

112TH CONGRESS  
2D SESSION

# H. R. 5936

To amend the National Defense Authorization Act for Fiscal Year 2012 to provide for the trial of covered persons detained in the United States pursuant to the Authorization for Use of Military Force or the National Defense Authorization Act for Fiscal Year 2012 and to repeal the requirement for military custody.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 8, 2012

Mr. GARAMENDI (for himself, Mr. SMITH of Washington, Mr. AMASH, and Mr. PERLMUTTER) introduced the following bill; which was referred to the Committee on Armed Services, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the National Defense Authorization Act for Fiscal Year 2012 to provide for the trial of covered persons detained in the United States pursuant to the Authorization for Use of Military Force or the National Defense Authorization Act for Fiscal Year 2012 and to repeal the requirement for military custody.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Civil Liberties Act of  
3 2012”.

4 **SEC. 2. DISPOSITION OF COVERED PERSONS DETAINED IN**  
5 **THE UNITED STATES PURSUANT TO THE AU-**  
6 **THORIZATION FOR USE OF MILITARY FORCE.**

7       (a) DISPOSITION.—Section 1021 of the National De-  
8 fense Authorization Act for Fiscal Year 2012 (Public Law  
9 112–81; 125 Stat. 1562) is amended—

10           (1) in subsection (c), by striking “The disposi-  
11 tion” and inserting “Except as provided in sub-  
12 section (g), the disposition”; and

13           (2) by adding at the end the following new sub-  
14 sections:

15       “(g) DISPOSITION OF PERSONS DETAINED IN THE  
16 UNITED STATES.—

17           “(1) PERSONS DETAINED PURSUANT TO THE  
18 AUTHORIZATION FOR USE OF MILITARY FORCE OR  
19 THIS ACT.—In the case of a covered person who is  
20 detained in the United States, or a territory or pos-  
21 session of the United States, pursuant to the Au-  
22 thorization for Use of Military Force or this Act,  
23 disposition under the law of war shall occur imme-  
24 diately upon the person coming into custody of the  
25 Federal Government and shall only mean the imme-  
26 diate transfer of the person for trial and proceedings

1 by a court established under Article III of the Con-  
2 stitution of the United States or by an appropriate  
3 State court. Such trial and proceedings shall have all  
4 the due process as provided for under the Constitu-  
5 tion of the United States.

6 “(2) PROHIBITION ON TRANSFER TO MILITARY  
7 CUSTODY.—No person detained, captured, or ar-  
8 rested in the United States, or a territory or posses-  
9 sion of the United States, may be transferred to the  
10 custody of the Armed Forces for detention under the  
11 Authorization for Use of Military Force or this Act.

12 “(h) RULE OF CONSTRUCTION.—This section shall  
13 not be construed to authorize the detention of a person  
14 within the United States, or a territory or possession of  
15 the United States, under the Authorization for Use of  
16 Military Force or this Act.”.

17 (b) REPEAL OF REQUIREMENT FOR MILITARY CUS-  
18 TODY.—

19 (1) REPEAL.—Section 1022 of the National  
20 Defense Authorization Act for Fiscal Year 2012  
21 (Public Law 112–81; 125 Stat. 1563) is hereby re-  
22 pealed.

23 (2) CONFORMING AMENDMENT.—Section  
24 1029(b) of such Act (125 Stat. 1569) is amended by  
25 striking “applies to” and all that follows through

- 1 “any other person” and inserting “applies to any
- 2 person”.

