



HOUSE OF REPRESENTATIVES

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January 2026

I offer my thanks to the committee for the opportunity to speak on this proposed legislation. I began my law enforcement career in the southwest, and as a then-immigration officer was involved in the implementation of Title 8 of the United States Code, the *Immigration and Nationality Act*, and the subsequent *Illegal Immigration Reform and Immigrant Responsibility Act of 1996* (IIRAIRA), all of which are longstanding, non-controversial, and bipartisan acts of Congress. I have, in my professional capacity, been in some if not most of the scenarios engaged by this bill, and offer my experiences and expertise to help guide the committee, whose sense of these things may have been misdeveloped through an environment of politicized hysteria or through the filter of a polarized media, to an informed and thoughtful resolution.

I do disagree the bill content addresses a true “emergency.” U.S. immigration law is long-standing and largely unchanged, and has been safely and fairly conducted for several decades, if not a century. In today’s environment, were our immigration officers permitted to conduct their duties in a safe, sane, and orderly fashion the sense of this would be quite different. The chaos on some of America’s streets was not initiated by immigration enforcement, but by the uncontrolled and often childish displays witnessed in its opposition, a fire stoked not by public safety, but by politics.

Are warrantless arrests problematic? Law enforcement officers, including immigration officers, are empowered to make arrests based on the well-established level of ‘probable cause,’ meaning the officer employed facts to determine a law violation was committed and the subject, in fact, committed it. For an immigration officer, that determination is made for an administrative arrest through a two-step process wherein the officer determines first ‘alienage,’ that the subject is not a citizen or national of the United States, and then ‘removability,’ a determination that the alien does not have a valid visa, has violated their visas status, or has been convicted of a crime that would make the alien eligible for removal. Most immigration arrests are warrantless, based on an immigration officer’s finding of probable cause, and are fully lawful, compliant with long-standing Fourth Amendment standards.

Initially, Page 1, line 27 indicates “nonpublic area of a public school”. Immigration officers routinely interact with Designated School Officials (DSO) regarding students admitted to the U.S. on F1 non-immigrant visas, and a compliance program was designed and implemented in the post September 11th environment. You may recall those particular F1 non-immigrant students. At institutes of higher learning, both the DSO and immigration officer have responsibilities, and their interactions are collegial and collaborative. If

conducted in-person, they should be in a private area so as not to inappropriately disclose the student's information in a public setting.

Page 2, Line 6-9. Often, aliens in custody require medical attention at medical facilities. Their custodial escort, to prevent escape from custody, must accompany them in a reasonable manner during a medical visit. That commonplace, common-sense scenario seems to be precluded by this bill content and if enacted would create a chilling effect on custodial medical visits, or that of subjects brought to a medical facility who sustained injury during their arrest.

Page 2, Line 26. On occasion, immigration officers who have detained an alien parent need to coordinate that custody situation with the parent and their child at a school or daycare facility, to be able to either place that child with a family member or trusted friend, or perhaps accompany the parent. If made public policy, this bill would serve to keep that from happening and leave the child's care scenario to strangers without parental involvement.

Page 3, Line 8. I'm concerned this would preclude immigration officers from utilizing the public library. Honestly, I see this portion of the bill as a little silly. Additionally, the bill as written fails to address commonplace and lawful vehicles through which investigative information is attained by law enforcement: the administrative or even Grand Jury subpoena. I'm certain this bill, if enacted as it reads, would only serve to confuse schools, daycares, and hospitals as to what information must be provided, and may put them in a non-compliance scenario with lawful service of a subpoena.

I'd like to present a real-life enforcement scenario I encountered: A law enforcement traffic stop for a moving violation was made in central Aroostook County, along Route 1 in Aroostook County. The driver presented a fake Maine ID to the officer, who contacted U.S. Border Patrol. The driver was determined to be a citizen of an African country who had overstayed his work visa as a pharmacist at a local health clinic, and arrested based on probable cause for being an alien who had overstayed his visa. The investigation was passed to Homeland Security Investigations (HSI), who determined through the consultation and cooperation of his employer, a health clinic, often in private areas of the clinic such as office space, that the out-of-status pharmacist had falsified his continued work eligibility, and that while he was initially working within his status, he had committed fraud against his employer. The out-of-status nonimmigrant alien was subsequently convicted in federal court of a criminal act connected to his behavior, and removed from the U.S. This bill would have restricted that investigation.

That is real-life, professional immigration enforcement. You'll notice there was no mention of a riot, no throwing of frozen water bottles, no destruction of property, no impeding a lawful investigation, and no corresponding law enforcement use-of-force response. Not even a four-letter word or a raised middle finger. I'm reasonably certain nobody even had to raise their voice above conversational tones. If there is to be discussion about the concept of 'fear,' the simple fact is that violators of U.S. law, and yes, violators of U.S. Immigration Law, have valid reason to be concerned: they have attempted to construct some form of life here in the U.S. on an unsecure foundation. And those who exceed the legal limits of protest expression protected by the First Amendment, those who use violence or resist arrest, have reason for genuine fear: Fear from legitimate consequences of their actions.

I close saying with conviction that the American experience is unique, and defined by rule of law, and civil authority. I spent half my lifetime working under

Chief Executives, some of whom I neither voted for nor cared much for their policies, but I recognized their authority to execute acts of Congress. If we allow our most base political instincts to cloud our best judgement, or permit our personal feelings regarding the Chief Executive to take us on a path away from a lawful and ordered society, then we have failed America.

Sincerely,