

The New Way Forward Act (HR 5383) & Reimagining Immigration

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In the midst of a global pandemic, immigrants in the United States are locked in immigration detention centers, where they face escalating exposure to COVID-19 in inhumane conditions. ICE's insistence on continued deportations during this unprecedented time is tearing families apart while simultaneously exporting COVID-19 around the world. ICE's own detention center policies are spiraling out of control, driving COVID-19 infections amongst staff and detained immigrants, and COVID-related deaths and illnesses in detention. The pandemic has also jeopardized access to basic needs, shelter, income, and health for millions in our global community. Against this backdrop, the largest protest movement in U.S. history has unfolded, as millions of people demand an end to law enforcement violence against Black people and call out systemic racism and anti-Blackness in policing and incarceration.

The New Way Forward Act (HR 5383) is a powerful step towards dismantling our abusive immigration system. This bill was introduced in December 2019 by Reps. Chuy Garcia, Pramila Jayapal, Karen Bass, and Ayanna Pressley and currently has 44 co-sponsors. It provides solutions that reduce reliance on carceral systems. It rolls back harmful immigration laws that, for decades, have led to racial profiling and disproportionately resulted in the incarceration and deportation of Black immigrants and immigrants of color. Many of the bill's key provisions have become as urgent as they've ever been:

- ***Ending mandatory detention:*** Immigration detention was systematically dangerous, abusive and inhumane even before COVID-19 reached the United States. In detention, people are often prohibited from accessing soap or other basic hygiene products and kept from maintaining social distance from other detained people and staff. Even though ICE has broad authority to release people from detention, it has reported that an average of 71% of people detained are subject to "mandatory detention," a determination ICE uses to keep immigrants in detention for the entire time it takes for their case to be heard in immigration court, despite the existence of proven, community-based alternatives to detention. The New Way Forward Act would end the designation of "mandatory detention" and would make it possible for more detained people to leave unsafe ICE detention centers to live safely with their families and communities.
- ***Limiting the number of people funneled into detention and put on deportation flights:*** The New Way Forward Act would limit the number of people funneled into the immigration detention and deportation system by cutting many of the ties between discriminatory policing practices and deportation. The bill eliminates controlled substance offenses and "crimes involving moral turpitude" from the grounds of removability, two categories that not only trigger detention and deportation, but also often deprive people of any defense to deportation. The New Way Forward Act would also modify the definition of "aggravated felony," a vague and arbitrary term that includes 21 categories encompassing hundreds of offenses, many of which are neither aggravated nor felonies. These reforms would result in fewer people thrown into the inhumane detention and deportation system.

- ***Restoring judges' authority to consider the individual circumstances of each person's life:*** Discriminatory police practices lead to deportations. Once funneled to immigration court, individuals are too often churned through summary proceedings where broad categories of offenses bar judges from considering the circumstances of a person's case. Restoring judicial discretion to immigration judges and allowing them to look at all the components of a person's life before issuing their decision would result in more just outcomes.
- ***Disentangling local police from federal immigration enforcement:*** The New Way Forward Act would end the 287(g) program, which allows ICE to deputize local law enforcement officers to engage in the enforcement of federal immigration laws in already overpoliced communities of color. These programs, known to incentivize racial profiling and discriminatory policing practices, result in the transfer of individuals detained in the criminal legal system to the immigration system.
- ***Reducing mass incarceration:*** The pandemic has highlighted just how problematic mass incarceration is in the US, as federal prisons and detention centers are among the biggest clusters of coronavirus cases in the country. The New Way Forward Act would end federal prosecutions for people who enter the United States somewhere other than an official port of entry. Currently, people are incarcerated for up to 20 years under these harsh criminal laws (8 USC § 1325 and 1326). Section 1325 was proposed in 1926 by a South Carolina Senator whose political career was built on white supremacy, including the defense of lynching. Yet the Trump administration has continued to use this racist law to increase mass incarceration, criminalize immigrants and separate families.

Millions have made clear that the time to root out systemic racism in our law enforcement agencies is now. The New Way Forward Act begins to disentangle how racial disparities in policing and the criminal legal system intersect with immigration and lays the groundwork for a more humane and just future for immigrant communities.