

119TH CONGRESS
2D SESSION

S. _____

To improve fairness and accountability with respect to the arrest and
detention of noncitizens.

IN THE SENATE OF THE UNITED STATES

Mr. DURBIN (for himself, Mr. PADILLA, Mr. KING, Ms. HIRONO, Mr. KAINE,
and Mr. BLUMENTHAL) introduced the following bill; which was read
twice and referred to the Committee on _____

A BILL

To improve fairness and accountability with respect to the
arrest and detention of noncitizens.

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 “Immigration Warrants
5 Reform Act of 2026”.

6 **SEC. 2. INSPECTION OF NONCITIZENS.**

7 Section 235(b)(2)(A) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1225(b)(2)(A)) is amended—

9 (1) by striking “an alien” each place such term
10 appears and inserting “a noncitizen”;

1 (2) by striking “the alien” and inserting “a
2 noncitizen”; and

3 (3) by inserting “at the border (and who is not
4 or was not paroled)” after “applicant for admis-
5 sion”.

6 **SEC. 3. ARREST, DETENTION, AND RELEASE OF NONCITI-**
7 **ZENS.**

8 Section 236 of the Immigration and Nationality Act
9 (8 U.S.C. 1226) is amended—

10 (1) in the section heading, by striking
11 “**ALIENS**” and inserting “**NONCITIZENS**”; and

12 (2) by striking subsections (a) and (b) and in-
13 serting the following:

14 “(a) **ARREST, DETENTION, AND RELEASE.—**

15 “(1) **IN GENERAL.—**Upon the issuance of an
16 administrative warrant described in paragraph (4), a
17 noncitizen may be arrested and detained pending a
18 decision on whether the noncitizen will be removed
19 from the United States.

20 “(2) **RELEASE.—**Except as provided in sub-
21 section (c), the Department of Homeland Security
22 may release a detained noncitizen on his or her own
23 recognizance or subject to such conditions as may be
24 necessary to facilitate the noncitizen’s attendance

1 with future proceedings and to prevent any danger
2 to the community.

3 “(3) PERIODIC REVIEW.—

4 “(A) IN GENERAL.—A detained noncitizen
5 is entitled to seek a custody review every 60
6 days from an immigration judge or an appro-
7 priate district court of the United States that
8 may release the noncitizen on his or her own re-
9 cognizance or subject to such conditions as may
10 be necessary to facilitate the noncitizen’s at-
11 tendance with future proceedings and to pre-
12 vent any danger to the community.

13 “(B) BURDEN OF PROOF.—In any pro-
14 ceeding under subparagraph (A), the burden of
15 proof shall be on the Secretary of Homeland
16 Security to establish, by clear and convincing
17 evidence, that the noncitizen is a flight risk
18 from attending future proceedings or a danger
19 to the community.

20 “(4) REQUIREMENTS FOR ADMINISTRATIVE
21 WARRANT.—All administrative warrants for the ar-
22 rest of a noncitizen shall—

23 “(A) accurately document individualized
24 probable cause of the noncitizen’s removability
25 under section 212 or section 237;

1 “(B) be signed by a supervising officer of
2 the Department of Homeland Security at least
3 24 hours in advance of its execution;

4 “(C) be issued concurrently with, or based
5 on, a previously existing notice to appear pursu-
6 ant to section 239(a); and

7 “(D) be served on the noncitizen with such
8 notice to appear at the time of arrest.

9 “(b) REVOCATION OF RELEASE.—The Secretary of
10 Homeland Security may, at any time, upon an individual-
11 ized determination that there is probable cause to find
12 that a noncitizen presents a danger to the community—

13 “(1) revoke a release authorized under sub-
14 section (a)(2);

15 “(2) rearrest the noncitizen pursuant to a war-
16 rant described in subsection (a)(4); and

17 “(3) detain the noncitizen.”.

18 **SEC. 4. POWERS OF IMMIGRATION OFFICERS AND EMPLOY-**

19 **EES WITHOUT A WARRANT.**

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

22 (1) by striking the matter preceding paragraph
23 (1) and all that follows through the end of para-
24 graph (2) and inserting the following:

1 “(1) UNAUTHORIZED ENTRY.—Any officer or
2 employee of the Department of Homeland Security
3 authorized under regulations prescribed by the Sec-
4 retary of Homeland Security shall have power, with-
5 out a warrant, to arrest any noncitizen who, in the
6 presence or view of the officer or employee, is enter-
7 ing or attempting to enter the United States at any
8 time or place other than as designated by the De-
9 partment of Homeland Security or an immigration
10 officer.

11 “(2) INTERIOR ARRESTS.—

12 “(A) IN GENERAL.—Any officer or em-
13 ployee of the Department of Homeland Security
14 authorized under regulations prescribed by the
15 Secretary of Homeland Security shall have
16 power, without a warrant, to arrest any noncit-
17 izen who is physically present in the United
18 States if the officer or employee has probable
19 cause to believe such individual—

20 “(i) is a noncitizen;

21 “(ii) is subject to removal under sec-
22 tion 212 or section 237;

23 “(iii) presents an imminent danger to
24 the community, which requires immediate
25 arrest; and

1 “(iv) is likely to escape before a war-
2 rant can be obtained for such arrest.

1 “(ii) make individualized findings of
2 whether the arresting officer or employee
3 has established probable cause as to the
4 factors described in clauses (i) through (iv)
5 of subparagraph (A) that are required to
6 make a warrantless arrest; and

7 “(iii) if the judge or court determines
8 that the Department has not established
9 such probable cause and the individual ar-
10 rested does not present an imminent dan-
11 ger to the community, the judge or the
12 court shall order the prompt release of the
13 individual.”; and

14 (2) in paragraph (3), by striking “(3) within a
15 reasonable distance” and inserting the following:

16 “(3) OTHER POWERS.—Any officer or employee
17 of the Department of Homeland Security authorized
18 under regulations prescribed by the Secretary of
19 Homeland Security shall have power, without a war-
20 rant—

21 “(A) within a reasonable distance”.

22 **SEC. 5. CONFORMING AMENDMENTS.**

23 Section 287(a) of the Immigration and Nationality
24 Act (8 U.S.C. 1357(a)) is further amended—

1 (1) in paragraph (5), by redesignating subpara-
2 graphs (A) and (B) as clauses (i) and (ii), respec-
3 tively, and by moving such clauses 2 ems to the
4 right;

5 (2) by redesignating paragraphs (4) and (5) as
6 subparagraphs (B) and (C), respectively, and by
7 moving such subparagraphs 2 ems to the right;

8 (3) in paragraph (3), as redesignated—

9 (A) by striking “aliens” each place such
10 term appears and inserting “noncitizens”; and

11 (B) in subparagraph (C)(ii), by striking
12 “reasonable grounds to believe” and inserting
13 “probable cause”; and

14 (4) in the undesignated matter following para-
15 graph (3)(C)(ii), as redesignated—

16 (A) by striking “under paragraph (5)(B)”
17 each place it appears and inserting “under
18 paragraph (3)(C)(ii)”;

19 (B) by inserting “or the Secretary of
20 Homeland Security” after “Attorney General”;
21 and

22 (C) by striking “Service” each place such
23 term appears and inserting “Department of
24 Homeland Security”.