

Expansion of Criminal Grounds Undermine Fair & Inclusive Pathway to Citizenship

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The Immigrant Defense Project promotes fundamental fairness for immigrants accused or convicted of crimes. IDP seeks to minimize the harsh and disproportionate immigration consequences of contact with the criminal justice system by working to transform unjust deportation laws and policies; and educating and advising immigrants, their criminal defenders, and other advocates.

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The National Immigration Project provides legal assistance and technical support to immigrant communities, legal practitioners, and advocates working to advance the rights of noncitizens. NIP seeks to promote justice and equality of treatment in all areas of immigration law, the criminal justice system, and social policies related to immigration.

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The Immigrant Legal Resource Center provides legal trainings, educational materials, and advocacy to advance immigrants' rights. ILRC's mission is to work with and educate immigrants, community organizations, and the legal sector and advocate for better policies in immigration law, health care, community safety, and other issues that affect immigrant communities.

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Fact Sheet

BACKGROUND: The Senate immigration bill puts forth a complicated and expansive list of crime-related obstacles to pursuing the path to citizenship. These bars will automatically disqualify and prevent thousands, if not millions, of deserving individuals from either pursuing or maintaining legal status, and will apply at all stages of the multi-year legalization process. Efforts to expand these already harsh exclusion grounds would undermine the goal of bringing immigrants out of the shadows and significantly curtail due process. Countless individuals will be denied basic due process safeguards such as an individualized hearing before a judge to present the circumstances of their case.

In certain limited circumstances an immigration judge can grant a waiver, which is like a “pardon.” As a rule, waivers are not automatic and not granted easily. Our current immigration laws contain a handful of waivers that apply in very limited cases. Many criminal convictions disqualify someone from even asking for a waiver. Even if someone is eligible, waivers are tough to get. For example, even though deportation levels are currently at an all time high – nearly 400,000 per year – statistics show that 9 out of 10 people don’t get relief from deportation through our immigration courts. This means that immigrants who have been accused or convicted of a crime, including people who have been granted asylum, Temporary Protected Status, or TPS, or a green card, often have no opportunity to stay in the country with their families.

THE PROBLEM: The ever-expanding list of criminal bars risks funneling more people into deportation instead of the path to citizenship.

The Senate immigration bill applies the same extreme model that exists under current immigration law to its legalization program, creating dozens of bars to eligibility that have the potential to keep millions of immigrants off the pathway to citizenship. The bill and many proposed amendments unnecessarily add several new harsh grounds of deportation.

A person applying for legalization will face disqualification bars for one state or federal felony conviction (except certain narrowly-defined status-based offenses); an “aggravated felony” conviction, which includes hundreds of offenses that are neither aggravated nor felonies; three or more misdemeanor convictions (except minor traffic offenses and certain narrowly-defined status-based crimes); certain foreign convictions; and gang related conduct or convictions.

With only a few minor exceptions, a person may be barred from accessing the path to citizenship with either one felony or three misdemeanors. There is an additional disqualifying bar in the bill that disqualifies people convicted of offenses that are so-called “crimes of moral turpitude” under current immigration law. This category would disqualify people who were convicted of the vast majority of misdemeanor offenses. The three misdemeanor bar would therefore mainly additionally cover regulatory offenses and other very minor offenses, many of which people receive through tickets. For example:

- Littering is a misdemeanor in most states;



- Not picking up after your dog in a public park is a misdemeanor in New York;
- Failing to separate recyclables is a misdemeanor in some localities;
- Causing your tires to screech is a misdemeanor in Kansas; and
- Driving with a valid out-of-state license is a misdemeanor in California if you've been in the state for more than 10 days.

Some amendments propose letting a single or second misdemeanor, such as the ones listed above, disqualify someone from the path to citizenship and consequently render them deportable.

THE SOLUTION: Limits must be made to disqualification categories and judicial discretion must be strengthened and expanded in order to secure fair and inclusive immigration reform.

Everyone must have the opportunity to have their individual circumstances considered before a judge, including the nature of the offense, how long ago it was committed, rehabilitation, family ties and U.S. military service.

SUPPORTING OPINIONS

Reform legislation must amend these harsh criminal bars and ensure that so-called aggravated felonies no longer trigger mandatory detention and deportation. There should be no additional aggravated felony offenses in the reform bill. It is inappropriate and unjust for immigration penalties to far surpass the criminal sanctions for these offenses. -Robert Johnson, Anoka County, Minn., attorney from 1983 through 2010; former president of the National District Attorneys Association and the Minnesota County Attorneys Association.

Mandatory deportation does not allow judges or prosecutors an opportunity to consider whether or not a second chance is warranted. We must have the ability to judge which crimes merit which consequences.— Steven Jansen, Vice-President of the Association of Prosecuting Attorneys.

I have been a supporter of immigration reform and a pathway to citizenship after having previously been on the other side of the issue, and having asked for additional powers under 287(g) many, many years ago. Ultimately, for me, recognizing the fact that we have a broken immigration system is critical, that these are human beings, that there is dignity in human beings. -Mark Curran, Sheriff, Lake County, IL.

Stories

Ivon

Ivon is a DREAMer who came to the United States from Mexico when she was 15 years old. She has lived in Arizona with her parents and sisters since that time. After graduating from high school in Phoenix, she got engaged and planned to marry in March 2011. Ivon has always been very active in her church, which is where she met her husband. She and her husband now have a nine month-old U.S. citizen daughter named Zurisadai. The day before her wedding, Ivon was arrested at a worksite raid conducted by Sheriff Arpaio's Maricopa County Sheriff's Office. Ivon was detained and charged with using false documents, which is a felony under Arizona law. She has no previous criminal convictions.

Because Ivon came to the United States as a child, she was eligible to temporarily remain in the United States under the Deferred Action for Childhood Arrivals (DACA) program. She was working at the restaurant to save up money to pay for her DACA fees. Ivon is ineligible for DACA and legalization because of her felony conviction under Arizona law. She now faces deportation and permanent separation from her family.

Tomas

Tomas came to the United States from Guatemala in 1998 when he was 17 after his father was killed in a bus accident. Initially homeless, he hung out with other homeless youth as a way to survive. In 1999, he was convicted of drawing graffiti when a group of kids were caught late one night painting railroad cars. In 2000, he was convicted of possessing stolen property as he was trying to sell watches at a flea market that one of his friends had given to him. For the past ten years, Tomas has had steady work at a gourmet fish market in the city where he lives. He has been studying to get his GED at nights and is the coach of his 7 year-old son's soccer team. Under current proposed amendments to the bill, Tomas would be ineligible to pursue the path to citizenship and would have no opportunity for a judge to hear his individual life circumstances.

Dahlia

Dahlia came to the United States in 2005 from Lebanon to study at the university. She met a fellow Lebanese student, Sahil, and they fell in love and began living together. He continued his studies, but Dahlia dropped out of university when she became pregnant with their child and needed to work to support them. In 2007, Sahil graduated and returned to Lebanon to join his family's business, leaving Dahlia and their daughter behind.

Dahlia was arrested and convicted of disorderly conduct when Sahil called the police on her for "making a scene" at a restaurant the week prior to his departure. In 2008, Dahlia was convicted of theft for taking a pair of rubber boots for her daughter from a Salvation Army thrift store. With the help of a local church, where she is now an active member, Dahlia was able to stabilize her life and is working as a housecleaner to provide for her and her daughter. Under current proposed amendments to the bill, Dahlia would be ineligible to pursue the path to citizenship and would have no opportunity for a judge to hear her individual life circumstances.

DISCRIMINATORY GANG PROVISIONS ENFORCE GUILT BY ASSOCIATION AND NOT CONVICTION

FACT SHEET

BACKGROUND: Gang databases are the tool law enforcement generally uses to assess gang membership and activity. Gang databases label individuals as gang members because the individual resides or associates with a family member known to be in a gang or lives in a neighborhood where there is a high concentration of gangs and gang members.

These databases face mounting criticism for their use of inconsistent definitions, improper documentation procedures and inadequate review. The databases store photos and personal information of individuals who are suspected of gang activity but may actually have no involvement whatsoever with a gang.

THE PROBLEM: The bill's current provisions create a new ground of deportability for suspected gang members that will depend on flawed gang databases to determine gang membership. By relying on these databases, these proposals impose guilt by association and collective punishment by targeting people not for their own individual culpable conduct, but for their association with groups considered to be dangerous. The Senate bill creates new deportation grounds and legalization ineligibility grounds. These proposals make it very difficult to challenge and correct such mistakes of misidentification; permitting deportation based on information contained in these gang databases would invariably result in increased deportations of people who may have never even had contact with a gang or have long since left a gang and rebuilt their lives.

THE SOLUTION: Most states and the federal government already have laws that punish or enhance sentences for individuals suspected of being gang members, recruiting gang members, or committing crimes while in a gang. In addition, immigration laws already provide the government with the ability to deport individuals engaged in criminal activity. The Department of Homeland Security already uses its full discretionary power and prioritizes the use of its resources to target suspected gang members for deportation.

RELEVANT AMENDMENTS

Sen. Grassley's Amendment #43/Floor #1299 was considered by the Senate Judiciary Committee during the bill's markup and would replace and worsen the already egregious gang provisions in the Senate bill.



Update: 6/18/2013 The amendment was narrowly defeated in Committee, and has been filed for the floor.

Amendment #43/#1299 would:

- 1) Make it easier to be labeled a gang member by creating a new broad definition of criminal street gang that could sweep in political groups;
- 2) Substantially increase and shift the burden of proof on the person charged with the new provisions (“prove he did not know or reasonably should have known about the gang”);
- 3) Increase the likelihood that a person would be permanently blocked from legal status and/or deported if they fall within the ambit of this new ground;
- 4) Create new grounds of deportation that are primarily based on conduct, not convictions; and
- 5) Sweep in more minors, including those who are lawful permanent residents. Grassley’s amendment only exempts minors who are applying for legalization.

SUPPORTING OPINIONS

Santa Cruz County Chief Probation Officer Scott McDonald has expressed serious concerns that these proposals will directly undermine his County’s success in juvenile justice reform, which is a model now being replicated in 100 jurisdictions in 30 states and the District of Columbia. In a letter to the Senate Judiciary Committee he said,

[U]sing evidence based practices, our local reform efforts have resulted in cost savings in the millions, reduction of the juvenile hall population by more than half, and reduction of juvenile felony arrests by 48 percent and misdemeanor arrests by 43 percent, said Mr. McDonald.

He also stated that these provisions would lead to increased misidentification of youth as gang members: *[I]t is common for local police to take action against youth, especially in one area that is reputed to have gang members, if there is a belief that such youth are involved with gangs. Instead, we find that many youth are not gang members, but at-risk youth.*

The LA Times editorial board editorialized against the discriminatory gang provisions: *[B]ut some lawmakers...are backing a provision that goes too far, excluding immigrants who have no criminal history simply because their names appear in a database of gang members or on a gang injunction.* – L.A. Times editorial board, May 14, 2013

Youth of color will be unfairly and disproportionately affected because many live in inner-city neighborhoods or low-income communities that are more likely to have a high concentration of gangs.

Talking Points

- The current immigration bill creates provisions that will exacerbate existing problems of misidentification of gang members, including individuals who are no longer members and have long been rehabilitated, or have never even been in a gang. These provisions disproportionately target youth of color and would disqualify these individuals from legalization, or RPI status, and deport those who already have legal status.
- The bill's provisions impose guilt by association and collective punishment by targeting people not for their own individual culpable conduct, but for their associations with groups considered to be dangerous. For example, this provision could impact a person who resides with or associates with a family member known to be in a gang or lives in a neighborhood where there is a high concentration of gangs.
- Attempts to broaden the definition of "gang" for immigration purposes will have very serious consequences, including dramatically increasing unwarranted targeting of children and youth of color. At-risk youth run a greater risk of being wrongfully misidentified and prosecuted.
- These proposals make it very difficult to challenge and correct mistakes of misidentification. Gang databases face mounting criticism for their use of inconsistent definitions, improper documentation procedures and inadequate review. A person can be in a gang database without ever knowing about it, and most gang databases do not have accessible mechanisms for individuals to be removed from the database.
- These proposals diminish public safety in communities that experience gang violence. Individuals will be less likely to report crimes and gang violence in their communities because they will fear that any interaction with law enforcement will lead to deportation.

STORIES

Ronny, a 35-year old green card holder, was brought to the United States at the age of two. Ronny's parents are U.S. citizens and he is engaged to a U.S. citizen. In 2003, Ronny was arrested for a marijuana sale in Illinois. He pled guilty and was sentenced to 18 days in jail and two years of probation, which he successfully completed. This was Ronny's last criminal offense.

In July of 2012, immigration officers, in a joint operation with local authorities in DuPage County, Illinois, arrived at Ronny's home to arrest him and put him in deportation proceedings. Ronny discovered he was on a gang list, compiled by DuPage law enforcement. Ronny has never been in a gang, nor has he ever engaged in any gang-related activities, but he did grow up in a neighborhood where gang activity was prevalent and had friends who were associated with gangs.

Under this provision, Ronny could be considered a gang member and sentenced to permanent separation from his family.

***Name changed to protect identity.**

HARSH DUI PROVISIONS

FACT SHEET

BACKGROUND: The Senate bill contains a number of provisions that address DUIs. During mark-up, the Judiciary Committee added a new “aggravated felony” ground for DUIs. Legalization applicants and green card holders will face mandatory deportation if they trigger these provisions. An immigration judge or law enforcement will legally not be allowed to consider the individual circumstances of the person’s case, such as the seriousness of the offense, rehabilitation, family ties, and military service. It is not clear whether some of these provisions are retroactive, meaning that you can be deportable for long ago convictions.

THE PROBLEM: Individuals who committed drunk driving offenses years ago would be subject to deportation if they only committed one per se violation after the effective date. This will lead to the detention and deportation of individuals who pled guilty to drunk driving offenses decades ago, have never served jail time and have since built stable and productive lives in the United States. It also sweeps in lawful permanent residents, or green card holders, who have been contributing members of their communities.

THE SOLUTION: In order to address the risks to public safety by drunk driving, states have ensured that DUI offenses apply to a wide range of circumstances criminalizing both strict liability offenses based on chemical tests of blood alcohol content levels and offenses involving impairment and/or aggravating factors such as damage to persons or property. In the current bill, the failure to distinguish serious misconduct from statutory violations will have unconscionable results. For example, in most states an individual can be convicted for an “operating under the influence” offense without the vehicle being driven e.g. a person passed out in the car. This person will be treated the same as an individual who engages in dangerous driving with injury consequences.

RELEVANT AMENDMENTS

During the bill’s mark-up in the Senate Judiciary Committee, Sen. Cornyn filed Cornyn Amendment #3, which would bar legalization for anyone convicted of one DUI.

Update: 6/18/2013 Cornyn Amendment#3 is now included in the RESULTS Amendment.

TALKING POINTS

- The bill employs a “one-size-fits-all” approach to drunk driving offenses, treating all violations the same even if there is no damage to a person or property.
- The provisions provide a new “aggravated felony” ground of inadmissibility, barring the path to legalization, for undocumented individuals who are convicted of three or more offenses and a new “aggravated felony” deportation ground for legally present residents, such as green card holders. These grounds are mandatory bars to pursuing and maintaining legal status. An immigration judge or law enforcement will legally not be allowed to consider the individual circumstances of the person’s case, such as the seriousness of the offense, rehabilitation, family ties, and military service.
- Certain proposed amendments would mandate permanent exile for immigrants with one DUI conviction. No one should be banned from the country they call home and separated from their families for a mistake that the criminal justice system treats much less harshly.
- The criminal justice system recognizes the need for rehabilitation with DUI convictions. Drunk driving may be the result of alcohol's addictive effects, which is a public health issue that calls for treatment rather than permanent exile.

STORIES

An undocumented father who is responsible for his 19 year-old US citizen daughter who is slowly dying from a progressive, incurable, blood disorder would be barred from pursuing the path to citizenship under the Cornyn RESULTS amendment. He has been working and supporting his family while his wife, also undocumented, cares for their daughter, who is now in college, but whose condition is slowly worsening. People with this disorder rarely live past 20. His other children and stepchildren are U.S. citizens, legal permanent residents and Dreamers, one of whom is also in college. The father has one DUI from 1998, and no other criminal convictions. He would be eligible for legalization, if not for the Cornyn RESULTS amendment.

DOMESTIC VIOLENCE PROVISIONS HURT VICTIMS, TOO

FACT SHEET

BACKGROUND: Current immigration law already metes out harsh consequences to those who commit crimes, including domestic violence offenses.

The Senate bill contains provisions that specifically target individuals involved in domestic violence disputes for deportation.¹ Senators Grassley, Cornyn and Sessions introduced several amendments during mark-up that sought to enhance and expand penalties for those accused of committing or who are convicted of domestic violence offenses.

THE PROBLEM: If a survivor fears that in reporting abuse, he or she will be deported, they are much less likely to seek help from law enforcement. Domestic violence survivors also often reject policies that would remove their spouses or partners, an outcome that would be disastrous for families that rely on them for financial support. Victims also often face challenges with regard to language, misinformation, uncertainty about their legal rights and limited access to immigration attorneys, which leaves them all the more vulnerable to punitive policies that do not take these facts into consideration.

THE SOLUTION: The domestic violence grounds of deportation should be limited rather than expanded, as they only undermine the efforts of advocates fighting to end domestic violence. Discretionary mechanisms that will allow judges and immigration agents to review and assess all the circumstances in someone's case must be expanded; this is the only real way to ensure that the interests of domestic violence survivors and their families will be protected.

RELEVANT AMENDMENTS

During the bill's mark-up in the Senate Judiciary Committee, many amendments sought to expand deportation grounds for domestic violence. Most were defeated (except Cornyn Amendment #4). Many were re-filed on the Senate floor.

6/18/2013 Updates: Cornyn Amendment #3 included in RESULTS amendment. Grassley Amendment #46 filed.

Sen. Cornyn Amendment #3 and Sen. Sessions Amendment #22: These amendments automatically exclude individuals with several single misdemeanor convictions from either pursuing or maintaining legal status, and would prevent a judge from considering individual circumstances. These provisions

¹ The bill also adds a handful of additional protections for victims of crime and abuse. This factsheet does not address those beneficial provisions.



would exclude victims of domestic violence, someone who got into a bar fight, and someone with a single DUI. This amendment lacks any sense of proportionality, automatically and permanently excluding people from legalization for offenses that were often deemed punishable with only a small fine in criminal court.

Sen. Grassley Amendment #46: This amendment expands the new domestic violence inadmissibility grounds and fails to add adequate waivers to consider individual circumstances. Although the amendment was defeated during mark-up, the likelihood of its re-introduction during the Senate debate is high.

Sen. Cornyn Amendment #4: In the current bill, people with old deportation orders are allowed to apply for legalization if they meet a specific set of criteria. This amendment would bar individuals with old deportation orders and any criminal convictions from applying. This amendment specifically targets individuals with domestic violence convictions. A second-degree amendment passed.

SUPPORTING OPINIONS

156 groups that serve and advocate on behalf of victims of domestic violence, child and elder abuse, sexual assault, dating violence, and stalking sent a letter to the Senate Judiciary Committee during the bill's markup to address the domestic violence provisions:

...[W]e are concerned about immigration proposals that unnecessarily and imprudently increase the likelihood of deportation in domestic violence cases, expand grounds of inadmissibility or deportability related to domestic violence, or limit exceptions or waivers, because they threaten to harm survivors. Such provisions risk sweeping survivors into their scope and ignore the best interests of survivors and their children.

Current immigration laws already mete out harsh consequences to those who commit serious crimes – including domestic violence-related offenses – ratcheting up those consequences and limiting or foreclosing waivers also ramps up the risk that survivors will be harmed.

In other circumstances, notwithstanding a domestic violence conviction of an abuser, there may be dependent children or other family members who rely on that individual as the sole support for the family. There should be discretionary waivers for those subject to inadmissibility for domestic violence grounds in cases where not allowing the individual to remain in the United States would actually punish his or her children or spouse by subjecting them to extreme hardship.

TALKING POINTS

Adding deportation grounds for domestic violence offenses ignores the best interests of survivors and their children because it unnecessarily increases the likelihood of victims' deportation in domestic violence cases, expands the grounds of deportability, makes victims more vulnerable to detention, and limits mechanisms to consider each individual case. For these reasons, domestic violence and survivor groups have overwhelmingly opposed these so-called solutions and continue to oppose the reckless expansion of deportation grounds for domestic violence offenses.

STORIES

Cindy, a Taiwanese college student living in the United States, was arrested and charged with felony domestic violence charges for fighting off her attacker and biting his ear while she was being raped. After she was released pending trial, she spent time in a battered women's shelter, but still ended up being convicted. The jury determined that she had acted to defend herself, but the force that she used was greater than the assault. The jury found her guilty of felony domestic violence. In this particular state, felony domestic violence has an automatic sentencing of time in state prison. Not a U.S. citizen, Cindy could be subject to deportation after serving her prison time. Under the bill's current proposals, she would be vulnerable to mandatory detention and deportation.

EXPANDING HARSH PENALTIES FOR IMMIGRATION RELATED OFFENSES

FACT SHEET

BACKGROUND: Our immigration laws already impose civil and criminal penalties for a number of immigration and immigration-related offenses, including illegal entry and reentry, alien smuggling and immigration document fraud. The Senate immigration bill increases the criminal penalties for these status offenses. Some of the bill's statutes essentially re-define status related offenses; others target conduct that relates to immigration or nationality. Maximum penalties for all these crimes are radically expanded under the Senate bill.

THE PROBLEM: The Senate bill increases the criminal penalties for what are little more than status offenses, which further criminalizes the immigrant population and metes out harsh consequences that are wasteful, unjust, and unnecessary. Many of the amendments introduced will make it easier for people to get convicted for using fake documents in order to work or enter the country, and make the mandatory minimums for these crimes even harsher.

THE SOLUTION: People sacrifice so much to come to the United States to make a better life, sometimes to escape desperate poverty and violence. Many are families with children. They work hard, pay their taxes, and volunteer in their communities. Penalties for illegal reentry are already severe; the law should not be expanded or made harsher. Instead, these laws should be changed to reflect the underlying goals of bringing aspiring Americans out of the shadows and providing a pathway to citizenship. Punishing people with long prison sentences for trying to reunite with their families or work in the United States undermines these goals.

RELEVANT AMENDMENTS

BACKGROUND: A series of amendments were introduced that sought to worsen the Senate bill's provisions. Many of these amendments make it easier for people to get convicted for using fake documents in order to work or enter the country, and make the mandatory minimums for these crimes even harsher.

Several amendments expand the federal crimes for identity theft: Grassley Amendment #34 and Hatch Amendment #1.

6/18/2013 update: These amendments were re-filed as Grassley 1300 and Sessions 1334.



This amendment will punish people for using fictitious documents, even when no one's identity is stolen. Under this amendment, a person who uses a document that is not their own will be found guilty, even if the document was fictitious because it used fake numbers that never belonged to anyone else.

Congress already provides for significant civil and criminal sanctions for knowing possession and use of false documents. For example, it is a crime to (1) unlawfully use a Social Security number (42 U.S.C. § 408(a)); or to (2) possess or use of a false identification document (18 U.S.C. § 1546(a)). People who present false identification documents are already subject to serious immigration consequences. For example, a person with a conviction under 18 U.S.C. § 1546(a) who receives a prison sentence of a year or more imprisonment can be charged with an aggravated felony under 8 U.S.C. 1101(a)(43)(P) and, accordingly, be barred from nearly all forms of immigration relief.

These amendments create a new definition of ID theft contrary to the definition of "identity theft" widely accepted by and implicit in the statutory provision. The legislative history of this statute suggests that penalties were supposed to apply where the offender would know that the identity taken belongs to a real person. This amendment also threatens to impose aggravated identity theft penalties on individuals who present inaccurate credentials in an effort to protect their privacy through pseudonyms or anonymous activities.

This amendment will overturn the Supreme Court's 7-2 decision in *Flores-Figueroa v. United States*, 556 U.S. 646, 129 S.Ct. 1886, 173 L.Ed.2d 853 (2009). The punishment is wildly disproportionate to the offense. Individuals who know that the documents they are using are fictitious face the same punishment as people who have intended to steal another's identity, contravening the bedrock principle that punishment should be calibrated to culpability. This amendment will not punish people who steal someone else's documents, but will sweep in people who use made-up documents.

Flores-Figueroa stands for the proposition that individuals who use a fictitious identity document – rather than another person's document – are not guilty of a crime. This amendment would drastically expand this federal criminal statute to imprison people who use an entirely made-up identity. This not only wastes law enforcement resources on situations where no one's identity has been stolen, but will also ensnare large numbers of people who were simply trying to work to support their families.

These provisions could impact:

- 1) Members of a fraternity in Florida who use a fake I.D to purchase liquor for a party;
- 2) An employer's use of a fake document to hire an unauthorized worker, leading to hefty penalties;
- 3) An asylum applicant who uses a fake passport
- 4) An undocumented immigrant who pays federal income taxes under a made-up identity.

TALKING POINTS

- Penalties for illegal reentry are already severe; the law should not be expanded or made harsher. Instead, these laws should be changed to reflect the underlying goals of bringing aspiring Americans out of the shadows and providing a pathway to citizenship. Punishing people with long prison sentences for trying to reunite with their families or work in the United States undermines these goals. .
- The federal criminal prosecution of immigration offenses is at an all-time high, already overwhelming federal courts and taking up valuable resources.
- Increased criminalization of status offenses and penalties is unnecessary and wasteful. At a time when the federal criminal justice system is already diverting extraordinary resources to immigration status-related offenses, such policies misdirect precious federal resources.
- Among those who would be punished by these enhanced penalties are asylum seekers who have fled prosecution and are attempting to find refuge in the United States. Victims of human trafficking would also potentially be prosecuted under these proposals.
- Individuals that are simply trying to work, and make up a social security number in order to do so, would be prosecuted under the new crime of social security fraud and potentially imprisoned for up to 5 years.
- The Department of Justice testified to Congress that increased penalties for border crossing were not needed and that district attorneys should be given more discretion when considering these cases.



EXPANSION OF CRIMINAL GROUNDS UNDERMINE FAIR & INCLUSIVE PATHWAY TO CITIZENSHIP

