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American Freedom Agenda Act of 2007 (Introduced in House)

HR 3835 IH

110th CONGRESS

1st Session

H. R. 3835

To restore the Constitution's checks and balances and protections against government abuses as envisioned by the Founding Fathers.

IN THE HOUSE OF REPRESENTATIVES

October 15, 2007

Mr. PAUL introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Foreign Affairs, and Select Intelligence (Permanent Select), 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

A BILL

To restore the Constitution's checks and balances and protections against government abuses as envisioned by the Founding Fathers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `American Freedom Agenda Act of 2007'.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings- Congress makes the following findings:

- (1) Unchecked power by any branch leads to oppressive transgressions on individual freedoms and ill-considered government policies.
- (2) The Founding Fathers enshrined checks and balances in the Constitution to protect against government abuses to derail ill-conceived domestic or foreign endeavors.
- (3) Checks and balances make the Nation safer by preventing abuses that would be exploited by Al Qaeda to boost terrorist recruitment, would deter foreign governments from cooperating in defeating international terrorism, and would make the American people reluctant to support aggressive counter-terrorism measures.
- (4) Checks and balances have withered since 9/11 and an alarming concentration of power has been accumulated in the presidency based on hyper-inflated fears of international terrorism and a desire permanently to alter the equilibrium of power between the three branches of government.
- (5) The unprecedented constitutional powers claimed by the President since 9/11 subtracted national security and have been asserted for non-national security purposes.
- (6) Experience demonstrates that global terrorism can be thwarted, deterred, and punished through muscular application of law enforcement measures and prosecutions in Federal civilian courts in lieu of military commissions or military law.
- (7) Congressional oversight of the executive branch is necessary to prevent secret government, which undermines self-government and invites lawlessness and maladministration.
- (8) The post-9/11 challenges to checks and balances are unique in the Nation's history because the war on global terrorism has no discernable end.

(b) Purpose- The American Freedom Agenda Act of 2007 is intended to restore the Constitution's checks and balances and protections against government abuses as envisioned by the Founding Fathers.

SEC. 3. MILITARY COMMISSIONS; ENEMY COMBATANTS; HABEAS CORPUS.

- (a) The Military Commissions Act of 2006 is hereby repealed.
- (b) The President is authorized to establish military commissions for the trial of war crimes only in places of active hostilities against the United States where an immediate trial is necessary to preserve fresh evidence or to prevent local anarchy.
- (c) The President is prohibited from detaining any individual indefinitely as an unlawful enemy combatant absent proof by substantial evidence that the individual has directly engaged in active hostilities against the United States, provided that no United States citizen shall be detained as an unlawful enemy combatant.
- (d) Any individual detained as an enemy combatant by the United States shall be entitled

to petition for a writ of habeas corpus under section 2241 of title 28, United States Code.

SEC. 4. TORTURE OR COERCED CONFESSIONS.

No civilian or military tribunal of the United States shall admit as evidence statements extracted from the defendant by torture or coercion.

SEC. 5. INTELLIGENCE GATHERING.

No Federal agency shall gather foreign intelligence in contravention of the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 et seq.). The President's constitutional power to gather foreign intelligence is subordinated to this provision.

SEC. 6. PRESIDENTIAL SIGNING STATEMENTS.

The House of Representatives and Senate collectively shall enjoy standing to file a declaratory judgment action in an appropriate Federal district court to challenge the constitutionality of a presidential signing statement that declares the President's intent to disregard provisions of a bill he has signed into law because he believes they are unconstitutional.

SEC. 7. KIDNAPPING, DETENTIONS, AND TORTURE ABROAD.

No officer or agent of the United States shall kidnap, imprison, or torture any person abroad based solely on the President's belief that the subject of the kidnapping, imprisonment, or torture is a criminal or enemy combatant; provided that kidnapping shall be permitted if undertaken with the intent of bringing the kidnapped person for prosecution or interrogation to gather intelligence before a tribunal that meets international standards of fairness and due process. A knowing violation of this section shall be punished as a felony punishable by a fine or imprisonment of up to 2 years.

SEC. 8. JOURNALIST EXCEPTION TO ESPIONAGE ACT.

Nothing in the Espionage Act of 1917 shall prohibit a journalist from publishing information received from the executive branch or Congress unless the publication would cause direct, immediate, and irreparable harm to the national security of the United States.

SEC. 9. USE OF SECRET EVIDENCE TO MAKE FOREIGN TERRORIST DESIGNATIONS.

Notwithstanding any other law, secret evidence shall not be used by the President or any other member of the executive branch to designate an individual or organization with a United States presence as a foreign terrorist or foreign terrorist organization for purposes of the criminal law or otherwise imposing criminal or civil sanctions.

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