

§ 1378. Collection of data on other detained aliens

(a) In general

The Attorney General shall regularly collect data on a nationwide basis on aliens being detained in the United States by the Immigration and Naturalization Service other than the aliens described in section 1377 of this title, including the following information:

(1) The number of detainees who are criminal aliens and the number of detainees who are noncriminal aliens who are not seeking asylum.

(2) An identification of the ages, gender, and countries of origin of detainees within each category described in paragraph (1).

(3) The types of facilities, whether facilities of the Immigration and Naturalization Service or other Federal, State, or local facilities, in which each of the categories of detainees described in paragraph (1) are held.

(b) Length of detention, transfers, and dispositions

With respect to detainees who are criminal aliens and detainees who are noncriminal aliens who are not seeking asylum, the Attorney General shall also collect data concerning—

(1) the number and frequency of transfers between detention facilities for each category of detainee;

(2) the average length of detention of each category of detainee;

(3) for each category of detainee, the number of detainees who have been detained for the same length of time, in 3-month increments;

(4) for each category of detainee, the rate of release from detention for each district of the Immigration and Naturalization Service; and

(5) for each category of detainee, the disposition of detention, including whether detention ended due to deportation, release on parole, or any other release.

(c) Criminal aliens

With respect to criminal aliens, the Attorney General shall also collect data concerning—

(1) the number of criminal aliens apprehended under the immigration laws and not detained by the Attorney General; and

(2) a list of crimes committed by criminal aliens after the decision was made not to detain them, to the extent this information can be derived by cross-checking the list of criminal aliens not detained with other databases accessible to the Attorney General.

(d) Annual reports

Beginning on October 1, 1999, and not later than October 1 of each year thereafter, the Attorney General shall submit to the Committee on the Judiciary of each House of Congress a report setting forth the data collected under subsections (a), (b), and (c) for the fiscal year ending September 30 of that year.

(e) Availability to public

Copies of the data collected under subsections (a), (b), and (c) shall be made available to members of the public upon request pursuant to such regulations as the Attorney General shall prescribe.

(Pub. L. 105-277, div. A, §101(h) [title IX, §904], Oct. 21, 1998, 112 Stat. 2681-480, 2681-542.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Haitian Refugee Immigration Fairness Act of 1998, and also as part of the Treasury and General Government Appropriations Act, 1999, and the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, and not as part of the Immigration and Nationality Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1378a. Report on aliens detained

Not later than 7 days after December 20, 2019, and updated semimonthly thereafter, the Director of U.S. Immigration and Customs Enforcement shall make available a report, on a publicly accessible website in a downloadable, searchable, and sortable format, with not less than the previous twelve months of semimonthly data as of the last date of each such reporting period; on—

(1) aliens detained by such agency, including data disaggregated by single adults and members of family units on—

(A) the average fiscal year-to-date daily populations of aliens detained;

(B) the daily count of aliens detained;

(C) the fiscal year-to-date total for bookings;

(D) the average lengths of stay, including average post-determination length of stay in the case of detainees described in subparagraph (F);

(E) the number transferred to the custody of U.S. Immigration and Customs Enforcement by U.S. Customs and Border Protection after being—

(i) deemed inadmissible at a port of entry or after being apprehended within 14 days of entering the United States; or

(ii) arrested by U.S. Immigration and Customs Enforcement;

(F) the number determined to have a credible or reasonable fear of—

(i) persecution, as defined in section 1225(b)(1)(B)(v) of this title; or

(ii) torture, as defined in section 208.30 of title 8, Code of Federal Regulations (as in effect on January 1, 2018); and

(G) the number who have been issued a Notice to Appear pursuant to section 1229 of this title, disaggregated by single adults and members of family units;¹

(2) the total number of enrollees in the Alternatives to Detention program and the average length of participation, disaggregated by—

(A) single adults and family heads of household;

¹ See Additional Reporting Requirements note below.

(B) participants in the family case management program;

(C) level of supervision; and

(D) location of supervision, by field office;

(3) for each facility where aliens are detained by U.S. Immigration and Customs Enforcement—

(A) the address;

(B) the field offices that assign detainees to the facility;

(C) the detailed facility type, as defined in the integrated decision support system;

(D) the gender of aliens detained;

(E) the average daily population of detainees within each detainee classification level, as defined in the integrated decision support system;

(F) the average daily population of individuals within each threat level, as defined in the integrated decision support system;

(G) the average daily population within each criminality category, as defined in the integrated decision support system, disaggregated by gender;

(H) the average length of stay;

(I) the average daily population of individuals whose detention is classified as mandatory;

(J) the performance standards to which the facility is held;

(K) the date of the two most recent inspections, the entity that performed each inspection, and a detailed summary of the results of such inspections; and

(L) the guaranteed minimum detention capacity, if applicable; and

(4) the total number of releases from custody, by condition of release, and total number of removals, disaggregated by adult facilities and family facilities.

(Pub. L. 116–93, div. D, title II, §218, Dec. 20, 2019, 133 Stat. 2514.)

Editorial Notes

CODIFICATION

Section was enacted as part of the Department of Homeland Security Appropriations Act, 2020, and also as part of the Consolidated Appropriations Act, 2020, and not as part of the Immigration and Nationality Act which comprises this chapter.

PRIOR PROVISIONS

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 116–6, div. A, title II, §226, Feb. 15, 2019, 133 Stat. 27.

Statutory Notes and Related Subsidiaries

ADDITIONAL REPORTING REQUIREMENTS

Pub. L. 118–47, div. C, title II, §215, Mar. 23, 2024, 138 Stat. 604, provided that: “The reports required to be submitted under section 216 of the Department of Homeland Security Appropriations Act, 2021 (division F of Public Law 116–260) [set out below] shall continue to be submitted semimonthly and each matter required to be included in such reports by such section 216 shall apply in the same manner and to the same extent during the period described in such section 216.”

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 117–328, div. F, title II, §216, Dec. 29, 2022, 136 Stat. 4736.

Pub. L. 117–103, div. F, title II, §217, Mar. 15, 2022, 136 Stat. 323.

Pub. L. 116–260, div. F, title II, §216, Dec. 27, 2020, 134 Stat. 1457, provided that: “The reports required to be submitted under section 218 of the Department of Homeland Security Appropriations Act, 2020 (division D of Public Law 116–93) [8 U.S.C. 1378a] shall continue to be submitted with respect to the period beginning 15 days after the date of the enactment of this Act [Dec. 27, 2020] and semimonthly thereafter, and each matter required to be included in such report by such section 218 shall apply in the same manner and to the same extent during the period described in this section, except that for purposes of reports submitted with respect to such period described, the following additional requirements shall be treated as being included as subparagraphs (H) through (J) of paragraph (1) of such section 218—

“(1) the average lengths of stay, including average post-determination length of stay in the case of detainees described in subparagraph (F), for individuals who remain in detention as of the last date of each such reporting period;

“(2) the number who have been in detention, disaggregated by the number of detainees described in subparagraph (F), for each of the following—

“(A) over 2 years;

“(B) from over 1 year to 2 years;

“(C) from over 6 months to 1 year; and

“(D) for less than 6 months; and

“(3) the number of individuals described in section 115.5 of title 28, Code of Federal Regulations, including the use and duration of solitary confinement for such person.”

§ 1379. Technology standard to confirm identity

(1) In general

The Attorney General and the Secretary of State jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies the Attorney General or Secretary of State deems appropriate and in consultation with Congress, shall within 15 months after October 26, 2001, develop and certify a technology standard, including appropriate biometric identifier standards, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name or such person seeking to enter the United States pursuant to a visa.

(2) Interoperable

The technology standard developed pursuant to paragraph (1), shall be the technological basis for a cross-agency, cross-platform electronic system that is a cost-effective, efficient, fully interoperable means to share law enforcement and intelligence information necessary to confirm the identity of such persons applying for a United States visa or such person seeking to enter the United States pursuant to a visa.

(3) Accessible

The electronic system described in paragraph (2), once implemented, shall be readily and easily accessible to—

(A) all consular officers responsible for the issuance of visas;