



Statement for the Record

Statement of Opposition to S.1852, the “Solution for Undocumented Children through Careers, Employment, Education and Defending our Nation Act” (SUCCEED ACT)

115th Congress (2017-2018)

Human Rights First is a non-profit, nonpartisan human rights advocacy organization that challenges America to live up to its ideals. For over 30 years, we’ve built bipartisan coalitions and teamed up with frontline activists and lawyers to tackle issues that demand American leadership, including the protection of the rights of refugees. With offices in Houston, New York, and Washington D.C., Human Rights First oversees one of the largest pro bono legal representation programs for refugees in the country including Central American families and unaccompanied children, working in partnership with volunteer attorneys at many of the nation’s leading law firms. Human Rights First appreciates the opportunity to submit its views on this bill.

Human Rights First urges Senators to reject S.1852, the “Solution for Undocumented Children through Careers, Employment, Education and Defending our Nation Act” (SUCCEED ACT), introduced last week by Senators Thom Tillis and James Lankford.

Human Rights First has serious concerns about the legal and humanitarian impact of this SUCCEED Act. Senator Tillis’ [two-page fact sheet](#) describes the bill as a “solution to address the legal uncertainty facing undocumented children.” The SUCCEED Act, however, not only introduces new legal uncertainty by creating a difficult and lengthy pathway to citizenship for Dreamers, but also includes provisions which may force asylum seekers to spend months or longer in detention and ask Dreamers to sign away their rights to seek asylum and other forms of immigration relief.

The SUCCEED Act tacks onto its Dreamer provisions an inhumane new policy affecting the rights of arriving asylum seekers to parole. Section 6 of the bill amends the Immigration and Nationality Act (INA) (8 U.S.C. 1182(d)(5)) such that, “The Secretary of Homeland Security may not...parole generalized categories of aliens or classes of aliens based solely on... (IV) any other criteria that would cover a broad group of foreign nationals, whether inside or outside of the United States” (Section 6 (b)(C)(i)(IV)). In 2010, Department of Homeland Security (DHS) released [a Parole Directive](#) which established that asylum seekers who demonstrate a credible fear of persecution should be paroled so long as identity can be established, flight risk has been mitigated, and the individual is not a danger to the community. Because this directive “cover[s] a broad group of foreign nationals,” the SUCCEED Act would potentially overrule this 2010 directive. In practice, this means arriving asylum seekers—who, by regulation, do not generally have access to immigration court review of their custody—will sit in indefinite detention, in prison-like conditions, without recourse pending the outcome of their cases. As Human Rights

First reported in “[Lifeline on Lockdown](#)” and “[Judge and Jailer](#)”, many asylum seekers already experience lengthy detention because of the lack of judicial review of their parole status and Immigration and Customs Enforcement’s (ICE) failure to implement properly the existing parole directive. Examples include:

- An LGBT West African asylum seeker spent 14 months in detention. After passing a credible fear interview, he submitted three pro se parole applications, each of which went unanswered. His brother was a U.S. citizen, and he had identity documents. When Human Rights First intervened, ICE replied that it was still reviewing the parole request. Several months later, in April 2007, he was finally released on parole.
- A political dissident from Cuba spent over seven months in detention, despite presenting himself at a U.S. port of entry, demonstrating a credible fear of persecution, and presenting proof of identity and ties to the community. ICE officers told him that there no parole available at the Batavia detention facility where he was detained. He was released after he was added as a plaintiff to a federal court lawsuit relating to the lack of parole at the Batavia facility.

The SUCCEED Act would only prolong detention of asylum seekers applying for parole. In addition to the cruelty of holding victims in prison-like conditions, detention also makes it difficult, if not impossible, for asylum seekers to secure legal counsel and access specialized healthcare and support services for survivors of trauma. The SUCCEED Act would punish these victims fleeing persecution, and impose unnecessary detention costs on U.S. taxpayers.

The SUCCEED Act also asks Dreamers to surrender their rights to alternative forms of immigration relief, including asylum, as a precondition. It requires that individuals 18 and older applying for conditional permanent residence status sign a waiver acknowledging that they will be “ineligible for any form of relief or immigration benefit under this Act or other immigration laws...” if they violate a term of their status, which include specific education, employment, public benefit, and tax requirements. The bill provides only two exceptions to the bar on alternative immigration relief: withholding of removal under INA 241(b)(3) and relief from removal under the Convention Against Torture. Neither of these provide a pathway to lawful permanent residence status or citizenship, and both would only prevent Dreamers from being deported to their country of origin. Asylum, which does provide lawful permanent residence and a pathway to citizenship, is not included as an exception in the waiver.

Human Rights First is concerned that if this bill were to become law, it would create a second class of permanent residents who are barred from seeking alternative immigration protections under U.S. law, including asylum. Several provisions also preclude judicial review, depriving these young people of the fundamental American right to due process.

Many Dreamers came to the United States from countries experiencing violence and instability, including El Salvador, Guatemala, Honduras, and Venezuela. Should they sign the waiver and later lose their conditional permanent residence (CPR) status, these Dreamers may find

themselves in permanent legal limbo under withholding relief, or face deportation and risk violence and persecution in their countries of birth.

The DREAM Act (S.1615 and H.R. 3440) provides a clear alternative to the SUCCEED Act. The bill has bipartisan support, offers a clear pathway to citizenship, and does not deprive Dreamers of their due process rights. The DREAM Act, unlike the SUCCEED Act, does not use Dreamers as bargaining chips in order to exclude or detain other highly vulnerable immigrants, including many fleeing persecution. Human Rights First supports a clean DREAM Act.