

112TH CONGRESS  
1ST SESSION

# S. 548

To provide for the effective interrogation of unprivileged enemy belligerents  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 10, 2011

Mr. CHAMBLISS (for himself, Mr. GRAHAM, Ms. AYOTTE, Mr. MCCAIN, and  
Mr. BURR) introduced the following bill; which was read twice and re-  
ferred to the Select Committee on Intelligence

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## A BILL

To provide for the effective interrogation of unprivileged  
enemy belligerents 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 “Effective Interrogation  
5 of Unprivileged Enemy Belligerents Act”.

6 **SEC. 2. PROCEDURES FOR INTERROGATION OF CERTAIN**  
7 **TERRORIST DETAINEES.**

8 The Detainee Treatment Act of 2005 (title X of Pub-  
9 lic Law 109–148; 119 Stat. 2739) is amended by inserting  
10 after section 1005 the following new section:

1 **“SEC. 1005A. PROCEDURES FOR INTERROGATION OF CER-**  
2 **TAIN TERRORIST DETAINEES.**

3 “(a) IN GENERAL.—Not later than 90 days after the  
4 date of enactment of the Effective Interrogation of  
5 Unprivileged Enemy Belligerents Act, the Secretary of De-  
6 fense, the Director of National Intelligence, and the Attor-  
7 ney General, shall jointly submit to the appropriate com-  
8 mittees of Congress procedures for the interrogation of  
9 unprivileged enemy belligerents who are suspected of pos-  
10 sessing significant information and who are under—

11 “(1) the control or custody of the United  
12 States; or

13 “(2) the control and custody of a foreign gov-  
14 ernment, entity, or law enforcement or intelligence  
15 agency that is providing access to the United States  
16 for the purpose of interrogation of such unprivileged  
17 enemy belligerents.

18 “(b) ELEMENTS OF PROCEDURES.—The procedures  
19 required by this section shall—

20 “(1) provide for the creation of an entity com-  
21 posed of representatives of the Federal Bureau of  
22 Investigation, the Central Intelligence Agency, De-  
23 fense Intelligence Agency, and any other appropriate  
24 element of the intelligence community or Depart-  
25 ment of Defense, that shall have primary responsi-  
26 bility for the interrogation of unprivileged enemy

1 belligerents who are suspected of possessing signifi-  
2 cant information;

3 “(2) specify the criteria and process by which  
4 the intelligence community determines, at any time  
5 prior to initiating an interrogation under this sec-  
6 tion, that an unprivileged enemy belligerent is sus-  
7 pected of possessing significant information;

8 “(3) include a presumption that the entity cre-  
9 ated under paragraph (1) shall interrogate  
10 unprivileged enemy belligerents who are suspected of  
11 possessing significant information, regardless of  
12 place of capture, unless a determination that specific  
13 security, operational, or logistical concerns prevent  
14 the deployment or use of such entity is made—

15 “(A) with respect to an unprivileged enemy  
16 belligerent located inside the United States, by  
17 the Director of the Federal Bureau of Inves-  
18 tigation; or

19 “(B) with respect to an unprivileged enemy  
20 belligerent located outside the United States, by  
21 the Director of the Central Intelligence Agency,  
22 in consultation with the Director of the Defense  
23 Intelligence Agency;

24 “(4) include the process by which an individual  
25 in the custody of a Federal, State, or local law en-

1       forcement agency or a department or agency of the  
2       United States who is suspected of possessing signifi-  
3       cant information may be designated at any time as  
4       an unprivileged enemy belligerent and transferred  
5       immediately to the custody of the Secretary of De-  
6       fense for interrogation consistent with the proce-  
7       dures established under this section, including a  
8       process for the designation of responsibilities for  
9       managing and coordinating the logistics of detainee  
10      transport;

11           “(5) include the process by which the entity  
12      created under paragraph (1)—

13                   “(A) shall have full and complete access to  
14                   an unprivileged enemy belligerent subject to in-  
15                   terrogation under this section who is under the  
16                   control or custody of the United States, regard-  
17                   less of place of capture, including procedures  
18                   for the transfer, if necessary, of such detainee  
19                   to the custody of the Department of Defense  
20                   for purposes of interrogation; and

21                   “(B) may request appropriate access to an  
22                   unprivileged enemy belligerent subject to inter-  
23                   rogation under this section who is under the  
24                   control or custody of a foreign government, en-  
25                   tity, or law enforcement or intelligence agency;

1           “(6) provide that obtaining timely and action-  
2           able intelligence shall have priority over the interests  
3           of criminal prosecution, including a strong presump-  
4           tion against providing access to or allowing the pres-  
5           ence of counsel during any interrogation of an  
6           unprivileged enemy belligerent under this section  
7           conducted for the purpose of intelligence collection;

8           “(7) provide that, upon conclusion of interroga-  
9           tion under this section of an unprivileged enemy bel-  
10          ligerent who is under the control or custody of the  
11          United States, the Secretary of Defense, in consulta-  
12          tion with the Attorney General and the Director of  
13          National Intelligence, shall determine the status and  
14          disposition of such individual; and

15          “(8) provide that exceptions to the procedures  
16          required by this section may only be authorized—

17                 “(A) with respect to an unprivileged enemy  
18                 belligerent located inside the United States, by  
19                 the Director of the Federal Bureau of Inves-  
20                 tigation; or

21                 “(B) with respect to an unprivileged enemy  
22                 belligerent located outside the United States, by  
23                 the Director of the Central Intelligence Agency,  
24                 in consultation with the Director of the Defense  
25                 Intelligence Agency.

1       “(c) IDENTIFICATION.—Not later than 180 days  
2 after the date of enactment of the Effective Interrogation  
3 of Unprivileged Enemy Belligerents Act, and every 180  
4 days thereafter, the Director of National Intelligence shall  
5 provide to the Select Committee on Intelligence of the Sen-  
6 ate and the Permanent Select Committee on Intelligence  
7 of the House of Representatives the identities of any  
8 unprivileged enemy belligerents who, during such period,  
9 have been—

10           “(1) interrogated pursuant to this section; or

11           “(2) determined by the intelligence community  
12 under subsection (b)(2) to meet the requirements for  
13 interrogation pursuant to this section.

14       “(d) MODIFICATION OF PROCEDURES.—

15           “(1) SUBMISSION TO APPROPRIATE COMMIT-  
16 TEES OF CONGRESS.—The Secretary of Defense, in  
17 coordination with the Director of National Intel-  
18 ligence and the Attorney General, shall submit to  
19 the appropriate committees of Congress any modi-  
20 fication of the procedures submitted under this sec-  
21 tion not later than 60 days before the date on which  
22 such modification becomes effective.

23           “(2) NOTIFICATION.—If during the course of,  
24 or prior to, the conduct of an interrogation of an  
25 unprivileged enemy belligerent, an exception to the

1 procedures submitted under this section is author-  
2 ized under subsection (b), the Secretary of Defense,  
3 in coordination with the Director of National Intel-  
4 ligence and the Attorney General, shall notify the  
5 appropriate committees of Congress within ten days  
6 of such authorization.

7 “(e) DEFINITIONS.—In this section:

8 “(1) APPROPRIATE COMMITTEES OF CON-  
9 GRESS.—The term ‘appropriate committees of Con-  
10 gress’ means—

11 “(A) the Committee on Armed Services,  
12 the Committee on the Judiciary, and the Select  
13 Committee on Intelligence of the Senate; and

14 “(B) the Committee on Armed Services,  
15 the Committee on the Judiciary, and the Per-  
16 manent Select Committee on Intelligence of the  
17 House of Representatives.

18 “(2) INTELLIGENCE COMMUNITY.—The term  
19 ‘intelligence community’ has the meaning given that  
20 term in section 3(4) of the National Security Act of  
21 1947 (50 U.S.C. 401a(4)).

22 “(3) INTERROGATION.—The term ‘interroga-  
23 tion’ includes custodial debriefings of unprivileged  
24 enemy belligerents who are suspected of possessing

1 significant information conducted for the purpose of  
2 intelligence collection.

3 “(4) UNPRIVILEGED ENEMY BELLIGERENT.—

4 The term ‘unprivileged enemy belligerent’ has the  
5 meaning given that term in section 2256(a) of title  
6 28, United States Code.”.

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