



Interior Enforcement

Overview of the Strengthen and Fortify Enforcement Act (SAFE Act) H.R. 2278 Voted out of House Judiciary Committee 6/18/2013

Several Significant Differences with S. 744 (Senate comprehensive bill)

- Congress would be establishing statutorily that States can enforce federal immigration laws. Presently such State activity is restricted to agreements under §287(g) of the statute, which DHS has the discretion to establish and revoke.
- Physical presence in the country without status is a crime. Current law criminalizes illegal entry but provides no criminal penalty for overstaying an authorized period of stay.
- Biometric exit controls required for all ports of entry, including airports, sea ports, and land crossings.
- Virtually none of the provisions of H.R. 2278 have companion provisions or provisions attempting to address similar issues in S. 744

Outline of Interior Enforcement Provisions

- State role in immigration enforcement
- Criminal law changes
- Exit controls
- National security and visa security
- Detention and removal
- Aid to ICE officers
- Miscellaneous enhancement to enforcement

State Role in Immigration Enforcement

Immigration Law Enforcement by States and Localities

- States, or political subdivisions of States, can enact, implement and enforce criminal and civil penalties that penalize the same conduct that is prohibited by criminal provisions of immigration laws as long as the State penalties don't exceed the Federal criminal penalties (without regard to ancillary issues such as the availability of probation or pardon).
- Provides State law enforcement personnel same authority as Federal law enforcement personnel re immigration with respect to the ability of States to investigate, identify, apprehend, arrest, detain or transfer to Federal custody of aliens. States are not allowed to remove aliens.
- This is a significant change from current law. Currently, Section 287(g) authorizes the Federal Government (DHS) to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions, pursuant to a memorandum of agreement, provided that the local law enforcement officers receive appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers. However, these agreements can be revoked at any time by DHS (this occurred with the State of Arizona in June 2012). The SAFE Act would essentially allow State and local governments to enforce immigration laws without a written 287(g)

agreement – thereby eliminating DHS’s discretion to create or revoke state authority in immigration enforcement.

Technology Access

- States are required to have access to Federal programs or technology to identify inadmissible or deportable aliens.

State and Local Law Enforcement Provision of Information about Apprehended Aliens

- States have to provide Federal government specific information about apprehended aliens.
- DHS is required to maintain and annually submit to Congress a detailed report listing the States that have provided information above in the preceding year.
- States are given reimbursements for reasonable costs associated with providing information through appropriations.
- Nothing in this section shall require law enforcement officials of a State to provide DHS with information related to a victim of a crime or witness to a criminal offense.

Financial Assistance to State and Local Police Agencies that Assist in the Enforcement of Immigration Laws

- Grants provided to States for procurement of equipment, technology, facilities, and other products that facilitate and are directly related to investigating, apprehending, arresting, detaining, or transporting aliens who are inadmissible or deportable, including admin costs.
- To receive a grant, a State must have the authority to, and must have a written 287(g) agreement (policy and a practice to assist in the enforcement of the immigration laws of the United States in the course of carrying out the routine law enforcement duties of the State). State may not have a practice or policy that PREVENTS local law enforcement from asking about a suspect’s immigration status – in order to receive a grant under this section.
- Appropriations starting in FY14 to carry out this section.
- GAO audit within 3 years of enactment of funds/grant program under this section

Increased Federal Detention Space

- Construction of additional Federal detention space by DHS – appropriated funds.

Federal Custody of Inadmissible and Deportable aliens in the U.S. Apprehended by State or Local Law Enforcement

- DHS is required to pick up apprehended aliens that are being held by States within 48 hours of apprehension or detainer process in order to determine whether the alien should be detained, removed, placed in removal or released.
- States will be reimbursed for incarceration and transportation of inadmissible or deportable aliens.
- DHS shall ensure that aliens incarcerated pursuant to this title are held in facilities that provide an appropriate level of security.
- DHS shall establish a regular circuit and schedule for the prompt transfer of apprehended aliens from the custody of States, to Federal custody.
- Within 3 years after enactment – GAO audit of compensation to States for the incarceration of inadmissible or deportable aliens.
- This provision will take effect 120 days after enactment.

Training of State and Local Law Enforcement Personnel Relating to the Enforcement of Immigration Laws

- Within 180 days of enactment, DHS is required to establish a training manual and pocket guide for State and Local law enforcement personnel relating to enforcement of immigration laws. DHS also required to make themselves available to train State and local law enforcement officers.
- DHS responsible for costs incurred in establishing the training manual and pocket guide.
- Nothing in this title or any other provision of law shall be construed as making any immigration-related training a requirement for, or prerequisite to, any State or local law enforcement officer to assist in the enforcement of Federal immigration laws.

State Criminal Alien Assistance Program (SCAAP)

- Reauthorizes and appropriates money for SCAAP from FY14 onward

Criminal Alien Identification Program

- Continuation of the criminal alien identification program – identification of criminal aliens in Federal and State jails, making sure they aren't released into community and are removed at end of sentences. Program is extended to all States through SCAAP.
- Law enforcement officers of a State are authorized to hold a criminal alien for up to 14 days after the alien has completed their sentence under State or local law to effectuate the transfer of the alien to Federal custody when the alien is inadmissible or deportable OR issue a detainer allowing aliens who have served a prison sentence under State or local law to be detained by the State or local prison until DHS can take the alien into custody.
- Section shall take effect within 180 days after enactment.

Clarification of Congressional Intent Regarding Cooperative Agreements with State and Local Law Enforcement (pursuant to agreements under Section 287(g) of the immigration statute)

- Amends 287(g) of the INA to require DHS to enter into a written agreement with a State, or any political subdivision of a State, upon request of the State or political subdivision, pursuant to which an officer or employee of the State, who is determined by DHS to be qualified to perform a function of an immigration officer in relation to the investigation, apprehension, or detention of aliens in the U.S., may carry out such function at the expense of the State and to the extent consistent with State and local law.
- No request from a bona fide State or law enforcement agency shall be denied absent a compelling reason.
- There is no limit on the number of agreements that may be imposed
- DHS must process requests for 287(g) agreements in less than 90 days from date request is made.
- No Federal program or technology directed broadly at identifying inadmissible or deportable aliens shall substitute for 287(g) agreements, including those establishing a jail model, and must operate in addition to any 287(g) agreements.
- 287(g) agreements CANNOT be terminated absent a compelling reason.
- DHS must provide a State written notice of intent to terminate at least 180 days prior to intended termination, and the notice must fully explain the grounds for termination, along with providing evidence substantiating DHS's allegations.

- The State shall have the right to a hearing before an administrative law judge and, if the ruling is against the State, to appeal the ruling to the Federal Circuit Court of Appeals and, if the ruling is against the State, to the Supreme Court.
- The 287(g) agreement – shall remain in full effect during the course of any and all legal proceedings.
- DHS shall make training of State and local law enforcement officers available through as many means as possible.

State Violations

- Immunity – a State or local law enforcement officer who is acting within the scope of their official duties will be immune, to the same extent as a Federal law enforcement officer, from liability arising out of the performance of any immigration enforcement duty.
- Amends 642 of INA – communication between government agencies and DHS- persons cannot restrict Federal or State agents from undertaking law enforcement activities including notifying DHS of inadmissible and deportable aliens encountered by State, complying with requests for information by Federal law enforcement, and complying with detainers issued by DHS, and issuing policies in the form of a resolution, ordinances, administrative actions, general or special orders, or departmental policies that violate Federal law or restrict a State from complying with Federal law or coordinating with Federal law enforcement. States not in compliance don't receive funding for certain programs.

Criminal Law Changes

Penalties for Illegal Entry OR Presence

- Amends Section 275 of the INA – adds penalties for being present in the United States without a valid visa or legal authority.
- An alien who knowingly enters or crosses the border into the U.S. at any time or place other than as designated by DHS, knowingly eludes, at any time or place, examination or inspection by an authorized immigration, customs, or agricultural officer, knowingly enters or crosses the border into the U.S., and upon examination or inspection, knowingly makes a false or misleading representation or knowing concealment of a material fact, knowingly violates the terms or conditions of the alien's admission or parole into the U.S., OR knowingly is unlawfully present in U.S. (subject to exceptions under 212(a)(9)(B)(ii)) SHALL be subject to criminal penalty.
- Criminal Penalties
 - First violation – fined under title 18 USC, imprisoned not more than 6 months, or both;
 - Second or subsequent violation or following an order of voluntary departure – fined under title 18 USC, imprisoned not more than 2 years, or both;
 - If the violation occurred after the alien had been convicted of 3 or more misdemeanors or for a felony, fined under 18 USC, imprisoned not more than 10 years, or both;
 - If violation occurred after alien had been convicted of a felony for which the alien received a term of imprisonment of not less than 30 months, fined under 18 USC, imprisoned for not more than 15 years, or both;
 - If violation occurred after alien convicted of a felony for which alien received term of imprisonment of not less than 60 months, fined under 18 USC, imprisoned not more than 20 years, or both.
- An offense under this section continues until the alien is discovered within the U.S. by an immigration, customs, or agriculture officer.
- Attempt of these offense will be punished in same manner as completion

- Any alien who is apprehended while entering or attempting to enter, or knowingly crossing or attempting to cross the border to the U.S. at a time or place other than one designated by immigration officers is subject to a civil penalty in addition to any criminal penalties that may be imposed under the law.
 - Between \$50-250 for each such entry or attempted entry/crossing
 - Twice the amount above if the alien had previously been subject to a civil penalty under this section.

Increased Criminal Penalties Relating to Alien Smuggling and Related Offenses

- A person shall be punished if the person:
 - (A) Facilitates, encourages, directs or induces a person to come to or enter the U.S, knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to enter the U.S;
 - (B) Facilitates, encourages, directs or induces a person to come to or enter the U.S. at a place other than a designated port of entry, knowing or in reckless disregard that such a person is an alien and regardless of whether such alien has lawful authority to be in the U.S.;
 - (C) Transports, moves, harbors, conceals, or shields from detection a person outside of the U.S. knowing or in reckless disregard of the fact that such person is an alien in unlawful transit from one country to another or on the high seas, under circumstances in which the alien is seeking to enter the U.S. without lawful authority;
 - (D) Encourages or induces a person to reside in the U.S., knowing or in reckless disregard of the fact that such person is an alien who lacks lawful authority to reside in the U.S.;
 - (E) Transports or moves a person in the U.S., with knowledge or reckless disregard that such person is an alien who lacks lawful authority to enter or be in the U.S., if the transportation or movement will further the alien's illegal entry into or illegal presence in the U.S.;
 - (F) Harbors, conceals, or shields from detection a person in the U.S., with knowledge or reckless disregard of the fact that such person is an alien without lawful authority to be in the U.S.; OR
 - (G) Conspires or attempts to commit any of the acts above.
- No criminal penalties for those who violate (C) – (G) above IF the violation was NOT committed for commercial advantage, profit, or private financial gain. (Knowingly transporting undocumented aliens into the U.S., encouraging undocumented aliens to reside in the U.S., transporting an undocumented alien within the U.S., shielding an undocumented alien in the U.S. from detection, or attempting to commit any of these acts)
- It is NOT a violation of (D), (E), or (F) for a religious denomination having a bona fide nonprofit organization in the U.S., or agents or officers in the U.S., to encourage, invite, call, allow or enable an alien who is present in the U.S. to perform the vocation of a minister or missionary for the denomination in the U.S. as a volunteer who isn't compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least 1 year.
- Violators of above will be fined under title 18 USC, imprisoned for not more than 5 years or both.
- If the violation was committed for commercial advantage, profit, or private financial gain – violators will be –

- Fined under Title 18 USC, imprisoned for not more than 20 years, or both if the violation is the offender's first; or
- Fined under Title 18 USC, imprisoned for not less than 3 years or more than 20 years, or both, if the violation is a second offense or subsequent violation.
- If the violation furthered or aided the commission of any other offense against the U.S. or any State that is punishable by imprisonment for more than 1 year, be fined under title 18 USC, imprisoned for not less than 5 years or more than 20 years, or both.
- If the violation created a substantial and foreseeable risk of death, a substantial and foreseeable risk of serious bodily injury, or inhumane conditions to another person including transporting the person in an engine or storage compartment or confined space, transporting the person at an excessive speed, or transporting the person in, harboring the person in, or otherwise subjecting the person to crowded or dangerous conditions – fined under title 18 USC, imprisoned not less than 5 years or more than 20 years, or both.
- If violation caused serious bodily injury to any person, be fined under title 18 USC, imprisoned for not less than 7 years or more than 30 years, or both.
- If violation involved an alien who the offender knew or had reason to believe was engaged in terrorist activity or intending to engage in terrorist activity – fined under 18 USC and imprisoned for not less than 10 years or more than 30 years.
- If violation caused or resulted in the death of any person, be punished by death or imprisoned for a term of years not less than 10 years and up to life, and fined under title 18 USC.
- There is extraterritorial Federal jurisdiction over the offenses in this section.
- Any real or personal property used to commit or facilitate the commission of a violation of this section, gross proceeds of such violation, and any property traceable to proceeds is subject to forfeiture.
- In determining whether a violation of above has occurred, prima facie evidence that an alien involved in the alleged violation lacks lawful authority to come to, reside in, or remain in the U.S. may include –
 - Any order, finding, or determination concerning the alien's status or lack of status made by a Federal judge or administrative adjudicator (includes IJ or immigration officer) during any judicial or administrative proceeding under immigration law;
 - Official records of the DHS, DOJ, or DOS concerning status; AND
 - Testimony by an immigration officer having personal knowledge of the facts concerning the alien's status.
- Only officers or persons shall have authority to make arrests for violations under this section – who are officers and employees designated by DHS, either individually or as a member of a class and other officers responsible for the enforcement of Federal criminal laws.
- Videotaped evidence of someone who is deported from U.S. may be admitted into evidence in an action brought for a violation if the witness was available for cross examination at the deposition by the party and the deposition complies with the Federal Rules of Evidence.

Listing of Immigration Violators in the National Crime Information Center Database

- DHS has to provide information on all aliens who have final order of removal, voluntary departure, or overstayed a visa or had a visa revoked to the National Crime Information Center (NCIC) of DOJ – this information is then entered into the Immigration Violators File.
- Information will be entered into the NCIC database regardless of whether the alien received notice of a final order of removal, the alien has already been removed, or sufficient identifying information is available with respect to the alien.

Exit Controls

Biometric Entry and Exit Data System

- Requires DHS to establish a biometric entry and exit data system as required by section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004, within 2 years of enactment.
- The requirements of section 7208 of the Intelligence Reform and Terrorism Prevention Act of 2004 date back to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208). In 1996 Congress mandated that a biometric entry-exit system be created at all ports of entry through which all aliens must legally pass through. The entry requirement of the 1996 law was achieved through the implementation of US-VISIT in 2004, however, the exit requirement still remains unexecuted.
- In addition to fulfilling all of the technical requirements of section 7208, this bill requires DHS to ensure that the biometric entry and exit data system is established and in operation at each port of entry to the United States within the 2 year period, including all air, sea and land ports of entry.

National and Visa Security

National Security

- Removal of and denial of benefits to terrorist aliens – deals with aliens who have applied for asylum
- Terrorist bar to good moral character
- Terrorist bar to naturalization - Allows government to rescind citizenship for terrorists – if on government finding that on date of naturalization the person was a “terrorist” – types of evidence can include the receipt of military-type training from or on behalf of any terrorist organization.
- Denaturalization for Terrorists - If the AG determines that on the date of naturalization, a person was not attached to the principles of the Constitution of the U.S. and was not well disposed to the good order and happiness of the U.S. they can set aside and naturalization and cancel the certificate as having been obtained by concealment of a material fact or by willful Provides for use of 1986 IRCA legalization information for national security purposes.
- DHS is required to complete background checks before adjusting status of aliens or before granting citizenship.

Visa Security

- After cancellation of visa – requires alien under 222(g) to receive new visa from a consular office located in alien’s nationality or foreign residence.
- Visa information sharing with foreign governments – not based on reciprocity, Secretary of State allowed to share info with foreign government if in national interest
- Eliminates waiver of visa interviews
- Authorizes DOS to not interview certain ineligible visa applicants – DOS has to create guidance and issue it to all consular officers on the standards and processes for denying visa applications without an interview in cases where the applicant is determined to be ineligible for the visa after reviewing the application.
- Visa refusal and revocation – amends section 428 of the Homeland Security Act of 2002 – Provides DHS with authority to make regulations w respect to the granting and refusal of a visa, and allows DHS to refuse or revoke any visa to any alien or class of aliens if they determine that

the refusal or revocation is necessary and in the security interests of the U.S. No judicial review of revocation.

- Provides funding for the visa security program – deployment of ICE agents to consular posts around the world to help with visa interviews and investigations.
- Expands the Visa Security Program to high risk posts - \$60M appropriated for FY 14 and 15 to expedite program
- Expedited clearance and placement of DHS personnel at overseas embassies and consular posts – within 1 year after DHS communicates assignment, personnel will be stationed and accommodated at the post.
- Increased criminal penalties for student visa integrity - increased offense if committed by an owner, official, or employee of an educational institution participating in Student Exchange and Visitor Program (SEVP) (from 10 to 15 years).
- Provides penalties for fraud in SEVP – reasonable suspicion of fraud can result in suspension of an institution from the program without notice, and a conviction for visa fraud results in permanent disqualification from the program.
- If any institution of learning or place of study fails to make reports promptly or fails to comply with any accreditation requirement the SEVP approval shall be withdrawn.
- Individuals serving as designated school officials in SEVIS must be a USC or LPR and must have had a background check in past 3 years and must complete an online training course on SEVP and SEVIS. DHS is authorized to collect a fee from an approved school for each background check conducted.
- School officials can nominate as many Designated School Officials (DSOs) in addition to the Principal DSO to adequately provide recommendations to students enrolled at the school regarding maintenance of nonimmigrant status and to support timely and complete recordkeeping and reporting to DHS. A school may not have less than one DSO per 200 students with nonimmigrant status. DHS must approve nomination of DSO before provided access to SEVIS.
- DHS must proscribe regulations to require an institution of exchange visitor program sponsor participating in SEVP to ensure that each student/exchange visitor who has nonimmigrant status is reported to DHS within 10 days of transferring, changing majors, or any other changes to information required to be maintained by the system.
- DHS shall prohibit any flight school in the U.S. for accessing SEVIS or issuing a Form I-20 to an alien seeking a student visa (F or M) if the flight school hasn't been certified by the FAA. Temporary exception during first 5 years after enactment – DHS may waive requirement that the school be certified by the FAA if the flight school was certified under SEVP on date of enactment, submitted an application for certification with the FAA during the 1 year period on date of enactment, and continues to progress toward certification by the FAA.
- Revocation of accreditation of schools – board will notify DHS of denial, suspension, withdrawal or termination of accreditation and DHS shall immediately withdraw the school from SEVP and prohibit school from accessing SEVIS.
- Report that contains a risk assessment strategy that will be employed by DHS to identify, investigate, and take appropriate action against schools and school officials that are facilitating the issuance of Form I-20 and the maintenance of student visa status in violation of the immigration laws of the U.S. due to Congress within 180 days of enactment.
- Within 180 days DHS must submit to Congress showing how they will implement the GAO recommendations regarding the SEVP.
- Within 2 years of enactment DHS shall complete deployment of both phases of SEVIS 2

Detention and Removal

Clarifying the Authority of ICE Detainers

- Except as otherwise provided by Federal law, DHS shall execute all lawful writs, process, and orders issued under the authority of the U.S., and shall command all necessary assistance to execute the Secretary's duties.

Grounds for Removal

- Amends definition of aggravated felony and conviction under INA.
- Provides for preclusion of admissibility of aliens convicted of aggravated felonies or other serious offenders – lists out types of crimes that make an alien inadmissible or deportable with no waiver (procurement of citizenship or naturalization unlawfully, certain firearm offenses, aggravated felons, crimes of domestic violence, stalking or violation of protection order, crimes against children).
- Amends the criminal offenses under deportability – adds any alien who is at any time after admission convicted of a violation of section 408 of title 42, USC (relating to social security account numbers or cards) or section 1028 of title 18 USC (relating to fraud and related activity in connection with identification) is deportable.
- Clarifies INA provisions related to espionage – 212(a)(3)(A) – Any alien who a consular officer, the AG, or DHS knows or has reasonable ground to believe seeks to enter the U.S. to engage solely, principally, or incidentally in, or who is engaged in any activity to violate any law of the U.S. relating to espionage or sabotage, or to violate or evade any law prohibiting the export from the U.S. of goods, technology, or sensitive information, any other unlawful activity, or any activity where purpose is to control or overthrow the U.S. government is inadmissible.
- Prohibition of the sale of firearms to, or the possession of firearms by non-LPRs
- Creates a uniform statute of limitations (10 yrs) for certain immigration, naturalization and peonage offenses – no person shall be prosecuted, tried, or punished for a violation of anything relating to nationality, citizenship, passport, visa and immigration offenses or for a violation of any criminal provisions of the INA unless the indictment is filed within 10 years.
- Creates a conforming amendment to the definition of racketeering activity.
- Creates conforming amendments for the definition of aggravated felony.
- Provides that refugees or asylees cannot adjust their status if convicted of an aggravated felony.
- Amends the INA provisions related to inadmissibility, deportability, and detention of drunk drivers –
 - A second or subsequent conviction for a DUI is considered an aggravated felony.
 - DHS may detain an alien who is unlawfully present in the U.S. and has been convicted one or multiple times for driving while drunk (including a conviction for driving while under the influence or impaired by alcohol or drugs) without regard to whether the conviction is classified as a misdemeanor or felony under state law.
- Amends INA regarding detention of dangerous aliens
 - DHS can extend the removal period beyond 90 days if the alien fails or refuses to make all reasonable efforts to comply with the removal order, a court, the BIA, or an immigration judge orders a stay of removal of an alien who is subject to an administratively final order of removal, DHS transfers custody of the alien to another Federal agency or a State or local government, or a court or the BIA orders a remand to an IJ or the BIA.
 - Establishes a detention review process for cooperative aliens.

- DHS can detain beyond the removal period and subsequent extension in certain circumstances (uncooperative detainee, contagious disease, serious adverse foreign policy consequences for U.S., threat to national security, threat to safety of community or any person).
- DHS can renew certification to keep an alien detained every 6 months – after providing an opportunity for the alien to request reconsideration of the certification and submit evidence in support of the request.
- DHS can re-detain aliens that they release from custody – exercise of discretion.
- Updates grounds of inadmissibility and deportability for alien gang members – adds provisions making aliens associated with criminal gangs inadmissible or deportable.
- Amends identify theft offenses
- Amends definition of laundering of monetary instruments
- Increases penalties for illegal entry and illegal reentry- civil and criminal
 - Any alien who has been denied admission, excluded, deported, or removed, or who has departed the U.S. while an order of exclusion, deportation, or removal is outstanding, and subsequently enters, attempts to enter, crosses the border to, or is at any time found in the U.S. – fined under title 18 USC, imprisoned not more than 2 years, or both.
 - Reentry of criminal offenders
 - For 3+ misdemeanors or a felony – fined under 18 USC, imprisoned not more than 10 years, or both.
 - For a felony for which the alien was sentenced to a term of imprisonment of not less than 30 months – fined under 18 USC, imprisoned not less than 2 years and not more than 15, or both.
 - For a felony for which the alien was sentenced to a term of imprisonment of not less than 60 months – fined under 18 USC, imprisoned not less than 4 years and not more than 20 years, or both.
 - For murder, rape, kidnapping, or a felony offense relating to peonage or slavery or terrorism, or for 3+ felonies of any kind – fined under 18 USC, imprisoned not less than 5 years and not more than 25 years, or both.
 - Reentry after repeated removal – Any alien who has been denied admission, excluded, deported or removed 3+ times and thereafter enters or attempts to enter the U.S. or is at any time found in the U.S. – fined under 18 USC, imprisoned not more than 10 years, or both.
- Amends passport, visa and immigration fraud offenses
 - Fine and imprisonment of up to 15 years if a person issues a passport without authority.
 - Fine and imprisonment of up to 15 years if a person knowingly makes any false statement in a passport application with the intent to induce or secure the passport from the U.S. for his own use or the use of another or uses or attempts to use or furnishes to another for use any passport secured by fraud.
 - Fine and imprisonment of up to 15 years for forgery or false use of a passport.
 - Fine and imprisonment of up to 15 years for misuse of a passport
 - Fine and imprisonment of up to 15 years for anyone who executes a scheme to defraud aliens.
 - Fine and imprisonment of up to 15 years for anyone who knowingly commits immigration and visa fraud.
 - Attempts and conspiracies will be punished the same as completions of violations.

- Alternative penalty of a fine and imprisonment of up to 25 years for those who violate any section of this chapter to facilitate an act of international terrorism or domestic terrorism.
- Fine and imprisonment for up to 20 years for anyone who violates any section of this chapter to facilitate a drug trafficking crime.
- Updates forfeiture definition
- Updates expedited removal for inadmissible aliens on criminal or security grounds – amendments are effective on the date of enactment but don't apply to aliens already in removal proceedings on such date.
- Provides for increased penalties barring the admission of convicted sex offenders who fail to register and requires the deportation of sex offenders who have not registered.
- Clarification to crimes of violence and Crimes Involving Moral Turpitude (CIMT) – If conviction records don't conclusively establish whether a crime constitutes a CIMT, the AG can consider other evidence related to the conviction that clearly establishes that the conduct was a CIMT.
- Updates penalties for failing to obey removal orders
- Pardons – defined as a full and unconditional pardon granted by the President of the U.S., Governor of any State. Aliens who have committed a crime and are given a pardon, shall not be deportable by reason of that criminal conviction.

Aid to ICE Officers

ICE Immigration Enforcement Agents –

- DHS shall authorize all immigration enforcement agents and deportation officers who have successfully completed basic immigration law enforcement training to exercise the powers to -
 - Arrest for any offense against the U.S.;
 - Arrest for any felony;
 - Arrest for bringing in, transporting, or harboring certain aliens, or inducing them to enter;
 - To execute warrants of arrest for administrative immigration violations issued under section 236 of the INA or to execute warrants of criminal arrest issued under the authority of the U.S.; and
 - To carry firearms
 - Arrest power under 287(a)(2) amended

ICE Detention and Enforcement Officers

- DHS authorized to hire 2,500 ICE detention enforcement officers
- Detention enforcement officers are responsible for taking and maintaining custody of any person who has been arrested by an immigration officer, transporting and guarding immigration detainees, securing DHS detention facilities, and assisting in the processing of detainees.

Ensuring the Safety of ICE Officers and Agents

- Provides body armor and weapons for ICE agents

ICE Advisory Council

- Creates a new council whose purpose is to advise Congress and DHS on the current status of immigration enforcement efforts, the effectiveness of cooperative efforts between DHS and other law enforcement agencies, personnel, equipment, and other resource needs, improvements

that should be made to the organizational structure of DHS, and the effectiveness of specific enforcement policies and regulations by DHS.

- Comprised of 7 members – 1 appointed by President, 1 by Chairman of House Judiciary, 1 Chairman of Senate Judiciary, 1 by the ICE prosecutor's union, and 3 appointed by the National Immigration and Customs Enforcement Council.
- 2 year renewable terms – membership is voluntary
- Retaliation protection from participating on the council

Pilot Program for Electronic Field Processing

- Creates a pilot program at the 10 largest ICE field offices with the largest removal caseloads for electronic field processing – allows agents to electronically process and serve NTAs and place detainers while in the field.
- Pilot program to be initiated within 6 months of enactment.
- Report due to Congress within 18 months of enactment on pilot program.

Additional ICE Deportation Officers, ICE Prosecutors and Support Staff

- DHS will increase the number of full-time active-duty ICE deportation officers by 5,000 above the number of FT positions appropriated for in FY 2013.
- Increase ICE support staff by 700.
- DHS shall add 60 full time trial attorneys working for ICE OPLA.

Miscellaneous Enforcement Provisions

Encouraging Aliens to Depart Voluntarily

- If an alien is deportable, but not based on an aggravated felony or security and related grounds, DHS may permit the alien to voluntarily depart the U.S. at the alien's own expense instead of being subject to proceedings.
- Alien can voluntarily depart after the initiation of removal proceedings and before the conclusion of proceedings if proceedings are not based on an aggravated felony or security and related grounds.
- Permission to voluntarily depart shall not be valid for most than 120 days. DHS may require an alien to post a voluntary bond, to be surrendered upon proof that the alien has left the U.S. within the specified time.
- Permission to voluntarily depart – before the conclusion of removal proceedings, shall not be valid for most than 60 days, and may be granted only after a finding that the alien has the means to leave the U.S. and intends to do so. Aliens must post a voluntary departure bond. An IJ can waive the voluntary departure bond individual cases.
- Voluntary departure may only be granted as part of an affirmative agreement by the alien. Agreement must include a waiver of the right to any further motion, appeal, application, petition, or petition for review relating to removal or relief or protection from removal.
- DHS can agree to a reduction in the period of inadmissibility.
- If alien fails to comply with a voluntary departure agreement then alien is ineligible for benefits of agreement, subject to a civil penalty of \$3,000, subject to a 10 year bar, and shall be ineligible to reopen the final order of removal.
- Can't get a new grant of voluntary departure if an alien has had one before.
- DHS can add extra conditions for voluntary departure through rulemaking and DHS must promulgate regulations within 1 year of enactment in this area.

Deterring Aliens Ordered Removed from Remaining in the U.S. Unlawfully

- Amends 212(a)(9) relating to aliens previously removed
- Adds a section to 274D (Civil penalties for failure to depart) – an alien subject to a final order of removal who willfully fails or refuses to depart from the U.S. or present themselves for removal shall be ineligible for any discretionary relief from removal during the time the alien remains in the U.S. and for 10 years after departure.
- This section doesn't preclude a motion to reopen or withhold removal if the alien has a convention against torture claim with sufficient evidence.

Reinstatement of Removal Orders

- Amends section 241(a)(5) of the INA: If DHS finds that an alien has entered the U.S. illegally after being removed, deported, or voluntary departure etc – the original order of removal, deportation, or exclusion is reinstated and is not subject to being reopened or reviewed, the alien is not eligible for any relief under immigration law, and the alien shall be removed at any time after the illegal entry.

Clarification with Respect to Definition of Admission

- Adjustment of status to an LPR shall be considered an admission even if adjustment occurred in U.S.

Report to Congress on the Exercise and Abuse of Prosecutorial Discretion

- Report within 180 days to Congress by DHS and AG
- Findings include - aliens apprehended and arrested by State law enforcement agencies who were identified by DHS and for whom DHS did not issue detainers and didn't take into custody; aliens who were applicants for admission but were not entitled to be admitted by an immigration officer and were not detained; aliens who were found by DHS officials to be inadmissible or deportable but were not issued NTAs; aliens issued NTAs that were cancelled; aliens placed into removal proceedings that were terminated; aliens granted parole; and aliens granted deferred action, extended voluntary departure, or other type of relief.

Waiver of Federal Laws with Respect to Border Security Actions on DOI and USDA Lands

- DOI and USDA can't impede, prohibit, or restrict activities of CBP (includes construction and maintenance of roads, construction of barriers, installation, maintenance, and operation of communications and surveillance equipment, and deployment of temporary tactical infrastructure) on Federal land within 100 miles of an international border that is under the jurisdiction of DOI and USDA.

Certain Activities Restricted

- Restricts the ability of DHS finalize, implement, administer or enforce policies relating to prosecutorial discretion and deferred action of childhood arrivals among other recent policy documents relating to enforcement and removal of certain aliens. This section was added by Rep. King during the House Judiciary Committee markup and is also part of the House Homeland Security appropriations bill.

GAO Study on Deaths in Custody

- Within 6 months of enactment GAO will do a report on deaths of detainees held in custody by DHS and present it to relevant congressional committees.

Border Patrol Mobile Rapid Response Teams

- ICE can use a mobile response team if they are in trouble near the border.
- Within 90 days of enactment DHS has to submit a plan to Congress for developing mobile rapid response teams. The plan should be implemented within 120 days of submission to Congress.

