill strikes an ill-conceived and unnecessary provision in the FY2012 National Defense Authorization Act (NDAA) that relates to mandatory military custody (section 1022).
- The bill also amends the permissive detention provision of FY2012 NDAA (section 1021) to clarify that the only option for anyone detained in the United States pursuant to the AUMF is the Article III courts (federal) and state courts. This bill prohibits military commissions, indefinite detention and transfer to foreign countries for individuals detained in the United States.
- The bill also states that any trial proceedings “shall have all the due process as provided for under the Constitution” and ensures that anyone detained in the United States pursuant to the AUMF will be tried in our civilian courts and receive all the due process rights enshrined in the Constitution.
- Our civilian law enforcement investigations have a proven track record of success and have provided intelligence and admissible statements without Miranda in “crisis detention” situations, as demonstrated by the recent mandatory life sentence received by Umar Farouk Abdulmutallab, the “Underwear Bomber.”
- Over 300 individuals convicted of crimes related to international terrorism are currently incarcerated in federal prisons within the United States with no escapes or retaliatory actions.
- Our civilian courts cover a broad set of offenses, giving our federal prosecutors a wide range of tools that can be used to incapacitate suspected terrorists.
- Our civilian courts enhance international cooperation. A number of countries have indicated that they will not cooperate with the United States in certain counterterrorism efforts, for example, in providing evidence or extraditing suspects, if we intend to use that cooperation in pursuit of a military commission prosecution. Although the use of military commissions in the United States can be traced back to the early days of our nation and is an effective tool in presenting evidence obtained from the battlefield, in their present form they are less familiar to the international community than our civilian criminal justice system and Article III courts.

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