

118TH CONGRESS  
1ST SESSION

# H. R. 5166

To amend section 287 of the Immigration and Nationality Act to limit immigration enforcement actions at sensitive locations, to clarify the powers of immigration officers at sensitive locations, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 8, 2023

Mr. ESPAILLAT (for himself, Ms. GARCIA of Texas, Ms. BONAMICI, Mr. GARCÍA of Illinois, Ms. JAYAPAL, Mr. BEYER, Mrs. RAMIREZ, Mr. MCGOVERN, Mr. DOGGETT, Ms. CLARKE of New York, Ms. VELÁZQUEZ, Mr. POCAN, Ms. SCHAKOWSKY, and Ms. CROCKETT) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend section 287 of the Immigration and Nationality Act to limit immigration enforcement actions at sensitive locations, to clarify the powers of immigration officers at sensitive locations, 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 “Protecting Sensitive  
5 Locations Act”.

1 **SEC. 2. POWERS OF IMMIGRATION OFFICERS AND EMPLOY-**  
2 **EES AT SENSITIVE LOCATIONS.**

3 (a) IN GENERAL.—Section 287 of the Immigration  
4 and Nationality Act (8 U.S.C. 1357) is amended by add-  
5 ing at the end the following:

6 “(i)(1) In order to ensure individuals’ access to sen-  
7 sitive locations, this subsection shall apply to any enforce-  
8 ment action by—

9 “(A) officers or agents of the Department of  
10 Homeland Security, including officers and agents of  
11 U.S. Immigration and Customs Enforcement and  
12 U.S. Customs and Border Protection; and

13 “(B) any individual designated to perform im-  
14 migration enforcement functions pursuant to sub-  
15 section (g).

16 “(2)(A) An enforcement action may not take place  
17 at, be focused on, or occur within, 1,000 feet of a sensitive  
18 location, except under exigent circumstances.

19 “(B) If an immigration enforcement action is taking  
20 place under exigent circumstances, and the exigent cir-  
21 cumstances permitting the enforcement action cease, the  
22 enforcement action shall be discontinued until such exi-  
23 gent circumstances reemerge.

24 “(C) If an individual referred to in subparagraph (A)  
25 or (B) of paragraph (1) is not certain as to whether exi-  
26 gent circumstances exist, the individual shall cease the en-

1 enforcement action immediately, consult with their super-  
2 visor in real time as to the existence of exigent cir-  
3 cumstances, and shall not continue the enforcement action  
4 until the individual’s supervisor affirmatively confirms the  
5 existence of exigent circumstances.

6 “(3)(A) When proceeding with an enforcement action  
7 at or near a sensitive location, individuals referred to in  
8 subparagraphs (A) and (B) of paragraph (1) shall make  
9 every effort—

10 “(i) to conduct themselves as discreetly as pos-  
11 sible, consistent with officer and public safety;

12 “(ii) to limit the time spent at the sensitive lo-  
13 cation; and

14 “(iii) to limit the enforcement action to the per-  
15 son or persons for whom prior approval was ob-  
16 tained.

17 “(B) If, in the course of an enforcement action that  
18 is not initiated at or focused on a sensitive location, indi-  
19 viduals referred to in subparagraphs (A) and (B) of para-  
20 graph (1) are led to or near a sensitive location, and no  
21 clear exigent circumstance with respect to the sensitive lo-  
22 cation exists, such individuals shall—

23 “(i) cease before taking any further enforce-  
24 ment action;

25 “(ii) conduct themselves in a discreet manner;

1           “(iii) maintain surveillance; and

2           “(iv) in the event that uncertainty exists about  
3           the existence of exigent circumstances, immediately  
4           consult their supervisor in order to determine wheth-  
5           er such enforcement action should be discontinued  
6           pursuant to paragraph (2)(C).

7           “(C) This subsection shall not apply to the transpor-  
8           tation of an individual apprehended at or near a land or  
9           sea border to a hospital or health care provider for the  
10          purpose of providing such individual medical care.

11          “(D) This subsection shall not apply to a rare pre-  
12          meditated arrest operation, undertaken with the prior  
13          written approval of an appropriate authorizing official, in-  
14          volving the targeted arrest of a terrorist suspect, an indi-  
15          vidual who poses a clear threat to national security, or  
16          an individual who poses an extraordinary danger to public  
17          safety.

18          “(4) If an enforcement action is carried out in viola-  
19          tion of this subsection—

20                 “(A) no information resulting from the enforce-  
21                 ment action may be entered into the record or re-  
22                 ceived into evidence in a removal proceeding result-  
23                 ing from the enforcement action; and

1           “(B) the alien who is the subject of such re-  
2           moval proceeding may file a motion for the imme-  
3           diate termination of the removal proceeding.

4           “(5)(A) Each official specified in subparagraph (B)  
5           shall ensure that the employees under the supervision of  
6           such official receive annual training in compliance with the  
7           requirements of this subsection, section 239, and section  
8           384 of the Illegal Immigration Reform and Immigrant Re-  
9           sponsibility Act of 1996 (8 U.S.C. 1367).

10          “(B) The officials specified in this subparagraph are  
11          the following:

12                 “(i) The Chief Counsel of U.S. Immigration  
13                 and Customs Enforcement.

14                 “(ii) The Field Office Directors of U.S. Immi-  
15                 gration and Customs Enforcement.

16                 “(iii) Each Special Agent in Charge of U.S. Im-  
17                 migration and Customs Enforcement.

18                 “(iv) Each Chief Patrol Agent of U.S. Customs  
19                 and Border Protection.

20                 “(v) The Director of Field Operations of U.S.  
21                 Customs and Border Protection.

22                 “(vi) The Director of Air and Marine Oper-  
23                 ations of U.S. Customs and Border Protection.

24                 “(vii) The Internal Affairs Special Agent in  
25                 Charge of U.S. Customs and Border Protection.

1 “(6)(A) Not later than 30 days after any enforcement  
2 action is taken at a sensitive location by any individual  
3 referred to in subparagraph (A) or (B) of paragraph (1),  
4 the Secretary of Homeland Security shall provide a report  
5 to both the Office of the Inspector General of the Depart-  
6 ment of Homeland Security and the Office for Civil Rights  
7 and Civil Liberties of the Department of Homeland Secu-  
8 rity for each of these individual enforcement actions,  
9 which shall contain the following information:

10 “(i) The date, State, and local political subdivi-  
11 sion (such as city, town, or county) in which each  
12 enforcement action occurred.

13 “(ii) The specific sensitive location site where  
14 the enforcement action occurred.

15 “(iii) The type of enforcement action that oc-  
16 curred.

17 “(iv) The specific department, agency, and offi-  
18 cers responsible for the enforcement action.

19 “(v) A thorough description of the cir-  
20 cumstances which purportedly justified the enforce-  
21 ment action, including either—

22 “(I) a clear description of the exigent cir-  
23 cumstances involved; or

24 “(II) a certified copy of the written ap-  
25 proval for the immigration arrest that was

1 signed by an appropriate authorizing officer,  
2 along with a clear description of the specific  
3 and rare threat which justified the premediated  
4 arrest at this sensitive location.

5 “(vi) A description of the intended target of the  
6 enforcement action.

7 “(vii) The number of individuals, if any, ar-  
8 rested or taken into custody through the enforce-  
9 ment action.

10 “(viii) The number of collateral arrests, if any,  
11 from the enforcement action and the reasons for  
12 each such arrest.

13 “(ix) A certification of whether a supervisor  
14 was contacted prior to, during, or after each such  
15 enforcement action.

16 “(B) An appropriate committee of Congress shall, at  
17 any time, be able to request and successfully receive a con-  
18 fidential or redacted copy of one of the individual reports  
19 described in subparagraph (A).

20 “(7)(A) The Director of U.S. Immigration and Cus-  
21 toms Enforcement and the Commissioner of U.S. Customs  
22 and Border Protection shall each submit to the appro-  
23 priate committees of Congress each year a report on the  
24 enforcement actions undertaken by U.S. Immigration and  
25 Customs Enforcement and U.S. Customs and Border Pro-

1 taction, respectively, during the preceding year that were  
2 covered by this subsection.

3 “(B) Each report on an agency for a year under this  
4 paragraph shall set forth the following:

5 “(i) The number of enforcement actions at or  
6 focused on a sensitive location.

7 “(ii) The number of enforcement actions where  
8 officers or agents were subsequently led to or near  
9 a sensitive location.

10 “(iii) The date, site, State, and local political  
11 subdivision (such as city, town, or county) in which  
12 each enforcement action covered by clause (i) or (ii)  
13 occurred.

14 “(iv) The component of the agency responsible  
15 for each such enforcement action.

16 “(v) A description of the intended target of  
17 each such enforcement action.

18 “(vi) The number of individuals, if any, ar-  
19 rested or taken into custody through each such en-  
20 forcement action.

21 “(vii) The number of collateral arrests, if any,  
22 from each such enforcement action and the reasons  
23 for each such arrest.



1           “(viii) A certification of whether the location  
2 administrator was contacted prior to, during, or  
3 after each such enforcement action.

4           “(8) In this subsection:

5           “(A) The term ‘appropriate authorizing official’  
6 means the following:

7           “(i) In the case of officers and agents of  
8 U.S. Immigration and Customs Enforcement,  
9 one of the following officials:

10           “(I) The Assistant Director of Oper-  
11 ations, Homeland Security Investigations.

12           “(II) The Executive Associate Direc-  
13 tor of Homeland Security Investigations.

14           “(III) The Assistant Director for  
15 Field Operations, Enforcement, and Re-  
16 moval Operations.

17           “(IV) The Executive Associate Direc-  
18 tor for Field Operations, Enforcement, and  
19 Removal Operations.

20           “(V) Any other individual who is de-  
21 termined to be an appropriate authorizing  
22 official by the Secretary of Homeland Se-  
23 curity.

1           “(ii) In the case of officers and agents of  
2 U.S. Customs and Border Protection, one of  
3 the following officials:

4           “(I) A Chief Patrol Agent.

5           “(II) The Director of Field Oper-  
6 ations.

7           “(III) The Director of Air and Marine  
8 Operations.

9           “(IV) The Internal Affairs Special  
10 Agent in Charge.

11           “(V) Any other individual who is de-  
12 termined to be an appropriate authorizing  
13 official by the Secretary of Homeland Se-  
14 curity.

15           “(iii) In the case of all other individuals re-  
16 ferred to in subparagraph (A) or (B) of para-  
17 graph (1), an official determined under rules  
18 promulgated by the Secretary of Homeland Se-  
19 curity not later than 90 days after the date of  
20 the enactment of this subsection.

21           “(B) The term ‘appropriate committees of Con-  
22 gress’ means—

23           “(i) the Committee on Homeland Security  
24 and Governmental Affairs of the Senate;

1           “(ii) the Committee on the Judiciary of the  
2           Senate;

3           “(iii) the Committee on Appropriations of  
4           the Senate;

5           “(iv) the Committee on Homeland Security  
6           of the House of Representatives;

7           “(v) the Committee on the Judiciary of the  
8           House of Representatives; and

9           “(vi) the Committee on Appropriations of  
10          the House of Representatives.

11          “(C) The term ‘early childhood education pro-  
12          gram’ has the meaning given the term in section 103  
13          of the Higher Education Act of 1965 (20 U.S.C.  
14          1003).

15          “(D) The term ‘enforcement action’ means an  
16          arrest, interview, search, or surveillance for the pur-  
17          poses of immigration enforcement, and includes an  
18          enforcement action at, or focused on, a sensitive lo-  
19          cation that is part of a joint case led by another law  
20          enforcement agency.

21          “(E) The term ‘exigent circumstances’ means a  
22          situation involving any of the following:

23                 “(i) The imminent risk of death, violence,  
24                 or physical harm to any person, including a sit-  
25                 uation implicating terrorism or the national se-

1           curity of the United States in some other man-  
2           ner.

3           “(ii) The immediate arrest or hot pursuit  
4           of an individual presenting an imminent danger  
5           to public safety, including the imminent risk of  
6           death, violence, or physical harm to a person.

7           “(iii) A rare premeditated arrest operation  
8           described in paragraph (3)(D), undertaken with  
9           the prior written approval of an appropriate au-  
10          thorizing official, involving the targeted arrest  
11          of a terrorist suspect, an individual who poses  
12          a clear threat to national security, or an indi-  
13          vidual who poses an extraordinary danger to  
14          public safety.

15          “(iv) A direct threat to national security.

16          “(v) The imminent risk of destruction of  
17          evidence that is material to an ongoing criminal  
18          case.

19          “(F) The term ‘sensitive location’ includes all of  
20          the physical space located within 1,000 feet of the  
21          following:

22                  “(i) Any medical treatment or health care  
23                  facility, including any hospital, doctor’s office,  
24                  accredited health clinic, or emergent or urgent  
25                  care facility, or community health center.

1           “(ii) Public and private schools (including  
2           preschools, primary schools, secondary schools,  
3           and postsecondary schools (including colleges  
4           and universities)), sites of early childhood edu-  
5           cation programs, other institutions of learning,  
6           such as vocational or trade schools, and other  
7           sites where individuals who are unemployed or  
8           underemployed may apply for or receive work-  
9           force training.

10           “(iii) Any scholastic or education-related  
11           activity or event, including field trips and inter-  
12           scholastic events.

13           “(iv) Any school bus or school bus stop  
14           during periods when school children are present  
15           on the bus or at the stop.

16           “(v) Locations where emergency services  
17           providers provide shelter or food.

18           “(vi) Locations of any organization that—

19                   “(I) assists children, pregnant women,  
20                   victims of crime or abuse, or individuals  
21                   with significant mental or physical disabili-  
22                   ties, including domestic violence shelters,  
23                   rape crisis centers, supervised visitation  
24                   centers, family justice centers, and victims  
25                   services providers; or

1           “(II) provides disaster or emergency  
2           social services and assistance, or services  
3           for individuals experiencing homelessness,  
4           including food banks and shelters.

5           “(vii) Churches, synagogues, mosques, and  
6           other places of worship, such as buildings  
7           rented for the purpose of religious services.

8           “(viii) Sites of funerals, weddings, or other  
9           public religious ceremonies.

10           “(ix) Sites during the occurrence of a pub-  
11           lic demonstration, such as a march, rally, or pa-  
12           rade.

13           “(x) Any Federal, State, or local court-  
14           house, including the office of an individual’s  
15           legal counsel or representative, and a probation  
16           office.

17           “(xi) Congressional district offices.

18           “(xii) Social Security offices.

19           “(xiii) Public assistance offices, including  
20           locations where individuals may apply for or re-  
21           ceive unemployment compensation or report vio-  
22           lations of labor and employment laws.

23           “(xiv) Indoor and outdoor premises of de-  
24           partments of motor vehicles.

1           “(xv) A polling place, which includes any  
2           building or infrastructure where voting takes  
3           place during an election.

4           “(xvi) A labor union hall or any other  
5           union-operated building or office where reg-  
6           istered applicants are referred in rotation to  
7           jobs.

8           “(xvii) Such other locations as the Sec-  
9           retary of Homeland Security shall specify for  
10          purposes of this subsection.

11          “(G) The term ‘supervisor’ means an official  
12          determined under rules promulgated by the Sec-  
13          retary of Homeland Security not later than 90 days  
14          after the date of the enactment of this subsection.”.

15          (b) EFFECTIVE DATE.—The amendment made by  
16          subsection (a) shall take effect 90 days after the date of  
17          the enactment of this Act.

18          (c) REGULATIONS.—Not later than 90 days after the  
19          date of the enactment of this Act, the Secretary of Home-  
20          land Security shall promulgate regulations to carry out the  
21          amendment made by subsection (a).

○