

110TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To provide for safe and humane policies and procedures pertaining to the arrest, detention, and processing of aliens in immigration enforcement operations.

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IN THE SENATE OF THE UNITED STATES

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To provide for safe and humane policies and procedures pertaining to the arrest, detention, and processing of aliens in immigration enforcement operations.

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 “Families First Immi-  
5 gration Enforcement Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) DEPARTMENT.—The term “Department”  
9 means the Department of Homeland Security.

1           (2) SECRETARY.—The term “Secretary” means  
2           the Secretary of Homeland Security.

3           (3) SSA.—The term “SSA” means appropriate  
4           State social service agencies.

5 **SEC. 3. ARREST PROCEDURES.**

6           (a) IN GENERAL.—Any immigration workplace en-  
7           forcement operation by the Department for alleged viola-  
8           tions under the Immigration and Nationality Act (8  
9           U.S.C. 1101 et seq.), which is reasonably calculated to ap-  
10          prehend, or results in the apprehension of, at least 50  
11          aliens, shall be carried out in accordance with the proce-  
12          dures described in this section.

13          (b) STATE NOTIFICATION.—The Department shall  
14          provide State officials with sufficient advance notice of all  
15          immigration workplace enforcement operations to allow  
16          State law enforcement officials to notify SSA of—

17                (1) the specific area of the State that will be af-  
18                fected;

19                (2) the languages spoken by employees at the  
20                target worksite; and

21                (3) any special needs of the employees.

22          (c) NGO NOTIFICATION.—

23                (1) IN GENERAL.—The Department and the ap-  
24                plicable SSA shall determine how appropriate non-

1       governmental organizations will be notified on the  
2       day of the enforcement action.

3           (2) PARTICIPATION.—At the discretion of the  
4       SSA, representatives of the nongovernmental organi-  
5       zation who speak the native language of the aliens  
6       detained in the enforcement action may be permitted  
7       to participate with SSA officials in interviewing such  
8       aliens.

9           (d) DETERMINATION OF RISK TO RELATIVES.—The  
10      Department shall provide the applicable SSA with unfet-  
11      tered and confidential access to aliens detained in the en-  
12      forcement action to assist in the screening and interviews  
13      of aliens to determine whether the detainee, the detainee’s  
14      children, or other vulnerable people, including elderly and  
15      disabled individuals, have been placed at risk as a result  
16      of the detainee’s arrest.

17          (e) MEDICAL SCREENING.—After SSA officials have  
18      met with the alien detainees, qualified medical personnel  
19      from the Division of Immigration Health Services of the  
20      Department of Health and Human Services shall—

21           (1) conduct medical screenings of the alien de-  
22      tainees; and

23           (2) identify and report any medical issues that  
24      might necessitate humanitarian release or additional  
25      care.

1 (f) CONSIDERATION OF RECOMMENDATIONS.—The  
2 Department shall immediately consider recommendations  
3 made by the applicable SSA and the Division of Immigra-  
4 tion Health Services about alien detainees who should be  
5 released on humanitarian grounds, including alien detain-  
6 ees who—

7 (1) have a medical condition that requires spe-  
8 cial attention;

9 (2) are pregnant women;

10 (3) are nursing mothers;

11 (4) are the sole caretakers of their minor chil-  
12 dren or elderly relatives;

13 (5) function as the primary contact between the  
14 family and those outside the home due to language  
15 barriers;

16 (6) are needed to support their spouses in car-  
17 ing for sick or special needs children;

18 (7) have spouses who are ill or otherwise unable  
19 to be sole caretaker; or

20 (8) are younger than 18 years of age.

21 (g) PUBLICITY.—The Department shall provide, and  
22 advertise in the mainstream and foreign language media,  
23 a toll-free number through which family members of alien  
24 detainees may report such relationships to operators who  
25 speak English and the majority language of the target

1 population of the enforcement operation and will convey  
2 such information to the Department and the applicable  
3 SSA.

4 **SEC. 4. DETENTION PROCEDURES.**

5 (a) IN GENERAL.—In order to maximize full and fair  
6 visitation by children, immediate family members, and  
7 counsel, an alien should be detained, to the extent space  
8 is available, in facilities within the physical jurisdiction or  
9 catchment area of the local field office of United States  
10 Immigration and Customs Enforcement.

11 (b) RELEASE.—

12 (1) IN GENERAL.—Not later than 72 hours of  
13 an alien’s apprehension, the alien shall be released  
14 from Department custody, in accordance with para-  
15 graph (2), if the alien—

16 (A) is not subject to mandatory detention  
17 under section 235(1)(B)(iii)(IV), 236(c), or  
18 236A of the Immigration and Nationality Act  
19 (8 U.S.C. 1225(1)(B)(iii)(IV), 1226(c), and  
20 1226a);

21 (B) does not pose an immediate flight risk;  
22 and

23 (C) meets any of the criteria set forth in  
24 section 3(f).

1           (2) TYPE OF RELEASE.—An alien shall be re-  
2           leased under this subsection—

3                   (A) on the alien’s own recognizance;

4                   (B) by posting a minimum bond under sec-  
5                   tion 236(a) of the Immigration and Nationality  
6                   Act (8 U.S.C. 1226(a));

7                   (C) on parole in accordance with section  
8                   212(d)(5)(A) of such Act (8 U.S.C.  
9                   1182(d)(5)(A)); or

10                  (D) through the Intensive Supervision Ap-  
11                  pearance Program or another comparable alter-  
12                  native to detention program.

13 **SEC. 5. LEGAL ORIENTATION PRESENTATIONS.**

14           Any alien arrested in an immigration enforcement op-  
15           eration that is reasonably calculated to apprehend, or re-  
16           sults in the apprehension of, at least 50 aliens shall have  
17           access to legal orientation presentations provided by inde-  
18           pendent, nongovernmental agencies through the Legal  
19           Orientation Program administered by the Executive Office  
20           for Immigration Review.

21 **SEC. 6. REGULATIONS CONCERNING THE TREATMENT OF**  
22                   **ALIENS IN A VULNERABLE POPULATION IN**  
23                   **THE UNITED STATES.**

24           Not later than 6 months after the date of the enact-  
25           ment of this Act, the Secretary shall promulgate regula-

1 tions to implement this Act, in accordance with the notice  
2 and comment requirements under subchapter II of chapter  
3 5 of title 5, United States Code (commonly referred to  
4 as the Administrative Procedure Act).

5 **SEC. 7. REPORT TO CONGRESS.**

6 The Secretary shall submit an annual report that de-  
7 scribes all the actions taken by the Department to imple-  
8 ment this Act to—

- 9 (1) Committee on the Judiciary of the Senate;  
10 (2) Committee on the Judiciary of the House of  
11 Representatives;  
12 (3) the Committee on Homeland Security and  
13 Governmental Affairs of the Senate; and  
14 (4) the Committee on Homeland Security of the  
15 House of Representatives.

16 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

17 There are authorized to be appropriated such sums  
18 as may be necessary to carry out this Act.