

HOUSE OF REPRESENTATIVES

HB 2573

prohibited governmental compliance; 2012 NDAA

Sponsors: Representative Seel, Senator Burges; Representative Barton, et al.

X Committee on Judiciary

Caucus and COW

House Engrossed

OVERVIEW

HB 2573 prohibits this state and any state agency from giving material support or from participating with the implementation of sections 1021 and 1022 of the 2012 National Defense Authorization Act (NDAA) (P.L. 112-81).

HISTORY

On September 18, 2001, the Public Law 107 Authorization for Use of Military Force was approved which established the joint resolution to authorize the use of the United States Armed Forces against those responsible for the recent attacks launched against the United States.

NDAA is a federal law specifying the budget and expenditures of the United States Department of Defense (DOD). Each year's act also includes other provisions. In December 2011, President Obama signed the 2012 NDAA, codifying indefinite military detention without charge or trial into law.

The NDAA authorizes appropriations for fiscal year 2012 for military activities of the DOD, military construction and defense activities of the Department of Energy, to prescribe military personnel. Specifically, Section 1021, affirms the authority of the Armed Forces of the United States to detain covered persons pursuant to the Authorization for Use of Military Force. Furthermore, Section 1022, establishes military custody for foreign al-Qaeda terrorists.

PROVISIONS

- Prohibits this state and any state agency from providing material support or participating in any way with the implementation of sections 1021 and 1022 of the NDAA of 2012 against any U.S. citizen.
- Mandates the Director of the Department of Public Safety or county sheriff to report any attempt by federal government agencies or agents to secure the implementation of sections 1021 and 1022 of the NDAA to the Governor and the Legislature.

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Fifty-first Legislature

First Regular Session 2

February 20, 2013

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REFERENCE TITLE: prohibited governmental compliance; 2012 NDAA

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2573

Introduced by
Representative Seel, Senator Burges: Representatives Barton, Borrelli,
Dial, Lesko, Lovas, Petersen, Thorpe

AN ACT

AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 51; RELATING
TO THE NATIONAL DEFENSE AUTHORIZATION ACT OF 2012.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 41, Arizona Revised Statutes, is amended by adding
3 chapter 51, to read:

4 CHAPTER 51
5 PROHIBITED GOVERNMENTAL COMPLIANCE WITH THE
6 NATIONAL DEFENSE AUTHORIZATION ACT OF 2012
7 ARTICLE 1. GENERAL PROVISIONS

8 41-5100. National defense authorization act of 2012; prohibited
9 acts; report

10 A. THIS STATE AND ANY AGENCY OF THIS STATE SHALL NOT PROVIDE MATERIAL
11 SUPPORT OR PARTICIPATE IN ANY WAY WITH THE IMPLEMENTATION OF SECTIONS 1021
12 AND 1022 OF THE NATIONAL DEFENSE AUTHORIZATION ACT OF 2012 (P.L. 112-81)
13 AGAINST ANY CITIZEN OF THE UNITED STATES.

14 B. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR A SHERIFF OF A
15 COUNTY SHALL REPORT TO THE GOVERNOR AND THE LEGISLATURE ANY ATTEMPT BY
16 AGENCIES OR AGENTS OF THE FEDERAL GOVERNMENT TO SECURE THE IMPLEMENTATION OF
17 SECTIONS 1021 AND 1022 OF THE NATIONAL DEFENSE AUTHORIZATION ACT THROUGH THE
18 OPERATIONS OF THAT OR ANY OTHER STATE DEPARTMENT.

19 Sec. 2. Findings

20 A. The legislature finds that the enactment into law by the United
21 States Congress of sections 1021 and 1022 of the National Defense
22 Authorization Act of 2012 is inimical to the liberty, security and well-being
23 of the people of Arizona and that those sections were adopted by Congress in
24 violation of the limits of federal power in the United States Constitution.

25 B. The legislature further finds that sections 1021 and 1022 of the
26 National Defense Authorization Act of 2012, as they purport to authorize the
27 detainment of persons captured within the United States without charge or
28 trial, military tribunals for persons captured within the United States, and
29 the transfer of persons who are captured within the United States to foreign
30 jurisdictions, violate the following rights enshrined in the Constitution of
31 the United States:

32 1. Article I, section 9, clause 2 relating to the right to seek a writ
33 of habeas corpus.

34 2. The First Amendment right to petition the government for a redress
35 of grievances.

36 3. The Fourth Amendment right to be free from unreasonable searches
37 and seizures.

38 4. The Fifth Amendment right to be free from charge for an infamous or
39 capitol crime until presentment or indictment by a grand jury.

40 5. The Fifth Amendment right to be free from deprivation of life,
41 liberty or property without due process of law.

42 6. The Sixth Amendment right in criminal prosecutions to enjoy a
43 speedy trial by an impartial jury in the state and district where the crime
44 was allegedly committed.

- 1 7. The Sixth Amendment right to be informed of the nature and cause of
- 2 the accusation.
- 3 8. The Sixth Amendment right to confront witnesses.
- 4 9. The Sixth Amendment right to counsel.
- 5 10. The Eighth Amendment right to be free from excessive bail and
- 6 fines, and cruel and unusual punishment.
- 7 11. The Fourteenth Amendment right to be free from deprivation of life,
- 8 liberty or property without due process of law.
- 9 Sec. 3. Short title
- 10 This act may be cited as the "Liberty Preservation Act".