



Legislation Text

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Res. No. 193

Resolution denouncing The Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005 (HR 4437).

By Council Members Martinez, Stewart, Clarke, Comrie, Seabrook, Monserrate, James, Jackson, Baez, Barron, Dickens, Foster, Mark-Viverito, Palma and The Public Advocate (Ms. Gotbaum)

Whereas, The Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005 (HR 4437) is an unprecedented assault on the rights of undocumented immigrants, as well as the rights of legal permanent residents and U.S. citizens by imposing harsh provisions and dangerous enforcement only policies against them; and

Whereas, HR4437 attacks the fundamental constitutional values of due process by eroding the present immigration laws by providing the Department of Homeland Security (DHS) and its officers with unfettered authority to deny naturalization applications with no judicial review; and

Whereas, HR4437 guts the federal courts' authority to review immigration matters by preventing courts from reviewing any application for naturalization unless a judge certifies that the petitioner has made "a substantial showing that the petition for review is likely to be granted" without the right of review or appeal of the denial; and

Whereas, HR4437 criminalizes not only undocumented immigration status by making presence in the United States without valid status a new federal crime of "unlawful presence", but also criminalizes some actions of legal immigrants, U.S. citizens and organizations by expanding the definition of the Federal crime of "alien smuggling" to include assisting a person to remain or attempt to remain in the United States even if the "offender" is a family member, social service organization, refugee agency, teacher, or clergy, as long as the

“offender” has aided, assisted, or otherwise had regular contact with the undocumented immigrant; and

Whereas, HR4437 turns minor, nonviolent, negligent acts or omissions that were not deportable offenses, into aggravated felonies retroactive as far back as 20 years with the worst possible consequences, such as mandatory deportation, mandatory detention, disqualification for almost all immigration benefits, permanent banishment from the United States regardless of how long the immigrant has been in the U.S. and how many ties he or she has; and

Whereas, HR4437 expands the costly detention of immigrants by requiring the Department of Homeland Security to detain all non-citizens apprehended within 100 miles of the border indefinitely without meaningful review by placing them in criminal facilities until they are removed from the United States despite that the fact policies such as this have resulted in terrible mistakes including its wrongful application to genuine refugees and U.S. citizens; and

Whereas, HR4437 grants state and local law enforcement agencies “inherent authority” to enforce immigration laws by empowering them with the liberal authority to investigate, identify, apprehend, arrest, detain and transfer to Federal custody any non-citizen thereby undermining their ability to keep communities safe because immigrants and their family members will be afraid to report crimes, fires, and suspicious activity out of fear of exposing themselves, families or neighbors to police; and

Whereas, HR4437 arbitrarily imposes mandatory minimum sentences upon immigrants or persons who aid or assist them for dozens of current offenses and without providing judges with the discretion to make the punishment fit the crime; now, therefore, be it

Resolved, That the Council of the City of New York denounces The Border Protection, Anti-Terrorism, and Illegal Immigration Control Act of 2005 (HR 4437).

DLV
LS# 488
3/8/2006

