

115TH CONGRESS
1ST SESSION

S. 845

To protect sensitive community locations from harmful immigration enforcement action, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 5 (legislative day, APRIL 4), 2017

Mr. BLUMENTHAL (for himself, Ms. HIRONO, Mr. FRANKEN, Mr. KAINE, Mr. MERKLEY, Mrs. GILLIBRAND, Ms. HARRIS, Mr. MARKEY, Mr. BOOKER, Ms. WARREN, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect sensitive community locations from harmful immigration enforcement action, 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 Section 287 of the Immigration and Nationality Act
4 (8 U.S.C. 1357) is amended by adding at the end the fol-
5 lowing:

6 “(i)(1) In this subsection:

7 “(A) The term ‘appropriate committees of Con-
8 gress’ means—

9 “(i) the Committee on Homeland Security
10 and Governmental Affairs of the Senate;

11 “(ii) the Committee on the Judiciary of the
12 Senate;

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

15 “(iv) the Committee on the Judiciary of
16 the House of Representatives.

17 “(B) The term ‘enforcement action’—

18 “(i) means an apprehension, arrest, inter-
19 view, request for identification, search, or sur-
20 veillance for the purposes of immigration en-
21 forcement; and

22 “(ii) includes an enforcement action at, or
23 focused on, a sensitive location that is part of
24 a joint case led by another law enforcement
25 agency.

1 “(C) The term ‘exigent circumstances’ means a
2 situation involving—

3 “(i) the imminent risk of death, violence,
4 or physical harm to any person or property, in-
5 cluding a situation implicating terrorism or the
6 national security of the United States;

7 “(ii) the immediate arrest or pursuit of a
8 dangerous felon, terrorist suspect, or other indi-
9 vidual presenting an imminent danger; or

10 “(iii) the imminent risk of destruction of
11 evidence that is material to an ongoing criminal
12 case.

13 “(D) The term ‘prior approval’ means—

14 “(i) in the case of officers and agents of
15 U.S. Immigration and Customs Enforcement,
16 prior written approval to carry out an enforce-
17 ment action involving a specific individual or in-
18 dividuals authorized by—

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

21 “(II) the Executive Associate Director
22 of Homeland Security Investigations;

23 “(III) the Assistant Director for Field
24 Operations, Enforcement and Removal Op-
25 erations; or

1 “(IV) the Executive Associate Direc-
2 tor for Field Operations, Enforcement and
3 Removal Operations;

4 “(ii) in the case of officers and agents of
5 U.S. Customs and Border Protection, prior
6 written approval to carry out an enforcement
7 action involving a specific individual or individ-
8 uals authorized by—

9 “(I) a Chief Patrol Agent;

10 “(II) the Director of Field Operations;

11 “(III) the Director of Air and Marine
12 Operations; or

13 “(IV) the Internal Affairs Special
14 Agent in Charge; and

15 “(iii) in the case of other Federal, State,
16 or local law enforcement officers, to carry out
17 an enforcement action involving a specific indi-
18 vidual or individuals authorized by—

19 “(I) the head of the Federal agency
20 carrying out the enforcement action; or

21 “(II) the head of the State or local
22 law enforcement agency carrying out the
23 enforcement action.

24 “(E) The term ‘sensitive location’ includes all of
25 the physical space located within 1,000 feet of—

1 “(i) any medical treatment or health care
2 facility, including any hospital, doctor’s office,
3 accredited health clinic, alcohol or drug treat-
4 ment center, or emergent or urgent care facil-
5 ity;

6 “(ii) any public or private school, including
7 any known and licensed day care facility, pre-
8 school, other early learning program facility,
9 primary school, secondary school, postsecondary
10 school (including colleges and universities), or
11 other institution of learning (including voca-
12 tional or trade schools);

13 “(iii) any scholastic or education-related
14 activity or event, including field trips and inter-
15 scholastic events;

16 “(iv) any school bus or school bus stop
17 during periods when school children are present
18 on the bus or at the stop;

19 “(v) any organization that—

20 “(I) assists children, pregnant women,
21 victims of crime or abuse, or individuals
22 with significant mental or physical disabil-
23 ities; or

24 “(II) provides disaster or emergency
25 social services and assistance;

1 “(vi) any church, synagogue, mosque, or
2 other place of worship, including buildings
3 rented for the purpose of religious services, re-
4 treats, counseling, workshops, instruction, and
5 education;

6 “(vii) any Federal, State, or local court-
7 house, including the office of an individual’s
8 legal counsel or representative, and a probation,
9 parole, or supervised release office;

10 “(viii) the site of a funeral, wedding, or
11 other religious ceremony or observance;

12 “(ix) any public demonstration, such as a
13 march, rally, or parade;

14 “(x) any domestic violence shelter, rape
15 crisis center, supervised visitation center, family
16 justice center, or victim services provider; or

17 “(xi) any other location specified by the
18 Secretary of Homeland Security for purposes of
19 this subsection.

20 “(2)(A) An enforcement action may not take place
21 at, or be focused on, a sensitive location unless—

22 “(i) the action involves exigent circumstances;
23 and

24 “(ii) prior approval for the enforcement action
25 was obtained from the appropriate official.

1 “(B) If an enforcement action is initiated pursuant
2 to subparagraph (A) and the exigent circumstances per-
3 mitting the enforcement action cease, the enforcement ac-
4 tion shall be discontinued until such exigent circumstances
5 reemerge.

6 “(C) If an enforcement action is carried out in viola-
7 tion of this subsection—

8 “(i) no information resulting from the enforce-
9 ment action may be entered into the record or re-
10 ceived into evidence in a removal proceeding result-
11 ing from the enforcement action; and

12 “(ii) the alien who is the subject of such re-
13 moval proceeding may file a motion for the imme-
14 diate termination of the removal proceeding.

15 “(3)(A) This subsection shall apply to any enforce-
16 ment action by officers or agents of the Department of
17 Homeland Security, including—

18 “(i) officers or agents of U.S. Immigration and
19 Customs Enforcement;

20 “(ii) officers or agents of U.S. Customs and
21 Border Protection; and

22 “(iii) any individual designated to perform im-
23 migration enforcement functions pursuant to sub-
24 section (g).

1 “(B) While carrying out an enforcement action at a
2 sensitive location, officers and agents referred to in sub-
3 paragraph (A) shall make every effort—

4 “(i) to limit the time spent at the sensitive loca-
5 tion;

6 “(ii) to limit the enforcement action at the sen-
7 sitive location to the person or persons for whom
8 prior approval was obtained; and

9 “(iii) to conduct themselves discreetly.

10 “(C) If, while carrying out an enforcement action
11 that is not initiated at or focused on a sensitive location,
12 officers or agents are led to a sensitive location, and no
13 exigent circumstance and prior approval with respect to
14 the sensitive location exists, such officers or agents shall—

15 “(i) cease before taking any further enforce-
16 ment action;

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

18 “(iii) maintain surveillance; and

19 “(iv) immediately consult their supervisor in
20 order to determine whether such enforcement action
21 should be discontinued.

22 “(D) The limitations under this paragraph shall not
23 apply to the transportation of an individual apprehended
24 at or near a land or sea border to a hospital or health

1 care provider for the purpose of providing medical care
2 to such individual.

3 “(4)(A) Each official specified in subparagraph (B)
4 shall ensure that the employees under his or her super-
5 vision receive annual training on compliance with—

6 “(i) the requirements under this subsection in
7 enforcement actions at or focused on sensitive loca-
8 tions and enforcement actions that lead officers or
9 agents to a sensitive location; and

10 “(ii) the requirements under section 239 of this
11 Act and section 384 of the Illegal Immigration Re-
12 form and Immigrant Responsibility Act of 1996 (8
13 U.S.C. 1367).

14 “(B) The officials specified in this subparagraph
15 are—

16 “(i) the Chief Counsel of U.S. Immigration and
17 Customs Enforcement;

18 “(ii) the Field Office Directors of U.S. Immi-
19 gration and Customs Enforcement;

20 “(iii) each Special Agent in Charge of U.S. Im-
21 migration and Customs Enforcement;

22 “(iv) each Chief Patrol Agent of U.S. Customs
23 and Border Protection;

24 “(v) the Director of Field Operations of U.S.
25 Customs and Border Protection;

1 “(vi) the Director of Air and Marine Operations
2 of U.S. Customs and Border Protection;

3 “(vii) the Internal Affairs Special Agent in
4 Charge of U.S. Customs and Border Protection; and

5 “(viii) the chief law enforcement officer of each
6 State or local law enforcement agency that enters
7 into a written agreement with the Department of
8 Homeland Security pursuant to subsection (g).

9 “(5) The Secretary of Homeland Security shall mod-
10 ify the Notice to Appear form (I-862)—

11 “(A) to provide the subjects of an enforcement
12 action with information, written in plain language,
13 summarizing the restrictions against enforcement
14 actions at sensitive locations set forth in this sub-
15 section and the remedies available to the alien if
16 such action violates such restrictions;

17 “(B) so that the information described in sub-
18 paragraph (A) is accessible to individuals with lim-
19 ited English proficiency; and

20 “(C) so that subjects of an enforcement action
21 are not permitted to verify that the officers or
22 agents that carried out such action complied with
23 the restrictions set forth in this subsection.

24 “(6)(A) The Director of U.S. Immigration and Cus-
25 toms Enforcement and the Commissioner of U.S. Customs

1 and Border Protection shall each submit an annual report
2 to the appropriate committees of Congress that includes
3 the information set forth in subparagraph (B) with respect
4 to the respective agency.

5 “(B) Each report submitted under subparagraph (A)
6 shall include, with respect to the submitting agency during
7 the reporting period—

8 “(i) the number of enforcement actions that
9 were carried out at, or focused on, a sensitive loca-
10 tion;

11 “(ii) the number of enforcement actions in
12 which officers or agents were subsequently led to a
13 sensitive location; and

14 “(iii) for each enforcement action described in
15 clause (i) or (ii)—

16 “(I) the date on which it occurred;

17 “(II) the specific site, city, county, and
18 State in which it occurred;

19 “(III) the components of the agency in-
20 volved in the enforcement action;

21 “(IV) a description of the enforcement ac-
22 tion, including the nature of the criminal activ-
23 ity of its intended target;

24 “(V) the number of individuals, if any, ar-
25 rested or taken into custody;

1 “(VI) the number of collateral arrests, if
2 any, and the reasons for each such arrest;

3 “(VII) a certification whether the location
4 administrator was contacted before, during, or
5 after the enforcement action; and

6 “(VIII) the percentage of all of the staff
7 members and supervisors reporting to the offi-
8 cials listed in paragraph (4)(B) who completed
9 the training required under paragraph (4)(A).

10 “(7) Nothing in the subsection may be construed—

11 “(A) to affect the authority of Federal, State,
12 or local law enforcement agencies—

13 “(i) to enforce generally applicable Federal
14 or State criminal laws unrelated to immigra-
15 tion; or

16 “(ii) to protect residents from imminent
17 threats to public safety; or

18 “(B) to limit or override the protections pro-
19 vided in—

20 “(i) section 239; or

21 “(ii) section 384 of the Illegal Immigration
22 Reform and Immigrant Responsibility Act of
23 1996 (8 U.S.C. 1367).”.

○