

111TH CONGRESS  
1ST SESSION

# H. R. 1012

To prohibit the use of funds available to the Department of Defense to transfer enemy combatants detained by the United States at Naval Station, Guantanamo Bay, Cuba, to the United States, or to construct facilities for such enemy combatants at such locations.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 12, 2009

Mr. COLE (for himself, Mr. FRANKS of Arizona, Mr. BURTON of Indiana, Mr. SAM JOHNSON of Texas, Ms. FALLIN, Mr. WAMP, Mr. PITTS, Mrs. SCHMIDT, Mr. HENSARLING, Mr. BISHOP of Utah, Mr. GINGREY of Georgia, Mr. AKIN, Mr. WESTMORELAND, Mr. LAMBORN, Mr. PENCE, Mr. BROUN of Georgia, Mr. KLINE of Minnesota, Mr. GARRETT of New Jersey, Mr. FLEMING, Mr. BARRETT of South Carolina, Mr. MILLER of Florida, Mr. BROWN of South Carolina, Mr. HUNTER, Mr. TIM MURPHY of Pennsylvania, Mr. CONAWAY, and Mrs. BACHMANN) introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To prohibit the use of funds available to the Department of Defense to transfer enemy combatants detained by the United States at Naval Station, Guantanamo Bay, Cuba, to the United States, or to construct facilities for such enemy combatants at such locations.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Guantanamo Bay De-  
3 tention Facility Safe Closure Act of 2009”.

4 **SEC. 2. FINDINGS.**

5 Congress makes the following findings:

6 (1) Since the United States began its Global  
7 War on Terrorism, terrorists have been captured by  
8 the United States and their allies and detained in  
9 facilities at Guantanamo Bay Detention Facility  
10 (GTMO), Cuba.

11 (2) The detainee complex at Guantanamo Bay,  
12 Cuba, is the only complex in the world that can safe-  
13 ly and humanely hold individuals that pose a high-  
14 security risk to the United States. It is a secure lo-  
15 cation away from population centers, provides max-  
16 imum security required to prevent escape, provides  
17 multiple levels of confinement opportunities based on  
18 compliance of the detainee, and provides medical  
19 care not available to a majority of the population of  
20 the world.

21 (3) GTMO is the single greatest repository of  
22 human intelligence in the war on terror. This intel-  
23 ligence has prevented terrorist attacks and saved  
24 lives in the past and continues to do so today.

1           (4) New intelligence being collected from de-  
2           tainees at GTMO is being used to fight terrorists in  
3           Iraq, Afghanistan, and around the globe.

4           (5) Intelligence information obtained from ques-  
5           tioning detainees includes—

6                   (A) the organizational structure of al-  
7                   Qaida and other terrorist groups;

8                   (B) the extent of terrorist presence in Eu-  
9                   rope, the United States, and the Middle East;

10                  (C) al-Qaida's pursuit of weapons of mass  
11                  destruction;

12                  (D) methods of recruitment and locations  
13                  of recruitment centers;

14                  (E) terrorist skill sets, including general  
15                  and specialized operative training; and

16                  (F) how legitimate financial activities are  
17                  used to hide terrorist operations.

18           (6) The Expeditionary Legal Complex (ELC)  
19           located at GTMO is the only one of its kind in the  
20           world. It provides a secure location to secure and try  
21           detainees charged by the United States Government,  
22           full access to sensitive and classified information,  
23           full access to defense lawyers and prosecution, and  
24           full media access by the press.

1           (7) There are on average two lawyers for every  
2 detainee that has been charged or had charges pre-  
3 ferred against them at GTMO.

4           (8) There are 127 doctors, nurses, and medical  
5 technicians dedicated to caring for and maintaining  
6 the health of each detainee—a ratio of 1:2 (one  
7 health care professional for every two detainees).

8           (9) GTMO is operated by the Department of  
9 Defense and only interrogation techniques approved  
10 by the Secretary of Defense have been used.

11           (10) Detainees are being treated humanely.

12           (11) There are no solitary confinement facilities  
13 at Guantanamo.

14           (12) Water boarding has never occurred at  
15 GTMO.

16           (13) Current treatment and oversight exceed  
17 any maximum-security prison in the world.

18           (14) Since 2002, more than 520 detainees have  
19 departed Guantanamo for other countries, including  
20 Albania, Afghanistan, Australia, Bangladesh, Bah-  
21 rain, Belgium, Denmark, Egypt, France, Great Brit-  
22 ain, Iran, Iraq, Jordan, Kuwait, Libya, Maldives,  
23 Mauritania, Morocco, Pakistan, Russia, Saudi Ara-  
24 bia, Spain, Sweden, Sudan, Tajikistan, Turkey,  
25 Uganda, the United Kingdom, and Yemen.

1           (15) There are approximately 245 detainees  
2 from over 30 countries remaining at GTMO. These  
3 detainees include terrorist trainers, terrorist fin-  
4 anciers, bomb makers, Osama bin Laden body-  
5 guards, recruiters and facilitators, and would-be sui-  
6 cide bombers. Detainees remaining at GTMO fall  
7 into three categories:

8           (A) Detainees who have been cleared for  
9 release but the United States has not been able  
10 to find a foreign country willing to accept them.

11           (B) Detainees who have been tried, had  
12 charges referred to trial, or are awaiting for re-  
13 ferral to trial.

14           (C) Detainees who are either of high threat  
15 to the United States or are from countries  
16 where the United States is unable to get suffi-  
17 cient assurances that the country will mitigate  
18 their threat if transferred.

19           (16) The Pentagon claims that 61 of released  
20 GTMO detainees have “returned to the fight”.

21           (17) Said Ali al-Shihri, suspected of involve-  
22 ment in the bombing of the United States Embassy  
23 in Yemen on 17 September 2008, was released to  
24 Saudi Arabia in 2007, passed through a Saudi reha-

1       bilitation program, and has resurfaced as the new  
2       deputy leader of al-Qaida in Yemen.

3           (18) In 2007, the Senate passed a resolution,  
4       94–3, stating, “detainees housed at Guantanamo  
5       should not be released into American society, nor  
6       should they be transferred stateside into facilities in  
7       American communities and neighborhoods.”.

8           (19) On January 20, 2009, President Obama  
9       instructed military prosecutors to seek a 120-day  
10      suspension of legal proceedings at GTMO or what  
11      administration officials called “a continuance of the  
12      proceedings”.

13          (20) On January 22, 2009, President Obama  
14      ordered the closing of the GTMO prisons within a  
15      year.

16          (21) The United States is still in a global war  
17      on terror, engaged in armed conflict with terrorist  
18      organizations, and will, in all probability, continue to  
19      capture terrorists who will be detained in a facility.

20          (22) If the detention facility at GTMO is  
21      closed, some United States domestic or overseas  
22      prison will have to house these detainees while they  
23      await disposition.

1 **SEC. 3. PROHIBITION ON USE OF FUNDS TO TRANSFER IN-**  
2 **DIVIDUALS DETAINED AT GUANTANAMO BAY,**  
3 **CUBA, TO THE UNITED STATES, OR TO CO-**  
4 **ORDINATE WITH OTHER DEPARTMENTS OR**  
5 **AGENCIES FOR SUCH TRANSFER.**

6       None of the funds appropriated or otherwise made  
7 available to the Department of Defense may be used—

8               (1) to transfer any enemy combatant detained  
9       by the United States at Naval Station, Guantanamo  
10       Bay, Cuba, to the United States; or

11              (2) to coordinate with any other department or  
12       agency for the purposes of transferring of any such  
13       enemy combatant to the United States.

14 **SEC. 4. PROHIBITION ON USE OF CERTAIN CLOSED DE-**  
15 **PARTMENT OF DEFENSE FACILITIES TO**  
16 **HOUSE ENEMY COMBATANTS.**

17       The Secretary of Defense may not use or authorize  
18 the use of any facility that is closed through a base closure  
19 process for housing any enemy combatant who, as of the  
20 date of the enactment of this Act, is detained by the  
21 United States at Naval Station, Guantanamo Bay, Cuba.

1 **SEC. 5. PROHIBITION ON CONSTRUCTING, IMPROVING,**  
2 **MODIFYING, OR OTHERWISE ENHANCING ANY**  
3 **FACILITY IN THE UNITED STATES OR ITS**  
4 **TERRITORIES FOR THE PURPOSE OF HOUS-**  
5 **ING ANY DETAINEE CURRENTLY OR PRE-**  
6 **VIOUSLY HOUSED AT GUANTANAMO.**

7 The Secretary of Defense may not construct, im-  
8 prove, modify, or otherwise enhance any facility in the  
9 United States or its territories for the purpose of housing  
10 any enemy combatant who, as of the date of the enactment  
11 of this Act, is detained by the United States at Naval Sta-  
12 tion, Guantanamo Bay, Cuba, or who has ever been so  
13 detained.

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