



HOUSE COMMITTEE ON THE JUDICIARY

DEMOCRATS | RANKING MEMBER JAMIE RASKIN

VOTE NO ON S. 5/ H.R. 29, THE LAKEN RILEY ACT

MAGA Republicans claim to care about immigration and border security, but S. 5/H.R. 29 does nothing to secure the border or fix our immigration system. Since passage in the House in early January, the Department of Homeland Security [estimates this bill will cost at least \\$26 billion in the first year](#) alone to enact, with **Senate Appropriators estimating the total cost to be \$83 billion**. Instead of moving legislation that would make us safer, Republicans want to exploit Laken Riley's tragic death to score cheap political points.

- This bill increases the scope of those subject to mandatory immigration detention to include many undocumented immigrants, including those in a lawful status such as recipients of Deferred Action for Childhood Arrivals (DACA) or Temporary Protected Status (TPS), if they are *merely arrested* for any theft offense, including shoplifting, even if they are never charged with a crime. The Senate added the crimes of assault of law enforcement officer and any crime that results in serious bodily injury or death to those an individual **can be merely arrested** for and subject to mandatory detention – **no conviction is required**.
- This bill is so broad that it would lead to truly absurd results and to the detention and removal of people who have committed no crime and have no intention of harming anyone.
 - For example, imagine a group of five children leave a convenience store together after one of them stole a candy bar. The shop owner calls the police, and all five of the children are arrested for shoplifting. If one of those who did not steal a candy bar is a DACA recipient, they are now subject to mandatory detention by the Department of Homeland Security even though they have committed no crime.
 - Unfortunately, there are countless real-life examples of people getting arrested because of mistaken identity. Mandatorily detaining due to mistaken identity or wrongful arrest is not a reasonable or sensible policy choice. This is not where we should be focusing our limited enforcement resources.
- Congress has *never* appropriated (and no administration has ever requested) sufficient resources to detain all noncitizens who fall under the “mandatory detention” categories.
- This bill also gives State Attorneys General standing to sue in court for perceived violations of certain sections of the Immigration and Nationality Act, giving conservative states standing to block federal immigration policies they do not agree with. If this bill were to become law, it [could give State Attorneys General veto power](#) over large amounts of immigration policy (for example empowering them to stop the issuance of any visas to entire countries deemed “uncooperative,” such as India). It could also impede the federal government's ability to prioritize detention and deportation of the most dangerous convicted felons for fear that if it does not detain everyone charged with even the pettiest of crimes, it could be sued by a state.
- This bill is likely unconstitutional. It goes against settled precedent, including the Court's ruling in *Spokeo, Inc. v. Robins*, which says that a statutory right to sue does not constitute an injury for purposes of standing.
 - Standing is a constitutional requirement, which vests the Judicial Branch with “[t]he judicial Power of the United States,” but specifies that this power extends only to “Cases” and “Controversies.” The Supreme Court has repeatedly noted the importance of standing in upholding our system of separation of powers.
 - Congress cannot by statute alone elevate all *de facto* injuries – if any – that may result from the Executive Branch's exercise of discretion in immigration enforcement matters to meet the requirements of standing. This bill asserts that States have standing to sue so long as the state or its residents suffer any degree of harm, including harms as small as \$100.