

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2981

(SENATE AUTHORS: PETERSEN, B.)

DATE	D-PG	OFFICIAL STATUS
05/09/2014	8997	Introduction and first reading Referred to Judiciary

A bill for an act

relating to civil law; specifying state policy related to the National Defense Authorization Act for Fiscal Year 2012 and all other similar legislation; providing for freedom of persons within the boundaries of the state of Minnesota from disposition under the law of war; providing for criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [1.231] FREEDOM FROM LOSS OF RIGHTS UNDER THE LAW OF WAR.

Subdivision 1. **Limits on federal power; state rights.** As the United States Constitution provides that the federal government is exclusively authorized to exercise those powers specifically enumerated in the Constitution; and, as stated in its amendments IX and X, all other rights and powers are reserved to the various states and to citizens of these states: it is necessary that the states, including Minnesota, identify and lawfully oppose instances in which the federal government has assumed powers not enumerated to it by the Constitution.

Subd. 2. **Findings.** (a) Section 1021 of the National Defense Authorization Act for Fiscal Year 2012 grants the President of the United States authority both to arrest and to determine if a trial will be held for suspected terrorists.

(b) Section 1022 of the National Defense Authorization Act for Fiscal Year 2012 authorizes military detention without trial of citizens of the United States.

(c) Historically, other claimed authorities, including Presidential Executive Order 9066 in 1942, terminated by Presidential Proclamation 2714 in 1946, with the termination confirmed by Presidential Proclamation 4417 in 1976, authorized the internment of persons living within the United States based upon the person's race.

2.1 (d) United States Constitution, amendment IV, provides that the right of the people
2.2 to be secure in the persons, houses, papers, and effects against unreasonable searches
2.3 and seizures shall not be violated.

2.4 (e) United States Constitution, amendment V, provides that the people have a right to
2.5 be free from deprivation of life, liberty, or property without due process of law.

2.6 (f) United States Constitution, amendment VI, provides that the people have a right
2.7 in criminal prosecutions to a speedy trial by an impartial jury in the state and district
2.8 where the crime shall have been committed, to be informed of the nature and cause of the
2.9 accusation, to confront witnesses, and to counsel.

2.10 (g) United States Constitution, amendment XIV, provides that the people are to be
2.11 free from deprivation of life, liberty, or property without due process of law.

2.12 Subd. 3. **Definitions.** For the purposes of this section, "arrest," "capture,"
2.13 "detention," "disposition under the law of war," and "law of war" have the meanings given
2.14 in section 1021 of the National Defense Authorization Act of Fiscal Year 2012.

2.15 Subd. 4. **Legislative intent; public policy.** (a) As the enactment of sections 1021 and
2.16 1022 of the National Defense Authorization Act of Fiscal Year 2012 is inimical with those
2.17 constitutional rights listed in subdivision 2, notwithstanding any treaty or federal, state, or
2.18 local law or authority, including a national defense authorization act, authorization for use
2.19 of military force, or similar law claimed or enacted by the Congress of the United States or
2.20 the President of the United States, it is unconstitutional and unlawful for any person to:

2.21 (1) subject another person within the boundaries of the state of Minnesota to
2.22 disposition under the law of war including, but not limited to:

2.23 (i) detention, arrest, or capture under the law of war; or

2.24 (ii) trial under United States Code, title 10, chapter 47A, or any similar military,
2.25 or alternative court or tribunal as described in section 1021(c) of the National Defense
2.26 Authorization Act for Fiscal Year 2012;

2.27 (2) execute any person within the boundaries of the state of Minnesota without
2.28 judicial sentencing after trial and conviction in a court ordained and established under
2.29 United States Constitution, article III, or under the Minnesota Constitution; or

2.30 (3) provide material aid to persons seeking to violate this section within the
2.31 boundaries of the state.

2.32 Subd. 5. **Reporting.** The Department of Public Safety shall notify the governor and
2.33 the legislature of any attempt within the boundaries of the state to violate this section.

2.34 Subd. 6. **Military authority.** Subdivision 4 does not prohibit the application of the
2.35 Uniform Code of Military Justice (UCMJ), including military detention and trial in "cases
2.36 arising in the land or naval forces, or in the Militia, when in actual service in time of War

3.1 or public danger" to discipline service members who have violated the UCMJ and laws of
3.2 war as defined in United States Code, title 10, chapters 47 and 47A.

3.3 Subd. 7. **Penalty.** (a) A person who violates subdivision 4 is subject to criminal
3.4 prosecution for assault, kidnapping, murder, or other crime, as applicable, and as defined
3.5 in chapter 609.

3.6 (b) The Peace Officer Standards Training (POST) Board shall terminate the license
3.7 of any POST-certified officer who has been convicted of violating this section.

3.8 Subd. 8. **Severability.** If any provision of this section is found to be unconstitutional
3.9 and void, the remaining provisions of this section are valid.

3.10 **EFFECTIVE DATE.** This section is effective August 1, 2014, and applies to
3.11 violations of this section committed on or after that date.