

112TH CONGRESS
1ST SESSION

S. 614

To require the Attorney General to consult with appropriate officials within the executive branch prior to making the decision to try an unprivileged enemy belligerent in Federal civilian court.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2011

Ms. COLLINS (for herself and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require the Attorney General to consult with appropriate officials within the executive branch prior to making the decision to try an unprivileged enemy belligerent in Federal civilian court.

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 “Securing Terrorist In-

5 telligence Act”.

1 **SEC. 2. CONSULTATION REQUIREMENT.**

2 (a) IN GENERAL.—Subject to subsection (b), no ac-
3 tion shall be taken by the Attorney General, or any officer
4 or employee of the Department of Justice, to—

5 (1) initiate a custodial interrogation of; or

6 (2) file a civilian criminal complaint, informa-
7 tion, or indictment against;

8 any foreign person detained by the United States Govern-
9 ment because they may have engaged in conduct consti-
10 tuting an act of war against the United States, terrorism,
11 or material support to terrorists, or activities in prepara-
12 tion therefor.

13 (b) CONSULTATION.—

14 (1) IN GENERAL.—Subject to paragraph (2),
15 the Attorney General shall consult with the Director
16 of National Intelligence, the Director of the National
17 Counterterrorism Center, the Secretary of Homeland
18 Security, and the Secretary of Defense prior to tak-
19 ing any action identified in subsection (a).

20 (2) PRESIDENTIAL DIRECTION.—If, following
21 consultation under paragraph (1), the Director of
22 National Intelligence, the Director of the National
23 Counterterrorism Center, the Secretary of Homeland
24 Security, or the Secretary of Defense believe that
25 any action identified in subsection (a) and proposed
26 by the Attorney General may prevent the collection

1 of intelligence related to terrorism or threats of vio-
2 lence against the United States or its citizens, the
3 Attorney General may not initiate such action with-
4 out specific direction from the President.

5 (c) ANNUAL REPORT.—The Attorney General shall
6 report annually to appropriate committees of jurisdiction
7 regarding the number of occasions on which direction was
8 sought from the President under subsection (b)(2) and the
9 number of times, on those occasions, that the President
10 directed actions identified in section (a) against such for-
11 eign person.

12 (d) DEFINITIONS.—In this section:

13 (1) APPROPRIATE COMMITTEES OF JURISDIC-
14 TION.—The term “appropriate committees of juris-
15 diction” shall include—

16 (A) the Committee on Homeland Security
17 and Governmental Affairs of the Senate;

18 (B) the Committee on Homeland Security
19 of the House of Representatives;

20 (C) the Select Committee on Intelligence of
21 the Senate;

22 (D) the Permanent Select Committee on
23 Intelligence of the House of Representatives;
24 and

1 (E) the Committees on Armed Services
2 and Judiciary of the Senate and the Commit-
3 tees on Armed Services and Judiciary of the
4 House of Representatives.

5 (2) ACT OF WAR, TERRORISM, MATERIAL SUP-
6 PORT TO TERRORISTS.—The terms “act of war”,
7 “terrorism”, and “material support to terrorists”
8 shall have the meanings given such terms in title 18,
9 United States Code.

10 (e) SAVINGS CLAUSE.—Nothing in this section shall
11 prevent the Attorney General, or any officer or employee
12 of the Department of Justice, from apprehending or de-
13 taining an individual as authorized by the Constitution or
14 laws of the United States except to the extent that activi-
15 ties incident to such apprehension or detention are specifi-
16 cally identified in subsection (a).

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