



Written by [Joe Wolverton, II, J.D.](#) on July 27, 2012

Michigan State and Local Govts Propose NDAA Nullifying Bills

Citizens of Michigan continue to press for passage of a state law that would nullify the execution of the National Defense Authorization Act (NDAA) within the boundaries of the Great Lakes State. One such effort was begun by Michigan Representative Tom McMillin on June 14 when he introduced his bill to prevent the arrest and indefinite detention of citizens of his state under the authority of relevant provisions of the NDAA. According to the [text of the legislation](#):



No agency of this state, no political subdivision of this state, no employee of an agency of this state or a political subdivision of this state acting in his or her official capacity, and no member of the Michigan national guard on official state duty shall aid an agency of the armed forces of the United States in any investigation, prosecution, or detention of any person pursuant to 50 USC 1541, as provided by the federal national defense authorization act for fiscal year 2012.

As [reported by the Tenth Amendment Center](#) (TAC):

Work to nullify NDAA detention provisions also continues at the local level in the Great Lakes State. On July 18, Oakland County Commissioner Jim Runestad introduced an NDAA Liberty Preservation Resolution for consideration, and on July 26, Allegan County Commissioner Bill Sage will introduce an identical resolution to that county commission.

County Commissioner Sage is quoted in the TAC article saying, "Citizens cannot stand by and permit this type of travesty against the U.S. Constitution that all local, state, and federal officials took an oath to protect." In an effort to bolster the strength and scope of the grassroots campaign in his state, Sage and other likeminded Michiganders formed a "citizens' action committee" called WOLF PAC. WOLF stands for "We the people Of Liberty and Freedom."

[According to the group's website](#), WOLF PAC is dedicated to supporting "our Great Republic" through lobbying to:

1. Support and Strengthen the Constitution.
2. Decrease and or eliminate bureaucracies.
3. Support and reinstate the 10th Amendment.
4. Shrink the size of Federal and State Government.
5. Separate Corporation and State.
6. Separate Union Influence and State

Referring specifically to the NDAA, a [WOLF PAC press release states](#):

With the threat to every citizen of our great country falling prey to being arrested in the middle of



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night, local immediate action must be taken to safeguard those constitutional rights to the citizens of the Great State of Michigan. For the first time in history, we must call on our elected officials to uphold their “Oath of Office” to defend the Constitution from enemies foreign and domestic.

Furthermore, the group intends to support local governments in their efforts at protecting citizens through the adoption of local ordinances nullifying the NDAA. Says WOLF PAC:

This local action is necessary because, as many already know, Obama, with the help of congress and the Senate, passed the 2012 NDAA, making it legal to arrest and detain indefinitely Americans without due process. Citizens cannot stand by and permit this type of travesty to the US Constitution that all local, state, and federal officials “took an oath to protect.” The federal NDAA, enacted on Dec 31, 2012, is in direct violation of the following “rights” granted to all people under the US Constitution: 1st, 4th, 5th, 6th, 8th, and 14th amendments. At the state level, NDAA directly violates the following sections of the MI State Constitution: Article 1 sections 7, 11, 14, 15, 16, 17, 20, 23, and 24. In order to protect these rights, it is time for Michiganders to speak up against this unconstitutional federal law!

McMillin, Sage, and others in Michigan are to be applauded for their commitment to the cause of the Constitution and liberty. Their work is vital to the perpetuation of the Constitution and the sovereignty of the states that created it. “I believe a legislature has a duty to defend, as best they can, its citizens from laws that put their liberties in jeopardy,” McMillin told *The New American*. “This is the case with the NDAA’s indefinite detention provisions, and my legislation, if enacted, will ensure that at least the state and its subsidiaries will not participate in indefinitely detaining, without charge or trial, our citizens.”

In contrast to the above efforts to nullify the NDAA and protect the freedoms granted to Americans under the Constitution, recent congressional actions regarding the NDAA are cause for concern for liberty-minded citizens. Although the Congress of the United States overwhelmingly passed the 2012 version of the NDAA, next year’s offering is currently working its way through committee. As reported by [The New American](#), by a vote of 56-5, the House Armed Services Committee in May passed a slate of changes to the NDAA for fiscal year 2013. Committee Chairman Howard P. “Buck” McKeon (R-Calif.) [released a statement](#) announcing the goals of the bill’s latest mark-up:

I am proud of the bi-partisan way the Committee has worked together to build this bill. It rebuilds a force strained by ten years of war while restoring both fiscal and strategic sanity to the defense budget. It keeps faith with our troops and their families while keeping America ready to face the threats of the future.

In his statement, Representative McKeon declares that “every American must have his day in court.” Further, he “reaffirms the fundamental right to Habeas Corpus of any person detained in the United States pursuant to the 2001 Authorization for the Use of Military Force.” [Section 1033 of the mark-up version](#) passed by the committee is offered as the codification of that protection. Here is the current text of that updated provision:

This section would state that nothing in the Authorization for Use of Military Force (Public Law 107-40) or the National Defense Authorization Act for Fiscal Year 2012 (Public Law 112-81) shall be construed to deny the availability of the writ of habeas corpus in a court ordained or established by or under Article III of the Constitution for any person who is detained in the United States pursuant to the Authorization for Use of Military Force (Public Law 107-40).



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The double-speak contained in that paragraph is impressive even for a Capitol Hill lawyer. Read it very closely: The new bill does nothing to prevent the indefinite detention of Americans under the 2013 NDAA; furthermore, it only reiterates that habeas corpus is a right in courts established under Article III of the Constitution. That such a right exists in the courts of the United States has never been the issue. The concern of millions of Americans from every band in the political spectrum is that Americans detained as “belligerents” under the terms of the NDAA will not be tried in Article III courts, but will be subject to military tribunals, such as the one currently considering the case of the so-called “Gitmo Five.” There is not a single syllable of the 2013 NDAA that passed out of the House Armed Service Committee on Thursday that will guarantee Americans will be tried in a constitutional court and not a military commission.

It is noteworthy, furthermore, that McKeon’s mark-up ties the fundamental right of habeas corpus not to the Constitution (or the nearly 900 years of Anglo-American law), but to the Authorization for the Use of Military Force where the protection of that right is severely diminished. Such sleight of hand should not go unnoticed, particularly when it is performed by one who flies under the “Republican” banner.

Soon the latest iteration of the NDAA will go before the full body of the House of Representatives for a vote. No doubt the deliberations will feature speeches decrying the revocation of habeas corpus and the legalization of the indefinite detention of Americans in military prisons based on nothing more than presidential suspicion.

Americans concerned about the Constitution must be actively engaged in the fight to prevent such precedents from being set. We must remember that these deviations from the straight and narrow constitutional path have placed our Republic on a trajectory toward tyranny.

Photo of House of Representatives Chamber in Michigan State Capitol, Lansing, Michigan



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