



Written by [Joe Wolverton, II, J.D.](#) on March 8, 2012

## Virginia State Senate Passes Anti-NDAA Bill, Goes to Gov. for His Signature

Just minutes ago as we write, the state Senate of Virginia passed HB 1160, the bill that 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 government of the United States Government in violation of the state and federal constitution.

In a press release announcing the Senate's passage of his bill, Delegate Bob Marshall (left) said:



Today, the Virginia State Senate nearly unanimously passed my bill, HB 1160, to prevent Virginia's state and local government agencies from cooperating with the federal government in the indefinite detention of Virginians under the National Defense Authorization Act of 2012 ("NDAA"). I am grateful that the vote in the Senate to accede to the bill as passed by the House of Delegates was 37-1.

Congress, by including this provision in a must pass bill affecting our Armed Forces, made a terrible mistake in empowering this or any future President and the military to arrest and detain American citizens indefinitely, without charges, without the chance to confront their accusers, without legal counsel, and without a trial.

The bill will now be sent to Governor Bob McDonnell for his signature. Representatives from the Governor's policy team have already indicated that the governor still has reservations about the language in the measure.

Delegate Marshall (R-13th) is disappointed in the way the Republican governor of the Old Dominion handled House Bill 1160, the measure sponsored by Marshall designed to dull the fangs of certain provisions of the National Defense Authorization Act (NDAA).

According to Marshall, Governor Bob McDonnell used "secretive, backdoor" tactics to thwart passage in the House of Delegates of a Senate amendment to Marshall's original proposal.

On January 16, Marshall introduced HB 1160, a bill designed to "prevent 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



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violation of the Constitution of Virginia.”

After being passed on St. Valentine’s Day by an overwhelming majority (96-4) in the House, the bill was sent to the Senate for deliberation by that chamber, where according to some accounts it was “gutted.” Although the first iteration was passed Tuesday by the House of Delegates, that chamber rejected the amendment written by Senator J. Chapman Petersen (D-34th), and referred the bill back to committee to reconcile the two versions. In a press released issued by his office, Delegate Marshall said that Governor McDonnell initially opposed the bill and rather than approach either Marshall or Petersen regarding the concerns giving him pause, Marshall reports that McDonnell discussed his views of HB 1160 with Delegate Tim Hugo, chairman of the House Republican Caucus. As the situation worsened and McDonnell avoided confronting both the sponsor (Marshall) and the author of the Senate amendment (Petersen), Petersen yanked his amendment and the bill returned to the House where it was passed. By this noble action, Petersen demonstrated that his pride in authorship of the amendment was trumped by his respect and reverence for the timeless principles of Constitutional freedom.

In spite of the wrangling, Delegate Marshall was pleased that the House got a chance to vote on this important measure.

“I finally got a House of Delegates vote on HB 1160, but I am distressed that this most recent maneuver might be an effort to kill the bill by sending it to a conference committee ‘never, never land,’ ” he said. With his amendment stripped from the bill, Senator Petersen called on his colleagues to pass the version as originally proposed by Marshall.

Despite Petersen’s best effort to drum up the necessary support in the state Senate, the bill was “passed by” without a vote on Wednesday, leaving the door open for a vote Thursday. This was a very small window for Marshall and Petersen to secure the votes from Senators. Speaking Tuesday, Petersen said, “If I can get it off the floor tomorrow, we’ll be fine.”

With evident frustration, Senator Petersen explained that he has been unable to nail down exactly why anyone would oppose this bill. They adamantly speak out against the indefinite detention of Americans by the military, but they can’t articulate why that zeal doesn’t translate into support for a bill designed to prevent Virginians from participating in that very act.

“I’ve not really heard a stated objection to it that makes any sense,” Petersen said. “People are saying that somehow it limits our ability on the war on terror, but from where I stand, what’s the point in having a war on terror if we’re not going to respect our constitutional rights as Americans. We would not agree with any Virginia citizen being held without a warrant or without a charge.”

It is difficult to understand why a state legislator would refuse assent to a bill such as the one offered by Marshall. Especially vexing for Marshall and Petersen is the obstacles being placed in the road to enactment by the very men who would seemingly be among the first to sign on to support such a measure.

This is what most perplexes Petersen. Regarding the text and tone of HB1160, Petersen said, “I just think sometimes that the right wing and the left wing get to come together on an issue of civil liberties, and I think this is a good example of that.”

Virginia’s HB 1170 is but one of many noble efforts on the part of sovereign states and communities to courageously assert their constitutionally protected right to self-determination by standing up to the federal government, particularly in regard to the provisions of the National Defense Authorization Act



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that provide for the indefinite detention of American citizens.

Marshall's bill is the first measure in the nation that is based on the Liberty Preservation Act. This model legislation (a copy of which is available from the Tenth Amendment Center) is designed to block the enforcement of the provisions of the NDAA authorizing the apprehension and indefinite detention of citizens of the United States.

Ever diligent, Marshall spoke out in defense of the protections afforded by the Fourth Amendment to the Constitution, specifically reminding constituents that regardless of the attempts by the feds to reduce the scope of that critical civil liberty, the guarantees enshrined in the Constitution and the Bill of Rights should remain ever sacrosanct.

"The U.S. Constitution provides for suspending habeus corpus in the event of invasion, but Congress did not reference that provision when it passed NDAA. That provision, and a similar one in the Virginia Constitution, are what separates us from the likes of Nazis, Communists and other totalitarian governments," he said.

One of the governments that suspended habeus corpus and unlawfully detained its citizen was that of the United States during the Second World War.

In a letter of support to Delegate Marshall by the Japanese American Citizens League (a copy of which was provided to *The New American*), the national executive director, S. Floyd Mori, compared that detention to the possible scenario post-NDAA. Mori writes:

[D]uring World War II the Japanese American community was targeted as "suspected enemy aliens" and by authority of Presidential Executive Order 9066, over 110,000 people were rounded up and put into concentration camps at ten desolate locations under the notion that they could be suspect.

This period of indefinite detention lasted until the War ended, and there was no due process as guaranteed by the Constitution.

The government was ordered by an Act of Congress to apologize and provide redress in order to learn a lesson that this should never again happen. If there were more who stood up to this injustice, much heartache and economic loss could have been avoided and this apology would not have been needed.

Today we face a similar situation. The so called "War on Terror" has lead to the same kind of hysteria and racist actions by government. I can also say that we have lacked the political leadership to identify that this kind of forced indefinite detention is a repeat of what happened during WWII.

Delegate Marshall expressed his gratitude for the gracious support of the Japanese American Citizens League, saying:

The American people need somebody to stand up against this injustice. HB 1160 is a tool that does just that; it stands up for the American people by respecting the basic principles of the Constitution. I am proud to stand with these patriotic Americans.

When contacted by *The New American*, Governor McDonnell's office declined comment on the Senate's passage of HB 1160.



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