To improve sharing of immigration information among Federal, State, and local law enforcement officials, to improve State and local enforcement of immigration laws, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 2005

Mrs. MYRICK (for herself and Mr. McINTYRE) 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 improve sharing of immigration information among Federal, State, and local law enforcement officials, to improve State and local enforcement of immigration laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Scott Gardner Act”.

(b) Table of Contents.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. Improved Federal sharing of immigration information.
Sec. 3. State and local reporting of immigration information.
Sec. 4. DWI and immigration information in the National Criminal Information Center.
Sec. 5. State and local enforcement of Federal immigration laws.
Sec. 6. Detention and deportation of aliens for driving while intoxicated (DWI).
Sec. 7. Federal detention facilities.

1 SEC. 2. IMPROVED FEDERAL SHARING OF IMMIGRATION INFORMATION.

(a) IN GENERAL.—The Secretary of Homeland Security shall share with the Attorney General immigration information.

(b) IMPROVED OPERATION OF FEDERAL IMMIGRATION DATABASES.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Attorney General shall jointly submit to Congress a report on improving performance of Federal immigration databases to ensure the prompt entry of immigration information into such databases.

(2) COMPATIBILITY.—Such report shall contain recommendations to improve the compatibility among Federal immigration databases in order to—

(A) improve data entry, including eliminating of data entry backlogs;

(B) increase efficiency; and
(C) increase accessibility of information to Federal, State, and local law enforcement agencies.

(3) PROGRESS.—Such report shall include information on the progress that has been made with respect to the elimination of data entry backlogs in such databases and any additional resources required to eliminate such backlogs.

(e) DEFINITIONS.—For purposes of this section and section 3:

(1) The term “DWI” means driving while intoxicated and includes similar motor vehicle violations.

(2) The term “Federal immigration database” means each of the following:

(A) The database of the LESC insofar as it relates to immigration information.

(B) The database of the NCIC insofar as it relates to immigration information.

(C) Any other database containing immigration information identified by the Secretary of Homeland Security.

(3) The term “immigration information” means information specified by the Secretary of Homeland Security, in consultation with the Attorney General,
relating to immigration, including illegal immigration.

(4) The term “LESC” means the Law Enforcement Support Center.

(5) The term “NCIC” means the National Criminal Information Center.

(6) The term “Secretary” means the Secretary of Homeland Security.

SEC. 3. STATE AND LOCAL REPORTING OF IMMIGRATION INFORMATION.

(a) REQUIREMENT.—

(1) IN GENERAL.—Subject to subsection (c), the director of each State and local law enforcement agency shall collect and report to the Secretary such immigration and DWI information and collected in the course of the director’s normal duties, and in such form and manner, as the Secretary may specify for entry into Federal immigration databases.

(2) CONDITION OF RECEIPT OF SCAAP FUNDING.—If the director of a State or local law enforcement agency does not collect and report information in accordance with paragraph (1), such State or local law enforcement agency shall be ineligible to receive funding under the State Criminal Alien As-
sistance Program under section 241(i) of the Immig-
ration and Nationality Act (8 U.S.C. 1231(i)).

(3) Report on resources.—Not later than
90 days after the date of the enactment of this Act,
the Secretary and the Attorney General shall jointly
submit to Congress a report on additional resources
required by State and local law enforcement agencies
to comply with the requirement of paragraph (1).

(b) Promotion of law enforcement support
center.—The Secretary shall promote the use of the
LESC to State and local law enforcement agencies.

(c) Exemption from state and local reporting
of immigration information.—State and local law
enforcement agencies are not required to collect and report
immigration information relating to individuals who assist
law enforcement agencies in the performance of their du-
ties, including as an informant, witness or in other similar
capacity.

SEC. 4. DWI AND IMMIGRATION INFORMATION IN THE NA-
TIONAL CRIMINAL INFORMATION CENTER.

(a) Inclusion.—DWI and immigration information
in the NCIC—

(1) shall appear as a flag on the wants/war-
rants page of the NCIC; and
(2) shall be timely and readily available to State and local law enforcement officers while they are in the course of their normal duties.

(b) MANDATORY DETENTION.—A State or local law enforcement officer who finds a flag for a DWI and immigration violation of an alien on the wants/warrants page of the NCIC and who arrests the alien shall detain the alien in a State or local jail until the alien can be transferred to Federal custody.

SEC. 5. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

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

(1) in paragraph (1), by striking “may” and inserting “shall” the first place it appears;

(2) in paragraph (2), by adding at the end the following new sentence: “If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable cost of overtime) shall be reimbursed by the Secretary of Homeland Security.”; and

(3) by striking paragraph (9) and redesignating paragraph (10) as paragraph (9).

(b) EFFECTIVE DATES.—
(1) REQUIREMENT FOR AGREEMENT.—The amendments made by paragraphs (1) and (3) of subsection (a) shall take effect on such date (not later than 1 year after the date of the enactment of this Act) as the Secretary of Homeland Security shall specify.

(2) PAYMENT FOR TRAINING COSTS.—The amendment made by subsection (a)(2) shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 6. DETENTION AND DEPORTATION OF ALIENS FOR DRIVING WHILE INTOXICATED (DWI).

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by adding “or” at the end; and

(C) by inserting after subparagraph (D) the following new subparagraph:

“(E) is deportable on any grounds and is apprehended for driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of
Homeland Security) by a State or local law enforcement officer covered under an agreement under section 287(g),”;
(2) by redesignating subsection (e) as subsection (f); and
(3) by inserting after subsection (d) the following new subsection:
“(e) DRIVING WHILE INTOXICATED.—If a State or local law enforcement officer apprehends an individual for an offense described in subsection (c)(1)(E) and the officer has reasonable ground to believe that the individual is an alien—
“(1) the officer shall verify with the databases of the Federal Government, including the National Criminal Information Center and the Law Enforcement Support Center, whether the individual is an alien and whether such alien is unlawfully present in the United States; and
“(2) if any such database—
“(A) indicates that the individual is an alien unlawfully present in the United States—
“(i) an officer covered under an agreement under section 287(g) is authorized to issue a Federal detainer to maintain the alien in custody in accordance with such
agreement until the alien is convicted for
such offense or the alien is transferred to
Federal custody;

“(ii) the officer is authorized to trans-
port the alien to a location where the alien
can be transferred to Federal custody and
shall be removed from the United States in
accordance with applicable law; and

“(iii) the Secretary of Homeland Se-
curity shall reimburse the State and local
law enforcement agencies involved for the
costs of transporting aliens when such
transportation is not done in the course of
their normal duties; or

“(B) indicates that the individual is an
alien but is not unlawfully present in the
United States, the officer shall take the alien
into custody for such offense in accordance with
State law and shall promptly notify the Sec-
retary of Homeland Security of such apprehen-
sion and maintain the alien in custody pending
a determination by the Secretary with respect
to any action to be taken by the Secretary
against such alien.”.

(b) DEPORTATION FOR DWI.—
(1) IN GENERAL.—Section 237(a)(2) of such Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following new subparagraph:

“(F) DRIVING WHILE INTOXICATED.—Any alien who is convicted of driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security), or who refuses in violation of State law to submit to a Breathalyzer test or other test for the purpose of determining blood alcohol content is deportable and shall be deported.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to violations or refusals occurring after the date of the enactment of this Act.

(c) SHARING OF INFORMATION BY MOTOR VEHICLE ADMINISTRATORS REGARDING DWI CONVICTIONS AND REFUSALS.—Each State motor vehicle administrator shall—

(1) share with the Secretary of Homeland Security information relating to any alien who has a conviction or refusal described in section 237(a)(2)(F) of the Immigration and Nationality Act;
(2) share such information with other State
motor vehicle administrators through the Drivers Li-
cense Agreement of the American Association of
Motor Vehicle Administrators; and

(3) enter such information into the NCIC in a
timely manner.

SEC. 7. FEDERAL DETENTION FACILITIES.

(a) Report on current allocation formula;
recommendations for stop-gap measures.—Not
later than 90 days after the date of the enactment of this
Act, the Secretary of Homeland Security shall submit to
Congress a report describing the formula for allocation of
Federal detention facilities for aliens under section 241(g)
of the Immigration and Nationality Act (8 U.S.C.
1231(g)). The Secretary shall include in such report rec-
ommendations for measures for the temporary expansion
of State and local jails to detain increased numbers of ille-
gal aliens pending construction or expansion of Federal
detention facilities.

(b) New construction in high concentration
areas.—In accordance with such section, the Secretary
shall ensure that, to the greatest extent practicable, con-
struction of new detention facilities is undertaken in or
near areas in which the Secretary has determined that
there is a high concentration of illegal aliens.
1 (c) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section.