

Summary of Federal Immigrant Release for Safety and Security (“FIRST”) Act, H.R. 6537/S. ___

Bill sponsors:

Senate: Senators Booker (D-NJ), Warren (D-MA), Harris (D-CA), Sanders (D-VT), and Gillibrand (D-NY), Hirono (D-HI)

House: Rep. Jayapal (D-WA), Nadler (D-NY), Blumenauer (D-OR), Cardenas (D-C), Chu (D-CA), Espaillat (D-NY), Garcia (D-IL), Garcia, (D-TX), Haaland (D-NM), Hastings (D-FL), Norton (D-DC), Jackson Lee (D-TX), Johnson (D-GA), Kennedy (D-MA), Lee (D-CA), Lewis (D-GA), Lofgren (D-CA), McGovern (D-MA), Moore (D-WI), Omar (D-MN), Pocan (D-WI), Pressley (D-MA), Quigley (D-IL), Raskin (D-MD), Rush (D-IL), Schakowsky (D-IL), Smith (D-WA), Tlaib (D-MI), Velazquez (D-NY), Welch (D-VT)

Mandatory Release of Vulnerable Individuals During National Emergency: The bill requires the release of all covered individuals detained by U.S. Immigration and Customs Enforcement (ICE) upon the declaration of a national emergency related to a communicable disease without requiring any covered individuals to post a bond.

Exception. People who pose a specific and substantial risk of causing bodily injury or using violent force against another person based on clear and convincing evidence may not be released.

Who is covered? Individuals who:

- are 50 years or older;
- are 21 years or younger; or
- have a covered health condition.

What health conditions are included? The covered health conditions include individuals who:

- pregnancy
- chronic lung disease or asthma
- congestive heart failure, coronary artery disease, or hypertension
- diabetes
- epilepsy
- neurological condition that weakens the ability to cough
- chronic liver or kidney disease
- blood disorders
- inherited metabolic disorders
- stroke
- developmental delay
- cancer
- a weakened immune system, or
- any other condition identified by the CDC to increase the risk of serious illness from a communicable disease

Presumptive Release of Non-Covered Individuals

The bill sets a presumption of release for non-covered individuals, including people subject to mandatory detention. The bill requires the Department of Homeland Security (DHS) to review detainees’ case files within 7 days after the declaration of the national emergency.

Exception. The bill establishes a process and legal standard for determining which individuals in this category may not be released. The bill requires an evaluation of the risk that the individual will harm another person and whether alternatives to detention would mitigate that risk. The bill prohibits release if the individual in custody has a final removal order and removal is reasonably foreseeable.

Notice of Release

DHS must provide notice to nonprofit organizations located near a detention facility if more than 25 individuals are released from a facility within a 24-hour period.

Expiration of the National Emergency

The bill establishes a standard for re-detaining individuals after the national emergency expires.

Suspension of Enforcement

To reduce the spread of the communicable disease, ICE shall suspend enforcement actions, including the following:

- In-person reports typically required of people subject to the Intensive Supervision Appearance Program,
- Enforcement in sensitive locations without a judicial warrant,
- Apprehension of individuals encountered in the field who are only in violation of civil immigration law (ICE may initiate charging documents).

Exception: The suspension of enforcement shall not apply to individuals who pose a specific and substantial risk of causing bodily injury or using violent force against another person based on clear and convincing evidence.

Additional provisions

- During the national emergency and for the 60 days after the emergency expires, DHS shall:
 - Ensure everyone in ICE custody receives the following:
 - free, unmonitored, confidential access to telephones at all times
 - access to email and fax documents
 - sufficient soap, hand sanitizer, and other hygiene products
 - Improve NGO access for legal orientation and know-your-rights providers to make presentations by video and to contact detainees by telephone.
- The bill requires reporting to Congress within 180 days after the national emergency expires.