

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—119th Cong., 1st Sess.

S.5

To require the Secretary of Homeland Security to take into custody aliens who have been charged in the United States with theft, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. KAINE (for himself, Mr. BENNET, Mr. HICKENLOOPER, Mr. KING, Mrs. SHAHEEN, Mr. VAN HOLLEN, and Mr. WELCH) *Mr. Merkley, Mr. Warner, Mr. Lujan*

Viz:

1 Strike all after the enacting clause and insert the following:
2

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Laken Riley Act".

5 **SEC. 2. MANDATORY DETENTION OF CERTAIN ALIENS.**

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

8 (1) in paragraph (1)—

9 (A) in subparagraph (C), by striking "or";

1 (B) in subparagraph (D), by striking the
2 comma at the end and inserting a semicolon;
3 and

4 (C) by inserting after subparagraph (D)
5 the following:

6 “(E)(i) is inadmissible under paragraph
7 (6)(A), (6)(C), or (7) of section 212(a); and

8 “(ii)(I) is convicted of a crime resulting in
9 serious bodily injury;

10 “(II) is convicted of any burglary, theft, or
11 larceny offense; or

12 “(III) has been arrested for, or is charged
13 with, a criminal offense described in subclause
14 (I) or (II) and was ordered removed in absentia
15 under section 240(b)(5) or is subject to a bench
16 warrant for failing to appear in connection with
17 a criminal charge or citation described in sub-
18 clause (I) or (II),”;

19 (2) by redesignating paragraph (2) as para-
20 graph (6); and

21 (3) by inserting after paragraph (1) the fol-
22 lowing:

23 “(2) DEFINITIONS.—For purposes of paragraph
24 (1)(E), the terms ‘burglary’, ‘theft’, and ‘larceny’,

1 have the meanings given such terms in the jurisdic-
2 tion in which the acts occurred.

3 “(3) TREATMENT OF CHILDREN.—No child who
4 is younger than 16 years of age may be detained
5 pursuant to subclause (II) or (III) of paragraph
6 (1)(E)(ii). A child who is 17 or 18 years of age may
7 not be detained pursuant to subclause (II) or (III)
8 of paragraph (1)(E) unless the Secretary of Home-
9 land Security determines, based on available evi-
10 dence, that the child poses a danger to the commu-
11 nity or is a flight risk.

12 “(4) PROCEDURE.—Any alien detained longer
13 than 3 months pursuant to paragraph (1)(E) may
14 request a custody determination hearing before an
15 immigration judge, who shall determine bond or
16 other conditions for release only after determining
17 that such alien does not poses a danger to the com-
18 munity.

19 “(5) DETAINER.—The Secretary of Homeland
20 Security shall—

21 “(A) issue a detainer for any alien de-
22 scribed in paragraph (1)(E); and

23 “(B) if such alien is not otherwise being
24 detained by Federal, State, or local law enforce-

- 1 ment officials, effectively and expeditiously take
- 2 custody of such alien.”.