

109TH CONGRESS
1ST SESSION

S. 1362

To provide for enhanced Federal enforcement of, and State and local assistance in the enforcement of, the immigration laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 30, 2005

Mr. SESSIONS (for himself, Mr. CRAIG, Mr. INHOFE, and Mr. ISAKSON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for enhanced Federal enforcement of, and State and local assistance in the 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.**

4 This Act may be cited as the “Homeland Security
5 Enhancement Act of 2005”.

6 **SEC. 2. STATE DEFINED.**

7 In this Act, the term “State” has the meaning given
8 that term in section 101(a)(36) of the Immigration and
9 Nationality Act (8 U.S.C. 1101 (a)(36)).

1 **SEC. 3. FEDERAL AFFIRMATION OF IMMIGRATION LAW EN-**
2 **FORCEMENT BY STATES AND POLITICAL SUB-**
3 **DIVISIONS OF STATES.**

4 Notwithstanding any other provision of law and re-
5 affirming the existing inherent authority of States, law en-
6 forcement personnel of a State or a political subdivision
7 of a State have the inherent authority of a sovereign entity
8 to investigate, identify, apprehend, arrest, detain, or
9 transfer to Federal custody aliens in the United States
10 (including the transportation of such aliens across State
11 lines to detention centers), for the purpose of assisting in
12 the enforcement of the immigration laws of the United
13 States in the normal course of carrying out the law en-
14 forcement duties of such personnel. This State authority
15 has never been displaced or preempted by a Federal law.

16 **SEC. 4. STATE AND LOCAL LAW ENFORCEMENT PROVISION**
17 **OF INFORMATION REGARDING ALIENS.**

18 (a) VIOLATIONS OF FEDERAL LAW.—A statute, pol-
19 icy, or practice that prohibits a law enforcement officer
20 of a State, or of a political subdivision of a State, from
21 enforcing Federal immigration laws or from assisting or
22 cooperating with Federal immigration law enforcement in
23 the course of carrying out the law enforcement duties of
24 the officer or from providing information to an official of
25 the United States Government regarding the immigration
26 status of an individual who is believed to be illegally

1 present in the United States is in violation of section
2 642(a) of the Illegal Immigration Reform and Immigrant
3 Responsibility Act of 1996 (8 U.S.C. 1373(a)) and section
4 434 of the Personal Responsibility and Work Opportunity
5 Reconciliation Act of 1996 (8 U.S.C. 1644).

6 (b) PROVISION OF INFORMATION REGARDING AP-
7 PREHENDED ILLEGAL ALIENS.—

8 (1) IN GENERAL.—In compliance with section
9 642(a) of the Illegal Immigration Reform and Immig-
10 rant Responsibility Act of 1996 (8 U.S.C. 1373(a))
11 and section 434 of the Personal Responsibility and
12 Work Opportunity Reconciliation Act of 1996 (8
13 U.S.C. 1644), States and localities should provide to
14 the Secretary of Homeland Security the information
15 listed in subsection (c) on each alien apprehended or
16 arrested in the jurisdiction of the State or locality
17 who is believed to be in violation of an immigration
18 law of the United States. Such information should
19 be provided regardless of the reason for the appre-
20 hension or arrest of the alien.

21 (2) TIME LIMITATION.—Not later than 10 days
22 after an alien described in paragraph (1) is appre-
23 hended, information requested to be provided under
24 paragraph (1) should be provided in such form and

1 in such manner as the Secretary of Homeland Secu-
2 rity may, by regulation or guideline, require.

3 (c) INFORMATION REQUIRED.—The information list-
4 ed in this subsection is as follows:

5 (1) The name of the alien.

6 (2) The address or place of residence of the
7 alien.

8 (3) A physical description of the alien.

9 (4) The date, time, and location of the encoun-
10 ter with the alien and reason for stopping, detaining,
11 apprehending, or arresting the alien.

12 (5) If applicable, the driver's license number
13 issued to the alien and the State of issuance of such
14 license.

15 (6) If applicable, the type of any other identi-
16 fication document issued to the alien, any designa-
17 tion number contained on the identification docu-
18 ment, and the issuing entity for the identification
19 document.

20 (7) If applicable, the license plate number,
21 make, and model of any automobile registered to, or
22 driven by, the alien.

23 (8) A photo of the alien, if available or readily
24 obtainable.

1 (9) The fingerprints of the alien, if available or
2 readily obtainable, including a full set of 10 rolled
3 fingerprints if available or readily obtainable.

4 (d) REIMBURSEMENT.—The Secretary of Homeland
5 Security shall reimburse States and localities for all rea-
6 sonable costs, as determined by the Secretary of Home-
7 land Security, incurred by that State or locality as a result
8 of providing information required by this section.

9 (e) TECHNICAL AND CONFORMING AMENDMENTS.—

10 (1) ILLEGAL IMMIGRATION REFORM AND IMMI-
11 GRANT RESPONSIBILITY ACT OF 1996.—

12 (A) TECHNICAL AMENDMENT.—Section
13 642 of the Illegal Immigration Reform and Im-
14 migrant Responsibility Act of 1996 (8 U.S.C.
15 1373) is amended—

16 (i) in subsections (a), (b)(1), and (c)
17 by striking “Immigration and Naturaliza-
18 tion Service” and inserting “Department
19 of Homeland Security”; and

20 (ii) in the heading by striking “**IMMI-**
21 **GRATION AND NATURALIZATION SERV-**
22 **ICE**” and inserting “**DEPARTMENT OF**
23 **HOMELAND SECURITY**”.

24 (B) CONFORMING AMENDMENT.—Section
25 1(d) of the Illegal Immigration Reform and Im-

1 migrant Responsibility Act of 1996 (division C
 2 of Public Law 104–208; 110 Stat. 3009–546)
 3 is amended by striking the item related to sec-
 4 tion 642 and inserting the following:

“Sec. 642. Communication between government agencies and the Depart-
 ment of Homeland Security.”.

5 (2) PERSONAL RESPONSIBILITY AND WORK OP-
 6 PORTUNITY RECONCILIATION ACT OF 1996.—

7 (A) IN GENERAL.—Section 434 of the Per-
 8 sonal Responsibility and Work Opportunity
 9 Reconciliation Act of 1996 (8 U.S.C. 1644) is
 10 amended—

11 (i) by striking “Immigration and Nat-
 12 uralization Service” and inserting “Depart-
 13 ment of Homeland Security”; and

14 (ii) in the heading by striking “**IMMI-
 15 GRATION AND NATURALIZATION SERV-
 16 ICE**” and inserting “**DEPARTMENT OF
 17 HOMELAND SECURITY**”.

18 (B) CONFORMING AMENDMENT.—Section
 19 2 of the Personal Responsibility and Work Op-
 20 portunity Reconciliation Act of 1996 (Public
 21 Law 104–193; 110 Stat. 2105) is amended by
 22 striking the item related to section 434 and in-
 23 serting the following:

“Sec. 434. Communication between State and local government agencies
 and the Department of Homeland Security.”.

1 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated such sums as are necessary
3 to provide the reimbursements required by subsection (d).

4 **SEC. 5. CIVIL AND CRIMINAL PENALTIES AND FORFEITURE**
5 **FOR ALIENS UNLAWFULLY PRESENT IN THE**
6 **UNITED STATES.**

7 (a) ALIENS UNLAWFULLY PRESENT.—Title II of the
8 Immigration and Nationality Act (8 U.S.C. 1151 et seq.)
9 is amended by adding after section 275 the following:

10 “CRIMINAL PENALTIES FOR UNLAWFUL PRESENCE IN
11 THE UNITED STATES

12 “SEC. 275A. (a) IN GENERAL.—In addition to any
13 other violation, an alien present in the United States in
14 violation of this Act shall be guilty of a misdemeanor and
15 shall be fined under title 18, United States Code, impris-
16 oned not more than 1 year, or both. The assets of any
17 alien present in the United States in violation of this Act
18 shall be subject to forfeiture under title 19, United States
19 Code.

20 “(b) AFFIRMATIVE DEFENSE.—It shall be an affirm-
21 ative defense to a violation of subsection (a) that the alien
22 overstayed the time allotted under the alien’s visa due to
23 an exceptional and extremely unusual hardship or physical
24 illness that prevented the alien from leaving the United
25 States by the required date.”.

1 (b) INCREASE IN CRIMINAL PENALTIES FOR ILLEGAL
2 ENTRY.—Section 275(a) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1325(a)) is amended by striking “6
4 months,” and inserting “1 year,”.

5 **SEC. 6. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
6 **TIONAL CRIME INFORMATION CENTER DATA-**
7 **BASE.**

8 (a) PROVISION OF INFORMATION TO THE NCIC.—

9 (1) IN GENERAL.—Not later than 180 days
10 after the date of enactment of this Act, the Under
11 Secretary for Border and Transportation Security of
12 the Department of Homeland Security shall provide
13 the National Crime Information Center of the De-
14 partment of Justice with such information as the
15 Director may have related to—

16 (A) any alien against whom a final order
17 of removal has been issued;

18 (B) any alien who is subject to a voluntary
19 departure agreement;

20 (C) any alien who has remained in the
21 United States beyond the alien’s authorized pe-
22 riod of stay; and

23 (D) any alien whose visa has been revoked.

24 (2) REQUIREMENT TO PROVIDE AND USE IN-
25 FORMATION.—The information described in para-

1 graph (1) shall be provided to the National Crime
2 Information Center, and the Center shall enter the
3 information into the Immigration Violators File of
4 the National Crime Information Center database, re-
5 gardless of whether—

6 (A) the alien received notice of a final
7 order of removal;

8 (B) the alien has already been removed; or

9 (C) sufficient identifying information is
10 available for the alien, such as a physical de-
11 scription of the alien.

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

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

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

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

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

1 information is available for the alien, or the alien
2 has already been removed; and”.

3 (c) PERMISSION TO DEPART VOLUNTARILY.—Sec-
4 tion 240B of the Immigration and Nationality Act (8
5 U.S.C. 1229c) is amended—

6 (1) by striking “Attorney General” each place
7 that term appears and inserting “Secretary of
8 Homeland Security”; and

9 (2) in subsection (a)(2)(A), by striking “120”
10 and inserting “30”.

11 **SEC. 7. INCREASE OF FEDERAL DETENTION SPACE AND**
12 **THE UTILIZATION OF FACILITIES IDENTIFIED**
13 **FOR CLOSURES AS A RESULT OF THE DE-**
14 **FENSE BASE CLOSURE REALIGNMENT ACT**
15 **OF 1990.**

16 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
17 FACILITIES.—

18 (1) IN GENERAL.—The Secretary of Homeland
19 Security shall construct or acquire, in addition to ex-
20 isting facilities for the detention of aliens, 20 deten-
21 tion facilities in the United States that have the ca-
22 pacity to detain a total of not less than 10,000 indi-
23 viduals at any time for aliens detained pending re-
24 moval or a decision on removal of such alien from
25 the United States.

1 (2) DETERMINATION OF LOCATION.—The loca-
2 tion of any detention facility built or acquired in ac-
3 cordance with this subsection shall be determined by
4 the Deputy Assistant Director of the Office of De-
5 tention and Removal Operations within the Bureau
6 of Immigration and Customs Enforcement.

7 (3) USE OF INSTALLATIONS UNDER BASE CLO-
8 SURE LAWS.—In acquiring detention facilities under
9 this subsection, the Secretary of Homeland Security
10 shall, to the maximum extent practical, request the
11 transfer of appropriate portions of military installa-
12 tions approved for closure or realignment under the
13 Defense Base Closure and Realignment Act of 1990
14 (part A of title XXIX of Public Law 101–510; 10
15 U.S.C. 2687 note) for use in accordance with para-
16 graph (1).

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 Section 241(g)(1) of the Immigration and Nationality Act
19 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
20 pend” and inserting “shall expend”.

21 (c) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated such sums as necessary
23 to carry out this section.

1 **SEC. 8. FEDERAL CUSTODY OF ILLEGAL ALIENS APPRE-**
2 **HENDED BY STATE OR LOCAL LAW ENFORCE-**
3 **MENT.**

4 (a) IN GENERAL.—Title II of the Immigration and
5 Nationality Act (8 U.S.C. 1151 et seq.) is amended by
6 adding after section 240C the following:

7 “TRANSFER OF ILLEGAL ALIENS FROM STATE TO
8 FEDERAL CUSTODY

9 “SEC. 240D. (a) IN GENERAL.—If the head of a law
10 enforcement entity of a State (or, if appropriate, a polit-
11 ical subdivision of the State) exercising authority with re-
12 spect to the apprehension or arrest of an illegal alien sub-
13 mits a request to the Secretary of Homeland Security that
14 the alien be taken into Federal custody, the Secretary of
15 Homeland Security—

16 “(1) shall—

17 “(A) not later than 72 hours after the con-
18 clusion of the State charging process or dis-
19 missal process, or if no State charging or dis-
20 missal process is required, not later than 72
21 hours after the illegal alien is apprehended,
22 take the illegal alien into the custody of the
23 Federal Government and incarcerate the alien;
24 or

25 “(B) request that the relevant State or
26 local law enforcement agency temporarily detain

1 or transport the illegal alien to a location for
2 transfer to Federal custody; and

3 “(2) shall designate at least one Federal, State,
4 or local prison or jail or a private contracted prison
5 or detention facility within each State as the central
6 facility for that State to transfer custody of criminal
7 or illegal aliens to the Department of Homeland Se-
8 curity.”.

9 “(b) REIMBURSEMENT.—

10 “(1) IN GENERAL.—The Department of Home-
11 land Security shall reimburse a State or a political
12 subdivision of a State for all reasonable expenses, as
13 determined by the Secretary of Homeland Security,
14 incurred by the State or political subdivision in the
15 detention and transportation of a criminal or illegal
16 alien as described in subparagraphs (A) and (B) of
17 subsection (a)(1).

18 “(2) COST COMPUTATION.—Compensation pro-
19 vided for costs incurred under subparagraphs (A)
20 and (B) of subsection (a)(1) shall be—

21 “(A) the product of—

22 “(i) the average cost of incarceration
23 of a prisoner in the relevant State, as de-
24 termined by the chief executive officer of a

1 State (or, as appropriate, a political sub-
2 division of the State); multiplied by

3 “(ii) the number of days that the alien
4 was in the custody of the State or political
5 subdivision; added to

6 “(B) the cost of transporting the criminal
7 or illegal alien from the point of apprehension
8 or arrest to the location of detention, and if the
9 location of detention and of custody transfer
10 are different, to the custody transfer point.

11 “(c) REQUIREMENT FOR APPROPRIATE SECURITY.—
12 The Secretary of Homeland Security shall ensure that ille-
13 gal aliens incarcerated in Federal facilities pursuant to
14 this subsection are held in facilities which provide an ap-
15 propriate level of security.

16 “(d) REQUIREMENT FOR SCHEDULE.—

17 “(1) IN GENERAL.—In carrying out this sec-
18 tion, the Secretary of Homeland Security shall es-
19 tablish a regular circuit and schedule for the prompt
20 transfer of apprehended illegal aliens from the cus-
21 tody of States and political subdivisions of States to
22 Federal custody.

23 “(2) AUTHORITY FOR CONTRACTS.—The Sec-
24 retary of Homeland Security may enter into con-
25 tracts with appropriate State and local law enforce-

1 ment and detention officials to implement this sub-
2 section.

3 “(e) ILLEGAL ALIEN DEFINED.—For purposes of
4 this section, the term ‘illegal alien’ means an alien who—

5 “(1) entered the United States without inspec-
6 tion or at any time or place other than that des-
7 ignated by the Secretary of Homeland Security;

8 “(2) was admitted as a nonimmigrant and who,
9 at the time the alien was taken into custody by the
10 State or a political subdivision of the State, had
11 failed to—

12 “(A) maintain the nonimmigrant status in
13 which the alien was admitted or to which it was
14 changed under section 248; or

15 “(B) comply with the conditions of any
16 such status;

17 “(3) was admitted as an immigrant and has
18 subsequently failed to comply with the requirements
19 of that status; or

20 “(4) failed to depart the United States under a
21 voluntary departure agreement or under a final
22 order of removal.”.

23 (b) AUTHORIZATION OF APPROPRIATIONS FOR THE
24 DETENTION AND TRANSPORTATION TO FEDERAL CUS-
25 TODY OF ALIENS NOT LAWFULLY PRESENT.—There is

1 authorized to be appropriated \$500,000,000 for the deten-
2 tion and removal of aliens not lawfully present in the
3 United States under the Immigration and Nationality Act
4 (8 U.S.C. 1101 et seq.) for fiscal year 2006 and each sub-
5 sequent fiscal year.

6 **SEC. 9. IMMIGRATION LAW ENFORCEMENT TRAINING OF**
7 **STATE AND LOCAL LAW ENFORCEMENT PER-**
8 **SONNEL.**

9 (a) TRAINING MANUAL AND POCKET GUIDE.—

10 (1) ESTABLISHMENT.—Not later than 180 days
11 after the date of enactment of this Act, the Sec-
12 retary of Homeland Security shall establish—

13 (A) a training manual for law enforcement
14 personnel of a State or political subdivision of
15 a State to train such personnel in the investiga-
16 tion, identification, apprehension, arrest, deten-
17 tion, and transfer to Federal custody of aliens
18 in the United States (including the transpor-
19 tation of such aliens across State lines to deten-
20 tion centers and the identification of fraudulent
21 documents); and

22 (B) an immigration enforcement pocket
23 guide for law enforcement personnel of a State
24 or political subdivision of a State to provide a

1 quick reference for such personnel in the course
2 of duty.

3 (2) AVAILABILITY.—The training manual and
4 pocket guide established in accordance with para-
5 graph (1) shall be made available to all State and
6 local law enforcement personnel.

7 (3) APPLICABILITY.—Nothing in this sub-
8 section shall be construed to require State or local
9 law enforcement personnel to carry the training
10 manual or pocket guide established in accordance
11 with paragraph (1) with them while on duty.

12 (4) COSTS.—The Secretary of Homeland Secu-
13 rity shall be responsible for any and all costs in-
14 curred in establishing the training manual and pock-
15 et guide under this subsection.

16 (b) TRAINING FLEXIBILITY.—

17 (1) IN GENERAL.—The Secretary of Homeland
18 Security shall make training of State and local law
19 enforcement officers available through as many
20 means as possible, including residential training at
21 the Center for Domestic Preparedness of the De-
22 partment of Homeland Security, onsite training held
23 at State or local police agencies or facilities, on-line
24 training courses by computer, teleconferencing, and

1 videotape, or the digital video display (DVD) of a
2 training course or courses.

3 (2) ON-LINE TRAINING.—The head of the Dis-
4 tributed Learning Program of the Federal Law En-
5 forcement Training Center shall make training avail-
6 able for State and local law enforcement personnel
7 via the Internet through a secure, encrypted distrib-
8 uted learning system that has all its servers based
9 in the United States, is sealable, survivable, and is
10 capable of having a portal in place within 30 days.

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

15 (c) CLARIFICATION.—Nothing in this Act or any
16 other provision of law shall be construed as making any
17 immigration-related training a requirement for, or pre-
18 requisite to, any State or local law enforcement officer ex-
19 ercising the inherent authority of the officer to investigate,
20 identify, apprehend, arrest, detain, or transfer to Federal
21 custody illegal aliens during the normal course of carrying
22 out the law enforcement duties of the officer.

23 (d) TRAINING LIMITATION.—Section 287(g) of the
24 Immigration and Nationality Act (8 U.S.C. 1357(g)) is
25 amended—

1 (1) by striking “Attorney General” each place
2 that term appears and inserting “Secretary of
3 Homeland Security”; and

4 (2) in paragraph (2), by adding at the end the
5 following: “Such training shall not exceed 14 days or
6 80 hours, whichever is longer.”.

7 **SEC. 10. IMMUNITY.**

8 (a) **PERSONAL IMMUNITY.**—Notwithstanding any
9 other provision of law, a law enforcement officer of a
10 State, or of a political subdivision of a State, shall be im-
11 mune, to the same extent as a Federal law enforcement
12 officer, from personal liability arising out of the enforce-
13 ment of any immigration law. The immunity provided in
14 this subsection shall only apply to an officer of a State,
15 or of a political subdivision of a State, who is acting within
16 the scope of such officer’s official duties.

17 (b) **AGENCY IMMUNITY.**—Notwithstanding any other
18 provision of law, a law enforcement agency of a State, or
19 of a political subdivision of a State, shall be immune from
20 any claim for money damages based on Federal, State,
21 or local civil rights law for an incident arising out of the
22 enforcement of any immigration law, except to the extent
23 that the law enforcement officer of that agency, whose ac-
24 tion the claim involves, committed a violation of Federal,

1 State, or local criminal law in the course of enforcing such
2 immigration law.

3 **SEC. 11. PLACES OF DETENTION FOR ALIENS DETAINED**

4 **PENDING EXAMINATION OR DECISION ON RE-**
5 **MOVAL.**

6 (a) IN GENERAL.—Section 241(g) of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1231(g)) is amended
8 by adding at the end the following:

9 “(3) POLICY ON DETENTION IN STATE AND
10 LOCAL DETENTION FACILITIES.—In carrying out
11 paragraph (1), the Secretary of Homeland Security
12 shall ensure that an alien arrested under section
13 287(a) is detained, pending the alien being taken for
14 the examination described in that section, in a State
15 or local prison, jail, detention center, or other com-
16 parable facility, if—

17 “(A) such a facility is the most suitably lo-
18 cated Federal, State, or local facility available
19 for such purpose under the circumstances;

20 “(B) an appropriate arrangement for such
21 use of the facility can be made; and

22 “(C) such facility satisfies the standards
23 for the housing, care, and security of persons
24 held in custody of a United States marshal.”.

1 (b) DETENTION FACILITY SUITABILITY.—Notwith-
2 standing any other provision of law, a facility described
3 in section 241(g)(3)(C) of the Immigration and Nation-
4 ality Act, as added by subsection (a), is adequate for de-
5 tention of persons being held for immigration related vio-
6 lations.

7 (c) TECHNICAL AND CONFORMING AMENDMENT.—
8 Section 241 of the Immigration and Nationality Act (8
9 U.S.C. 1231) is amended by striking “Attorney General”
10 each place that term appears and inserting “Secretary of
11 Homeland Security”.

12 **SEC. 12. INSTITUTIONAL REMOVAL PROGRAM.**

13 (a) CONTINUATION.—

14 (1) IN GENERAL.—The Department of Home-
15 land Security shall continue to operate and imple-
16 ment the program known on the date of the enact-
17 ment of this Act as the Institutional Removal Pro-
18 gram which—

19 (A) identifies removable criminal aliens in
20 Federal and State correctional facilities;

21 (B) ensures such aliens are not released
22 into the community; and

23 (C) removes such aliens from the United
24 States after the completion of their sentences.

1 (2) EXPANSION.—The Institutional Removal
2 Program shall be extended to all States. Any State
3 that receives Federal funds for the incarceration of
4 criminal aliens shall—

5 (A) cooperate with Federal officials who
6 carry out the Institutional Removal Program;

7 (B) expeditiously and systematically iden-
8 tify criminal aliens in its prison and jail popu-
9 lations; and

10 (C) promptly convey such information to
11 the Federal officials who carry out the Institu-
12 tional Removal Program as a condition for re-
13 ceiving such funds.

14 (b) AUTHORIZATION FOR DETENTION AFTER COM-
15 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
16 enforcement officers of a State or political subdivision of
17 a State have the authority to—

18 (1) hold an illegal alien for a period of up to
19 14 days after the alien has completed the alien’s
20 State prison sentence in order to effectuate the
21 transfer of the alien to Federal custody when the
22 alien is removable or not lawfully present in the
23 United States; or

24 (2) issue a detainer that would allow aliens who
25 have served a State prison sentence to be detained

1 by the State prison until personnel from the Bureau
2 of Immigration and Customs Enforcement can take
3 the alien into custody.

4 (c) TECHNOLOGY USAGE.—Technology such as
5 videoconferencing shall be used to the maximum extent
6 possible in order to make the Institutional Removal Pro-
7 gram available in remote locations. Mobile access to Fed-
8 eral databases of aliens, such as the IDENT database
9 maintained by the Secretary of Homeland Security, and
10 live scan technology shall be used to the maximum extent
11 practicable in order to make these resources available to
12 State and local law enforcement agencies in remote loca-
13 tions.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to carry out the Institu-
16 tional Removal Program—

- 17 (1) \$40,000,000 for fiscal year 2007;
- 18 (2) \$50,000,000 for fiscal year 2008;
- 19 (3) \$60,000,000 for fiscal year 2009;
- 20 (4) \$70,000,000 for fiscal year 2010;
- 21 (5) \$80,000,000 for fiscal year 2011; and
- 22 (6) \$80,000,000 for each fiscal year after fiscal
23 year 2011.

1 **SEC. 13. CONSTRUCTION.**

2 Nothing in this Act may be construed to require law
3 enforcement personnel of a State or political subdivision
4 of a State to—

5 (1) report the identity of a victim of, or a wit-
6 ness to, a criminal offense to the Secretary of Home-
7 land Security for immigration enforcement purposes;

8 (2) arrest such victim or witness for a violation
9 of the immigration laws of the United States; or

10 (3) enforce the immigration laws of the United
11 States.

12 **SEC. 14. SEVERABILITY.**

13 If any provision of this Act, including any amend-
14 ment made by this Act, or the application of such provi-
15 sion to any person or circumstance, is held invalid, the
16 remainder of this Act, and the application of such provi-
17 sion to other persons not similarly situated or to other
18 circumstances, shall not be affected by such invalidation.

○