

118TH CONGRESS
2D SESSION

S. 4032

To authorize magistrate judges to issue arrest warrants for certain criminal aliens.

IN THE SENATE OF THE UNITED STATES

MARCH 21, 2024

Mr. MURPHY (for himself, Mr. BROWN, Ms. BALDWIN, Mr. KING, Mr. CASEY, Mr. KAINE, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To authorize magistrate judges to issue arrest warrants for certain criminal aliens.

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 TITLE.**

4 This Act may be cited as the “Improving Public Safe-
5 ty Through Immigration Warrant Issuance Act”.

6 **SEC. 2. WARRANT AUTHORITY.**

7 (a) IN GENERAL.—Chapter 9 of title II of the Immi-
8 gration and Nationality Act (8 U.S.C. 1351 et seq.) is
9 amended by inserting after section 287 the following:

1 **“SEC. 287A. AUTHORIZATION OF FEDERAL COURTS TO**
2 **ISSUE ARREST WARRANTS.**

3 “(a) AUTHORIZATION OF FEDERAL COURTS TO
4 ISSUE ARREST WARRANTS.—Upon receiving an applica-
5 tion from a Federal law enforcement officer or an attorney
6 for the Federal Government, a magistrate judge is author-
7 ized to issue a warrant to seize an alien located within
8 the district over which the magistrate judge has jurisdic-
9 tion if there is probable cause to believe that the alien—

10 “(1) is removable (as defined in section
11 240(e)(2)); and

12 “(2)(A) has been charged with, or convicted of,
13 a felony;

14 “(B) has been charged with, or convicted of, a
15 crime of violence, including any crime that endan-
16 gers the safety or welfare of children; or

17 “(C) is a threat to national security.

18 “(b) ENSURING THE EFFECTIVENESS OF WARRANTS
19 FOR PERSONS IN STATE OR LOCAL CUSTODY.—

20 “(1) ADDITIONAL AUTHORITIES.—If such ac-
21 tions are reasonably necessary to ensure the effec-
22 tiveness of an arrest warrant issued pursuant to
23 subsection (a), a magistrate judge may order the
24 State or local jurisdiction with custody over the alien
25 subject to such warrant—

1 “(A) to transfer the alien to Federal cus-
2 tody;

3 “(B) to notify the Federal Government of
4 the impending release of the alien to facilitate
5 such transfer; and

6 “(C) to hold the alien for such time as may
7 be necessary to facilitate such transfer, which
8 may not exceed 48 hours.

9 “(2) TIMING OF ORDER.—An order described in
10 paragraph (1) may be issued contemporaneously
11 with an arrest warrant issued pursuant to subsection
12 (a) if, based on reliable evidence, a State or local ju-
13 risdiction with custody over the alien subject to such
14 warrant is unlikely to assist in effectuating the war-
15 rant.

16 “(3) RULES OF CONSTRUCTION.—Nothing in
17 this subsection may be construed—

18 “(A) to limit any inherent or statutory
19 power of the Federal courts to issue orders in
20 aid of their jurisdiction, including writs of ha-
21 beas corpus and writs authorized under section
22 1651 of title 28, United States Code (commonly
23 known as the ‘All Writs Act’); or

1 “(B) to interfere with the Department of
2 Homeland Security’s ability to issue detainer
3 requests, as authorized by law.

4 “(c) ISSUING THE WARRANT.—Each warrant issued
5 pursuant to this section shall—

6 “(1) be issued to an officer authorized to exe-
7 cute it;

8 “(2) identify the alien to be seized and des-
9 ignate the magistrate judge to whom the warrant
10 shall be returned;

11 “(3) require the officer to submit the issued
12 warrant to any State or locality with custody over
13 the alien subject to the warrant as quickly as prac-
14 ticable; and

15 “(4) be returned to the magistrate judge des-
16 ignated in the warrant.

17 “(d) PROCEDURE FOR OBTAINING A WARRANT.—

18 “(1) EX PARTE PROCEEDINGS.—Warrant pro-
19 ceedings under this section may be conducted ex
20 parte.

21 “(2) WARRANT ON AN AFFIDAVIT.—When a
22 Federal law enforcement officer or an attorney for
23 the Federal Government presents an affidavit in
24 support of a warrant, the magistrate judge may—

1 “(A) require the affiant to appear person-
2 ally before the judge; and

3 “(B) examine under oath the affiant and
4 any witness produced by the affiant.

5 “(3) RECORDING TESTIMONY.—Testimony
6 taken in support of a warrant shall be recorded by
7 a court reporter or by a suitable recording device.
8 The magistrate judge shall file the transcript or re-
9 cording with the clerk, along with any related affi-
10 davit.

11 “(4) REQUESTING A WARRANT BY TELEPHONIC
12 OR OTHER RELIABLE ELECTRONIC MEANS.—In ac-
13 cordance with rule 4.1 of the Federal Rules of
14 Criminal Procedure, a magistrate judge may issue a
15 warrant based on information communicated by tele-
16 phone or other reliable electronic means.

17 “(e) DEFINITIONS.—In this section:

18 “(1) ATTORNEY FOR THE FEDERAL GOVERN-
19 MENT.—The term ‘attorney for the Federal Govern-
20 ment’ means an attorney representing the Federal
21 Government, as authorized by the Attorney General.

22 “(2) CRIME OF VIOLENCE.—The term ‘crime of
23 violence’ has the meaning given such term in section
24 16 of title 18, United States Code.

1 “(3) FELONY.—The term ‘felony’ means a
2 crime classified as a felony in the convicting jurisdic-
3 tion, excluding Federal, State, or local offenses for
4 which an essential element was the alien’s immigra-
5 tion status.

6 “(4) MAGISTRATE JUDGE.—The term ‘mag-
7 istrate judge’ means a United States magistrate
8 judge appointed pursuant to section 631 of title 28,
9 United States Code.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 for the Immigration and Nationality Act (8 U.S.C. 1101
12 et seq.) is amended by inserting after the item relating
13 to section 287 the following:

“Sec. 287A. Authorization of Federal courts to issue arrest warrants.”.

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