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Statement of the American Immigration Lawyers Association

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Nomination of Senator Jeff Sessions for Attorney General

After two weeks in office, President Trump has demonstrated that he intends to use the power of the Presidency to turn his divisive campaign rhetoric on immigration into reality. He has issued three executive orders on immigration that have sown chaos and fear across the country and around the world. Within hours after President Trump signed the third order on January 27 restricting entry and immigration benefits for nationals of seven Muslim-majority countries, several federal courts enjoined parts of those orders as likely violations of the Constitution.

The President's actions underscore the incredibly important role of the Department of Justice and the sacred duty of the Attorney General of the United States to uphold the Constitution and to protect the rights of all individuals. This duty is particularly important in the world of immigration, where the Attorney General serves three essential legal functions: he is the nation's chief lawyer, he enforces immigration laws, and he decides how justice is administered in immigration courts across the country.

The American Immigration Lawyers Association (AILA) is deeply troubled by the likely confirmation of Senator Jeff Sessions for Attorney General. On January 10, AILA submitted a statement to the Senate Judiciary Committee, urging senators to obtain forthright answers from Sen. Sessions to ensure he is fit to serve as Attorney General. Sen. Sessions' record, coupled with his recent statements and actions leave little doubt that he will be unable to interpret the Constitution in a fair and neutral manner or exercise balanced judgment on immigration law.

Even before his confirmation, Sen. Sessions' influence and views on excluding people of Muslim faith from our country have been realized. Sen. Sessions has been a vocal proponent of a ban on Muslims and was reportedly consulted on the January 27 executive order, although he has denied any direct involvement. Throughout his career, he has made highly prejudicial and inaccurate statements casting Islam as a "toxic ideology" and suggesting that certain tenets are inherently dangerous. He openly stated in his testimony that he believes it would be acceptable for the government to discriminate based on religion. In and of themselves, such publicly-stated discriminatory views should disqualify him. Sen. Sessions has actively eroded the Constitution's fundamental protections respecting the freedom of religion, preventing the establishment of religion by the federal government, and ensuring equal protection for people of all faiths, and there is little doubt he would continue to do so if confirmed.

Sen. Sessions' statements and record make clear that he lacks the ability or desire to fully enforce civil rights laws protecting the rights of immigrants and other non-citizens. During

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his testimony, Sen. Sessions directly challenged the value of federal DOJ prosecutions against states and localities for civil rights violations, arguing that many cases of abuse were isolated incidents, despite the evidence of systemic violations of the law. His answer compelled Sen. Hirono to point out that the consent decrees acknowledged systemic, not isolated, violations by the agencies. Nonetheless, Sen. Sessions continued to express skepticism about the consent decrees. This lack of commitment to making use of one of the Department of Justice's chief enforcement tools is troubling. A chief responsibility of the Department of Justice is to intervene and prosecute states and localities that engage in racial, ethnic or nationality-based profiling, arrest or detain immigrants without due process of law, or commit other violations of the Constitution or federal law. Yet Sen. Sessions has called for states and localities to enforce immigration law in an aggressive manner that will almost certainly result in the kind of harassment and civil rights abuses that the Department of Justice is charged with preventing. Moreover, his legislative proposals encourage the detention of immigrants by localities without probable cause and in contravention of the Constitution. It is clear that he would not stop abusive and discriminatory practices against immigrants like those committed by Arizona Sheriff Joe Arpaio.

Sen. Sessions remains opposed to the 14th Amendment's guarantee of birthright citizenship. During his confirmation hearing, Sen. Sessions refused to unequivocally support the principle of birthright citizenship enshrined in the Constitution, instead arguing that there is dispute within Congress as to whether Congress has the authority to revoke birthright citizenship. Not only has he essentially invited congressional efforts to undermine the 14th Amendment, but he never stated that he would defend the 14th Amendment's Citizenship Clause. The Citizenship Clause makes clear that citizenship based on place of birth is a fundamental right inextricably tied to our liberty and equal rights, and that each person is born equal with no disadvantage or exalted status arising from the circumstance of their parentage. Any restrictions on the rights of citizenship guaranteed in the 14th Amendment offend this country's most sacred values and Constitutional principles. Sen. Sessions has proposed re-establishing the very same discriminatory exclusion that the 14th Amendment was intended to remedy, and he refused to disavow his proposals to strip people born in the United States of the right to citizenship.

Sen. Sessions continues to believe that indiscriminate prosecution and unrestrained removal of unauthorized immigrants is in the country's best interests. During his testimony he made no effort to disavow his opposition to protection for DACA recipients. Not only has he been a vocal opponent of efforts to protect DREAMERS and other vulnerable populations, but he has introduced legislation that would criminalize the undocumented and require their prosecution and incarceration. His proposals have now been implemented by the sweeping executive orders President Trump signed on January 25 to increase deportations and prosecutions of those who are undocumented. These plans make absolutely clear that Sen. Sessions will not, as Attorney General, offer impartial and fair review of actions designed to dramatically escalate deportations or the inevitable civil rights abuses likely to arise from such actions. Sen. Sessions' views place

him far outside the norm among Republicans and Democratic elected leaders, and put him particularly at odds with the American public—of which 75 percent supports reforming the system in a way that legalizes the status of the undocumented.

Sen. Sessions' opposition to immigration extends to the most vulnerable populations. He opposes appointed counsel for children and others in removal proceedings. He remains opposed to the bi-partisan Violence Against Women Act of 2013 because of protections it provided for immigrant survivors of domestic violence. His opposition to these provisions is an indication that he would not vigorously or consistently protect immigrant survivors of violence if he is confirmed as Attorney General.

During his many years as a prosecutor and senator, Sen. Sessions has exhibited relentless hostility and animus towards immigrants and any laws that seek to protect their rights. Based on his record and his refusal during his confirmation hearings to repudiate his views and rhetoric on immigration, it is clear he will be unable to lead the Department of Justice in its critical role of upholding the Constitution and protecting the rights of all individuals.