

S.1984 AT A GLANCE

The Kyl-Specter-McCain-Martinez-Cornyn-Graham-Sessions-McConnell Immigration Enforcement and Border Security Act of 2007

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TITLE I. BORDER SECURITY. This title includes a number of provisions related to border enforcement and detention.

- Requires DHS to detain until removal every noncitizen who is a national of a noncontiguous territory, has not been admitted or paroled, and is apprehended within 100 miles of any international border of the U.S. Includes a limited humanitarian exception. (Section 113)
- Requires DHS to capture exit information for noncitizens holding temporary nonimmigrant visas and to initiate removal proceedings against those who overstay or otherwise violate the terms of their status. (Section 124)
- Authorizes DHS officials to collect biometric data from noncitizens and creates a new bar to admission for those who fail to comply with requests for biometric data. (Section 124)
- Requires the inclusion of immigration information in the NCIC, including any individual who has violated a voluntary departure agreement, has been confirmed to be unlawfully present in the U.S. by a federal immigration officer, whose visa has expired or been revoked, or who has a final order of removal. Establishes a procedure for noncitizens to petition for the removal of erroneous information in the NCIC, but failure of a noncitizen to receive notice of removability does not constitute a reason for removal of information from the NCIC. (Section 125)
- Requires DHS to construct or acquire at least 20 additional facilities with the capacity to detain at least 45,000 noncitizens in removal proceedings or awaiting removal. (Section 129)
- Requires the DHS Secretary to work to achieve operational control over the borders of the U.S. within two years by: 1) deploying physical infrastructure; 2) installing vehicle barriers, fence, and ground-based radar; 3) acquiring unmanned aerial vehicles; and 4) conducting border surveillance. (Section 101)
- Requires DHS to hire additional immigration and border enforcement personnel. (Section 102)
- Requires Department of Defense to provide 6,000 National Guardsmen on the southern border to assist Customs and Border Patrol. (Section 103)
- Requires DHS to acquire additional unmanned aerial vehicles, cameras, poles, sensors, and other technologies necessary to obtain operational control of the borders. (Section 104)

TITLE II, SUBTITLE A. INTERIOR ENFORCEMENT. This subtitle includes a number of enhancements to interior enforcement. While a few of these provisions are positive or neutral, most are unrelated to enforcement or significantly erode basic rights and protections for immigrants.

- Expands DHS’s authority to detain certain aliens with removal orders beyond the 90 day removal period. (Section 202)
- Expands the types of offenses that can be classified as an “aggravated felony,” e.g., extends the label to a second drunk driving conviction; all offenses related to alien smuggling; and newly defined acts of conspiracy. These provisions apply retroactively. (See, e.g., Section 203)
- Creates new immigration penalties for individuals involved in gang activity, and expands the definition of “criminal gang” under the immigration code. Applies retroactively and does not require a conviction. (Section 204)
- Expands the definition and related penalties associated with alien smuggling. Includes a limited exception for bona fide, non-profit religious organizations. (Section 206)
- Creates new immigration and criminal penalties for immigrants who are unlawfully present in the U.S. Such offenses are misdemeanors subject to fine, prison for up to a year, or both. Includes a limited affirmative defense. (Section 208)
- Dramatically expands the number of passport and document related offenses classified as crimes under the criminal code and immigration law, some of which are not related to passport or document fraud. (Sections 210 and 211) Creates new immigration penalties for fraud related to social security numbers, identification documents and related information. Applies retroactively. (Section 232)
- Requires DHS and DOJ to establish a taskforce to address cases where an application has been delayed for two years or more due to an outstanding background check. (Section 218)
- Permits DHS to reimburse states and localities for costs associated with processing undocumented criminal noncitizens through the criminal justice system. (Section 219)
- Requires DHS to conduct a study on alternatives to detention. (Section 221)
- Requires DHS to reimburse state and local governments for training and equipment related to “MOUs” between the Attorney General and states or localities on immigration enforcement. “Clarifies” that nothing may be construed to require a training mandate for a states or localities exercising their “inherent authority” to enforce federal immigration laws during the normal course of their duties. (Section 222)
- Authorizes a state or political subdivision to detain or transport noncitizens to federal custody after completing their criminal sentence. (Section 224)
- Requires the DHS Secretary to negotiate, where practicable, at least one “MOU” in each state, to train local police in federal immigration laws related to alien smuggling. (Section 226)
- Severely limits administrative and judicial review on decisions made by the Executive Branch without regard to whether the decision is based on factual or legal errors. Removes federal court review on, e.g., naturalization applications denied based on a finding that a person lacked good moral character; visa revocations; etc. (See Sections 213, 230, 231 and 241)
- Creates new and rigid bars to citizenship. (Section 231)

- Tightens requirements and penalties associated with notice of a change of address, including a 6 month maximum prison term for a person who fails to file a change of address. (Section 238)

TITLE II, SUBTITLE B. WORKSITE ENFORCEMENT. This subtitle creates an Employment Eligibility Verification System (EEVS) with limited rights for employees and tight restrictions on judicial review. It requires the Social Security Administration (SSA) to upgrade security of SS cards and authorizes information sharing between DHS and other agencies.

- Makes it unlawful to hire or recruit unauthorized noncitizens for employment, applying a “knowing or with reckless disregard” standard. Creates an affirmative defense for good faith compliance with document verification and EEVS requirements. Criminalizes employers with a pattern or practice of knowing violations. (Section 251)
- Creates the EEVS and requires staged implementation:
 - Within 30 days of enactment, critical infrastructure, federal contracting, and national or homeland security employers must participate in the EEVS system.
 - Six months after enactment, extends EEVS participation based upon risks to critical infrastructure, national or homeland security, and immigration enforcement.
 - Eighteen months after enactment, EEVS applies to all employers with respect to newly hired employees.
 - Three years after enactment, EEVS applies to all employers for all employees. (Section 251)
- Failure to comply to with EEVS is a violation of law. However, good faith reliance upon information provided by EEVS may protect an employer from liability. (Section 251)
- Requires DHS to establish a complaint process for employees to report employer violations of EEVS. Civil penalties apply. (Section 251)
- Limits administrative and judicial review; prohibits damages or attorneys fees. (Section 251)
- Requires the Secretary of State to share passport and visa information with DHS upon request to verify identity. Otherwise, no agency is permitted to use information or records in the EEVS for any purpose other than for enforcement of immigration, antiterrorism, and federal criminal law. (Section 251)
- Authorizes disclosure of taxpayer identity information to DHS where taxpayer identification number does not match the SSA records or where two or more names with the same taxpayer identification number are reported. (Section 252)
- Requires the SSA to issue fraud- and tamper-resistant SS cards bearing photos. (Section 253).
- Lowers the standard of proof for fraudulent possession or use of a SS card to “knowingly” and increases penalties. Requires SSA to disclose identity, address, or financial institution accounts of those alleged to be using SSA cards fraudulently. (Section 258)
- Preempts any state or local law that conflicts with federal policy, including any state or local law that requires a business to build or maintain day laborer sites. (Section 251)
- Makes inadmissible an alien who falsely claims to be a U.S. national (Section 252)