

PENDING

AMENDMENT NO.

Calendar No.

Purpose: To improve the amendment.

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

**S. 1042**

**AMENDMENT No. 2523**

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By Bingeman

To: Amdt. No. 2515

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Page(s)

GPO: 2000 68-330 (mac)

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. BINGAMAN  
to the amendment (No. \_\_\_\_\_) proposed by Mr. GRAHAM

Viz:

- 1 Strike subsection (d) and insert the following:
- 2 (d) JUDICIAL REVIEW OF DETENTION OF ENEMY
- 3 COMBATANTS.—
- 4 (1) IN GENERAL.—Except as provided in para-
- 5 graph (2), the United States Court of Appeals for
- 6 the District of Columbia Circuit shall have exclusive
- 7 jurisdiction to consider an application for writ of ha-
- 8 beas corpus filed by or on behalf of an alien outside

1 the United States (as that term is defined in section  
2 101(a)(38) of the Immigration and Naturalization  
3 Act (8 U.S.C. 1101(a)(38))—

4 (A) who is, at the time a request for review  
5 by such court is filed, detained by the Depart-  
6 ment of Defense at Guantanamo Bay, Cuba;  
7 and

8 (B) for whom a Combatant Status Review  
9 Tribunal has been conducted, pursuant to appli-  
10 cable procedures specific by the Department of  
11 Defense.

12 (2) EXCEPTIONS.—This subsection does not  
13 apply to the following:

14 (A) An individual charged with an offense  
15 before a military commission.

16 (B) An individual who is not designated as  
17 an enemy combatant following a combatant sta-  
18 tus review, but who continues to be held by the  
19 United States Government.

20 (3) VENUE.—Review under paragraph (1) shall  
21 commence in the United States Court of Appeals for  
22 the District of Columbia Circuit.

23 (4) CLAIMS REVIEWABLE.—The United States  
24 Court of Appeals for the District of Columbia Cir-  
25 cuit may not, in a review under paragraph (1) with

1       respect to an alien, consider claims based on living  
2       conditions, but may only hear claims regarding—

3               (A) whether the status determination of  
4       the Combatant Status Review Tribunal with re-  
5       gard to such alien was consistent with the pro-  
6       cedures and standards specified by the Sec-  
7       retary of Defense for Combatant Status Review  
8       Tribunals;

9               (B) whether such status determination was  
10       supported by sufficient evidence and reached in  
11       accordance with due process of law, provided  
12       that statements obtained through undue coer-  
13       cion, torture, or cruel or inhuman treatment  
14       may not be used as a basis for the determina-  
15       tion; and

16              (C) the lawfulness of the detention of such  
17       alien.

18              (5) TERMINATION ON RELEASE FROM CUS-  
19       TODY.—The jurisdiction of the United States Court  
20       of Appeals for the District of Columbia Circuit with  
21       respect to the claims of an alien under this sub-  
22       section shall cease upon the release of such alien  
23       from the custody or control of the United States.

1           (6) EFFECTIVE DATE.—This subsection shall  
2           apply to any application or other action that is pend-  
3           ing on or after the date of the enactment of this Act.