

Protect Citizens and Residents from Unlawful Raids and Detention Act

In recent months, Immigration and Customs Enforcement (ICE) has dramatically stepped up interior enforcement efforts and immigrant communities face the threat of raids, deportation and detention with little chance of relief. Inadequate due process protections in our current law and a failure by the federal government to guarantee protections have led to the following crisis:

- U.S. citizens, the mentally ill, children and other vulnerable individuals who should not be in ICE custody have been mistakenly detained.
- ICE officials have entered private homes in some residential raids without a warrant and questioned individuals about their immigration status.
- Mothers responsible for caring for their small children have been detained and transferred to detention facilities thousands of miles away from their families and attorneys.
- Workers were retaliated against for exercising their rights to organize in the workplace.

This bill would establish minimum standards of treatment for U.S. citizens, lawful permanent residents and immigrants who are impacted by immigration enforcement operations. This bill will ensure that immigration enforcement complements labor enforcement. It requires ICE to report any labor violations that are discovered during a raid to the appropriate government labor or employment rights agency and ensures that detained workers are not removed from the country until after that agency has had the opportunity to determine whether legal proceedings against the violating employer are appropriate. In addition, the bill takes important steps toward creating a more humane detention and removal system by enhancing the Department's cost-saving alternatives to detention programs and by ensuring the Department's own detention standards for the treatment of immigrant detainees are followed.

This proposal includes the following:

1. Protections for U.S. Citizens, Lawful Permanent Residents and Immigrants during Immigration Enforcement Operations

The proposal establishes minimum standards of due process for immigration enforcement operations. The proposal would ensure detainees are advised of the right to access counsel and the availability of free legal services from non-profit service providers. The Department of Homeland Security would be required to provide a notice of charges upon detaining an individual. Detainees would have access to telephones. Department officials would be trained regarding due process protections available under current law. The proposal would require DHS agents to determine whether individuals arrested in raids have dependent children.

For work site operations, the proposal would require DHS to provide notice to state and local child welfare agencies prior to conducting raids and allow social service workers to screen individuals arrested during raids for humanitarian concerns. The Department would be required to provide a toll-free number to allow family members to locate their family members who are impacted by raids.

2. Provisions to ensure that immigration enforcement at the worksite complements, rather than undermines labor law enforcement.

Under the current system, many employers knowingly hire undocumented workers whom they believe will be reluctant to hold them accountable for labor law violations. It is common practice for these same employers to use the existence of the employer sanctions scheme to threaten undocumented workers with deportation if they do indeed complain about deplorable working conditions. This vulnerability is a weakness undermining the broader labor market. When some workers are easy to exploit, the conditions

of all workers suffer because of “race to the bottom” competition and because opportunities for collective action by workers are undermined. Eliminating loopholes in the law will significantly reduce the incentive to circumvent immigration laws to employ immigrant workers at lower wages and in substandard conditions, and at the same time improve the working conditions of *all* workers.

This bill would ensure that prior to any enforcement activity ICE determines whether any labor dispute has been registered against the employer, and if so that they take appropriate steps to coordinate any open investigation with the Department of Labor. When ICE engages in worksite enforcement actions, this bill will ensure that any labor violations that are discovered are reported to the appropriate government labor or employment rights agency and that detained workers are not removed from the country until after that agency has had the opportunity to interview them to determine whether it would be appropriate to begin legal proceedings against the violating employer.

3. Detention Reform: Ensuring all detainees including USCs and LPRs are treated humanely

Explosive growth in the numbers of non-citizens in immigration detention across the country has resulted in inconsistent conditions of confinement and repeated incidents of detainee abuse. Though federal immigration authorities adopted generalized detention standards in 1998 and 2000, these standards have not been consistently enforced. Despite ICE’s monitoring of conditions, widespread reports of abuse persist.

This proposal requires the Secretary to adopt new regulations governing the treatment of detainees. These regulations must be based upon the recommendation of a detention advisory committee comprised of agency and outside experts and must meet certain minimum requirements.

4. Alternatives to Detention and Parole for Vulnerable Populations: A more cost effective approach to detention

This legislation establishes “alternatives to detention” programs. This program is a more humane and cost-effective than traditional penal-style detention for individuals who are currently in court proceedings. This proposal would ensure detainees appear at their immigration court hearings through careful individual and group screening, intensive community-based supervision and monitoring, and the provision of services, information and education about their legal obligations. It would also require DHS to contract with available non-governmental entities to screen eligible participants and provide services and information.

This proposal establishes procedures for vulnerable populations encountered during immigration raids to be considered for release. An initial decision on whether to detain a non-citizen would be made by DHS within 72 hours of the noncitizen’s detention and an Immigration Judge could review the detention. In deciding whether to detain the individual, DHS and the Immigration Judge would consider whether the person poses a flight risk or risk to public safety or national security; whether he/she is likely to appear for immigration proceedings; and other relevant factors. The DHS Secretary would have the discretion to release individuals in mandatory detention for humanitarian reasons.

5. DHS Accountability

The bill would require reporting on current enforcement practices and the harmful impact on U.S. citizens, lawful permanent residents and immigrant communities. The bill also creates an ICE Ombudsman to investigate complaints, assist constituents in resolving complaints and recommend personnel actions to DHS.