

HR 6166

Military Commissions Act of 2006

Congress: 109 (2005–2007, Ended)

Chamber: House

Policy Area: Armed Forces and National Security

Introduced: Sep 25, 2006

Current Status: Read twice and referred to the Committee on Armed Services.

Latest Action: Read twice and referred to the Committee on Armed Services. (Nov 13, 2006)

Official Text: <https://www.congress.gov/bill/109th-congress/house-bill/6166>

Sponsor

Name: Rep. Hunter, Duncan [R-CA-52]

Party: Republican • State: CA • Chamber: House

Cosponsors (1 total)

Cosponsor	Party / State	Role	Date Joined
Rep. Sensenbrenner, F. James, Jr. [R-WI-5]	R · WI		Sep 25, 2006

Committee Activity

Committee	Chamber	Activity	Date
Armed Services Committee	House	Referred To	Sep 25, 2006
Armed Services Committee	Senate	Referred To	Nov 13, 2006
Foreign Affairs Committee	House	Referred To	Sep 25, 2006
Judiciary Committee	House	Referred To	Sep 25, 2006

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

Bill	Relationship	Last Action
109 S 3930	Related bill	Oct 17, 2006: Became Public Law No: 109-366.
109 HRES 1042	Procedurally related	Sep 27, 2006: Motion to reconsider laid on the table Agreed to without objection.
109 HR 6054	Related bill	Sep 25, 2006: Placed on the Union Calendar, Calendar No. 409.
109 S 3929	Related bill	Sep 25, 2006: Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 633.
109 S 3886	Related bill	Sep 14, 2006: Sponsor introductory remarks on measure. (CR S9577-9578)
109 S 3901	Related bill	Sep 14, 2006: Placed on Senate Legislative Calendar under General Orders. Calendar No. 611.
109 S 3861	Related bill	Sep 13, 2006: Star Print ordered on the bill.

Military Commissions Act of 2006 - (Sec. 2) States that the authority under this Act to establish military commissions (commissions) may not be construed to alter or limit the the President's authority under the Constitution or laws of the United States to establish commissions for areas declared to be under martial law or in occupied territories should circumstances so require.

(Sec. 3) Amends the Uniform Code of Military Justice (UCMJ) to codify and establish procedures governing the use of commissions to try alien unlawful enemy combatants (combatants) engaged in hostilities against the United States for violations of the law of war and other offenses specifically made triable by commissions under this Act. Defines an "unlawful enemy combatant" as a person who has: (1) engaged in or supported hostilities against the United States or its co-belligerents who is not a lawful enemy combatant; or (2) been determined to be an unlawful enemy combatant by a Combatant Status Review Tribunal or other tribunal established under the authority of the President or the Secretary of Defense (Secretary). Defines a "lawful enemy combatant" as a person who is a member of: (1) the regular forces of a State party engaged in hostilities against the United States; (2) a militia, volunteer corps, or organized resistance movement belonging to a State party engaged in such hostilities, which are under responsible command, wear a fixed distinctive sign recognizable at a distance, carry their arms openly, and abide by the law of war; or (3) a regular armed force who professes allegiance to a government engaged in such hostilities, but not recognized by the United States.

Authorizes the President to establish such commissions. Prohibits commission findings, holdings, and other precedents from being introduced or considered in any proceeding of a court-martial convened under the UCMJ. Prohibits a combatant subject to trial by commission from invoking the Geneva Conventions as a source of rights. Allows commissions to impose upon any person found guilty any punishment not forbidden under the UCMJ, including the death penalty. Requires an annual report from the Secretary to the congressional defense committees on any trials conducted.

Makes eligible to serve on a commission any commissioned officer of the Armed Forces on active duty. Requires to be detailed to each commission a military judge, trial and military defense counsel, and reporters and interpreters. Requires at least five members in each commission.

Outlines commission pre-trial procedures, including charges and specifications. Prohibits a person from being required to testify against himself (compulsory self-incrimination) at a commission proceeding. Prohibits (with a limited exception) a statement obtained by the use of torture from being admissible against the accused.

Prescribes commission trial procedures, including: (1) rules of evidence; (2) duties of trial and defense counsel; (3) pleas of the accused; (4) opportunity to obtain witnesses and other evidence; (5) the defense of lack of mental responsibility; and (6) the record of trial. Requires: (1) a two-thirds commission member vote for conviction; (2) a three-fourths member vote for a sentence of life imprisonment or confinement of more than ten years; and (3) a unanimous vote by at least 12 members in a case in which the death penalty is sought. Prohibits any sentence from including cruel or unusual punishments such as flogging, branding, or marking or tattooing of the body.

Prescribes commission post-trial procedures, including: (1) review by the convening authority; (2) appeal by the United States; (3) rehearings; (4) reviews by the Court of Military Commission Review, the U.S. Court of Appeals for the District of Columbia, and the U.S. Supreme Court; and (5) the execution of sentences.

Makes the following offenses triable by commissions: (1) murder of protected persons; (2) attacking civilians; (3) attacking civilian objects; (4) attacking protected property; (5) pillaging; (6) denying quarter; (7) taking hostages; (8)

employing poison or similar weapons; (9) using protected persons as a shield; (10) using protected property as a shield; (11) torture; (12) cruel or inhuman treatment; (13) intentionally causing serious bodily injury; (14) mutilating or maiming; (15) murder in violation of the law of war; (16) destruction of property in violation of the law of war; (17) using treachery or perfidy; (18) improperly using a flag of truce; (19) improperly using a distinctive emblem; (20) intentionally mistreating a dead body; (21) rape; (22) sexual assault or abuse; (23) hijacking or hazarding a vessel or aircraft; (24) terrorism; (25) providing material support for terrorism; (26) wrongfully aiding the enemy; (27) spying; (28) conspiracy; (29) perjury and obstruction of justice; and (30) contempt.

Requires a report from the Secretary to the defense committees setting forth commission procedures prescribed under this Act.

(Sec. 4) Makes inapplicable to commissions UCMJ provisions concerning: (1) contempt; (2) speedy trial; (3) self-incrimination warnings; and (4) pretrial investigations.

(Sec. 5) Prohibits a person from invoking the Geneva Conventions in any habeas corpus or other civil action to which the United States, a current or former officer, employee, or member of the Armed Forces, or other agent of the United States is a party as a source of rights in any court of the United States or its states or territories.

(Sec. 6) Authorizes the President to interpret the meaning and application of the Geneva Conventions and to promulgate standards and regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions. Directs the President to issue such interpretations through Executive Orders.

Amends the federal criminal code to include the following as violations of the War Crimes Act: (1) torture; (2) cruel or inhuman treatment; (3) performing biological experiments; (4) murder; (5) mutilation or maiming; (6) intentionally causing serious bodily injury; (7) rape; (8) sexual assault or abuse; and (9) taking hostages.

Prohibits any person in the custody or control of the United States, regardless of nationality or physical location, from being subject to cruel, inhuman, or degrading treatment or punishment.

(Sec. 7) Amends federal criminal justice provisions to deny any court or judge jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of, or to hear or consider any other action against the United States or its agents relating to any aspect of the detention, treatment, or trial of, an alien detained outside the United States who is or was detained by the United States and has been determined to have been properly detained as an enemy combatant or is awaiting such determination. Makes the provisions of this section effective upon enactment, and applicable to all cases, without exception, pending on or after enactment which relate to any aspect of the detention, transfer, treatment, trial, or conditions of detention of an alien detained by the United States since September 11, 2001.

(Sec. 8) Amends provisions of the Detainee Treatment Act of 2005 relating to the protection of U.S. government personnel engaged in authorized interrogations to: (1) require (currently authorizes) the U.S. government to provide counsel and pay the legal fees of any such personnel with respect to any civil action or criminal prosecution arising out of an authorized interrogation; and (2) make such provisions effective with respect to actions occurring between September 11, 2001, and December 30, 2005.

(Sec. 9) Amends the Detainee Treatment Act of 2005 to make reviews of all judgments of commissions (currently, only judgments involving a capital case or a case in which the alien was sentenced to imprisonment of ten years or more) a matter of right.

(Sec. 10) Includes all aliens detained by the United States (currently, only those detained by the Department of Defense at Guantanamo Bay, Cuba) under the authority for the review by the U.S. Court of Appeals for the District of Columbia of a decision of a Combatant Status Review Tribunal that an alien is properly detained as an enemy combatant.

Actions Timeline

- **Nov 13, 2006:** Read twice and referred to the Committee on Armed Services.
- **Sep 27, 2006:** Rule H. Res. 1042 passed House.
- **Sep 27, 2006:** Considered under the provisions of rule H. Res. 1042. (consideration: CR H7550-7561)
- **Sep 27, 2006:** Rule provides for consideration of H.R. 6166 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is closed to amendments. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted.
- **Sep 27, 2006:** DEBATE - The House proceeded with two hours of debate on H.R. 6166.
- **Sep 27, 2006:** The previous question was ordered pursuant to the rule.
- **Sep 27, 2006:** Mr. Skelton moved to recommit with instructions to Armed Services.
- **Sep 27, 2006:** DEBATE - The House proceeded with ten minutes of debate on the Skelton motion to recommit with instructions. The instructions contained in the motion seek to require the bill to be reported back to the House with an amendment adding a new section at the end of the bill providing for expedited judicial review.
- **Sep 27, 2006:** The previous question on the motion to recommit with instructions was ordered without objection. (consideration: CR H7558-7560; text: CR H7558)
- **Sep 27, 2006:** On motion to recommit with instructions Failed by recorded vote: 195 - 228 (Roll no. 490).
- **Sep 27, 2006:** Passed/agreed to in House: On passage Passed by recorded vote: 253 - 168 (Roll no. 491).
- **Sep 27, 2006:** On passage Passed by recorded vote: 253 - 168 (Roll no. 491).
- **Sep 27, 2006:** Motion to reconsider laid on the table Agreed to without objection.
- **Sep 27, 2006:** The Clerk was authorized to correct section numbers, punctuation, and cross references, and to make other necessary technical and conforming corrections in the engrossment of H.R. 6166.
- **Sep 27, 2006:** Received in the Senate.
- **Sep 26, 2006:** Rules Committee Resolution H. Res. 1042 Reported to House. Rule provides for consideration of H.R. 6166 with 2 hours of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is closed to amendments. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted.
- **Sep 25, 2006:** Introduced in House
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- **Sep 25, 2006:** Referred to the Committee on Armed Services, and in addition to the Committees on the Judiciary, and International Relations, 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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