

119TH CONGRESS
2D SESSION

S. _____

To provide a civil remedy for any individual whose rights have been violated by an officer or agent of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

IN THE SENATE OF THE UNITED STATES

Mr. MERKLEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide a civil remedy for any individual whose rights have been violated by an officer or agent of U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

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 “ICE and CBP Con-
5 stitutional Accountability Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The First, Fourth, Fifth, and Fourteenth
2 Amendments to the Constitution of the United
3 States were passed by Congress and ratified by the
4 State legislatures to ensure the protection of funda-
5 mental rights for the people of the United States.

6 (2) U.S. Immigration and Customs Enforce-
7 ment and U.S. Customs and Border Protection offi-
8 cers and agents have undermined the fundamental
9 rights guaranteed by those amendments, including—

10 (A) violating due process;

11 (B) racial profiling based on individuals'
12 skin color and languages spoken;

13 (C) conducting unreasonable and
14 warrantless searches and seizures; and

15 (D) violating individuals' rights to privacy
16 and free speech.

17 (3) The recent and ongoing reckless conduct by
18 U.S. Immigration and Customs Enforcement and
19 U.S. Customs and Border Protection has resulted in
20 needless injuries, deaths, and public distrust of the
21 Federal Government.

22 (4) Civil suits provide individuals a remedy
23 when their fundamental rights are violated by Gov-
24 ernment officials.

1 **SEC. 3. CIVIL REMEDY FOR VICTIMS OF UNLAWFUL IMMI-**
2 **GRATION ENFORCEMENT ACTIONS.**

3 Chapter 171 of title 28, United States Code (com-
4 monly known as the “Federal Tort Claims Act”) is
5 amended, in section 2674, by inserting after “punitive
6 damages.” the following: “If, while acting under color of
7 law, an officer or agent of U.S. Customs and Border Pro-
8 tection or U.S. Immigration and Customs Enforcement,
9 or any other person acting under the direction of any such
10 officer or agent, subjects, or causes to be subjected, any
11 individual within the jurisdiction of the United States to
12 the deprivation of any rights, privileges, or immunities se-
13 cured by the United States Constitution or laws, the
14 United States Government shall be liable to the aggrieved
15 party in an action at law, a suit in equity, or any other
16 proper proceeding for redress, regardless of whether a pol-
17 icy or custom of the Department of Homeland Security
18 caused the violation and without regard to whether the
19 officer, agent or other person was acting consistent with
20 an official policy, practice, or custom. Monetary damages
21 awarded in cases authorized under this paragraph shall
22 be derived from any amounts appropriated under title IX
23 and sections 100051 and 100052 of Public Law 119–21
24 and, if such amounts have been depleted, amounts appro-
25 priated pursuant to section 1304 of title 31, United States
26 Code. Section 2675(a) of title 28, United States Code,

1 shall not apply to a civil action authorized under this para-
2 graph. Notwithstanding any other provision of law, in
3 cases authorized under this paragraph, a plaintiff may
4 seek punitive damages. This paragraph shall constitute a
5 waiver of sovereign immunity of the United States with
6 respect to U.S. Customs and Border Protection and U.S.
7 Immigration and Customs Enforcement for any claim
8 brought under this section. Nothing in this paragraph may
9 be construed to limit or preclude any legal, equitable, or
10 other remedy that is otherwise available against an indi-
11 vidual officer, agent, or other person.”.