

# An Analysis of the “Empowering Law Enforcement Act of 2021”

*Summary: Senator Tuberville, along with Senators Thom Tillis, and Mike Rounds, introduced the Empowering Law Enforcement Act of 2021 which grants state and local law enforcement the authority to enforce immigration laws.*

## BILL SUMMARY:

This bill would amend the Immigration and Nationality Act to:

- Delegate immigration enforcement authority to state and local law enforcement entities, including the ability to investigate, identify, apprehend, arrest, detain, or transfer an alien into Federal custody.
- Permit the Secretary of Homeland Security to extend the detention of criminal aliens until removal from the United States.
- Promote immigration information sharing between DHS and the FBI for the benefit of state and local law enforcement.

## ANALYSIS:

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 added Section 287(g) to the Immigration and Nationality Act. This allows U.S. Immigration and Customs Enforcement (ICE), an operating agency of the U.S. Department of Homeland Security (DHS), to enter into agreements with state and local law enforcement agencies that permit officers to identify and remove aliens who are removable from the United States. An interested jurisdiction must sign a Memorandum of Agreement (MOA) with ICE that defines the scope, duration, and limitations of the delegation of authority. Each MOA outlines training requirements, supervision guidelines, and requires adherence to DHS and ICE policies during performance of functions under delegated authority.

The 287(g) Program has been successful. According to DHS, in fiscal year (FY) 2020, the 287(g) Program encountered approximately 920 aliens convicted for assault, 1,261 convicted for dangerous drugs, 104 convicted for sex offenses/assaults, 377 convicted for obstructing police, 190 convicted for weapon offenses, and 37 convicted for homicide.

However, several criticisms exist which this legislation seeks to remedy.

1. The process to enter into an agreement with ICE is too bureaucratic. Each jurisdiction requires a separate MOA which takes time. This legislation automatically delegates enforcement to state and local law enforcement.
2. The federal government only reimburses for some of the costs to implement the 287(g) Program. Under this legislation, reimbursement is to be made for all reasonable costs incurred.

#### Conclusion:

Enforcement of our immigration laws is an important part of ensuring the sovereignty of our nation and stopping one of the pull factors that leads to illegal immigration, including the current migrant surge at our southern border. By empowering local law enforcement to enforce immigration laws, this legislation enhances public safety by reducing the number of criminal offenders that are released back into the community without being screened for immigration violations. Congress should ensure the entire removal process is properly funded, including resources for ICE and immigration courts.