

110TH CONGRESS
2D SESSION

S. 3143

To assist law enforcement agencies in locating, arresting, and prosecuting fugitives from justice.

IN THE SENATE OF THE UNITED STATES

JUNE 17, 2008

Mr. DURBIN (for himself and Mrs. DOLE) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To assist law enforcement agencies in locating, arresting, and prosecuting fugitives from justice.

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 “Capture Arrest and
5 Transport Charged Fugitives Act of 2008”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Nationwide, there are an estimated
9 2,800,000 to 3,200,000 active Federal, State, and

1 local warrants for the arrest of persons charged with
2 felony crimes.

3 (2) State and local law enforcement authorities
4 have insufficient resources to devote to searching for
5 and apprehending fugitives. As a result, large num-
6 bers of fugitives evade arrest. State and local law
7 enforcement authorities also lack resources for ex-
8 traditing fugitives who have been arrested in other
9 States. As a result, such fugitives frequently escape
10 prosecution.

11 (3) Increasing the resources available for con-
12 ducting fugitive investigations and transporting fugi-
13 tives between States would increase the number of
14 fugitives who are arrested and prosecuted.

15 (4) The United States Marshals Service (re-
16 ferred to in this Act as the “USMS”) plays an inte-
17 gral role in the apprehension of fugitives in the
18 United States, and has a long history of providing
19 assistance and expertise to other law enforcement
20 agencies in support of fugitive investigations.

21 (5)(A) Pursuant to the Presidential Threat
22 Protection Act of 2000, the USMS created the Re-
23 gional Fugitive Task Force (referred to in this Act
24 as the “RF’TF”) program. Through the RF’TF’s, the
25 USMS combines the efforts and resources of Fed-

1 eral, State, and local law enforcement authorities for
2 the purpose of locating and apprehending fugitives.

3 (B) Between 2002 and 2006, the USMS estab-
4 lished 6 RFTFs—

5 (i) the New York/New Jersey RFTF,
6 based in New York, NY;

7 (ii) the Pacific Southwest RFTF, based in
8 Los Angeles, CA;

9 (iii) the Great Lakes RFTF, based in Chi-
10 cago, IL;

11 (iv) the Southeast RFTF, based in At-
12 lanta, GA;

13 (v) the Capital Area RFTF, based in
14 Washington, DC; and

15 (vi) the Gulf Coast RFTF, based in Bir-
16 mingham, AL.

17 (6) More than 230 Federal, State, and local law
18 enforcement agencies have partnered with the 6
19 RFTFs, creating a “force multiplier” that signifi-
20 cantly expands the capacity of each agency to locate
21 and apprehend fugitives. Since their inception, these
22 6 RFTFs have arrested approximately 90,000 Fed-
23 eral and State felony fugitive arrests. However, the
24 USMS has not received significant resources for de-
25 veloping additional RFTFs since 2006.

1 (7)(A) The USMS believes that the following
2 geographic areas of the United States would benefit
3 from the creation of an RFTF:

4 (i) The Carolinas.

5 (ii) The Caribbean.

6 (iii) Texas.

7 (iv) New England.

8 (v) Florida.

9 (vi) Northern California.

10 (vii) The Heartland.

11 (viii) Michigan and Ohio.

12 (ix) Pacific Northwest.

13 (x) Mountain.

14 (xi) Mid-Atlantic.

15 (xii) Southwest.

16 (B) The establishment of RFTFs in each of
17 these additional regions would enable the USMS to
18 provide effective fugitive location and apprehension
19 assistance to every state and territory in the United
20 States.

21 (8) The USMS utilizes the Justice Prisoner and
22 Alien Transportation Service (referred to in this Act
23 as the “JPATS”) to transport Federal detainees
24 and prisoners. It also makes JPATS available to a
25 very limited number of State and local law enforce-

1 ment agencies on a reimbursable, space-available
2 basis for the purpose of transporting a fugitive from
3 the place where the fugitive was arrested to the ju-
4 risdiction that issued the warrant for the fugitive's
5 arrest. Through JPATS, these agencies are able to
6 reduce the cost of extradition significantly.

7 (9) Expanding JPATS so that the USMS can
8 make it available to all State and local law enforce-
9 ment agencies that participate in a RFTF would
10 lower the cost of transporting fugitives for extra-
11 dition and lead to the prosecution of a greater num-
12 ber of fugitives.

13 (10) Since 1967, the Federal Bureau of Inves-
14 tigation has operated the National Crime Informa-
15 tion Center (referred to in this Act as the "NCIC"),
16 which administers a nationwide database containing
17 criminal history information from the Federal Gov-
18 ernment and the States, including outstanding ar-
19 rest warrants. The NCIC database allows a law en-
20 forcement officer who stops a person in one State to
21 obtain information about a warrant for that person
22 issued in another State. It contains approximately
23 1,300,000 felony and misdemeanor warrants. It is
24 missing over half of the country's 2,800,000 to

1 3,200,000 felony warrants, including warrants for
2 hundreds of thousands of violent crimes.

3 (11) A State's failure to enter a warrant into
4 the NCIC database enables a fugitive to escape ar-
5 rest even when the fugitive is stopped by a law en-
6 forcement officer in another State, because such offi-
7 cer did not have accurate information about the war-
8 rant. Many such fugitives go on to commit addi-
9 tional crimes. In addition, they pose a danger to offi-
10 cers who encounter them but have no knowledge of
11 their pending charges or record of fleeing law en-
12 forcement authorities.

13 (12) Improving the completeness of the warrant
14 records in the NCIC database would enable law en-
15 forcement officers to identify and arrest a larger
16 number of fugitives and would improve the safety of
17 these officers.

18 **SEC. 3. DEFINITIONS.**

19 As used in this Act, the following definitions shall
20 apply:

21 (1) **ACTIVE WARRANT.**—The term “active war-
22 rant” means a warrant that has not been cleared.

23 (2) **CLEAR A WARRANT.**—The term “clear a
24 warrant” means the execution of a warrant by arrest
25 or a determination by a law enforcement agency that

1 a warrant has already been executed or that the sub-
2 ject of a warrant is incarcerated or deceased.

3 (3) FELONY WARRANT.—The term “felony war-
4 rant” means a warrant for a crime that is punish-
5 able by a term of imprisonment exceeding 1 year,
6 whether or not the jurisdiction that issued the war-
7 rant anticipates extradition.

8 (4) SERIOUS MISDEMEANOR WARRANT.—The
9 term “serious misdemeanor warrant” means a war-
10 rant for a crime that is punishable by a term of im-
11 prisonment for 1 year or less but that involves do-
12 mestic violence, as described in section
13 921(a)(33)(A)(ii) of title 18, United States Code, or
14 child pornography as defined in section 2256 of title
15 18, United States Code, whether or not the jurisdic-
16 tion that issued the warrant anticipates extradition.

17 (5) STATE.—The term “State” means any
18 State of the United States, the District of Columbia,
19 the Commonwealth of Puerto Rico, the Virgin Is-
20 lands, American Samoa, Guam, the Northern Mar-
21 iana Islands, and any Indian Tribe that performs
22 law enforcement functions, as determined by the
23 Secretary of the Interior.

24 (6) UNIT OF LOCAL GOVERNMENT.—The term
25 “unit of local government” means—

1 (A) any city, county, township, borough,
 2 parish, village, or other general purpose polit-
 3 ical subdivision of a State; or

4 (B) any law enforcement district or judicial
 5 enforcement district that is established under
 6 applicable State law and has the authority to,
 7 in a manner independent of other State entities,
 8 establish a budget and impose taxes.

9 **TITLE I—EXPANSION OF THE**
 10 **UNITED STATES MARSHAL**
 11 **SERVICE FUGITIVE APPRE-**
 12 **HENSION PROGRAM**

13 **SEC. 101. AUTHORIZATION OF FUNDING FOR ADDITIONAL**
 14 **UNITED STATES MARSHAL SERVICE RE-**
 15 **GIONAL FUGITIVE TASK FORCES.**

16 Section 6(b) of the Presidential Threat Protection
 17 Act of 2000 (28 U.S.C. 566 note; Public Law 106–544)
 18 is amended by striking “and \$10,000,000 for each of fiscal
 19 years 2008 through 2012” and inserting “\$10,000,000 for
 20 fiscal year 2008, and \$50,000,000 for each of fiscal years
 21 2009 through 2012 and \$25,000,000 for each of fiscal
 22 years 2013 through 2015 for—

23 “(1) hiring senior-level criminal investigator
 24 deputy marshals and administrative analysts to in-

1 crease the staffing of the 6 existing Regional Fugitive
2 Task Forces;

3 “(2) establishing new Regional Fugitive Task
4 Forces in the areas of the country not currently
5 served by existing Regional Fugitive Task Forces;

6 “(3) hiring senior-level criminal investigator
7 deputy marshals and administrative analysts to staff
8 each new Regional Fugitive Task Force established
9 under this section;

10 “(4) hiring senior-level criminal investigator
11 deputy marshals to increase the staffing of the
12 United States Marshals Service Technical Oper-
13 ations Group, which provides electronic and air sur-
14 veillance in support of fugitive investigations;

15 “(5) providing training facilities and enhancing
16 training opportunities for Federal, State, and local
17 task force officers from agencies that participate in
18 the Regional Fugitive Task Forces; and

19 “(6) other activities related to those described
20 in paragraphs (1) through (5).

21 Any funds made available under this subsection shall re-
22 main available until expended.”.

1 **SEC. 102. AUTHORIZATION OF FUNDING FOR FUGITIVE EX-**
 2 **TRADITIONS.**

3 (a) **AUTHORIZATION.**—The Attorney General shall
 4 assist States and units of local government that partici-
 5 pate in a Regional Fugitive Task Force by securing trans-
 6 portation services for the extradition of fugitives via the
 7 United States Marshal Service Justice Prisoner and Alien
 8 Transportation Service.

9 (b) **FUNDING.**—There are authorized to be appro-
 10 priated to carry out this section \$2,000,000 for each of
 11 fiscal years 2009 through 2015. Any funds made available
 12 under this section shall remain available until expended.

13 **TITLE II—EXTRADITION ASSIST-**
 14 **ANCE AND TRANSMITTAL OF**
 15 **WARRANTS TO THE NCIC**

16 **SEC. 201. EXTRADITION ASSISTANCE TO STATES.**

17 (a) **GRANT ASSISTANCE.**—

18 (1) **AUTHORIZATION OF GRANT ASSISTANCE.**—

19 (A) **IN GENERAL.**—The Attorney General
 20 shall, subject to subsection (b)(2), make grants
 21 to States for periods of 1 year per grant which
 22 shall be used by the States and units of local
 23 government to extradite a person from another
 24 State for prosecution.

25 (B) **SET ASIDE.**—Up to 5 percent of the
 26 grant funding available under this section may

1 be reserved for Indian tribal governments, in-
2 cluding tribal judicial systems.

3 (2) MATCHING FUNDS.—The Federal share of a
4 grant received under this section may not exceed 80
5 percent of the costs of a program or proposal funded
6 under this title unless the Attorney General waives,
7 wholly or in part, the requirements of this paragraph
8 in the event of extraordinary circumstances.

9 (3) CONDITIONS.—

10 (A) FIRST PERIOD.—During the 2-year pe-
11 riod beginning 3 years after the date of enact-
12 ment of this Act—

13 (i) a State shall not be eligible to re-
14 ceive a grant under this section if it pro-
15 vides less than 50 percent of the records
16 required to be provided under this section,
17 as determined for the State by the Attor-
18 ney General under subsection (d), or fails
19 to provide an estimate of the total number
20 of active felony and serious misdemeanor
21 warrants issued by the State and units of
22 local government within the State, as re-
23 quired by subsection (b); and

24 (ii) a State shall not provide any por-
25 tion of a grant received under this section

1 to a unit of local government that provides
2 to the NCIC less than 50 percent of the
3 total number of serious misdemeanor and
4 felony warrants that it has issued, as de-
5 termined by the State and consistent with
6 the method determined by the Attorney
7 General in subsection (d).

8 (B) SECOND PERIOD.—During the 2-year
9 period beginning 5 years after the date of en-
10 actment of this Act—

11 (i) a State shall not be eligible to re-
12 ceive a grant under this section if it pro-
13 vides less than 70 percent of the records
14 required to be provided under this section,
15 as determined for the State by the Attor-
16 ney General under subsection (d), or fails
17 to provide an estimate of the total number
18 of active felony and serious misdemeanor
19 warrants issued by the State and units of
20 local government within the State, as re-
21 quired by subsection (b); and

22 (ii) a State shall not provide any por-
23 tion of a grant received under this section
24 to a unit of local government that provides
25 to the NCIC less than 70 percent of the

1 total number of serious misdemeanor and
2 felony warrants that it has issued, as de-
3 termined by the State and consistent with
4 the method determined by the Attorney
5 General in subsection (d).

6 (C) THIRD PERIOD.—After the expiration
7 of the period referred to in subparagraph (B)—

8 (i) a State shall not be eligible to re-
9 ceive a grant under this section if it pro-
10 vides less than 90 percent of the records
11 required to be provided under this section,
12 as determined for the State by the Attor-
13 ney General under subsection (d), or fails
14 to provide an estimate of the total number
15 of active felony and serious misdemeanor
16 warrants issued by the State and units of
17 local government within the State, as re-
18 quired by subsection (b); and

19 (ii) a State shall not provide any por-
20 tion of a grant received under this section
21 to a unit of local government that provides
22 to the NCIC less than 90 percent of the
23 total number of serious misdemeanor and
24 felony warrants that it has issued, as de-
25 termined by the State and consistent with

1 the method determined by the Attorney
2 General in subsection (d).

3 (D) MINIMUM REQUIREMENT.—A unit of
4 local government may not be eligible to receive
5 a portion of a grant received by the State under
6 this section unless, during the 1 year period
7 covered by the grant, the unit of local govern-
8 ment has already extradited a number of per-
9 sons from other States for prosecution that is
10 equal to or greater than the average of the
11 number of persons extradited during the 3 year
12 period immediately preceding the date of enact-
13 ment of this Act.

14 (E) OVERSIGHT.—As a condition of receiv-
15 ing a grant under this section, a State shall—

16 (i) specify the project or projects for
17 which grant amounts will be used;

18 (ii) use such amounts only as speci-
19 fied; and

20 (iii) maintain and report such data,
21 records and information (programmatic
22 and financial) as the Attorney General
23 may require.

24 (F) AUDIT.—The Attorney General or the
25 Inspector General of the Department of Justice

1 may conduct an audit of a State or unit of local
2 government to ensure compliance with the pro-
3 visions of this subsection concerning the condi-
4 tions for receiving grant money and subsection
5 (b)(1) concerning the use of the Attorney Gen-
6 eral's methodology to estimate the number of
7 warrants. A State or unit of local government
8 that violates this subsection shall be liable to
9 the Attorney General for the full amount of the
10 grant received under this section or any portion
11 of the grant found to be appropriate given the
12 findings of the audit or the nature of the viola-
13 tion.

14 (4) AUTHORIZATION OF APPROPRIATIONS.—
15 There are authorized to be appropriated to carry out
16 this section \$50,000,000 for each of fiscal years
17 2009 through 2015.

18 (b) STATE ESTIMATES.—

19 (1) IN GENERAL.—To assist the Attorney Gen-
20 eral in making a determination under subsection (a)
21 concerning eligibility to receive a grant and section
22 202(d)(2) concerning the allocation of grants, and
23 not later than 180 days after the date of the enact-
24 ment of this Act and annually thereafter on a date
25 designated by the Attorney General, each State shall

1 provide the Attorney General with a reasonable esti-
2 mate, as calculated by a method determined by the
3 Attorney General, of the total number of active fel-
4 ony and serious misdemeanor warrants issued by the
5 State and by local jurisdictions within the State, re-
6 gardless of the age of the warrants.

7 (2) FAILURE TO PROVIDE.—A State that fails
8 to provide an estimate described in paragraph (1) by
9 the date required under such paragraph shall be in-
10 eligible to receive any funds under subsection (a),
11 until such date as it provides such estimate to the
12 Attorney General.

13 (c) TRANSMITTAL OF WARRANTS TO THE NCIC.—

14 (1) AVAILABILITY.—Each State shall make
15 electronically available to the NCIC all serious mis-
16 demeanor and felony warrants issued by the State
17 and by local jurisdictions within the State.

18 (2) STATE UPDATE.—Each State, on being
19 made aware that an active serious misdemeanor or
20 felony warrant has been cleared, shall, as soon as
21 practicable, provide an update to the NCIC con-
22 sistent with the NCIC's rules and policies.

23 (3) NCIC UPDATE.—Upon receiving an update
24 under paragraph (2), the NCIC shall ensure that the

1 records in the NCIC database are updated within 15
2 days of receipt.

3 (d) DETERMINATION OF TRANSMITTAL PERFORM-
4 ANCE.—The Attorney General, for the purposes set forth
5 in this section and section 202, shall determine the per-
6 centage of the total number of serious misdemeanor and
7 felony warrants provided by a State to the NCIC and the
8 method to be used by the States for determining the per-
9 centage of the total number of such warrants provided by
10 a unit of local government to the NCIC.

11 (e) ATTORNEY GENERAL REPORT.—

12 (1) IN GENERAL.—Not later than January 31
13 of each year, the Attorney General shall submit to
14 the Committee on the Judiciary of the Senate and
15 the Committee on the Judiciary of the House of
16 Representatives a report—

17 (A) containing the estimates submitted by
18 the States under subsection (b);

19 (B) describing the progress of States in
20 making warrants electronically available to the
21 NCIC pursuant to the requirements of sub-
22 section (c); and

23 (C) describing the practices of the States
24 regarding the collection, maintenance, automa-
25 tion, and transmittal of serious misdemeanor

1 and felony warrants to the NCIC, that the At-
2 torney General considers to be best practices.

3 (2) BEST PRACTICES.—Not later than January
4 31 of each year, the Attorney General shall also pro-
5 vide the information regarding best practices, re-
6 ferred to in paragraph (1)(C), to each State submit-
7 ting information to the NCIC.

8 **SEC. 202. IMPLEMENTATION ASSISTANCE TO STATES.**

9 (a) AUTHORIZATION OF GRANT ASSISTANCE.—

10 (1) IN GENERAL.—The Attorney General shall
11 make grants to States in a manner consistent with
12 the National Criminal History Improvement Pro-
13 gram, which shall be used by the States to establish
14 or upgrade information and identification tech-
15 nologies for serious misdemeanor and felony war-
16 rants, including technologies used by local govern-
17 ments and State and local courts.

18 (2) SET ASIDE.—Up to 5 percent of the grant
19 funding available under this section may be reserved
20 for Indian tribal governments, including tribal judi-
21 cial systems.

22 (b) USE OF GRANT AMOUNTS.—Grants awarded to
23 States or Indian tribes under this section may only be
24 used to—

1 (1) carry out, as necessary, assessments of the
2 capabilities of the courts and law enforcement agen-
3 cies of a State to automate and transmit serious
4 misdemeanor and felony warrants to the NCIC;

5 (2) implement policies, systems, and procedures
6 for the automation and transmission of serious mis-
7 demeanor and felony warrants to the NCIC;

8 (3) create electronic systems which provide ac-
9 curate and up-to-date information on serious mis-
10 demeanor and felony warrants to the NCIC;

11 (4) supply accurate and timely information to
12 the NCIC concerning serious misdemeanor and fel-
13 ony warrants; and

14 (5) collect and analyze data needed to dem-
15 onstrate levels of State compliance with this Act.

16 (c) CONDITION.—

17 (1) IN GENERAL.—As a condition of receiving a
18 grant under this section, a State shall specify the
19 projects for which grant amounts will be used, and
20 shall use such amounts only as specified.

21 (2) VIOLATION.—A State that violates this sub-
22 section shall be liable to the Attorney General for
23 the full amount of the grant received under this sec-
24 tion.

25 (d) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section \$10,000,000
3 for each of fiscal years 2009 through 2013.

4 (2) ALLOCATIONS.—

5 (A) IN GENERAL.—For fiscal years 2009
6 and 2010, the Attorney General shall endeavor
7 to allocate at least 50 percent of the authorized
8 appropriations to those States providing to the
9 NCIC more than 50 percent of their total seri-
10 ous misdemeanor and felony warrants, as deter-
11 mined for each State by the Attorney General
12 under section 201(d). For fiscal years 2011,
13 2012, and 2013, the Attorney General shall en-
14 deavor to allocate at least 50 percent of the au-
15 thorized appropriations to those States pro-
16 viding to the NCIC more than 70 percent of
17 their total serious misdemeanor and felony war-
18 rants, as determined for each State by the At-
19 torney General under section 201(d).

20 (B) ADJUSTMENTS.—The allocations in
21 this paragraph shall be subject to the discretion
22 of the Attorney General, who shall have the au-
23 thority to make adjustments to the distribution
24 of the authorized appropriations as necessary to

- 1 maximize incentives for State compliance with
- 2 section 201(c).

○