



AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: Relating to the review of the status of detainees  
of the United States Government

**IN THE SENATE OF THE UNITED STATES—109th Cong., 1st Sess.**

**S. 1042**

To authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. GRAHAM

Viz:

- 1 At the end of subtitle G of title X, add the following:
- 2 **SEC. \_\_\_\_ . REVIEW OF STATUS OF DETAINEES.**
- 3 (a) SUBMITTAL OF PROCEDURES FOR STATUS RE-
- 4 VIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not
- 5 later than 180 days after the date of the enactment of
- 6 this Act, the Secretary of Defense shall submit to the con-
- 7 gressional defense committees, and to the Committees on
- 8 the Judiciary of the Senate and the House of Representa-

1 tives, a report setting forth the procedures of the Combat-  
2 ant Status Review Tribunals and the noticed Administra-  
3 tive Review Boards in operation at Guantanamo Bay,  
4 Cuba, for determining the status of the detainees held at  
5 Guantanamo Bay.

6 (b) PROCEDURES.—The procedures submitted to  
7 Congress pursuant to subsection (a) shall, with respect to  
8 proceedings beginning after the date of the submittal of  
9 such procedures under that subsection, ensure that—

10 (1) in making a determination of status of any  
11 detainee under such procedures, a Combatant Status  
12 Review Tribunal or Administrative Review Board  
13 may not consider statements derived from persons  
14 that, as determined by such Tribunal or Board, by  
15 the preponderance of the evidence, were obtained  
16 with undue coercion; and

17 (2) the Designated Civilian Official shall be an  
18 officer of the United States Government whose ap-  
19 pointment to office was made by the President, by  
20 and with the advice and consent of the Senate.

21 (c) REPORT ON MODIFICATION OF PROCEDURES.—  
22 The Secretary of Defense shall submit to the committees  
23 of Congress referred to in subsection (a) a report on any  
24 modification of the procedures submitted under subsection

1 (a) not later than 30 days before the date on which such  
2 modifications go into effect.

3 (d) JUDICIAL REVIEW OF DETENTION OF ENEMY  
4 COMBATANTS.—

5 (1) IN GENERAL.—Section 2241 of title 28,  
6 United States Code, is amended by adding at the  
7 end the following new subsection:

8 “(e) No court, justice, or judge shall have jurisdiction  
9 to consider—

10 “(1) an application for a writ of habeas corpus  
11 based on policies established by the Secretary of De-  
12 fense under section 1071(a) of the National Defense  
13 Authorization Act for Fiscal Year 2006 filed on be-  
14 half of an alien who is detained by the Secretary of  
15 Defense as an enemy combatant; or

16 “(2) any other action, challenging any aspect of  
17 the detention of an alien who is detained by the Sec-  
18 retary of Defense as an enemy combatant.”.

19 (2) EFFECTIVE DATE.—The amendment made  
20 by paragraph (1) shall apply to any application or  
21 other action pending on or after the date of the en-  
22 actment of this Act.