



January 15, 2025

United States Senate
Washington, DC 20510

Re: Laken Riley Act (S. 5)

Dear Senator:

As organizations committed to due process and the right to counsel, we urge you to oppose the Laken Riley Act. This bill would subject undocumented persons to mandatory, prolonged detention based on mere arrest for theft-related offenses, including shoplifting. Such sweeping detention would circumvent due process protections, ensnare innocent persons, and greatly interfere with the representation of counsel necessary for the fair administration of justice.

Mandatory immigration detention with no opportunity to ask a judge for bond is unjust and unnecessary, even after conviction. Such detention based on mere arrest is a particularly dangerous precedent. Persons charged with even the most serious criminal offenses are entitled to a judicial determination of their detention status. Under the Laken Riley Act, not only is there no opportunity to release those who present no danger to the community, including parents of small children arrested for minor thefts, but there is no timely opportunity to challenge wrongful arrests. Unquestionably, innocent individuals will be swept up into this draconian system with no off-ramp to avoid severe and long-term consequences.

The Act would not only strain the resources of detention systems (or force hasty and costly expansion of those systems), but also delay the judicial process as defense counsel would face significant challenges in accessing their clients and preparing a defense. This lack of access hinders the ability of defense counsel to gather necessary information, build a strong defense, and ensure that their client's rights are protected. In addition, the detention of people in immigration custody presents significant challenges and expense for people facing open cases. To appear before the court to adjudicate the pending matter the person will need to be subject to a writ and transported. This process will be both costly and extremely inefficient, causing significant backlogs in state courts that are already overburdened.

Given the federal government's existing authority to detain people facing deportation proceedings, the Laken Riley Act is completely without sound justification. If passed, the bill will have a devastating impact on persons accused, but not convicted, of theft-related crimes as well as the administration of justice. We therefore urge you to oppose the Laken Riley Act and vote no if the bill receives a vote. Potential amendments to Laken Riley Act that would add mandatory detention for other offenses (such as Sarah's Law) raise the same concerns. We urge you to oppose these amendments as well.

Sincerely,

National Association of Criminal Defense Lawyers

National Association for Public Defense

National Legal Aid and Defender Association