

117TH CONGRESS
2D SESSION

H. R. 9128

To amend section 287(g) of the Immigration and Nationality Act to clarify congressional intent with respect to agreements under such section, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 4, 2022

Mr. CLOUD (for himself, Mr. LAMBORN, Mrs. MILLER of Illinois, Mr. WEBER of Texas, and Mr. GOHMERT) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend section 287(g) of the Immigration and Nationality Act to clarify congressional intent with respect to agreements under such section, and for other purposes.

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 “287(g) Program Pro-
5 tection Act”.

6 **SEC. 2. CLARIFICATION OF CONGRESSIONAL INTENT.**

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

1 (1) in paragraph (1), by striking “the Attorney
2 General may enter” and all that follows through the
3 period at the end and inserting the following: “the
4 Secretary of Homeland Security shall enter into a
5 written agreement with a State, or any political sub-
6 division of a State, upon request of the State or po-
7 litical subdivision, pursuant to which law enforce-
8 ment officers of the State or subdivision, who are
9 determined by the Secretary to be qualified to per-
10 form a function of an immigration officer in relation
11 to the investigation, apprehension, or detention of
12 aliens in the United States (including the transpor-
13 tation of such aliens across State lines to detention
14 centers), may carry out such function at the expense
15 of the State or political subdivision. No request from
16 a bona fide State or political subdivision or bona fide
17 law enforcement agency shall be denied absent a
18 compelling reason, and the Secretary shall notify the
19 Congress and publish in the Federal Register an ex-
20 planation for those reasons at least 180 days in ad-
21 vance of making final the denial. No limit on the
22 number of agreements under this subsection may be
23 imposed. The Secretary shall process requests for
24 such agreements with all due haste, and in no case
25 shall more than 90 days elapse from the date the re-

1 quest is made until the agreement is con-
2 summated.”;

3 (2) by striking “Attorney General” each place
4 such term appears and inserting “Secretary”;

5 (3) by redesignating paragraphs (2) through
6 (10) as paragraphs (5) through (13), respectively;

7 (4) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) An agreement under this subsection shall
10 accommodate a requesting State or political subdivi-
11 sion with respect to the enforcement model or com-
12 bination of models, and shall accommodate a patrol
13 model, task force model, jail model, any combination
14 thereof, or any other reasonable model the State or
15 political subdivision believes is best suited to the im-
16 migration enforcement needs of its jurisdiction.

17 “(3) No Federal program or technology directed
18 broadly at identifying inadmissible or deportable
19 aliens shall substitute for such agreements, including
20 those establishing a jail model, and shall operate in
21 addition to any agreement under this subsection.

22 “(4)(A) No agreement under this subsection
23 may be terminated absent a compelling reason.

24 “(B)(i) The Secretary shall provide a State or
25 political subdivision written notice of intent to termi-

1 nate at least 180 days prior to date of intended ter-
2 mination, and the notice shall fully explain the
3 grounds for termination, along with providing evi-
4 dence substantiating the Secretary’s allegations.

5 “(ii) The State or political subdivision shall
6 have the right to a hearing before an administrative
7 law judge.

8 “(C) The agreement shall remain in full effect
9 during the course of any and all legal proceedings.”;
10 and

11 (5) in paragraph (6) (as redesignated), by add-
12 ing at the end the following: “The Secretary of
13 Homeland Security shall implement uniform training
14 requirements for law enforcement officers who are,
15 or will be, performing a function of an immigration
16 officer under this subsection.”.

17 **SEC. 3. FUNDING.**

18 Section 286(r) of the Immigration and National Act
19 (8 U.S.C. 1356(r)) is amended—

20 (1) in the subsection heading, by striking
21 “BREACHED BOND/DETENTION FUND” and insert-
22 ing “BREACHED BOND/DETENTION/287(g) FUND”;

23 (2) by striking “Attorney General” each place
24 such term appears and inserting “Secretary of
25 Homeland Security”;

1 (3) in paragraph (1), by striking “Breached
2 Bond/Detention” and inserting “Breached Bond/De-
3 tention/287(g)”;

4 (4) in paragraph (2), by striking “Department
5 of Justice” and inserting “Department of Homeland
6 Security”; and

7 (5) in paragraph (3)—

8 (A) in clause (i), by striking “, and” at the
9 end and inserting a semicolon;

10 (B) in clause (ii), by striking the period at
11 the end and inserting “; and”; and

12 (C) by adding at the end the following:

13 “(iv) for expenses associated with admin-
14 istering section 287(g).”.

15 **SEC. 4. REQUIREMENTS ON SECRETARY.**

16 (a) ANNUAL PERFORMANCE REPORT.—Not later
17 than December 31 of the first fiscal year that begins after
18 the date of the enactment of this Act, and not later than
19 December 31 of each year thereafter, the Secretary of
20 Homeland Security shall publish an annual performance
21 report on the program under section 287(g) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1357(g)) that in-
23 cludes at least the following information:

24 (1) The number of aliens apprehended and
25 screened by law enforcement through the program.

1 (2) The number of aliens removed from the
2 United States as a result of the program.

3 (3) The number of aliens described in para-
4 graph (1) who were not removed and an explanation
5 for why they were not removed.

6 (4) The methods being used to conduct over-
7 sight of each law enforcement agency participating
8 under the program.

9 (5) The number of law enforcement agencies in
10 compliance with the program's training require-
11 ments.

12 (6) The number of complaints filed against law
13 enforcement agencies claiming they did not comply
14 their written agreement entered into under such sec-
15 tion.

16 (7) The number of law enforcement agencies
17 that had such written agreement terminated.

18 (8) The reasons for such termination.

19 (b) ANNUAL RECRUITMENT PLAN.—Not later than
20 December 31 of the first fiscal year that begins after the
21 date of the enactment of this Act, and not later than De-
22 cember 31 of each year thereafter, the Secretary of Home-
23 land Security shall publish an annual recruitment plan
24 with respect to the program under section 287(g) of the

1 Immigration and Nationality Act (8 U.S.C. 1357(g)) that
2 includes at least the following information:

3 (1) Annual goals for the next five years for re-
4 cruitment of new States and political subdivisions of
5 States to participate in the program.

6 (2) The number of new States and political sub-
7 divisions of States participating in the program each
8 year.

9 (3) A description of the outreach to States and
10 political subdivisions of States conducted for the
11 program and the other methods used to achieve re-
12 cruitment goals.

13 (4) The number of requests for agreements re-
14 ceived, approved, denied, and pending approval.

15 (c) RULEMAKING.—Not later than 180 days after the
16 date of the enactment of this Act, the Secretary of Home-
17 land Security shall publish a notice of rulemaking with
18 respect to the training requirements under section
19 287(g)(6) of the Immigration and Nationality Act (8
20 U.S.C. 1357(g)(6)), as added by section 2(5).

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