

## Calendar No. 615

110TH CONGRESS  
2D SESSION**S. 2738**

To identify and remove criminal aliens incarcerated in correctional facilities  
in the United States and for other purposes.

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IN THE SENATE OF THE UNITED STATES

MARCH 10, 2008

Mr. COBURN introduced the following bill; which was read the first time

MARCH 11, 2008

Read the second time and placed on the calendar

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**A BILL**

To identify and remove criminal aliens incarcerated in correctional facilities in 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.**

4       This Act may be cited as the “Criminal Alien Re-  
5       moval Act of 2008”.

6       **SEC. 2. DEFINITIONS.**

7       In this Act:

1           (1) CRIMINAL ALIEN.—Except as otherwise  
2       provided, the term “criminal alien” means an alien  
3       who—

4           (A) is inadmissible by reason of having  
5       committed any offense covered in section  
6       212(a)(2) of the Immigration and Nationality  
7       Act (8 U.S.C. 182(a)(2));

8           (B) is deportable by reason of having com-  
9       mitted any offense covered in subparagraph  
10      (A)(ii), (A)(iii), (B), (C), or (D) of section  
11      237(a)(2) of such Act (8 U.S.C. 1227(a)(2));

12          (C) is deportable under section  
13      237(a)(2)(A)(i) of such Act (8 U.S.C.  
14      1227(a)(2)(A)(i)) on the basis of an offense for  
15      which the alien has been sentenced to a term of  
16      imprisonment of at least 1 year; or

17          (D) is inadmissible under section  
18      212(a)(3)(B) (8 U.S.C. 1182(a)(3)(B)) or de-  
19      portable under section 237(a)(4)(B) (8  
20      U.S.C.1227 (a)(4)(B)).

21          (2) CRIMINAL ALIEN PROGRAM.—The term  
22      “Criminal Alien Program” means the Criminal Alien  
23      Program required by section 3.

24          (3) SECRETARY.—The term “Secretary” means  
25      the Secretary of Homeland Security.

1 **SEC. 3. CRIMINAL ALIEN PROGRAM.**

2 (a) REQUIREMENT FOR CRIMINAL ALIEN PRO-  
3 GRAM.—The Secretary shall carry out a program known  
4 as the “Criminal Alien Program” for the purposes de-  
5 scribed in subsection (b).

6 (b) PURPOSES.—The purposes of the Criminal Alien  
7 Program are to—

8 (1) identify criminal aliens who are incarcerated  
9 in a Federal, State, or local correctional facility;

10 (2) ensure that such aliens are not released into  
11 the community upon the alien’s release from such  
12 incarceration, without regard to whether the alien is  
13 released on parole, supervised release, or probation,  
14 and without regard to whether the alien may be ar-  
15 rested or imprisoned again for the same offense; and

16 (3) remove such aliens from the United States  
17 upon such release.

18 (c) TECHNOLOGY USAGE.—To carry out the Criminal  
19 Alien Program in remote locations, the Secretary shall, to  
20 the maximum extent practicable—

21 (1) employ technology, such as videoconferenc-  
22 ing in such locations;

23 (2) utilize mobile access to Federal databases of  
24 aliens, such as the Automated Biometric Fingerprint  
25 Identification System (IDENT); and

1           (3) utilize electronic Livescan fingerprinting  
2           technology in order to make such resources available  
3           to State and local law enforcement agencies in such  
4           locations.

5           (d) PARTICIPATION BY STATES.—

6           (1) IN GENERAL.—Notwithstanding any other  
7           provision of law, a State shall not be eligible to re-  
8           ceive funds pursuant to a program described in  
9           paragraph (2) unless the appropriate officials of  
10          such State—

11                  (A) cooperate with the Secretary to carry  
12                  out the Criminal Alien Program;

13                  (B) expeditiously and systematically iden-  
14                  tify criminal aliens who are incarcerated in a  
15                  prison or jail located in such State; and

16                  (C) promptly convey the information col-  
17                  lected under subparagraph (B) to the Secretary  
18                  to carry out the Criminal Alien Program.

19           (2) PROGRAMS.—The programs described in  
20           this section are any law enforcement grant program  
21           carried out by personnel of any element of the De-  
22           partment of Justice, including the program de-  
23           scribed in section 241(i) of the Immigration and Na-  
24           tionality Act (8 U.S.C. 1231(i)).

1           (3) OTHER AUTHORITIES.—To assist States in  
2       participating in the Criminal Alien Program, appro-  
3       priate officials of a State—

4           (A) are authorized to hold an illegal alien  
5       for a period of up to 14 days after the date  
6       such alien completes a term of incarceration  
7       within the State in order to effectuate the  
8       transfer of such alien to Federal custody if the  
9       alien is removable or not lawfully present in the  
10      United States; and

11          (B) are authorized to issue a detainer that  
12      would allow an alien who completes a term of  
13      incarceration within the State to be detained by  
14      the State prison until personnel from U.S. Im-  
15      migration and Customs Enforcement is able to  
16      take the alien into custody.

17      (e) EVALUATION OF INCARCERATED ALIEN POPU-  
18      LATIONS.—The Secretary, acting in conjunction with the  
19      Attorney General and the appropriate officials of the  
20      States, as appropriate, shall carry out the Criminal Alien  
21      Program as follows:

22          (1) Not later than December 31, 2010, identify  
23      each criminal aliens who—

24          (A) is incarcerated in a Federal correc-  
25      tional facility; and

1 (B) will be deportable or removable upon  
2 release from such incarceration.

3 (2) Not later than December 31, 2012, identify  
4 each criminal alien who—

5 (A) is incarcerated in State or local correc-  
6 tional facility;

7 (B) is serving a term of 3 or more years;  
8 and

9 (C) will be deportable or removable upon  
10 release from such incarceration.

11 **SEC. 4. REDESIGNATION.**

12 Section 642 of the Illegal Immigration Reform and  
13 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)  
14 is—

15 (1) redesignated as section 296 of the Immigra-  
16 tion and Nationality Act; and

17 (2) inserted into such Act after section 295 of  
18 such Act.

19 **SEC. 5. ANNUAL REPORTS TO CONGRESS.**

20 The Secretary shall submit to Congress an annual re-  
21 port on the implementation of the Criminal Alien Program  
22 and the other provisions of this Act, including the Sec-  
23 retary's progress in meeting the deadlines set out in sec-  
24 tion 3(e).



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