

113TH CONGRESS
2D SESSION

S. _____

To establish a temporary limitation on the use of funds to transfer or release individuals detained at United States Naval Station, Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES

Mr. CRUZ (for himself, Ms. AYOTTE, and Mr. ROBERTS) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To establish a temporary limitation on the use of funds to transfer or release individuals detained at United States Naval Station, Guantanamo Bay, Cuba.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Guantanamo Bay De-
5 tainee Transfer Suspension Act of 2014”.

1 **SEC. 2. TEMPORARY LIMITATION ON USE OF FUNDS TO**
2 **TRANSFER OR RELEASE INDIVIDUALS DE-**
3 **TAINED AT UNITED STATES NAVAL STATION,**
4 **GUANTANAMO BAY, CUBA.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), no funds may be obligated or expended to transfer
7 or release any covered detainee at Guantanamo to the cus-
8 tody or control of such individual's country of origin, any
9 other foreign country, or any other foreign entity until the
10 earlier of—

11 (1) the date that is 90 days after the date of
12 submittal to Congress of the report required by sub-
13 section (d); or

14 (2) the date that is 180 days after the date of
15 the enactment of this Act.

16 (b) EXCEPTION.—

17 (1) IN GENERAL.—Subsection (a) shall not
18 apply to the obligation or expenditure of funds to
19 transfer any covered detainee at Guantanamo to ef-
20 fectuate an order affecting the disposition of such
21 individual that is issued by a court or competent tri-
22 bunal of the United States having lawful jurisdic-
23 tion.

24 (2) NOTICE TO CONGRESS.—The Secretary of
25 Defense shall promptly notify the appropriate com-

1 mittees of Congress of the issuance of any order de-
2 scribed in paragraph (1).

3 (3) DELAY IN DISCHARGE.—An order described
4 in paragraph (1) may not be carried out until the
5 date that is 5 days after the date on which the ap-
6 propriate committees of Congress are notified of the
7 order pursuant to paragraph (2).

8 (c) ENFORCEMENT.—

9 (1) IN GENERAL.—An officer or employee of
10 the United States shall be liable in his or her indi-
11 vidual capacity for a civil penalty of \$10,000 for
12 each covered detainee at Guantanamo transferred or
13 released in violation of subsection (a) pursuant to an
14 action or order of the officer or employee of the
15 United States.

16 (2) NO REPRESENTATION BY UNITED
17 STATES.—Notwithstanding section 50.15 or 50.16 of
18 title 28, Code of Federal Regulations, or any other
19 provision of law, the United States Government may
20 not provide representation to, or retain or reimburse
21 private counsel for the representation of, an officer
22 or employee in an action under paragraph (1).

23 (3) QUI TAM ACTION.—

24 (A) IN GENERAL.—A person may bring a
25 civil action for a violation of subsection (a) for

1 the person and for the United States Govern-
2 ment, seeking a civil penalty under paragraph
3 (1). The action shall be brought in the name of
4 the Government. The action may be dismissed
5 only if the court and the Attorney General give
6 written consent to the dismissal and their rea-
7 sons for consenting.

8 (B) COMPLAINT.—A copy of the complaint
9 and written disclosure of substantially all mate-
10 rial evidence and information the person pos-
11 sesses shall be served on the Government pur-
12 suant to rule 4 of the Federal Rules of Civil
13 Procedure. The Government may elect to inter-
14 vene and proceed with the action within 30
15 days after it receives both the complaint and
16 the material evidence and information.

17 (C) DETERMINATION BY GOVERNMENT.—
18 Before the expiration of the 30-day period
19 under subparagraph (B), the Government
20 shall—

21 (i) proceed with the action, in which
22 case the action shall be conducted by the
23 Government; or

24 (ii) notify the court that it declines to
25 take over the action, in which case the per-

1 son bringing the action shall have the right
2 to conduct the action.

3 (D) INDIVIDUAL CONDUCTING ACTION.—If
4 the Government elects not to proceed with the
5 action, and upon request and at the Govern-
6 ment's expense, the Government shall be served
7 with copies of all pleadings filed in the action
8 and shall be supplied with copies of all deposi-
9 tion transcripts.

10 (E) AWARD TO QUI TAM PLAINTIFF.—A
11 person bringing an action under subparagraph
12 (A) shall receive 50 percent of the amount of
13 the civil penalty imposed on the officer or em-
14 ployee of the United States and the court shall
15 award the person reasonable expenses which the
16 court finds to have been necessarily incurred,
17 plus reasonable attorneys' fees and costs, to be
18 paid by the defendant.

19 (F) EXPEDITED APPEAL OF DISMISSAL.—
20 It shall be the duty of the courts of the United
21 States to advance on the docket and to expedite
22 to the greatest possible extent the disposition of
23 any appeal by a person bringing a civil action
24 under subparagraph (A) of the dismissal of the

1 civil action with the consent of the Attorney
2 General.

3 (d) REPORT.—

4 (1) IN GENERAL.—Not later than 60 days after
5 the date of the enactment of this Act, the Secretary
6 of Defense shall, in coordination with the Secretary
7 of State and the Director of National Intelligence,
8 submit to the appropriate committees of Congress a
9 report setting forth the following:

10 (A) A detailed description of the previous
11 assessments by Joint Task Force Guantanamo
12 regarding the risk that the 5 detainees trans-
13 ferred from United States Naval Station, Guan-
14 tanamo Bay Cuba, to Qatar on May 31, 2014,
15 would reengage in terrorist activity after trans-
16 fer.

17 (B) A detailed description of any changes
18 between the assessments described in subpara-
19 graph (A) and the assessments as of May 31,
20 2014, of the risk that the detainees described in
21 that subparagraph would reengage in terrorist
22 activity after transfer as described in that sub-
23 paragraph, including the reasons for such
24 changes.

1 (C) A detailed description of the prior in-
2 stances, if any, in which Qatar did not fully
3 honor its commitments to monitor, detain, or
4 control the travel of individuals formerly de-
5 tained at United States Naval Station, Guanta-
6 namo Bay, Cuba, by the Department of De-
7 fense.

8 (D) A detailed assessment of the likelihood
9 that the 5 detainees described in subparagraph
10 (A) will return to Afghanistan or reengage in
11 terrorism.

12 (E) A detailed assessment of whether the
13 transfer of the 5 detainees as described in sub-
14 paragraph (A) will increase the likelihood that
15 the Taliban and terrorist groups around the
16 world will try to capture United States individ-
17 uals or personnel in order to obtain concessions
18 from the United States.

19 (2) FORM.—The report required by paragraph
20 (1) shall be submitted in unclassified form, but may
21 include a classified annex.

22 (e) DEFINITIONS.—In this section:

23 (1) The term “appropriate committees of Con-
24 gress” means—

1 (A) the Committee on Armed Services, the
2 Committee on Foreign Relations, the Com-
3 mittee on Appropriations, the Select Committee
4 on Intelligence, and the Committee on the Judi-
5 ciary of the Senate; and

6 (B) the Committee on Armed Services, the
7 Committee on Foreign Affairs, the Committee
8 on Appropriations, the Permanent Select Com-
9 mittee on Intelligence, and the Committee on
10 the Judiciary of the House of Representatives.

11 (2) The term “covered detainee at Guanta-
12 namo” means each individual who—

13 (A) is not a United States citizen or a
14 member of the Armed Forces of the United
15 States; and

16 (B) is or was held on January 20, 2009,
17 at United States Naval Station, Guantanamo
18 Bay, Cuba, by the Department of Defense.

19 (3) The term “officer or employee of the United
20 States”—

21 (A) includes—

22 (i) the President;

23 (ii) the head and any officer or em-
24 ployee of any Executive agency or military
25 department (as those terms are defined in

1 chapter 1 of title 5, United States Code);

2 and

3 (iii) any other officer or employee of

4 the United States; and

5 (B) does not include—

6 (i) a member of the Armed Forces; or

7 (ii) an officer or employee of an ele-

8 ment of the intelligence community (as de-

9 fined in section 3 of the National Security

10 Act of 1947 (50 U.S.C. 3003)).

11 **SEC. 3. PROHIBITION ON TRANSFER OR RELEASE OF DE-**
12 **TAINÉES AT UNITED STATES NAVAL STATION**
13 **GUANTANAMO BAY, CUBA, WITHOUT EXPRESS**
14 **WRITTEN AUTHORIZATION OF THE PRESI-**
15 **DENT.**

16 (a) PROHIBITION.—No detainee described in sub-
17 section (b) may be transferred or released from United
18 States Naval Station Guantanamo Bay, Cuba, to a foreign
19 country without the express written authorization of the
20 President.

21 (b) COVERED DETAINEES.—A detainee described in
22 this subsection is Khalid Sheikh Mohammed or any other
23 detainee who—

24 (1) is not a United States citizen or a member
25 of the Armed Forces of the United States;

1 (2) is or was held on or after January 20,
2 2009, at United States Naval Station, Guantanamo
3 Bay, Cuba, by the Department of Defense; and

4 (3) is held as of the date of the enactment of
5 this Act at United States Naval Station, Guanta-
6 namo Bay, Cuba, by the Department of Defense.

7 **SEC. 4. RULE OF CONSTRUCTION.**

8 Nothing in this Act shall be construed to modify,
9 limit, or supersede the requirements under section 1035
10 of the National Defense Authorization Act for Fiscal Year
11 2014 (10 U.S.C. 801 note) relating to the transfer or re-
12 lease of an individual detained at Guantanamo (as defined
13 in subsection (e)(2) of such section).