

STAND. COM. REP. NO. 1432-12

Honolulu, Hawaii

April 2, 2012

RE: H.C.R. No. 115

Honorable Calvin K.Y. Say  
Speaker, House of Representatives  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Public Safety & Military Affairs, to which was referred H.C.R. No. 115 entitled:

"HOUSE CONCURRENT RESOLUTION URGING THE UNITED STATES CONGRESS TO REPEAL THE MANDATORY MILITARY DETENTION AND INDEFINITE DETENTION PROVISIONS OF THE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2012 AND AMEND THE AUTHORIZATION FOR USE OF FORCE,"

begs leave to report as follows:

The purpose of this measure is to urge the United States Congress to:

- (1) Restore the system of checks and balances in the United States by repealing Section 1021 and 1022 of the National Defense Authorization Act for Fiscal Year 2012;
- (2) Amend the Authorization for Use of Military Force and the National Defense Authorization Act for Fiscal Year 2012 to prevent military detentions within the United States of civilians and to clarify Congress and the President's respective powers to declare war and deploy troops; and
- (3) Amend the Authorization for Use of Military Force to expire upon the end of the current combat operations in Afghanistan.



The American Civil Liberties Union of Hawaii, Japanese American Citizens League, and two individuals testified in support of this measure.

According to this measure, there is substantial public debate and uncertainty as to whether portions of the National Defense Authorization Act for Fiscal Year 2012 may be interpreted to repeal the Posse Comitatus Act, 18 United States Code, Section 1385, which prohibits the use of the United States military as law enforcement without express Constitutional authority or an act of Congress. This raises the concern that the Defense Authorization Act may authorize indefinite military detention within the United States, without charge or trial, of legal permanent residents and others residing in the United States. This measure is intended to urge Congress to prevent the United States Armed Forces from investigating, arresting, detaining, or trying any person not subject to the Uniform Code of Military Justice already within the United States and to prevent the United States Armed Forces from militarily detaining, without charge or trial, any civilian captured off any battlefield.

As affirmed by the record of votes of the members of your Committee on Public Safety & Military Affairs that is attached to this report, your Committee concurs with the intent and purpose of H.C.R. No. 115 and recommends that it be referred to the Committee on Judiciary.

Respectfully submitted on  
behalf of the members of the  
Committee on Public Safety &  
Military Affairs,

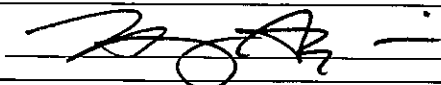


*for* HENRY J.C. AQUINO, Chair



State of Hawaii  
House of Representatives  
The Twenty-sixth Legislature

Record of Votes of the Committee on Public Safety & Military Affairs

Bill/Resolution No.: HCR 115	Committee Referral: PBM, JUB	Date: 3/29/12		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input checked="" type="checkbox"/> Pass, unamended (as is) <input type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
PBM Members	Ayes	Ayes (WR)	Nays	Excused
1. AQUINO, Henry J.C. (C)	✓			
2. CULLEN, Ty (VC)	✓			
3. ICHIYAMA, Linda	✓			
4. LEE, Marilyn B.				✓
5. LUKE, Sylvia	✓			
6. SAIKI, Scott K.				✓
7. SOUKI, Joseph M.		✓		
8. TAKAI, K. Mark				✓
9. TAKUMI, Roy M.				✓
10. YAMASHITA, Kyle T.	✓			
11. FONTAINE, George R.			✓	
12. JOHANSON, Aaron Ling		✓		
TOTAL (12)	5	2	1	4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. committee acronym(s)				
Vice Chair's or designee's signature: 				
Distribution: Original (White) – Committee      Duplicate (Yellow) – Chief Clerk's Office      Duplicate (Pink) – HMSO				