

119TH CONGRESS
1ST SESSION

S. _____

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 SENATE OF THE UNITED STATES

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

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) by amending paragraph (1) to read as fol-
2 lows:

3 “(1)(A) Notwithstanding section 1342 of title 31,
4 United States Code, the Secretary of Homeland Security
5 shall enter into a written agreement with a State, or any
6 political subdivision of a State, upon request of the State
7 or political subdivision, pursuant to which law enforcement
8 officers of such State or subdivision, who the Secretary
9 determines are qualified to perform a function of an immi-
10 gration officer in relation to the investigation, apprehen-
11 sion, or detention of aliens in the United States (including
12 the transportation of such aliens across State lines to de-
13 tention centers), may carry out such function at the ex-
14 pense of the State or political subdivision.

15 “(B) All requests described in subparagraph (A) from
16 a bona fide State or political subdivision or a bona fide
17 law enforcement agency shall be approved absent a com-
18 pelling reason. If the Secretary denies a request described
19 in subparagraph (A), the Secretary, not later than 180
20 days before finalizing such denial, shall—

21 “(i) submit to Congress an explanation con-
22 taining the reasons for denying such request; and

23 “(ii) publish such explanation in the Federal
24 Register.

1 “(C) The Secretary may not place any limit on the
2 number of agreements that may be approved under this
3 subsection. The Secretary shall process each request for
4 such an agreement as expeditiously as possible and never
5 later than the date that is 90 days after the date on which
6 the request is received.

7 “(D) In this subsection, any reference to a political
8 subdivision shall be construed to include any law enforce-
9 ment or corrections agency of such political subdivision.”;

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

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

14 (4) by inserting after paragraph (1) the fol-
15 lowing:

16 “(2) An agreement under this subsection shall accom-
17 modate a requesting State or political subdivision with re-
18 spect to the enforcement model or combination of models,
19 and shall accommodate a patrol model, task force model,
20 jail model, any combination thereof, or any other reason-
21 able model the State or political subdivision believes is best
22 suited to the immigration enforcement needs of its juris-
23 diction.

24 “(3) No Federal program or technology directed
25 broadly at identifying inadmissible or deportable aliens

1 shall substitute for such agreements, including those es-
2 tablishing a jail model, and shall operate in addition to
3 any agreement under this subsection.

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

6 “(B)(i) The Secretary shall provide a State or polit-
7 ical subdivision written notice of intent to terminate at
8 least 180 days prior to date of intended termination, and
9 the notice shall fully explain the grounds for termination,
10 along with providing evidence substantiating the Sec-
11 retary’s allegations.

12 “(ii) In order to determine whether the requirements
13 of this paragraph have been satisfied, the State or political
14 subdivision shall have the right—

15 “(I) to appeal the decision of the Secretary to
16 an administrative law judge for a hearing and deci-
17 sion; or

18 “(II) to bring a civil action in an appropriate
19 court of jurisdiction.

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

22 (5) in paragraph (6), as redesignated, by add-
23 ing at the end the following: “The Secretary of
24 Homeland Security shall implement uniform training
25 requirements for law enforcement officers who are,

1 or will be, performing a function of an immigration
2 officer authorized under this subsection. The train-
3 ing requirements shall align with Federal Law En-
4 forcement Training Center standards for training
5 under this subsection (as in effect on the date of the
6 enactment of the 287(g) Program Protection Act).”.

7 **SEC. 3. FUNDING.**

8 Section 286(r) of the Immigration and Nationality
9 Act (8 U.S.C. 1356(r)) is amended—

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

13 (2) by striking “Attorney General” each place
14 such term appears and inserting “Secretary of
15 Homeland Security”;

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

19 (4) in paragraph (2), by striking “Department
20 of Justice, and amount described in section
21 245(i)(3)(b)” and inserting “Department of Home-
22 land Security, and the amount described in section
23 245(i)(3)(B)”;

24 (5) in paragraph (3)—

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

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

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

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

8 **SEC. 4. ANNUAL PERFORMANCE REPORT AND RECRUIT-**
9 **MENT PLAN.**

10 (a) ANNUAL PERFORMANCE REPORT.—Not later
11 than December 31 of the first fiscal year that begins after
12 the date of the enactment of this Act, and not later than
13 December 31 of each year thereafter, the Secretary of
14 Homeland Security shall publish an annual performance
15 report on the program authorized under section 287(g) of
16 the Immigration and Nationality Act, as amended by sec-
17 tion 2, which includes—

18 (1) the number of aliens apprehended and
19 screened by law enforcement through such program;

20 (2) the number of aliens removed from the
21 United States as a result of the program;

22 (3) the number of aliens described in paragraph
23 (1) who were not removed and an explanation for
24 why they were not removed;

1 (4) the methods being used to conduct oversight
2 of each law enforcement agency participating under
3 the program;

4 (5) the number of law enforcement agencies in
5 compliance with the program's training require-
6 ments;

7 (6) the number of complaints filed against law
8 enforcement agencies claiming they did not comply
9 their written agreement entered into under such sec-
10 tion;

11 (7) the number of law enforcement agencies
12 that had such written agreement terminated; and

13 (8) the reasons for such termination.

14 (b) ANNUAL RECRUITMENT PLAN.—Not later than
15 December 31 of the first fiscal year that begins after the
16 date of the enactment of this Act, and not later than De-
17 cember 31 of each year thereafter, the Secretary of Home-
18 land Security shall publish an annual recruitment plan
19 with respect to the program authorized under section
20 287(g) of the Immigration and Nationality Act, as amend-
21 ed by section 2, which includes—

22 (1) annual goals for the following 5 years with
23 respect to the recruitment of new States and polit-
24 ical subdivisions of States to participate in the pro-
25 gram;

1 (2) the number of new States and political sub-
2 divisions of States participating in the program dur-
3 ing each year;

4 (3) a description of the outreach to States and
5 political subdivisions of States conducted for the
6 program and the other methods used to achieve re-
7 cruitment goals; and

8 (4) the number of requests for agreements
9 that—

10 (A) were received during the reporting pe-
11 riod;

12 (B) were approved during the reporting pe-
13 riod;

14 (C) were denied during the reporting pe-
15 riod; or

16 (D) are pending approval as of the last day
17 of the reporting period.

18 **SEC. 5. RULEMAKING.**

19 Not later than 180 days after the date of the enact-
20 ment of this Act, the Secretary of Homeland Security shall
21 publish a notice of rulemaking with respect to the training
22 requirements under section 287(g)(6) of the Immigration
23 and Nationality Act, as added by section 2(5).