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113TH CONGRESS
1ST SESSION

H. R. 2325

To provide for the disposition of certain persons detained in the United States pursuant to the Authorization for Use of Military Force.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2013

Mr. SMITH of Washington (for himself and Mr. GIBSON) 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 provide for the disposition of certain persons detained in the United States pursuant to the Authorization for Use of Military Force.

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 ''Due Process and Military Detention Amendments Act''.

SEC. 2. DISPOSITION OF COVERED PERSONS DETAINED IN THE UNITED STATES PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE.

(a) DISPOSITION.—Section 1021 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1562; 10 U.S.C. 801 note) is amended—

(1) in subsection (c), by striking ''The disposition'' and inserting ''Except as provided in subsection (g), the disposition''; and

(2) by adding at the end the following new subsections:

''(g) DISPOSITION OF PERSONS DETAINED IN THE UNITED STATES.—

''(1) PERSONS DETAINED PURSUANT TO THE AUTHORIZATION FOR USE OF MILITARY FORCE OR THE FISCAL YEAR 2012 NATIONAL DEFENSE AUTHORIZATION ACT.—In the case of a covered person who is detained in the United States, or a territory or possession of the United States, pursuant to the Authorization for Use of Military Force (Public Law 107–40; 50 U.S.C. 1541 note) or this Act, disposition under the law of war shall occur immediately upon the person coming into custody of the Federal Government and shall only mean the immediate transfer of the person for trial and proceedings by

a court established under article III of the Constitution of the United States or by an appropriate State court. Such trial and proceedings shall have all the due process as provided for under the Constitution of the United States.

"(2) PROHIBITION ON TRANSFER TO MILITARY CUSTODY.—No person detained, captured, or arrested in the United States, or a territory or possession of the United States, may be transferred to the custody of the Armed Forces for detention under the Authorization for Use of Military Force or this Act.

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

(b) REPEAL OF REQUIREMENT FOR MILITARY CUSTODY.—

(1) REPEAL.—Section 1022 of the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112–81; 125 Stat. 1563; 10 U.S.C. 801 note) is hereby repealed.

(2) CONFORMING AMENDMENT.—Section 1029(b) of such Act (Public Law 112–81; 125 Stat. 1569; 10 U.S.C. 801 note) is amended by striking

1 ''applies to'' and all that follows through ''any other
2 person'' and inserting ''applies to any person''.

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