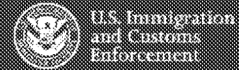


From: Office of the Executive Associate Director for ERO (b)(7)(E)
(b)(7)(E)
Sent: 2/13/2025 3:46:34 PM
Subject: ICE Responsibilities under the Laken Riley Act (S.5)

Office of the Executive Associate Director

Enforcement and Removal Operations



TO: All ERO Personnel

SUBJECT: ICE Responsibilities under the Laken Riley Act (S.5)

On January 29, 2025, President Trump signed the Laken Riley Act (LRA) into law. See Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025) (codified as amended at INA §§ 212, 235, 236, 241, 242, and 243). Among other things, the LRA adds a category of inadmissible aliens to those subject to the detention provisions of section 236(c) of the Immigration and Nationality Act (INA), colloquially referred to as "mandatory detention."

Detention

Effective immediately, ERO officers must apply INA § 236(c) to include within the categories of aliens ineligible for release from detention:

- aliens inadmissible under INA §§ 212(a)(6)(A) (present without admission or parole), 212(a)(6)(C) (fraud or material misrepresentation), or 212(a)(7) (no valid documents) who are:
 - charged with, arrested for, convicted of, admit having committed, or admit committing acts which constitute the essential elements of any burglary, theft, larceny, or shoplifting offense; or
 - charged with, arrested for, convicted of, admit having committed, or admit committing acts which constitute the essential elements of any assault of a law enforcement officer offense; or
 - charged with, arrested for, convicted of, admit having committed, or admit committing acts which constitute the essential elements of any crime that results in death or serious bodily injury to another person.

INA § 236(c)(1)(E)(i)-(ii). To be clear, unlike the other provisions of INA § 236(c)(1), for these categories of inadmissible aliens, they are subject to the "mandatory detention" provisions if they are charged with, arrested for, convicted of, admit having committed, or admit committing acts which constitute the essential elements of a listed offense.

For purposes of these provisions, the terms "burglary," "theft," "larceny," "shoplifting," "assault of a law enforcement officer," and "serious bodily injury" have the meaning applied in the jurisdiction where the acts occurred.

Officers should consult with the Office of the Principal Legal Advisor (OPLA) on questions involving INA § 236(c)(1)(E), including jurisdiction-specific legal definitions and the essential elements of relevant crimes.

Detainers

With respect to any alien subject to INA § 236(c)(1)(E) (described above), the LRA provides that DHS "shall issue a detainer" and "effectively and expeditiously" take custody of the alien unless the alien is otherwise detained by Federal, State, or local authorities.

In applying INA § 236(c)(3), ICE officers and agents **must**:

1. Contrary to historical practice with regard to application of INA § 236(c)(1), make an INA § 236(c)(1)(E) determination for aliens who come to ICE's attention even **before** they come into ICE custody;
 - Officers must first establish probable cause that an alien is inadmissible under INA §§ 212(a)(6)(A), 212(a)(6)(C), or 212(a)(7);
 - Officers must then look for any *indicia* of a qualifying INA § 236(c)(1)(E)(ii) crime or conduct;
2. Issue an ICE detainer for every alien they determine is or may be subject to INA § 236(c)(1)(E); and
3. Make all reasonable efforts to take aliens subject to INA § 236(c)(1)(E) into ICE custody upon release from criminal custody.

The LRA does not leave ICE with any discretion whether to lodge a detainer or to assume custody in these cases.

Where an ICE detainer is not honored for an alien subject to INA § 236(c)(1)(E), officers must prioritize efforts to arrest the alien at large. (INA § 236(c) does not mandate arrest for aliens subject to INA § 236(c)(1)(A)-(D).) Officers must not release from ICE custody any alien subject to INA § 236(c), except in the limited circumstances involving witnesses described in INA § 236(c)(4).

The LRA does not otherwise impact ICE detainer practices. ICE immigration officers, including designated state personnel authorized to perform certain immigration officer functions under INA § 287(g), will exercise detainer authority consistent with applicable ICE detainer policies.

Where an ICE detainer is issued from an ICE officer or agent within the Central District of California, including the Pacific Enforcement Response Center (PERC), effective March 4, 2025, ICE officers and agents in the Central District of California must follow the detainer issuance practices set forth in the settlement agreement in *Gonzalez v. U.S. Immigr. and Customs Enf't*, No. 13-4416 (C.D. Cal. filed June 19, 2013). Further guidance on detainer issuance for ICE officers and agents within the Central District of California under the *Gonzalez* settlement agreement is forthcoming.

Unaccompanied alien children (UACs) and other alien minors remain subject to applicable statutory and judicial authorities, including the Trafficking Victims Protection Reauthorization Act, the Flores Settlement Agreement, and any other settlement agreement or injunction that restricts ICE's arrest and detention authority with respect to minors. For any questions on custody of minors, please consult with your designated Field Office Juvenile Coordinator.

If you have any questions regarding this message, please contact your supervisor or OPLA.

Todd Lyons

Acting Executive Associate Director

Enforcement and Removal Operations

U.S. Immigration and Customs Enforcement

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