

117TH CONGRESS
1ST SESSION

S. 858

To establish criminal penalties for aliens who fail to depart before the
expiration of their visas.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

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

A BILL

To establish criminal penalties for aliens who fail to depart
before the expiration of their visas.

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 “Preventing Visa
5 Overstays Act”.

1 **SEC. 2. CRIMINAL PENALTIES FOR ALIENS WHO FAIL TO**
2 **DEPART FROM THE UNITED STATES BEFORE**
3 **THE EXPIRATION OF THEIR VISAS.**

4 (a) IN GENERAL.—Section 274D of the Immigration
5 and Nationality Act (8 U.S.C. 1324d) is amended to read
6 as follows:

7 **“SEC. 274D. PENALTIES FOR FAILURE TO DEPART.**

8 “(a) PROHIBITED CONDUCT.—It is unlawful for any
9 alien who is subject to a final order of removal—

10 “(1) to willfully fail or refuse—

11 “(A) to depart from the United States pur-
12 suant to such order;

13 “(B) to make a timely application in good
14 faith for travel or other documents necessary
15 for departure; or

16 “(C) to present for removal at the time
17 and place required by the Secretary of Home-
18 land Security; or

19 “(2) to conspire to or take any action designed
20 to prevent or hamper the alien’s departure pursuant
21 to such order.

22 “(b) CIVIL PENALTIES.—Any alien who violates sub-
23 section (a) shall pay a civil penalty of not more than \$500
24 to the Secretary of Homeland Security for each day the
25 alien remains in violation of such subsection.

1 “(c) CRIMINAL PENALTIES.—Any alien who is re-
2 quired to depart from the United States as a result of
3 the expiration of the alien’s visa and fails to depart the
4 United States within the prescribed period shall be fined
5 under title 18, United States Code, imprisoned for not
6 more than 1 year, or both.

7 “(d) RULE OF CONSTRUCTION.—Nothing in this sec-
8 tion may be construed to diminish or qualify any penalties
9 to which an alien may be subject for activities proscribed
10 under section 243(a) or under any other section of this
11 Act.”.

12 (b) CLERICAL AMENDMENT.—The table of contents
13 for the Immigration and Nationality Act (8 U.S.C. 1101
14 note) is amended by striking the item relating to section
15 274D and inserting the following:

“Sec. 274D. Penalties for failure to depart.”.

