



Amnesty International Opposes S. 1494, the Secure and Protect Act of 2019

On behalf of Amnesty International USA and our over two million members and supporters in the United States, we express our strong opposition to S. 1494, the Secure and Protect Act of 2019. A top priority for Amnesty International is protecting the right to seek asylum. We are deeply concerned about this harmful bill, which would categorically ban asylum-seekers from accessing protection in the United States and punish families and children for seeking safety here. The bill repudiates our international and domestic obligations towards refugees and eviscerates the right to seek asylum – a right enshrined in both U.S. law and the Universal Declaration of Human Rights.

We therefore urge all Members of the Senate Judiciary Committee to stand up for the right to seek asylum and vote no on the Secure and Protect Act of 2019.

Amnesty International opposes this bill because it would:

- **Indefinitely jail families with children and force them to navigate their cases behind bars.** The bill allows children accompanied by family members to be detained indefinitely, contravening legal requirements that prohibit the detention of children for more than 20 days. It also forbids states from requiring family detention facilities to be state-licensed and places sole, unreviewable discretion for family detention conditions with DHS, even though the agency has a track record of [abuse and neglect](#) of those in its care. Detention is never in a child's best interests, and the detrimental impact of even short amounts of detention on children is well-documented, including by [DHS's own advisory committee](#).

Not only does the bill prolong the detention of children and families, it would also expedite their removal proceedings and force them to fight for their right to stay while behind bars. The bill directs the Attorney General to complete proceedings within an accelerated timeframe of 100 days. Yet asylum proceedings are complex and sensitive, and navigating them without the assistance of an attorney – as [most detained immigrants](#) must – makes [relief all but impossible](#). These provisions do nothing but punish families and children for seeking safety and make it impossible for them to access refuge.

- **Eviscerate critical safeguards for unaccompanied children by locking them up and repatriating them as quickly as possible.** The bill would roll back basic protections for unaccompanied children from non-contiguous countries that were passed by a bipartisan congress in the Trafficking Victims Protection Reauthorization Act (TVPRRA). These provisions would allow children to be immediately repatriated unless they can show it is “more likely than not” that they would be at risk of trafficking or eligible for asylum. Absurdly, this standard is higher than the credible fear standard required of adults and will undoubtedly lead to the erroneous deportation of children into harm's way. Those children who do meet this high initial threshold would be referred to adversarial proceedings before an immigration judge, exposing them to cross-examination by a trained government attorney, even though children do not currently have the right to appointed counsel in their proceedings.

Shockingly, the bill would also create a presumption of detention for unaccompanied children while their proceedings are ongoing, allowing their release to a family member or loved one



only as a rare exception to this default rule. Yet [governing law](#) (including the *Flores* settlement and the TVPRA) recognizes that prompt release of children to family members or loved ones, wherever possible, is necessary to vindicating a child's best interests. This provision flies in the face of the best-interests principle and will irreversibly harm and traumatize children.

- **Dramatically curtail the right to seek asylum in the United States.** The bill makes a mockery of the right to seek asylum as enshrined in the 1980 Refugee Act and international human rights law. It raises the credible fear standard to require asylum-seekers to prove that they would “more likely than not” receive asylum if allowed to proceed – effectively forcing asylum-seekers to prove their cases before they've had the chance to prove their cases.

The bill would also erect insurmountable barriers to asylum. It would cut off access to asylum for people who cross between ports of entry, contravening our obligation not to penalize asylum seekers for the manner in which they entered the United States. It would upend the requirement that countries can only be designated as “safe third countries” following the negotiation of a bilateral or multilateral agreement, allowing the administration to unilaterally designate a country as a “safe third country” and bar asylum-seekers from obtaining relief here. It would prohibit asylum for individuals whose countries (or whose neighboring countries) have “refugee processing centers,” ignoring how requiring asylum-seekers to stay in their countries while their asylum applications are considered will endanger their lives. It would force those few asylum-seekers who manage to overcome this extraordinary set of hurdles to remain behind bars for the duration of their proceedings, in contexts that are often deeply [retraumatizing](#), [harmful](#), and even [deadly](#).

Taken together, the bill back-doors the administration's multitudinous efforts to deny protections to Central Americans and codifies the xenophobia animating those efforts.

There is a better way forward. Instead of circumventing U.S. legal obligations to protect asylum-seekers, Congress should invest in protection, not punishment. The government should dedicate the ample resources we have to fairly, efficiently, and humanely consider the cases of families, children, and asylum-seekers who are here in search of safety – in line with our obligations under domestic and international human rights law.

As Chairman Graham himself [noted in 2015](#), if the United States turns away families fleeing violence, it may as well “take the Statue of Liberty and tear it down . . . because we don't mean it anymore.” Yet by punishing people for the act of seeking safety and preventing them from seeking asylum here, this bill would do just that.

We therefore urge members of the Senate Judiciary Committee to vote against S. 1494.

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