

118TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

To authorize magistrate judges to issue arrest warrants for certain criminal aliens.

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IN THE SENATE OF THE UNITED STATES

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Mr. MURPHY (for himself, Mr. BROWN, Ms. BALDWIN, Mr. KING, Mr. CASEY, Mr. KAINÉ, and Ms. SINEMA) introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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**A BILL**

To authorize magistrate judges to issue arrest warrants for certain criminal aliens.

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 “Improving Public Safe-  
5 ty Through Immigration Warrant Issuance Act”.

6 **SEC. 2. WARRANT AUTHORITY.**

7        (a) IN GENERAL.—Chapter 9 of title II of the Immi-  
8 gration and Nationality Act (8 U.S.C. 1351 et seq.) is  
9 amended by inserting after section 287 the following:

1 **“SEC. 287A. AUTHORIZATION OF FEDERAL COURTS TO**  
2 **ISSUE ARREST WARRANTS.**

3 “(a) AUTHORIZATION OF FEDERAL COURTS TO  
4 ISSUE ARREST WARRANTS.—Upon receiving an applica-  
5 tion from a Federal law enforcement officer or an attorney  
6 for the Federal Government, a magistrate judge is author-  
7 ized to issue a warrant to seize an alien located within  
8 the district over which the magistrate judge has jurisdic-  
9 tion if there is probable cause to believe that the alien—

10 “(1) is removable (as defined in section  
11 240(e)(2)); and

12 “(2)(A) has been charged with, or convicted of,  
13 a felony;

14 “(B) has been charged with, or convicted of, a  
15 crime of violence, including any crime that endan-  
16 gers the safety or welfare of children; or

17 “(C) is a threat to national security.

18 “(b) ENSURING THE EFFECTIVENESS OF WARRANTS  
19 FOR PERSONS IN STATE OR LOCAL CUSTODY.—

20 “(1) ADDITIONAL AUTHORITIES.—If such ac-  
21 tions are reasonably necessary to ensure the effec-  
22 tiveness of an arrest warrant issued pursuant to  
23 subsection (a), a magistrate judge may order the  
24 State or local jurisdiction with custody over the alien  
25 subject to such warrant—

1           “(A) to transfer the alien to Federal cus-  
2           tody;

3           “(B) to notify the Federal Government of  
4           the impending release of the alien to facilitate  
5           such transfer; and

6           “(C) to hold the alien for such time as may  
7           be necessary to facilitate such transfer, which  
8           may not exceed 48 hours.

9           “(2) TIMING OF ORDER.—An order described in  
10          paragraph (1) may be issued contemporaneously  
11          with an arrest warrant issued pursuant to subsection  
12          (a) if, based on reliable evidence, a State or local ju-  
13          risdiction with custody over the alien subject to such  
14          warrant is unlikely to assist in effectuating the war-  
15          rant.

16          “(3) RULES OF CONSTRUCTION.—Nothing in  
17          this subsection may be construed—

18                 “(A) to limit any inherent or statutory  
19                 power of the Federal courts to issue orders in  
20                 aid of their jurisdiction, including writs of ha-  
21                 beas corpus and writs authorized under section  
22                 1651 of title 28, United States Code (commonly  
23                 known as the ‘All Writs Act’); or

1           “(B) to interfere with the Department of  
2           Homeland Security’s ability to issue detainer  
3           requests, as authorized by law.

4           “(c) ISSUING THE WARRANT.—Each warrant issued  
5 pursuant to this section shall—

6           “(1) be issued to an officer authorized to exe-  
7           cute it;

8           “(2) identify the alien to be seized and des-  
9           ignate the magistrate judge to whom the warrant  
10          shall be returned;

11          “(3) require the officer to submit the issued  
12          warrant to any State or locality with custody over  
13          the alien subject to the warrant as quickly as prac-  
14          ticable; and

15          “(4) be returned to the magistrate judge des-  
16          ignated in the warrant.

17          “(d) PROCEDURE FOR OBTAINING A WARRANT.—

18          “(1) EX PARTE PROCEEDINGS.—Warrant pro-  
19          ceedings under this section may be conducted ex  
20          parte.

21          “(2) WARRANT ON AN AFFIDAVIT.—When a  
22          Federal law enforcement officer or an attorney for  
23          the Federal Government presents an affidavit in  
24          support of a warrant, the magistrate judge may—

1           “(A) require the affiant to appear person-  
2           ally before the judge; and

3           “(B) examine under oath the affiant and  
4           any witness produced by the affiant.

5           “(3) RECORDING TESTIMONY.—Testimony  
6           taken in support of a warrant shall be recorded by  
7           a court reporter or by a suitable recording device.  
8           The magistrate judge shall file the transcript or re-  
9           cording with the clerk, along with any related affi-  
10          davit.

11          “(4) REQUESTING A WARRANT BY TELEPHONIC  
12          OR OTHER RELIABLE ELECTRONIC MEANS.—In ac-  
13          cordance with rule 4.1 of the Federal Rules of  
14          Criminal Procedure, a magistrate judge may issue a  
15          warrant based on information communicated by tele-  
16          phone or other reliable electronic means.

17          “(e) DEFINITIONS.—In this section:

18          “(1) ATTORNEY FOR THE FEDERAL GOVERN-  
19          MENT.—The term ‘attorney for the Federal Govern-  
20          ment’ means an attorney representing the Federal  
21          Government, as authorized by the Attorney General.

22          “(2) CRIME OF VIOLENCE.—The term ‘crime of  
23          violence’ has the meaning given such term in section  
24          16 of title 18, United States Code.

1           “(3) FELONY.—The term ‘felony’ means a  
2 crime classified as a felony in the convicting jurisdic-  
3 tion, excluding Federal, State, or local offenses for  
4 which an essential element was the alien’s immigra-  
5 tion status.

6           “(4) MAGISTRATE JUDGE.—The term ‘mag-  
7 istrate judge’ means a United States magistrate  
8 judge appointed pursuant to section 631 of title 28,  
9 United States Code.”.

10          (b) CLERICAL AMENDMENT.—The table of contents  
11 for the Immigration and Nationality Act (8 U.S.C. 1101  
12 et seq.) is amended by inserting after the item relating  
13 to section 287 the following:

“Sec. 287A. Authorization of Federal courts to issue arrest warrants.”.