

ASSEMBLY THIRD READING  
AJR 1 (Katra, et al.)  
As Amended March 25, 2021  
Majority vote

## **SUMMARY**

Urges the 117th United States (U.S.) Congress to abolish U.S. Immigration and Customs Enforcement (ICE), and on or before the abolition of ICE, to implement an orderly and just transfer of essential and basic legally required functions in a manner that upholds values of due process, equality under the law, and family unity.

### **Major Provisions**

- 1) Finds that in response to the terrorist attacks on September 11, 2001, the United States Congress passed the Homeland Security Act, which abolished the Immigration and Naturalization Service and replaced it with the Department of Homeland Security, which included the establishment of the Bureau of Immigration and Customs Enforcement, now known as U.S. Immigration and Customs Enforcement, or ICE.
- 2) Finds that, even prior to the election of Donald Trump as President in 2016, ICE has had a troubled history, that it has been criticized by both sides of the political spectrum, and that it has been mired in controversy by using its funding to detain immigrants in egregiously inhumane conditions and to deport them with little to no due process or consideration for their familial and community ties to the United States.
- 3) Finds that, on January 25, 2017, Donald Trump signed Executive Order No. 13768, entitled "Enhancing Public Safety in the Interior of the United States," which expanded ICE's activities to terrorize immigrants through inhumane detention, isolation, and abuse.
- 4) Finds that, in December 2017, the Department of Homeland Security Office of the Inspector General issued a report categorizing violations of compliance with ICE detention standards regarding conditions for detainees, and that these violations "undermine [their] protections, rights, humane treatment, and provisions of safe and healthy environments."
- 5) Finds that due to lax federal oversight, ICE has routinely engaged in deceptive practices that mislead the public, such as posing as local law enforcement despite not being trained or deputized as police officers and misrepresenting administrative warrants as judicial warrants, and pressuring local and state law enforcement to violate due process rights by holding and transferring people who are being released to ICE.
- 6) Finds that most egregiously, ICE has separated children from their families upon detention, and that to date, thousands of children have been removed from their parents for no reason other than to implement a "zero-tolerance" policy to criminally prosecute every adult who has entered the country without legal status, even though these parents are simply seeking a better life for themselves and their families.
- 7) Finds that ICE has also failed miserably in controlling and treating the spread of COVID-19 in detention facilities, including youth detention facilities, resulting in hundreds of detained

adults and children contracting the virus and reports documenting that in some cases little to no medical care is provided.

- 8) Finds that the U.S. House of Representatives Committee on Homeland Security hosted a panel on September 21, 2020, entitled "ICE Detention Facilities: Failing to Meet Basic Standards of Care," which found that ICE's detention facilities failed to identify and correct deficient conditions, and concluded that ICE does not do enough to ensure that its own standards of confinement are met.
- 9) Calls upon the 117th United States Congress to abolish ICE and, on or before the abolition of ICE, implement an orderly and just transfer of its essential and basic legally required functions in a manner that upholds values of due process, equality under the law, and family unity.

## COMMENTS

*ICE's role in family separations.* As a result of the Trump administration's zero-tolerance policy, thousands of children were separated from their parents and housed in group facilities while their parents faced prosecution for illegal entry into the United States. In response to this, on February 26, 2018, the American Civil Liberties Union (ACLU) filed *Ms. L. v. ICE* (S.D. Cal.), No. 3:18-cv-00428, which sought to halt and undo the Trump administration's family separation policy. The case is currently ongoing. As of October 2020, hundreds of separated families had still not yet been reunited, due to poor record-keeping, increased criminal prosecutions of adult family members, and deportations of parents without their children. (See Kaitlyn Dickinson, *Parents of 545 children separated at the border cannot be found* (Oct. 21, 2020), New York Times, available at <https://www.nytimes.com/2020/10/21/us/migrant-children-separated.html>.)

*ICE and the impact of the COVID-19 pandemic.* The detrimental effects of family separation have also been exacerbated by the COVID-19 pandemic, particularly as it relates to the health conditions for those detained in congregate care settings. It became evident that congregate care settings were hotspots for infection and the lasting effects can be seen with data reporting that as of April 7, 2021, 11,190 detainees had tested positive for COVID-19. (See U.S. Immigration and Customs Enforcement, *COVID-19 ICE Detainee Statistics by Facility*, (Apr. 7, 2020), available at <https://www.ice.gov/coronavirus#detStat>.)

*ICE's dark history on the infringement of reproductive rights.* Recently, allegations emerged on behalf of immigrants detained at the privately operated Irwin County Detention Center in Georgia. In the complaint, nurse Dawn Wooten blew the whistle on "jarring medical neglect," including an allegation that a government-contracted doctor repeatedly performed sterilization procedures on women in ICE custody without their knowledge or consent. In response, a class action lawsuit was filed against ICE, seeking to obtain the medical records detailing what procedures were performed. The case is ongoing. (*Crew et al. v. ICE* (D.D.C. 2020), No. 1:20-cv-03120, filed October 29, 20.)

*ICE struggles to carry out its intended mission and instead is harming public safety in the United States.* In 2017, immigration arrests by ICE increased by 30% from 2016. During the same period, police officers reported a dramatic drop in outreach from, and cooperation with, immigrant and limited English proficiency (LEP) communities. Law enforcement officials reported that many crimes have become more difficult to investigate: 69% said domestic

violence was harder to investigate, 64% said human trafficking was harder to investigate, and 59% said this about sexual assault. (See ACLU, *Freezing Out Justice: How immigration arrests at courthouses are undermining the justice system* (2018), available at [https://www.aclu.org/sites/default/files/field\\_document/rep18-icecourthouse-combined-rel01.pdf](https://www.aclu.org/sites/default/files/field_document/rep18-icecourthouse-combined-rel01.pdf).)

*ICE's continual budget mismanagement and public deception.* In recent years, Congress has reprimanded ICE for its chronic fiscal mismanagement. In May 2017, Congress passed a supplemental appropriations bill providing ICE with \$2.6 billion to massively increase its detention capacity. In the bipartisan report language accompanying the bill, Congress noted ICE's lack of fiscal discipline and continued mismanagement of funding for detention operations. Further, it noted that ICE's daily population rates and daily bed rates were unrealistic, and its calculations were invalid. (See The National Immigrant Justice Center and The Watch Network, *ICE Lies: Public Deception, Private Profit* (Jan. 2018) available at [https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-02/IceLies\\_DWN\\_NIJC\\_Feb2018.pdf](https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-02/IceLies_DWN_NIJC_Feb2018.pdf).)

*An example of an ICE function that should be transferred, rather than abolished.* ICE has two main components, the Homeland Security Investigations (HSI) arm and the Enforcement and Removal Operations (ERO) arm. ICE's heavily criticized actions come from increased focus on the ERO component. Its lesser-known counterpart, HSI, however plays an important role in combatting, among other things, terrorism; human smuggling and trafficking; weapons smuggling; narcotics smuggling and trafficking; financial crimes; cyber crime; exploitation of children and sex tourism; and visa security breaches. It appears, therefore, that HSI provides "essential and basic legally required functions," per the terms of this resolution that ought to be transferred to another portion of the federal government "in a manner that upholds values of due process, equality under the law, and family unity."

### **According to the Author**

Founded in the aftermath of 9/11, when national rhetoric against immigrants and desire for heightened homeland security were grossly exaggerated, the Immigration and Customs Enforcement Agency or ICE has systematically carried out an extreme agenda of dehumanizing lives and communities. Deploying paramilitary units disguised as peace officers with dubious warrants, ICE has for too long used its unchecked authority to terrorize immigrant communities without enhancing public safety.

Still to this day, ICE operates as a rogue agency and continues to detain immigrants in egregiously inhumane conditions and deport them with little to no due process or consideration for their familial and community ties. Additionally, countless formerly incarcerated immigrants and refugees are systematically being transferred to ICE without regard to circumstance, path toward rehabilitation, or family connections in California.

ICE's extreme agenda and actions demonstrate a complete inability to fulfill its duties without violating due process, human rights, or public accountability. These failures show ICE to be beyond reform or restructuring, and the agency must be abolished. AJR 1 strongly and unequivocally urges Congress for the abolition of ICE and that we begin an orderly and just transfer of legally required essential functions in a manner that upholds values of due process, equality under the law, and family unity.

### **Arguments in Support**

The California Immigrant Policy Center and other advocacy organizations justify their support of this policy as follows:

ICE's immigration detention system endangers human lives. Despite numerous reports of egregious medical neglect and malpractice, overcrowding, extreme temperatures, toxic water, use of harmful chemical agents on immigrants, and routine and prolonged solitary confinement immigrants, ICE consistently fails to provide adequate oversight over these immigration detention facilities, allowing these abuses to proliferate. Most recently, the agency also failed miserably in containing the spread of COVID-19 in immigration detention, making 2020 the deadliest year in immigration detention since 2005.

Further, ICE officers conducting interior immigration enforcement routinely and intentionally engage in deceptive practices to mislead community members, posing as local police officers, misrepresenting administrative warrants as judicial warrants, and pressuring local and state law enforcement to transfer immigrants to ICE custody.

California is home to the largest and most diverse immigrant community in the United States, and cannot remain silent as ICE continues to take harmful, destructive, and inhumane actions against our immigrant community members. AJR 1 conveys to federal leaders that ICE's role in terrorizing immigrant communities is unwelcome and does nothing to enhance public safety.

### **Arguments in Opposition**

Writing in opposition to this measure, Southwest California Legislative Council adopts the rhetoric of immigration hardliners:

The resolution contains a litany of untruths to support this egregious assault on the security of our nation. Referencing numerous fables, half-truths, and outright fabrications, the author(s) build a case without foundation. Further, they simply cannot restrain themselves from taking a shot at President Trump, although acknowledging a 'troubled history' with ICE prior to that. Interesting in this screed is the fact that ICE is simply enforcing the law as set down by Congress, extant through numerous former Presidents and extending to the current inhabitant of the White House. ICE doesn't make the laws, they simply enforce. Look to the root of the problem is you're serious about fixing it.

### **FISCAL COMMENTS**

None

### **VOTES**

#### **ASM JUDICIARY: 7-3-1**

**YES:** Stone, Chau, Chiu, Lorena Gonzalez, Holden, Kalra, Reyes

**NO:** Gallagher, Davies, Kiley

**ABS, ABST OR NV:** Maienschein

**UPDATED**

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CONSULTANT: Mary Soliman & Jith Meganathan / JUD. / (916) 319-2334      FN: 0000180