



## **PROTECT CITIZENS AND RESIDENTS FROM UNLAWFUL DETENTION ACT (S. 1549)**

### ***✚ What does The Protect Citizens and Residents from Unlawful Detention Act accomplish?***

In an effort to protect U.S. Citizens and Lawful Permanent Residents from being mistakenly detained and deported, Senators Robert Menendez (D-NJ), Edward Kennedy (D-MA), and Kirsten Gillibrand (D-NY) introduced The Protect Citizens and Residents from Unlawful Detention Act (S. 1549) in July 2009.

### ***✚ How does this bill, designed to protect U.S. Citizens and LPRs, impact asylum seekers?***

The Protect Citizens and Residents from Unlawful Detention Act (S. 1549) establishes a number of procedural protections for immigrants in detention with special provisions for “vulnerable populations,” including asylum seekers. Of particular significance to asylum seekers, the Act achieves the following:

- Expands parole opportunities for vulnerable populations subject to detention and provides access for all asylum seekers to custody determinations by an immigration judge, which currently does not exist;
- Reforms existing alternatives to detention programs and restricts use of electronic monitoring devices on vulnerable groups; and
- Establishes oversight of DHS enforcement actions by creating an Immigration and Customs Enforcement Ombudsman.

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

- The current detention system for asylum seekers lacks basic due process safeguards and is inconsistent with America's longstanding commitment to protect those who flee from persecution. Asylum seekers arriving in the U.S. in search of refugee protection are often detained for months in jails or jail-like facilities as their cases are adjudicated.

- Since 2003, U.S. immigration authorities have spent more than \$300 million of taxpayer dollars detaining over 48,000 asylum seekers in these facilities.<sup>1</sup>
- Upon arrival in the United States, a person who states his or her desire to seek asylum is automatically detained by the Department of Homeland Security (DHS).
- After an asylum seeker establishes a credible fear of persecution, he is technically eligible for release from detention, but the decision belongs to his deportation officer – a DHS employee – and he does not have the right to go before a judge to have his custody reviewed. DHS thus acts as both jailer and judge in determining whether the asylum seeker can be released from detention.
- In practice, this assessment for release appears to hinge more on where in the United States the asylum seeker is detained than upon an individualized assessment of whether detention an appropriate or necessary. As a result, asylum seekers are often subject to prolonged and arbitrary detention.
- The Protect Citizens and Residents from Unlawful Detention Act (S. 1549) 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.

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<sup>1</sup> Human Rights First, “U.S. Detention of Asylum Seekers: Seeking Protection, Finding Prison,” available at: <http://www.humanrightsfirst.org/pdf/090429-RP-hrf-asylum-detention-report.pdf>