

110TH CONGRESS
1ST SESSION

H. R. 1355

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

MARCH 6, 2007

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.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Scott Gardner Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 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
2 INFORMATION.**

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

6 (b) IMPROVED OPERATION OF FEDERAL IMMIGRATION DATABASES.—

8 (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.

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

17 (A) improve data entry, including eliminating of data entry backlogs;
18 (B) increase efficiency; and

1 (C) increase accessibility of information to
2 Federal, State, and local law enforcement agen-
3 cies.

9 (c) DEFINITIONS.—For purposes of this section and
10 section 3:

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

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

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

20 (C) Any other database containing immi-
21 gration information identified by the Secretary
22 of Homeland Security.

1 relating to immigration, including illegal immigration
2

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

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

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

9 **SEC. 3. STATE AND LOCAL REPORTING OF IMMIGRATION**

10 **INFORMATION.**

11 (a) REQUIREMENT.—

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

19 (2) CONDITION OF RECEIPT OF SCAAP FUND-
20 ING.—If the director of a State or local law enforce-
21 ment agency does not collect and report information
22 in accordance with paragraph (1), such State or
23 local law enforcement agency shall be ineligible to
24 receive funding under the State Criminal Alien As-

1 assistance Program under section 241(i) of the Immig-
2 ration and Nationality Act (8 U.S.C. 1231(i)).

3 (3) REPORT ON RESOURCES.—Not later than
4 90 days after the date of the enactment of this Act,
5 the Secretary and the Attorney General shall jointly
6 submit to Congress a report on additional resources
7 required by State and local law enforcement agencies
8 to comply with the requirement of paragraph (1).

9 (b) PROMOTION OF LAW ENFORCEMENT SUPPORT
10 CENTER.—The Secretary shall promote the use of the
11 LESC to State and local law enforcement agencies.

12 (c) EXEMPTION FROM STATE AND LOCAL REPORT-
13 ING OF IMMIGRATION INFORMATION.—State and local law
14 enforcement agencies are not required to collect and report
15 immigration information relating to individuals who assist
16 law enforcement agencies in the performance of their du-
17 ties, including as an informant, witness, or in other similar
18 capacity.

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

21 (a) INCLUSION.—DWI and immigration information
22 in the NCIC—
23 (1) shall appear as a flag on the wants/war-
24 rants page of the NCIC; and

4 (b) MANDATORY DETENTION.—A State or local law
5 enforcement officer who finds a flag for a DWI and immi-
6 gration violation of an alien on the wants/warrants page
7 of the NCIC and who arrests the alien shall detain the
8 alien in a State or local jail until the alien can be trans-
9 fered to Federal custody.

10 SEC. 5. STATE AND LOCAL ENFORCEMENT OF FEDERAL IM-
11 MIGRATION LAWS.

12 (a) IN GENERAL.—Section 287(g) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1357(g)) is amended—
14 (1) in paragraph (1), by striking “may” and in-
15 serting “shall” the first place it appears;

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

25 (b) EFFECTIVE DATES.—

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

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

15 (1) in subsection (c)(1)—

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

18 (B) in subparagraph (D), by adding "or"
19 at the end; and

20 (C) by adding after subparagraph (D) the
21 following new subparagraph:

22 “(E) is deportable on any grounds and is
23 apprehended for driving while intoxicated, driv-
24 ing under the influence, or similar violation of
25 State law (as determined by the Secretary of

1 Homeland Security) by a State or local law en-
2 forcement officer covered under an agreement
3 under section 287(g),”;

4 (2) by redesignating subsection (e) as sub-
5 section (f); and

6 (3) by inserting after subsection (d) the fol-
7 lowing new subsection:

8 “(e) DRIVING WHILE INTOXICATED.—If a State or
9 local law enforcement officer apprehends an individual for
10 an offense described in subsection (c)(1)(E) and the offi-
11 cer has reasonable ground to believe that the individual
12 is an alien—

13 “(1) the officer shall verify with the databases
14 of the Federal Government, including the National
15 Criminal Information Center and the Law Enforce-
16 ment Support Center, whether the individual is an
17 alien and whether such alien is unlawfully present in
18 the United States; and

19 “(2) if any such database—

1 agreement until the alien is convicted for
2 such offense or the alien is transferred to
3 Federal custody;

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

25 (b) DEPORTATION FOR DWI.—

4 “(F) DRIVING WHILE INTOXICATED.—Any
5 alien who is convicted of driving while intox-
6 icated, driving under the influence, or similar
7 violation of State law (as determined by the
8 Secretary of Homeland Security), or who re-
9 fuses in violation of State law to submit to a
10 Breathalyzer test or other test for the purpose
11 of determining blood alcohol content is deport-
12 able and shall be deported.”.

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

7 SEC. 7. FEDERAL DETENTION FACILITIES.

8 (a) REPORT ON CURRENT ALLOCATION FORMULA;

9 RECOMMENDATIONS FOR STOP-GAP MEASURES.—Not

10 later than 90 days after the date of the enactment of this

11 Act, the Secretary of Homeland Security shall submit to

12 Congress a report describing the formula for allocation of

13 Federal detention facilities for aliens under section 241(g)

14 of the Immigration and Nationality Act (8 U.S.C.

15 1231(g)). The Secretary shall include in such report rec-

16 ommendations for measures for the temporary expansion

17 of State and local jails to detain increased numbers of

18 aliens who are unlawfully present in the United States

19 pending construction or expansion of Federal detention fa-

20 cilities.

21 (b) NEW CONSTRUCTION IN HIGH CONCENTRATION
22 AREAS.—In accordance with such section, the Secretary
23 shall ensure that, to the greatest extent practicable, con-
24 struction of new detention facilities is undertaken in or
25 near areas in which the Secretary has determined that

1 there is a high concentration of aliens who are unlawfully
2 present in the United States.

3 (c) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated such sums as necessary
5 to carry out this section.

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