

119TH CONGRESS
2^D SESSION

S. _____

To limit the Department of Homeland Security from detaining children and individuals with a cognitive disability and to prohibit immigration enforcement actions at sensitive locations without a court-issued criminal warrant.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To limit the Department of Homeland Security from detaining children and individuals with a cognitive disability and to prohibit immigration enforcement actions at sensitive locations without a court-issued criminal warrant.

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 TITLES.**

4 This Act may be cited as the “Keeping Immigrants
5 and Destinations Safe Act” or the “KIDS Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) CHILD.—The term “child” has the meaning
2 given such term in section 101(b)(1) of the Immi-
3 gration and Nationality Act (8 U.S.C. 1101(b)(1)).

4 (2) COGNITIVE DISABILITY.—The term “cog-
5 nitive disability” means a mental impairment that
6 substantially limits one or more major life activities
7 of an individual involving learning, reading, concen-
8 trating, thinking, or communicating, or the oper-
9 ation of a neurological or brain function, consistent
10 with the meaning of “disability” under section 3(1)
11 of the Americans with Disabilities Act (42 U.S.C.
12 12102(1)).

13 (3) DEPARTMENT.—The term “Department”
14 means the Department of Homeland Security.

15 (4) PRIMARY CAREGIVER.—The term “primary
16 caregiver” means a noncitizen parent or legal guard-
17 ian who is the primary caretaker of 1 or more minor
18 children in the United States, including a noncitizen
19 parent or legal guardian with a direct interest in
20 family court, probate court, guardianship, or child
21 welfare proceedings involving a minor child.

22 (5) SECRETARY.—The term “Secretary” means
23 the Secretary of Homeland Security.

1 (6) SENSITIVE LOCATION.—The term “sensitive
2 location” includes any physical space located within
3 1,000 feet of—

4 (A) any medical or mental health care fa-
5 cility, including any hospital, health care practi-
6 tioner’s office, accredited health clinic, vaccina-
7 tion or testing site, emergent or urgent care fa-
8 cility, or community health center;

9 (B) any public or private school (including
10 preschools, primary schools, secondary schools,
11 and postsecondary schools (including colleges
12 and universities)), any site of an early childhood
13 education program, any other institution of
14 learning, such as vocational or trade schools,
15 and any other site where individuals who are
16 unemployed or underemployed may apply for or
17 receive workforce training;

18 (C) any scholastic or education-related ac-
19 tivity or event, including field trips and inter-
20 scholastic events;

21 (D) any school bus or school bus stop dur-
22 ing periods when school children are present on
23 the bus or at the stop;

1 (E) any recreational facility for children,
2 such as playgrounds and formal recreational fa-
3 cilities;

4 (F) any child care focused facility, includ-
5 ing child care centers, before or after school
6 care centers, foster care facilities, and group
7 homes for children;

8 (G) any location where disaster or emer-
9 gency response and relief is being provided by
10 Federal, State, or local entities, such as—

11 (i) the distribution of emergency sup-
12 plies, food, and water;

13 (ii) any place of temporary shelter;

14 (iii) any place along an evacuation
15 route; and

16 (iv) any site where registration for
17 disaster-related assistance or family reuni-
18 fication is taking place;

19 (H) any location of any organization
20 that—

21 (i) assists children, pregnant women,
22 victims of crime or abuse, or individuals
23 with significant mental or physical disabil-
24 ities, including domestic violence shelters,
25 child advocacy centers, facilities that serve

1 disabled persons, drug or alcohol coun-
2 seling and treatment facilities, rape crisis
3 centers, supervised visitation centers, fam-
4 ily justice centers, victims' services pro-
5 viders, and community-based organizations
6 providing social services; or

7 (ii) provides disaster or emergency so-
8 cial services and assistance, or services for
9 individuals experiencing homelessness, in-
10 cluding food banks, pantries, or other es-
11 tablishments distributing food, and shel-
12 ters;

13 (I) any church, synagogue, mosque, or
14 other place of worship or religious study, such
15 as buildings rented for the purpose of religious
16 services or a temporary facility or location
17 where such activities are taking place;

18 (J) any site of a funeral, graveside cere-
19 mony, wedding, or any site where other reli-
20 gious or civil ceremonies or observances are oc-
21 ccurring;

22 (K) any site during a public demonstra-
23 tion, such as a march, rally, or parade;

24 (L) any Federal, State, or local court-
25 house, including immigration courts operated by

1 the Executive Office for Immigration Review,
2 the office of an individual's legal counsel or rep-
3 resentative, probation offices, and any facility
4 where programs or services are provided in rela-
5 tion to a court proceeding;

6 (M) any congressional district office;

7 (N) any office of the Social Security Ad-
8 ministration;

9 (O) any public assistance office, including
10 locations at which individuals may apply for or
11 receive unemployment compensation or report
12 violations of labor and employment laws;

13 (P) the indoor or outdoor premises of a de-
14 partment of motor vehicles;

15 (Q) a polling place, including any building
16 or infrastructure at which voting takes place
17 during an election;

18 (R) a labor union hall or any other union-
19 operated building or office at which registered
20 applicants are referred in rotation to jobs;

21 (S) any public library; or

22 (T) any other location specified by the Sec-
23 retary.

1 **SEC. 3. DETENTION OF CHILDREN.**

2 (a) LIMITATION.—Except as provided in section 5,
3 the Department may not detain a child, an individual with
4 a cognitive disability, or a primary caregiver of a child or
5 individual with a cognitive disability.

6 (b) PARENTAL NOTICE AND REPORTING.—If a de-
7 tention is permitted under section 5, the Department may
8 not detain any child or individual with a cognitive dis-
9 ability without the confirmed notification of a parent or
10 legal guardian of such child or individual. All such deten-
11 tions shall be reported to Congress not later than 24 hours
12 after the Department takes such a child or individual into
13 custody.

14 (c) LIMITATION ON DETENTION OF PRIMARY CARE-
15 GIVERS.—There shall be a presumption that a primary
16 caregiver of a child or an individual with a cognitive dis-
17 ability may not be detained unless the Department Sec-
18 retary documents, based on clear and convincing evidence
19 that has been provided to the primary caregiver of such
20 child or individual, that release of the primary caregiver
21 is unreasonable or impracticable.

22 (d) RELEASE TO DESIGNATED CAREGIVER OR CHILD
23 WELFARE AUTHORITY.—

24 (1) IN GENERAL.—If a child or an individual
25 with a cognitive disability is detained by the Depart-
26 ment in violation of subsection (a), the Department

1 shall prioritize the prompt release of such child or
2 individual to—

3 (A) a parent or legal guardian;

4 (B) a designated caregiver identified by a
5 parent or legal guardian of such child or indi-
6 vidual;

7 (C) the appropriate State or local child or
8 adult protective services agency; or

9 (D) appropriate officials of the Depart-
10 ment of Health and Human Services Office of
11 Refugee Resettlement, if appropriate and prac-
12 ticable.

13 (2) RECOGNITION OF DELEGATED PARENTAL
14 AUTHORITY.—For purposes of paragraph (1)(B), the
15 Department shall recognize and give effect to any
16 written instrument executed by a parent or legal
17 guardian that delegates temporary caregiving au-
18 thority or parental authority to another individual,
19 including a power of attorney or other document au-
20 thorized under applicable State law.

21 (3) VERIFICATION.—The Department may take
22 reasonable steps to verify the identity of the des-
23 ignated caregiver or the authenticity of the written
24 instrument described in paragraph (2), but such

1 verification shall not unreasonably delay the release
2 of the child or individual with a cognitive disability.

3 (4) BEST INTERESTS OF THE CHILD.—All de-
4 terminations made under this subsection shall be
5 guided by the best interests of the child or individual
6 with a cognitive disability.

7 **SEC. 4. LIMITATION ON ENFORCEMENT ACTIONS AT SEN-**
8 **SITIVE LOCATIONS.**

9 (a) IN GENERAL.—Except as provided in section 5,
10 the Department may not conduct, engage in, or execute
11 any immigration enforcement action that takes place at,
12 is focused on, or occurs within 1,000 feet of, a sensitive
13 location.

14 (b) TRAVEL TO AND FROM SENSITIVE LOCATIONS.—
15 For purposes of this section, an immigration enforcement
16 action shall be considered to occur at a sensitive location
17 if such action is taken while an individual is traveling to,
18 attending, or returning from a sensitive location.

19 **SEC. 5. EXCEPTION FOR CRIMINAL WARRANTS.**

20 The restrictions under sections 3 and 4 may not be
21 construed to prohibit or restrict enforcement actions con-
22 ducted pursuant to a criminal arrest warrant or a criminal
23 search warrant issued by a court of competent jurisdiction.

24 **SEC. 6. REMEDIES FOR VIOLATIONS.**

25 In the event of a violation of section 4—

1 (1) any information obtained as a result of such
2 enforcement action for purposes of establishing
3 alienage or chargeability may not be—

4 (A) entered into the record or received into
5 evidence in a removal proceeding; or

6 (B) used by the Department to effectuate
7 any type of removal;

8 (2) the noncitizen who was the subject of such
9 removal proceedings may file a motion to enforce the
10 prohibition under section 4, including through a mo-
11 tion to terminate such proceedings;

12 (3) any individual who was detained in violation
13 of such section shall be released from detention; and

14 (4) any person wrongfully detained shall be
15 placed in section 240 proceedings, which require the
16 Department to rebut the presumption of the individ-
17 ual's eligibility for release by clear and convincing
18 evidence.