

119TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

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

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 a writ-
15 ten agreement described in subsection (g).

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

1 “(i) shall cease the enforcement action imme-
2 diately;

3 “(ii) shall consult with his or her supervisor in
4 real time regarding the existence of exigent cir-
5 cumstances; and

6 “(iii) may not continue the enforcement action
7 until the individual’s supervisor affirmatively con-
8 firms the existence of exigent circumstances.

9 “(3)(A) When proceeding with an enforcement action
10 at or near a sensitive location, individuals referred to in
11 subparagraph (A) or (B) of paragraph (1) shall make
12 every effort—

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

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

17 “(iii) to limit the enforcement action to the per-
18 son or persons for whom prior approval was ob-
19 tained.

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

1 “(i) cease before taking any further enforce-
2 ment action;

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

4 “(iii) maintain surveillance; and

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

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

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

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

23 “(A) no information resulting from the enforce-
24 ment action may be entered into the record or re-

1 ceived into evidence in a removal proceeding result-
2 ing from the enforcement action; and

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

6 “(5)(A) Each official specified in subparagraph (B)
7 shall ensure that the employees under the supervision of
8 such official receive annual training in compliance with the
9 requirements of this subsection, section 239, and section
10 384 of the Illegal Immigration Reform and Immigrant Re-
11 sponsibility Act of 1996 (8 U.S.C. 1367).

12 “(B) The officials specified in this subpara-
13 graph are the following:

14 “(i) The Chief Counsel of U.S. Immigra-
15 tion and Customs Enforcement.

16 “(ii) The Field Office Directors of U.S.
17 Immigration and Customs Enforcement.

18 “(iii) Each Special Agent in Charge of
19 U.S. Immigration and Customs Enforcement.

20 “(iv) Each Chief Patrol Agent of U.S. Cus-
21 toms and Border Protection.

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

1 “(vi) The Director of Air and Marine Op-
2 erations of U.S. Customs and Border Protec-
3 tion.

4 “(vii) The Internal Affairs Special Agent
5 in Charge of U.S. Customs and Border Protec-
6 tion.

7 “(6)(A) Not later than 30 days after any enforcement
8 action is taken at a sensitive location by any individual
9 referred to in subparagraph (A) or (B) of paragraph (1),
10 the Secretary of Homeland Security shall provide a report
11 to both the Office of the Inspector General of the Depart-
12 ment of Homeland Security and the Office for Civil Rights
13 and Civil Liberties of the Department of Homeland Secu-
14 rity for each such enforcement action, which shall con-
15 tain—

16 “(i) the date, State, and local political subdivi-
17 sion (such as city, town, or county) in which each
18 enforcement action occurred;

19 “(ii) the specific sensitive location site where
20 the enforcement action occurred;

21 “(iii) the type of enforcement action that oc-
22 curred;

23 “(iv) the specific department, agency, and offi-
24 cers responsible for the enforcement action;

1 “(v) a thorough description of the cir-
2 cumstances which purportedly justified the enforce-
3 ment action, including either—

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

6 “(II) a certified copy of the written ap-
7 proval for the immigration arrest that was
8 signed by an appropriate authorizing officer,
9 along with a clear description of the specific
10 and rare threat which justified the premeditated
11 arrest at this sensitive location;

12 “(vi) a description of the intended target of the
13 enforcement action;

14 “(vii) the number of individuals, if any, ar-
15 rested or taken into custody through the enforce-
16 ment action;

17 “(viii) the number of collateral arrests, if any,
18 from the enforcement action and the reasons for
19 each such arrest;

20 “(ix) a certification of whether a supervisor was
21 contacted prior to, during, or after each such en-
22 forcement action;

23 “(B) An appropriate committee of Congress may, at
24 any time, request and successfully receive a confidential

1 or redacted copy of any of the individual reports described
2 in subparagraph (A).

3 “(7)(A) The Director of U.S. Immigration and Cus-
4 toms Enforcement and the Commissioner for U.S. Cus-
5 toms and Border Protection shall each submit an annual
6 report to the appropriate committees of Congress that de-
7 scribes the enforcement actions undertaken by U.S. Immi-
8 gration and Customs Enforcement or U.S. Customs and
9 Border Protection, as applicable, during the preceding fis-
10 cal year that were covered by this subsection.

11 “(B) Each report submitted pursuant to subpara-
12 graph (A) shall include—

13 “(i) the number of enforcement actions at or fo-
14 cused on a sensitive location;

15 “(ii) the number of enforcement actions where
16 officers or agents were subsequently led to or near
17 a sensitive location;

18 “(iii) the date, site, State, and local political
19 subdivision (such as city, town, or county) in which
20 each enforcement action covered by clause (i) or (ii)
21 occurred;

22 “(iv) the component of the agency responsible
23 for each such enforcement action;

24 “(v) a description of the intended target of each
25 such enforcement action;

1 “(vi) the number of individuals, if any, arrested
2 or taken into custody through each such enforce-
3 ment action;

4 “(vii) the number of collateral arrests, if any,
5 from each such enforcement action and the reasons
6 for each such arrest; and

7 “(viii) a certification of whether the location ad-
8 ministrator was contacted prior to, during, or after
9 each such enforcement action.

10 “(8)(A) The Office of the Inspector General of the
11 Department of Homeland Security shall submit an annual
12 report to the appropriate committees of Congress regard-
13 ing the complaints of enforcement actions taken in sen-
14 sitive locations by U.S. Immigration and Customs En-
15 forcement and U.S. Customs and Border Protection dur-
16 ing the preceding year that were covered by this sub-
17 section.

18 “(B) Each report submitted pursuant to subpara-
19 graph (A) shall include—

20 “(i) the number of complaints of enforcement
21 actions reported at, or focused on, a sensitive loca-
22 tion;

23 “(ii) the reported date, site, State, and local po-
24 litical subdivision (such as city, town, or county) in

1 which each enforcement action referred to in clause
2 (i) occurred;

3 “(iii) the reported agency responsible for each
4 such enforcement action;

5 “(iv) a description of the intended target of
6 each such enforcement action;

7 “(v) the reported number of individuals, if any,
8 arrested or taken into custody through each such en-
9 forcement action;

10 “(vi) the reported number of collateral arrests,
11 if any, from each such enforcement action, and the
12 reasons for each such arrest; and

13 “(vii) if available, a certification of whether the
14 location administrator was contacted prior to, dur-
15 ing, or after each such enforcement action.

16 “(9) In this subsection:

17 “(A) The term ‘appropriate authorizing official’
18 means—

19 “(i) in the case of officers and agents of
20 U.S. Immigration and Customs Enforcement—

21 “(I) the Assistant Director of Oper-
22 ations, Homeland Security Investigations;

23 “(II) the Executive Associate Director
24 of Homeland Security Investigations;

1 “(III) the Assistant Director for Field
2 Operations, Enforcement, and Removal
3 Operations;

4 “(IV) the Executive Associate Direc-
5 tor for Field Operations, Enforcement, and
6 Removal Operations; or

7 “(V) any other individual who is de-
8 termined to be an appropriate authorizing
9 official by the Secretary of Homeland Se-
10 curity; and

11 “(ii) in the case of officers and agents of
12 U.S. Customs and Border Protection—

13 “(I) a Chief Patrol Agent;

14 “(II) the Director of Field Operations;

15 “(III) the Director of Air and Marine
16 Operations;

17 “(IV) the Internal Affairs Special
18 Agent in Charge; or

19 “(V) any other individual who is de-
20 termined to be an appropriate authorizing
21 official by the Secretary of Homeland Se-
22 curity; and

23 “(iii) in the case of all other individuals re-
24 ferred to in subparagraph (A) or (B) of para-
25 graph (1), an official determined under rules

1 promulgated by the Secretary of Homeland Se-
2 curity not later than 90 days after the date of
3 the enactment of the Protecting Sensitive Loca-
4 tions Act.

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

7 “(i) the Committee on Homeland Security
8 and Governmental Affairs of the Senate;

9 “(ii) the Committee on the Judiciary of the
10 Senate;

11 “(iii) the Committee on Appropriations of
12 the Senate;

13 “(iv) the Committee on Homeland Security
14 of the House of Representatives;

15 “(v) the Committee on the Judiciary of the
16 House of Representatives; and

17 “(vi) the Committee on Appropriations of
18 the House of Representatives.

19 “(C) The term ‘early childhood education pro-
20 gram’ has the meaning given such term in section
21 103(8) of the Higher Education Act of 1965 (20
22 U.S.C. 1003(8)).

23 “(D) The term ‘enforcement action’—

24 “(i) means an apprehension, arrest, inter-
25 view, request for identification, search, or sur-

1 veillance for the purposes of immigration en-
2 forcement; and

3 “(ii) includes an enforcement action at, or
4 focused on, a sensitive location that is part of
5 a joint case led by another law enforcement
6 agency.

7 “(E) The term ‘exigent circumstances’ means a
8 situation involving—

9 “(i) the imminent risk of death, violence,
10 or physical harm to any person, including a sit-
11 uation implicating terrorism or the national se-
12 curity of the United States in some other man-
13 ner;

14 “(ii) the immediate arrest or hot pursuit of
15 an individual presenting an imminent danger to
16 public safety, including the imminent risk of
17 death, violence, or physical harm to a person;

18 “(iii) a rare, premeditated arrest operation
19 described in paragraph (3)(D), undertaken with
20 the prior written approval of an appropriate au-
21 thorizing official, involving the targeted arrest
22 of a terrorist suspect, an individual who poses
23 a clear threat to national security, or an indi-
24 vidual who poses an extraordinary danger to
25 public safety;

1 “(iv) a direct threat to national security; or

2 “(v) the imminent risk of destruction of
3 evidence that is material to an ongoing criminal
4 case.

5 “(F) The term ‘sensitive location’ includes all of
6 the physical space located within 1,000 feet of—

7 “(i) any medical or mental healthcare facil-
8 ity, including any hospital, health care practi-
9 tioner’s office, accredited health clinic, vaccina-
10 tion or testing site, or emergent or urgent care
11 facility, or community health center;

12 “(ii) any public or private school (including
13 preschools, primary schools, secondary schools,
14 and postsecondary schools (including colleges
15 and universities)), any site of an early childhood
16 education program, any other institution of
17 learning, such as vocational or trade schools,
18 and any other site where individuals who are
19 unemployed or underemployed may apply for or
20 receive workforce training;

21 “(iii) any scholastic or education-related
22 activity or event, including field trips and inter-
23 scholastic events;

1 “(iv) any school bus or school bus stop
2 during periods when school children are present
3 on the bus or at the stop;

4 “(v) any recreational facility for children,
5 such as playgrounds and formal recreational fa-
6 cilities;

7 “(vi) any child care focused facility, includ-
8 ing child care centers, before or after school
9 care centers, foster care facilities, and group
10 homes for children;

11 “(vii) any location where disaster or emer-
12 gency response and relief is being provided by
13 Federal, State, or local entities, such as the dis-
14 tribution of emergency supplies, food, and
15 water; any place of temporary shelter; any place
16 along an evacuation route; and any site where
17 registration for disaster-related assistance or
18 family reunification is taking place;

19 “(viii) any location of any organization
20 that—

21 “(I) assists children, pregnant women,
22 victims of crime or abuse, or individuals
23 with significant mental or physical disabili-
24 ties, including domestic violence shelters,
25 child advocacy centers, facilities that serve

1 disabled persons, drug or alcohol coun-
2 seling and treatment facilities, rape crisis
3 centers, supervised visitation centers, fam-
4 ily justice centers, victims' services pro-
5 viders, and community-based organizations
6 providing social services; or

7 “(II) provides disaster or emergency
8 social services and assistance, or services
9 for individuals experiencing homelessness,
10 including food banks, pantries, or other es-
11 tablishments distributing food, and shel-
12 ters;

13 “(ix) any church, synagogue, mosque, or
14 other place of worship or religious study, such
15 as buildings rented for the purpose of religious
16 services, or a temporary facility or location
17 where such activities are taking place;

18 “(x) any sites of a funeral, graveside cere-
19 mony, wedding, or any site where other reli-
20 gious or civil ceremonies or observances are oc-
21 ccurring;

22 “(xi) any site during the occurrence of a
23 public demonstration, such as a march, rally, or
24 parade;

1 “(xii) any Federal, State, or local court-
2 house, including the office of an individual’s
3 legal counsel or representative, and a probation
4 office;

5 “(xiii) any congressional district office;

6 “(xiv) any Social Security office;

7 “(xv) any public assistance offices, includ-
8 ing locations where individuals may apply for or
9 receive unemployment compensation or report
10 violations of labor and employment laws;

11 “(xvi) the indoor or outdoor premises of a
12 department of motor vehicles;

13 “(xvii) a polling place, including any build-
14 ing or infrastructure where voting takes place
15 during an election;

16 “(xviii) a labor union hall or any other
17 union-operated building or office where reg-
18 istered applicants are referred in rotation to
19 jobs;

20 “(xix) any public library; or

21 “(xx) any other locations specified by the
22 Secretary of Homeland Security for purposes of
23 this subsection.

24 “(G) The term ‘supervisor’ means an official
25 determined under rules promulgated by the Sec-

1 retary of Homeland Security pursuant to section
2 2(c) of the Protecting Sensitive Locations Act.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date that is 90 days
5 after the date of the enactment of this Act.

6 (c) **RULEMAKING.**—Not later than 90 days after the
7 date of the enactment of this Act, the Secretary of Home-
8 land Security shall promulgate regulations to carry out the
9 amendment made by subsection (a).