

112<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4192

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 and to repeal the requirement for military custody.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 8, 2012

Mr. SMITH of Washington (for himself, Mr. BERMAN, Mr. DUNCAN of Tennessee, Mr. ANDREWS, Ms. BORDALLO, Mr. CRITZ, Mr. LARSEN of Washington, Ms. PINGREE of Maine, Mr. GEORGE MILLER of California, Mr. JOHNSON of Georgia, Mrs. DAVIS of California, Mr. REYES, Ms. SPEIER, Mr. FILNER, Mr. RUSH, Mr. COURTNEY, Mr. CAPUANO, Mr. FARR, Mr. JOHNSON of Illinois, Mr. MORAN, Mr. WAXMAN, Mr. TONKO, Mr. PRICE of North Carolina, Ms. HAHN, Mr. HASTINGS of Florida, Mr. CARNAHAN, Mr. WELCH, Mr. MCGOVERN, Mr. MCDERMOTT, Mr. MICHAUD, Mr. HIGGINS, Mr. HOLT, Mrs. CAPPs, Ms. MCCOLLUM, Ms. HIRONO, Mr. DOGGETT, and Mr. INSLLEE) 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 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,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Due Process and Mili-  
5 tary Detention Amendments Act”.

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

9       Section 1021 of the National Defense Authorization  
10 Act for Fiscal Year 2012 is amended—

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

14               (2) by adding at the end the following new sub-  
15 section:

16       “(g) DISPOSITION OF COVERED PERSONS DETAINED  
17 IN THE UNITED STATES.—In the case of a covered person  
18 who is detained in the United States pursuant to the Au-  
19 thorization for Use of Military Force, disposition under  
20 the law of war shall only mean the transfer of the person  
21 for trial and proceedings by a court established under Ar-  
22 ticle III of the Constitution of the United States or by  
23 an appropriate State court. Such trial and proceedings  
24 shall have all the due process as provided for under the  
25 Constitution of the United States.”.

1 **SEC. 3. REPEAL OF REQUIREMENT FOR MILITARY CUS-**  
2 **TODY.**

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4 Authorization Act for Fiscal Year 2012 is hereby repealed.

5 (b) CONFORMING AMENDMENT.—Section 1029(b) of  
6 such Act is amended by striking “applies to” and all that  
7 follows through “any other person” and inserting “applies  
8 to any person”.

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