

118TH CONGRESS
2D SESSION

S. 3881

To provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2024

Mrs. BLACKBURN introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes.

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

3 **SECTION 1. SHORT TITLES; TABLE OF CONTENTS; STATE**
4 **DEFINED; SEVERABILITY.**

5 (a) SHORT TITLES.—This Act may be cited as the
6 “Clear Law Enforcement for criminal Alien Removal Act
7 of 2024” or the “CLEAR Act of 2024”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short titles; table of contents; State defined; severability.
- Sec. 2. Definitions.
- Sec. 3. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
- Sec. 4. State authorization for assistance in the enforcement of immigration laws encouraged.
- Sec. 5. Listing of immigration violators in the National Crime Information Center database.
- Sec. 6. State and local law enforcement provision of information about apprehended aliens.
- Sec. 7. Financial assistance to State and local law enforcement agencies that assist in the enforcement of immigration laws.
- Sec. 8. Increased Federal detention space.
- Sec. 9. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
- Sec. 10. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
- Sec. 11. Immunity.
- Sec. 12. Institutional Removal Program.
- Sec. 13. Authorization of appropriations.
- Sec. 14. Severability.

3 **SEC. 2. DEFINITIONS.**

4 In this Act:

5 (1) SECRETARY.—The term “Secretary” means
 6 the Secretary of Homeland Security.

7 (2) STATE.—The term “State” has the mean-
 8 ing given such term in section 101(a)(36) of the Im-
 9 migration and Nationality Act (8 U.S.C.
 10 1101(a)(36)).

11 **SEC. 3. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IM-**
 12 **MIGRATION LAW ENFORCEMENT BY STATES**
 13 **AND POLITICAL SUBDIVISIONS OF STATES.**

14 Notwithstanding any other provision of law and re-
 15 affirming the existing inherent authority of States, law en-

1 enforcement personnel of a State, or of a political subdivision
2 of a State, have the inherent authority of a sovereign enti-
3 ty to investigate, identify, apprehend, arrest, detain, or
4 transfer to Federal custody aliens in the United States
5 (including the transportation of such aliens across State
6 lines to detention centers), for the purposes of assisting
7 in the enforcement of the immigration laws of the United
8 States in the course of carrying out routine duties. This
9 State authority has never been displaced or preempted by
10 Congress.

11 **SEC. 4. STATE AUTHORIZATION FOR ASSISTANCE IN THE**
12 **ENFORCEMENT OF IMMIGRATION LAWS EN-**
13 **COURAGED.**

14 (a) IN GENERAL.—Beginning on the date that is 1
15 year after the date of the enactment of this Act, a State,
16 or a political subdivision of a State, that has in effect a
17 statute, policy, or practice that prohibits law enforcement
18 officers of the State, or of a political subdivision of the
19 State, from assisting or cooperating with Federal immi-
20 gration law enforcement in the course of carrying out the
21 officers' routine law enforcement duties may not receive
22 any of the funds that would otherwise be allocated to the
23 State under section 241(i) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1231(i)).

1 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
2 tion may be construed to require law enforcement officials
3 from States, or from political subdivisions of States, to
4 report or arrest victims or witnesses of a criminal offense.

5 (c) REALLOCATION OF FUNDS.—Any funds that are
6 not allocated to a State, or to a political subdivision of
7 a State, due to the failure of such State, or of the political
8 subdivision of such State, to comply with subsection (a)
9 shall be reallocated to States, or to political subdivisions
10 of States, that comply with such subsection.

11 **SEC. 5. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
12 **TIONAL CRIME INFORMATION CENTER DATA-**
13 **BASE.**

14 (a) PROVISION OF INFORMATION TO THE NATIONAL
15 CRIME INFORMATION CENTER.—

16 (1) IN GENERAL.—Not later than 180 days
17 after the date of the enactment of this Act and peri-
18 odically thereafter as updates may require, the Com-
19 missioner for U.S. Customs and Border Protection
20 shall provide the National Crime Information Center
21 of the Department of Justice with such information
22 as the Commissioner may possess regarding any
23 aliens—

24 (A) against whom a final order of removal
25 has been issued;

1 (B) who have signed a voluntary departure
2 agreement;

3 (C) who have overstayed their authorized
4 period of stay; or

5 (D) whose visas have been revoked.

6 (2) IMMIGRATION VIOLATORS FILE.—The Na-
7 tional Crime Information Center shall enter all of
8 the information received pursuant to paragraph (1)
9 into the Immigration Violators File regardless of
10 whether—

11 (A) the alien concerned received notice of
12 a final order of removal;

13 (B) the alien concerned has already been
14 removed; or

15 (C) sufficient identifying information is
16 available with respect to the alien concerned.

17 (b) INCLUSION OF INFORMATION IN THE NCIC
18 INDEX.—

19 (1) IN GENERAL.—Section 534(a) of title 28,
20 United States Code, is amended—

21 (A) by redesignating paragraphs (4) and
22 (5) as paragraphs (5) and (6), respectively; and

23 (B) by inserting after paragraph (3) the
24 following:

1 “(4) acquire, collect, classify, and preserve
2 records of violations by aliens of the immigration
3 laws of the United States, regardless of whether—

4 “(A) any such alien has received notice of
5 any such violation;

6 “(B) sufficient identifying information is
7 available with respect to any such alien; and

8 “(C) any such alien has already been re-
9 moved from the United States;”.

10 (2) EFFECTIVE DATE.—The Attorney General
11 shall implement the amendment made by paragraph
12 (1) not later than 6 months after the date of the en-
13 actment of this Act.

14 **SEC. 6. STATE AND LOCAL LAW ENFORCEMENT PROVISION**
15 **OF INFORMATION ABOUT APPREHENDED**
16 **ALIENS.**

17 (a) PROVISION OF INFORMATION.—In compliance
18 with section 642(a) of the Illegal Immigration Reform and
19 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373(a))
20 and section 434 of the Personal Responsibility and Work
21 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
22 each State, and each political subdivision of a State, shall
23 submit to the Secretary, in a timely manner, the informa-
24 tion specified in subsection (b) with respect to each alien
25 apprehended in the jurisdiction of the State, or of a polit-

1 ical subdivision of the State, who is believed to be in viola-
2 tion of the immigration laws of the United States.

3 (b) INFORMATION REQUIRED.—The information
4 specified in this subsection is—

5 (1) the alien’s name;

6 (2) the alien’s address or place of residence;

7 (3) a physical description of the alien;

8 (4) the date, time, and location of the encounter
9 with the alien and reason for stopping, detaining,
10 apprehending, or arresting the alien;

11 (5) if applicable—

12 (A) the alien’s driver’s license number and
13 the State of issuance of such license;

14 (B) the type of any other identification
15 document issued to the alien, the designation
16 number contained on the identification docu-
17 ment, and the issuing entity for the identifica-
18 tion document; and

19 (C) the license plate number, make, and
20 model of any automobile registered to, or driven
21 by, the alien; and

22 (6) if available or readily obtainable—

23 (A) a photo of the alien; and

24 (B) the alien’s fingerprints.

1 (c) ANNUAL REPORT.—The Secretary shall annually
2 submit to Congress a detailed report listing the States,
3 and the political subdivisions of States, that provided in-
4 formation pursuant to subsection (a) with respect to the
5 preceding year.

6 (d) REIMBURSEMENT.—The Secretary shall reim-
7 burse States, and political subdivisions of a State, for all
8 reasonable costs, as determined by the Secretary, incurred
9 by each State, and each political subdivision of a State,
10 as a result of submitting the information required to be
11 submitted pursuant to subsection (a).

12 (e) RULE OF CONSTRUCTION.—Nothing in this sec-
13 tion may be construed to require law enforcement officials
14 of a State, or of a political subdivision of a State, to sub-
15 mit to the Secretary information related to a victim of a
16 crime or witness to a criminal offense.

17 **SEC. 7. FINANCIAL ASSISTANCE TO STATE AND LOCAL LAW**

18 **ENFORCEMENT AGENCIES THAT ASSIST IN**

19 **THE ENFORCEMENT OF IMMIGRATION LAWS.**

20 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING
21 AND PROCESSING CERTAIN ALIENS.—The Secretary shall
22 award grants to States and political subdivisions of States
23 for the procurement of equipment, technology, facilities,
24 and other products that facilitate and are directly related
25 to investigating, apprehending, arresting, detaining, or

1 transporting aliens who have violated the immigration
2 laws of the United States, including additional administra-
3 tive costs incurred to comply with the requirements under
4 this Act.

5 (b) ELIGIBILITY.—A State or political subdivision of
6 a State desiring a grant under this section shall have the
7 authority to assist, and shall have a written policy and
8 practice of assisting, in the enforcement of the immigra-
9 tion laws of the United States in the course of carrying
10 out the routine law enforcement duties of such State or
11 political subdivision. Entities covered under this section
12 may not have any policy or practice that prevents local
13 law enforcement from inquiring about a suspect’s immi-
14 gration status.

15 (c) GAO AUDIT.—Not later than 3 years after the
16 date of the enactment of this Act, the Comptroller General
17 of the United States shall conduct an audit of funds dis-
18 tributed to States and political subdivisions of a State pur-
19 suant to subsection (a).

20 **SEC. 8. INCREASED FEDERAL DETENTION SPACE.**

21 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
22 FACILITIES.—

23 (1) IN GENERAL.—The Secretary shall con-
24 struct or acquire, in addition to existing facilities for
25 the detention of aliens, 20 detention facilities in the

1 United States, for aliens detained pending removal
2 from the United States or a decision regarding such
3 removal. Each facility shall have a sufficient number
4 of beds necessary to effectuate the purposes of this
5 Act.

6 (2) DETERMINATIONS.—The location of any de-
7 tention facility built or acquired pursuant to this
8 subsection shall be determined by the Assistant Di-
9 rector of the Custody Management Division of the
10 Enforcement and Removal Directorate.

11 (b) TECHNICAL AND CONFORMING AMENDMENT.—
12 Section 241(g)(1) of the Immigration and Nationality Act
13 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
14 pend” and inserting “shall expend”.

15 **SEC. 9. FEDERAL CUSTODY OF ALIENS UNLAWFULLY**
16 **PRESENT IN THE UNITED STATES APPRE-**
17 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
18 **MENT.**

19 (a) STATE APPREHENSION.—

20 (1) IN GENERAL.—Chapter 4 of title II of the
21 Immigration and Nationality Act (8 U.S.C. 1221 et
22 seq.) is amended by inserting after section 240C the
23 following:

1 **“SEC. 240D. CUSTODY OF ALIENS UNLAWFULLY PRESENT**
2 **IN THE UNITED STATES.**

3 “(a) **DEFINED TERM.**—In this section, the term
4 ‘alien who is unlawfully present in the United States’
5 means an alien who—

6 “(1) entered the United States without inspec-
7 tion or at any time, manner, or place not designated
8 by the Secretary of Homeland Security;

9 “(2) was admitted as a nonimmigrant and who,
10 at the time the alien was taken into custody by the
11 State, or a political subdivision of the State, failed—

12 “(A) to maintain the nonimmigrant status
13 in which the alien was admitted or to which it
14 was changed pursuant to section 248; or

15 “(B) to comply with the conditions of any
16 such status;

17 “(3) was admitted as an immigrant and subse-
18 quently failed to comply with the requirements of
19 such status; or

20 “(4) failed to depart the United States under a
21 voluntary departure agreement or under a final
22 order of removal.

23 “(b) **TRANSFER OF CUSTODY BY STATE AND LOCAL**
24 **OFFICIALS.**—If a State, or a political subdivision of the
25 State, exercising authority with respect to the apprehen-
26 sion or arrest of an alien who is unlawfully present in the

1 United States, submits to the Secretary of Homeland Se-
2 curity a request that such alien be taken into Federal cus-
3 tody, the Secretary—

4 “(1) not later than 48 hours after the conclu-
5 sion of the State, or the political subdivision of a
6 State, charging process or dismissal process, or if no
7 State or political subdivision charging or dismissal
8 process is required, not later than 48 hours after the
9 alien is apprehended, shall take the alien into the
10 custody of the Federal Government and incarcerate
11 the alien; or

12 “(2) shall request that the relevant State or
13 local law enforcement agency temporarily incarcerate
14 or transport the alien for transfer to Federal cus-
15 tody.

16 “(c) POLICY ON DETENTION IN STATE AND LOCAL
17 DETENTION FACILITIES.—In carrying out section
18 241(g)(1), the Attorney General or the Secretary of
19 Homeland Security shall ensure that an alien arrested
20 pursuant to this Act is detained, pending the alien being
21 taken for an examination under this section, in a State
22 or local prison, jail, detention center, or other comparable
23 facility. Notwithstanding any other provision of law or reg-
24 ulation, such a facility is adequate for detention if—

1 “(1) the facility is the most suitably located
2 Federal, State, or local facility available for such
3 purpose under the circumstances;

4 “(2) an appropriate arrangement for such use
5 of the facility can be made; and

6 “(3) the facility satisfies the standards for the
7 housing, care, and security of persons held in cus-
8 tody of a United States marshal.

9 “(d) REIMBURSEMENT.—

10 “(1) IN GENERAL.—The Secretary of Homeland
11 Security shall reimburse States and political subdivi-
12 sions of a State for all reasonable expenses, as deter-
13 mined by the Secretary, incurred by the State, or
14 political subdivision as a result of the incarceration
15 and transportation of an alien who is unlawfully
16 present in the United States.

17 “(2) CALCULATION.—Compensation provided
18 pursuant to paragraph (1) shall be equal to the sum
19 of—

20 “(A) the average cost of incarceration of a
21 prisoner in the relevant State for the period the
22 alien was incarcerated, as determined by the
23 chief executive officer of a State, or of a polit-
24 ical subdivision of a State; and

1 “(B) the cost of transporting the alien
2 from the point of apprehension to the place of
3 detention, and to the custody transfer point if
4 the place of detention and the place of custody
5 are different.

6 “(e) SECURE FACILITIES.—The Secretary of Home-
7 land Security shall ensure that aliens incarcerated in Fed-
8 eral facilities pursuant to this section are held in facilities
9 that provide an appropriate level of security.

10 “(f) TRANSFER.—

11 “(1) IN GENERAL.—In carrying out this sec-
12 tion, the Secretary of Homeland Security shall es-
13 tablish a regular circuit and schedule for the prompt
14 transfer of apprehended aliens from the custody of
15 States and political subdivisions of a State to Fed-
16 eral custody.

17 “(2) CONTRACTS.—The Secretary of Homeland
18 Security may enter into contracts, including appro-
19 priate private contracts, to implement this sub-
20 section.”.

21 “(2) CLERICAL AMENDMENT.—The table of con-
22 tents of the Immigration and Nationality Act (8
23 U.S.C. 1101 et seq.) is amended by inserting after
24 the item relating to section 240C the following:

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.

1 (b) GAO AUDIT.—Not later than 3 years after the
2 date of the enactment of this Act, the Comptroller General
3 of the United States shall conduct an audit of compensa-
4 tion to States and political subdivisions of a State for the
5 incarceration of aliens unlawfully present in the United
6 States under section 240D of the Immigration and Na-
7 tionality Act, as added by subsection (a)(1).

8 **SEC. 10. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
9 **MENT PERSONNEL RELATING TO THE EN-**
10 **FORCEMENT OF IMMIGRATION LAWS.**

11 (a) ESTABLISHMENT OF TRAINING MANUAL AND
12 POCKET GUIDE.—Not later than 180 days after the date
13 of the enactment of this Act, the Secretary shall develop—

14 (1) a manual to train law enforcement per-
15 sonnel of a State, or of a political subdivision of a
16 State, on the investigation, identification, apprehen-
17 sion, arrest, detention, and transfer to Federal cus-
18 tody of aliens unlawfully present in the United
19 States (including the transportation of such aliens
20 across State lines to detention centers and the iden-
21 tification of fraudulent documents); and

22 (2) an immigration enforcement pocket guide
23 for law enforcement personnel of a State, or of a po-
24 litical subdivision of a State, to provide a quick ref-

1 erence for such personnel in the course of carrying
2 out their duties.

3 (b) AVAILABILITY.—The training manual and pocket
4 guide developed pursuant to subsection (a) shall be made
5 available to all State and local law enforcement personnel.

6 (c) COSTS.—The Secretary shall be responsible for
7 any costs incurred in developing the training manual and
8 pocket guide pursuant to subsection (a).

9 (d) RULE OF CONSTRUCTION.—Nothing in this sec-
10 tion may be construed to require State or local law en-
11 forcement personnel to carry the training manual or pock-
12 et guide with them while on duty.

13 (e) TRAINING FLEXIBILITY.—

14 (1) IN GENERAL.—The Secretary shall make
15 training of State and local law enforcement officers
16 available through as many means as possible, includ-
17 ing through—

18 (A) residential training at the Center for
19 Domestic Preparedness of the Federal Emer-
20 gency Management Agency;

21 (B) onsite training held at State or local
22 police agencies or facilities;

23 (C) online training courses by computer,
24 teleconferencing, and videotape; or

1 (D) training courses made available on
2 DVD.

3 (2) E-LEARNING.—Not later than 120 days
4 after the date of the enactment of this Act, the Sec-
5 retary shall ensure that—

6 (A) an e-learning portal is made available
7 through the Federal Law Enforcement Training
8 Center’s Distributed Learning Program to train
9 State and local law enforcement officers
10 through a secure, encrypted distributed learning
11 system; and

12 (B) the system described in subparagraph
13 (A) is scalable and survivable and has all its
14 servers based in the United States.

15 (3) PRIORITY.—In carrying out this section,
16 priority funding shall be given for existing web-based
17 immigration enforcement training systems.

18 (4) FEDERAL PERSONNEL TRAINING.—The
19 training of State and local law enforcement per-
20 sonnel under this section shall not displace the train-
21 ing of Federal personnel.

22 (5) SAVINGS PROVISION.—Nothing in this Act
23 or in any other provision of law may be construed
24 as making any immigration-related training a re-
25 quirement for, or prerequisite to, any State or local

1 law enforcement officer assisting in the enforcement
2 of Federal immigration laws in the normal course of
3 carrying out the law enforcement duties of such offi-
4 cers.

5 **SEC. 11. IMMUNITY.**

6 (a) **PERSONAL IMMUNITY.**—Notwithstanding any
7 other provision of law, a law enforcement officer of a State
8 or local law enforcement agency who is acting within the
9 scope of the officer’s official duties shall be immune, to
10 the same extent as a Federal law enforcement officer,
11 from personal liability arising out of the performance of
12 any duty described in this Act.

13 (b) **AGENCY IMMUNITY.**—Notwithstanding any other
14 provision of law, a State or local law enforcement agency
15 shall be immune from any claim for money damages based
16 on Federal, State, or local civil rights law for an incident
17 arising out of the enforcement of any Federal immigration
18 law, except to the extent a law enforcement officer of such
19 agency committed a violation of Federal, State, or local
20 criminal law in the course of enforcing such immigration
21 law.

22 **SEC. 12. INSTITUTIONAL REMOVAL PROGRAM.**

23 (a) **CONTINUATION AND EXPANSION.**—

1 (1) IN GENERAL.—The Secretary shall continue
2 to operate and implement the program known as the
3 Institutional Removal Program, which—

4 (A) identifies removable criminal aliens in
5 Federal and State correctional facilities;

6 (B) ensures such aliens are not released
7 into the community; and

8 (C) removes such aliens from the United
9 States after the completion of their respective
10 sentences.

11 (2) EXPANSION.—The Institutional Removal
12 Program shall be extended to all States. Any State
13 that receives Federal funds for the incarceration of
14 criminal aliens shall—

15 (A) cooperate with officials of the Institu-
16 tional Removal Program;

17 (B) expeditiously and systematically iden-
18 tify all criminal aliens in its prison and jail pop-
19 ulations; and

20 (C) promptly convey such information to
21 officials of the Institutional Removal Program
22 as a condition of receiving such Federal funds.

23 (b) AUTHORIZATION FOR DETENTION AFTER COM-
24 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law

1 enforcement officers of a State, or of a political subdivision
2 of a State, may—

3 (1) hold a criminal alien for a period of up to
4 14 days after the alien has completed the alien’s
5 State prison sentence in order to effectuate the
6 transfer of the alien to Federal custody when the
7 alien is removable or not lawfully present in the
8 United States; or

9 (2) issue a detainer that would allow aliens who
10 have served a State prison sentence to be detained
11 by the State prison until personnel from U.S. Immi-
12 gration and Customs Enforcement can take such
13 alien into custody.

14 (c) **TECHNOLOGY USAGE.**—Technology, such as video
15 conferencing, shall be used to the maximum extent prac-
16 ticable to make the Institutional Removal Program avail-
17 able in remote locations. Mobile access to Federal data-
18 bases of aliens, such as IDENT, and live scan technology
19 shall be used, to the maximum extent practicable, to make
20 such resources available to State and local law enforce-
21 ment agencies in remote locations.

22 **SEC. 13. AUTHORIZATION OF APPROPRIATIONS.**

23 (a) **IN GENERAL.**—There are authorized to be appro-
24 priated to the Department of Homeland Security, for fis-

1 cal year 2025 and for each subsequent fiscal year, such
2 sums as may be necessary to carry out this Act.

3 (b) STATE CRIMINAL ALIEN ASSISTANCE PRO-
4 GRAM.—Section 241(i)(5) of the Immigration and Nation-
5 ality Act (8 U.S.C. 1231(i)(5)) is amended to read as fol-
6 lows:

7 “(5) AUTHORIZATION OF APPROPRIATIONS.—
8 There are authorized to be appropriated to carry out
9 this subsection such sums as may be necessary for
10 fiscal year 2025 and for each subsequent fiscal
11 year.”.

12 **SEC. 14. SEVERABILITY.**

13 If any provision of this Act or of any amendment
14 made by this Act, or the application of such provision or
15 amendment to any person or circumstance, is held to be
16 invalid, the remainder of the provisions of this Act and
17 of the amendments made by this Act, and the application
18 of any such provision or amendment to other persons not
19 similarly situated or to other circumstances, shall not be
20 affected.

○