

118TH CONGRESS  
1ST SESSION

# H. R. 998

To amend section 287(g) of the Immigration and Nationality Act to clarify congressional intent with respect to agreements under such section, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 14, 2023

Mr. CLOUD (for himself, Mr. LAMBORN, and Mr. WEBER of Texas) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend section 287(g) of the Immigration and Nationality Act to clarify congressional intent with respect to agreements under such section, 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 “287(g) Program Pro-  
5 tection Act”.

6 **SEC. 2. CLARIFICATION OF CONGRESSIONAL INTENT.**

7 Section 287(g) of the Immigration and Nationality  
8 Act (8 U.S.C. 1357(g)) is amended—

1           (1) in paragraph (1), by striking “the Attorney  
2           General may enter” and all that follows through the  
3           period at the end and inserting the following: “the  
4           Secretary of Homeland Security shall enter into a  
5           written agreement with a State, or any political sub-  
6           division of a State, upon request of the State or po-  
7           litical subdivision, pursuant to which law enforce-  
8           ment officers of the State or subdivision, who are  
9           determined by the Secretary to be qualified to per-  
10          form a function of an immigration officer in relation  
11          to the investigation, apprehension, or detention of  
12          aliens in the United States (including the transpor-  
13          tation of such aliens across State lines to detention  
14          centers), may carry out such function at the expense  
15          of the State or political subdivision. No request from  
16          a bona fide State or political subdivision or bona fide  
17          law enforcement agency shall be denied absent a  
18          compelling reason, and the Secretary shall notify the  
19          Congress and publish in the Federal Register an ex-  
20          planation for those reasons at least 180 days in ad-  
21          vance of making final the denial. No limit on the  
22          number of agreements under this subsection may be  
23          imposed. The Secretary shall process requests for  
24          such agreements with all due haste, and in no case  
25          shall more than 90 days elapse from the date the re-

1 quest is made until the agreement is consummated.  
2 For purposes of this subsection, any reference to a  
3 political subdivision shall be construed to include any  
4 law enforcement or corrections agency of the polit-  
5 ical subdivision.”;

6 (2) by striking “Attorney General” each place  
7 such term appears and inserting “Secretary”;

8 (3) by redesignating paragraphs (2) through  
9 (10) as paragraphs (5) through (13), respectively;

10 (4) by inserting after paragraph (1) the fol-  
11 lowing:

12 “(2) An agreement under this subsection shall  
13 accommodate a requesting State or political subdivi-  
14 sion with respect to the enforcement model or com-  
15 bination of models, and shall accommodate a patrol  
16 model, task force model, jail model, any combination  
17 thereof, or any other reasonable model the State or  
18 political subdivision believes is best suited to the im-  
19 migration enforcement needs of its jurisdiction.

20 “(3) No Federal program or technology directed  
21 broadly at identifying inadmissible or deportable  
22 aliens shall substitute for such agreements, including  
23 those establishing a jail model, and shall operate in  
24 addition to any agreement under this subsection.

1           “(4)(A) No agreement under this subsection  
2 may be terminated absent a compelling reason.

3           “(B)(i) The Secretary shall provide a State or  
4 political subdivision written notice of intent to termi-  
5 nate at least 180 days prior to date of intended ter-  
6 mination, and the notice shall fully explain the  
7 grounds for termination, along with providing evi-  
8 dence substantiating the Secretary’s allegations.

9           “(ii) In order to determine whether the require-  
10 ments of this paragraph have been satisfied, the  
11 State or political subdivision shall have the right—

12           “(I) to appeal the decision of the Secretary  
13 to an administrative law judge for a hearing  
14 and decision; or

15           “(II) to bring a civil action in an appro-  
16 priate court of jurisdiction.

17           “(C) The agreement shall remain in full effect  
18 during the course of any and all legal proceedings.”;  
19 and

20           (5) in paragraph (6) (as redesignated), by add-  
21 ing at the end the following: “The Secretary of  
22 Homeland Security shall implement uniform training  
23 requirements for law enforcement officers who are,  
24 or will be, performing a function of an immigration  
25 officer under this subsection. The training require-

1       ments shall align with Federal Law Enforcement  
2       Training Center standards for training under this  
3       subsection (as in effect of the date of the enactment  
4       of this sentence).”.

5       **SEC. 3. FUNDING.**

6       Section 286(r) of the Immigration and National Act  
7       (8 U.S.C. 1356(r)) is amended—

8               (1) in the subsection heading, by striking  
9       “BREACHED BOND/DETENTION FUND” and insert-  
10       ing “BREACHED BOND/DETENTION/287(g) FUND”;

11              (2) by striking “Attorney General” each place  
12       such term appears and inserting “Secretary of  
13       Homeland Security”;

14              (3) in paragraph (1), by striking “Breached  
15       Bond/Detention” and inserting “Breached Bond/De-  
16       tention/287(g)”;

17              (4) in paragraph (2), by striking “Department  
18       of Justice” and inserting “Department of Homeland  
19       Security”; and

20              (5) in paragraph (3)—

21                      (A) in clause (i), by striking “, and” at the  
22       end and inserting a semicolon;

23                      (B) in clause (ii), by striking the period at  
24       the end and inserting “; and”; and

25                      (C) by adding at the end the following:

1                   “(iv) for expenses associated with admin-  
2                   istering section 287(g).”.

3 **SEC. 4. REQUIREMENTS ON SECRETARY.**

4           (a) ANNUAL PERFORMANCE REPORT.—Not later  
5 than December 31 of the first fiscal year that begins after  
6 the date of the enactment of this Act, and not later than  
7 December 31 of each year thereafter, the Secretary of  
8 Homeland Security shall publish an annual performance  
9 report on the program under section 287(g) of the Immi-  
10 gration and Nationality Act (8 U.S.C. 1357(g)) that in-  
11 cludes at least the following information:

12                   (1) The number of aliens apprehended and  
13                   screened by law enforcement through the program.

14                   (2) The number of aliens removed from the  
15                   United States as a result of the program.

16                   (3) The number of aliens described in para-  
17                   graph (1) who were not removed and an explanation  
18                   for why they were not removed.

19                   (4) The methods being used to conduct over-  
20                   sight of each law enforcement agency participating  
21                   under the program.

22                   (5) The number of law enforcement agencies in  
23                   compliance with the program’s training require-  
24                   ments.

1           (6) The number of complaints filed against law  
2 enforcement agencies claiming they did not comply  
3 their written agreement entered into under such sec-  
4 tion.

5           (7) The number of law enforcement agencies  
6 that had such written agreement terminated.

7           (8) The reasons for such termination.

8           (b) ANNUAL RECRUITMENT PLAN.—Not later than  
9 December 31 of the first fiscal year that begins after the  
10 date of the enactment of this Act, and not later than De-  
11 cember 31 of each year thereafter, the Secretary of Home-  
12 land Security shall publish an annual recruitment plan  
13 with respect to the program under section 287(g) of the  
14 Immigration and Nationality Act (8 U.S.C. 1357(g)) that  
15 includes at least the following information:

16           (1) Annual goals for the next five years for re-  
17 cruitment of new States and political subdivisions of  
18 States to participate in the program.

19           (2) The number of new States and political sub-  
20 divisions of States participating in the program each  
21 year.

22           (3) A description of the outreach to States and  
23 political subdivisions of States conducted for the  
24 program and the other methods used to achieve re-  
25 cruitment goals.

1           (4) The number of requests for agreements re-  
2           ceived, approved, denied, and pending approval.

3           (c) RULEMAKING.—Not later than 180 days after the  
4           date of the enactment of this Act, the Secretary of Home-  
5           land Security shall publish a notice of rulemaking with  
6           respect to the training requirements under section  
7           287(g)(6) of the Immigration and Nationality Act (8  
8           U.S.C. 1357(g)(6)), as added by section 2(5).

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