

The Trump-McConnell Bill Hard-Line Immigration Proposals Disguised

*Summary by the Immigration Hub with analysis and input from American Immigration Council,
American Immigration Lawyers Association, Center for American Progress and National Immigrant Justice Center*

Builds the wall and creates a slush fund for further border militarization. The bill authorizes \$5.7 billion for the wall without a clear plan for construction or any accounting of possible damage to the environment and to communities. The bill waives the spending caps to allow for this excess border spending through an emergency designation. In addition, the bill sneaks in \$605 million dollars for additional Border Patrol holding facilities, plus money that can be used for the wall or almost anything else marginally enforcement-related from a new \$500 fee (in addition to the full cost of administering the application) imposed on each applicant for Deferred Action for Childhood Arrivals (DACA) or Temporary Protected Status (TPS) relief.

Dramatically increases the number of U.S. Immigration and Customs Enforcement (ICE) jail beds. The bill includes a 20% increase for ICE detention & removal from \$4.11 billion to \$4.99 billion. This new funding allows ICE to jail on average 52,000 people a day, nearly 12,000 more people than in the 2018 March Omnibus.

Hires new Border Patrol and ICE agents. The bill includes funding for 750 Border Patrol agents and 2,000 ICE agents.

Fails to include real relief for DACA-mented individuals. The bill only protects a fraction of all Dreamers and it does not provide permanent protection from deportation. It authorizes a 3 year, one-time application for temporary status for the current DACA population under new standards and does not allow new applications.) At the same time, it more than doubles the current fee. Fewer individuals with DACA would be eligible under this program than under the status quo protection (which includes the ability to apply for renewal) provided by court injunctions.

Fails to protect all TPS holders. The bill only protects individuals with Temporary Protected Status (TPS) from Honduras, Nicaragua, El Salvador and Haiti. The individuals in those four countries get to apply for a 3 year, one-time temporary status at double the cost and under new standards. It does not include those with Deferred Enforced Departure (DED) from Liberia or those with TPS from Guinea, Sierra Leone, Nepal, Sudan, South Sudan, Yemen, Somalia and Syria. There is a preliminary injunction from the 9th circuit court in the Ramos v. Nielsen case for TPS holders from Sudan, Nicaragua, El Salvador, Haiti until April 2, 2019. Honduras was not in that lawsuit yet, nor Nepal or Liberia who all will have their status terminated in 2019.

Virtually eliminates the availability of TPS for the future. If you are undocumented in the United States when your home country suffers a natural disaster or armed conflict, you would not be protected from deportation.

Adds new restrictions to the DACA and TPS programs that ensure that large numbers of people currently protected by court cases will become deportable. For example, people who were ordered deported solely because they missed their court dates would not be able to qualify for the DACA or TPS relief. DACA and TPS grantees would have to maintain 125% of poverty level or be enrolled in school. And as part of their applications, DACA applicants would need to prove many unprovable things, including that they never sexually harassed anyone.

Bans asylum for Central American minors and eviscerates the Trafficking Victims Protection Act for unaccompanied kids. Nationals of Honduras, Guatemala and El Salvador under the age of 18 would be barred from applying asylum at the border. The government could forcibly return unaccompanied children if they asked for asylum unless an officer found it “more probable than not” that the child would win asylum or trafficking protection. All arriving children from Honduras, El Salvador and Nicaragua could be removed quickly without court review except in extremely limited (or non-existent) exceptional cases.

Creates a sham CAM (Central Alien Minors) Program. This bill creates a sham program purportedly to provide an opportunity for children fleeing Central America who have a parent or guardian in the United States to enter the country lawfully. But the program would not be operational for nearly a year and, immediately upon enactment of the bill, Central American minors would become ineligible for asylum at the border. That means no Central American minors would get protection during that time a new CAM program is being rolled out. Once the CAM program is operational, only 50,000 Central American minors would be allowed to apply for asylum each year and only 15,000 would be granted. Decisions would be made entirely by the Department of Homeland Security and there would be no judicial review — these children would not get to see an immigration judge.

Makes permanent and nefarious asylum procedure changes to reduce grants of asylum protection: The bill’s proposed asylum procedures contain many new provisions to make asylum incredibly difficult to get:

- False statement on an asylum application are deemed a new crime punishable by up to five years in prison.
- Asylum claims can be declared “frivolous” if you filed in order to delay removal or obtain work authorization (almost all people want to work so obviously most people are in part applying to get work authorization).
- All asylum applications that are “clearly foreclosed” such as applications filed after the one-year asylum deadline are declared “frivolous.”
- The bill applies bars to asylum at the early “credible fear” stage, making it even harder to have your asylum case heard and thereby limiting review of the case.
- If you ever had asylum protection and your status was terminated, you are forever banned from the United States.
- If you ever want to withdraw your application, you have to waive all other applications and take voluntary departure or else your asylum application will be deemed “frivolous.”
- All asylum applications for the new sham CAM program would have a new fee that is deliberately designed to be higher than necessary.
- Attorneys are not allowed the opportunity to object or explain any concerns with the claim before a judge can enter a finding saying the asylum application is frivolous.

Hires additional immigration judges. The bill includes an additional \$59 million for immigration judge teams and upgrades to an electronic case management system. These resources would fall far short of what is needed to shore up the immigration court system, which the Trump administration has mired with unprecedented backlogs by denying immigration judges the use of case management tools and by reopening 350,000 low priority cases.