

113TH CONGRESS
1ST SESSION

H. R. 3611

To require the Secretary of Homeland Security to submit to Congress an annual report on immigration policy directives issued by the Department of Homeland Security, to ensure that each such policy directive is subject to the rule making process described in section 553 of title 5, United States Code, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 21, 2013

Mr. PERRY (for himself, Mr. BARLETTA, Mrs. BACHMANN, Mr. SMITH of Texas, Mr. STEWART, Mr. COTTON, and Mr. GINGREY of Georgia) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the Secretary of Homeland Security to submit to Congress an annual report on immigration policy directives issued by the Department of Homeland Security, to ensure that each such policy directive is subject to the rule making process described in section 553 of title 5, United States Code, 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 “DHS Immigration Ac-
5 countability and Transparency Act of 2013”.

1 **SEC. 2. TRANSPARENCY REQUIREMENT FOR IMMIGRATION**
2 **POLICY DIRECTIVES.**

3 (a) **REPORTING REQUIREMENT.**—The Secretary of
4 Homeland Security shall submit to the Committee on
5 Homeland Security and Governmental Affairs of the Sen-
6 ate and the Committee on Homeland Security of the
7 House of Representatives an annual report on immigra-
8 tion policy directives.

9 (b) **MATTERS COVERED.**—The report required by
10 subsection (a) shall include, at a minimum—

11 (1) statistics on the removal of aliens from the
12 United States during the 10-year period preceding
13 the date of submission of the report, including the
14 number of aliens placed in removal proceedings but
15 not removed;

16 (2) statistics and a cost-benefit analysis regard-
17 ing the use of Federal funds to implement each im-
18 migration policy directive issued by the Department
19 of Homeland Security during the period beginning
20 on January 20, 2009, and ending on the date of
21 submission of the report;

22 (3) the number of aliens unlawfully present or
23 without lawful status in the United States with an
24 immigration status that was modified or otherwise
25 adjusted as a result of each such policy directive, in-

cluding an identification of the new status assigned to each such alien;

(4) the number of aliens unlawfully present or without lawful status in the United States who applied for and were denied relief as a result of each such policy directive, and the percentage of such aliens against whom removal proceedings were initiated;

(5) for each alien denied relief under paragraph (4) against whom removal proceedings were not initiated, an explanation of why such action was not taken and a listing of the final determination made in such alien's case, if any;

(6) the number of cases in the Executive Office for Immigration Review of the Department of Justice that were administratively closed as a result of each such policy directive and an identification of the new status or statuses assigned to the aliens in such cases;

(7) statistics on aliens unlawfully present or without lawful status in the United States released from prisons or administrative detention centers since January 20, 2009, including—

(A) the number of such aliens convicted or formally accused of a violent crime; and

1 (B) the number of such aliens released in
2 each State; and

3 (8) detailed information on the methods used to
4 compile and calculate the information described in
5 paragraphs (1), (2), (3), (4), (5), (6), and (7).

6 (c) PUBLIC AVAILABILITY.—The report required by
7 subsection (a) shall be made publicly available.

8 (d) REPORTING DEADLINE.—The Secretary shall
9 submit the first report required by subsection (a) not later
10 than 90 days after the date of the enactment of this Act.

11 (e) REMOVAL OF ALIENS FROM THE UNITED
12 STATES.—In this Act, the term “removal of aliens from
13 the United States” does not include individuals who are
14 denied admission upon being inspected by an immigration
15 officer at the border of the United States.

16 **SEC. 3. ACCOUNTABILITY REQUIREMENTS FOR IMMIGRA-**
17 **TION POLICY DIRECTIVES.**

18 (a) TREATMENT OF AN IMMIGRATION POLICY DIREC-
19 TIVE AS A RULE.—For purposes of chapters 5, 6, 7, and
20 8 of title 5, United States Code, an immigration policy
21 directive shall be treated as a rule.

22 (b) NOTICE REQUIREMENT.—In publishing a general
23 notice of proposed rule making as required under section
24 553 of title 5, United States Code, for an immigration

1 policy directive, the Secretary of Homeland Security shall
2 include a report that—

3 (1) describes with reasonable detail the actions
4 the Department of Homeland Security plans to take
5 to implement and enforce the policy directive;

6 (2) indicates whether the policy directive states
7 a new or changed policy regarding the enforcement
8 of any Federal law, and if so, provides a citation to
9 such law; and

10 (3) estimates the number of aliens present in
11 the United States with an immigration status that
12 will be modified as a result of the policy directive
13 and identifies the new status or statuses to be as-
14 signed to such aliens.

15 **SEC. 4. DEFINITIONS.**

16 In this Act:

17 (1) **IMMIGRATION POLICY DIRECTIVE.**—The
18 term “immigration policy directive” means any com-
19 munication that is not a rule, issued by the Depart-
20 ment of Homeland Security or any agency or office
21 within the Department, regarding the administration
22 or enforcement of immigration law or policy, includ-
23 ing memoranda, statements, and guidance docu-
24 ments.

1 (2) RULE.—The term “rule” has the meaning
2 provided in section 551 of title 5, United States
3 Code.

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