

110TH CONGRESS  
1ST SESSION

# H. R. 3835

To restore the Constitution's checks and balances and protections against government abuses as envisioned by the Founding Fathers.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 15, 2007

Mr. PAUL introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Armed Services, Foreign Affairs, and Select Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To restore the Constitution's checks and balances and protections against government abuses as envisioned by the Founding Fathers.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Freedom  
5       Agenda Act of 2007”.

6       **SEC. 2. FINDINGS AND PURPOSE.**

7       (a) FINDINGS.—Congress makes the following find-  
8       ings:

1           (1) Unchecked power by any branch leads to  
2           oppressive transgressions on individual freedoms and  
3           ill-considered government policies.

4           (2) The Founding Fathers enshrined checks  
5           and balances in the Constitution to protect against  
6           government abuses to derail ill-conceived domestic or  
7           foreign endeavors.

8           (3) Checks and balances make the Nation safer  
9           by preventing abuses that would be exploited by Al  
10          Qaeda to boost terrorist recruitment, would deter  
11          foreign governments from cooperating in defeating  
12          international terrorism, and would make the Amer-  
13          ican people reluctant to support aggressive counter-  
14          terrorism measures.

15          (4) Checks and balances have withered since 9/  
16          11 and an alarming concentration of power has been  
17          accumulated in the presidency based on hyper-in-  
18          flated fears of international terrorism and a desire  
19          permanently to alter the equilibrium of power be-  
20          tween the three branches of government.

21          (5) The unprecedented constitutional powers  
22          claimed by the President since 9/11 subtracted na-  
23          tional security and have been asserted for non-na-  
24          tional security purposes.

1           (6) Experience demonstrates that global ter-  
2           rorism can be thwarted, deterred, and punished  
3           through muscular application of law enforcement  
4           measures and prosecutions in Federal civilian courts  
5           in lieu of military commissions or military law.

6           (7) Congressional oversight of the executive  
7           branch is necessary to prevent secret government,  
8           which undermines self-government and invites law-  
9           lessness and maladministration.

10          (8) The post-9/11 challenges to checks and bal-  
11          ances are unique in the Nation's history because the  
12          war on global terrorism has no discernable end.

13          (b) PURPOSE.—The American Freedom Agenda Act  
14 of 2007 is intended to restore the Constitution's checks  
15 and balances and protections against government abuses  
16 as envisioned by the Founding Fathers.

17 **SEC. 3. MILITARY COMMISSIONS; ENEMY COMBATANTS; HA-**  
18 **BEAS CORPUS.**

19          (a) The Military Commissions Act of 2006 is hereby  
20 repealed.

21          (b) The President is authorized to establish military  
22 commissions for the trial of war crimes only in places of  
23 active hostilities against the United States where an im-  
24 mediate trial is necessary to preserve fresh evidence or to  
25 prevent local anarchy.

1 (c) The President is prohibited from detaining any  
2 individual indefinitely as an unlawful enemy combatant  
3 absent proof by substantial evidence that the individual  
4 has directly engaged in active hostilities against the  
5 United States, provided that no United States citizen shall  
6 be detained as an unlawful enemy combatant.

7 (d) Any individual detained as an enemy combatant  
8 by the United States shall be entitled to petition for a writ  
9 of habeas corpus under section 2241 of title 28, United  
10 States Code.

11 **SEC. 4. TORTURE OR COERCED CONFESSIONS.**

12 No civilian or military tribunal of the United States  
13 shall admit as evidence statements extracted from the de-  
14 fendant by torture or coercion.

15 **SEC. 5. INTELLIGENCE GATHERING.**

16 No Federal agency shall gather foreign intelligence  
17 in contravention of the Foreign Intelligence Surveillance  
18 Act (50 U.S.C. 1801 et seq.). The President's constitu-  
19 tional power to gather foreign intelligence is subordinated  
20 to this provision.

21 **SEC. 6. PRESIDENTIAL SIGNING STATEMENTS.**

22 The House of Representatives and Senate collectively  
23 shall enjoy standing to file a declaratory judgment action  
24 in an appropriate Federal district court to challenge the  
25 constitutionality of a presidential signing statement that

1 declares the President's intent to disregard provisions of  
2 a bill he has signed into law because he believes they are  
3 unconstitutional.

4 **SEC. 7. KIDNAPPING, DETENTIONS, AND TORTURE ABROAD.**

5       No officer or agent of the United States shall kidnap,  
6 imprison, or torture any person abroad based solely on the  
7 President's belief that the subject of the kidnapping, im-  
8 prisonment, or torture is a criminal or enemy combatant;  
9 provided that kidnapping shall be permitted if undertaken  
10 with the intent of bringing the kidnapped person for pros-  
11 ecution or interrogation to gather intelligence before a tri-  
12 bunal that meets international standards of fairness and  
13 due process. A knowing violation of this section shall be  
14 punished as a felony punishable by a fine or imprisonment  
15 of up to 2 years.

16 **SEC. 8. JOURNALIST EXCEPTION TO ESPIONAGE ACT.**

17       Nothing in the Espionage Act of 1917 shall prohibit  
18 a journalist from publishing information received from the  
19 executive branch or Congress unless the publication would  
20 cause direct, immediate, and irreparable harm to the na-  
21 tional security of the United States.

22 **SEC. 9. USE OF SECRET EVIDENCE TO MAKE FOREIGN TER-**  
23 **RORIST DESIGNATIONS.**

24       Notwithstanding any other law, secret evidence shall  
25 not be used by the President or any other member of the

1 executive branch to designate an individual or organiza-  
2 tion with a United States presence as a foreign terrorist  
3 or foreign terrorist organization for purposes of the crimi-  
4 nal law or otherwise imposing criminal or civil sanctions.

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