

(D) in paragraph (9)—

(i) by striking “paragraph (1)(E)” and inserting “paragraph (5)(B)”;

(ii) by striking “(1)(A), (5),” and inserting “(5)(A),”; and

(E) in paragraph (11), by striking “(1)(E),”;

(2) in subsection (c)(10)(C)(vii), by striking “subsections (b)(1)(E) and (F),” and inserting “subparagraphs (B) and (C) of subsection (b)(5)”;

(3) in subsection (e)(1), by inserting “(1),” after “described in paragraph”;

(4) in subsection (f)(1)(A)(ii), by inserting “(A)” after “(b)(5)”;

(5) in subsection (g)(3)(A), by striking “subsection (b)(1)(E)” and inserting “subsection (b)(5)(B)”.

AMENDMENTS SUBMITTED AND PROPOSED

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1450. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1451. Mr. VITTER submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1452. Mr. VOINOVICH submitted an amendment intended to be proposed by him to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1453. Ms. MIKULSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1454. Mr. SANDERS (for himself, Mr. LEAHY, Mr. SCHUMER, Mrs. GILLIBRAND, and Mrs. SHAHEEN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1455. Mr. KYL (for himself and Mr. MCCAIN) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1456. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1457. Mr. BENNET submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1458. Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1459. Mr. TESTER submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1460. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1461. Ms. MURKOWSKI submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1462. Mr. COCHRAN (for himself and Mr. WICKER) submitted an amendment intended to be proposed to amendment SA 1461 submitted by Ms. MURKOWSKI and intended to be proposed to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra; which was ordered to lie on the table.

SA 1463. Mrs. LINCOLN submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1464. Mr. GREGG submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1465. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1466. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1467. Mr. VITTER proposed an amendment to amendment SA 1458 submitted by Mr. DODD (for himself, Mr. LIEBERMAN, and Mr. CARPER) to the amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

SA 1468. Mrs. MURRAY proposed an amendment to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, supra.

TEXT OF AMENDMENTS

SA 1448. Mr. LIEBERMAN (for himself and Mr. GRAHAM) submitted an amendment intended to be proposed to amendment SA 1373 proposed by Mr. REID (for Mr. BYRD (for himself, Mr. INOUE, and Mrs. MURRAY)) to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ____ . DETAINEE PHOTOGRAPHIC RECORDS PROTECTION AND OPEN FREEDOM OF INFORMATION ACT.

(a) DETAINEE PHOTOGRAPHIC RECORDS PROTECTION.—

(1) SHORT TITLE.—This subsection may be cited as the “Detainee Photographic Records Protection Act of 2009”.

(2) DEFINITIONS.—In this subsection:

(A) COVERED RECORD.—The term “covered record” means any record—

(i) that is a photograph that—

(I) was taken during the period beginning on September 11, 2001, through January 22, 2009; and

(II) relates to the treatment of individuals engaged, captured, or detained after Sep-

tember 11, 2001, by the Armed Forces of the United States in operations outside of the United States; and

(ii) for which a certification by the Secretary of Defense under paragraph (3) is in effect.

(B) PHOTOGRAPH.—The term “photograph” encompasses all photographic images, whether originals or copies, including still photographs, negatives, digital images, films, video tapes, and motion pictures.

(3) CERTIFICATION.—

(A) IN GENERAL.—For any photograph described under paragraph (2)(A)(i), the Secretary of Defense shall certify, if the Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, determines that the disclosure of that photograph would endanger—

(i) citizens of the United States; or

(ii) members of the Armed Forces or employees of the United States Government deployed outside the United States.

(B) CERTIFICATION EXPIRATION.—A certification submitted under subparagraph (A) and a renewal of a certification submitted under subparagraph (C) shall expire 3 years after the date on which the certification or renewal, as the case may be, is submitted to the President.

(C) CERTIFICATION RENEWAL.—The Secretary of Defense may submit to the President—

(i) a renewal of a certification in accordance with subparagraph (A) at any time; and

(ii) more than 1 renewal of a certification.

(D) NOTICE TO CONGRESS.—A timely notice of the Secretary’s certification shall be submitted to Congress.

(4) NONDISCLOSURE OF DETAINEE RECORDS.—A covered record shall not be subject to—

(A) disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act); or

(B) disclosure under any proceeding under that section.

(5) RULE OF CONSTRUCTION.—Nothing in this subsection shall be construed to preclude the voluntary disclosure of a covered record.

(6) EFFECTIVE DATE.—This subsection shall take effect on the date of enactment of this Act and apply to any photograph created before, on, or after that date that is a covered record.

(b) OPEN FREEDOM OF INFORMATION ACT.—

(1) SHORT TITLE.—This subsection may be cited as the “OPEN FOIA Act of 2009”.

(2) SPECIFIC CITATIONS IN STATUTORY EXEMPTIONS.—Section 552(b) of title 5, United States Code, is amended by striking paragraph (3) and inserting the following:

“(3) specifically exempted from disclosure by statute (other than section 552b of this title), if that statute—

“(A)(i) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

“(ii) establishes particular criteria for withholding or refers to particular types of matters to be withheld; and

“(B) if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to this paragraph.”.

SA 1449. Mr. KERRY submitted an amendment intended to be proposed by him to the bill H.R. 2892, making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2010, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____ . (a) Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall, using