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Vote No on Heller 1954 Criminal Alien Gang Member Removal Act

[Heller 1954, the Criminal Alien Gang Member Removal Act](#), is framed as a “law and order” legislative package, however, the bill is duplicative of existing law, erodes basic due process protections for immigrants, and if passed would lead to unchecked racial profiling and other unconstitutional police practices.

Heller 1954 demonizes immigrant communities and marginalizes youth of color. Our immigration laws already provide the government with numerous, far-reaching tools to deport individuals engaged in or alleged to be engaged in relatively minor criminal activity including even mere suspicion of gang affiliation. The federal government, as well as states, have ample authority to arrest and convict individuals for gang-related offenses. The Department of Homeland Security (DHS) already uses its discretionary power to prioritize individuals alleged to be gang affiliated for deportation through [Operation Community Shield](#), a program that has deported [over 61,000 suspected gang members or associates](#).

Heller 1954 defines a “criminal gang” as *any group, club, or association of two or more people who, within the last five years, violate state, federal, or foreign law by engaging in conduct relating to certain designated offenses.*

- This definition of criminal gang is far broader than most state definitions of criminal gangs and the federal definition of “criminal street gang.”
- This overbroad definition could encompass groups as varied as churches and fraternities, or even a married couple, for designation as a criminal gang. For example, the government could attempt to designate a church group that shelters an undocumented immigrant as a gang.

Heller 1954 encourages racial profiling and will result in wrongful deportations.

- This bill impacts all noncitizens, including legal permanent residents, Temporary Protected Status holders, unaccompanied immigrant children fleeing violence, and refugees.
- The bill targets immigrants for detention and deportation even if they have not committed any crime or been suspected of committing a crime. These provisions impose guilt by association by targeting people not for their own individual conduct, but for their mere association with “groups” considered to be dangerous or otherwise disfavored.
- This bill does not require an individual to be convicted of any crime in order to be considered a gang member. All that is required is that an immigration officer have a “*reason to believe*” an individual is associated with a gang. For example, if an individual lives in a neighborhood known for gang activity, they could be considered a gang member.
- There is no waiver for the new grounds of removability, it is retroactive in its application, and it provides no exceptions for actions committed as a juvenile or under duress.

- By handing DHS powerful tools to arrest, detain, and deport noncitizens, Heller 1954 will encourage DHS to rely upon data gathered by local law enforcement in gang databases. Gang databases and other information-sharing arrangements between local law enforcement and federal immigration authorities are riddled with error and encourage biased policing. Evidence is emerging that it is a proxy for “stop and frisk” policies that have undermined police-community relations.

Heller 1954 fails to provide due process to individuals the government targets as gang members.

- This bill casts U.S. Immigration and Customs Enforcement as arresting officer, jailer, and judge, stripping away any effective due process protections. The bill does not allow individuals to challenge a group’s designation as a gang in immigration court even if the designation triggers the person’s detention and deportation.
- Individuals facing deportation through application of this Act are not permitted to challenge the criminal gang designation in any hearing or trial associated with their removal proceeding.
- Individuals facing deportation through application of this Act are subjected to no-bond mandatory detention. This bill would greatly expand the population of immigrants in detention without any opportunity to seek release, at a time when deaths in detention are occurring with alarming frequency and rates of representation from detention are alarmingly low.

Heller 1954 bars entire communities from nearly any form of immigration benefit or protection and precludes many refugees and individuals fleeing abuse from seeking legal protection.

- This bill will result in the deportation of people fleeing gang violence back to harm or death at the hands of the very persecutors they fled. This bill renders anyone suspected of gang association or membership ineligible for asylum, withholding of removal, Temporary Protected Status (TPS), Special Immigrant Juvenile Status (SIJS), or parole (unless presence is required to assist law enforcement operation). For many youth fleeing forced gang recruitment, this bill will be a death sentence.
- This bill will disproportionately harm children and youth because of the rampant misidentification of youth as gang members. Teenagers and children will undoubtedly trigger these bars for mere association with friends and family such as lending someone a car for a ride or for youthful indiscretions like trespassing.
- Because there is no way to challenge a gang “finding” under this bill, these children will be permanently separated from their parents and returned to countries with skyrocketing levels of violence.

Please also see a [letter](#), signed by 350 organizations, against H.R. 3697, a similar House bill. Please note, Heller 1954 is even more punitive and overbroad than H.R. 3697.

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