**H.R. 3003 and 3004 Undermine American Values
NIJC Opposes the “No Sanctuary for Criminals Act” and “Kate’s Law”**

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This week the House of Representatives will vote on two bills that attempt to re-write our nation’s immigration laws to reflect a dangerous philosophy of governance. For decades now, elected officials across the bipartisan divide have joined together calling for a compassionate and common sense approach to immigration legislation. These bills move us further away from that goal. H.R. 3003, ironically named the “No Sanctuary for Criminals Act,” will endanger the safety of our communities by forcing local police to abandon community policing efforts and become a full partner with the administration’s massive deportation force. H.R. 3004, known as “Kate’s Law,” will result in the unnecessary incarceration of countless immigrants for the mere act of migration.

The National Immigrant Justice Center (NIJC) calls on elected officials to reject such nonsensical and harmful legislation. In the face of hateful rhetoric, now is the time to stand with immigrant communities.

**H.R. 3003, the “No Sanctuary for Criminals Act”, will further erode community trust in local police and put our communities in danger.**

* *H.R. 3003 amends 8 U.S.C. § 1373 to prohibit states and localities from enacting policies that in any way limit cooperation with U.S. Immigration and Customs Enforcement (ICE), even when federal courts have ruled such cooperation unconstitutional.*The law would strip localities of vital discretion to enact immigration-enforcement-related laws and policies that are smart and effective for their communities. Specifically, it prohibits localities from declining to comply with requests from ICE to jail individuals under detainer requests even when doing so will put them in blatant violation of binding federal court orders. Our communities are safer when residents feel safe calling for help and assisting police in investigating and prosecuting cries. By effectively forcing localities into the business of federal immigration law, this law will preclude cities and counties from using their limited local resources to address public safety concerns in the ways they deem most appropriate and effective.

On top of the danger the bill poses to community safety, this law arguably violates the [“anti-commandeering” principle of the Tenth Amendment](https://www.washingtonpost.com/opinions/trump-cant-force-sanctuary-cities-to-enforce-his-deportation-plans/2016/12/22/421174d4-c7a4-11e6-85b5-76616a33048d_story.html?utm_term=.22ac1cba15e2) of the United States Constitution.
* *H.R. 3003 punishes jurisdictions for engaging in smart community policing.*

The law would punish jurisdictions that choose to limit cooperation with federal immigration enforcement by stripping federal funding that fulfills vital law enforcement needs, including the State Criminal Alien Assistance Program (SCAAP), the “Cops on the Beat Program,” the Byrne Justice Assistance Grant Program, and any other grant administered by the Departments of Justice or Homeland Security that are deemed “substantially related to law enforcement, terrorism, national security, immigration, or naturalization.” In addition to running further afoul of the Tenth Amendment, this law cruelly forces jurisdictions to choose between maintaining critical funds, including for community policing, or exposing themselves to the [significant legal and financial liability that accompany compliance with detainer requests](http://immigrantjustice.org/research-items/nijc-and-american-immigration-lawyers-association-joint-policy-brief-ices-detainer) under the Fourth Amendment and the Fourteenth Amendment.
* *H.R. 3003 upends the criminal justice system by permitting and in some cases requiring ICE to ignore criminal warrants issued by state and local jurisdictions that it deems in non-compliance with other provisions of the bill.*
* *H.R. 3003 vastly expands ICE’s authority to force localities to detain immigrants with no regard for the Fourth Amendment of the U.S. Constitution and gives local actors immunity for resulting constitutional violations.*The law makes a mockery of the Fourth Amendment by giving lip service to the notion of “probable cause” but in reality allowing ICE to ask localities to detain immigrants longer than they would otherwise be held simply on the basis of a belief that the individual is removable from the United States. The law then goes on to provide local actors immunity for resulting constitutional violations. In practice, this piece of the law essentially requires local actors to violate the constitution and then gives them immunity for doing so. It is legislative overreach at its worst.
* *H.R. 3003 demonizes immigrants by creating a new private right of action for victims of crime solely on the basis of the citizenship status of the perpetrator of the crime.*The law provides that an individual or surviving relative can bring a lawsuit against a state or locality if the perpetrator of the offense is a non-citizen and was released from custody pursuant to a trust policy. This provision allows the worst kind of scapegoating, [manipulating individual tragedies](http://www.politico.com/story/2017/06/01/trump-immigrants-abuse-campaign-239006) to demonize all immigrants.
* *H.R. 3003 expands the already damaging “mandatory detention” provisions of immigration law, requiring no-bond detention for large categories of undocumented individuals for the duration of deportation proceedings against them.*The law thumbs its nose at the basic due process protections of our United States Constitution, explicitly approving of indefinite detention for individuals in immigration custody regardless of their community ties to the United States or necessity for detention. Specifically, the law expands greatly the categories of immigrants who are denied access to *any individualized bond determination* throughout their time in immigration jail. With [deaths in immigration detention](http://immigrantjustice.org/staff/blog/7-reasons-why-congress-must-reject-trumps-deadly-bid-expand-immigration-detention) occurring with alarming frequency and [rates of representation in detention alarmingly low](https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court), these provisions are nothing but cruel.

**H.R. 3004, “Kate’s Law,” will further the mass incarceration of immigrants—including asylum seekers—by increasing penalties for the mere act of migration.**

* *H.R. 3004 expands the existing criminal offense of illegal reentry to punish legitimate asylum seekers fleeing violence in their countries of origin.*The law expands the category of individuals punishable by section 276 of the Immigration and Nationality Act to include even those men and women who surrender themselves at the southern border to seek protection in the United States.
* *H.R. 3004 senselessly expands sentencing enhancements for illegal reentry at a time when* [*more than half of all federal prosecutions*](http://trac.syr.edu/tracreports/crim/446/) *target migration-related offenses.*The law provides incredibly harsh sentencing enhancements for individuals seeking to return to the United States after a previous removal on the basis of prior convictions or entries. Apart from the cruel and unnecessary use of federal prison to separate families, this bill will prove exorbitant in its costs at a time when taxpayers have already footed a bill of [more than $7 billion](https://grassrootsleadership.org/reports/indefensible-decade-mass-incarceration-migrants-prosecuted-crossing-border) to incarcerate migrants for migration-related offenses over the past decade.
* *H.R. 3004 punishes immigrants for illegal reentry even if their previous deportation orders were unlawful and deprived them of the opportunity to seek protection.* This law entirely prohibits defendants in illegal reentry cases from challenging the validity of their prior deportation orders. This provision is blatantly unconstitutional and in violation of Supreme Court jurisprudence that protects against punishing immigrants on the basis of legally defective deportation orders. *See U.S. v. Mendoza-Lopez*, 481 U.S. 828 (1987). This law will criminalize, for example, asylum seekers who return to the United States after being previously denied the opportunity to present their claims for protection. Given the already [anemic protections for asylum seekers](http://immigrantjustice.org/sites/immigrantjustice.org/files/images/Right%20to%20Asylum%20-%20CRCL%20Complaint%20Cover%20Letter%20-%2011.13.14%20FINAL%20PUBLIC.pdf) at our southern border, these provisions will inevitably harm the most vulnerable among us.

A vote for H.R. 3003 and H.R. 3004 is a vote for hatred and a vote against community safety. NIJC calls on members of Congress to stand on the right of history and oppose these harmful measures.

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