

110TH CONGRESS
1ST SESSION

H. R. 3531

To amend the Immigration and Nationality Act to improve the interior enforcement of the immigration laws of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2007

Ms. GINNY BROWN-WAITE of Florida (for herself, Mr. MILLER of Florida, Mrs. DRAKE, Mr. BILBRAY, and Mr. TANCREDI) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to improve the interior enforcement of the immigration laws of the United States, 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 TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Accountability in Enforcing Immigration Laws Act of
6 2007”.

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

Sec. 1. Short title; table of contents.

TITLE I—ILLEGAL IMMIGRATION

Sec. 101. Making illegal immigration a felony.

Sec. 102. Detention of illegal aliens.

Sec. 103. State and local law enforcement bonuses.

Sec. 104. Employment investigations and restrictions for airport workers.

Sec. 105. Terrorist watchlist and immigration status review for high-risk critical infrastructure.

Sec. 106. Declaration of Congress regarding rapes along the border with Mexico.

TITLE II—ENFORCEMENT

Sec. 201. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.

Sec. 202. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.

Sec. 203. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.

Sec. 204. Institutional removal program (IRP).

Sec. 205. State criminal alien assistance program (SCAAP).

Sec. 206. State authorization for assistance in the enforcement of immigration laws encouraged.

Sec. 207. Listing of immigration violators in the National Crime Information Center database.

3 **TITLE I—ILLEGAL IMMIGRATION**

4 **SEC. 101. MAKING ILLEGAL IMMIGRATION A FELONY.**

5 Section 275(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1325(a)) is amended by striking “or impris-
7 oned not more than 6 months, or both, and, for a subse-
8 quent commission of any such offense, be fined under title
9 18, United States Code”.

10 **SEC. 102. DETENTION OF ILLEGAL ALIENS.**

11 (a) IN GENERAL.—The Commissioner of United
12 State Immigration and Customs Enforcement shall pro-
13 vide—

1 (1) for the detention of all aliens unlawfully
2 present in the United States who are apprehended
3 by State or local law enforcement officers; and

4 (2) in the case of a State or local government
5 the law enforcement agency of which detains such an
6 alien, for the payment to such government of the per
7 diem rate to detain such alien from the time of noti-
8 fication to United States Immigration and Customs
9 Enforcement by such government of such detention
10 until such alien is removed from such detention.

11 (b) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated such sums as may be
13 necessary to carry out subsection (a).

14 **SEC. 103. STATE AND LOCAL LAW ENFORCEMENT BONUSES.**

15 The Secretary of Homeland Security is authorized,
16 under the program carried out under section 287(g) of the
17 Immigration and Nationality Act (8 U.S.C. 1357(g)), to
18 pay bonuses to State and local law enforcement agencies
19 for assistance in enforcing immigration laws.

20 **SEC. 104. EMPLOYMENT INVESTIGATIONS AND RESTRIC-**
21 **TIONS FOR AIRPORT WORKERS.**

22 Section 44936(a)(1) of title 49, United States Code,
23 is amended in subparagraphs (A) and (B)—

24 (1) by inserting “, immigration status check,”
25 after “criminal history record check”; and

1 (2) by inserting “on an annual basis” after “be
2 conducted”.

3 **SEC. 105. TERRORIST WATCHLIST AND IMMIGRATION STA-**
4 **TUS REVIEW FOR HIGH-RISK CRITICAL IN-**
5 **FRASTRUCTURE.**

6 There are authorized to be appropriated to the Sec-
7 retary of Homeland Security such sums as may be nec-
8 essary for the Secretary to require, as a condition of re-
9 ceipt of a grant under the Buffer Zone Protection Pro-
10 gram for a Tier I or Tier II critical infrastructure site,
11 that the owner and operator of the site conduct checks
12 of their employees whose functions affect the security of
13 the site against available terrorist watchlists and immigra-
14 tion status databases.

15 **SEC. 106. DECLARATION OF CONGRESS REGARDING RAPE**
16 **ALONG THE BORDER WITH MEXICO.**

17 Congress condemns rapes by smugglers along the
18 international land border of the United States and urges
19 in the strongest possible terms the Government of Mexico
20 to work in coordination with United States Customs and
21 Border Protection take immediate action to prevent such
22 rapes from occurring.

TITLE II—ENFORCEMENT

SEC. 201. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

(a) IN GENERAL.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by Congress.

(b) CONSTRUCTION.—Nothing in this section may be construed to require law enforcement personnel of a State or political subdivision of a State to—

(1) report the identity of a victim of, or a witness to, a criminal offense to the Secretary of Homeland Security for immigration enforcement purposes; or

1 (2) arrest such victim or witness for a violation
2 of the immigration laws of the United States.

3 **SEC. 202. TRAINING OF STATE AND LOCAL LAW ENFORCE-**
4 **MENT PERSONNEL RELATING TO THE EN-**
5 **FORCEMENT OF IMMIGRATION LAWS.**

6 (a) ESTABLISHMENT OF TRAINING MANUAL AND
7 POCKET GUIDE.—Not later than 180 days after the date
8 of the enactment of this Act, the Secretary of Homeland
9 Security shall establish—

10 (1) a training manual for law enforcement per-
11 sonnel of a State or political subdivision of a State
12 to train such personnel in the investigation, identi-
13 fication, apprehension, arrest, detention, and trans-
14 fer to Federal custody of aliens in the United States
15 (including the transportation of such aliens across
16 State lines to detention centers and the identifica-
17 tion of fraudulent documents); and

18 (2) an immigration enforcement pocket guide
19 for law enforcement personnel of a State or political
20 subdivision of a State to provide a quick reference
21 for such personnel in the course of duty.

22 (b) AVAILABILITY.—The training manual and pocket
23 guide established in accordance with subsection (a) shall
24 be made available to all State and local law enforcement
25 personnel.

1 (c) APPLICABILITY.—Nothing in this section shall be
2 construed to require State or local law enforcement per-
3 sonnel to carry the training manual or pocket guide estab-
4 lished under subsection (a)(2) with them while on duty.

5 (d) COSTS.—The Secretary of Homeland Security
6 shall be responsible for any and all costs incurred in estab-
7 lishing the training manual and pocket guide under sub-
8 section (a).

9 (e) TRAINING FLEXIBILITY.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security shall make training of State and local law
12 enforcement officers available through as many
13 means as possible, including residential training at
14 the Center for Domestic Preparedness, onsite train-
15 ing held at State or local police agencies or facilities,
16 online training courses by computer, teleconfer-
17 encing, and videotape, or the digital video display
18 (DVD) of a training course or courses. E-learning
19 through a secure, encrypted distributed learning sys-
20 tem that has all its servers based in the United
21 States, is sealable, survivable, and can have a portal
22 in place within 30 days, shall be made available by
23 the Federal Law Enforcement Training Center Dis-
24 tributed Learning Program for State and local law
25 enforcement personnel.

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

5 (3) CLARIFICATION.—Nothing in this Act or
6 any other provision of law shall be construed as
7 making any immigration-related training a require-
8 ment for, or prerequisite to, any State or local law
9 enforcement officer to assist in the enforcement of
10 Federal immigration laws in the normal course of
11 carrying out their normal law enforcement duties.

12 (f) TRAINING LIMITATION.—Section 287(g) of the
13 Immigration and Nationality Act (8 U.S.C. 1357(g)) is
14 amended—

15 (1) by striking “Attorney General” and insert-
16 ing “Secretary of Homeland Security” each place it
17 appears; and

18 (2) in paragraph (2), by adding at the end the
19 following new sentence: “Such training shall not ex-
20 ceed 14 days or 80 hours, whichever is longer.”.

21 **SEC. 203. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
22 **POLICE AGENCIES THAT ASSIST IN THE EN-**
23 **FORCEMENT OF IMMIGRATION LAWS.**

24 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING
25 AND PROCESSING ILLEGAL ALIENS.—From amounts

1 made available to make grants under this section, the Sec-
2 retary of Homeland Security shall make grants to States
3 and political subdivisions of States for procurement of
4 equipment, technology, facilities, and other products that
5 facilitate and are directly related to investigating, appre-
6 hending, arresting, detaining, or transporting immigration
7 law violators, including additional administrative costs in-
8 curred under this Act.

9 (b) ELIGIBILITY.—To be eligible to receive a grant
10 under this section, a State or political subdivision of a
11 State must have the authority to, and have in effect the
12 policy and practice to, assist in the enforcement of the
13 immigration laws of the United States in the course of
14 carrying out such agency's routine law enforcement duties.

15 (c) FUNDING.—There is authorized to be appro-
16 priated to the Secretary of Homeland Security
17 \$250,000,000 for fiscal year 2008 and each subsequent
18 fiscal year to make grants under this section.

19 (d) GAO AUDIT.—Not later than three years after
20 the date of the enactment of this Act, the Comptroller
21 General of the United States shall conduct an audit of
22 funds distributed to States and political subdivisions of
23 States under subsection (a).

24 **SEC. 204. INSTITUTIONAL REMOVAL PROGRAM (IRP).**

25 (a) CONTINUATION AND EXPANSION.—

1 (1) IN GENERAL.—The Secretary of Homeland
2 Security shall continue to operate and implement the
3 program known as the Institutional Removal Pro-
4 gram (IRP) which—

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

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

9 (C) removes such aliens from the United
10 States after the completion of their 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 criminal aliens in its prison and jail popu-
19 lations; and

20 (C) promptly convey such information to
21 officials of such program as a condition for re-
22 ceiving such funds.

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

1 enforcement officers of a State or political subdivision of
2 a State are authorized to—

3 (1) hold an illegal 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 United
12 States Immigration and Customs Enforcement can
13 take the alien into custody.

14 (c) TECHNOLOGY USAGE.—Technology such as video
15 conferencing shall be used to the maximum extent possible
16 in order to make the Institutional Removal Program
17 (IRP) available in remote locations. Mobile access to Fed-
18 eral databases of aliens, such as IDENT, and live scan
19 technology shall be used to the maximum extent prac-
20 ticable in order to make these resources available to State
21 and local law enforcement agencies in remote locations.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
23 authorized to be appropriated to the Secretary of Home-
24 land Security to carry out the Institutional Removal Pro-
25 gram—

- 1 (1) \$100,000,000 for fiscal year 2008;
- 2 (2) \$115,000,000 for fiscal year 2009;
- 3 (3) \$130,000,000 for fiscal year 2010;
- 4 (4) \$145,000,000 for fiscal year 2011; and
- 5 (5) \$160,000,000 for fiscal year 2012.

6 **SEC. 205. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
7 **(SCAAP).**

8 Section 241(i)(5) of the Immigration and Nationality
9 Act (8 U.S.C. 1231(i)) is amended by inserting before the
10 period at the end the following: “and \$1,000,000,000 for
11 each subsequent fiscal year”.

12 **SEC. 206. STATE AUTHORIZATION FOR ASSISTANCE IN THE**
13 **ENFORCEMENT OF IMMIGRATION LAWS EN-**
14 **COURAGED.**

15 (a) IN GENERAL.—Effective six months after the
16 date of the enactment of this Act, a State, or political sub-
17 division of a State, that has in effect a statute, policy,
18 or practice that prohibits law enforcement officers of the
19 State, or of a political subdivision within the State, from
20 assisting or cooperating with Federal immigration law en-
21 forcement in the course of carrying out the officers’ rou-
22 tine law enforcement duties shall not receive 25 percent
23 of the non-emergency funds that would otherwise be allo-
24 cated to the State, or to the political subdivision of the
25 State, from the Department of Homeland Security. If the

1 Secretary of Homeland Security determines that such is
2 appropriate, the Secretary may withhold an additional 25
3 percent of such funds that would otherwise be so allocated.

4 (b) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall require a law enforcement official from a State
6 or a political subdivision of a State to report or arrest
7 victims or witnesses of a criminal offense.

8 (c) REALLOCATION OF FUNDS.—Any funds that are
9 not allocated to a State or to political subdivision of a
10 State due to the failure of the State or the political sub-
11 division of a State to comply with subsection (a) shall be
12 reallocated to States or political subdivisions of States that
13 comply with such subsection.

14 **SEC. 207. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
15 **TIONAL CRIME INFORMATION CENTER DATA-**
16 **BASE.**

17 (a) PROVISION OF INFORMATION TO THE NCIC.—
18 Not later than 180 days after the date of the enactment
19 of this Act, the Under Secretary for Border and Transpor-
20 tation Security of the Department of Homeland Security
21 shall provide the National Crime Information Center of
22 the Department of Justice with such information as the
23 Under Secretary may have on any aliens against whom
24 a final order of removal has been issued, any aliens who
25 have signed a voluntary departure agreement, any aliens

1 who have overstayed their authorized period of stay, and
2 any aliens whose visas have been revoked. Such informa-
3 tion shall be provided to the National Crime Information
4 Center, and the National Crime Information Center shall
5 enter such information into the Immigration Violators File
6 of the National Crime Information Center database, re-
7 gardless of whether—

8 (1) the alien received notice of a final order of
9 removal;

10 (2) the alien has already been removed; or

11 (3) sufficient identifying information is avail-
12 able on the alien.

13 (b) INCLUSION OF INFORMATION IN THE NCIC
14 DATABASE.—Section 534(a) of title 28, United States
15 Code, is amended—

16 (1) in paragraph (3), by striking “and” at the
17 end;

18 (2) by redesignating paragraph (4) as para-
19 graph (5); and

20 (3) by inserting after paragraph (3) the fol-
21 lowing new paragraph:

22 “(4) acquire, collect, classify, and preserve
23 records of violations of the immigration laws of the
24 United States, regardless of whether the alien has
25 received notice of the violation or whether sufficient

- 1 identifying information is available on the alien and
- 2 even if the alien has already been removed.”.

