

March 12, 2021

STATEMENT BY THE PUBLIC DEFENDERS COALITION FOR IMMIGRANT JUSTICE ON THE INTRODUCTION OF THE U.S. CITIZENSHIP ACT, THE AMERICAN DREAM AND PROMISE ACT, AND THE FARM WORKFORCE MODERNIZATION ACT.

Public Defenders Urge Federal Government to Stop Criminalizing Immigrants

Today, the **Public Defenders Coalition for Immigrant Justice**, a nationwide coalition of public defender offices, released the following statement in response to the introduction of the U.S. Citizenship Act, the American Dream and Promise Act, and the Farm Workforce Modernization Act by the United States Congress:

“Our Coalition shares in the excitement of introducing legislation that will finally provide needed relief to millions of immigrants throughout the country. However, we express grave concerns with legislation that strips due process rights for people who have experienced police contact. Any provisions that categorically exclude a person from legalizing their status due to a past criminal conviction or police contact will doubly punish communities surviving cycles of family separation caused by incarceration and deportation.

As public defenders who represent noncitizens in criminal and immigration proceedings, we recognize the pernicious connection between the criminal and civil immigration legal systems that has developed in the past 25 years. Every day our offices fight against the devastating impact of criminal and immigration laws that disproportionately punish noncitizens. We witness how the criminal legal system, especially the “War on Drugs”, “broken windows” and “stop and frisk” policing, have long targeted Black people and other communities of color. These are the same communities which are the most susceptible to immigration enforcement and deportation. In fact, our immigration system relies on state and local criminal legal systems to find noncitizens, detain them, and subject them to the civil deportation process.

Criminalization and punishment are already integral to the Immigration and Nationality Act due to the 1996 reforms. The existing criminalization bars in the Immigration and Nationality Act are extensive and can only be characterized as draconian and highly punitive. They are prime examples of the failed “tough on crime” policies that have long resulted in poverty, incarceration and traumatized generations of immigrants and their families. As a coalition, we are disappointed to see that the recent immigration reform bills have not addressed these issues. While we strongly support the urgent need to create pathways to legal status and citizenship for noncitizens, these bills further a dangerous divide in our nation’s immigration policy between those the government deems “deserving” and those it does not. We urge Congress to repeal the broad and punitive criminal grounds of inadmissibility and deportability, end the arrest to deportation pipeline, end mandatory detention, and ensure the right to counsel for all immigrants facing deportation.

Not only has Congress failed to address the Immigration and Nationality Act’s extensive and punitive bars, but we are dismayed to see that these bills would expand the categories of ineligibility by creating additional criminalization bars to legal status and citizenship, thereby even more broadly excluding Black and Latinx communities. For example, each bill would make people who have been convicted of either two or three misdemeanors ineligible for legal status. These disqualifiers would remain in effect for life, so a 30-year-old conviction would have the same impact as a recent one. This type of perpetual punishment subjects Black and Latinx

immigrants to live in fear and instability for no justifiable reason. Additionally, provisions in the American Dream and Promise Act include a second layer of review through which applications could be denied under the guise of “public safety.” Public safety has long been used as a pretext for criminalizing immigrants and should not be a determination made by a civil immigration agency.

We have an opportunity to lift up immigrant communities by building pathways to legal status and citizenship. Now is the time to stop criminalizing immigrants and to instead build stable, prosperous and vibrant communities for immigrants, their families, and for all of us. It is time for immigrants to stop having to live under the constant fear of incarceration, separation, and deportation. We must break from the unjust and outdated practice of granting immigration relief for some in exchange for harsher punishments and criminalization of others. Excluding those with police contact ignores that systemic racism in the criminal legal system inequitably triggered those contacts, resulting in the unjust convictions that are then used to vilify and deport immigrants of color.

In furtherance of separating the criminal legal and immigration systems, we support amendments like those being proposed by Congressmembers Jesús ‘Chuy’ García, Ayanna Pressley, and Pramila Jayapal, which would defang some of the criminalization bars. We urge Congress to commit to the creation of new policies that do not disproportionately punish immigrants of color who have been subject to over-policing in their communities, but instead includes them in the opportunities for lawful status and citizenship.”

BACKGROUND

The Public Defenders Coalition for Immigrant Justice is a coalition of public defender organizations that represent noncitizens in criminal and immigration proceedings. This Coalition seeks to harness both the collective power and perspective of public defenders and to center our clients and their families to illustrate the injustices noncitizens face in both the criminal and immigration legal systems.

The Public Defenders Coalition for Immigration Justice consists of public defender offices across the country, including Alabama, Arizona, California, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, New York, Nebraska, Oregon, Tennessee, and Texas.
