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112TH CONGRESS
2D SESSION

H. R. 5751

To amend title 18, United States Code, to provide for limitations on detentions of certain individuals, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2012

Mr. NADLER (for himself, Mr. CONYERS, and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services and 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 title 18, United States Code, to provide for limitations on detentions of certain individuals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''No Detention without Charge Act of 2012''.

SEC. 2. LIMITATION ON DETENTIONS.

Section 4001 of title 18, United States Code, is amended by inserting after subsection (b) the following:

"(c)(1) An authorization for the use of military force, a declaration of war, or any similar Act pertaining to the authority of the President over the use of the Armed Forces of the United States may not authorize the apprehension or detention of any person except to the extent that the Constitution, the law of war, and otherwise applicable human rights law permits.

"(2) Except as expressly provided by an Act of Congress, an authorization for the use of military force, a declaration of war, or any similar Act pertaining to the authority of the President over the use of the Armed Forces of the United States may not authorize the detention without charge of any person apprehended or detained in the United States, or a territory or possession of the United States.

"(d) Subsection (c) applies to an authorization for the use of military force, a declaration of war, or any similar Act pertaining to the authority of the President over the use of the Armed Forces of the United States enacted before, on, or after the date of enactment of this subsection.

"(e) A person may assert a violation of this section as a claim or defense in a judicial proceeding and obtain appropriate relief against a government. Standing to assert a claim or defense under this section shall be governed

by the general rules of standing under Article III of the Constitution.''.

SEC. 3. RULE OF CONSTRUCTION.

For purposes of section 4001(c)(2) of title 18, United States Code, the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) shall not constitute an Act of Congress expressly providing an exception to the prohibition in that subsection.

SEC. 4. REPEAL OF REQUIREMENT FOR MILITARY CUSTODY.

(a) REPEAL.—Section 1022 of the National Defense Authorization Act for Fiscal Year 2012 is hereby repealed.

(b) CONFORMING AMENDMENT.—Section 1029(b) of such Act is amended by striking ''applies to'' and all that follows through ''any other person'' and inserting ''applies to any person''.

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