

## Congress Should Clarify Legislative Intent and Language to Prevent Abuse of the Law

In broad strokes, federal immigration policy in 2025 and 2026 has been categorized by attacks on all forms of migration. These attacks have been both contrary to the law and contrary to Congressional intent, with the Administration taking advantage of gaps or supposed ambiguities in the law to justify their actions. Congress must clarify its intentions and language to prevent future abuses like the ones that have shocked and harmed communities over the last year.

- Clarify Congressional intent on expedited removal (ER), limiting it to its historical application along the border and for a limited time after entry.
- Clarify Congressional intent that immigration judges have the power to set bonds for all people in immigration proceedings regardless of manner of entry, status, location, or other issue.
- Remove the requirement for refugees to apply for adjustment within one year of receiving refugee status, and/or specifically clarify that Congress did not intend any such requirement to allow the arrest, detention or deportation of refugees who have not applied or adjusted status within one year of entry.
- Clarify that Congress did not intend the immigration system to prioritize detention or to allow prolonged and coercive detention, which wastes taxpayer money and violates basic human rights, particularly when an individual has no serious criminal history or flight risk.
- Update language to ensure timely, fair and adequate access to work authorization while DHS processes individual applications for immigration status. Require DHS to issue such work authorization where any case has been pending with USCIS and reinforce Congressional intent that the work authorization be valid and renewable until USCIS has concluded processing the application, to avoid gaps in work authorization that increase the risk of trafficking.
- Update language to ensure protections from arrest, detention and removal for individuals with pending humanitarian relief at USCIS who are in immigration removal proceedings, including codifying the right to seek administrative closure and termination until USCIS has finished processing the application. Codify deferred action for SIJS, U and T nonimmigrants, and DALE, with specific protections against arrest, detention and removal for those with pending or granted relief.
- Reinforce Congressional intent that the Refugee Act conforms with the Refugee Convention, including recognizing gender as a basis for asylum claims, no bar to asylum based on manner of entry, and narrow definitions for the terror and criminal bars. Ensure that no person can be removed to a third country without a ruling by an IJ that they will not face persecution or torture or be sent by that third country to a prohibited country of origin.

- Repeal fees established by OBBBA or provide fee waivers, especially for people who face significant barriers to securing funds.
- Clarify that agencies established and funded by Congress can only be defunded and/or dismantled by an act of Congress, including agencies like the Office of the Immigration Detention Ombudsman, created by statute in 2019.

## THE ADMINISTRATION EXPLOITS GAPS IN IMMIGRATION COURT PROCEDURES TO COERCE IMMIGRANTS TO ABANDON CASES

The Administration in 2025 began restricting bond determinations, arguing that immigration judges (IJs) have no jurisdiction to set or determine bond for people who entered without a visa or those present for less than 2 years. As a result, noncitizens face indefinite detention, coercing them to give up their valid claims.

- Amend the expedited removal (ER) and bond sections of the INA to clarify unequivocally that ER does not apply beyond the border or for people who have proof of presence for more than a short period. Unequivocally state that all people are eligible for a bond hearing determined by an independent IJ.

The Administration claims IJs can “pretermite” asylum applications they believe are inadequate based on the initial filing alone without giving people a chance to testify or present all their evidence - a change made without warning after people had submitted filings expecting to follow the previous process.

- Codify that the Refugee Act should be interpreted to align with international human rights standards, which clearly protect a broader category of individuals and bar actions such as pretermission without a full and fair evidentiary hearing or removal to third countries that cannot guarantee safety and human rights.

Some immigration statuses may only be processed by USCIS, even if a person also has a case pending in immigration court. Immigration court can proceed more quickly than USCIS processing times, so traditionally court cases were administratively closed while waiting for USCIS to act. The DOJ has increasingly forced people with viable relief pending with USCIS to proceed in immigration court rather than allowing administrative closure, continuances or Deferred Action. This leaves individuals like Special Immigrant Juveniles, survivors of trafficking and serious crimes, and people with long visa wait times at risk of prolonged detention or removal, despite immigration statuses that Congress intentionally created to protect them. This also raises the costs of detention and creates further backlogs in immigration courts.

- Update the TVPRA and VAWA to ensure people with pending U, T, VAWA and SIJ relief cannot be deported while awaiting adjudication of their applications. Congress should explicitly prohibit immigration courts from denying continuances or administrative closure based on visa backlogs or agency delays.

## THE ADMINISTRATION UNDERMINES PROCESSES THAT PROTECT VULNERABLE GROUPS

Starting in June 2025, USCIS changed its policy so that it would be harder or impossible to obtain deferred action for at-risk juveniles and victims of labor exploitation. It has also delayed issuing interim protections for trafficking victims. DHS has detained and deported at-risk juveniles, victims of crime, and trafficking survivors with pending applications or approved interim benefits.

- Congress should legislate interim protections for individuals with applications pending with USCIS. This must include access to a work permit within a reasonable period of time and legislative protection from removal while a case is pending.

Starting in 2025, USCIS changed policies to narrow access to basic needs for people with pending cases. USCIS eliminated an automatic extension for work permits, leaving people facing gaps in work authorization due to USCIS processing delays. DHS has also proposed restricting access to work permits for asylum seekers, adding new bars and extending the wait time after asylum has been filed.

- Congress should enshrine the right to a work permit for any application pending with USCIS longer than six months regardless of USCIS processing times of underlying cases. This reduces the incentive for DHS to delay processing and ensures individuals can meet their basic needs while awaiting decisions.
- Congress should guarantee work permit eligibility is statutorily set at minimum three years, renewable for cases still pending with USCIS.

## THE ADMINISTRATION DISCRIMINATES ON THE BASIS OF NATIONALITY IN ITS IMMIGRATION POLICIES

The Administration has wielded immigration law to arbitrarily and summarily deny immigration benefits to whole categories of individuals based on nationality rather than providing individualized determinations as intended by law.

As of December 2025, the Administration had arbitrarily barred all people from a list of 39 countries from entering the U.S or receiving any kind of immigration status. Categorical decisions based on nationality, religion, ethnicity, or race are contrary to U.S. values and international human rights standards. In 2025, the Administration also put an indefinite pause on refugee acceptance, reversing course briefly only for Afrikaners from South Africa.

Congress created temporary protected status (TPS) and gave broad authority to the Executive to address urgent immigration policy matters. The Trump Administration has sought to terminate these programs or failed to extend them despite ongoing crises that would endanger people who return to those countries.

- Congress must set a statutory annual minimum number of refugees to be admitted. Legislation must include clear guidance that forbids limitations by nationality, race, religion, or geography.