

110TH CONGRESS  
1ST SESSION

# H. R. 2826

To amend titles 28 and 10, United States Code, to restore habeas corpus for individuals detained by the United States at Naval Station, Guantanamo Bay, Cuba, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 22, 2007

Mr. SKELTON (for himself, Mr. CONYERS, Mr. BARTLETT of Maryland, Mr. NADLER, Mr. JONES of North Carolina, Mr. BOUCHER, Mr. ABERCROMBIE, Mr. MEEHAN, Ms. JACKSON-LEE of Texas, Mr. SMITH of Washington, Mr. ANDREWS, Mrs. TAUSCHER, Mr. BRADY of Pennsylvania, Mr. UDALL of Colorado, Ms. HARMAN, Ms. CASTOR, Mr. COURTNEY, Mr. JOHNSON of Georgia, Mr. PATRICK J. MURPHY of Pennsylvania, Mr. SESTAK, Ms. SHEA-PORTER, Mr. POMEROY, Ms. ZOE LOFGREN of California, Ms. BALDWIN, Mr. LARSEN of Washington, Mr. COHEN, Mr. ELLISON, Ms. GIFFORDS, Mrs. GILLIBRAND, and Mr. LOEBSACK) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Armed Services, 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

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## A BILL

To amend titles 28 and 10, United States Code, to restore habeas corpus for individuals detained by the United States at Naval Station, Guantanamo Bay, Cuba, and for other purposes.

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

1 **SECTION 1. RESTORATION OF HABEAS CORPUS.**

2 (a) RESTORATION.—Subsection (e) of section 2241  
3 of title 28, United States Code, is amended to read as  
4 follows:

5 “(e)(1)(A) No court, justice, or judge shall have juris-  
6 diction to hear or consider any action, other than an action  
7 described in subparagraph (B), against the United States  
8 or its agents relating to any aspect of the detention, treat-  
9 ment, trial, or conditions of confinement of an alien who  
10 is or was detained by the United States and who has been  
11 determined by the United States to have been properly  
12 detained as an enemy combatant or is awaiting such deter-  
13 mination.

14 “(B) An action described in this subparagraph is—

15 “(i) an application for a writ of habeas corpus,  
16 including an application challenging transfer; or

17 “(ii) any action solely for prospective injunctive  
18 relief against transfer.

19 “(2) Notwithstanding paragraph (1), no court, jus-  
20 tice, or judge shall have jurisdiction to consider an action  
21 described in subparagraph (B) brought by an alien who  
22 is in the custody or under the effective control of the  
23 United States, in a zone of active combat involving the  
24 United States Armed Forces, and where the United States  
25 is implementing Enemy Prisoners of War, Retained Per-  
26 sonnel, Civilian Internees, and Other Detainees, United

1 States Army Regulation 190–8 (1997), or any successor  
2 regulation, as determined by the President.

3 “(3) Nothing in this subsection shall be construed as  
4 creating a new cause of action.”.

5 (b) REVIEW OF COMBATANT STATUS REVIEW TRIBU-  
6 NALS.—Sections 1005(e) of the Detainee Treatment Act  
7 of 2005 (Public Law 109–148) and 1405(e) of the De-  
8 tainee Treatment Act of 2005 (Public Law 109–163) are  
9 each amended—

10 (1) by striking paragraph (1); and

11 (2) in paragraph (2)(A), by inserting after  
12 “Subject to” the following: “section 2241 of title 28,  
13 United States Code, and”.

14 (c) LIMITED REVIEW OF MILITARY COMMISSION  
15 PROCEDURES AND ACTIONS.—Subsection (b) of section  
16 950j of title 10, United States Code, is amended to read  
17 as follows:

18 “(b) LIMITED REVIEW OF MILITARY COMMISSION  
19 PROCEDURES AND ACTIONS.—Except as otherwise pro-  
20 vided in this chapter or in section 2241 of title 28 or any  
21 other habeas corpus provision, no court, justice, or judge  
22 shall have jurisdiction to hear or consider any claim or  
23 cause of action whatsoever, including any action pending  
24 on or filed after the date of the enactment of the Military  
25 Commissions Act of 2006, relating to the prosecution,

1 trial, or judgment of a military commission under this  
2 chapter, including challenges to the lawfulness of proce-  
3 dures of military commissions under this chapter.”.

4 (d) AMENDMENT TO MILITARY COMMISSIONS ACT.—  
5 Section 7 of the Military Commissions Act of 2006 (Public  
6 Law 109–366) is amended to read as follows:

7 **“SEC. 7. HABEAS CORPUS MATTERS.**

8 “Section 2241 of title 28, United States Code, is  
9 amended by striking both the subsection (e) added by sec-  
10 tion 1005(e)(1) of Public Law 109–148 (119 Stat. 2742)  
11 and the subsection (e) added by added by section  
12 1405(e)(1) of Public Law 109–163 (119 Stat. 3477) and  
13 inserting the following new subsection (e):

14 ““(e)(1)(A) No court, justice, or judge shall have ju-  
15 risdiction to hear or consider any action, other than an  
16 action described in subparagraph (B), against the United  
17 States or its agents relating to any aspect of the detention,  
18 treatment, trial, or conditions of confinement of an alien  
19 who is or was detained by the United States and who has  
20 been determined by the United States to have been prop-  
21 erly detained as an enemy combatant or is awaiting such  
22 determination.

23 ““(B) An action described in this subparagraph is—

24 ““(i) an application for a writ of habeas corpus,  
25 including an application challenging transfer; or

1           “(ii) any action solely for prospective injunc-  
2           tive relief against transfer.

3           “(2) Notwithstanding paragraph (1), no court, jus-  
4           tice, or judge shall have jurisdiction to consider an action  
5           described in subparagraph (B) brought by an alien who  
6           is in the custody or under the effective control of the  
7           United States, in a zone of active combat involving the  
8           United States Armed Forces, and where the United States  
9           is implementing Enemy Prisoners of War, Retained Per-  
10          sonnel, Civilian Internees, and Other Detainees, United  
11          States Army Regulation 190–8 (1997), or any successor  
12          regulation, as determined by the President.

13          “(3) Nothing in this subsection shall be construed  
14          as creating a new cause of action.’”.

15          (e) EFFECTIVE DATE.—The amendments made by  
16          this Act shall take effect on the date of the enactment  
17          of this Act, and shall apply to all cases, without exception,  
18          which are pending on or after the date of the enactment  
19          of this Act.

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