

# IMMIGRATION ENFORCEMENT MORATORIUM ACT



## Section by Section

### SECTION 1 – SHORT TITLE

- The “Immigration Enforcement Moratorium Act”

### SECTION 2 – SENSE OF CONGRESS

- During the COVID–19 pandemic, many immigration enforcement activities have needlessly endangered public health, including the health of enforcement officers and members of the community.
- Continued arrests and apprehensions prevent immigrant communities from accessing necessary services for their health and well-being and risk increasing the immigration detention population at a time when the number of people in immigration detention must urgently be reduced.
- Department of Homeland Security medical experts estimate that between 75 and 100 percent of the people detained in many immigration detention centers across the country may contract COVID–19 unless such centers are drastically depopulated.
- Other in-person activities, including check-ins and removal hearings, create significant public health risks.
- The National Association of Immigration Judges, a union of U.S. Immigration and Customs Enforcement trial attorneys, and the American Immigration Lawyers Association have all urged the Department of Justice to cease all in-person removal proceedings, citing expert guidance that continuing in-person removal proceedings during the pandemic is “irresponsible.”
- Deportations risk spreading COVID–19 to neighboring countries, where the virus will devastate already limited health systems and create untold harm.
- The United States has already sent individuals who tested positive for COVID–19 to at least 8 countries.
- A consortium of United Nations migration and human rights organizations has called on all countries in the global community to halt all forced removals during the pandemic, noting that “forced returns can intensify serious public health risks for everyone – migrants, public health officials, health workers, social workers, and both host and origin communities.”

# IMMIGRATION ENFORCEMENT MORATORIUM ACT



- Expulsions at the border violate longstanding, congressionally mandated protections for asylum-seekers and fail to protect public health.
- The Office of the United Nations High Commissioner for Refugees has declared that countries cannot enact “blanket measure[s] to preclude the admission of refugees or asylum-seekers” and any such “measures must be non-discriminatory as well as necessary, proportionate and reasonable to the aim of protecting public health.”
- Leading public health experts have urged United States officials to withdraw the order enabling mass expulsion of asylum seekers, noting border expulsions fail to further public health and implicate serious human rights concerns.
- Border crossing prosecutions have been suspended in several border districts because they are incompatible with public health.
- The Department of Homeland Security continues to refer people for prosecutions in some districts for violations of section 276 of the Immigration and Nationality Act (8 U.S.C. 1326).
- People continue to be unnecessarily held in pre-trial detention facilities where COVID-19 has spread.

## SECTION 3 – TEMPORARY SUSPENSION OF IMMIGRATION ENFORCEMENT

- **Definitions:** Defines a “public health emergency” as a national emergency established by the president concerning a communicable disease under either the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Emergencies Act, a public health emergency declared by the Secretary of HHS under the Public Health Services Act, or a global pandemic declared by the WHO.
- **Suspended Immigration Enforcement Activities:** Halt arrests, apprehensions, and deportations of noncitizens physically present in the United States during a “public health emergency,” as well as in-person check-ins, service of Notices to Appear, and referrals for 1325/26 prosecutions. Provides for release, on orders of supervision, for people who have received removal orders to prevent prolonged post-removal-order detention.
- **Border Processing:** Provides for processing and parole of individuals at the border who make claims for relief under immigration laws.
- **Exception:** Creates an exemption from requirements to suspend immigration enforcement activities for individuals that are a threat to public safety based on clear and convincing evidence and credible and individualized information. Prior convictions or pending criminal

# IMMIGRATION ENFORCEMENT MORATORIUM ACT



charges cannot be the only justification for carrying out immigration enforcement activities or granting parole during the pandemic. Grants noncitizens who are subject to an otherwise prohibited immigration enforcement activity access to immediate de novo review of their case in the United States District Court for the District of Columbia or any Federal Court.

- **Unlawful Presence:** Suspends the accrual of “unlawful presence” for any noncitizen who was present in the United States before the start of the national emergency.
- **Immigration Court Proceedings:** Suspends all in-person court proceedings, and, for detained individuals, establish a procedure for conducting custody determinations and provides for telephonic hearings, provided the respondent requests such a hearing in writing.
- **Limitation on Use of Federal Funds for Reliance on Ultra-Vires Authority:** Prohibits federal funds being used to implement the CDC order powering automatic expulsions of asylum-seekers and unaccompanied children at the border.