

HC-5



AMENDMENT NO. _____

Calendar No. _____

Purpose: To clarify that an authorization to use military force, a declaration of war, or any similar authority shall not authorize the detention without charge or trial of a citizen or lawful permanent resident of the United States and provide for the loss of United States nationality or presence for an individual who commits certain acts against the United States.

IN THE SENATE OF THE UNITED STATES—115th Cong., 1st Sess.

H. R. 2810

To **AMENDMENT N^o 1047** military
 By Graham military
 To: Amort NO 1003 Depart-
 rsonnel
 rposes.
 Re 5 and
Page(s)

GPO: 2016 22-945 (mac)

AMENDMENT intended to be proposed by Mr. GRAHAM to the amendment (No. 1003) proposed by Mr. MCCAIN

Viz:

- 1 At the end of subtitle G of title X, add the following:
- 2 **SEC. ____ . LOSS OF NATIONALITY OR IMMIGRATION STA-**
- 3 **TUS FOR BELLIGERENT ACTS OR SUP-**
- 4 **PORTING ENEMY FORCES.**
- 5 (a) LOSS OF NATIONALITY FOR CITIZENS.—

1 (1) IN GENERAL.—Section 349(a) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1481(a)) is
3 amended—

4 (A) in paragraph (7), by striking the pe-
5 riod at the end and inserting a semicolon and
6 “or”; and

7 (B) by adding at the end the following:

8 “(8) committing a belligerent act or directly
9 supporting or aiding enemy forces identified in a
10 declaration of war or authorization for the use of
11 military force.”.

12 (2) ADMINISTRATIVE PROCESS.—Section 349 of
13 the Immigration and Nationality Act (8 U.S.C.
14 1481) is amended by adding at the end the fol-
15 lowing:

16 “(c)(1) The Secretary of Homeland Security shall
17 create an administrative process, and have the sole author-
18 ity over such process, for determining if a person shall
19 lose the person’s United States nationality pursuant to
20 subsection (a)(8).

21 “(2) The Secretary of Defense shall make a rec-
22 ommendation to the Secretary of Homeland Security re-
23 garding the loss of United States nationality for each per-
24 son being considered for such a loss under subsection
25 (a)(8).

1 “(3) A determination under paragraph (1) may be
2 reviewed pursuant to the provisions of section 360.

3 “(4) This subsection does not alter, limit, or extend
4 the ability of the United States, during the pendency of
5 a determination under paragraph (1) or a review per-
6 mitted under paragraph (3), to detain an individual under
7 the law of war.”.

8 (3) CONFORMING AMENDMENT.—Section
9 351(a) of the Immigration and Nationality Act (8
10 U.S.C. 1483(a)) is amended by striking “paragraphs
11 (6) and (7)” and inserting “paragraphs (6), (7), and
12 (8)”.

13 (b) REVOCATION OF STATUS.—Section 205 of the
14 Immigration and Nationality Act (8 U.S.C. 1155) is
15 amended—

16 (1) by inserting “(a)” before “The Secretary of
17 Homeland Security”; and

18 (2) by adding at the end the following:

19 “(b) The Secretary of Homeland Security shall re-
20 voke a petition approved under section 204 and otherwise
21 revoke the status of alien as lawfully admitted for perma-
22 nent residence if the alien commits a belligerent act or
23 directly supports or aids enemy forces identified in a dec-
24 laration of war or authorization for the use of military
25 force.”.

1 (c) REMOVAL OF ALIENS.—Section 237(a)(4)(A) of
2 the Immigration and Nationality Act (8 U.S.C.
3 1227(a)(4)(A)) is amended—

4 (1) in clause (ii), by striking “or” at the end;

5 (2) in clause (iii), by inserting “or” at the end;

6 and

7 (3) by inserting after clause (iii) the following:

8 “(iv) a belligerent act or an act di-
9 rectly supporting or aiding enemy forces
10 identified in a declaration of war or au-
11 thorization for the use of military force,”.

12 **SEC. ____ . PROHIBITION ON THE INDEFINITE DETENTION**
13 **OF CITIZENS AND LAWFUL PERMANENT RESI-**
14 **DENTS.**

15 (a) CAUSE FOR IMPRISONMENT OR DETENTION.—
16 Section 4001 of title 18, United States Code, is amended
17 by striking subsection (a) and inserting the following:

18 “(a) No citizen or lawful permanent resident of the
19 United States shall be imprisoned or otherwise detained
20 by the United States except consistent with the Constitu-
21 tion and pursuant to an act of Congress that authorizes
22 such imprisonment or detention.”.

23 (b) PROHIBITION ON INDEFINITE DETENTION OF
24 CITIZENS AND LAWFUL PERMANENT RESIDENCES.—Sec-

1 tion 4001 of title 18, United States Code, as amended by
2 paragraph (1), is further amended—

3 (1) by redesignating subsection (b) as sub-
4 section (c); and

5 (2) by inserting after subsection (a) the fol-
6 lowing:

7 “(b)(1) A general authorization to use military force,
8 a declaration of war, or any similar authority, on its own,
9 shall not be construed to authorize the imprisonment or
10 detention without charge or trial of a citizen or lawful per-
11 manent resident of the United States apprehended in the
12 United States, except during the pendency of proceedings
13 under subsection (c)~~(3)~~ section 349 of the Immigration
14 and Nationality Act (8 U.S.C. 1481).

15 “(2) Paragraph (1) applies to an authorization to use
16 military force, a declaration of war, or any similar author-
17 ity enacted before, on, or after the date of the enactment
18 of the National Defense Authorization Act for Fiscal Year
19 2018.

20 “(3) This section shall not be construed to authorize
21 the imprisonment or detention of a citizen of the United
22 States, a lawful permanent resident of the United States,
23 or any other person who is apprehended in the United
24 States.”.