



Written by [Joe Wolverton, II, J.D.](#) on April 20, 2012

Virginia's Anti-NDAA Bill Set to Become Law; Ariz. Joins the Fight

Neither the vote in the state House of Delegates nor the state Senate was even close: the House approved the measure 89-7 and the Senate followed suit later in the day voting 36-1 to make HB 1160 the law in Virginia.

In an interview with *The New American*, Delegate Marshall described the process that resulted in Virginia's ultimate passage of a bill that reinforces the protections of the Constitution and basic civil liberties in Virginia.



"I worked with the governor's staff to word his amendments in such a way that would be acceptable to the House and the Senate," said Marshall.

"From the beginning, there was one goal: for Virginia to distance itself from ever participating in the illegal, unconstitutional detention of any citizen living in our state," Marshall continued.

He expressed his gratitude to "the many liberty-minded citizens across Virginia" for their valiant effort to persuade their state representatives to add their voice to the chorus of lawmakers calling for the shoring up of the barricades placed by the Constitution around life, liberty, and property.

"This victory would not have been possible without strong grassroots support for my bill from Virginians of all political backgrounds and persuasions. I thank them for taking the time to write letters, send e-mails and make telephone calls to the governor and General Assembly members. And I am proud of the Assembly's response," Marshall said.

The bill, as originally introduced by Delegate Marshall on January 16, prohibited "any agency, political subdivision, employee, or member of the military of Virginia from assisting an agency or the armed forces of the United States in the investigation, prosecution, or detainment of a United States citizen in violation of the Constitution of Virginia."

HB 1160, the amended bill, would prevent the use of any state agency or member of the Virginia National Guard or Virginia Defense Force to participate in the unlawful detention of a citizen of Virginia by the U.S. government in violation of the state and federal constitution as set forth in the [National Defense Authorization Act \(NDAA\)](#). The Senate vote completed legislative action on the bill, which had already been approved by Virginia's House of Delegates where it was introduced by Delegate Bob Marshall.

One of the most noxious elements of the NDAA is that it places the American military at the disposal of the President for the apprehension, arrest, and detention of those suspected of posing a danger to the homeland (whether inside or outside the borders of the United States and whether the suspect be a



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citizen or foreigner).

Furthermore, a key component of the NDAA mandates a frightening grant of immense and unconstitutional power to the executive branch. Under the provisions of Section 1021, the President is afforded the absolute power to arrest and detain citizens of the United States without their being informed of any criminal charges, without a trial on the merits of those charges, and without a scintilla of the due process safeguards protected by the Constitution of the United States.

Beyond that, in order to execute the provisions of Section 1021 described in the previous paragraph, subsequent clauses (Section 1022, for example) unlawfully give the President the absolute and unquestionable authority to deploy the armed forces of the United States to apprehend and to indefinitely detain those suspected of threatening the security of the "homeland." In the language of this legislation, these people are called "covered persons."

The universe of potential "covered persons" includes every citizen of the United States of America. Any American could one day find himself or herself branded a "belligerent" and thus subject to the complete confiscation of his or her constitutional civil liberties and nearly never-ending incarceration in a military prison.

With the passage of the revised bill, Virginia stands steadfastly against interminable incarceration. "With the overwhelming General Assembly acceptance of my bill with several amendments offered by Gov. Bob McDonnell, Virginia is saying "no thanks" to Congress to any participation in the unconstitutional detention of American citizens without trial, legal counsel, specific charges, or the right to face their accusers," Marshall said.

The law will go into effect on July 1, 2012.

Delegate Marshall, [who is now a candidate for the Senate](#), recommends that other states follow the example of the Commonwealth of Virginia and enact laws opposing the federal government's attempts to violate the Constitution:

I hope Virginia's enactment of HB 1160 will serve as a model for other state legislatures, encouraging them to adopt similar statutes. States simply must have a significant role and duty in resisting the federal government's overreach.

In the words of an editorial in today's [Richmond Times Dispatch](#) supporting HB 1160, "Congress and the President should be made aware that their contempt for fundamental constitutional rights does not sit well with the American public."

Similarly, Michael Boldin, the executive director of the Tenth Amendment Center, [expressed hope](#) that state legislators will enlist in the battle against federal encroachments on state authority and on the rights of Americans to be free from indefinite detention as permitted by the NDAA. Said Boldin:

In the 1850s, northern states felt that habeas corpus was so important that they passed laws rejecting the federal fugitive slave act. The bill passed in Massachusetts was so effective, not one single runaway slave was returned south from that state. Today, Virginia joins in this great American tradition. When the federal government passes unconstitutional so-called laws so destructive to liberty — it's the people and the states that will stand up and say, "NO!" May the other states now follow the lead taken today by Virginia.

In what is sure to be good news to Delegate Marshall, Mr. Boldin, and all constitutionalists nationwide, the day after Virginia passed HB 1160, the Arizona House of Representatives passed a bill that if



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enacted would add the Grand Canyon State's name to the roll of defenders of the Constitution and the right of states to govern themselves.

In relevant part, Arizona [Senate Bill 1182](#) mandates that: "this state and any agency of this state shall not provide material support or participate in any way with the implementation of sections 1021 and 1022 of the National Defense Authorization Act of 2012."

Although the vote was close, the measure was ultimately approved by the State House by a vote of 34-22.

In a [story published by the Tenth Amendment Center](#), the bill's chief sponsor, Senator Sylvia Allen, was quoted expressing her gratitude to her fellow legislators in the House for passing SB 1182: "I'm very grateful that the Arizona House just passed my NDAA bill protecting the constitutional rights of our citizens. These rights must never be taken for granted for any reason. National security is not a justification for depriving our citizens of their inalienable rights."

There are now 11 states considering some version of anti-NDAA legislation, a fact that brings joy to all those who value our republican form of government and the freedom enjoyed by all Americans. And while constitutionalists rightly applaud every effort of noble state and local lawmakers to check the unconstitutional usurpations of the federal government, neither the Virginia law nor the Arizona bill truly nullifies the NDAA.

In order to rightly nullify an act of the federal government, state legislatures must interpose their authority and criminalize all attempts by a federal agent to exercise unlawful dominion within the borders of the state whose citizens they represent. It is only by fearlessly wielding the sword of sovereignty that states may disarm the federal force and reassert the rightful role of the states as defenders of the Constitution.



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