

IMMIGRATION ENFORCEMENT AND BORDER SECURITY ACT OF 2007
S. 1984

SECTION-BY-SECTION

TITLE I—BORDER SECURITY

Subtitle A – Assets for Controlling United States Borders

Sec. 101. Achieving Operational Control of the Borders.

- Requires DHS to work to achieve operational control over the borders of the United States within two years, meaning that DHS shall prevent unlawful entries of terrorists, unlawful aliens, instruments of terror, narcotics, and other contraband. Requires DHS in two years to install 300 miles of vehicle barriers, 700 miles of fence, 105 ground-based radar units, and to acquire 4 UAVs.

Sec. 102. Enforcement Personnel.

- Adds 14,000 Border Patrol Agents, 2,700 CPB officers to staff the ports of entry and 20 busiest U.S. international airports, 250 Deputy U.S. Marshals to assist in immigration enforcement, and 1,000 ICE personnel to investigate alien smuggling.

Sec. 103. Operation Jump Start.

- Requires DOD to provide 6,000 National Guardsmen on the southern border to assist the Border Patrol.

Sec. 104. Technological Assets.

- Requires DHS to acquire additional unmanned aerial vehicles (UAV), cameras, poles, sensors, and other technologies necessary to obtain operational control of the borders. Requires a plan to increase the availability and use of DOD equipment (UAVs, tethered aerostat radars, etc.) for border surveillance.

Sec. 105. Infrastructure.

- Requires DHS to complete construction of fencing in San Diego Sector, to complete 370 miles of fencing in priority areas by December 31, 2008, and to build not less than 700 miles on the southern border. DHS must consult with local stakeholders when building fencing.

Sec. 106. Ports of Entry.

- Authorizes DHS to construct additional ports of entry and authorizes necessary improvements to existing ports of entry.

Subtitle B – Other Border Security Initiatives

Sec. 112. Unlawful Flight from Immigration or Customs Controls.

- Expands and clarifies criminal penalties against persons who engage in unlawful flight from immigration or customs checkpoints or officers.

Sec. 113. Catch and Return.

- Requires DHS to detain until removal every third country national apprehended illegally crossing the border.

Sec. 114. Seizure of Conveyance with Concealed Compartment.

- Amends law to add that vehicles used for smuggling may be seized and forfeited. Establishes conduct or vehicle design features that constitute prima facie evidence a vessel or vehicle is engaged in smuggling.

Subtitle C – Other Measures

Sec. 121. Secure Communication.

- Requires DHS to develop and implement a plan to improve use of satellite communications and other technologies for clear and secure 2-way communication among DHS assets and State, local and tribal law officers.

Sec. 122. Unmanned Aircraft Systems.

- Requires DHS to acquire and maintain unmanned aircraft systems for border use, appropriating \$178.4 million for FY08 and \$276 million for FY09.

Sec. 123. Biometric Data Enhancements.

- DHS and DOJ must enhance connectivity between the DHS and FBI fingerprint identification systems (IAFIS/IDENT) to ensure more expeditious data searches. DHS must collect all fingerprints from aliens enrolling in the entry/exit system.

Sec. 124. US-VISIT System.

- Requires DHS to capture biometric data from visa holders entering and exiting the U.S. Aliens who fail to comply are inadmissible. If an alien fails to report his departure, DHS must place his name in the National Crime Information Center database within 48 hours that may be accessed by State and local law enforcement officers. DHS shall initiate prompt removal proceedings against visa overstayers, giving priority to criminals and national security threats.

Sec. 125. Listing of Immigration Violators in the National Crime Information Center Database.

- DHS and DOJ shall include in the NCIC data on all aliens illegally present in the U.S.

Sec. 126. Document Fraud Detection.

- DHS shall provide all CBP officers with training in fraudulent travel document detection.

Sec. 127. Border Relief Grant Program.

- DHS shall over 5 years award \$250 million in grants to qualifying law enforcement agencies proximate to the border or in areas highly impacted by illegal immigration for additional personnel, equipment, technology upgrades, and operational costs, to combat crime. Grants will supplement and not supplant other state and local public funds.

Sec. 128. Combating Human Smuggling.

- DHS shall develop and implement a plan to improve coordination between ICE, CBP, and any other federal, state, local or tribal authorities to combat human smuggling.

Sec. 129. Increase of Federal Detention Space and The Utilization of Facilities Identified for Closures as a Result of the Defense Base Closure Realignment Act of 1990.

- DHS must construct or acquire at least 20 additional facilities with the capacity to detain at least 45,000 aliens in removal proceedings or awaiting removal. DHS must consider use of facilities approved for closure under the BRAC.

Sec. 130. Northern Border Prosecution Reimbursement.

- DOJ shall reimburse northern border entities \$28 million in FY08 for costs incurred handling criminal cases that are initiated by the federal government and then referred to local governments. Subsequent funding will be calculated on a per-case basis. This program parallels the Southwestern Border Prosecution Initiative.

Sec. 131. Use of Private Land by Border Patrol.

- Limits the liability of land owners who make their property available to federal agents to enforce immigration laws.

TITLE II—INTERIOR ENFORCEMENT

Subtitle A – Interior Security Measures

Sec. 201. Additional Immigration Personnel.

- Adds over 5 years 1000 DHS Trial Attorneys, 500 USCIS Adjudicators, 125 Forensic Auditors at the Forensic Document Lab, 6,250 ICE Intelligence Research Specialists, Agents, Officers, and Investigators, 250 OIL Attorneys, 500 AUSAs, DOJ Criminal Division attorneys, 100 Immigration Judges and 400 support staff, IJ and BIA clerks, 100 BIA Attorney Advisors and 50 support staff, and 250 Federal Public Defenders.
- President to appoint 31 new District Court Judges (and 7 temporary Judges) in border states of Arizona, California, Florida, Texas, New York, New Mexico, and Washington.
- Legal Orientation Program to expand nationwide to advise immigration detainees of rights.

Sec. 202. Detention and Removal of Aliens Ordered Removed or Aliens Who Overstay.

- Amends law to require detention of aliens who willfully overstay visas by 30 days. DHS may waive custody for exceptional circumstances or humanitarian purposes.
- Clarifies that aliens' removal periods do not begin until administrative/judicial proceedings are concluded and the alien is in DHS custody.
- Codifies DHS practice of detaining aliens beyond the 90-day removal period where the alien fails to comply with removal order or cooperate with DHS' efforts to establish identity and carry out removal order.
- Adds that DHS may detain an alien subject to an administrative final order of removal during appeal to a court or the Board of Immigration Appeals.
- Clarifies that aliens seeking admission who are granted parole have not been "admitted" to the United States.
- Establishes a detention review process for aliens who have entered the United States, have been ordered removed, and have cooperated with efforts to be removed in order to determine whether such aliens qualify for supervised release.
- Provides that aliens can be detained beyond the 90-day removal period if DHS determines the alien will likely be removed in the reasonably foreseeable future, or DHS certifies in writing that the alien's release will threaten public safety or national security. Allows DHS to renew every 6 months, without limitation, a certification that the alien should continue to be detained.

Sec. 203. Aggravated Felony.

- Modifies, clarifies, and adds to the definitions of “aggravated felony.”
- Provides that court decisions to vacate, expunge, modify, or reverse convictions against criminal aliens to avoid immigration consequences will remain convictions for purposes of enforcing immigration laws.
- Provides that failures to advise criminal aliens of effect of guilty pleas will not affect conviction for immigration purposes, but that legal error or constitutional defects will do so.

Sec. 204. Inadmissibility and Deportability of Gang Members.

- Defines “criminal gang” and criminal gang offenses for purposes of the immigration laws. Renders gang members and gang supporters inadmissible, deportable, and ineligible for Temporary Protected Status. Also bars entry of aliens convicted of sex offenses, domestic offenses, and crimes against children.

Sec. 205. Grounds of Inadmissibility and Deportability Relating to Firearms Offenses.

- Amends law to state that aliens convicted of firearms offenses are inadmissible and deportable.

Sec. 206. Alien Smuggling and Related Offenses.

- Broadens existing anti-smuggling criminal provisions to include those who facilitate the entry of illegal aliens into the U.S. Includes a narrow limitation for good Samaritans. Increases criminal penalties for smugglers who are repeat offenders or who cause serious bodily injury or death. Enhances penalties against smugglers of terrorists. Expands authority to seize smugglers’ real or personal property.

Sec. 207. Illegal Entry.

- Expands criminal penalties against aliens who knowingly illegally enter the U.S. or overstay visas in the U.S. Adds that illegal entry offenses are continuing until apprehension.

Sec. 208. Criminal Penalties for Aliens Unlawfully Present in the United States.

- Aliens illegally present in the U.S. shall be guilty of a criminal misdemeanor offense.

Sec. 209. Illegal Reentry.

- Establishes and increases criminal penalties against aliens who illegally reenter the U.S. after being deported or denied entry. Enhances penalties against criminal aliens previously removed, with significant increases against aliens previously deported for murder, rape, kidnapping, or certain other felony offenses.

Sec. 210. Reform of Passport, Visa, and Immigration Fraud Offenses.

- Amends criminal law to create and enhance penalties against persons who fraudulently obtain, produce, forge, misuse or sell passports. Criminalizes actions to defraud aliens. Penalizes those who misuse immigration documents. Increases criminal penalties for marriage fraud. Real or personal property used to commit any of these offenses subject to seizure and forfeiture.

Sec. 211. Inadmissibility and Removal for Passport and Immigration Fraud Offenses.

- Amends immigration law to state that aliens convicted of passport fraud, schemes to defraud aliens, or misuse of immigration documents are inadmissible and deportable.

Sec. 212. Incarceration of Criminal Aliens.

- DHS must identify, process, and remove all criminal aliens in federal, state, and local correctional facilities.

Sec. 213. Encouraging Aliens to Depart Voluntarily.

- Permits DHS to grant non-criminal aliens 120 days to voluntarily depart the U.S. without being placed in removal proceedings. DOJ may permit aliens in unconcluded removal proceedings 60 days to voluntarily depart the U.S., after posting a departure bond. Immigration Judges may not grant voluntary departure in excess of 45 days. Penalties for failing to depart include 10 years of benefit ineligibility, ineligibility for voluntary removal, and a possible \$3,000 fine.

Sec. 214. Deterring Aliens Ordered Removed from Remaining in the United States Unlawfully.

- Clarifies grounds of inadmissibility against aliens previously removed from the U.S.

Sec. 215. Prohibition of the Sale of Firearms to, or the Possession of Firearms by Certain Aliens.

- Enhances criminal firearms offenses to clarify that aliens who lack lawful permanent resident status in the U.S. may not possess or purchase firearms.

Sec. 216. Uniform Statute of Limitations for Certain Immigration, Passport, and Naturalization Offenses.

- Amends criminal law to provide a uniform statute of limitations of 10 years for nationality and citizenship offenses, passport, visa, and citizenship offenses, and other immigration offenses.

Sec. 217. Diplomatic Security Service.

- Allows State Department special agents to conduct investigations involving illegal passports or visas, identity theft, fraud, peonage, slavery and human trafficking, and federal offenses on Department properties.

Sec. 218. Streamlined Processing of Background Checks Conducted for Immigration Benefits.

- Requires DHS and DOJ to establish an interagency task to resolve background check investigations that have been delayed in excess of 2 years, and to report to Congress on progress.

Sec. 219. State Criminal Alien Assistance Program.

- Authorizes not less than \$2 billion over 5 years to reimburse States for costs associated with processing criminal illegal aliens, and \$2.5 billion for incarcerating criminal aliens.

Sec. 220. Reducing Illegal Immigration and Alien Smuggling on Tribal Lands.

- Authorizes DHS to award grants to Indian tribes with lands adjacent to an international border of the U.S. to offset costs associated with law enforcement, environmental restoration, and health care.

Sec. 221. Alternatives to Detention.

- DHS shall conduct a study of the effectiveness of alternatives to detention, including electronic monitoring and intensive supervision programs, to ensure alien appearance at court and compliance with removal orders.

Sec. 222. State and Local Enforcement of Federal Immigration Laws.

- DHS shall reimburse the Federal immigration training of State officers.

Sec. 223. Protecting Immigrants from Convicted Sex Offenders.

- Clarifies that a U.S. citizen or lawful permanent resident may not file immigrant petitions for immediate relatives when convicted of murder, rape, sexual abuse of a minor, child pornography crimes, or prostitution.

Sec. 224. Law Enforcement Authority of States and Political Subdivisions and Transfer to Federal Custody.

- Requires DHS to take custody of illegal aliens released by State or local officials within 72 hours, and to house them at a central transfer facility within each State. State or local jails may hold criminal aliens up to 14 days on detainer pending transfer. DHS shall reimburse States or localities for costs associated with detention and transfer, unless a State or local sanctuary policy is in effect. DHS is appropriated \$850 million in FY08 and each subsequent year to transfer, detain and remove illegal aliens.

Sec. 225. Laundering of Monetary Instruments.

- Enhances criminal money laundering penalties by adding as specified unlawful activities peonage, slavery, involuntary servitude or forced labor, or alien smuggling.

Sec. 226. Cooperative Enforcement Programs.

- DHS shall within two years train in each State at least 1 law enforcement agency in the detection and apprehension of alien smugglers.

Sec. 227. Expansion of the Justice Prisoner and Alien Transfer Program.

- DOJ shall increase flights to repatriate illegal and criminal aliens.

Sec. 228. Directive to the United States Sentencing Commission.

- The USSC shall amend or promulgate guidelines concerning immigration-related offenses to reflect the serious nature of such offenses

Sec. 229. Cancellation of Visas.

- Provides that all visas in the possession of a nonimmigrant alien are void if the alien remains in the U.S. beyond the period of authorized stay. Requires aliens who overstay to return to consulates abroad to undergo additional screening before being able to return to the U.S.

Sec. 230. Judicial Review of Visa Revocation.

- Restricts judicial review of visa revocations, irrespective of whether the revocation forms the sole basis for removal.

Sec. 231. Terrorist Bar to Good Moral Character.

- Amends definition of good moral character to bar terrorists from receiving immigration benefits. Precludes courts from granting naturalization to an alien in pending removal proceedings, or whose examinations or interviews have not been completed by DHS.

Sec. 232. Precluding Admissibility of Aliens Convicted of Aggravated Felonies or Other Serious Offenses.

- Expands grounds of inadmissibility and deportability to aliens who have engaged in identity fraud to obtain Social Security benefits, criminal identity fraud, or fraud to obtain citizenship.

Sec. 233. Removal and Denial of Benefits to Terrorist Aliens.

- Bars terrorist aliens from receiving cancellation of removal, voluntary departure, or withholding of removal.

Sec. 234. Use of 1986 IRCA Legalization Information for National Security Purposes.

- Amends confidentiality provisions to allow DHS to release statistical or survey data on aliens granted asylum in 1986, and to use confidential data in cases relating to terrorism or national security.

Sec. 235. Definition of Racketeering Activity.

- Expands definition of racketeering activity to include trafficking in passports, visas, and immigration documents.

Sec. 236. Sanctions for Countries that Delay or Prevent Repatriation of Their Nationals.

- If DHS determines that a country is denying or unreasonably delaying repatriation of its nationals, DHS may impose conditions on or deny entry to nationals of the subject country. On notification from DHS, State Department will cease issuing travel documents to nationals of the subject country.

Sec. 237. Appropriate Remedies for Immigration Legislation.

- Bars courts from certifying class actions in civil cases regarding the administration or enforcement of immigration laws. Courts must design injunctions to minimize disruption to federal national security and immigration enforcement activities, set a specific termination date of not greater than 90 days, and explain its rationale in a written order for review.

Sec. 238. Reporting Requirements.

- Clarifies procedures for aliens to notify DHS or DOJ of address changes, federal sharing of address data, service, and penalties for failure to comply.

Sec. 239. Withholding of Removal.

- Makes uniform the alien's burden of proof in certain types of asylum cases.

Sec. 240. Precluding Refugees and Asylees Who Have Been Convicted of Aggravated Felonies from Adjustment to Legal Permanent Resident Status.

- Bars aggravated felons from adjusting status to lawful permanent residence.

Sec. 241. Judicial Review of Discretionary Determinations and Removal Orders Relating to Criminal Aliens.

- Limits court jurisdiction over discretionary grants of admission, status, or relief by DHS or DOJ, and over removal actions against aggravated felons and other serious criminals.

Sec. 242. Information Sharing between Federal and Local Law Enforcement Officers.

- Bars prohibition against federal, state, or local entities acquiring information regarding a person's immigration status if there is probable cause to believe the person is illegally present in the U.S.

Sec. 243. Fraud Prevention Program.

- An agency responsible for conferring immigration benefits shall develop an administrative program to prevent fraud on the agency.

Subtitle B – Worksite Enforcement

Sec. 251. Unlawful Employment of Aliens.

- Amends law to prohibit hiring an alien for employment with knowing or reckless disregard that the alien is unauthorized to work in the U.S.
- Preempts state or local laws that conflict with federal policies.
- Limits documents that may be presented to an employer to verify identity and work eligibility.
- Establishes a mandatory Electronic Employment Verification System (EEVS) for U.S. employers. DHS shall transmit photographs contained on identity documents through the internet to employers to verify identity and work authorization.
- Individuals whose work eligibility cannot be confirmed by DHS must be terminated from employment.
- Prospective workers may query EEVS to ensure accuracy of information before seeking employment.
- Provides employers protection from liability when relying on EEVS.
- DHS must design and operate the EEVS to maximize reliability, accuracy, and ease of use by employers consistent with privacy and security concerns.
- Imposes civil penalties ranging from \$5,000 to \$75,000 for knowingly hiring an unauthorized alien for employment. Criminal penalties are imposed on employers who engage in pattern or practice violations.

Sec. 252. Disclosure of Certain Taxpayer Information to Assist in Immigration Enforcement.

- SSA shall disclose to DHS taxpayer identity information on workers whose data does not match SSA records, is identical to that reported by other individuals, belongs to a person under the age of 14 or who is deceased, or belongs to a person not authorized to work.

Sec. 253. Increasing Security and Integrity of Social Security Cards.

- SSA will issue an improved social security card displaying a photograph within 2 years, and will only issue such cards after 7 years. Improved social security cards shall completely replace the older cards after 10 years.

Sec. 254. Increasing Security and Integrity of Identity Documents.

- The DHS shall establish a State Records Improvement Grant Program that will provide \$1.5 billion over 5 years to States wishing to issue driver's licenses and identity cards that comply with the REAL ID Act.

Sec. 255. Voluntary Advanced Verification Program to Combat Identity Theft.

- Employers participating in the EEVS may voluntarily submit to DHS the fingerprints of their employees to verify identity and work eligibility. Fingerprints of U.S. citizens will not be stored.

Sec. 256. Responsibilities of the Social Security Administration.

- To support the EEVS, SSA shall develop a method that compares a worker's name and Social Security number to verify identity and work eligibility.
- To prevent identity theft SSA shall ensure its databases contain accurate information on social security account holders

- Non-workers may freeze use of their social security numbers in the EEVS to avoid others fraudulently using that data.

Sec. 257. Immigration Enforcement Support by the Internal Revenue Service and the Social Security Administration.

- Penalties may not be waived for employers who submit incomplete or inaccurate withholding forms to SSA.
- The Internal Revenue Service will establish a unit within the Criminal Investigation Office to investigate violations of the Internal Revenue Code of 1986. Monetary penalties against employers filing inaccurate returns are significantly enhanced.

Sec. 258. Additional Criminal Penalties for Misuse of Social Security Account Numbers.

- Expands criminal felonies to include fraudulent use of social security cards or numbers.

Sec. 259. Authorization of Appropriations.

- DHS shall hire 5,000 new personnel to oversee and enforce compliance with the EEVS.