

Jerry Moran

AMENDMENT NO. _____ Calendar No. _____

Purpose: To strengthen the certification requirements relating to the transfer or release of detainees at United States Naval Station, Guantanamo Bay, Cuba.

IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.

S. 2943

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GPO: 2014 91-623 (mac)		

AMENDMENT intended to be proposed by Mr. MORAN (for himself, Mr. DAINES, Mr. BLUNT, Mr. TILLIS, Mr. RUBIO, Mr. INHOFE, Mr. BOOZMAN, and Mr. HATCH)

Viz:

- 1 After section 1027, insert the following:
- 2 **SEC. 1027A. STRENGTHENING OF CERTIFICATION REQUIRE-**
- 3 **MENTS RELATING TO THE TRANSFER OR RE-**
- 4 **LEASE OF DETAINEES AT UNITED STATES**
- 5 **NAVAL STATION, GUANTANAMO BAY, CUBA.**
- 6 (a) CERTIFICATION REQUIREMENT GENERALLY.—
- 7 Subsection (a) of section 1034 of the National Defense

1 Authorization Act for Fiscal Year 2016 (Public Law 114—
2 92; 129 Stat. 969; 10 U.S.C. 801 note) is amended—

3 (1) in the subsection heading, by striking
4 “PRIOR”; and

5 (2) by striking paragraph (1) and inserting the
6 following new paragraph (1):

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), no amount authorized to be appropriated
9 or otherwise made available for the Department of
10 Defense or any other department, agency, or ele-
11 ment of the United States Government may be used
12 after the date of the enactment of the National De-
13 fense Authorization Act for Fiscal Year 2017 to
14 transfer, release, or assist in the transfer or release
15 of any individual detained at Guantanamo to the
16 custody or control of any foreign country or other
17 foreign entity unless the Secretary of Defense cer-
18 tifies to the appropriate committees of Congress that
19 the individual no longer poses a continuing threat to
20 the security of the United States, its citizens, and its
21 interests as described in subsection (b). The certifi-
22 cation with respect to an individual shall be sub-
23 mitted not later than 30 days after the date on
24 which the Secretary makes the determination that
25 the individual no longer poses a continuing threat to

1 the security of the United States, its citizens, and its
2 interests.”.

3 (b) CERTIFICATION ELEMENTS.—Subsection (b) of
4 such section is amended—

5 (1) by redesignating paragraphs (1) through
6 (4) as paragraphs (2) through (5), respectively;

7 (2) by inserting before paragraph (2), as rededesignated
8 by paragraph (1) of this subsection, the following new paragraph (1):

10 “(1) the individual to be transferred or released
11 no longer poses a continuing threat to the security
12 of the United States, its citizens, and its interests;”;

13 (3) in paragraph (2), as so redesignated, by inserting
14 “or release” after “transfer”;

15 (4) by inserting “or released” after “transferred”
16 each place it appears; and

17 (5) in subparagraph (B) of paragraph (4), as so
18 redesignated, by striking “paragraph (2)(C)” and inserting
19 “paragraph (3)(C)”.

20 (c) ADDITIONAL MATTERS IN CONNECTION WITH
21 CERTIFICATIONS.—Such section is further amended—

22 (1) by redesignating subsections (c) through (f)
23 as subsections (d) through (g), respectively; and

24 (2) by inserting after subsection (b) the following new subsection (c):
25

1 “(c) ADDITIONAL MATTERS IN CONNECTION WITH
2 CERTIFICATIONS.—

3 “(1) RECOMMENDATIONS.—In determining
4 whether to make a certification described in sub-
5 section (b) on an individual, the Secretary shall take
6 into account, and include with the certification, the
7 recommendations and military value analyses of the
8 following:

9 “(A) The Chairman of the Joint Chiefs of
10 Staff.

11 “(B) The Chiefs of Staff of the Armed
12 Forces, with respect to the effects of the trans-
13 fer or release on military personnel with a resi-
14 dence for their permanent duty station in the
15 geographic area, or forward deployed forces, in
16 the foreign country concerned.

17 “(C) The commander of the geographic
18 combatant command having the foreign country
19 or entity to which the individual will be trans-
20 ferred or released within its area of operational
21 responsibility.

22 “(D) The Commander of the United States
23 Southern Command.

24 “(2) PROVISION TO INDIVIDUALS.—Each indi-
25 vidual covered by a certification described in sub-

1 section (b) shall be provided an unclassified written
2 summary of the certification, in a language the indi-
3 vidual understands, not earlier than 30 days after
4 the Secretary submits the certification to the appro-
5 priate committees of Congress pursuant to sub-
6 section (a). The summary shall also be provided to
7 the personal representative and private counsel of
8 the individual.”.

9 (d) CONFORMING AMENDMENTS.—Paragraph (3) of
10 subsection (f) of such section, as redesignated by sub-
11 section(c)(1) of this section, is amended—

12 (1) by striking “subsection (b)(2)(C)” and in-
13 serting “subsection (b)(3)(C)”; and

14 (2) by striking “subsection (b)(3)” and insert-
15 ing “subsection (b)(4)”.