

119TH CONGRESS
2D SESSION

S. _____

To amend the Immigration and Nationality Act to provide for extensions of detention of certain aliens ordered removed, and for other purposes.

IN THE SENATE OF THE UNITED STATES

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

A BILL

To amend the Immigration and Nationality Act to provide for extensions of detention of certain aliens ordered removed, 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 “Keep Our Commu-
5 nities Safe Act of 2026”.

6 **SEC. 2. DETENTION OF DANGEROUS ALIENS DURING RE-**
7 **MOVAL PROCEEDINGS.**

8 Section 236 of the Immigration and Nationality Act
9 (8 U.S.C. 1226) is amended—

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

4 (2) in subsection (a)—

5 (A) in the matter preceding paragraph (1),
6 by inserting “or the Attorney General” before
7 the em dash;

8 (B) in paragraph (1), by striking “and” at
9 the end and inserting “or”; and

10 (C) in paragraph (2), by amending sub-
11 paragraph (B) to read as follows:

12 “(B) recognizance; and”; and

13 (3) in subsection (b)—

14 (A) in the subsection heading, by inserting
15 “CONDITIONAL” before “PAROLE”; and

16 (B) by inserting “conditional” before “pa-
17 role”;

18 (4) in subsection (c)(1)—

19 (A) in the matter preceding subparagraph
20 (A), by striking “Attorney General” and insert-
21 ing “Secretary of Homeland Security”; and

22 (B) by striking the undesignated matter
23 following subparagraph (E)(ii) and inserting
24 the following:

1 “at any time after the alien is released, without re-
2 gard to whether an alien is released related to any
3 activity, offense, or conviction described in this para-
4 graph; to whether the alien is released on parole, su-
5 pervised release, or probation; or to whether the
6 alien may be arrested or imprisoned again for the
7 same offense. If the activity described in this para-
8 graph does not result in the alien being taken into
9 custody by any person other than the Secretary,
10 when the alien is brought to the attention of the
11 Secretary, the Secretary shall take such alien into
12 custody.”;

13 (5) in subsection (e), by striking “Attorney
14 General’s” and inserting “Secretary of Homeland
15 Security’s”; and

16 (6) by adding at the end the following:

17 “(g) LENGTH OF DETENTION.—Notwithstanding
18 any other provision under this section, an alien may be
19 detained under this section for any period, without limita-
20 tion, except as provided in subsection (i), until the alien
21 is subject to a final order of removal. The length of deten-
22 tion under this section shall not affect a detention under
23 section 241.

24 “(h) ADMINISTRATIVE REVIEW.—

1 “(1) LIMITATION.—The Attorney General’s re-
2 view of the Secretary of Homeland Security’s cus-
3 tody determinations under subsection (a) shall be
4 limited to whether the alien may be detained, re-
5 leased on bond (of at least \$1,500 with security ap-
6 proved by the Secretary), or released on recog-
7 nizance. Any review involving an alien described in
8 paragraph (2) shall be limited to a determination of
9 whether the alien is properly included in such cat-
10 egory.

11 “(2) CLASSES OF ALIENS.—The Attorney Gen-
12 eral’s review of the following classes of aliens shall
13 be limited to a determination of whether the alien is
14 properly included in such category:

15 “(A) Aliens in exclusion proceedings.

16 “(B) Aliens described in section 212(a)(3)
17 or 237(a)(4).

18 “(C) Aliens described in subsection (c).

19 “(D) Aliens in deportation proceedings
20 under section 242(a)(2) (as in effect between
21 April 24, 1996, and April 1, 1997).

22 “(i) RELEASE ON BOND.—

23 “(1) IN GENERAL.—An alien detained pursuant
24 to subsection (a) may seek release on bond. No bond
25 may be granted under this subsection unless the

1 alien establishes, by clear and convincing evidence,
2 that the alien is not a flight risk or a risk to another
3 person or the community.

4 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
5 detained pursuant to subsection (c) may seek release
6 on bond under this subsection.”.

7 **SEC. 3. ALIENS ORDERED REMOVED.**

8 Section 241(a) of the Immigration and Nationality
9 Act (8 U.S.C. 1231(a)) is amended—

10 (1) by striking “Attorney General” each place
11 such term appears (except for the first place it ap-
12 pears in paragraph (4)(B)(i)) and inserting “Sec-
13 retary of Homeland Security”;

14 (2) in paragraph (1)—

15 (A) by striking subparagraphs (B) and (C)
16 and inserting the following:

17 “(B) BEGINNING OF PERIOD.—The re-
18 moval period begins on the latest of—

19 “(i) the date on which the order of re-
20 moval becomes administratively final; or

21 “(ii) the date on which the alien is
22 taken into the custody of the Secretary of
23 Homeland Security if the alien is not in
24 the custody of the Secretary of Homeland

1 Security on the date on which the order of
2 removal becomes administratively final.

3 “(C) SUSPENSION OF PERIOD.—

4 “(i) SUSPENSION.—The removal pe-
5 riod shall be suspended and the Secretary
6 of Homeland Security may, in the Sec-
7 retary’s sole discretion, detain the alien
8 during such suspension, if—

9 “(I) the alien fails or refuses to
10 make all reasonable efforts to comply
11 with the removal order, or to fully co-
12 operate with the Secretary’s efforts to
13 establish the alien’s identity and carry
14 out the removal order, including mak-
15 ing timely application in good faith
16 for travel or other documents nec-
17 essary to the alien’s departure or con-
18 spires or acts to prevent the alien’s
19 removal that is subject to an order of
20 removal;

21 “(II) any court, the Board of Im-
22 migration Appeals, or an immigration
23 judge orders a stay of removal of an
24 alien who is subject to an administra-
25 tively final order of removal; or

1 “(III) the Secretary transfers
2 custody of the alien pursuant to law
3 to another Federal agency or a State
4 or local government agency in connec-
5 tion with the official duties of such
6 agency.

7 “(ii) RESUMPTION.—If the removal
8 period has been suspended pursuant to
9 clause (i), the removal period shall resume
10 on the date on which—

11 “(I) the alien makes all reason-
12 able efforts to comply with the re-
13 moval order, or to fully cooperate with
14 the Secretary’s efforts to establish the
15 alien’s identity and carry out the re-
16 moval order;

17 “(II) the stay of removal is no
18 longer in effect; or

19 “(III) the alien is returned to the
20 custody of the Secretary.

21 “(iii) MANDATORY DETENTION FOR
22 CERTAIN ALIENS.—The Secretary shall
23 keep an alien described in any of subpara-
24 graphs (A) through (E) of section

1 236(c)(1) in detention during the periods
2 described in clauses (i) and (ii).

3 “(iv) SOLE FORM OF RELIEF.—An
4 alien may only seek relief from detention
5 under this subparagraph by filing an appli-
6 cation for a writ of habeas corpus in ac-
7 cordance with chapter 153 of title 28,
8 United States Code. An alien whose period
9 of detention is extended or suspended
10 under this paragraph does not have the
11 right to seek release on bond.”;

12 (3) in paragraph (3)—

13 (A) in the matter preceding subparagraph
14 (A), by inserting “or is not detained pursuant
15 to paragraph (6)” after “the removal period”;
16 and

17 (B) by amending subparagraph (D) to
18 read as follows:

19 “(D) to obey reasonable restrictions on the
20 alien’s conduct or activities that the Secretary
21 prescribes for the alien—

22 “(i) to prevent the alien from ab-
23 sconding;

24 “(ii) for the protection of the commu-
25 nity; or

1 “(iii) for other purposes related to the
2 enforcement of the immigration laws.”;

3 (4) in paragraph (4)(A), by striking “paragraph
4 (2)” and inserting “subparagraph (B)”; and

5 (5) by amending paragraph (6) to read as fol-
6 lows:

7 “(6) ADDITIONAL RULES FOR DETENTION OR
8 RELEASE OF CERTAIN ALIENS.—

9 “(A) DETENTION REVIEW PROCESS FOR
10 COOPERATIVE ALIENS ESTABLISHED.—

11 “(i) IN GENERAL.—The Secretary of
12 Homeland Security shall establish an ad-
13 ministrative review process to determine
14 whether an alien who is not otherwise sub-
15 ject to mandatory detention, who has made
16 all reasonable efforts to comply with a re-
17 moval order and to cooperate fully with the
18 Secretary’s efforts to establish the alien’s
19 identity and carry out the removal order,
20 including making timely application in
21 good faith for travel or other documents
22 necessary to the alien’s departure, and who
23 has not conspired or acted to prevent re-
24 moval should be detained or released on
25 conditions.

1 “(ii) DETERMINATION.—The Sec-
2 retary of Homeland Security shall make a
3 determination whether to release an alien
4 after the removal period in accordance with
5 subparagraph (B), which—

6 “(I) shall include consideration of
7 any evidence submitted by the alien;
8 and

9 “(II) may include consideration
10 of any other evidence, including—

11 “(aa) any information or as-
12 sistance provided by the Sec-
13 retary of State or other Federal
14 official; and

15 “(bb) any other information
16 available to the Secretary of
17 Homeland Security pertaining to
18 the ability to remove the alien.

19 “(B) AUTHORITY TO DETAIN BEYOND RE-
20 MOVAL PERIOD.—

21 “(i) IN GENERAL.—The Secretary of
22 Homeland Security may continue to detain
23 an alien for a period of 90 days beyond the
24 removal period. An alien whose detention is

1 extended under this subparagraph does not
2 have the right to seek release on bond.

3 “(ii) SPECIFIC CIRCUMSTANCES.—The
4 Secretary of Homeland Security may con-
5 tinue to detain an alien beyond the 90-day
6 period authorized under clause (i)—

7 “(I) until the alien is removed, if
8 the Secretary determines that there is
9 a significant likelihood that the
10 alien—

11 “(aa) will be removed in the
12 reasonably foreseeable future; or

13 “(bb) would be removed in
14 the reasonably foreseeable future,
15 or would have been removed, but
16 for the alien’s failure or refusal
17 to make all reasonable efforts to
18 comply with the removal order or
19 to cooperate fully with the Sec-
20 retary’s efforts to establish the
21 alien’s identity and carry out the
22 removal order, including making
23 timely application in good faith
24 for travel or other documents
25 necessary to the alien’s depar-

1 ture, or conspires or acts to pre-
2 vent removal.

3 “(II) until the alien is removed,
4 if the Secretary certifies in writing—

5 “(aa) in consultation with
6 the Secretary of Health and
7 Human Services, that the alien
8 has a highly contagious disease
9 that poses a threat to public safe-
10 ty;

11 “(bb) based on information
12 available to the Secretary of
13 Homeland Security (including
14 classified, sensitive, or national
15 security information, and without
16 regard to the grounds upon
17 which the alien was ordered re-
18 moved), that there is reason to
19 believe that the release of the
20 alien would threaten the national
21 security of the United States;

22 “(cc) that—

23 “(AA) the release of the
24 alien will threaten the safety
25 of the community or any

1 person, conditions of release
2 cannot reasonably be ex-
3 pected to ensure the safety
4 of the community or of any
5 person; and

6 “(BB) the alien has
7 been convicted of 1 or more
8 aggravated felonies (as de-
9 fined in section
10 101(a)(43)(A)) or of 1 or
11 more crimes identified by
12 the Secretary of Homeland
13 Security, by regulation, or of
14 1 or more attempts or con-
15 spiracies to commit any such
16 aggravated felonies or such
17 identified crimes, if the ag-
18 gregate term of imprison-
19 ment for such attempts or
20 conspiracies is at least 5
21 years, or the alien has com-
22 mitted 1 or more crimes of
23 violence (as defined in sec-
24 tion 16 of title 18, United
25 States Code, but not includ-

1 ing a purely political of-
2 fense) and, because of a
3 mental condition or person-
4 ality disorder and behavior
5 associated with that condi-
6 tion or disorder, the alien is
7 likely to engage in acts of vi-
8 olence in the future; or

9 “(III) pending a certification
10 under subclause (II), if the Secretary
11 has initiated the administrative review
12 process not later than 30 days after
13 the expiration of the removal period.

14 “(iii) NO RIGHT TO BOND HEARING.—
15 An alien whose detention is extended under
16 this subparagraph, including by reason of
17 a certification under clause (ii)(II), does
18 not have a right to seek release on bond.

19 “(C) RENEWAL AND DELEGATION OF CER-
20 TIFICATION.—

21 “(i) RENEWAL.—The Secretary of
22 Homeland Security may renew a certifi-
23 cation under subparagraph (B)(ii)(II)
24 every 6 months after providing an oppor-
25 tunity for the alien to request reconsider-

1 ation of the certification and to submit
2 documents or other evidence in support of
3 that request. If the Secretary does not
4 renew a certification, the Secretary may
5 not continue to detain the alien pursuant
6 to subparagraph (B)(ii)(II).

7 “(ii) DELEGATION.—Notwithstanding
8 section 103, the Secretary of Homeland
9 Security may not delegate the authority to
10 make or renew a certification described in
11 item (bb) or (cc) of subparagraph
12 (B)(ii)(II) below the level of the Deputy
13 Director of U.S. Immigration and Customs
14 Enforcement.

15 “(D) RELEASE ON CONDITIONS.—If a
16 Federal court orders an alien to be released
17 from detention, the Secretary of Homeland Se-
18 curity may impose the conditions on release de-
19 scribed in paragraph (3).

20 “(E) REDETENTION.—

21 “(i) IN GENERAL.—The Secretary of
22 Homeland Security, without any limita-
23 tions other than those specified in this sec-
24 tion, may detain any alien subject to a
25 final removal order if—

1 “(I) removal becomes likely in
2 the reasonably foreseeable future;

3 “(II) the alien fails to comply
4 with the conditions of release or to
5 continue to satisfy the conditions de-
6 scribed in subparagraph (A); or

7 “(III) upon reconsideration, the
8 Secretary determines that the alien
9 can be detained under subparagraph
10 (B).

11 “(ii) APPLICABILITY.—This section
12 shall apply to any alien returned to cus-
13 tody pursuant to this subparagraph as if
14 the removal period terminated on the day
15 of the redetention.

16 “(F) REVIEW OF DETERMINATIONS BY
17 SECRETARY.—A determination by the Secretary
18 of Homeland Security under this paragraph
19 shall not be subject to review by any other
20 agency.”.

21 **SEC. 4. SEVERABILITY.**

22 If any of the provisions of this Act, any amendment
23 made by this Act, or the application of any such provision
24 or amendment to any person or circumstance, is held to
25 be invalid for any reason, the remainder of this Act, the

1 amendments made by this Act, and the application of the
2 provisions and amendments made by this Act to any other
3 person or circumstance shall not be affected by such hold-
4 ing.

5 **SEC. 5. EFFECTIVE DATES.**

6 (a) APPREHENSION AND DETENTION OF ALIENS.—
7 The amendments made by section 2 shall take effect on
8 the date of the enactment of this Act. Section 236 of the
9 Immigration and Nationality Act, as amended by section
10 2, shall apply to any alien in detention under the provi-
11 sions of such section on or after such date of enactment.

12 (b) ALIENS ORDERED REMOVED.—The amendments
13 made by section 3 shall take effect on the date of the en-
14 actment of this Act. Section 241 of the Immigration and
15 Nationality Act, as amended by section 3, shall apply to—

16 (1) all aliens subject to a final administrative
17 removal, deportation, or exclusion order that was
18 issued before, on, or after the date of the enactment
19 of this Act; and

20 (2) acts and conditions occurring or existing be-
21 fore, on, or after such date of enactment.