

118TH CONGRESS  
1ST SESSION

# H. R. 402

To provide for the mandatory detention of aliens who are security risks or present insufficient or false credentials, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 20, 2023

Mr. ARRINGTON introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To provide for the mandatory detention of aliens who are security risks or present insufficient or false credentials, 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 “Protect Communities  
5 from a Porous Border Act of 2023”.

6 **SEC. 2. NOTIFICATION OF IN-STATE DETENTION, HOUSING,**  
7 **OR TRANSFER OF NON-ASYLUM APPLICANT**  
8 **ALIENS.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-  
10 rity shall notify the Governor of a State of the Secretary

1 of Homeland Security’s intent to detain or house an alien  
2 in any public or private facility in that State, or transfer  
3 financial or other responsibility for an alien to any public  
4 or private entity in that State, and provide the certifi-  
5 cation required by subsection (b) no fewer than 10 busi-  
6 ness days prior to the proposed date of detention, housing,  
7 or transfer.

8 (b) REQUIRED CERTIFICATION AND INFORMATION  
9 FOR ALIEN FITNESS.—The Secretary of Homeland Secu-  
10 rity shall provide the following certification and informa-  
11 tion simultaneous to the alien detention, housing, or trans-  
12 fer notification required in subsection (a):

13 (1) That appropriate biographic and biometric  
14 information, including fingerprints and DNA, has  
15 been collected from each alien, and that such bio-  
16 graphic and biometric information has been shared  
17 with the State government.

18 (2) That each alien’s biographic and biometric  
19 information has been cross-checked with the Federal  
20 Bureau of Investigation’s Uniform Crime Database  
21 (UCR) and Combined DNA Index System (CODIS),  
22 the National Crime Information Center (NCIC), and  
23 other appropriate Federal and non-Federal domestic  
24 law enforcement and counterterrorism databases,

1 and that such alien was not detected in any of those  
2 databases.

3 (3) That each alien’s biographic and biometric  
4 information has been cross-checked with the Inter-  
5 national Criminal Police Organization’s INTERPOL  
6 database and other appropriate international law en-  
7 forcement and counterterrorism databases, and that  
8 such alien was not detected in any of those data-  
9 bases.

10 (4) Any information pertaining to the alien that  
11 was detected during a database check described in  
12 this subsection.

13 (c) GENERAL APPLICABILITY TO ALIENS.—The re-  
14 quirements of subsections (a) and (b) shall be required  
15 for the attempted detention, housing, or transfer of—

16 (1) any alien who is admitted pursuant to the  
17 U.S. Refugee Admissions Program or any other  
18 Federal refugee relief or resettlement program;

19 (2) any alien who is paroled by any Federal of-  
20 ficial into the United States or humanitarian or  
21 other reason; and

22 (3) any alien who is deemed by any Federal of-  
23 ficial to be an unaccompanied alien child (as such  
24 term is defined in section 462 of the Homeland Se-  
25 curity Act of 2002 (6 U.S.C. 279)).

1 (d) NO FEDERAL COURT JURISDICTION.—No Fed-  
2 eral court shall have jurisdiction to review any of the re-  
3 quirements or procedures established either pursuant to  
4 this section or pursuant to any regulation promulgated  
5 under the authority of this section.

6 **SEC. 3. PROHIBITION ON IN-STATE DETENTION, HOUSING,**  
7 **OR TRANSFER OF NON-ASYLUM APPLICANT**  
8 **ALIENS.**

9 (a) IN GENERAL.—The Governor of a State shall  
10 have plenary and final authority to determine whether to  
11 permit the Secretary of Homeland Security to detain or  
12 house an alien in any public or private facility in that  
13 State, or transfer financial or other responsibility for an  
14 alien to any public or private entity in that State.

15 (b) PROHIBITION ON DETENTION, HOUSING, OR  
16 TRANSFER.—Upon the notification required by section 3,  
17 the Governor of a State may, at the Governor’s discretion  
18 and subsequent to consultation with local officials (includ-  
19 ing city or county chief executives, city or county law en-  
20 forcement agency heads, and city or county council mem-  
21 bers), decline the Secretary’s proposal to detain or house  
22 an alien in any public or private facility in that State, or  
23 transfer financial or other responsibility for an alien to  
24 any public or private entity in that State.

1           (c) **PARAMETERS OF REGULATIONS GOVERNING IN-**  
2 **STATE DETENTION, HOUSING, AND TRANSFER OF NON-**  
3 **ASYLUM APPLICANT ALIENS.**—Regulations pursuant to  
4 this section shall not in any way limit or restrict the provi-  
5 sions of this section, but shall be limited to the following  
6 areas:

7           (1) The format and method of the Secretary’s  
8 notification to a Governor regarding the Secretary’s  
9 intent to place an alien in any public or private facil-  
10 ity in that State.

11           (2) The use of additional Federal, non-Federal,  
12 and international law enforcement and counterter-  
13 rorism databases for pre-placement alien screening.

14           (d) **NO FEDERAL COURT JURISDICTION.**—No Fed-  
15 eral court shall have jurisdiction to review any decision  
16 made by the Governor of a State pursuant to this section.

17 **SEC. 4. NO WAIVER AUTHORITY.**

18           Neither the Secretary of Homeland Security nor any  
19 other Federal official shall have the authority to waive any  
20 of the requirements established in this Act.

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