



Bill Summary: Fixing America's Marred Immigration Laws to Improve and Ensure Security ("FAMILIES" Act)

Senator Ron Johnson (R-Wisconsin) introduced the Fixing America's Marred Immigration Laws to Improve and Ensure Security ([S.3478](#)), or the FAMILIES Act, in the U.S. Senate on September 18, 2018. The FAMILIES Act, which is largely a compilation of previously-introduced bills, would permit indefinite family detention and make changes in Customs and Border Security's (CBP) hiring practices. It would also require the Department of Homeland Security (DHS) to inspect detention facilities and publish reports summarizing its findings.

I. Family Detention

- This section of the bill is identical to the [Keeping Families Together While Enforcing the Law Act](#) introduced by Sen. Tillis (R-North Carolina) in June 2018. It would require the detention of immigrant children together with their parents. Overriding existing limitations on the detention of children set forth in the [Flores Settlement Agreement](#), a legal settlement governing conditions of children held by immigration authorities, the bill would end the 20-day limit on detaining children and permit indefinite family detention. The modification would be retroactive, impacting also individuals who were detained before the bill's enactment. The bill's sponsors assert that these changes would speed up immigration proceedings of families in detention facilities.
- It would also require DHS Secretary to build additional family detention centers containing at least 1,000 extra beds. The new family detention facilities would be required to be safe and secure, including suitable living conditions and providing detained individuals with adequate food, water, and medical resources.
- In addition, this section would also direct the Attorney General to hire at least 225 immigration judges to help reduce the current backlog in the immigration court system.
 - *Analysis:* This section's requirement that children be detained together with their parents potentially indefinitely pending the completion of immigration court proceedings is problematic. Experts [warn that children experience long-term](#) physical and emotional harm as a result of being in detention, including continuing to show signs of post-traumatic stress disorder after release. In addition, family detention centers and facilities holding [immigrant children](#) have [faced](#) [allegations](#) of [unsanitary and unsafe](#) living conditions.

[Alternatives to Detention \(ATD\) programs](#) represent an effective alternative to family detention, as they allow for monitoring of [certain immigrants](#) who wait for their court proceedings at far lower cost than holding them in immigration detention facilities.

In recent years, the U.S. has faced a growing backlog in the immigration court system. [As of May 2018](#), the average waiting time for an asylum case to be decided was 1,064 days, or nearly three years. In September 2018, there were more than 768,000 [pending cases](#) in all U.S. Immigration Courts and the overall average waiting time surpassed 700 days. With only 350 immigration judges currently overseeing a mounting caseload, the increased focus on enforcement has only worsened the backlog. By providing for more immigration judges, the FAMILIES Act would provide some of the needed resources to reduce the immigration court backlog.

II. DHS Accountability to Congress

- This section of the FAMILIES Act would require DHS to inspect the conditions of family detention centers and submit reports to Congress about its findings. The bill provides for Inspector General oversight, permitting the Inspector General of the Department of Health and Human Services (HHS), in conjunction with the Inspector General of DHS, to investigate allegations of abuse in immigrant juvenile detention centers, examine the effectiveness of ATDs, and report to Congress.
- This section requires the DHS Secretary to submit annual, quarterly, and monthly reports to the Senate and House Homeland Security Committees addressing family migration from Central America UACs, and family separation at the U.S.-Mexico border.
- This section also would require the General Accounting Office (GAO) to study and report on the wait times for immigration hearings for families, including time spent in family detention, and wait times for family asylum hearings, as well as research into changes in conditions in the immigrants' home countries that impact migration into the U.S.

III. Activities at the Border

- The FAMILIES Act also includes the text of the [U.S. Customs and Border Protection Hiring and Retention Act](#), or CBP HiRe Act, previously introduced in June 2017 by Sen. Jeff Flake (R-Arizona). It would require the DHS Secretary to determine critical CBP hiring needs in rural and remote areas, focusing on long-pending vacancies and providing the agency with the [Direct-Hire Authority](#) to streamline the filling of such positions. However, the newly hired employees would still need to meet all the standard qualification requirements prior to hiring.
- In addition, the bill includes the [Anti-Border Corruption Reauthorization Act, previously introduced by Sen. Jeff Flake \(R-Arizona\) in March 2017](#), which would permit the CBP Commissioner to waive the polygraph requirement for certain federal, state or local law enforcement officers and for members of the Armed Forces or veterans when applying for a position at CBP, if they meet certain requirements.

- The bill would include the [Border Security Technology Accountability Act that was previously introduced by Sen. John McCain \(R-Arizona\) in January 2017](#). It would direct the DHS to ensure that major border technology acquisition programs are complying with departmental and Federal acquisition policies and regulations and to take steps to ensure the programs are properly implemented and evaluated to ensure the effectiveness of taxpayer dollars. .
- The bill includes the [Maritime Border Security Review Act](#), previously introduced by Rep. Jenniffer Gonzalez-Colon (R-Puerto Rico-At Large) in May 2018, which would require the DHS Secretary to conduct an unclassified maritime border threat analysis and submit the findings to Congress. The analysis would identify and describe current and future threats along the maritime border, including terrorism and criminal threats such as drug smuggling.

IV. Other Provisions

- The bill also includes the same text as the [Strengthening the Department of Homeland Security Secure Mail Initiative Act previously introduced by Sen. Robert Menendez \(D-New Jersey\) in May 2017](#), which would allow individuals who receive mail under the secure mail initiative to choose between in-person pickup or signature confirming receipt of their mail. This section of the bill seeks to ensure that DHS, specifically USCIS, is sending mail to the proper immigration petitioners and allows these petitioners to track and verify USCIS notices and responses to their immigration petitions.