

110TH CONGRESS
1ST SESSION

S. 2074

To provide for safe and humane policies and procedures pertaining to the arrest, detention, and processing of aliens in immigration enforcement operations.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 20, 2007

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for safe and humane policies and procedures pertaining to the arrest, detention, and processing of aliens in immigration enforcement operations.

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 “Families First Immi-
5 gration Enforcement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DEPARTMENT.—The term “Department”
9 means the Department of Homeland Security.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of Homeland Security.

3 (3) SSA.—The term “SSA” means appropriate
4 State social service agencies.

5 **SEC. 3. ARREST PROCEDURES.**

6 (a) IN GENERAL.—Any immigration workplace en-
7 forcement operation by the Department for alleged viola-
8 tions under the Immigration and Nationality Act (8
9 U.S.C. 1101 et seq.), which is reasonably calculated to ap-
10 prehend, or results in the apprehension of, at least 50
11 aliens, shall be carried out in accordance with the proce-
12 dures described in this section.

13 (b) STATE NOTIFICATION.—The Department shall
14 provide State officials with sufficient advance notice of all
15 immigration workplace enforcement operations to allow
16 State law enforcement officials to notify SSA of—

17 (1) the specific area of the State that will be af-
18 fected;

19 (2) the languages spoken by employees at the
20 target worksite; and

21 (3) any special needs of the employees.

22 (c) NGO NOTIFICATION.—

23 (1) IN GENERAL.—The Department and the ap-
24 plicable SSA shall determine how appropriate non-

1 governmental organizations will be notified on the
2 day of the enforcement action.

3 (2) PARTICIPATION.—At the discretion of the
4 SSA, representatives of the nongovernmental organi-
5 zation who speak the native language of the aliens
6 detained in the enforcement action may be permitted
7 to participate with SSA officials in interviewing such
8 aliens.

9 (d) DETERMINATION OF RISK TO RELATIVES.—The
10 Department shall provide the applicable SSA with unfet-
11 tered and confidential access to aliens detained in the en-
12 forcement action to assist in the screening and interviews
13 of aliens to determine whether the detainee, the detainee’s
14 children, or other vulnerable people, including elderly and
15 disabled individuals, have been placed at risk as a result
16 of the detainee’s arrest.

17 (e) MEDICAL SCREENING.—After SSA officials have
18 met with the alien detainees, qualified medical personnel
19 from the Division of Immigration Health Services of the
20 Department of Health and Human Services shall—

21 (1) conduct medical screenings of the alien de-
22 tainees; and

23 (2) identify and report any medical issues that
24 might necessitate humanitarian release or additional
25 care.

1 (f) CONSIDERATION OF RECOMMENDATIONS.—The
2 Department shall immediately consider recommendations
3 made by the applicable SSA and the Division of Immigra-
4 tion Health Services about alien detainees who should be
5 released on humanitarian grounds, including alien detain-
6 ees who—

7 (1) have a medical condition that requires spe-
8 cial attention;

9 (2) are pregnant women;

10 (3) are nursing mothers;

11 (4) are the sole caretakers of their minor chil-
12 dren or elderly relatives;

13 (5) function as the primary contact between the
14 family and those outside the home due to language
15 barriers;

16 (6) are needed to support their spouses in car-
17 ing for sick or special needs children;

18 (7) have spouses who are ill or otherwise unable
19 to be sole caretaker; or

20 (8) are younger than 18 years of age.

21 (g) PUBLICITY.—The Department shall provide, and
22 advertise in the mainstream and foreign language media,
23 a toll-free number through which family members of alien
24 detainees may report such relationships to operators who
25 speak English and the majority language of the target

1 population of the enforcement operation and will convey
2 such information to the Department and the applicable
3 SSA.

4 **SEC. 4. DETENTION PROCEDURES.**

5 (a) IN GENERAL.—In order to maximize full and fair
6 visitation by children, immediate family members, and
7 counsel, an alien should be detained, to the extent space
8 is available, in facilities within the physical jurisdiction or
9 catchment area of the local field office of United States
10 Immigration and Customs Enforcement.

11 (b) RELEASE.—

12 (1) IN GENERAL.—Not later than 72 hours of
13 an alien’s apprehension, the alien shall be released
14 from Department custody, in accordance with para-
15 graph (2), if the alien—

16 (A) is not subject to mandatory detention
17 under section 235(1)(B)(iii)(IV), 236(c), or
18 236A of the Immigration and Nationality Act
19 (8 U.S.C. 1225(1)(B)(iii)(IV), 1226(c), and
20 1226a);

21 (B) does not pose an immediate flight risk;
22 and

23 (C) meets any of the criteria set forth in
24 section 3(f).

1 (2) TYPE OF RELEASE.—An alien shall be re-
2 leased under this subsection—

3 (A) on the alien’s own recognizance;

4 (B) by posting a minimum bond under sec-
5 tion 236(a) of the Immigration and Nationality
6 Act (8 U.S.C. 1226(a));

7 (C) on parole in accordance with section
8 212(d)(5)(A) of such Act (8 U.S.C.
9 1182(d)(5)(A)); or

10 (D) through the Intensive Supervision Ap-
11 pearance Program or another comparable alter-
12 native to detention program.

13 **SEC. 5. LEGAL ORIENTATION PRESENTATIONS.**

14 Any alien arrested in an immigration enforcement op-
15 eration that is reasonably calculated to apprehend, or re-
16 sults in the apprehension of, at least 50 aliens shall have
17 access to legal orientation presentations provided by inde-
18 pendent, nongovernmental agencies through the Legal
19 Orientation Program administered by the Executive Office
20 for Immigration Review.

21 **SEC. 6. REGULATIONS CONCERNING THE TREATMENT OF**
22 **ALIENS IN A VULNERABLE POPULATION IN**
23 **THE UNITED STATES.**

24 Not later than 6 months after the date of the enact-
25 ment of this Act, the Secretary shall promulgate regula-

1 tions to implement this Act, in accordance with the notice
2 and comment requirements under subchapter II of chapter
3 5 of title 5, United States Code (commonly referred to
4 as the Administrative Procedure Act).

5 **SEC. 7. REPORT TO CONGRESS.**

6 The Secretary shall submit an annual report that de-
7 scribes all the actions taken by the Department to imple-
8 ment this Act to—

9 (1) Committee on the Judiciary of the Senate;

10 (2) Committee on the Judiciary of the House of
11 Representatives;

12 (3) the Committee on Homeland Security and
13 Governmental Affairs of the Senate; and

14 (4) the Committee on Homeland Security of the
15 House of Representatives.

16 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums
18 as may be necessary to carry out this Act.

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