AMENDMENT TO H.R. 1540
OFFERED BY MR. SMITH OF WASHINGTON

In section 1039(a), insert before the period at the end the following: “, except for the purpose of prosecuting such individual in a United States court”.

In section 1039(b), strike paragraph (2).

In section 1039, add at the end the following:

1 (c) TRANSFER LIMITATION.—During the period beginning on October 1, 2011, and ending on December 31, 2012, the Secretary of Defense may not use any of the amounts authorized to be appropriated in this Act or otherwise available to the Department of Defense to transfer any individual described in subsection (b) to the United States, its territories, or possessions, until 45 days after the President has submitted to the congressional defense committees the plan described in subsection (d).

2 (d) COMPREHENSIVE PLAN REQUIRED.—The President shall submit to the congressional defense committees a plan for the disposition of each individual described in subsection (b) who is proposed to be transferred to the United States, its territories, or possessions. Such plan for each individual shall include, at a minimum—
(1) an assessment of the risk that the individual described in subsection (b) poses to the national security of the United States, its territories, or possessions;

(2) a proposal for the disposition of each such individual;

(3) the measures to be taken to mitigate any risks described in paragraph (1);

(4) the location or locations at which the individual will be held under the proposal for disposition required by paragraph (2);

(5) the costs associated with executing the plan, including technical and financial assistance required to be provided to State and local law enforcement agencies, if necessary, to carry out the plan;

(6) a summary of the consultation required in subsection (e); and

(7) a certification by the Attorney General that under the plan the individual poses little or no security risk to the United States, its territories, or possessions.

(e) CONSULTATION REQUIRED.—The President shall consult with the chief executive of the State, the District of Columbia, or the territory or possession of the United States to which the disposition in subsection (e)(2) in-
cludes transfer to that State, District of Columbia, or territory or possession.

In section 1040(a), strike paragraphs (1) and insert the following new paragraph (1):

(1) Notification requirement.—Before transferring an individual detained at Guantanamo to a foreign country, the Secretary of Defense, with the concurrence of the Secretary of State, shall submit to Congress notice that the transfer is in the national security interests of the United States.

In section 1040(a)(2), strike “The certification described in this paragraph is a written certification made by the Secretary of Defense, in consultation with the Secretary of State,” and insert “Before transferring an individual detained at Guantanamo to a foreign country, the Secretary of Defense, in consultation with the Secretary of State, may submit to Congress a written certification”.

In section 1040(a)(3)(A), strike “(A) Prohibition.—The Secretary of Defense may not transfer any individual detained at Guantanamo to the custody or effective control of the individual’s country of origin, any other foreign country, or any other foreign entity if” and insert “In determining whether to transfer an individual detained at Guantanamo to the custody or effective con-
control of the individual’s country of origin, any other foreign country, or any other foreign entity, the Secretary shall consider whether”.

In section 1040(a)(3), strike subparagraph (B).

Strike section 1037.