AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

112TH CONGRESS
2D SESSION

S. 2266

To improve sharing of immigration information among Federal, State, and local law enforcement officials, to improve State and local enforcement of immigration laws, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 29, 2012

Mr. BURR introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To improve sharing of immigration information among Federal, State, and local law enforcement officials, to improve State and local enforcement of immigration laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Scott Gardner Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Improved Federal sharing of immigration information.

Sec. 4. State and local reporting of immigration information.
Sec. 5. DWI and immigration information in the National Criminal Information Center.
Sec. 6. State and local enforcement of Federal immigration laws.
Sec. 7. Detention and deportation of aliens for driving while intoxicated.
Sec. 8. Federal detention facilities.

SEC. 2. DEFINITIONS.

In this Act:

(1) DWI.—The term ''DWI'' means driving while intoxicated and any similar motor vehicle violation.

(2) FEDERAL IMMIGRATION DATABASE.—The term ''Federal immigration database'' means—

(A) the database of the LESC insofar as it relates to immigration information;

(B) the database of the NCIC insofar as it relates to immigration information; and

(C) any other database containing immigration information identified by the Secretary of Homeland Security.

(3) IMMIGRATION INFORMATION.—The term ''immigration information'' means information specified by the Secretary, in consultation with the Attorney General, relating to immigration, including illegal immigration.

(4) LESC.—The term ''LESC'' means the Law Enforcement Support Center.

(5) NCIC.—The term ''NCIC'' means the National Crime Information Center of the Federal Bureau of Investigation.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of Homeland Security.

SEC. 3. IMPROVED FEDERAL SHARING OF IMMIGRATION INFORMATION.

(a) IN GENERAL.—The Secretary shall share immigration information with the Attorney General.

(b) IMPROVED OPERATION OF FEDERAL IMMIGRATION DATABASES.—

(1) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Attorney General shall jointly submit to Congress a report on methods for improving performance of Federal immigration databases to ensure the prompt entry of immigration information into such databases.

(2) COMPATIBILITY.—The report submitted under paragraph (1) shall contain proposals to improve the compatibility among Federal immigration databases in order to—

(A) improve data entry, including eliminating data entry backlogs;

(B) improve the means by which immigration information is exchanged; and

(C) increase accessibility of information to Federal, State, and local law enforcement agencies.

(3) PROGRESS.—The report submitted under paragraph (1) shall describe—

(A) the progress made in eliminating data entry backlogs in such databases; and

(B) any additional resources required to eliminate such backlogs.

SEC. 4. STATE AND LOCAL REPORTING OF IMMIGRATION INFORMATION.

(a) REQUIREMENT.—

(1) IN GENERAL.—Subject to subsection (c), the director of each State and local law enforcement agency receiving Federal financial assistance under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 1231(i)) shall, as a condition of such assistance, submit a report to the Secretary, in such form, in such manner, and containing such immigration and DWI information collected in the course of the director's normal duties as the Secretary requires for entry into Federal immigration databases.

(2) REPORT ON RESOURCES.—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Attorney General shall jointly submit to Congress a report on additional resources required by State and local law enforcement agencies to comply with the requirement under paragraph (1).

(b) PROMOTION OF LAW ENFORCEMENT SUPPORT CENTER.—The Secretary shall promote the use of the LESC by State and local law enforcement agencies.

(c) EXEMPTION FROM STATE AND LOCAL REPORTING REQUIREMENT.—State and local law enforcement agencies are not required to collect or report immigration information relating to any individual who assists law enforcement agencies in the performance of the duties of such agencies, including assistance as an informant, a witness, or in a similar capacity.

SEC. 5. DWI AND IMMIGRATION INFORMATION IN THE NATIONAL CRIMINAL INFORMATION CENTER.

(a) INCLUSION.—DWI and immigration information in the NCIC—

(1) shall appear as a flag in the Wanted Person File of the NCIC database; and

(2) shall be timely and readily available to State and local law enforcement officers while they are in the course of their normal duties.

(b) MANDATORY DETENTION.—A State or local law enforcement officer who finds a flag for a DWI and immigration violation of an alien in the Wanted Person File of the NCIC and who arrests the alien shall detain the alien in a State or local jail until the alien can be transferred to Federal custody.

SEC. 6. STATE AND LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) IN GENERAL.—Section 287(g) of the Immigration and Nationality Act (8 U.S.C. 1357(g)) is amended—

(1) in paragraph (1), by striking ''may enter'' and inserting ''shall enter'';

(2) in paragraph (2), by adding at the end the following: ''If such training is provided by a State or political subdivision of a State to an officer or employee of such State or political subdivision of a State, the cost of such training (including applicable overtime costs) shall be reimbursed by the Secretary of Homeland Security.'';

(3) by striking paragraph (9); and

(4) by redesignating paragraph (10) as paragraph (9).

(b) RULEMAKING.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations to carry out the amendments made by subsection (a).

(c) EFFECTIVE DATES.—

(1) REQUIREMENT FOR AGREEMENT.—Except as provided under paragraph (2), the amendments made by subsection (a) shall take effect on the earlier of—

(A) the date on which regulations are issued under paragraph (1); and

(B) the date that is 1 year after the date of the enactment of this Act.

(2) PAYMENT FOR TRAINING COSTS.—The amendment made by subsection (a)(2) shall take effect on the first day of the first fiscal year beginning after the date of the enactment of this Act.

SEC. 7. DETENTION AND DEPORTATION OF ALIENS FOR DRIVING WHILE INTOXICATED.

(a) IN GENERAL.—Section 236 of the Immigration and Nationality Act (8 U.S.C. 1226) is amended—

(1) in subsection (c)(1)—

(A) in subparagraph (C), by striking ", or" at the end;

(B) in subparagraph (D), by striking the comma at the end and inserting "; or"; and

(C) by inserting after subparagraph (D) the following:

"(E) is deportable on any grounds and is apprehended for driving while intoxicated, driving under the influence, or similar violation of State law (as determined by the Secretary of Homeland Security) by a State or local law enforcement officer covered under an agreement under section 287(g),";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following:

"(e) DRIVING WHILE INTOXICATED.—If a State or local law enforcement officer apprehends an individual for an offense described in subsection (c)(1)(E) and the officer has reasonable grounds to believe that the individual is an alien—

"(1) the officer shall use the databases of the Federal Government, including the National Criminal Information Center and the Law Enforcement Support Center, to determine if the individual—

"(A) is an alien; and

"(B) is unlawfully present in the United States; and

"(2) if any database under paragraph (1) indicates that the individual is an alien unlawfully present in the United States—

"(A) an officer covered under an agreement under section 287(g) may issue a Federal detainer to maintain the alien in custody in accordance with such agreement until the alien is convicted for such offense or the alien is transferred to Federal custody;

"(B) the officer may transport the alien to a location where the alien can be transferred to Federal custody and removed from the United States in accordance with applicable law; and

"(C) the Secretary of Homeland Security shall reimburse the State and local law enforcement agencies involved for the costs of transporting aliens when such transportation is not done in the course of their normal duties; or

"(3) if any database under paragraph (1) indicates that the individual is an alien that is not unlawfully present in the United States, the officer shall—

"(A) take the alien into custody for such offense in accordance with State law;

"(B) promptly notify the Secretary of Homeland Security of such apprehension; and

"(C) maintain the alien in custody pending a determination by the Secretary with respect to any action to be taken by the Secretary against such alien.".

(b) DEPORTATION FOR DRIVING WHILE INTOXICATED.—

(1) IN GENERAL.—Section 237(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)) is amended by adding at the end the following:

"(G) DRIVING WHILE INTOXICATED.—Any alien who is convicted of driving while intoxicated, driving under the influence, or a similar violation of State law (as determined by the Secretary of Homeland Security), or who refuses, in violation of State law, to submit to a Breathalyzer test or other test for the purpose of determining blood alcohol content is deportable and shall be deported.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to violations or refusals occurring after the date of enactment of this Act.

(c) SHARING OF INFORMATION BY MOTOR VEHICLE ADMINISTRATORS REGARDING DWI CONVICTIONS AND REFUSALS.—Each State motor vehicle administrator shall—

(1) share information with the Secretary relating to any alien who has a conviction or refusal described in section 237(a)(2)(G) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(2)(G));

(2) share such information with other State motor vehicle administrators through the Drivers License Agreement of the American Association of Motor Vehicle Administrators; and

(3) provide such information to the NCIC at such time and in such form as the Secretary may require.

SEC. 8. FEDERAL DETENTION FACILITIES.

(a) REPORT ON CURRENT ALLOCATION FORMULA; RECOMMENDATIONS FOR STOP-GAP MEASURES.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit a report to Congress that describes the formula for allocation of Federal detention facilities for aliens under section 241(g) of the Immigration and Nationality Act (8 U.S.C. 1231(g)). The report shall include proposals for the temporary expansion of State and local jails to detain increased numbers of illegal

aliens pending construction or expansion of Federal detention facilities.

(b) NEW CONSTRUCTION IN HIGH CONCENTRATION AREAS.—In accordance with such section 241(g), the Secretary shall ensure that, to the greatest extent practicable, construction of new detention facilities is undertaken in or near areas in which the Secretary has determined that there is a high concentration of illegal aliens.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

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