

Ray Roberts, Secretary

Sam Brownback, Governor

Testimony on HB 2602
to
The House Committee on Corrections and Juvenile Justice

By Ray Roberts
Secretary
Kansas Department of Corrections
February 13, 2012

The Department of Corrections supports HB 2602. HB 2602 would enact the "Kansas Criminal Alien Rapid Repatriation Act". The rapid repatriation of non violent criminal aliens to their county of origin is an initiative of the U.S. Immigration and Customs Enforcement (ICE) to work with state corrections departments to identify and deport eligible nonviolent offenders. HB 2602 is the legislative authorization for Kansas to participate in this federal ICE program.

ICE maintains a web site containing information regarding the Rapid REPAT (Removal of Eligible Parolees Accepted for Transfer) program at <http://www.ice.gov/rapid-repat/> . Printouts of that site's fact sheet and program description are attached.

The Rapid REPAT Program of U.S. Immigration and Customs Enforcement (ICE) provides for the early release of non-violent state offenders who are criminal aliens for their removal and return to their home country. A return of the repatriated criminal alien to the United States must result in the revocation of the state release and service of the balance of the state sentence. The federal program requires modification of state law to allow for the early release of Rapid REPAT participants.

HB 2602 would authorize the participation by Kansas in the federal REPAT program. HB 2606 would be limited to offenders serving sentences for nonperson felonies who have served at least ½ of the prison portion of their sentence.

The ICE web site states there are seven states currently participating in ICE Rapid REPAT: Arizona, Georgia, Maryland, New Hampshire, New York, Puerto Rico and Washington. The Kansas Department of Corrections is also aware that Oklahoma is participating in the program. Our understanding of Oklahoma's experience with the Rapid REPAT program is:

Oklahoma's experience as of last week:

- Oklahoma's Rapid REPAT law has been in effect since June 2009.
- 321 inmates have been released pursuant to the program.
 - Of those released, 88 have completed their full sentence.
 - Oklahoma DOC has issued 21 warrants for illegal reentry violations
 - Of those reentry offenders, 4 have been returned to Oklahoma DOC.

Note that Oklahoma's Department of Corrections has about three times the number of confined foreign born offenders than the Kansas Department of Corrections. Additionally, in order to be released pursuant to the Rapid REPAT program, the offender must waive all criminal appeals and deportation proceedings and an order for deportation must have been issued. The Kansas Department of Corrections estimates 30 to 40 foreign born offenders may be eligible for release and deportation to their country of origin under this program resulting in a potential savings of \$40 per day per inmate if contract housing is used. This savings would be reduced by approximately \$2.34 per day per alien inmate which represents the federal funding the department receives for the incarceration of alien criminals.

Additionally, Oklahoma only requires service of 1/3 of the sentence for eligibility, whereas HB 2602 requires service of 1/2 of the sentence prior to release.

The Department of Corrections urges favorable consideration of HB 2602.



Enforcement & Removal » Rapid REPAT (<http://www.ice.gov/rapid-repat/>)

Fact Sheet: ICE Rapid REPAT Program

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NOVEMBER 7, 2011

U.S. Immigration and Customs Enforcement (ICE) identifies and removes criminal aliens from the United States. The ICE Rapid REPAT (Removal of Eligible Parolees Accepted for Transfer) program is designed to expedite that process by allowing select criminal aliens incarcerated in state prisons to accept early release in exchange for voluntarily returning to their country of origin.

Background

In November 2007, ICE began meeting with state executive agencies to discuss the concept of ICE Rapid REPAT as part of the ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) initiative. The concept, implemented in Georgia and Rhode Island, is modeled after two programs in the states of New York and Arizona that capitalize on ICE's ability to more effectively identify and ultimately remove criminal aliens from the United States while still preserving the integrity of the criminal justice system. There are seven states currently participating in ICE Rapid REPAT: Arizona, Georgia, Maryland, New Hampshire, New York, Puerto Rico and Washington. ICE field offices continue to reach out to state agencies to present ICE ACCESS partnership opportunities, including ICE Rapid REPAT.

Benefits

The ICE Rapid REPAT program allows ICE to more effectively achieve its objective of identifying and quickly removing criminal aliens from the United States. The identification and processing of incarcerated criminal aliens prior to release reduces the burden on the taxpayer and ensures that criminal aliens are promptly removed from the United States upon completion of their criminal sentence. ICE Rapid REPAT also allows ICE and participating states to reduce the costs associated with detention space. The seven participating states have realized substantial savings in detention and related operating costs through ICE Rapid REPAT because prisoners are detained for significantly less time. Since the inception of ICE Rapid REPAT, the participating states have realized more than \$477 million in combined cost savings.

Key Elements

Prior to implementing the Rapid REPAT program, ICE and the participating state must enter into a Memorandum of Agreement (MOA) and develop a Standard Operating Procedure (SOP). Eligible prisoners volunteer to participate in ICE Rapid REPAT and agree to waive administrative and judicial rights as a condition of their early release and removal from the United States.

Eligibility Criteria

- Criminal alien is at least 18 years of age;
- Criminal alien is not a native or citizen of the United States;
- Criminal alien voluntarily consents and agrees to participate in ICE Rapid REPAT;
- Criminal alien is imprisoned pursuant to a final conviction for an eligible nonviolent offense;
- Participating state certifies that removal of the criminal alien is appropriate and in the best interest of the state;



Enforcement & Removal » Rapid REPAT (<http://www.ice.gov/rapid-repat/>)

Rapid REPAT

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Among ICE's responsibilities is the identification and removal of criminal aliens from the United States. The ICE Rapid REPAT (Removal of Eligible Parolees Accepted for Transfer) program is designed to expedite that process by allowing selected criminal aliens incarcerated in U.S. prisons and jails to accept early release in exchange for voluntarily returning to their country of origin.



Background

In November 2007, ICE began meeting with state executive agencies to discuss the concept of ICE Rapid REPAT as part of the ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) initiative. The concept, implemented in Georgia and Rhode Island, is modeled after two programs in the states of New York and Arizona that capitalize on ICE's ability to more effectively identify and ultimately remove criminal aliens from the United States while still preserving the integrity of the criminal justice system. ICE field offices recently began to reach out to state agencies to present ICE ACCESS partnership opportunities, including ICE Rapid REPAT, where appropriate.

Key Elements

- In states where Rapid REPAT is implemented, certain aliens who are incarcerated in state prison and who have been convicted of non-violent offenses may receive early conditional release if they have a final order of removal and agree not to return to the United States.
- Eligible aliens agree to waive appeal rights associated with their state conviction(s) and must have final removal orders.
- If aliens re-enter the United States, state statutes must provide for revocation of parole and confinement for the remainder of the alien's original sentence. Additionally, aliens may be prosecuted under federal statutes that provide for up to 20 years in prison for illegally reentering the United States.

Benefits

ICE Rapid REPAT is another law enforcement tool that ensures that all criminal aliens serving a time in prison are identified and processed for removal prior to their release. The identification and processing of incarcerated criminal aliens prior to release reduces the burden on the taxpayer and ensures that criminal aliens are promptly removed from the U.S. upon completion of their criminal sentence. This program allows ICE to more effectively identify and quickly remove criminal aliens from the United States. ICE Rapid REPAT also allows ICE and participating states to reduce costs associated with detention space.