

111TH CONGRESS
1ST SESSION

S. 1100

To provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Mr. LIEBERMAN (for himself, Mr. GRAHAM, and Mr. MCCAIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide that certain photographic records relating to the treatment of any individual engaged, captured, or detained after September 11, 2001, by the Armed Forces of the United States in operations outside the United States shall not be subject to disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act).

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Detainee Photographic
3 Records Protection Act of 2009”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) COVERED RECORD.—The term “covered
7 record” means any record—

8 (A) that is a photograph relating to the
9 treatment of individuals engaged, captured, or
10 detained after September 11, 2001, by the
11 Armed Forces of the United States in oper-
12 ations outside of the United States; and

13 (B) for which a certification by the Sec-
14 retary of Defense under section 3 is in effect.

15 (2) PHOTOGRAPH.—The term “photograph” en-
16 compasses all photographic images, whether origi-
17 nals or copies, including still photographs, negatives,
18 digital images, films, video tapes, and motion pic-
19 tures.

20 **SEC. 3. CERTIFICATION.**

21 (a) IN GENERAL.—For any photograph described
22 under section 2(1)(A), the Secretary of Defense shall sub-
23 mit a certification, in classified form to the extent appro-
24 priate, to the President, if the Secretary of Defense, in
25 consultation with the Chairman of the Joint Chiefs of

1 Staff, determines that the disclosure of that photograph
2 would endanger—

3 (1) citizens of the United States; or

4 (2) members of the Armed Forces or employees
5 of the United States Government deployed outside
6 the United States.

7 (b) CERTIFICATION EXPIRATION.—A certification
8 submitted under subsection (a) and a renewal of a certifi-
9 cation submitted under subsection (c) shall expire 5 years
10 after the date on which the certification or renewal, as
11 the case may be, is submitted to the President.

12 (c) CERTIFICATION RENEWAL.—The Secretary of
13 Defense may submit to the President—

14 (1) a renewal of a certification in accordance
15 with subsection (a) at any time; and

16 (2) more than 1 renewal of a certification.

17 **SEC. 4. NONDISCLOSURE OF DETAINEE RECORDS.**

18 A covered record shall not be subject to—

19 (1) disclosure under section 552 of title 5,
20 United States Code (commonly referred to as the
21 Freedom of Information Act); or

22 (2) disclosure under any proceeding under that
23 section.

1 **SEC. 5. EFFECTIVE DATE.**

2 This Act shall take effect on the date of enactment
3 of this Act and apply to any photograph created before,
4 on, or after that date that is a covered record.

○