

116TH CONGRESS
2D SESSION

H. R. 8799

To prohibit transfers of individuals between ICE facilities and Federal, State, and local facilities, to ensure physical distancing inside ICE facilities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 20, 2020

Mr. CROW (for himself, Ms. GARCIA of Texas, and Ms. ESCOBAR) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To prohibit transfers of individuals between ICE facilities and Federal, State, and local facilities, to ensure physical distancing inside ICE facilities, 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 “End Transfers of De-
5 tained Immigrants Act”.

6 **SEC. 2. LIMITATION ON TRANSFERS FROM ICE DETENTION**
7 **FACILITIES.**

8 (a) TRANSFERS BETWEEN ICE FACILITIES.—

1 (1) IN GENERAL.—Except as provided in sub-
2 section (c), no person in the custody of U.S. Immi-
3 gration and Customs Enforcement (referred to in
4 this Act as “ICE”) may be transferred between ICE
5 facilities during the period beginning on the date of
6 the enactment of this Act and ending on the date on
7 which the public health emergency declared by the
8 Department of Health and Human Services on Jan-
9 uary 27, 2020, has concluded.

10 (2) DETERMINATION OF CONCLUSION OF PUB-
11 LIC HEALTH EMERGENCY.—For purposes of para-
12 graph (1), the public health emergency referred to in
13 such paragraph shall be deemed to conclude when
14 the daily transmission rate of the novel coronavirus
15 (2019–nCoV) that causes COVID–19 has been suffi-
16 ciently contained so that the daily transmission rate
17 of the virus in the United States is at or below 1
18 per 1,500,000 individuals during a 2-week period.

19 (3) TRANSFERS DESCRIBED.—The restriction
20 under subsection (a)(1) shall apply to any transfer
21 between any 2 ICE facilities utilized for the purpose
22 of civil immigration detention, including—

- 23 (A) service processing centers;
24 (B) contract detention facilities;

1 (C) facilities operating under intergovern-
2 mental service agreements (whether dedicated
3 or nondedicated with ICE);

4 (D) juvenile facilities; and

5 (E) family residential centers.

6 (b) TRANSFERS BETWEEN FEDERAL, STATE, OR
7 LOCAL FACILITIES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2) or subsection (c), an ICE officer may not
10 apprehend or transfer any individual to or from any
11 ICE detention facility and—

12 (A) a Federal prison, including any facility
13 operated by the Bureau of Prisons or the
14 United States Marshals Service and any other
15 facility used for the detention of Federal pris-
16 oners;

17 (B) a detention facility operated by a State
18 or local law enforcement agency;

19 (C) a shelter or facility, whether perma-
20 nent or temporary in nature, housing unaccom-
21 panied minors in the custody of the Office of
22 Refugee Resettlement; or

23 (D) a State or local prison or jail.

24 (2) REQUIREMENTS.—Notwithstanding para-
25 graph (1), a medical professional may authorize the

1 transfer of an individual between an ICE detention
2 facility and a State or local prison or jail for medical
3 purposes or at the request of the individual if the
4 medical professional—

5 (A) administers a COVID–19 test; and

6 (B) quarantines the individual in a non-
7 punitive medical unit immediately before or
8 after conducting the transfer—

9 (i) for a period of 14 consecutive
10 days; or

11 (ii) until the test comes back negative.

12 (3) DEFINED TERM.—As used in paragraph
13 (2)(B), the term “nonpunitive medical unit” ex-
14 cludes any punitive holding area, including isolation,
15 solitary confinement, and administrative segregation.

16 (c) RELEASE OF DETAINEES.—Nothing in sub-
17 sections (a) and (b) may be construed to prohibit—

18 (1) the transfer of any individual solely for the
19 purpose of necessary processing related to the indi-
20 vidual’s release from custody; or

21 (2) the transfer of a minor from the custody of
22 ICE to the custody of the Office of Refugee Reset-
23 tlement.

1 **SEC. 3. PHYSICAL DISTANCING INSIDE ICE FACILITIES.**

2 (a) IN GENERAL.—If, at any time, the Department
3 of Homeland Security Office of the Inspector General, the
4 Director of the Centers for Disease Control and Preven-
5 tion, State or local public health officials, court-appointed
6 investigators, or the Director of ICE determine that ICE
7 cannot ensure adherence to guidelines issued by the Cen-
8 ters for Disease Control and Prevention to mitigate
9 against the spread of COVID–19 at any ICE facility, in-
10 cluding maintaining physical distance between individuals
11 in custody at all times, due to population levels or facility
12 structures that necessitates housing and sleeping large
13 groups of people in a single room, the Director shall—

14 (1) immediately conduct a custody review of all
15 the individuals detained at such facility; and

16 (2) release all individuals who are determined
17 eligible for release, with priority given to individuals
18 who are most medically vulnerable to the effects of
19 COVID–19.

20 (b) EFFECT OF FAILURE TO MAINTAIN PHYSICAL
21 DISTANCING.—If the Director of ICE is unable to ensure
22 physical distancing between all individuals in ICE custody
23 at all times by the end of the 30-day period beginning
24 on the date of the enactment of this Act, the Director
25 shall—

1 (1) immediately initiate a custody review of all
2 the individuals detained by ICE; and

3 (2) not later than 45 days after the date of the
4 enactment of this Act, release sufficient numbers of
5 detainees to ensure adherence to the guidelines
6 issued by the Centers for Disease Control and Pre-
7 vention regarding physical distancing to mitigate the
8 spread of COVID–19.

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