To provide for enhanced Federal, State, and local assistance in the enforcement of the immigration laws, to amend the Immigration and Nationality Act, to authorize appropriations to carry out the State Criminal Alien Assistance Program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 2013

Mrs. BLACKBURN introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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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; STATE DEFINED; SEVERABILITY.

(a) Short Title.—This Act may be cited as the “Clear Law Enforcement for Criminal Alien Removal Act of 2013” or the “CLEAR Act of 2013”.

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37  of 2013” or the “CLEAR Act of 2013”.

38  “Clear Law Enforcement for Criminal Alien Removal Act

39  of 2013” or the “CLEAR Act of 2013”.
(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents; State defined; severability.
Sec. 2. Federal affirmation of assistance in the immigration law enforcement by States and political subdivisions of States.
Sec. 3. State authorization for assistance in the enforcement of immigration laws encouraged.
Sec. 4. Listing of immigration violators in the National Crime Information Center database.
Sec. 5. State and local law enforcement provision of information about apprehended aliens.
Sec. 6. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.
Sec. 7. Increased Federal detention space.
Sec. 8. Federal custody of aliens unlawfully present in the United States apprehended by State or local law enforcement.
Sec. 9. Training of State and local law enforcement personnel relating to the enforcement of immigration laws.
Sec. 10. Immunity.
Sec. 11. Institutional removal program (IRP).
Sec. 12. State criminal alien assistance program (SCAAP).
Sec. 13. Authorization of appropriations.

(c) STATE DEFINED.—For purposes of this Act, the term “State” has the meaning given such term in section 101(a)(36) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(36)).

(d) SEVERABILITY.—If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.
SEC. 2. FEDERAL AFFIRMATION OF ASSISTANCE IN THE IMMIGRATION LAW ENFORCEMENT BY STATES AND POLITICAL SUBDIVISIONS OF STATES.

Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State, or of a political subdivision of a State, have the inherent authority of a sovereign entity to investigate, identify, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), for the purposes of assisting in the enforcement of the immigration laws of the United States in the course of carrying out routine duties. This State authority has never been displaced or preempted by Congress.

SEC. 3. STATE AUTHORIZATION FOR ASSISTANCE IN THE ENFORCEMENT OF IMMIGRATION LAWS ENCOURAGED.

(a) In General.—Effective two years after the date of the enactment of this Act, a State, or a political subdivision of a State, that has in effect a statute, policy, or practice that prohibits law enforcement officers of the State, or of a political subdivision of the State, from assisting or cooperating with Federal immigration law enforcement in the course of carrying out the officers’ routine law enforcement duties shall not receive any of the funds that...
would otherwise be allocated to the State under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)).

(b) CONSTRUCTION.—Nothing in this section shall require law enforcement officials from States, or from political subdivisions of States, to report or arrest victims or witnesses of a criminal offense.

(c) REALLOCATION OF FUNDS.—Any funds that are not allocated to a State, or to a political subdivision of a State, due to the failure of the State, or of the political subdivision of the State, to comply with subsection (a) shall be reallocated to States, or to political subdivisions of States, that comply with such subsection.

SEC. 4. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO THE NCIC.—Not later than 180 days after the date of the enactment of this Act and periodically thereafter as updates may require, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may possess regarding any aliens against whom a final order of removal has been issued, any aliens who
have signed a voluntary departure agreement, any aliens who have overstay their authorized period of stay, and any aliens whose visas have been revoked. The National Crime Information Center shall enter such information into the Immigration Violators File of the National Crime Information Center database, regardless of whether—

(1) the alien concerned received notice of a final order of removal;

(2) the alien concerned has already been removed; or

(3) sufficient identifying information is available with respect to the alien concerned.

(b) INCLUSION OF INFORMATION IN THE NCIC DATABASE.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended—

(A) in paragraph (3), by striking “and” at the end;

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

“(4) acquire, collect, classify, and preserve records of violations by aliens of the immigration laws of the United States, regardless of whether any
such alien has received notice of the violation or whether sufficient identifying information is available with respect to any such alien and even if any such alien has already been removed from the United States; and”.

(2) EFFECTIVE DATE.—The Attorney General shall ensure that the amendment made by paragraph (1) is implemented by not later than 6 months after the date of the enactment of this Act.

SEC. 5. STATE AND LOCAL LAW ENFORCEMENT PROVISION OF INFORMATION ABOUT APPREHENDED Aliens.

(a) Provision of Information.—In compliance with section 642(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) and section 434 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644), each State, and each political subdivision of a State, shall provide the Secretary of Homeland Security in a timely manner with the information specified in subsection (b) with respect to each alien apprehended in the jurisdiction of the State, or in the political subdivision of the State, who is believed to be in violation of the immigration laws of the United States.
(b) INFORMATION REQUIRED.—The information referred to in subsection (a) is as follows:

(1) The alien’s name.

(2) The alien’s address or place of residence.

(3) A physical description of the alien.

(4) The date, time, and location of the encounter with the alien and reason for stopping, detaining, apprehending, or arresting the alien.

(5) If applicable, the alien’s driver’s license number and the State of issuance of such license.

(6) If applicable, the type of any other identification document issued to the alien, any designation number contained on the identification document, and the issuing entity for the identification document.

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

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

(9) The alien’s fingerprints, if available or readily obtainable.

(e) ANNUAL REPORT ON REPORTING.—The Secretary shall maintain and annually submit to Congress a detailed report listing the States, or the political subdivi-
sions of States, that have provided information under sub-
section (a) in the preceding year.

(d) Reimbursement.—The Secretary of Homeland
Security shall reimburse States, and political subdivi-
sions of a State, for all reasonable costs, as determined by the
Secretary, incurred by the State, or the political subdivi-
sion of a State, as a result of providing information under
subsection (a).

(e) Authorization of Appropriations.—There is
authorized to be appropriated to the Secretary such sums
as are necessary to carry out this section.

(f) Construction.—Nothing in this section shall re-
quire law enforcement officials of a State, or of a political
subdivision of a State, to provide the Secretary of Home-
land Security with information related to a victim of a
crime or witness to a criminal offense.

SEC. 6. FINANCIAL ASSISTANCE TO STATE AND LOCAL PO-
LICE AGENCIES THAT ASSIST IN THE EN-
FORCEMENT OF IMMIGRATION LAWS.

(a) Grants for Special Equipment for Housing
and Processing Certain Aliens.—From amounts
made available to make grants under this section, the Sec-
retary of Homeland Security shall make grants to States,
and to political subdivisions of States, for procurement of
equipment, technology, facilities, and other products that
facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting aliens who have violated the immigration law of the United States, including additional administrative costs incurred under this Act.

(b) ELIGIBILITY.—To be eligible to receive a grant under this section, a State, or a political subdivision of a State, must have the authority to, and shall have a written policy and a practice to, assist in the enforcement of the immigration laws of the United States in the course of carrying out the routine law enforcement duties of such State or political subdivision of a State. Entities covered under this section may not have any policy or practice that prevents local law enforcement from inquiring about a suspect’s immigration status.

(c) FUNDING.—There is authorized to be appropriated to the Secretary for grants under this section such sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.

(d) GAO AUDIT.—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of funds distributed to States, and to political subdivisions of a State, under subsection (a).
SEC. 7. INCREASED FEDERAL DETENTION SPACE.

(a) CONSTRUCTION OR ACQUISITION OF DETENTION FACILITIES.—

(1) IN GENERAL.—The Secretary of Homeland Security shall construct or acquire, in addition to existing facilities for the detention of aliens, 20 detention facilities in the United States, for aliens detained pending removal from the United States or a decision regarding such removal. Each facility shall have a number of beds necessary to effectuate this purposes of this Act.

(2) DETERMINATIONS.—The location of any detention facility built or acquired in accordance with this subsection shall be determined by the Deputy Assistant Director of the Detention Management Division of the Immigration and Customs Enforcement Office of Detention and Removal within United States Immigration and Customs Enforcement.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section.

(c) TECHNICAL AND CONFORMING AMENDMENT.—

Section 241(g)(1) of the Immigration and Nationality Act (8 U.S.C. 1231(g)(1)) is amended by striking “may expend” and inserting “shall expend”.

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SEC. 8. FEDERAL CUSTODY OF ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) State Apprehension.—

(1) In general.—Title II of the Immigration and Nationality Act (8 U.S.C. 1151 et seq.) is amended by inserting after section 240C the following:

“CUSTODY OF ALIENS UNLAWFULLY PRESENT IN THE UNITED STATES

“SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE AND LOCAL OFFICIALS.—If a State, or a political subdivision of the State, exercising authority with respect to the apprehension or arrest of an alien who is unlawfully present in the United States submits to the Secretary of Homeland Security a request that the alien be taken into Federal custody, the Secretary—

“(1) not later than 48 hours after the conclusion of the State, or the political subdivision of a State, charging process or dismissal process, or if no State or political subdivision charging or dismissal process is required, not later than 48 hours after the alien is apprehended, shall take the alien into the custody of the Federal Government and incarcerate the alien; or
“(2) shall request that the relevant State or local law enforcement agency temporarily incarcerate or transport the alien for transfer to Federal custody.

“(b) POLICY ON DETENTION IN STATE AND LOCAL DETENTION FACILITIES.—In carrying out section 241(g)(1), the Attorney General or Secretary of Homeland Security shall ensure that an alien arrested under this Act shall be detained, pending the alien’s being taken for the examination under this section, in a State or local prison, jail, detention center, or other comparable facility. Notwithstanding any other provision of law or regulation, such facility is adequate for detention, if—

“(1) such a facility is the most suitably located Federal, State, or local facility available for such purpose under the circumstances;

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

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

“(c) REIMBURSEMENT.—The Secretary of Homeland Security shall reimburse States, and political subdivisions of a State, for all reasonable expenses, as determined by the Secretary, incurred by the State, or political subdivi-
sion, as a result of the incarceration and transportation
of an alien who is unlawfully present in the United States
as described in subparagraphs (A) and (B) of subsection
(a)(1). Compensation provided for costs incurred under
such subparagraphs shall be the average cost of incarcera-
tion of a prisoner in the relevant State, as determined
by the chief executive officer of a State, or of a political
subdivision of a State, plus the cost of transporting the
alien from the point of apprehension to the place of deten-
tion, and to the custody transfer point if the place of de-
tention and place of custody are different.

“(d) SECURE FACILITIES.—The Secretary of Home-
land Security shall ensure that aliens incarcerated in Fed-
eral facilities pursuant to this Act are held in facilities
that provide an appropriate level of security.

“(e) TRANSFER.—

“(1) IN GENERAL.—In carrying out this sec-
tion, the Secretary of Homeland Security shall es-
tablish a regular circuit and schedule for the prompt
transfer of apprehended aliens from the custody of
States, and political subdivisions of a State, to Fed-
eral custody.

“(2) CONTRACTS.—The Secretary may enter
into contracts, including appropriate private con-
tracts, to implement this subsection.
“(f) DEFINITION.—For purposes of this section, the term ‘alien who is unlawfully present in the United States’ means an alien who—

“(1) entered the United States without inspection or at any time, manner or place other than that designated by the Secretary of Homeland Security;

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

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

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

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

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

(2) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 240C the following new item:

“Sec. 240D. Custody of aliens unlawfully present in the United States.”.
(b) GAO Audit.—Not later than three years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct an audit of compensation to States, and to political subdivisions of a State, for the incarceration of aliens unlawfully present in the United States under section 240D(a) of the Immigration and Nationality Act (as added by subsection (a)(1)).

SEC. 9. TRAINING OF STATE AND LOCAL LAW ENFORCEMENT PERSONNEL RELATING TO THE ENFORCEMENT OF IMMIGRATION LAWS.

(a) Establishment of Training Manual and Pocket Guide.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall establish—

(1) a training manual for law enforcement personnel of a State, or of a political subdivision of a State, to train such personnel in the investigation, identification, apprehension, arrest, detention, and transfer to Federal custody of aliens unlawfully present in the United States (including the transportation of such aliens across State lines to detention centers and the identification of fraudulent documents); and
(2) an immigration enforcement pocket guide for law enforcement personnel of a State, or of a political subdivision of a State, to provide a quick reference for such personnel in the course of duty.

(b) AVAILABILITY.—The training manual and pocket guide established in accordance with subsection (a) shall be made available to all State and local law enforcement personnel.

(e) APPLICABILITY.—Nothing in this section shall be construed to require State or local law enforcement personnel to carry the training manual or pocket guide with them while on duty.

(d) COSTS.—The Secretary of Homeland Security shall be responsible for any costs incurred in establishing the training manual and pocket guide.

(e) TRAINING FLEXIBILITY.—

(1) IN GENERAL.—The Secretary of Homeland Security shall make training of State and local law enforcement officers available through as many means as possible, including through residential training at the Center for Domestic Preparedness, onsite training held at State or local police agencies or facilities, online training courses by computer, teleconferencing, and videotape, or the digital video display (DVD) of a training course or courses. E-
learning through a secure, encrypted distributed learning system that has all its servers based in the United States, is scalable, survivable, and can have a portal in place not later than 30 days after the date of the enactment of this Act, shall be made available by the Federal Law Enforcement Training Center Distributed Learning Program for State and local law enforcement personnel.

(2) **Federal Personnel Training.**—The training of State and local law enforcement personnel under this section shall not displace the training of Federal personnel.

(3) **Clarification.**—Nothing in this Act or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws in the normal course of carrying out the normal law enforcement duties of such officers.

In carrying out this section, priority funding shall be given for existing web-based immigration enforcement training systems.
SEC. 10. IMMUNITY.

(a) PERSONAL IMMUNITY.—Notwithstanding any other provision of law, a law enforcement officer of a State or local law enforcement agency who is acting within the scope of the officer’s official duties shall be immune, to the same extent as a Federal law enforcement officer, from personal liability arising out of the performance of any duty described in this Act.

(b) AGENCY IMMUNITY.—Notwithstanding any other provision of law, a State or local law enforcement agency shall be immune from any claim for money damages based on Federal, State, or local civil rights law for an incident arising out of the enforcement of any immigration law, except to the extent a law enforcement officer of such agency committed a violation of Federal, State, or local criminal law in the course of enforcing such immigration law.

SEC. 11. INSTITUTIONAL REMOVAL PROGRAM (IRP).

(a) CONTINUATION AND EXPANSION.—

(1) IN GENERAL.—The Secretary of Homeland Security shall continue to operate and implement the program known as the Institutional Removal Program (IRP) which—

(A) identifies removable criminal aliens in Federal and State correctional facilities;
(B) ensures such aliens are not released into the community; and

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

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

(A) cooperate with officials of the Institutional Removal Program;

(B) expeditiously and systematically identify criminal aliens in its prison and jail populations; and

(C) promptly convey such information to officials of such Program as a condition of receiving such funds.

(b) AUTHORIZATION FOR DETENTION AFTER COMPLETION OF STATE OR LOCAL PRISON SENTENCE.—Law enforcement officers of a State, or of a political subdivision of a State, are authorized to—

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

(2) issue a detainer that would allow aliens who have served a State prison sentence to be detained by the State prison until personnel from United States Immigration and Customs Enforcement can take the alien into custody.

(c) TECHNOLOGY USAGE.—Technology such as video conferencing shall be used to the maximum extent practicable in order to make the Institutional Removal Program available in remote locations. Mobile access to Federal databases of aliens, such as IDENT, and live scan technology shall be used to the maximum extent practicable in order to make these resources available to State and local law enforcement agencies in remote locations.

SEC. 12. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM (SCAAP).

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) is amended to read as follows:

“(5) There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 2014 and each subsequent fiscal year.”.
SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for fiscal year 2014 and each subsequent fiscal year such sums as may be necessary to carry out this Act.