



OOD
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Effective: January 30, 2025

To: All of EOIR
From: Sirce E. Owen, Acting Director
Date: January 30, 2025

LAKEN RILEY ACT

PURPOSE:	To provide guidance on the newly-enacted Laken Riley Act
OWNER:	Office of the Director
AUTHORITY:	8 C.F.R. § 1003.0(b)
CANCELLATION:	None

On January 29, 2025, President Donald Trump signed the Laken Riley Act into law. Pub. L. 119–1. The Laken Riley Act amends the Immigration and Nationality Act (INA) to provide an additional category of aliens who are subject to mandatory detention. This Policy Memorandum provides guidance on provisions of the Laken Riley Act directly relevant to EOIR operations.

Specifically, the Laken Riley Act amends the categories of aliens subject to mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c), by adding an additional category at INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E), to require the Secretary of Homeland Security to detain any alien who:

- (i) is inadmissible under paragraph (6)(A), (6)(C), or (7) of section 212(a); and
- (ii) is charged with, is arrested for, is convicted of, admits having committed, or admits committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.

The Laken Riley Act further clarifies that, under the mandatory detention category at INA § 236(c)(1)(E), 8 U.S.C. § 1226(c)(1)(E), the terms “burglary,” “theft,” “larceny,” “shoplifting,” “assault of a law enforcement officer,” and “serious bodily injury” “have the meanings given such terms in the jurisdiction in which the acts occurred.” INA § 236(c)(2), 8 U.S.C. § 1226(c)(2).

The Department of Homeland Security (DHS) initially determines whether an alien is subject to mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c), and Immigration Judges cannot redetermine the conditions of custody imposed by DHS with respect to aliens in removal proceedings subject to mandatory detention. 8 C.F.R. § 1003.19(h)(2)(i)(D). However, an alien subject to mandatory detention may seek a determination from an Immigration Judge regarding

whether the alien is “properly included” in a mandatory detention category. *See* 8 C.F.R. § 1003.19(h)(2)(ii); *Matter of Joseph*, 22 I&N Dec. 799 (BIA 1999). Accordingly, all Immigration Judges and Appellate Immigration Judges should ensure that the provisions of the Laken Riley Act are properly applied to any relevant custody-related determinations.

The Laken Riley Act also amended the judicial review provision at INA § 236(e), 8 U.S.C. § 1226(e). The provision as amended provides that no court “may set aside any action or decision by the Attorney General” under INA § 236, 8 U.S.C. § 1226, “regarding the detention of any alien or the revocation or denial of bond or parole.” INA § 236(e), 8 U.S.C. § 1226(e).

The Laken Riley Act made further amendments to other provisions of the INA that do not directly address EOIR operations. Nevertheless, EOIR employees are encouraged to review the full text of the Laken Riley Act for additional information.

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Please contact your supervisor if you have any questions.