

Keep Our Communities Safe Act Background and Section-By-Section

In 2001, the Supreme Court issued a decision in the case of *Zadvydas v. Davis* which generally requires the release of aliens from immigration detention after 6 months if their home countries or other countries have not accepted them for deportation.

The Keep Our Communities Safe Act, which has been repeatedly introduced in either the House or Senate beginning in 2011, would close that legal loophole and allow aliens to be detained beyond the court-mandated 6-month period in certain circumstances.

Section 1: Short Title

Designates the bill as the *Keep Our Communities Safe Act of 2026*.

Section 2: Detention of Dangerous Aliens During Removal Proceedings

Amends Section 236 of the Immigration and Nationality Act (INA) regarding the apprehension and detention of aliens to:

- Expand the power of DHS to detain criminal aliens.
- Limit the Attorney General's (DOJ) review of DHS custody determinations to whether the alien may be detained, released on recognizance, or released on bond of at least \$1,500.
- Limit the Attorney General's review of DHS custody determinations for an alien in certain categories to whether the alien was properly included in such category.
- Limit the availability of bond unless an alien establishes by clear and convincing evidence that they are not a flight risk or a risk to another person or the community.
- Explicitly make detained criminal aliens ineligible for bond.

Section 3: Aliens Ordered Removed

Amends Section 241 of the Immigration and Nationality Act (INA) regarding the removal of aliens ordered removed to:

- Clarify when the removal period begins
- Allow the clock to be suspended on the current statutory 90-day removal period in cases where:
 - The alien refuses to make reasonable efforts to comply with a removal order.
 - A federal court, the Board of Immigration Appeals, or an immigration judge orders a stay of removal for the alien.
 - DHS transfers custody of the alien to another Federal agency or State or local government agency in connection with official duties of such agencies.
- Explicitly state that criminal aliens must remain in custody during any suspension of the removal period.
- Establish a review process whereby DHS can determine whether certain aliens who make good faith efforts to comply with a removal order should continue to be detained or released on conditions.

- Allow detention beyond the statutory 90-day removal period in cases where:
 - The alien will be removed in the reasonably foreseeable future or would be removed in the reasonably foreseeable future but for their refusal to make efforts to comply with a removal order.
 - The alien has a highly contagious disease that poses a threat to public safety.
 - Release of the alien would threaten national security.
 - Release of the alien would pose a risk to public safety, and the alien has committed an aggravated felony or crime of violence.
- Mandate that any extensions of the removal/detention period are carried out every 6 months.

Section 4: Severability

If any provision of the bill is struck down by the courts, the remainder of the bill will remain in effect.

Section 5: Effective Dates

Sections 2 and 3 of the bill shall take effect upon the date of enactment and apply to aliens in detention or subject to a final administrative removal, deportation, or exclusion order issued on or after the date of enactment.