

To the office of U.S. Senator Cory A. Booker

Re: S 4786 (119th Congress), Governors' Right to Inspect Act of 2026 • Latest action (2026-06-15): Read twice and referred to the Committee on Homeland Security and Governmental Affairs.

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Inspector General Access and State Notification Act for Immigration Detention Facilities

The measure, as described from the official record: Allow state governors to inspect federal immigration detention facilities in their states for health and safety conditions and require reports to Congress, with the aim of improving oversight and accountability.

THE PROPOSAL

Section 1. Coordination and Access. The Secretary of Homeland Security shall establish a program to permit the Governor of a state in which a federal immigration detention facility is located, or the Governor's designee, to conduct announced inspections of the health and safety conditions of that facility. Inspections shall take place no more than once per calendar year per facility, unless an emergency condition is reported. Prior to each inspection, the Governor's office must submit a written request to the facility director at least 14 days in advance, specifying the date, time, and scope. The facility director may reschedule the inspection to a date within 30 days if the original date would substantially interfere with ongoing law enforcement operations, security procedures, or medical emergencies. The inspection shall be limited to physical plant conditions, sanitation, food and water quality, medical care availability, and freedom from abuse, and shall not involve access to individual detainee files, operational security, or personnel interviews without consent and a federal monitor present.

Section 2. Reporting. Within 90 days after the inspection, the Governor's office shall submit a written report of findings to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Homeland Security of the House of Representatives. The report shall include only findings related to health and safety, and may include recommendations. The Secretary of Homeland Security may submit a response to the same committees within 30 days of receipt.

Section 3. Federal Oversight. The Inspector General of the Department of Homeland Security shall receive a copy of each state report and shall review it for consistency with federal standards. The Inspector General may conduct an independent investigation if the state report raises credible evidence of imminent danger to life or health.

Section 4. Funding and Sunset. This Act authorizes \$5 million per fiscal year from the general fund of the Treasury for the Department of Homeland Security to administer the coordination and monitoring program. The authority under this Act shall expire five years after the date of enactment. Congress shall reauthorize only after review of the reports and coordination

outcomes.

Section 5. Effective Date. This Act shall take effect 180 days after enactment.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	General fund of the Treasury, authorized as direct spending for DHS coordination and oversight.
Funding Amount	\$5 million per fiscal year for 5 years.
Sunset Years	5 years
Oversight Body	Inspector General of the Department of Homeland Security.
Enforcement Mechanism	If a state conducts an inspection outside the terms (unannounced, too broad, interferes with operations), the Secretary of Homeland Security may suspend that state's access until compliance is certified. A state may seek judicial review only for arbitrary and capricious suspension.
Effective Date	180 days after enactment.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 18 (Necessary and Proper Clause) — Congress may establish conditions for federal facility oversight.
- Supremacy Clause (Article VI, Clause 2) — state inspections cannot interfere with federal operations.
- Tenth Amendment — powers not delegated to the United States are reserved to the states respectively; this bill provides a cooperative state role without commandeering.

Concerns with the measure as written:

- Potential interference with federal enforcement discretion under the plenary power over immigration (*Arizona v. United States*).
 - Risk of violating the Supremacy Clause (Article VI, Clause 2) if state inspections impede federal operations.
 - Lack of explicit coordination mechanism could lead to operational conflicts.
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WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Honors Democratic priorities: transparency, health and safety oversight of detention conditions, state role in protecting human rights. Honors Republican priorities: limited federal preemption, state oversight, modest cost, sunset, and explicit protection of federal enforcement operations from disruption.

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