

Form F2-1. Model Statute: Interim Protection of Non-Human Intelligence in United States Custody or Control

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When to use. Legislators drafting interim protections for NHI in U.S. custody or control. **Not for:** Questions of NHI legal status generally ([Issue F1](#)).

Deadlines. None.

[]TH CONGRESS
[] SESSION

H. R. []

To protect non-human intelligences from killing, torture, and cruel treatment by officers, employees, and contractors of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

[MONTH DAY], [YEAR]

[MR./MS.] (for [himself/herself and]) introduced the following bill; which was referred to the Committee on []

A BILL

To protect non-human intelligences from killing, torture,
and cruel treatment by officers, employees, and
contractors of the United States, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the
2 United States of America in Congress assembled,

3 **SEC. ____.** **SHORT TITLE.**

4 This section may be cited as the “Non-Human Intelligence Interim
5 Protection Act.”

6 **SEC. ____.** **FINDINGS.**

7 Congress finds that—

8 (1) the Federal Government has defined non-human intelligence
9 as any sentient intelligent non-human lifeform;

10 (2) beings with intelligence, communication, and moral agency
11 are entitled to protection from killing, torture, and cruel treatment;
12 and

13 (3) the absence of clear law creates risk of grave abuses by
14 officers, employees, and contractors of the United States.

15 **SEC. ____.** **DEFINITIONS.**

16 In this section—

17 (1) “Non-human intelligence” means any sentient intelligent
18 non-human lifeform regardless of nature or ultimate origin.

19 (2) “Covered person” means any officer, employee, member of the
20 armed forces, or contractor or subcontractor (at any tier) of the United
21 States, and any person acting under the direction or with the
22 authorization of any of them.

23 **SEC. ____.** **PROHIBITIONS.**

24 No covered person shall, anywhere—

25 (1) kill a non-human intelligence, except in individual or
26 collective self-defense against an imminent threat of death or serious
27 bodily injury, and then only to the extent necessary;

1 (2) commit torture or cruel, inhuman, or degrading treatment
2 against a non-human intelligence within the custody or physical
3 control of the covered person or the United States;

4 (3) conduct any procedure, experiment, or examination on a
5 living non-human intelligence without its informed consent, where
6 communication is possible, or otherwise without approval of the
7 Review Panel established under this section; or

8 (4) use force against a craft associated with non-human
9 intelligence that does not pose an imminent threat to persons or to the
10 national security of the United States.

11 **SEC. ____ . HUMANE TREATMENT AND CARE.**

12 Any non-human intelligence in the custody or effective control of the
13 United States or a covered person shall be treated humanely, provided
14 appropriate care, and afforded the means of communication to the extent
15 practicable.

16 **SEC. ____ . REPORTING AND MONITORING.**

17 (a) Within 72 hours after a non-human intelligence comes into the
18 custody or effective control of the United States or a covered person, the
19 Secretary of War or the Director of National Intelligence shall notify the
20 congressional defense and intelligence committees, the leadership of each
21 House, and the Independent Monitor.

22 (b) The President shall appoint an Independent Monitor, cleared for all
23 relevant programs, with access to any non-human intelligence in custody and
24 to all records, who shall report to Congress every 90 days.

25 (c) Within 60 days after enactment, the Secretary and the Director
26 shall report to the same recipients every instance since January 1, 1945,
27 known to any element of the Government or any contractor, in which a non-

1 human intelligence was in custody or was killed, and the disposition of any
2 remains.

3 **SEC. ____ REVIEW PANEL.**

4 (a) Establishment. There is established a Non-Human Intelligence
5 Research Review Panel of nine members appointed by the President, of whom
6 at least two shall be physicians, two shall be scientists in the life sciences,
7 two shall be ethicists, two shall be lawyers, and one shall be a member of the
8 public with no affiliation with any department, agency, or contractor.
9 Members shall be granted all clearances and accesses necessary to perform
10 their duties.

11 (b) Approval required. No examination, procedure, experiment, or
12 research involving a living non-human intelligence, and no destructive
13 analysis of remains, may be conducted without the Panel's prior written
14 approval.

15 (c) Standards. The Panel shall approve a proposal only if it finds that—

16 (1) the risks to the subject are minimized and are reasonable in
17 relation to the anticipated benefits to the subject and the importance of
18 the knowledge expected;

19 (2) informed consent will be sought and documented where
20 communication is possible, and that any attempt at communication
21 has been made;

22 (3) the subject's privacy and dignity will be protected; and

23 (4) for remains, the analysis is no more destructive than
24 necessary, and the remains will be held with respect and returned if a
25 claim on behalf of the deceased's community is presented and accepted.

26 In applying these standards the Panel shall be guided by part 46 of
27 title 45, Code of Federal Regulations, and by the consultation and

1 repatriation principles of the Native American Graves Protection and
2 Repatriation Act (25 U.S.C. 3001 et seq.).

3 (d) Monitoring and suspension. The Panel may monitor approved
4 research and shall suspend any research that departs from the approval or
5 causes unexpected serious harm.

6 (e) Records. The Panel shall keep complete records of each proposal
7 and decision and shall report to the congressional defense and intelligence
8 committees every 90 days, with a classified annex.

9 **SEC. ____.** **OFFENSES.**

10 Whoever, being a covered person, knowingly violates paragraph (1) or
11 (2) of the Prohibitions section shall be fined under title 18, United States
12 Code, or imprisoned for any term of years or for life, or both. There is
13 extraterritorial jurisdiction over an offense under this section. No limitation
14 period applies to an offense resulting in death.

15 **SEC. ____.** **NO IMMUNITY.**

16 No grant of immunity under statute, plea, cooperation, or non-
17 prosecution agreement, nondisclosure agreement, directive, or authorization
18 shall relieve any person of liability for conduct described in the Prohibitions
19 section, and no such conduct shall be “covered conduct” for purposes of any
20 truth and reconciliation or disclosure statute.

21 **SEC. ____.** **WHISTLEBLOWER PROTECTION.**

22 Any person who reports a violation of this section to the Independent
23 Monitor, an inspector general, or Congress shall have the protections of
24 section 1673(b) of the James M. Inhofe National Defense Authorization Act
25 for Fiscal Year 2023 (50 U.S.C. 3373b(b)).

1 **SEC. ____.** **RULE OF CONSTRUCTION.**

2 Nothing in this section shall be construed to determine the legal status
3 of non-human intelligence for any other purpose, or to limit any greater
4 protection under other law.

Drafting notes

- **Pardons.** The No Immunity section reaches statutory immunity and agreements only. Congress cannot limit the President's pardon power or change the effect of a pardon. *Ex parte Garland*, 71 U.S. (4 Wall.) 333, 380 (1867); *United States v. Klein*, 80 U.S. (13 Wall.) 128, 147-48 (1872). A sponsor who wants a check on pardons for these offenses can require the Attorney General to report any pardon or commutation for them to the committees within 30 days, which informs Congress without purporting to bind the President.
- **Review Panel.** The standards track the Common Rule (45 C.F.R. part 46) for consent and risk, with NAGPRA's consultation and repatriation model for remains. The informed-consent requirement applies only where communication is possible; otherwise the Panel's approval substitutes for consent, as for research on persons who cannot consent.
- **Self-defense.** Prohibition (1) and (4) allow force against an imminent threat. The standing rules of engagement and the law of war ([Issue F2](#)) still govern military operations; this section adds a statutory floor and a reporting duty.
- **Offenses.** The penalty for killing tracks 18 U.S.C. §1111 and the war crimes statute (18 U.S.C. §2441). Congress has removed the limitation period for listed terrorism offenses that result in death (18 U.S.C. §3286(b)), which is the model for the last sentence of the Offenses section.
- Related: Issues F1, F2, F5; Forms F1-1, B3-1.