

AMENDMENT NO. _____ Calendar No. _____

Purpose: To require Federal agencies with responsibility for detained aliens to maintain records on those aliens.

IN THE SENATE OF THE UNITED STATES—113th Cong., 1st Sess.

S. 744

To provide for comprehensive immigration reform and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. COONS to the amendment (No. 6) proposed by Mr. COONS

Viz:

1 In lieu of the matter proposed to be inserted, insert
2 the following:

3 **SEC. 3720. REPORTING AND RECORD-KEEPING REQUIRE-**
4 **MENTS RELATING TO THE DETENTION OF**
5 **ALIENS.**

6 (a) IN GENERAL.—In order for Congress and the
7 public to assess the full costs of apprehending, detaining,
8 processing, supervising, and removing aliens and how the
9 money Congress appropriates for detention is allocated by
10 Federal agencies, the Assistant Secretary for U.S. Immi-
11 gration and Customs and Enforcement (in this section re-

ferred to as the “Assistant Secretary”), the Director of the Executive Office of Immigration Review, and the Commissioner responsible for U.S. Customs and Border Protection (in this section referred to as the “Commissioner”) shall—

(1) maintain the information required under subsections (b), (c), and (d); and

(2) submit reports on that information to Congress and make that information available to the public in accordance with subsection (e).

(b) MAINTENANCE OF INFORMATION BY U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT.—The Assistant Secretary shall record and maintain in the database of U.S. Immigration and Customs Enforcement relating to detained aliens the following information with respect to each alien detained pursuant to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.):

(1) The provision of law that provides specific authority for the alien’s detention and the beginning and end dates of the alien’s detention pursuant to that authority. If the alien’s detention is authorized by different provisions of law during different periods of time, the Assistant Secretary shall record and maintain the provision of law that provides authority for the alien’s detention during each such period.

1 (2) The place where the alien was apprehended
2 or where U.S. Immigration and Customs Enforce-
3 ment assumed custody of the alien.

4 (3) Each location where U.S. Immigration and
5 Customs Enforcement detains the alien until the
6 alien is released from custody or removed from the
7 United States, including any period of redetention.

8 (4) The gender and age of each detained alien
9 in the custody of U.S. Immigration and Customs
10 Enforcement.

11 (5) The number of days the alien is detained,
12 including the number of days spent in any given de-
13 tention facility and the total amount of time spent
14 in detention.

15 (6) The immigration charges that are the basis
16 for the alien's removal proceedings.

17 (7) The status of the alien's removal pro-
18 ceedings and each date on which those proceedings
19 progress from 1 stage of proceeding to another.

20 (8) The length of time the alien was detained
21 following a final administrative order of removal and
22 the reasons for the continued detention.

23 (9) The initial custody determination or review
24 made by U.S. Immigration and Customs Enforce-
25 ment, including whether the alien received notice of

1 a custody determination or review and when the cus-
2 tody determination or review took place.

3 (10) The risk assessment results for the alien,
4 including if the alien is subject to mandatory cus-
5 tody or detention.

6 (11) The reason for the alien's release from de-
7 tention and the conditions of release imposed on the
8 alien, if applicable.

9 (c) MAINTENANCE OF INFORMATION BY EXECUTIVE
10 OFFICE OF IMMIGRATION REVIEW.—The Director of the
11 Executive Office of Immigration Review shall record and
12 maintain in the database of the Executive Office of Immi-
13 gration Review relating to detained aliens in removal pro-
14 ceedings the following information with respect to each
15 such alien:

16 (1) The immigration charges that are the basis
17 for the alien's removal proceedings, including any re-
18 vision of the immigration charges and the date of
19 each such revision.

20 (2) The gender and age of the alien.

21 (3) The status of the alien's removal pro-
22 ceedings and each date on which those proceedings
23 progress from one stage of proceeding to another.

24 (4) The statutory basis for any bond hearing
25 conducted and the outcomes of the bond hearing.

1 (5) Whether each court hearing is conducted in-
2 person, by audio link, or by video conferencing.

3 (6) The date of each attorney entry of appear-
4 ance before an immigration judge using Form
5 EOIR-28 and the scope of the appearance to which
6 the form related.

7 (d) MAINTENANCE OF INFORMATION BY U.S. CUS-
8 TOMS AND BORDER PROTECTION.—The Commissioner
9 shall record and maintain in the database of U.S. Customs
10 and Border Protection relating to detained aliens the fol-
11 lowing information with respect to each alien detained
12 pursuant to the Immigration and Nationality Act (8
13 U.S.C. 1101 et seq.):

14 (1) The provision of law that provides specific
15 authority for the alien's detention and the beginning
16 and end dates of the alien's detention.

17 (2) The place where the alien was apprehended.

18 (3) The gender and age of the alien.

19 (4) Each location where U.S. Customs and Bor-
20 der Protection detains the alien until the alien is re-
21 leased from custody or removed from the United
22 States, including any period of redetention.

23 (5) The number of days that the alien is de-
24 tained in the custody of U.S. Customs and Border
25 Protection.

1 (6) The immigration charges that are the basis
2 for the alien's removal proceedings while the alien is
3 in the custody of U.S. Customs and Border Protec-
4 tion.

5 (7) The initial custody determination by U.S.
6 Customs and Border Protection, including whether
7 the alien received notice of a custody determination
8 or review, when the custody determination or review
9 took place, and whether U.S. Customs and Border
10 Protection offered the option of stipulated removal
11 to a detained alien.

12 (8) The reason for the alien's release from de-
13 tention and the conditions of release to detention im-
14 posed on the alien, if applicable.

15 (e) REPORTING REQUIREMENTS.—

16 (1) PERIODIC REPORTS.—The Assistant Sec-
17 retary, the Director of the Executive Office of Immi-
18 gration Review, and the Commissioner shall periodi-
19 cally, but not less frequently than annually, submit
20 to Congress a report containing a summary of the
21 information required to be maintained by this sec-
22 tion. Each such report shall include summaries of
23 national-level data as well as summaries of the infor-
24 mation required by this section by State and county.

1 (2) OTHER REPORTS.—The Assistant Secretary
2 shall report to Congress not less frequently than an-
3 nually on—

4 (A) the number of aliens detained for more
5 than 3 months, 6 months, 1 year, and 2 years;
6 and

7 (B) the average period of detention before
8 receipt of a final administrative order of re-
9 moval and after receipt of such an order.

10 (3) AVAILABILITY TO PUBLIC.—The reports re-
11 quired under this subsection and the information for
12 each alien on which the reports are based shall be
13 made available to the public without the need to sub-
14 mit a request under section 552 of title 5, United
15 States Code (commonly referred to as the “Freedom
16 of Information Act”).

17 (4) PRIVACY PROTECTIONS.—No alien’s identity
18 may be disclosed when information described in
19 paragraph (3) is made publicly available.

20 (f) DEFINITIONS.—In this section:

21 (1) CASE OUTCOME.—The term “case outcome”
22 includes a grant of relief from deportation under
23 section 240A of the Immigration and Nationality
24 Act (8 U.S.C. 1229b), voluntary departure pursuant
25 to section 240B of that Act (8 U.S.C. 1229c), re-

1 removal pursuant to section 238 of that Act (8 U.S.C.
2 1228), judicial termination of proceedings, termi-
3 nation of proceedings by U.S. Immigration and Cus-
4 toms Enforcement, cancellation of the notice to ap-
5 pear, or permission to withdraw application for ad-
6 mission without any removal order being issued.

7 (2) PLACE WHERE THE ALIEN WAS APPRE-
8 HENDED.—The term “place where the alien was ap-
9 prehended” refers to the city, county, and State
10 where an alien is apprehended.

11 (3) REASON FOR THE ALIEN’S RELEASE FROM
12 DETENTION.—The term “reason for the alien’s re-
13 lease from detention” refers to release on bond, on
14 an alien’s own recognizance, on humanitarian
15 grounds, after grant of relief, or due to termination
16 of proceedings or removal.

17 (4) REMOVAL PROCEEDINGS.—The term “re-
18 moval proceedings” refers to a removal case of any
19 kind, including expedited removal, administrative re-
20 moval, stipulated removal, reinstatement, and vol-
21 untary removal and removals in which an applicant
22 is permitted to withdraw his or her application for
23 admission.

24 (5) STAGE.—The term “stage”, with respect to
25 a proceeding, refers to whether the alien is in pro-

1 ceedings before an immigration judge, the Board of
2 Immigration Appeals, a United States court of ap-
3 peals, or on remand from a United States court of
4 appeals.