

119TH CONGRESS
2D SESSION

S. 5337

To amend the Immigration and Nationality Act to provide for extensions of detention of certain aliens ordered removed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 6, 2026

Mrs. BRITT (for herself, Mr. TUBERVILLE, Mr. COTTON, Mr. CRUZ, Mr. MARSHALL, Mr. CRAPO, Mr. RISCH, Mr. CRAMER, Mrs. FISCHER, Mr. ROUNDS, Mr. BUDD, Mrs. HYDE-SMITH, Mr. HOEVEN, and Mr. RICKETTS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide for extensions of detention of certain aliens ordered removed, 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 “Keep Our Commu-
5 nities Safe Act of 2026”.

1 **SEC. 2. DETENTION OF DANGEROUS ALIENS DURING RE-**
 2 **MOVAL PROCEEDINGS.**

3 Section 236 of the Immigration and Nationality Act
 4 (8 U.S.C. 1226) is amended—

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

8 (2) in subsection (a)—

9 (A) in the matter preceding paragraph (1),
 10 by inserting “or the Attorney General” before
 11 the em dash;

12 (B) in paragraph (1), by striking “and” at
 13 the end and inserting “or”; and

14 (C) in paragraph (2), by amending sub-
 15 paragraph (B) to read as follows:

16 “(B) recognizance; and”;

17 (3) in subsection (b)—

18 (A) in the subsection heading, by inserting
 19 “CONDITIONAL” before “PAROLE”; and

20 (B) by inserting “conditional” before “pa-
 21 role”;

22 (4) in subsection (c)(1)—

23 (A) in the matter preceding subparagraph
 24 (A), by striking “Attorney General” and insert-
 25 ing “Secretary of Homeland Security”; and

1 (B) by striking the undesignated matter
2 following subparagraph (E)(ii) and inserting
3 the following:

4 “at any time after the alien is released, without re-
5 gard to whether an alien is released related to any
6 activity, offense, or conviction described in this para-
7 graph; to whether the alien is released on parole, su-
8 pervised release, or probation; or to whether the
9 alien may be arrested or imprisoned again for the
10 same offense. If the activity described in this para-
11 graph does not result in the alien being taken into
12 custody by any person other than the Secretary,
13 when the alien is brought to the attention of the
14 Secretary, the Secretary shall take such alien into
15 custody.”;

16 (5) in subsection (e), by striking “Attorney
17 General’s” and inserting “Secretary of Homeland
18 Security’s”; and

19 (6) by adding at the end the following:

20 “(g) LENGTH OF DETENTION.—Notwithstanding
21 any other provision under this section, an alien may be
22 detained under this section for any period, without limita-
23 tion, except as provided in subsection (i), until the alien
24 is subject to a final order of removal. The length of deten-

1 tion under this section shall not affect a detention under
2 section 241.

3 “(h) ADMINISTRATIVE REVIEW.—

4 “(1) LIMITATION.—The Attorney General’s re-
5 view of the Secretary of Homeland Security’s cus-
6 tody determinations under subsection (a) shall be
7 limited to whether the alien may be detained, re-
8 leased on bond (of at least \$1,500 with security ap-
9 proved by the Secretary), or released on recog-
10 nizance. Any review involving an alien described in
11 paragraph (2) shall be limited to a determination of
12 whether the alien is properly included in such cat-
13 egory.

14 “(2) CLASSES OF ALIENS.—The Attorney Gen-
15 eral’s review of the following classes of aliens shall
16 be limited to a determination of whether the alien is
17 properly included in such category:

18 “(A) Aliens in exclusion proceedings.

19 “(B) Aliens described in section 212(a)(3)
20 or 237(a)(4).

21 “(C) Aliens described in subsection (c).

22 “(D) Aliens in deportation proceedings
23 under section 242(a)(2) (as in effect between
24 April 24, 1996, and April 1, 1997).

25 “(i) RELEASE ON BOND.—

1 “(1) IN GENERAL.—An alien detained pursuant
 2 to subsection (a) may seek release on bond. No bond
 3 may be granted under this subsection unless the
 4 alien establishes, by clear and convincing evidence,
 5 that the alien is not a flight risk or a risk to another
 6 person or the community.

7 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
 8 detained pursuant to subsection (c) may seek release
 9 on bond under this subsection.”.

10 **SEC. 3. ALIENS ORDERED REMOVED.**

11 Section 241(a) of the Immigration and Nationality
 12 Act (8 U.S.C. 1231(a)) is amended—

13 (1) by striking “Attorney General” each place
 14 such term appears (except for the first place it ap-
 15 pears in paragraph (4)(B)(i)) and inserting “Sec-
 16 retary of Homeland Security”;

17 (2) in paragraph (1)—

18 (A) by striking subparagraphs (B) and (C)
 19 and inserting the following:

20 “(B) BEGINNING OF PERIOD.—The re-
 21 moval period begins on the latest of—

22 “(i) the date on which the order of re-
 23 moval becomes administratively final; or

24 “(ii) the date on which the alien is
 25 taken into the custody of the Secretary of

1 Homeland Security if the alien is not in
2 the custody of the Secretary of Homeland
3 Security on the date on which the order of
4 removal becomes administratively final.

5 “(C) SUSPENSION OF PERIOD.—

6 “(i) SUSPENSION.—The removal pe-
7 riod shall be suspended and the Secretary
8 of Homeland Security may, in the Sec-
9 retary’s sole discretion, detain the alien
10 during such suspension, if—

11 “(I) the alien fails or refuses to
12 make all reasonable efforts to comply
13 with the removal order, or to fully co-
14 operate with the Secretary’s efforts to
15 establish the alien’s identity and carry
16 out the removal order, including mak-
17 ing timely application in good faith
18 for travel or other documents nec-
19 essary to the alien’s departure or con-
20 spires or acts to prevent the alien’s
21 removal that is subject to an order of
22 removal;

23 “(II) any court, the Board of Im-
24 migration Appeals, or an immigration
25 judge orders a stay of removal of an

1 alien who is subject to an administra-
2 tively final order of removal; or

3 “(III) the Secretary transfers
4 custody of the alien pursuant to law
5 to another Federal agency or a State
6 or local government agency in connec-
7 tion with the official duties of such
8 agency.

9 “(ii) RESUMPTION.—If the removal
10 period has been suspended pursuant to
11 clause (i), the removal period shall resume
12 on the date on which—

13 “(I) the alien makes all reason-
14 able efforts to comply with the re-
15 moval order, or to fully cooperate with
16 the Secretary’s efforts to establish the
17 alien’s identity and carry out the re-
18 moval order;

19 “(II) the stay of removal is no
20 longer in effect; or

21 “(III) the alien is returned to the
22 custody of the Secretary.

23 “(iii) MANDATORY DETENTION FOR
24 CERTAIN ALIENS.—The Secretary shall
25 keep an alien described in any of subpara-

graphs (A) through (E) of section 236(c)(1) in detention during the periods described in clauses (i) and (ii).

“(iv) SOLE FORM OF RELIEF.—An alien may only seek relief from detention under this subparagraph by filing an application for a writ of habeas corpus in accordance with chapter 153 of title 28, United States Code. An alien whose period of detention is extended or suspended under this paragraph does not have the right to seek release on bond.”;

(3) in paragraph (3)—

(A) in the matter preceding subparagraph (A), by inserting “or is not detained pursuant to paragraph (6)” after “the removal period”; and

(B) by amending subparagraph (D) to read as follows:

“(D) to obey reasonable restrictions on the alien’s conduct or activities that the Secretary prescribes for the alien—

“(i) to prevent the alien from absconding;

1 “(ii) for the protection of the commu-
2 nity; or

3 “(iii) for other purposes related to the
4 enforcement of the immigration laws.”;

5 (4) in paragraph (4)(A), by striking “paragraph
6 (2)” and inserting “subparagraph (B)”; and

7 (5) by amending paragraph (6) to read as fol-
8 lows:

9 “(6) ADDITIONAL RULES FOR DETENTION OR
10 RELEASE OF CERTAIN ALIENS.—

11 “(A) DETENTION REVIEW PROCESS FOR
12 COOPERATIVE ALIENS ESTABLISHED.—

13 “(i) IN GENERAL.—The Secretary of
14 Homeland Security shall establish an ad-
15 ministrative review process to determine
16 whether an alien who is not otherwise sub-
17 ject to mandatory detention, who has made
18 all reasonable efforts to comply with a re-
19 moval order and to cooperate fully with the
20 Secretary’s efforts to establish the alien’s
21 identity and carry out the removal order,
22 including making timely application in
23 good faith for travel or other documents
24 necessary to the alien’s departure, and who
25 has not conspired or acted to prevent re-

1 moval should be detained or released on
2 conditions.

3 “(ii) DETERMINATION.—The Sec-
4 retary of Homeland Security shall make a
5 determination whether to release an alien
6 after the removal period in accordance with
7 subparagraph (B), which—

8 “(I) shall include consideration of
9 any evidence submitted by the alien;
10 and

11 “(II) may include consideration
12 of any other evidence, including—

13 “(aa) any information or as-
14 sistance provided by the Sec-
15 retary of State or other Federal
16 official; and

17 “(bb) any other information
18 available to the Secretary of
19 Homeland Security pertaining to
20 the ability to remove the alien.

21 “(B) AUTHORITY TO DETAIN BEYOND RE-
22 MOVAL PERIOD.—

23 “(i) IN GENERAL.—The Secretary of
24 Homeland Security may continue to detain
25 an alien for a period of 90 days beyond the

1 removal period. An alien whose detention is
2 extended under this subparagraph does not
3 have the right to seek release on bond.

4 “(ii) SPECIFIC CIRCUMSTANCES.—The
5 Secretary of Homeland Security may con-
6 tinue to detain an alien beyond the 90-day
7 period authorized under clause (i)—

8 “(I) until the alien is removed, if
9 the Secretary determines that there is
10 a significant likelihood that the
11 alien—

12 “(aa) will be removed in the
13 reasonably foreseeable future; or

14 “(bb) would be removed in
15 the reasonably foreseeable future,
16 or would have been removed, but
17 for the alien’s failure or refusal
18 to make all reasonable efforts to
19 comply with the removal order or
20 to cooperate fully with the Sec-
21 retary’s efforts to establish the
22 alien’s identity and carry out the
23 removal order, including making
24 timely application in good faith
25 for travel or other documents

1 necessary to the alien's depar-
2 ture, or conspires or acts to pre-
3 vent removal.

4 “(II) until the alien is removed,
5 if the Secretary certifies in writing—

6 “(aa) in consultation with
7 the Secretary of Health and
8 Human Services, that the alien
9 has a highly contagious disease
10 that poses a threat to public safe-
11 ty;

12 “(bb) based on information
13 available to the Secretary of
14 Homeland Security (including
15 classified, sensitive, or national
16 security information, and without
17 regard to the grounds upon
18 which the alien was ordered re-
19 moved), that there is reason to
20 believe that the release of the
21 alien would threaten the national
22 security of the United States;

23 “(cc) that—

24 “(AA) the release of the
25 alien will threaten the safety

1 of the community or any
2 person, conditions of release
3 cannot reasonably be ex-
4 pected to ensure the safety
5 of the community or of any
6 person; and

7 “(BB) the alien has
8 been convicted of 1 or more
9 aggravated felonies (as de-
10 fined in section
11 101(a)(43)(A)) or of 1 or
12 more crimes identified by
13 the Secretary of Homeland
14 Security, by regulation, or of
15 1 or more attempts or con-
16 spiracies to commit any such
17 aggravated felonies or such
18 identified crimes, if the ag-
19 gregate term of imprison-
20 ment for such attempts or
21 conspiracies is at least 5
22 years, or the alien has com-
23 mitted 1 or more crimes of
24 violence (as defined in sec-
25 tion 16 of title 18, United

1 States Code, but not includ-
 2 ing a purely political of-
 3 fense) and, because of a
 4 mental condition or person-
 5 ality disorder and behavior
 6 associated with that condi-
 7 tion or disorder, the alien is
 8 likely to engage in acts of vi-
 9 olence in the future; or

10 “(III) pending a certification
 11 under subclause (II), if the Secretary
 12 has initiated the administrative review
 13 process not later than 30 days after
 14 the expiration of the removal period.

15 “(iii) NO RIGHT TO BOND HEARING.—
 16 An alien whose detention is extended under
 17 this subparagraph, including by reason of
 18 a certification under clause (ii)(II), does
 19 not have a right to seek release on bond.

20 “(C) RENEWAL AND DELEGATION OF CER-
 21 TIFICATION.—

22 “(i) RENEWAL.—The Secretary of
 23 Homeland Security may renew a certifi-
 24 cation under subparagraph (B)(ii)(II)
 25 every 6 months after providing an oppor-

1 tunity for the alien to request reconsider-
2 ation of the certification and to submit
3 documents or other evidence in support of
4 that request. If the Secretary does not
5 renew a certification, the Secretary may
6 not continue to detain the alien pursuant
7 to subparagraph (B)(ii)(II).

8 “(ii) DELEGATION.—Notwithstanding
9 section 103, the Secretary of Homeland
10 Security may not delegate the authority to
11 make or renew a certification described in
12 item (bb) or (cc) of subparagraph
13 (B)(ii)(II) below the level of the Deputy
14 Director of U.S. Immigration and Customs
15 Enforcement.

16 “(D) RELEASE ON CONDITIONS.—If a
17 Federal court orders an alien to be released
18 from detention, the Secretary of Homeland Se-
19 curity may impose the conditions on release de-
20 scribed in paragraph (3).

21 “(E) REDETENTION.—

22 “(i) IN GENERAL.—The Secretary of
23 Homeland Security, without any limita-
24 tions other than those specified in this sec-

tion, may detain any alien subject to a
final removal order if—

“(I) removal becomes likely in
the reasonably foreseeable future;

“(II) the alien fails to comply
with the conditions of release or to
continue to satisfy the conditions de-
scribed in subparagraph (A); or

“(III) upon reconsideration, the
Secretary determines that the alien
can be detained under subparagraph
(B).

“(ii) APPLICABILITY.—This section
shall apply to any alien returned to cus-
tody pursuant to this subparagraph as if
the removal period terminated on the day
of the redetention.

“(F) REVIEW OF DETERMINATIONS BY
SECRETARY.—A determination by the Secretary
of Homeland Security under this paragraph
shall not be subject to review by any other
agency.”.

SEC. 4. SEVERABILITY.

If any of the provisions of this Act, any amendment
made by this Act, or the application of any such provision

1 or amendment to any person or circumstance, is held to
 2 be invalid for any reason, the remainder of this Act, the
 3 amendments made by this Act, and the application of the
 4 provisions and amendments made by this Act to any other
 5 person or circumstance shall not be affected by such hold-
 6 ing.

7 **SEC. 5. EFFECTIVE DATES.**

8 (a) APPREHENSION AND DETENTION OF ALIENS.—
 9 The amendments made by section 2 shall take effect on
 10 the date of the enactment of this Act. Section 236 of the
 11 Immigration and Nationality Act, as amended by section
 12 2, shall apply to any alien in detention under the provi-
 13 sions of such section on or after such date of enactment.

14 (b) ALIENS ORDERED REMOVED.—The amendments
 15 made by section 3 shall take effect on the date of the en-
 16 actment of this Act. Section 241 of the Immigration and
 17 Nationality Act, as amended by section 3, shall apply to—

18 (1) all aliens subject to a final administrative
 19 removal, deportation, or exclusion order that was
 20 issued before, on, or after the date of the enactment
 21 of this Act; and

22 (2) acts and conditions occurring or existing be-
 23 fore, on, or after such date of enactment.

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