



## **The Secure and Safe Detention and Asylum Act (S. 1594)**

### ***✚ What does the Secure and Safe Detention and Asylum Act accomplish?***

- Senators Joseph Lieberman (I-CT), Edward Kennedy (D-MA) and Daniel Akaka (D-HI) introduced the Secure and Safe Detention and Asylum Act in an effort to ensure humane treatment for asylum seekers and other detained immigrants. To accomplish this, the Act enhances due process protections in the detention system, increases oversight of the Department of Homeland Security (DHS), improves conditions of detention, and promotes cost-saving alternatives to detention.

### ***✚ Why are basic protections for detained asylum seekers important?***

- Asylum seekers arriving in the U.S. in search of refugee protection are often detained by DHS for months in jails or jail-like facilities as their cases are adjudicated. This system lacks basic due process safeguards – such as an external review of DHS’s detention decisions – and is inconsistent with America’s longstanding commitment to protect those who flee from persecution.
- In February 2005, the bipartisan United States Commission on International Religious Freedom issued its comprehensive “Report on Asylum Seekers in Expedited Removal” (USCIRF Report). The USCIRF Report documented the treatment of asylum-seekers in the United States and concluded that the U.S. asylum system was inadequate in a number of areas critical to ensuring refugee protection.
- In April 2009, Human Rights First reported that since 2003, U.S. immigration authorities have spent more than \$300 million of taxpayer dollars detaining thousands of asylum seekers in jails and jail-like facilities under a system that lacks basic due process safeguards.
- The Secure and Safe Detention and Asylum Act would help ensure that asylum seekers – who have committed no crime, and in fact have fled persecution in their home countries – are not held in detention if they do not pose a risk of flight or danger to others.
- The Act enjoyed bi-partisan support in 2006, 2007 and 2008. In 2007, it was adopted by unanimous consent in the Senate as an amendment to the 2007 comprehensive immigration reform legislation.

✚ *How does the Secure and Safe Detention and Asylum Act impact asylum seekers?*

- Requires DHS officers and Immigration Judges take into account flight risk, danger to others, and humanitarian factors in considering whether to detain asylum seekers and other immigrants.
- Provides asylum seekers access to Immigration Judges for review of DHS's detention decisions.
- Expands nationwide the Legal Orientation Program (LOP) for detained immigrants to provide basic information about their legal rights and the availability of relief, if any. LOP saves money and increases the efficiency of the immigration courts.
- Establishes statutory mandates for each of the areas where detention conditions must be improved, and requires DHS to conduct a negotiated rulemaking before promulgating regulations implementing the mandates.
- Authorizes USCIRF to conduct a study on the impact of interior enforcement on asylum seekers.
- Imposes limitations on the circumstances in which families with children can be detained and authorizes the Secretary to waive mandatory detention for families with children who are waiting for credible fear determinations.
- Expands secure alternatives to detention programs, such as release on recognizance, supervised release, or programs run by private, faith-based or other non-governmental groups. It allows for electronic monitoring in limited cases. These secure alternatives are successful and cost-effective.
- Improves oversight of the detention system including mandatory reporting and investigation of deaths in detention, higher professional accreditation requirements for detention facilities, and the creation of an Office of Detention Oversight within DHS to conduct inspections, receive complaints from detainees, and report on noncompliance with detention standards.