

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 be-
2 ginning on October 1, 2011, and ending on December 31,
3 2012, the Secretary of Defense may not use any of the
4 amounts authorized to be appropriated in this Act or oth-
5 erwise available to the Department of Defense to transfer
6 any individual described in subsection (b) to the United
7 States, its territories, or possessions, until 45 days after
8 the President has submitted to the congressional defense
9 committees the plan described in subsection (d).

10 (d) **COMPREHENSIVE PLAN REQUIRED.**—The Presi-
11 dent shall submit to the congressional defense committees
12 a plan for the disposition of each individual described in
13 subsection (b) who is proposed to be transferred to the
14 United States, its territories, or possessions. Such plan for
15 each individual shall include, at a minimum—

1 (1) an assessment of the risk that the indi-
2 vidual described in subsection (b) poses to the na-
3 tional security of the United States, its territories,
4 or possessions;

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

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

9 (4) the location or locations at which the indi-
10 vidual will be held under the proposal for disposition
11 required by paragraph (2);

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

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

18 (7) a certification by the Attorney General that
19 under the plan the individual poses little or no secu-
20 rity risk to the United States, its territories, or pos-
21 sessions.

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

1 cludes transfer to that State, District of Columbia, or ter-
2 ritory or possession.

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

3 (1) NOTIFICATION REQUIREMENT.—Before
4 transferring an individual detained at Guantanamo
5 to a foreign country, the Secretary of Defense, with
6 the concurrence of the Secretary of State, shall sub-
7 mit to Congress notice that the transfer is in the na-
8 tional 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-

trol 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.

