

118TH CONGRESS
2D SESSION

S. 5389

To require the Commissioner for U.S. Customs and Border Protection to develop and disseminate guidance for handling the personal property of individuals who are under arrest, restrained, or confined by U.S. Customs and Border Protection, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 21, 2024

Mr. WELCH (for himself, Mr. DURBIN, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To require the Commissioner for U.S. Customs and Border Protection to develop and disseminate guidance for handling the personal property of individuals who are under arrest, restrained, or confined by U.S. Customs and Border Protection, 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 “CBP Guidance on Per-
5 sonal Belongings Act”.

1 **SEC. 2. U.S. CUSTOMS AND BORDER PROTECTION GUID-**
2 **ANCE FOR HANDLING PERSONAL PROPERTY.**

3 (a) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means—

7 (A) the Committee on Homeland Security
8 and Governmental Affairs of the Senate; and

9 (B) the Committee on Homeland Security
10 of the House of Representatives.

11 (2) CBP.—The term “CBP” means U.S. Cus-
12 toms and Border Protection.

13 (3) ESSENTIAL MEDICAL PROPERTY.—The term
14 “essential medical property” means any medical
15 item that has been validated by a qualified medical
16 professional as being—

17 (A) in working order;

18 (B) medically necessary; and

19 (C)(i) prescription eyewear, including
20 glasses and contacts;

21 (ii) a prosthetic device or durable medical
22 equipment; or

23 (iii) dentures (whether full or partial) or
24 an orthodontic device.

25 (4) PERSONAL PROPERTY.—The term “per-
26 sonal property” means the belongings (not including

1 contraband) found on or carried by an individual
2 who is under arrest, restrained, or confined by CBP.

3 (b) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, the Commissioner for
5 CBP shall—

6 (1) develop guidance for the handling of the
7 personal property of individuals who are under ar-
8 rest, restrained, or confined by CBP; and

9 (2) disseminate such guidance to—

10 (A) the appropriate congressional commit-
11 tees; and

12 (B) all CBP personnel who come into con-
13 tact with individuals referred to in paragraph
14 (1).

15 (c) CONSULTATION REQUIRED.—The Commissioner
16 for CBP shall consult with nongovernmental organizations
17 and the Immigration Detention Ombudsman of the De-
18 partment of Homeland Security to inform the development
19 and dissemination of the guidance under subsection (b).

20 (d) CONTENTS.—The guidance developed under sub-
21 section (b) shall—

22 (1) allow individuals to keep as much of their
23 personal property as CBP’s physical capacity, safety
24 considerations, transportation limitations, and per-
25 sonnel availability permit;

1 (2) ensure that CBP, to the greatest extent
2 operationally feasible, returns all personal property
3 stored by CBP on behalf of an individual who is
4 under arrest, restrained, or confined by CBP di-
5 rectly to such individual immediately upon release
6 from CBP custody;

7 (3) describe the types of personal property con-
8 sidered essential that shall remain in an individual
9 detainee's possession (or be otherwise stored by CBP
10 in accordance with paragraph (4)) to the greatest
11 extent operationally feasible, including, at a min-
12 imum—

13 (A) religious articles;

14 (B) personal contact information of family
15 members and loved ones; and

16 (C) essential medical property that does
17 not pose a threat or hazard to CBP personnel,
18 detainees, or other personnel inside a CBP fa-
19 cility;

20 (4) describe the types of essential personal
21 property that CBP is required to store if it does not
22 pose a threat or hazard to CBP personnel, detain-
23 ees, or other personnel inside a CBP facility, includ-
24 ing, at a minimum—

1 (A) legal and identification documents that
2 are not determined to be fraudulent or counter-
3 feit;

4 (B) cell phones and electronic devices;

5 (C) health-related documents; and

6 (D) currency;

7 (5) describe the reasons and circumstances
8 under which the amount of property described in
9 paragraph (4) could be restricted;

10 (6) include specific procedures for managing es-
11 sential personal property described in paragraphs
12 (3) and (4), which shall—

13 (A) comply with Federal law and all appli-
14 cable CBP policies; and

15 (B) require that individuals who are ar-
16 rested, restrained, or confined by CBP are pro-
17 vided a written receipt of any stored personal
18 property;

19 (7) describe the circumstances which would ne-
20 cessitate discarding the personal property of an indi-
21 vidual who is arrested, restrained, or confined by
22 CBP, including the circumstances under which col-
23 lecting, transporting or storing such property would
24 not be operationally feasible;

1 (8) describe the circumstances under which the
2 personal property of an individual who has been ar-
3 rested, restrained, or confined by CBP may be con-
4 sidered a hazard or threat;

5 (9) include a protocol for CBP personnel to
6 manage the transfer of personal property when an
7 individual who has been arrested, restrained, or con-
8 fined by CBP is transferred into the custody of an-
9 other agency;

10 (10) include a protocol for providing written in-
11 structions to each individual released from CBP cus-
12 tody that explain how such individual may retrieve
13 any personal property remaining in CBP facilities;

14 (11) include a protocol for handling medical
15 property that directs CBP personnel to ensure de-
16 tainees' medications remain available to such detain-
17 ees unless—

18 (A) a specific safety concern is identified;

19 or

20 (B) a non-United States prescribed medi-
21 cation has been replaced with a United States
22 equivalent medication; and

23 (12) describe the mechanism for monitoring the
24 compliance of CBP personnel with the guidance de-
25 scribed in this subsection.

1 (e) MONITORING.—At the time of the dissemination
2 of the guidance developed under subsection (b), the Com-
3 missioner for CBP shall implement the mechanism re-
4 ferred to in subsection (d)(12) to monitor the extent to
5 which CBP personnel comply with such guidance.

6 (f) REPORT.—Not later than 1 year after the date
7 on which the guidance developed under subsection (b) is
8 disseminated, and annually thereafter for the following 5
9 years, the Commissioner for CBP shall submit a report
10 to the appropriate congressional committees and to the
11 Comptroller General of the United States that—

12 (1) describes the development and implementa-
13 tion of such guidance; and

14 (2) includes information regarding the dis-
15 carded essential personal property of individuals who
16 were arrested, restrained, or confined by CBP dur-
17 ing the reporting period, including—

18 (A) the number of times, and an identifica-
19 tion of the locations at which, CBP officers dis-
20 carded essential personal property, including
21 such property disposed of outside of CBP facili-
22 ties;

23 (B) the reasons for discarding such prop-
24 erty; and

1 (C) the efforts of CBP to reduce such in-
2 stances.

3 (g) COMPTROLLER GENERAL REVIEW AND RE-
4 PORT.—Not later than 1 year after receipt of each report
5 required under subsection (f), the Comptroller General of
6 the United States shall—

7 (1) conduct a review of the guidance developed
8 by the Commissioner for CBP; and

9 (2) submit to the appropriate congressional
10 committees a report that includes the results of such
11 review, including—

12 (A) the effectiveness with which such guid-
13 ance was implemented;

14 (B) the effects of such guidance on CBP
15 operations; and

16 (C) the level of compliance of CBP per-
17 sonnel with such guidance.

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