

116TH CONGRESS
2D SESSION

S. 4741

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 SENATE OF THE UNITED STATES

SEPTEMBER 29, 2020

Mr. BENNET (for himself and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

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 during the prior 2-
18 week period is at or below 1 per 1,500,000 individ-
19 uals.

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

24 (A) service processing centers;

25 (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 if the med-
 3 ical professional—

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

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

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

10 (ii) until the test comes back negative.

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

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

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

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

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

24 (a) IN GENERAL.—If, at any time, the Department
 25 of Homeland Security Office of the Inspector General, the

1 Centers for Disease Control and Prevention, State or local
2 public health officials, court-appointed investigators, or
3 the Director of ICE determine that ICE cannot ensure
4 adherence to guidelines issued by the Centers for Disease
5 Control and Prevention to mitigate against the spread of
6 COVID–19 at any ICE facility, including maintaining
7 physical distance between individuals in custody at all
8 times, due to population levels or facility structures that
9 necessitates housing and sleeping large groups of people
10 in a single room, the Director shall—

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

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

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

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

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

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