To prohibit transfers of individuals between ICE facilities and Federal, State, and local facilities, to ensure physical distancing inside ICE facilities, and for other purposes.

IN THE SENATE OF THE UNITED STATES
MAY 20, 2021

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

A BILL
To prohibit transfers of individuals between ICE facilities and Federal, State, and local facilities, to ensure physical distancing inside ICE facilities, 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.
This Act may be cited as the “End Transfers of Detained Immigrants Act”.

SEC. 2. LIMITATION ON TRANSFERS FROM ICE DETENTION FACILITIES.
(a) Transfers Between ICE Facilities.—
(1) IN GENERAL.—Except as provided in subsection (c), no person in the custody of U.S. Immigration and Customs Enforcement (referred to in this Act as “ICE”) may be transferred between ICE facilities during the period beginning on the date of the enactment of this Act and ending on the date on which the public health emergency declared by the Department of Health and Human Services on January 27, 2020 has concluded.

(2) DETERMINATION OF CONCLUSION OF PUBLIC HEALTH EMERGENCY.—For purposes of paragraph (1), the public health emergency referred to in such paragraph shall be deemed to conclude when the daily transmission rate of the novel coronavirus (2019–nCoV) that causes COVID–19 has been sufficiently contained so that the daily transmission rate of the virus in the United States during the prior 2-week period is at or below 1 per 1,500,000 individuals.

(3) TRANSFERS DESCRIBED.—The restriction under subsection (a)(1) shall apply to any transfer between any 2 ICE facilities utilized for the purpose of civil immigration detention, including—

(A) service processing centers;

(B) contract detention facilities;
(C) facilities operating under intergovernmental service agreements (whether dedicated or nondedicated with ICE);
(D) juvenile facilities; and
(E) family residential centers.

(b) Transfers Between Federal, State, or Local Facilities.—

(1) In general.—Except as provided in paragraph (2) or subsection (c), an ICE officer may not apprehend or transfer any individual to or from any ICE detention facility and—

(A) a Federal prison, including any facility operated by the Bureau of Prisons or the United States Marshals Service and any other facility used for the detention of Federal prisoners;

(B) a detention facility operated by a State or local law enforcement agency;

(C) a shelter or facility, whether permanent or temporary in nature, housing unaccompanied minors in the custody of the Office of Refugee Resettlement; or

(D) a State or local prison or jail.

(2) Requirements.—Notwithstanding paragraph (1), a medical professional may authorize the
transfer of an individual between an ICE detention facility and a State or local prison or jail if the medical professional—

(A) administers a COVID–19 test; and

(B) quarantines the individual in a non-punitive medical unit immediately before or after conducting the transfer—

(i) for a period of 14 consecutive days; or

(ii) until the test comes back negative.

(3) DEFINED TERM.—As used in paragraph (2)(B), the term “nonpunitive medical unit” excludes any punitive holding area, including isolation, solitary confinement, and administrative segregation.

(c) RELEASE OF DETAINEE.—Nothing in subsections (a) and (b) may be construed to prohibit—

(1) the transfer of any individual solely for the purpose of necessary processing related to the individual’s release from custody; or

(2) the transfer of a minor from the custody of ICE to the custody of the Office of Refugee Resettlement.

SEC. 3. PHYSICAL DISTANCING INSIDE ICE FACILITIES.

(a) IN GENERAL.—If, at any time, the Department of Homeland Security Office of the Inspector General, the
Centers for Disease Control and Prevention, State or local public health officials, court-appointed investigators, or the Director of ICE determine that ICE cannot ensure adherence to guidelines issued by the Centers for Disease Control and Prevention to mitigate against the spread of COVID–19 at any ICE facility, including maintaining physical distance between individuals in custody at all times, due to population levels or facility structures that necessitates housing and sleeping large groups of people in a single room, the Director shall—

(1) immediately conduct a custody review of all the individuals detained at such facility; and

(2) release all individuals who are determined eligible for release, with priority given to individuals who are most medically vulnerable to the effects of COVID–19.

(b) EFFECT OF FAILURE TO MAINTAIN PHYSICAL DISTANCING.—If the Director of ICE is unable to ensure physical distancing between all individuals in ICE custody at all times by the end of the 30-day period beginning on the date of the enactment of this Act, the Director shall—

(1) immediately initiate a custody review of all the individuals detained by ICE; and
(2) not later than 45 days after the date of the enactment of this Act, release sufficient numbers of detainees to ensure adherence to the guidelines issued by the Centers for Disease Control and Prevention regarding physical distancing to mitigate the spread of COVID–19.