

**Statement of the American Immigration Lawyers Association
Submitted to the House Judiciary Committee
for the April 19, 2023 markup of the Border Security and Enforcement Act of 2023**

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The American Immigration Lawyers Association (AILA), the national bar association of over 17,000 immigration attorneys and law professors, submits the following statement for the record.

Across party lines, the American people [support](#) the protection of asylum seekers. There is long-standing, historic recognition grounded in U.S. law that the United States has been and should be a leader in global humanitarian assistance. Running contrary to these principles, U.S. and international law is the Border Security and Enforcement Act being marked up in committee. AILA urges the committee to oppose the bill as a divisive measure motivated by anti-immigrant sentiments that will hurt immigrant communities and the nation as a whole.

The bill does not offer effective solutions that will improve management of the U.S. southern border or migration. Instead, it attempts to control the now global phenomenon of refugee flows by blocking asylum seekers and gutting existing asylum law. Notably, it would ban asylum entirely for people who cross between ports of entries with no exception for highly vulnerable individuals, including unaccompanied children who are protected under the Trafficking Victims Protection Act. The bill would further restrict eligibility for asylum and narrow the application process so significantly that there is quite simply no meaningful access to asylum for those fleeing persecution in the United States.

The changes in this bill would hobble our federal government further by mandating impractical bureaucratic obstacles which will slow down the process rather than make it more efficient. For example, the bill limits employment authorization for asylum seekers to only six months and will effectively require them to re-apply repeatedly. These applications to renew work authorization will compound the existing backlog USCIS currently faces that is severely delaying all forms of employment-based, family-based visas. In addition, imposing unnecessary red tape on the employment authorization process will make it harder for asylum seekers to obtain work and compound the labor shortages our communities face. By limiting access to employment authorization for asylum seekers, this bill disregards the [bipartisan support](#) for expanding access.

Unrelated to asylum, this bill's provisions mandating the use of the E-Verify program would create an excessively punitive fine structure for employers attempting to comply with a byzantine patchwork of work authorization rules. Without a holistic approach that addresses the needs of our economy and ensures that that all workers receive proper labor protections, which this bill does not do, a mandatory E-Verify law will exacerbate the nation's unprecedented labor

market shortages, increase opportunities for exploitation, create increased demand for products produced overseas and weaken our economy.

There are alternatives available for Congress to pursue. When migration is managed effectively, immigrants have played a critical role in advancing the prosperity of the nation. The country has directly benefited from immigration during the country's ongoing recovery from the pandemic and recession, when immigrants served in vital roles as medical professionals and other frontline workers in essential industries.

To directly address changing migration patterns at the southern border, AILA recommends the implementation of a wide range of solutions. AILA's recent policy brief "[What does a Secure Border Look Like?](#)" presents strategies to manage migration while also upholding the protections established in U.S. asylum and humanitarian law. Specifically, AILA calls for modernizing border processing by using an "all of government approach" to leverage multiple agencies and alleviate pressure on the southern border. The Biden Administration should create an Office of Migrant Protection to coordinate work across immigration-related agencies. The executive branch must establish more uniform policies for sharing information between agencies operating at the border regions that are identifying and processing migrants and those in the interior, such as the immigration courts.

Greater investments are needed to improve infrastructure, including hiring more Customs and Border Protection (CBP) personnel at the ports of entry to screen vehicles and pedestrians, as well as more asylum officers at the U.S. Citizenship and Immigration Services (USCIS) to interview people who fear persecution if returned to their home countries. To accomplish this, Congress must make the necessary investments in the system by adequately funding USCIS, the immigration court system, and the Department of State, which review thousands of requests for visas and other immigration cases annually. These agencies require urgent support to reduce severe case processing times that delay nearly every type of immigration application by months, even years.

AILA opposes the use of additional punitive measures, such as the detention, blocking or rapid expulsion of people arriving at the border. The current and past administrations have tried such methods only to discover they are ineffective, unfair, and place people's lives at grave risk of violence, even death. For example, the Title 42 policy has failed to reduce the number of people arriving at the southern border while trapping them in unsafe, dangerous conditions in Mexico.

Finally, new legal pathways must be created and expanded upon to facilitate immigrants coming to the United States. Congress should pass reforms that provide the necessary temporary and permanent immigrant visas for family members, foreign workers and those seeking protection from persecution. In the absence of legislation, the Biden Administration should continue to implement programs within its legal authority, such as expanding the U.S. refugee program, eliminating backlogs to guarantee the full use of approved visas, and parole programs like those recently announced for selected countries.

These fixes will require a sustained commitment by Congress and will yield results with dramatic benefits to the immigration system as well as the U.S. economy and communities across the country. Three decades have passed during which Congress has been unable to enact systemic reform to the immigration system. Congress must re-double its efforts to pass legislation. The challenges at the U.S. southern border will only be addressed successfully with long-term solutions

that improve the whole immigration system while preserving access to due process and asylum required under U.S. law.

The Border Security and Enforcement Act of 2023 is a step in the wrong direction and is contrary to U.S. laws, international law, and American values. This bill does not meaningfully manage immigration at the U.S. border and will only compound the issues within our immigration system.