



AILA Policy Brief: Trump Shutdown Bill Full of Extreme Restrictionist Provisions

Updated January 24, 2019

Contact: Greg Chen (gchen@aila.org) or Kate Voigt (kvoigt@aila.org)

On January 22, 2019, Senate Republicans released a new spending bill that was written to reflect President Trump's January 19 [speech](#) outlining a proposal to end the shutdown. The "[End the Shutdown and Secure the Border Act](#)" bill contains extreme provisions and should be rejected outright as representing hardline restrictionist views, rather than a genuine attempt at compromise. Among other provisions, the bill would provide fragile protections for a narrow segment of DACA and TPS holders, ramp up funding for interior and border enforcement, and all but eliminate asylum for minors from Central America. The bill:

Fails to Include Real Protections for Dreamers: The bill would protect a fraction of all Dreamers and would not provide permanent protection from deportation. Instead, it would allow people who currently have DACA to apply for a 3-year, one-time temporary status subject to new eligibility standards. Because of newly added restrictions in the text, the number of Dreamers who qualify for protection under the bill would actually be smaller than the number of people who are currently protected. The bill would also more than double the current fee.

Fails to Protect All TPS holders: The bill would only protect individuals with Temporary Protected Status (TPS) from Honduras, Nicaragua, El Salvador and Haiti. The individuals in those four countries would be able to apply for a 3-year, one-time temporary status. The application fee would be doubled. The bill also makes changes to the eligibility provisions, again reducing the overall number of people who would qualify for protection compared to today. It does not include protections for people with Deferred Enforced Departure (DED) from Liberia or those with TPS from Nepal, Sudan, South Sudan, Yemen, Somalia, and Syria.

Adds New Restrictions to DACA and TPS, Increasing the Number of People Who Could Be Deported: The bill contains additional restrictions on DACA and TPS and would prevent anyone who has been ordered removed in absentia from qualifying for protection, no matter how long ago the order was issued. That means that if a child missed a court date and was ordered deported, they would not be able to qualify for DACA or TPS relief. DACA and TPS grantees would also be required to earn an income at 125% of the poverty level or be enrolled in school.

Virtually Eliminates the Availability of Future TPS Protections: The bill would rewrite current law to restrict eligibility for future TPS designations to those who are lawfully present. Thus, if someone is undocumented when their home country suffers a natural disaster or armed conflict, they will not be eligible if TPS were designated.

Bans Asylum for All Central American Minors and Eviscerates the Trafficking Victims Protection Reauthorization Act for Unaccompanied Kids: Nationals of Honduras, Guatemala, and El Salvador who are under the age of 18 would be categorically barred from applying for asylum at the border or

within the United States if they were outside of the country at the time of enactment. The bill would remove TVPRA protections and authorize the government to forcibly return unaccompanied children if they request asylum unless it is “more probable than not” that they would win asylum or trafficking protections. All arriving children could be removed quickly without review except in extremely limited, exceptional cases.

Creates a Sham CAM Program The only way a Central American minor can qualify for asylum would be through a new Central American Minors (CAM) program that would be established within eight months of enactment. To qualify, children would have to have a parent or guardian in the U.S. and no more than 15,000 minors could receive asylum. Most concerning, because Central American minors arriving to the U.S. would immediately become ineligible for asylum, the program essentially eliminates all asylum protections for these minors for at least eight months. Children in the program would be subject to a non-reviewable decision by DHS and would never see an immigration judge.

Builds the Wall and Creates a Slush Fund for Enforcement: The bill would authorize \$5.7 billion for President Trump’s border wall and add hundreds of millions of dollars in additional enforcement funding that can be used for almost any kind of enforcement. Some of these funds would come from a new \$500 fee imposed on each applicant for DACA or TPS relief, which would be in addition to the full cost of adjudicating the application.

Dramatically Increases the Number of ICE Detention Beds: The bill includes a 20% increase in funds for ICE detention and 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 current funding levels.

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

Makes Permanent and Reprehensible Changes Aimed at Reducing Asylum Grants: These changes include:

- Expanding the definition of a frivolous asylum application and preventing attorneys from objecting or disputing claims that the application was frivolous.
- Declaring all asylum applications that are “clearly foreclosed” such as applications filed after the one-year asylum deadline are “frivolous.”
- Requiring applicants to waive their rights and take voluntary departure if they decide to withdraw their asylum application, or risk having their application deemed frivolous.

Hires Additional Immigration Judges: The bill includes \$563 million in funding for the immigration court that would enable the hiring of 75 more immigration judge teams and upgrades to an electronic case management system. The bill does not include any reforms necessary to improve the court’s ability to ensure fair and efficient review of all cases. Despite decrying the extensive case backlog, the Trump administration has hampered the immigration courts by denying immigration judges the use of case management tools and by reopening 350,000 low priority cases.