

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

Viz:

1 At the end of subtitle G of title III, add the following:

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

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

1 the Executive Office of Immigration Review, the Commis-
2 sioner responsible for U.S. Customs and Border Protec-
3 tion (in this section referred to as the “Commissioner”),
4 and the Director of U.S. Citizenship and Immigration
5 Services shall—

6 (1) maintain the information required by sub-
7 sections (c), (d), (e), and (f); and

8 (2) submit reports on that information to Con-
9 gress and make that information available to the
10 public in accordance with subsection (g).

11 (b) DEVELOPMENT OF INTEROPERABILITY BE-
12 TWEEN AGENCY DATABASES CONTAINING DETENTION
13 INFORMATION.—

14 (1) IN GENERAL.—The Assistant Secretary, the
15 Director of the Executive Office of Immigration Re-
16 view, the Commissioner, and the Director of U.S.
17 Citizenship and Immigration Services shall develop a
18 shared database, or other system that allows for the
19 databases of U.S. Immigration and Customs and
20 Enforcement, the Executive Office of Immigration
21 Review, U.S. Customs and Border Protection, and
22 U.S. Citizenship and Immigration Services relating
23 to detained aliens to be interoperable to ensure that
24 complete information about the arrest, custody, and

1 status of detained aliens and detention facilities can
2 be easily accessed by those agencies.

3 (2) TRANSITION RULE.—Until such time as the
4 shared database or interoperable databases required
5 by paragraph (1) are fully operational, the Assistant
6 Secretary shall track and maintain the ultimate case
7 outcome for each detained alien in removal pro-
8 ceedings, the ultimate case outcome for each de-
9 tained alien not in removal proceedings, and the spe-
10 cific grounds for that outcome.

11 (c) MAINTENANCE OF INFORMATION BY U.S. IMMI-
12 GRATION AND CUSTOMS ENFORCEMENT.—The Assistant
13 Secretary shall record and maintain in the database of
14 U.S. Immigration and Customs Enforcement relating to
15 detained aliens the following information with respect to
16 each alien detained pursuant to the Immigration and Na-
17 tionality Act (8 U.S.C. 1101 et seq.):

18 (1) The provision of law that provides specific
19 authority for the alien's detention and the beginning
20 and end dates of the alien's detention pursuant to
21 that authority. If the alien's detention is authorized
22 by different provisions of law during different peri-
23 ods of time, the Assistant Secretary shall record and
24 maintain the provision of law that provides authority
25 for the alien's detention during each such period.

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

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

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

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

13 (6) The immigration charges that are the basis
14 for the alien's removal proceedings, including any re-
15 vision of the immigration charges, and the dates of
16 each such revision.

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

20 (8) The events that occurred after the alien re-
21 ceived a final administrative order of removal, in-
22 cluding whether the alien filed an appeal to a court
23 of appeals, obtained a stay of removal, or is awaiting
24 removal.

1 (9) The internal custody determinations of U.S.
2 Immigration and Customs Enforcement dem-
3 onstrating how and when it determined that the
4 alien should be detained, including whether and
5 when the alien received notice of a custody deter-
6 mination or review, the type of custody determina-
7 tion or review and when it took place, and the out-
8 come of that custody determination or review.

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

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

15 (12) Updated case information, pursuant to
16 mandatory protocols for maintaining case informa-
17 tion.

18 (d) MAINTENANCE OF INFORMATION BY EXECUTIVE
19 OFFICE OF IMMIGRATION REVIEW.—The Director of the
20 Executive Office of Immigration Review shall record and
21 maintain in the database of the Executive Office of Immi-
22 gration Review relating to detained aliens in removal pro-
23 ceedings the following information with respect to each
24 such alien:

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

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

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

9 (4) The events that occurred after the alien re-
10 ceived a final administrative order of removal, in-
11 cluding whether the alien filed an appeal to a court
12 of appeals, obtained a stay of removal, or is simply
13 awaiting removal.

14 (5) The statutory basis for any bond hearing
15 conducted and the outcomes of the bond hearing.

16 (6) Whether each court hearing is conducted in-
17 person, by audio link, or by video conferencing.

18 (7) The date of each attorney entry of appear-
19 ance before an immigration judge using Form
20 EOIR-28 and the scope of the appearance to which
21 the form related.

22 (e) MAINTENANCE OF INFORMATION BY U.S. CUS-
23 TOMS AND BORDER PROTECTION.—The Commissioner
24 shall record and maintain in the database of U.S. Customs
25 and Border Protection relating to detained aliens the fol-

1 lowing information with respect to each alien detained
2 pursuant to the Immigration and Nationality Act (8
3 U.S.C. 1101 et seq.):

4 (1) The provision of law that provides specific
5 authority for the alien's detention and the beginning
6 and end dates of the alien's detention pursuant to
7 that authority. If the alien's detention is authorized
8 by different provisions of law during different peri-
9 ods of time, the Commissioner shall record and
10 maintain the provision of law that provides authority
11 for the alien's detention during each such period.

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

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

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

18 (5) The number of days or hours, if less than
19 24 hours, that the alien is detained in the custody
20 of U.S. Customs and Border Protection, including
21 the number of days or hours spent in any given de-
22 tention facility and the total amount of time spent
23 in detention.

24 (6) The immigration charges that are the basis
25 for the alien's removal proceedings while the alien is

1 in the custody of U.S. Customs and Border Protec-
2 tion, including any revision of the immigration
3 charges and the dates of each such revision.

4 (7) The status of the alien's removal pro-
5 ceedings and the date on which those proceedings
6 progress from one stage of proceeding to another.

7 (8) The events that occurred after the alien re-
8 ceived a final administrative order of removal, in-
9 cluding whether the alien filed an appeal to a court
10 of appeals, obtained a stay of removal, or is simply
11 awaiting removal.

12 (9) The internal custody determinations of U.S.
13 Customs and Border Protection demonstrating how
14 and when it determined that the alien should be de-
15 tained, including whether and when the alien re-
16 ceived notice of a custody determination or review,
17 the kind of custody determination or review and
18 when it took place, the criteria based on which em-
19 ployees of Customs and Border Protection offer the
20 option of stipulated removal to a detained alien, and
21 the outcome of that custody determination or review.

22 (10) The reason for the alien's release from de-
23 tention and the conditions of release to detention im-
24 posed on the alien, if applicable.

1 (f) MAINTENANCE OF INFORMATION BY U.S. CITI-
2 ZENSHIP AND IMMIGRATION SERVICES.—The Director of
3 U.S. Citizenship and Immigration Services shall record
4 and maintain in the database of U.S. Citizenship and Im-
5 migration Services information relating to the applications
6 for relief filed by each alien detained, including the type
7 and number of applications filed, the date each application
8 was filed, the outcome of each application, and whether
9 the alien was represented by counsel for each application.

10 (g) REPORTING REQUIREMENTS.—

11 (1) PERIODIC REPORTS.—The Assistant Sec-
12 retary, the Director of the Executive Office of Immi-
13 gration Review, the Commissioner, and the Director
14 of U.S. Citizenship and Immigration Services shall
15 periodically, but not less frequently than once every
16 180 days, submit to Congress a report containing a
17 summary of the information required to be main-
18 tained by this section. Each such report shall include
19 summaries of national-level data as well as sum-
20 maries of the information required by this section by
21 State and county.

22 (2) MONTHLY REPORTS.—The Assistant Sec-
23 retary shall report to Congress not less frequently
24 than once a month on—

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

4 (B) the average period of detention before
5 receipt of a final administrative order of re-
6 moval and after receipt of such an order.

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

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

17 (h) DEFINITIONS.—In this section:

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

1 (2) CASE OUTCOME.—The term “case outcome”
2 includes a grant of relief from deportation under
3 section 240A of the Immigration and Nationality
4 Act (8 U.S.C. 1229b), voluntary departure pursuant
5 to section 240B of that Act (8 U.S.C. 1229c), re-
6 moval pursuant to section 238 of that Act (8 U.S.C.
7 1228), judicial termination of proceedings, termi-
8 nation of proceedings by U.S. Immigration and Cus-
9 toms Enforcement, cancellation of the notice to ap-
10 pear, or permission to withdraw application for ad-
11 mission without any removal order being issued.

12 (3) PLACE WHERE THE ALIEN WAS APPRE-
13 HENDED.—The term “place where the alien was ap-
14 prehended” refers to the city, county, State, and im-
15 mediate location where an alien is apprehended, in-
16 cluding the alien’s home, the alien’s workplace, a
17 courthouse, a parole or probation office, a health
18 care or social service provider office, or a local, coun-
19 ty, State, or Federal detention facility.

20 (4) REVISION OF THE IMMIGRATION
21 CHARGES.—The term “revision of the immigration
22 charges” refers to any amendment of, changes to, or
23 dismissal of immigration charges and the super-
24 seding charges, if relevant.

1 (5) STAGE.—The term “stage”, with respect to
2 a proceeding, refers to whether the alien is in pro-
3 ceedings before an immigration judge, the Board of
4 Immigration Appeals, a United States court of ap-
5 peals, or on remand from a United States court of
6 appeals.

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