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August 29, 2025

Letter of Opposition: The Stop Illegal Entry Act (H.R. 3486)

The Sentencing Project urges you to **vote NO** on the Stop Illegal Entry Act of 2025 (H.R. 3486). The Stop Illegal Entry Act incorporates components of the Stop Illegal *Reentry* Act (emphasis added), often known as Kate’s Law, which has existed in multiple versions since it was first introduced in 2015. This iteration is an extreme expansion of the original, which would sweep a far greater number of people into federal prisons and expose them to far higher mandatory minimum and maximum sentences. It would impose an expansive system of double punishment on immigrants across the United States and explosively increase the federal prison population with no public safety benefit. We urge you to vote no on the Stop Illegal Entry Act.

**The Stop Illegal Entry Act of 2025 would impose an overbroad system of double punishment on immigrants.**

The Stop Illegal Entry Act 2025 extends beyond those who reenter without authorization and would impose a new five year mandatory minimum sentence, with a maximum of life imprisonment, on any individual who entered unlawfully, “eluded examination” (possibly encompassing avoidance of a checkpoint), or obtained entry through immigration fraud, and who is later convicted of any crime punishable by more than one year of imprisonment.

A vast and often absurd array of offenses are punishable by more than a year of imprisonment in the United States: possessing ten doses of methamphetamine for personal use,<sup>1</sup> driving with a suspended license,<sup>2</sup> and transporting more than ten scrap tires are all punishable by more than one year under various state laws.<sup>3</sup> Federal regulatory felonies, often heavily criticized by Republicans,<sup>4</sup> are also within the scope of this statute. One critic of the vast number of federal regulatory offenses estimated Americans inadvertently commit three felonies per day.<sup>5</sup> Under

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<sup>1</sup> Mississippi Code Title 41. [Public Health § 41-29-139](#).

<sup>2</sup> Virginia Code. § 18.2-272. [Driving after forfeiture of license](#).

<sup>3</sup> Stewart, C. (Sept. 28, 2018). [‘Everybody is thinking I’m kidding at first’: Tire case highlights an obscure state law with big punishment](#). Dayton Daily News.

<sup>4</sup> See, e.g., U.S. House of Representatives Judiciary Committee Hearing (May 7, 2025). [Criminalizing America: The Growth of Federal Offenses and Regulatory Overreach](#); President Donald Trump (May 9, 2025). Executive Order: [Fighting Overcriminalization in Federal Regulations](#); Trautman, Lars (Oct. 21, 2019). [How overcriminalization is turning everyday Americans into lawbreakers](#). R Street.

<sup>5</sup> Silverglate, H. A. *Three Felonies a Day. How the Feds Target the Innocent*. New York: Encounter Books, 2009 .

this bill, all could yield a five year federal mandatory minimum sentence if the individual convicted entered the country without authorization. A potential life sentence for such an offense is grotesquely disproportionate and disconnected from any public safety rationale.

Additionally, under the Stop Illegal Entry Act, if an individual entered without authorization, then subsequently was convicted for unauthorized reentry under 8 U.S.C. § 1326 (punishable by a maximum of two years currently and ten under this bill), they would be eligible for a sentence of five years to *life* in prison – a far harsher punishment than that for actually reentering without authorization – further illustrating the disproportionality of the bill’s sentencing ranges.

The Stop Illegal Entry Act would also create a new ten year mandatory minimum sentence with a maximum of life imprisonment for people convicted of unauthorized reentry after two prior unauthorized reentry convictions or after a conviction of any offense punishable by more than a year in prison or considered a felony under state or federal law.<sup>6</sup> Again, a wide array of offenses are felonies within the United States, including many offenses which are so minor that they typically do not otherwise trigger immigration consequences.<sup>7</sup> The Stop Illegal Entry Act abandons any pretense of proportionality and removes all judicial discretion by uniformly making them predicate offenses for a ten year mandatory minimum and maximum sentence of life.

The extraordinarily disproportionate sentencing enhancements attached to a broad range of low-level predicate offenses in the Stop Illegal Entry Act cannot be justified on public safety grounds, defy common sense, and belie its transparent racial and ethnic animus.

### **The Stop Illegal Entry Act would not improve public safety.**

Widespread evidence shows that mandatory minimum sentences produce substantial harm with no overall benefit to crime control.<sup>8</sup> These sentences represent a uniquely American approach to punishment that has accelerated prison growth.<sup>9</sup> They constrain judicial discretion, deepen racial disparities in the criminal legal system,<sup>10</sup> increase coercive plea bargains,<sup>11</sup> and cause far-reaching harm to individuals, families, and communities.<sup>12</sup> Without regard to the severity of the

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<sup>6</sup> The Stop Illegal Entry Act contains redundant enhancement provisions – it also applies this sentencing range to people convicted of unauthorized reentry at least twice and people who reenter with prior convictions for aggravated felonies.

<sup>7</sup> American Immigration Council (2021). [Aggravated felonies: An overview](#).

<sup>8</sup> National Research Council. (2014). *The Growth of Incarceration in the United States: Exploring Causes and Consequences*. Committee on Causes and Consequences of High Rates of Incarceration, J. Travis, B. Western, and S. Redburn, Editors. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. The National Academies Press. <https://doi.org/10.17226/18613>.

<sup>9</sup> Mauer, M. (2018). [Long-term sentences: Time to reconsider the scale of punishment](#). The Sentencing Project.

<sup>10</sup> Rehavi, M. M. & Starr, S. (2014). [Racial disparity in federal criminal sentences](#). University of Michigan Law School. In this study of federal sentences, results indicate that prosecutors brought charges carrying mandatory minimum against Black defendants 65% as often as comparable whites, resulting in Black individuals spending more time in prison than white people for the same crimes.

<sup>11</sup> Caldwell, H. (2012). [Coercive plea bargaining: The unrecognized scourge of the justice system](#). Catholic University Law Review, 61(63), 67–85; Fellner, J. (2013). [An offer you can't refuse: How U.S. federal prosecutors force drug defendants to plead guilty](#). Human Rights Watch.

<sup>12</sup> Schulhofer, S. J. (1993). [Rethinking mandatory minimums](#). Wake Forest Law Review, 28 (2), 199-222.

offense, the proportionality of punishment, or the needs of the community – including U.S. citizen dependent children – mandatory minimum sentences impose a uniform draconian punishment. Public sentiment is growing against mandatory minimums,<sup>13</sup> and judges often denounce the ways in which mandatory minimums constrain their discretion.<sup>14</sup> Among many other organizations, the Judicial Conference of the United States, the American Law Institute’s Model Penal Code, and the American Bar Association call for their elimination.<sup>15</sup>

Lengthening sentences is likewise a poor crime control strategy. The Stop Illegal Entry Act creates maximum penalties of life for certain entry and reentry offenses, raises the maximum penalty for repeated unauthorized entry from two years to five years, raises the maximum penalty for unauthorized reentry without aggravating factors from two years to ten years, and raises the maximum penalty for unauthorized reentry after conviction of three qualifying misdemeanors from 10 years to 15 years.

Research has shown that lengthy prison terms often incarcerate people long after they have aged out of crime. Recidivism rates drop dramatically among people who have served longer than six to 10 years compared to those who have served shorter sentences.<sup>16</sup> “Criminal careers” typically end within approximately 10 years.<sup>17</sup> Research on the age-crime curve, which measures the proportion of individuals in various age groups who engage in crime based on arrest trends, shows that for a range of offenses, including robbery and murder, criminal offending peaks around the late teenage years or early 20s, then begins a gradual decline in the early 20s.<sup>18</sup> Longer sentences also fail to deter others from criminal activity. As Daniel Nagin, professor of public policy and statistics at Carnegie Mellon University and a leading national expert on deterrence, writes: “Increases in already long prison sentences, say from 20 years to life, do not

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<sup>13</sup> The Mellman Group and Public Opinion Strategies (2016). [National survey key findings–Federal sentencing and prisons](#). Pew.

<sup>14</sup> Johnson, C. (2014). [Judge regrets harsh human toll of mandatory minimum sentences](#). National Public Radio; Martin, R. (2017). [Minimum sentences often don’t fit the crime](#). National Public Radio.

<sup>15</sup> Judicial Conference of the United States (1990). Reports of the proceedings of the judicial conference of the United States; American Bar Association (2017). ABA opposes mandatory minimum sentences; American Law Institute (2017). Model Penal Code: Sentencing, Proposed final draft.

<sup>16</sup> United States Sentencing Commission. (2022). *Length of incarceration and recidivism* (2022); Antenangeli, L., & Durose, M. R. (2021). *Recidivism of prisoners released in 24 states in 2008: A 10-year follow-up period (2008–2018)*. Bureau of Justice Statistics.

<sup>17</sup> Kazemian, L. (2021). *Pathways to desistance from crime among juveniles and adults: Applications to criminal justice policy and practice*. National Institute of Justice; Blumstein, A., & Piquero, A. (2007). Restore rationality to sentencing policy. *Criminology & Public Policy*, 6(4), 679-687. <https://doi.org/10.1111/j.1745-9133.2007.00463.x>; Kazemian, L., & Farrington, D. P. (2018). *Advancing knowledge about residual criminal careers: A follow-up to age 56 from the Cambridge study in delinquent development*. *Journal of Criminal Justice*, 57, 1-10. <https://doi.org/10.1016/j.jcrimjus.2018.03.001>; Piquero, A., Hawkins, J., & Kazemian, L. (2012). Criminal career patterns. In R. Loeber & D. P. Farrington (Eds.), *From juvenile delinquency to adult crime: Criminal careers, justice policy, and prevention* (pp. 14–46). Oxford University Press.

<sup>18</sup> This peak is more pronounced in arrest trends between 1980 and 2010 and less so since then as arrest rates for young people have fallen dramatically. Loeber, R., & Farrington, D. (2014). Age-crime curve. Bruinsma & D. Weisburd (Eds.), *Encyclopedia of Criminology and Criminal Justice*. Springer, pp. 12–18; Neil, R., & Sampson, R. (2021). The birth lottery of history: Arrest over the life course of multiple cohorts coming of age, 1995–2018. *American Journal of Sociology*, 126(5), 1127–1178. <https://doi.org/10.1086/714062>; Office of Juvenile Justice and Delinquency Prevention Statistical Briefing Book. *Age-specific arrest rate trends*.

have material deterrent effects on crime.”<sup>19</sup> Long sentences are limited in deterring future crimes because most people do not expect to be apprehended for a crime, are not familiar with relevant legal penalties, or commit crime with their judgment compromised by substance use or mental health problems.<sup>20</sup>

The Stop Illegal Entry Act’s mandatory minimum sentences and extreme maximum sentences will not improve public safety, but they will have one predictable impact: significantly increasing the size of the federal prison population, as well as its racial and ethnic disparities.

### **The Stop Illegal Entry Act would dramatically increase the federal prison population.**

In fiscal year 2024, federal prosecutors charged nearly 30,000 people with unauthorized entry-related offenses.<sup>21</sup> Prosecutions for immigration-related offenses make up around 38% of all federal prosecutions in district court, more than any other category of federal crimes.<sup>22</sup> Of the 64,124 cases reported to the U.S. Sentencing Commission in fiscal year 2023, over 18,000 involved immigration offenses, the majority of which included illegal reentry charges.<sup>23</sup> Prosecutions and convictions will further increase given the current administration’s prioritization of immigration prosecutions and Attorney General Bondi’s mandate that prosecutors must pursue the most serious charges.<sup>24</sup> The average sentence for all individuals sentenced for unauthorized reentry is currently around one year.<sup>25</sup> As such, creating widely applicable mandatory minimum sentences for unauthorized entry and reentry would have a profound impact on the federal prison population.

The U.S. Sentencing Commission estimated in 2015 that “The Establishing Mandatory Minimums for Illegal Reentry Act”<sup>26</sup> would have expanded the federal prison population by nearly 60,000 individuals over five years, a nearly 40% increase from the then-current population.<sup>27</sup> The Stop Illegal Entry Act, however, has more broadly applicable and higher

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<sup>19</sup> Nagin, D. (2019, March 21). [Guest post: Reduce prison populations by reducing life sentences](#). The Washington Post.

<sup>20</sup> Robinson, P., & Darley, J. (2004). Does criminal law deter? A behavioral science investigation. *Oxford Journal of Legal Studies*, 24(2), 173–205. <https://ssrn.com/abstract=660742>

<sup>21</sup> U.S. Department of Justice (2024). [Prosecuting Immigration Crimes Report \(PICR\)](#).

<sup>22</sup> U.S. Department of Justice (2024). [United States Attorneys’ Annual Statistical Report FY2023](#).

<sup>23</sup> U.S. Sentencing Commission (2024). [Quick Facts: Illegal Reentry FY2023](#).

<sup>24</sup> In a January 21, 2025 memorandum, the Acting Deputy Attorney General Emil Bove ordered U.S. Attorney’s Offices to pursue more charges for immigration-related offenses, diverting staff and resources dedicated to narcotics and violent crime prevention. On February 5, Attorney General Bondi issued general charging and sentencing guidance requiring prosecutors to pursue the most serious charges possible under the law. Deputy Attorney General Todd Blanche also issued a March 6, 2025 memorandum surging resources to border districts and ordering federal prosecutors to “continue to charge more” unauthorized entry and reentry cases. U.S. Department of Justice (Jan. 21, 2025). [All staff memorandum: Interim policy changes regarding charging, sentencing, and immigration enforcement](#); U.S. Department of Justice (Feb. 5, 2025) [General policy regarding charging, plea negotiations, and sentencing](#); and U.S. Department of Justice (March 6, 2025) [Memorandum from the Deputy Attorney General Subject: U.S. Attorneys’ Offices staffing priorities](#).

<sup>25</sup> U.S. Sentencing Commission (2024). [Quick Facts: Illegal Reentry FY2023](#).

<sup>26</sup> S. 1762. [Establishing Mandatory Minimums for Illegal Reentry Act of 2015](#).


<sup>27</sup> Ford, M. (Sept. 6, 2015). [Kate’s Law and the problem with mandatory-sentencing legislation](#). The Atlantic. For an analysis of the potential impact of various past versions of Kate’s Law, would apply to fewer individuals and carried

mandatory minimums *and* higher maximum penalties. “The Establishing Mandatory Minimums for Illegal Reentry Act” would have created a five year mandatory minimum only in the context of reentry offenses and its maximum penalties did not exceed 20 years. In contrast, the Stop Illegal Entry Act creates a five year mandatory minimum for individuals convicted of offenses punishable by more than a year in prison after entering without authorization, *and* a ten year mandatory minimum for certain individuals convicted of unauthorized reentry *and* raises maximums in some instances to life.

This bill’s impact on the federal prison population would be significantly more extreme than past related bills with no evidence of a likely reduction in crime. This explosive increase in the federal prison population would undo the critical bipartisan progress Congress has made in reducing excess incarceration and divert scarce resources from evidence-based safety interventions.

We urge you to **vote NO** on the Stop Illegal Entry Act of 2025. Please reach out to Liz Komar at [lkomar@sentencingproject.org](mailto:lkomar@sentencingproject.org) with any questions or concerns.

Thank you for your consideration,



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lower penalties, see FAMM (2018). [Understanding Kate’s Law](#). The US Sentencing Commission has also estimated the potential impact of a five year mandatory minimum for unlawful reentry based on FY2014 data, which while not equivalent is useful given how widely the aggravating factors in the Stop Illegal Entry Act may apply. U.S. Sentencing Commission (2018). [Estimated Effect of Creating a 5 Year Mandatory Minimum for Illegal Reentry Offenses](#).