

**COMMUNITY EXPLAINER**

# LAKEN RILEY ACT

In the next few days, President Trump is expected to sign the Laken Riley Act into law after the bill received bipartisan support from Democrats and Republicans in Congress. The Act exploits a tragic murder to criminalize immigrant populations, vastly expand immigration detention, and encourage anti-immigrant states to file lawsuits against the federal government for certain immigration decisions it makes. This explainer breaks down what the Laken Riley Act means for our communities and how we can protect each other.

## WHAT DOES THE LAKEN RILEY ACT DO GENERALLY?

There are two main changes that the Laken Riley Act makes to current immigration laws:

**First**, certain immigrants who are accused of certain crimes, like shoplifting and assaulting a law enforcement officer, will be detained by Immigration and Customs Enforcement (“ICE”) without an opportunity to ask for release in immigration court while their case is pending. Under the Act, a person does not have to be convicted of any crimes to be forced into mandatory detention – even an arrest based on a false accusation or someone admitting that they committed a crime could be enough to detain them indefinitely until their immigration case is over.

**Second**, the Act gives states broad ability to sue the federal government over immigration decisions that the states do not like. For example, under the law, states can go to court to force immigration agencies to continue detaining someone or deport someone.

There may be legal challenges against parts of the Laken Riley Act, and it is possible that the law may be narrowed or struck down by the courts. Regardless, if it is implemented to the fullest extent, the Laken Riley Act will expand the inhumane immigration detention system by over 250 percent. Instead of being with their families and communities while navigating their immigration case, tens of thousands more people could spend months and even years locked in cages without an opportunity to be released.

## WHAT IS “MANDATORY DETENTION” AND HOW DID IT FUNCTION BEFORE THE LAKEN RILEY ACT?

Before the Laken Riley Act, many people were already forced to go through their immigration cases under mandatory detention. These laws require certain immigrants to remain detained while their case goes on in immigration court. People who are affected by mandatory detention cannot be considered for release by an immigration judge and generally must remain in detention until their immigration court case ends,

a process that can take years. In contrast, people who are not detained under mandatory detention laws can get a “bond hearing” in immigration court in which they can try to convince the immigration judge that they should be released while their immigration case is pending.

For decades, people who are convicted of a wide range of crimes have been detained under mandatory detention laws. Our immigration detention laws have already been cruel and inhumane for decades, and the Laken Riley Act expands them in unprecedented ways to devastate even more families and communities.

## WHO WILL THE LAKEN RILEY ACT PRIMARILY IMPACT?

The Laken Riley Act will primarily impact undocumented immigrants who entered the United States by crossing the border between ports of entry. Under the Act, those immigrants will face mandatory detention if they are arrested for, charged with, convicted of, or admit that they committed any of these crimes:

- Burglary (this usually means breaking and entering with the intention of committing a crime inside but it can vary based on the state laws)
- Theft or Larceny (this usually means stealing or taking someone’s property without permission but it can vary based on the state laws)
- Shoplifting (this usually means a type of theft or larceny committed against retail stores but it can vary based on the state laws)
- Assault of a law enforcement officer
- Any crime that results in death or serious bodily injury to another person

The Laken Riley Act does **not** apply to people in “expedited removal” – which is a fast-tracked deportation process in which low-level immigration officers are able to quickly deport people without giving them a hearing in front of an immigration judge. It only applies to people in regular removal proceedings – which involve a full hearing in front of an immigration judge where the person can present their evidence and legal arguments to prevent their deportation.

People who have already lost their immigration case and have a deportation order are **not** covered by the Laken Riley Act; instead their detention and removal is authorized by an existing law.

This law also does not apply to:

- people who are green card holders (lawful permanent residents);
- people who were granted refugee status outside of the United States and entered through that status; and
- people who entered the United States on a visa even if they have overstayed their visa.

## WHAT WILL BE THE IMPACT OF THE LAKEN RILEY ACT?

Under the Laken Riley Act, some people will be forced to remain in detention for their entire immigration case because of bare accusations. If an undocumented immigrant is arrested for any of the crimes under the Act, they are at risk of remaining detained throughout their immigration case, even if the allegations against them are completely false. This will result in more racial profiling and exploitation.

Because of how broad the law is, it is no surprise that [U.S. Immigration and Customs Enforcement \(ICE\)](#), the main immigration agency that will implement this law, has said that the bill is “impossible” to carry out with ICE’s current budget. Currently, ICE has been funded by Congress to detain up to 41,500 people. ICE

has said that it would need to detain an additional ~110,000 people under this law. ICE has estimated the cost of this law to be \$86 billion over just three years. Because most people in immigration detention are held in private prisons, tens of billions of taxpayer dollars will be used to line the pockets of private prison companies.

## HOW CAN COMMUNITY MEMBERS BETTER PROTECT THEMSELVES?

Even though this is an extremely broad and harmful law, there are still things that people can do that might help them avoid some of the extreme consequences of the Laken Riley Act:

1. **Don't talk to the cops:** If an undocumented person admits to committing any of the crimes under the Laken Riley Act, they could face mandatory detention. Remember that everyone has the right to remain silent. Do not talk to the police, including immigration agents. If they ask you any questions, say: "I will not speak to you without my lawyer."
2. **Learn about how your local police department collaborates with immigration agencies:** One of the main ways immigration agents arrest and detain people is by working closely with local police and jail officers, so understanding how police and immigration agents work together in their area is an important way to know the potential consequences of arrest. In many places, there are campaigns and coalitions working to end cooperation between police and immigration agents. Connect with groups working on these issues in your area and get involved if you have time or resources to support their work.
3. **Speak with your criminal defense lawyer:** If you are charged with any of the crimes covered by the Laken Riley Act, tell your criminal defense lawyer about your immigration status. Your criminal defense lawyer is required to tell you if you might face any immigration or deportation consequences of criminal charges and should work to try to minimize the immigration consequences of your criminal case.
4. **Discuss with an immigration lawyer any options for release:** If you are detained under the Laken Riley Act's mandatory detention law, you may have some options to be freed from detention. Speak with an immigration lawyer who can assess your situation and guide you on whether there are any possible avenues for release.
  - Note: National Immigration Project will be issuing free resources for immigration lawyers and criminal defense lawyers on the Laken Riley Act soon.