

S 165

Detaining Terrorists to Protect America Act of 2015

Congress: 114 (2015–2017, Ended)

Chamber: Senate

Policy Area: Armed Forces and National Security

Introduced: Jan 13, 2015

Current Status: Placed on Senate Legislative Calendar under General Orders. Calendar No. 20.

Latest Action: Placed on Senate Legislative Calendar under General Orders. Calendar No. 20. (Feb 23, 2015)

Official Text: <https://www.congress.gov/bill/114th-congress/senate-bill/165>

Sponsor

Name: Sen. Ayotte, Kelly [R-NH]

Party: Republican • **State:** NH • **Chamber:** Senate

Cosponsors (27 total)

| Cosponsor | Party / State | Role | Date Joined |
|-------------------------------|---------------|------|--------------|
| Sen. Barrasso, John [R-WY] | R · WY | | Jan 13, 2015 |
| Sen. Burr, Richard [R-NC] | R · NC | | Jan 13, 2015 |
| Sen. Graham, Lindsey [R-SC] | R · SC | | Jan 13, 2015 |
| Sen. McCain, John [R-AZ] | R · AZ | | Jan 13, 2015 |
| Sen. Blunt, Roy [R-MO] | R · MO | | Jan 16, 2015 |
| Sen. Cruz, Ted [R-TX] | R · TX | | Jan 16, 2015 |
| Sen. Fischer, Deb [R-NE] | R · NE | | Jan 16, 2015 |
| Sen. Inhofe, James M. [R-OK] | R · OK | | Jan 16, 2015 |
| Sen. Johnson, Ron [R-WI] | R · WI | | Jan 16, 2015 |
| Sen. Kirk, Mark Steven [R-IL] | R · IL | | Jan 16, 2015 |
| Sen. Moran, Jerry [R-KS] | R · KS | | Jan 16, 2015 |
| Sen. Roberts, Pat [R-KS] | R · KS | | Jan 16, 2015 |
| Sen. Ernst, Joni [R-IA] | R · IA | | Jan 20, 2015 |
| Sen. Hatch, Orrin G. [R-UT] | R · UT | | Jan 20, 2015 |
| Sen. Sessions, Jeff [R-AL] | R · AL | | Jan 20, 2015 |
| Sen. Toomey, Patrick [R-PA] | R · PA | | Jan 20, 2015 |
| Sen. Tillis, Thomas [R-NC] | R · NC | | Jan 21, 2015 |
| Sen. Isakson, Johnny [R-GA] | R · GA | | Jan 26, 2015 |
| Sen. Lankford, James [R-OK] | R · OK | | Jan 29, 2015 |
| Sen. Wicker, Roger F. [R-MS] | R · MS | | Jan 29, 2015 |
| Sen. Cornyn, John [R-TX] | R · TX | | Feb 3, 2015 |
| Sen. Cotton, Tom [R-AR] | R · AR | | Feb 3, 2015 |
| Sen. Lee, Mike [R-UT] | R · UT | | Feb 3, 2015 |
| Sen. Rounds, Mike [R-SD] | R · SD | | Feb 4, 2015 |
| Sen. Sullivan, Dan [R-AK] | R · AK | | Feb 4, 2015 |
| Sen. Boozman, John [R-AR] | R · AR | | Feb 10, 2015 |
| Sen. Rubio, Marco [R-FL] | R · FL | | Apr 22, 2015 |

Committee Activity

| Committee | Chamber | Activity | Date |
|--------------------------|---------|-------------|--------------|
| Armed Services Committee | Senate | Reported By | Feb 23, 2015 |

Subjects & Policy Tags

Policy Area:

Armed Forces and National Security

Related Bills

| Bill | Relationship | Last Action |
|------------|----------------|--|
| 114 S 1376 | Related bill | May 19, 2015: Placed on Senate Legislative Calendar under General Orders. Calendar No. 88. |
| 114 HR 401 | Identical bill | Jan 21, 2015: Sponsor introductory remarks on measure. (CR H433) |

Detaining Terrorists to Protect America Act of 2015

(Sec. 2) Revises and extends until two years after enactment of this Act prohibitions on the use of funds available to any U.S. agency (currently, funds available to the Department of Defense [DOD]) to:

- construct or modify any facility in the United States, its territories, or possessions to house individuals detained in Guantanamo Bay, Cuba, as of October 1, 2009, who are not U.S. citizens or members of the U.S. Armed Forces and who are in the custody or control of DOD or otherwise detained or imprisoned in the U.S. Naval Station in Guantanamo in the custody or control of the U.S. government, unless authorized by Congress; or
- transfer or release to or within the United States, its territories, or possessions Khalid Sheikh Mohammed or any other detainee who is not a U.S. citizen or a member of the U.S. Armed Forces and who was held on (currently, on or after) January 20, 2009, in Guantanamo Bay by DOD.

Supersedes and repeals existing prohibitions under National Defense Authorization Act for Fiscal Year 2014 (NDAA) concerning such construction and U.S. transfers that are scheduled to expire on December 31, 2015.

(Sec. 4) Authorizes the Secretary of Defense or a DOD official at the level of Under Secretary of higher, after providing advance notice to Congress or delayed notice under special circumstances, to temporarily transfer Guantanamo detainees to DOD medical facilities in the United States for the sole purpose of medical treatment if: (1) the treatment is necessary to prevent death or imminent significant injury or harm to the individual's health, (2) the treatment is not available at the U.S. Naval Station in Guantanamo Bay without incurring excessive and unreasonable costs, and (3) DOD provides security measures.

Declares that detainees temporarily transferred to the United States for medical treatment shall be deemed to be in the uninterrupted custody of the Secretary, as though the individual remained physically at the U.S. Naval Station in Guantanamo Bay. Prohibits such temporarily transferred detainees from: (1) being subject to, or obtaining rights under, immigration laws or any other U.S. laws beyond those available to individuals detained in Guantanamo; or (2) having a change in any designation that may have attached while detained in Guantanamo pursuant to the Authorization for Use of Military Force in P.L. 107-40.

Prohibits judicial review of any claims against the United States regarding aspects of the detention, transfer, treatment, or conditions of confinement of a detainee transferred to the United States for medical treatment, but allows the U.S. District Court for the District of Columbia to consider an application for writ of habeas corpus challenging the fact or duration of detention and seeking release from custody.

Bars the court from: (1) reviewing, halting, or staying the individual's return to Guantanamo; or (2) ordering a release of the individual within the United States.

(Sec. 5) Prohibits until two years after enactment of this Act the transfer or release of any Guantanamo detainee in DOD custody or control to: (1) any foreign country or foreign entity if the individual has ever been determined by Joint Task Force Guantanamo to be a high-risk or medium-risk to the United States, its interests, or its allies; or (2) the Republic of Yemen or any entity within Yemen.

Makes the prohibition on the transfer or release of high-risk or medium-risk individuals inapplicable to a U.S. agency head's actions to effectuate an order affecting the disposition of the individual that is issued by a U.S. court or tribunal.

Requires notification to Congress promptly after issuance of such an order.

(Sec. 7) Repeals provisions under the NDAA concerning DOD transfers of Guantanamo detainees to foreign countries. Replaces the repealed provisions with previous authority from the National Defense Authorization Act for Fiscal Year 2013 that prohibits use of DOD funds to transfer Guantanamo detainees to foreign countries or entities unless DOD certifies that the government of the country or the recognized leadership of the entity:

- is not a designated state sponsor of terrorism or foreign terrorist organization,
- maintains control over detention facilities and is not facing threats likely to affect its control over the individual,
- agrees to take actions to ensure that the individual cannot engage in terrorist activities or threaten U.S. citizens or allies, and
- agrees to share with the United States information regarding the individual or the individual's associates that could affect security of the United States or its allies.

Prohibits transfers to a country or entity if any Guantanamo detainee transferred to that country or entity subsequently engaged in any terrorist activity. Authorizes DOD to waive certain certification requirements or prohibitions in the interest of national security.

Delays DOD transfer procedures from applying to high-risk or medium-risk Guantanamo detainees until after the two-year prohibition on such transfers. Prohibits terrorist activity recidivism exceptions and national security waivers from authorizing transfers to Yemen during the two-year prohibition on Yemen transfers.

(Sec. 8) Requires DOD to ensure that operations at the detention facility at the U.S. Naval Station in Guantanamo Bay are conducted consistent with: (1) the law of armed conflict, including Common Article 3 of the Geneva Conventions; and (2) interrogation standards and prohibitions on cruel, inhuman, or degrading treatment or punishment under the Detainee Treatment Act of 2005.

(Sec. 9) Directs DOD to submit a list of Guantanamo detainees determined by the Task Force to be high-risk or medium-risk.

(Sec. 10) Requires DOD, every six months, to report to Congress regarding terrorist organizations that recruit or engage in propaganda using images and symbols relating to the U.S. Naval Station in Guantanamo Bay, DOD or Bureau of Prisons prisons, or other detention or disciplinary facilities.

Actions Timeline

- **Feb 23, 2015:** Committee on Armed Services. Reported by Senator McCain with an amendment in the nature of a substitute. Without written report.
- **Feb 23, 2015:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 20.
- **Feb 12, 2015:** Committee on Armed Services. Ordered to be reported with an amendment in the nature of a substitute favorably.
- **Jan 13, 2015:** Introduced in Senate
- **Jan 13, 2015:** Read twice and referred to the Committee on Armed Services.