



June 20, 2018

Re: Vote **NO** on Border Security and Immigration Reform Act of 2018

Dear Representative:

The American Civil Liberties Union (ACLU), on behalf of our more than two million members and supporters, strongly urges you to **vote NO on the Border Security and Immigration Reform Act of 2018**, to be introduced by Speaker Paul Ryan. We expect a vote on the bill as early as Thursday, June 21, 2018.

Make no mistake, this bill—even as revised—will **not** stop family separation. Moreover, it purports to address the uncertainty faced by Dreamers, but in fact provides limited legal protection to DACA-eligible individuals. The bill also forces drastic cuts to legal immigration, including termination of the diversity visa program and prohibition of U.S. citizens from reuniting with their married adult children and siblings abroad.

Worse still, the bill expands the dragnet of detention and deportation of immigrants and ramps up the administration's unrelenting enforcement machinery in ways that raise serious constitutional concerns. It also authorizes the government's reach into the views of visa applicants via social media, creating constitutional issues for the free speech and expression, due process, and privacy of those living in the United States, including U.S. citizens. This bill is a non-starter; it does not address crisis after crisis created by the Trump administration—from its rescission of DACA to its horrific family separation policy.

To our millions of members and supporters, it is unconscionable that some Members of Congress are trying to use family separation and Dreamers' lives to jam through a radical and divisive set of immigration proposals. This bill is not a compromise. It embraces the White House framework and raises several serious constitutional and policy concerns, outlined below.

I. Dreamer Protections are *Worse* than the White House Framework

The bill provides extremely limited legal protection to DACA-eligible individuals by creating a long and confusing path to citizenship. Perhaps most troubling is that all Dreamer protections are contingent upon the administration receiving \$23 billion in border enforcement, including over \$16.5 billion for a border wall. If even one penny is rescinded or reallocated toward another purpose, DACA-eligible recipients will no longer be allowed to adjust their status. It is literally holding Dreamers ransom for Trump's border wall.

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II. It Will Not Stop Family Separation—Instead Expanding Family Prisons and Undermining Protections for Vulnerable Populations

The bill will not stop this administration from taking children from their families. It does nothing to address Sessions' zero tolerance policy, it does nothing to stop CBP officers from taking kids from parents who come to the border seeking asylum, and it does nothing to reunite kids with parents who have been convicted as a result of the zero tolerance policy.

Notably, even if this bill had been law five months ago, it would not have prevented ACLU's plaintiffs in our family separation litigation from being separated from their children. The bill instead uses family separation to justify dismantling critical protections against the jailing of children and expansion of family prison camps.

Moreover, the bill eliminates the presumption that babies and children should not be jailed. The bill also eliminates important protections for children: it makes it easier to deport children more quickly, detain them longer, and remove critical licensing requirements that ensure children and families are not held in abusive conditions.

Finally, it undermines protections for vulnerable populations, including raising the credible fear standard for asylum seekers and eliminating protections under the Trafficking Victims Protection Reauthorization Act (TVPRA), which currently ensures children aren't returned to dangerous or deadly conditions.

III. Allocates Billions of Dollars for Even More Border Militarization and Surveillance

The bill authorizes Congress to spend over \$23 billion for Trump's border wall and for further surveillance and militarization along the border. CBP has a quota for the number of Border Patrol agents it must maintain—this bill adds approximately 5,000 new agents with nothing about the agency's actual needs (border crossings are at a near all-time low by DHS's own accounts) or any additional oversight or accountability.

In addition, the bill would dramatically increase surveillance in the border zone - ramping up the use of drones and other surveillance technologies - with virtually no consideration of the privacy impacts on residents who live in the border zone. As written, the bill fails to limit or prohibit surveillance that jeopardizes the privacy of border residents, nor does it provide avenues for remedies or redress in cases where they are adversely impacted. Moreover, the bill's ambiguous language could be used by the government to justify subjecting Americans to face recognition at ports of entry, despite the fact that Congress has never before explicitly authorized such conduct. Thus, immigrants and U.S. citizens alike could be forced to submit to biometric matching simply as a condition of travel.

IV. The Act Expands the Deportation Machinery, Chips Away at Constitutional and Human Rights, and Isolates Immigrants from their Communities

The proposal repackages many pieces of the controversial and draconian White House immigration framework. It would significantly ramp up interior enforcement and deportations. For example, it expands state and local law enforcement entanglement with federal immigration law.

It also increases a lengthy list of grounds for removal that prohibit immigration judges from considering each case on the merits—and instead requiring mandatory deportation. Consequently, judges cannot even weigh military service, family ties, community contributions, or even the seriousness or length of time served for criminal offenses. Because there is no statute of limitations, long-time residents with decades-old convictions could be detained and deported. This undermines notions of fairness, rehabilitation, and second chances that are now common in the criminal justice context.

The Act would also undermine the Supreme Court’s decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), which sets forth important limits on the government’s ability to indefinitely detain immigrants and upholds fundamental liberty protections in our Constitution. The Act also expands mandatory detention—leading to skyrocketing detention costs, which already costs U.S. taxpayers \$2 billion each year.

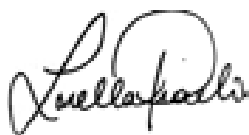
The bill also allows immigration officers label young immigrants as “gang members” with little to no evidence—simply a “reason to believe” a child is a “gang member” is enough to falsely label and deport a child who could have been fleeing gang violence in his home country. Moreover, this misguided approach embraces racial profiling and criminalization of youth of color.

V. Conclusion

The Border Security and Immigration Reform Act is no compromise bill. The Act creates a legislative framework to target vulnerable populations at the expense of the Constitution, Dreamers, and families. The provisions outlined above are just a handful of the many draconian and troubling provisions in the bill—and there are many more

The ACLU urges the House of Representatives to vote **no** on the Border Security and Immigration Reform Act of 2018. For more information, please contact ACLU Federal Immigration Policy Counsel, Madhu Grewal (202-675-2303; mgrewal@aclu.org).

Sincerely,



Lorella Praeli
Director of Immigration Policy & Campaigns



Madhu Grewal
Federal Immigration Policy Counsel