

May 20, 2024

Subject: Vote NO on S.4361 the Border Act of 2024



The ACLU strongly recommends a NO vote on cloture the motion to proceed on S.4361, the Senate Border Act of 2024, which dramatically changes our immigration system by denying vulnerable people seeking safety even the opportunity to apply for asylum. The ACLU opposed the previous version of this bill, the then-bipartisan H.R 815, which linked devastating changes to our nation’s asylum and immigration system to unrelated funding for foreign assistance, believed by many to be a critical national security priority. The ACLU now also opposes this successor bill, which trades away core due process and humanitarian protections for nothing and urges a No vote on cloture on the motion to proceed.

This bill is widely expected to fail. The lead Republican negotiator has indicated that he will not vote for it this time, and Senator Schumer wrote in his Dear Colleague letter that he expects some Democrats to vote against it as well. This bill probably will not muster majority support, let alone the 60 votes for cloture, and there consequently should be no pressure on Senators to vote for bad policy that shatters fundamental protections for vulnerable people as well as the longstanding recognition that we need a comprehensive solution to our broken immigration system.

As detailed in our [bill analysis](#), this bill would eviscerate our asylum system by eliminating critical and longstanding due process protections like judicial review, rushing people through an expedited asylum process at a significantly higher legal standard and with new mandatory bars at the screening stage, and excluding many people from even seeking the protection of asylum when the new expulsion power is in effect, no matter how meritorious their claims may be. This dangerous new expulsion system— like Title 42 before it— will arbitrarily cut people off from protection, lead to more chaos and confusion at our side of the southern border, and feed human trafficking on the other side. Many people are already waiting many weeks or months for a scarce port appointment in dangerous conditions; as the Title 42 experience demonstrated, shutting down the border will only leave more people in danger and with no reason to wait for a port appointment.

Once again, this is also an enforcement-heavy bill that reinvests in President Trump’s ineffective border wall, which has already done major damage to natural resources and communities in the U.S.-Mexico border region. It also heavily invests in expanded immigration detention and invasive surveillance technology; the unprecedented \$1.67 billion for immigration detention (on top of the \$1.2 billion Immigration and Customs Enforcement received through

FY24 Appropriations) and \$1.29 billion for monitoring and surveillance will impact immigrants and mixed-status families throughout the United States, well beyond the border.

And just like the last time, this legislation is being rushed through without committee hearings or meaningful review and consideration in the intervening months since its predecessor; and yet it offers no meaningful solutions to improve port processing and court backlogs.

The ACLU shares the perspective of many that our immigration system is woefully lacking and requires an overhaul to effectively manage the demands it faces. We also strongly support real immigration reform that would provide pathways to citizenship for long-time residents, Dreamers, and other immigrants who contribute to our communities. We can meet the needs of the moment through a balanced approach to the border that improves processing and supports receiving communities while also expanding protections and pathways for longtime residents. We urge Senators who believe in that vision not to put themselves on record in support of harsh, enforcement-focused policies that abandon those fleeing violence and pit our communities against each other.



Sincerely,

A handwritten signature in blue ink that reads "Mike Zamore". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mike Zamore
Nation Director of Policy and Government Affairs