

110TH CONGRESS  
2D SESSION

# H. R. 5167

To amend the National Defense Authorization Act for Fiscal Year 2008  
to remove the authority of the President to waive certain provisions.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 29, 2008

Mr. BRALEY of Iowa (for himself, Mr. CONYERS, Mr. FRANK of Massachusetts, Mr. SESTAK, Mr. HARE, Ms. SUTTON, Mr. SARBANES, Mr. KAGEN, Ms. HIRONO, Ms. KILPATRICK, Mr. HALL of New York, Mr. WELCH of Vermont, Ms. SHEA-PORTER, Mr. WALZ of Minnesota, Mr. PERLMUTTER, Mr. GONZALEZ, Mr. CARNAHAN, Mr. COURTNEY, Mr. GEORGE MILLER of California, Mr. CUMMINGS, Mr. MURPHY of Connecticut, Ms. LEE, Ms. CASTOR, Ms. JACKSON-LEE of Texas, Mr. ELLISON, Mr. KENNEDY, Mr. JOHNSON of Georgia, Mr. MORAN of Virginia, and Ms. HOOLEY) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the National Defense Authorization Act for Fiscal  
Year 2008 to remove the authority of the President  
to waive certain provisions.

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 “Justice for Victims  
5 of Torture and Terrorism Act”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) During the Gulf War against Iraq in 1991,  
4 many Americans serving in the United States Armed  
5 Forces were captured, became prisoners of war  
6 (POWs), and were subsequently tortured, beaten,  
7 starved, hooked to electrical shock devices, and sub-  
8 jected to other horrendous acts by Saddam Hus-  
9 sein's regime.

10 (2) At the time these acts occurred, the United  
11 States Department of State had classified Iraq as a  
12 "state sponsor of terrorism".

13 (3) During that Gulf War, the Congress passed  
14 2 resolutions by unanimous consent, stating an in-  
15 tention to hold Iraq accountable for the torture of  
16 American POWs.

17 (4) When these brave American POWs returned  
18 home after the Gulf War ended, they were given a  
19 hero's welcome by then Secretary of Defense Dick  
20 Cheney, who told them, "Your country is opening its  
21 arms to greet you".

22 (5) These brave American POWs have suffered  
23 long-term physical, emotional, and mental damages  
24 as a result of this brutal, state-sponsored torture.

25 (6) In 1996, responding to concerns raised by  
26 the torture of American POWs in the Gulf War, the

1 Congress passed an amendment to the Foreign Sov-  
2 ereign Immunities Act (FSIA) so that torture vic-  
3 tims like the American POWs from the Gulf War  
4 could seek compensation for their injuries from ter-  
5 rorist countries, including Iraq.

6 (7) On April 4, 2002, 17 Gulf War POWs and  
7 their families filed claims in the United States Dis-  
8 trict Court for the District of Columbia seeking com-  
9 pensation for damages related to their torture and  
10 abuse by the Government of Iraq. The POWs in-  
11 cluded Colonel Clifford Acree, USMC (Ret.); Lieu-  
12 tenant Colonel Craig Berryman, USMC (Ret.);  
13 Former Staff Sergeant Troy Dunlap, US Army;  
14 Colonel David Eberly, USAF (Ret.); Lieutenant  
15 Colonel Jeffrey D. Fox, USAF (Ret.); Chief War-  
16 rant Officer 5 Guy Hunter, USMC (Ret.); Sergeant  
17 David Lockett, US Army; Colonel H. Michael Rob-  
18 erts, USAF; Colonel Russell Sanborn, USMC; Cap-  
19 tain Lawrence Randolph Slade, USN (Ret.); Major  
20 Joseph Small, USMC (Ret.); Staff Sergeant Daniel  
21 Stamaris, US Army (Ret.); Lieutenant Colonel Rich-  
22 ard Dale Storr, Air National Guard; Lieutenant  
23 Colonel Robert Sweet, USAF; Lieutenant Colonel  
24 Jeffrey Tice, USAF (Ret.); Former Lieutenant Rob-

1 ert Wetzel, USN; and Former Commander Jeffrey  
2 Zaun, USN.

3 (8) In 2003, after the Government of Iraq re-  
4 peatedly refused to participate in arbitration on the  
5 damages claims, and after hearing evidence of how  
6 the former POWs had been repeatedly tortured, a  
7 judge awarded them a judgment for damages, stat-  
8 ing that “detering torture of POWs should be of  
9 the highest priority”.

10 (9) Article 131 of the Third Geneva Convention  
11 relative to the Treatment of Prisoners of War (Au-  
12 gust 12, 1949) prohibits the United States, as a  
13 party to that treaty, from absolving the Government  
14 of Iraq of any liability incurred due to the torture  
15 of prisoners of war, such as the Gulf War POWs.

16 (10) The United States has a moral obligation  
17 to protect its past, present, and future military  
18 forces from torture, and the United States Congress  
19 is committed to holding state sponsors of terrorism  
20 accountable for such horrendous acts.

21 **SEC. 3. REMOVAL OF WAIVER AUTHORITY.**

22 (a) IN GENERAL.—Section 1083 of the National De-  
23 fense Authorization Act for Fiscal Year 2008 is amended  
24 by striking subsection (d) and redesignating subsection (e)  
25 as subsection (d).

1           (b) NULLIFICATION OF EXISTING WAIVERS.—Any  
2 waiver made by the President under section 1083(d) of  
3 the National Defense Authorization Act for Fiscal year  
4 2008 before the enactment of this Act shall cease to be  
5 effective on the date of the enactment of this Act.

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