

114TH CONGRESS
1ST SESSION

S. _____

To enhance communication between Federal, State, tribal, and local jurisdictions and to ensure the rapid and effective deportation of certain criminal aliens.

IN THE SENATE OF THE UNITED STATES

Mr. MCCAIN (for himself and Mr. FLAKE) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To enhance communication between Federal, State, tribal, and local jurisdictions and to ensure the rapid and effective deportation of 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 “Criminal Alien Depor-
5 tation Act”.

6 **SEC. 2. MANDATORY DETENTION AND EXPEDITED RE-**
7 **MOVAL OF CERTAIN CRIMINAL ALIENS.**

8 (a) DETENTION.—Section 236(c) of the Immigration
9 and Nationality Act (8 U.S.C. 1226(c)(1)) is amended—

1 (1) in paragraph (1)—

2 (A) in subparagraph (A), by striking the
3 comma at the end and inserting a semicolon;

4 (B) in subparagraph (B), by striking the
5 comma at the end and inserting a semicolon;

6 (C) in subparagraph (C), by striking “, or”
7 at the end and inserting a semicolon;

8 (D) in subparagraph (D), by striking the
9 comma at the end and inserting “; or”; and

10 (E) by inserting after subparagraph (D)
11 the following:

12 “(E)(i) is unlawfully present in the United
13 States, as determined by the Secretary of
14 Homeland Security; and

15 “(ii) is arrested for any offense described
16 in subparagraphs (A) through (D), the convic-
17 tion of which would render the alien inadmis-
18 sible under section 212(a) or deportable under
19 section 237(a),”; and

20 (2) in paragraph (2)—

21 (A) by striking “The Attorney General”
22 and inserting the following:

23 “(A) IN GENERAL.—Except as provided in
24 subparagraph (C), the Secretary of Homeland
25 Security”;

1 (B) by striking “Attorney General” each
2 place such term appears and inserting “Sec-
3 retary”;

4 (C) by striking “Code, that release” and
5 inserting the following: “Code, that—

6 “(i) release”;

7 (D) by striking “investigation, and the
8 alien” and inserting the following: “investiga-
9 tion; and

10 “(ii) the alien”;

11 (E) by striking “A decision relating to
12 such release” and inserting the following:

13 “(B) DECISION PROCEDURE.—A decision
14 relating to a release under subparagraph (A)”;
15 and

16 (F) by adding at the end the following:

17 “(D) ALIENS WHO HAVE BEEN ARRESTED,
18 BUT NOT CONVICTED.—The Secretary of Home-
19 land Security may release any alien held pursu-
20 ant to paragraph (1)(E) to the appropriate au-
21 thority for any proceedings subsequent to the
22 arrest. The Secretary shall resume custody of
23 such alien during any period pending the final
24 disposition of any such proceedings when the
25 alien is not in the custody of such appropriate

1 authority. If the alien is not convicted of the of-
2 fense for which the alien was arrested, the Sec-
3 retary shall continue to detain the alien until
4 removal proceedings are completed.”.

5 (b) **PROMPT REMOVAL.**—Section 239(d) of the Immi-
6 gration and Nationality Act (8 U.S.C. 1229(d)) is amend-
7 ed by adding at the end the following:

8 “(3) The Secretary of Homeland Security shall
9 complete removal proceedings for any alien held pur-
10 suant to section 236(e)(1)(E) not later than 90 days
11 after such alien is detained.”.

12 **SEC. 3. EMERGENCY IMMIGRATION PERSONNEL.**

13 (a) **GOAL.**—It shall be the goal of the Attorney Gen-
14 eral, the Secretary of Homeland Security, and the Direc-
15 tor of the Executive Office for Immigration Review to use
16 the amounts appropriated pursuant to subsection (d) to
17 bring a prompt resolution to immigration cases pertaining
18 to aliens who are inadmissible under section 212(a)(2) or
19 237(a)(2) of the Immigration and Nationality Act (8
20 U.S.C. 1182(a) and 1227(a)).

21 (b) **EMERGENCY IMMIGRATION JUDGES.**—

22 (1) **DESIGNATION.**—Not later than 14 days
23 after the date of the enactment of this Act, the At-
24 torney General shall designate up to 100 temporary
25 immigration judges, for renewable 6-month terms,

1 including by hiring retired immigration judges, mag-
2 istrate judges, administrative law judges, or other
3 qualified attorneys using the same criteria as applied
4 to the hiring of permanent immigration judges.

5 (2) REQUIREMENT.—The Attorney General
6 shall ensure that sufficient immigration judge re-
7 sources are dedicated to the achieving the goal de-
8 scribed in subsection (a).

9 (c) IMMIGRATION LITIGATION ATTORNEYS.—The
10 Secretary of Homeland Security shall hire 150 new immi-
11 gration litigation attorneys in the Field Legal Operations
12 of U.S. Immigration and Customs Enforcement with par-
13 ticular focus on the Office of Chief Counsel attorneys in
14 the areas of need.

15 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
16 authorized to be appropriated \$100,000,000 to carry out
17 this section.

18 **SEC. 4. SENSE OF THE SENATE REGARDING THE PROSECU-**
19 **TION OF FIRST TIME ILLEGAL BORDER**
20 **CROSSERS.**

21 It is the sense of the Senate that—

22 (1) gains made in border security and positive
23 trends in recidivism rates are of critical importance
24 to those living and working in the border region and
25 to the Nation as a whole;

1 (2) refusing to prosecute first time illegal bor-
2 der crossers under Operation Streamline will jeop-
3 ardize border security gains;

4 (3) the border security steps that have led to
5 some measure of improvement on the border, such
6 as the historical implementation of Operation
7 Streamline, should be preserved; and

8 (4) appropriate officials of the executive branch
9 should immediately remove any issued or related
10 prohibition, policy, guidance, or direction to cease
11 prosecuting first time illegal border crossers under
12 Operation Streamline.

13 **SEC. 5. REPORTING REQUIREMENTS.**

14 (a) **REPORT REQUIRED.**—Not later than 180 days
15 after the date of the enactment of this Act, and annually
16 thereafter, the Secretary of Homeland Security shall sub-
17 mit a report to the Committee on the Judiciary of the Sen-
18 ate and the Committee on the Judiciary of the House of
19 Representatives that includes the information specified in
20 subsection (b).

21 (b) **CONTENTS.**—The report required under sub-
22 section (a) shall describe—

23 (1) the number of aliens currently present in
24 the United States who have ever been arrested for
25 a criminal offense;

1 (2) the number of aliens currently present in
2 the United States who have ever been convicted of
3 a criminal offense;

4 (3) the number of aliens with final orders of re-
5 moval who are currently present in the United
6 States and of such aliens—

7 (A) how many have ever been arrested for
8 any criminal offense; and

9 (B) how many have ever been convicted for
10 any criminal offense;

11 (4) the number of detainers that were issued by
12 the Department of Homeland Security during the
13 previous fiscal year and the number of such detain-
14 ers that were honored; and

15 (5) during the previous fiscal year—

16 (A) the number of aliens who were de-
17 ported not later than 90 days after being de-
18 tained by U.S. Immigration and Customs En-
19 forcement, as required under section 239(d)(3)
20 of the Immigration and Nationality Act (8
21 U.S.C. 1229(d)) and the criminal offenses of
22 such aliens;

23 (B) of the aliens who should have been de-
24 ported under such section and were not de-
25 ported within 90 days of detention—

1 (i) the reasons the aliens were not de-
2 ported; and

3 (ii) the criminal offenses of such
4 aliens; and

5 (C) of the aliens who were released from
6 the custody of U.S. Immigration and Customs
7 Enforcement and not deported—

8 (i) the number of such aliens;

9 (ii) the criminal offenses committed
10 by such aliens;

11 (iii) the conditions of their release;

12 (iv) the number of aliens who com-
13 mitted a crime after being released from
14 custody; and

15 (v) a list of crimes committed by such
16 aliens.