



Lamar Smith's HR 1932, The Keep Our Communities Safe Act

Lamar Smith's H.R. 1932 bill will extend mandatory and indefinite detention of immigrants and strip them of their fundamental rights to a fair hearing and protection from the abuse of government power.

The legislation is disguised as an effort to be “tough on criminal immigrants” but in reality, it has provisions that have nothing to do with safety or flight risk but instead significantly impact harmless asylum seekers who are fleeing torture and persecution as well as other immigrants who have committed no crimes. We cannot trade our core constitutional values for vague promises of security.

What does H.R. 1932 or “indefinite detention” legislation do?

H.R. 1932 bypasses the Constitution by attempting to undo Supreme Court decisions protecting people from arbitrary, unjust and prolonged detention.

- It gives DHS the ability to detain an immigrant for years without having the right to appear before an immigration judge to determine whether they pose a danger to society or are a flight risk. The bill will strip away one of the most fundamental American principles: the right against arbitrary, indefinite detention. It will eliminate bond hearings for those enduring prolonged detention.
- It allows the government to detain deportable immigrants who can't be sent home because they are from countries with poor diplomatic relations with the U.S., such as Cuba, for as long as they live. It gives DHS officials full authority to detain an individual in immigration jails well beyond any criminal sentence imposed by a judge or jury.
- It would unnecessarily detain immigrants seeking protection in the United States such as asylum seekers and survivors of torture. It would cruelly limit their ability to challenge in court their continued imprisonment by immigration officials.
- It authorizes DHS to indefinitely detain immigrants, including legal permanent residents, for a range of offenses, including writing a bad check.
- It requires that all challenges to immigration detention be filed in the U.S. District Court for the District of Columbia. The bill would flood this Court with immigrant petitions from across the country making prompt review impossible.

Detained immigrants will be disadvantaged by being forced to seek review from a Judge in D.C. regardless of where they are detained.

Indefinite detention is an affront to liberty. The Supreme Court stated in 2001 that “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty [the due process] clause protects.” H.R. 1932 clearly violates the Constitution’s due process clause, which applies to everyone- immigrants and citizens alike.

This bill will cost Americans billions in taxes. The bill will needlessly detain thousands of immigrants for years at a staggering cost. The average annual cost of detaining an individual is \$45,000. (See footnote below.)¹ Detention costs will increase by billions for individuals who pose neither a flight risk nor a danger to U.S. communities.

More Information:

- The people locked up by DHS include victims of persecution or torture, parents of U.S. citizen children, and workers with jobs, houses, businesses and other significant community ties. H.R. 1932 will force many of these immigrants to languish in immigration custody although they have not been charged with any crime.
- The largest number of indefinite detainees for fiscal years 2009, 2010 and 2011 are Cubans. Since the U.S. government has no diplomatic relations with Cuba, they cannot deport immigrants to Cuba, leaving them in a post-removal order limbo.
- At the very minimum, it is predicted that H.R. 1932 will jail 4,000 more people every year costing \$180 million. In a decade there could be as many as 40,000 additional people detained, costing \$1.8 BILLION each year.

To understand the scope of Lamar Smith’s bill, take the example of Lobsang Norbu, a Buddhist monk from Tibet, who fled China after he had been arrested, incarcerated, and tortured twice on the basis of his religious beliefs and political expressions in support of Tibetan independence.

He arrived in New York and was immediately placed into immigration detention as he waited on a decision on his asylum claim. Mr. Norbu was detained for ten-months; the government provided no response to this parole request even though the American Tibetan community pledged to house Mr. Norbu and ensure his appearance at any hearings.

Mr. Norbu was never given the opportunity to ask a judge to release him from detention. However he eventually won his immigration case and was granted asylum.

Footnote: “The Math of Immigration Detention;”, National Immigration Forum,
<http://www.immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>

H.R. 1932 would make stories like Mr. Norbu's arbitrary detention the norm. Vulnerable asylum seekers —who have not committed a crime — would be deprived of their liberty.

Lamar Smith's bill would authorize this type of continued detention, even for individuals who have been granted asylum by the immigration judge if the government chooses to appeal that decision. H.R. 1932 is not about public safety; it is about locking up tens of thousands of additional immigrants even the most vulnerable immigrants who seek protection in the United States.