

115TH CONGRESS  
1ST SESSION

# S. 1216

To clarify that an authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MAY 24, 2017

Mr. LEE (for himself, Mrs. FEINSTEIN, Mr. CRUZ, Mr. WHITEHOUSE, Ms. COLLINS, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To clarify that an authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States, and for other purposes.

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 “Due Process Guar-  
5 antee Act”.

1 **SEC. 2. PROHIBITION ON THE INDEFINITE DETENTION OF**  
2 **CITIZENS AND LAWFUL PERMANENT RESI-**  
3 **DENTS.**

4 (a) IN GENERAL.—Section 4001 of title 18, United  
5 States Code, is amended by striking subsection (a) and  
6 inserting the following:

7 “(a) No citizen or lawful permanent resident of the  
8 United States shall be imprisoned or otherwise detained  
9 by the United States except consistent with the Constitu-  
10 tion and pursuant to an Act of Congress that expressly  
11 authorizes such imprisonment or detention.”.

12 (b) RELATIONSHIP TO AN AUTHORIZATION TO USE  
13 MILITARY FORCE, DECLARATION OF WAR, OR SIMILAR  
14 AUTHORITY.—Section 4001 of title 18, United States  
15 Code, as amended by subsection (a) is further amended—

16 (1) by redesignating subsection (b) as sub-  
17 section (c); and

18 (2) by inserting after subsection (a) the fol-  
19 lowing:

20 “(b)(1) A general authorization to use military force,  
21 a declaration of war, or any similar authority, on its own,  
22 shall not be construed to authorize the imprisonment or  
23 detention without charge or trial of a citizen or lawful per-  
24 manent resident of the United States apprehended in the  
25 United States.

1       “(2) Paragraph (1) applies to an authorization to use  
2 military force, a declaration of war, or any similar author-  
3 ity enacted before, on, or after the date of the enactment  
4 of the Due Process Guarantee Act.

5       “(3) This section shall not be construed to authorize  
6 the imprisonment or detention of a citizen of the United  
7 States, a lawful permanent resident of the United States,  
8 or any other person who is apprehended in the United  
9 States.”.

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