

103^D CONGRESS
1ST SESSION

H. R. 2438

To amend the Immigration and Nationality Act to provide for confinement in a Federal facility of illegal aliens sentenced to imprisonment under State law and to authorize the Attorney General to deport aliens sentenced to imprisonment before the completion of the sentence.

IN THE HOUSE OF REPRESENTATIVES

JUNE 16, 1993

Mr. SCHUMER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide for confinement in a Federal facility of illegal aliens sentenced to imprisonment under State law and to authorize the Attorney General to deport aliens sentenced to imprisonment before the completion of the sentence.

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 “Criminal Aliens Incar-
5 ceration Act of 1993”.

1 **SEC. 2. DEPORTATION PRIOR TO COMPLETION OF SEN-**
2 **TENCE OF IMPRISONMENT.**

3 Section 242(h) of the Immigration and Nationality
4 Act (8 U.S.C. 1252(h)) is amended to read as follows:

5 “(h)(1) Except as provided in paragraph (2), an alien
6 sentenced to imprisonment may not be deported until such
7 imprisonment has been terminated by the release of the
8 alien from confinement. Parole, supervised release, proba-
9 tion, or possibility of rearrest or further confinement in
10 respect of the same offense shall not be a ground for defer-
11 ral of deportation.

12 “(2) The Attorney General may deport an alien prior
13 to the completion of a sentence of imprisonment—

14 “(A) in the case of an alien in the custody of
15 the Attorney General, if the Attorney General deter-
16 mines that the alien has been adequately punished
17 and that such deportation of the alien is appro-
18 priate; or

19 “(B) in the case of an alien in the custody of
20 a State, if the chief State official exercising author-
21 ity with respect to the incarceration of the alien de-
22 termines (i) that the alien has been adequately pun-
23 ished and that such deportation is appropriate, and
24 (ii) submits a written request to the Attorney Gen-
25 eral that such alien be so deported.”.

1 **SEC. 3. JUDICIAL ORDER OF DEPORTATION FOR CERTAIN**
2 **ALIENS AT TIME OF CONVICTION.**

3 (a) IN GENERAL.—Subchapter A of chapter 227 of
4 title 18, United States Code, is amended by adding at the
5 end the following:

6 **“§ 3560. Order of deportation for certain aliens**

7 “The court, upon sentencing an individual who is an
8 alien for an aggravated felony (as defined in section
9 101(a)(43) of the Immigration and Nationality Act), shall
10 include in a sentencing order a declaration that the indi-
11 vidual is deportable. Any presentence report required
12 under the Rules of Criminal Procedure with respect to the
13 sentencing of any individual for such a felony shall include
14 whether or not such individual is an alien.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of subchapter A of chapter 227 of title
17 18, United States Code, is amended by adding at the end
18 the following new item:

“3560. Order of deportation for certain aliens.”.

19 (c) DEPORTATION PROCEDURES.—Section 242A of
20 the Immigration and Nationality Act (18 U.S.C. 1252a)
21 is amended by adding at the end the following:

22 “(f) DEPORTATION PURSUANT TO A JUDICIAL
23 ORDER.—An alien subject to a judicial order of deporta-
24 tion under section 3560 of title 18, United States Code,
25 shall be deported consistent with section 242(h).”.

1 **SEC. 4. FEDERAL INCARCERATION OF UNDOCUMENTED**
2 **CRIMINAL ALIENS.**

3 (a) FEDERAL INCARCERATION.—Section 242 of the
4 Immigration and Nationality Act (8 U.S.C. 1252) is
5 amended by adding at the end the following:

6 “(j)(1) The Attorney General shall take into the cus-
7 tody of the Federal Government, and shall incarcerate for
8 a determinate sentence of imprisonment, an undocu-
9 mented criminal alien if—

10 “(A) the chief State official exercising authority
11 with respect to the incarceration of the undocu-
12 mented criminal alien submits a written request to
13 the Attorney General; and

14 “(B) the undocumented criminal alien is sen-
15 tenced to a determinate term of imprisonment.

16 “(2) Undocumented criminal aliens taken into the
17 custody of the Attorney General under paragraph (1) may
18 be deported under subsection (h)(2)(A).

19 “(3) For purposes of this subsection, the term ‘un-
20 documented criminal alien’ means an alien who—

21 “(A) has been convicted of a felony and sen-
22 tenced to a term of imprisonment, and

23 “(B)(i) entered the United States without in-
24 spection or at any time or place other than as des-
25 ignated by the Attorney General, or

1 “(ii) was the subject of exclusion or deportation
2 proceedings at the time he or she was taken into
3 custody by the State.”.

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