

May 17, 2013

The Honorable Patrick J. Leahy
Chairman
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Charles E. Grassley
Ranking Member
United States Senate
Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Oppose Senator Grassley's Amendment 53 to S.744

Dear Chairman Leahy, Ranking Member Grassley, and Members of the Committee:

We, the undersigned organizations committed to keeping families together and respecting the dignity of all people regardless of their immigration status, urge you to oppose Senator Grassley's Amendment 53 to Title III of S.744, the Border Security, Economic Opportunity, and Immigration Modernization Act.

Amendment 53 would allow nearly all categories of immigrants to be separated from their families and locked up in jail-like conditions, with no time limit or chance for a bond hearing, even if they had no criminal record—all because of their immigration status. The amendment would allow detention of these immigrants for the entire time their immigration court case was going on, which could be months or even years.

Even once their case is over, people who are stateless or come from countries that do not accept deportees from the U.S. can be kept in detention indefinitely under Amendment 53, possibly for their entire lives. The Supreme Court in *Zadvydas v. Davis* has said that indefinite detention of these individuals raises serious constitutional concerns.¹ Whether you're an immigrant or a citizen, America is not a country that locks you up and throws away the key.

- Melida Ruiz, a 52-year-old grandmother, was detained for seven months at Monmouth County Jail in New Jersey before she was finally released after winning her immigration case. Ms. Ruiz won her case by showing that she needed to stay to care for her U.S. citizen mother who has Alzheimer's disease, her 17- and 11-year-old daughters, and her 5-year-old granddaughter. But because of her immigration status, Ms. Ruiz was separated from her family for seven months.
- Victoria (a pseudonym) is a domestic violence survivor from Mexico. She was detained for nearly two years, while her immigration case was pending, before she was given a bond hearing. Thanks to the bond hearing and the possibility of monitoring as an alternative to detention, Victoria is now home with her 9-year-old U.S. citizen daughter.

Under Senator Grassley's amendment, Victoria might still be in detention, two and a half years after she was detained. Senator Grassley's amendment would deprive immigrant detainees like Victoria of the right to an individual bond hearing, so they would not have the chance to

¹ 533 U.S. 678 (2001).

challenge their detention or even see a judge at all until possibly months after they were taken away from their families and locked up in a jail or jail-like facility. Lower courts have held that prolonged detention without a bond hearing is likely unconstitutional.² Senator Grassley's amendment also removes immigration judges' authority to choose alternatives to detention, like monitoring and weekly check-ins, which are much less costly and allow people like Victoria to remain in their homes with their families during their immigration case.

Senator Grassley's amendment is not necessary to protect public safety. As Justice Scalia noted in *Clark v. Martinez*, truly dangerous individuals—whether immigrants or citizens—can already be detained under existing law.³ The USA PATRIOT Act of 2001 authorizes the detention of noncitizens who present a danger to national security and cannot be removed.⁴

For these reasons, we urge you to oppose Senator Grassley's Amendment 53. Please do not hesitate to contact Joanne Lin at jlين@dcacul.org or (202) 675-2317 with additional questions or concerns.

Sincerely,

Adhikaar

America's Voice

American Civil Liberties Union

American Immigration Lawyers Association

American Muslim Voice Foundation

API Equality - Northern California

Asian American Justice Center, member of Asian American Center for Advancing Justice

Asian Law Alliance

Asylum Program of Arizona (a program of Catholic Social Service of Tucson)

Blacks in Law Enforcement of America

Brother David Darst Center

California Immigrant Policy Center

² See, e.g., *Diop v. ICE/Homeland Security*, 656 F.3d 221 (3d Cir. 2011); *Ly v. Hansen*, 351 F.3d 263 (6th Cir. 2003); *Rodriguez v. Robbins*, ___ F.3d ___, 2013 WL 1607706 (9th Cir. 2013); *Diouf v. Napolitano*, 634 F.3d 1081 (9th Cir. 2011); *Casas-Castrillon v. Dep't of Homeland Sec.*, 535 F.3d 942 (9th Cir. 2008); *Tijani v. Willis*, 430 F.3d 1241 (9th Cir. 2005).

³ *Clark v. Martinez*, 543 U.S. 371, 386 n.8 (2005).

⁴ See 8 U.S.C. § 1226A.

Casa de Esperanza

CAUSA, Oregon's Immigrant rights Coalition

Coalition for Humane Immigrant Rights of Los Angeles

Defending Dissent Foundation

Detention Watch Network

DRUM - Desis Rising Up & Moving

Grassroots Leadership

Human Rights First

Illinois Coalition for Immigrant and Refugee Rights

Immigration Equality Action Fund

Japanese American Citizens League

Justice for Immigrants Coalition

La Raza Centro Legal

Lutheran Immigration and Refugee Service

Mexican American Legal Defense and Educational Fund

Minority Executive Directors Coalition

National Asian Pacific American Women's Forum (NAPAWF)

National Center for Transgender Equality

National Council of La Raza (NCLR)

National Employment Law Project

National Immigrant Justice Center

National Immigration Project

Out4Immigration

Pangea Legal Services

PCUN, Oregon's Farmworkers Union

Peace and Justice Committee of Lake St. Church of Evanston

Political Asylum Immigration Representation Project

Providence Youth Student Movementq

Provincial Council of the Clerics of St. Viator (Viatorians)

Rights Working Group

Sisters of Charity of the Blessed Virgin Mary

Southeast Asia Resource Action Center

St.Matthew IMMIGRATION DETENTION committee

THE Arab American Family Support Center

The Leadership Conference on Civil and Human Rights

Vermont Immigration and Asylum Advocates

Women's Refugee Commission