

Immigration-Related Concerns with McConnell-Shelby Amendment 5

The proposal set forth that will be voted on in the Senate on Thursday January 24th, (McConnell-Shelby Amendment 5), the “[End the Shutdown and Secure the Border Act](#),” seeks to drastically undermine existing protections for the vulnerable; it is not a compassionate solution.

- **McConnell-Shelby Amendment 5 neither provides a path to citizenship for DACA recipients nor the larger Dreamer population.** The approximately 1.8 million Dreamers living in our country were brought to the U.S. as young people and know America as their only home. They should not be denied the opportunity to obtain U.S. citizenship and participate fully in civic life. The McConnell-Shelby Amendment 5, however, only offers a non-renewable three-year stop-gap protection for a very limited subset of existing DACA recipients. This protection is essentially no different than what is currently available, as the DACA litigation continues through the federal court system and the national preliminary injunctions allow those who have DACA to apply for renewals of their current protection. (*See* pgs. 1239-40).
- **McConnell-Shelby Amendment 5 affects a much narrower population than the bipartisan [Bridge Act](#).** The proposed legislation provides that the stop-gap “provisional presence” protection be limited to those currently with DACA (approximately 700,000 people) – failing to provide a solution for those Dreamers who were too young to request DACA, could not afford the filing fees, or otherwise were unable to apply. It is estimated that the Bridge Act would have applied to 1.3 million people. McConnell-Shelby Amendment 5 further creates new income requirements for applicants over age 18 that were neither envisioned by the DACA program nor the bipartisan Bridge Act. (*See* pg. 1239).
- **McConnell-Shelby Amendment 5 leaves thousands of families with Temporary Protected Status (TPS) without protection.** Not only does the proposal fail to provide a permanent solution for TPS recipients, but it also limits its non-renewable three-year protection to those TPS recipients solely from El Salvador, Honduras, Haiti, and Nicaragua. It leaves thousands of TPS recipients from other countries with no protection. Many of these individuals have personal equities that are closely associated with U.S. interests, such as U.S. citizen children, businesses, and home mortgages. (*See* pg. 1256).
- **McConnell-Shelby Amendment 5 seeks to significantly limit the existing TPS program.** McConnell-Shelby Amendment 5 proposes to limit prospective TPS protection to only those who are lawfully in the U.S. This undermines the very purpose of the existing TPS program, which provides protection to all qualifying applicants who cannot safely return to their home countries due to armed conflict, environmental disaster, or other such extraordinary and temporary conditions – regardless of their current immigration status. (*See* pgs. 1275-76).
- **McConnell-Shelby Amendment 5 includes additional fees that will make it difficult for the intended TPS and DACA recipients of “provisional presence” to apply for protections.** Amendment 5, as written, proposes an additional \$500 “security fee” that TPS

and DACA holders must pay when they apply for provisional protected status. This additional cost will be a very high barrier for applicants and could prevent some from being able to access protection. (*See* pgs. 1243, 1266).

- **McConnell-Shelby Amendment 5 dramatically curtails the ability of most Central American children to access asylum.** Rather than reinstating programs that provided *additional* legal avenues for vulnerable children to seek protection, the bill proposes a single and drastically narrowed path for children from El Salvador, Honduras, and Guatemala (the Northern Triangle) to seek asylum. For children from these countries who are outside the U.S. on the date of enactment, Amendment 5 seeks to limit asylum to no more than 15,000 children per year who – among other requirements – have qualifying parents in the U.S. and apply outside of the U.S. McConnell-Shelby Amendment 5 also would put a “cap” on the number of asylum applications the U.S. government will accept from minor children from the Northern Triangle. Such a cap could prevent children from accessing life-saving protection simply based on when they went to the U.S. government to apply for such protection. Further, these children will be left with no avenue for asylum while the program onboards, which could take 8 months. (*See* pgs. 1278-87).
- **McConnell-Shelby Amendment 5 seeks to otherwise limit asylum.** The proposal further curtails the existing asylum system by adding new categories to justify termination of asylum status and of what qualifies as a “frivolous” application. This could include applications being deemed “frivolous” simply because a pro se applicant failed to file within the one-year deadline. (*See* pgs. 1287-1293).
- **McConnell-Shelby Amendment 5 eviscerates longstanding protection for unaccompanied immigrant children.** Amendment 5 would roll back critical processing protections for unaccompanied immigrant children found in the bipartisan William Wilberforce Trafficking Victims Protection Reauthorization Act (TVPRA) of 2008. The proposed rollbacks run counter to basic child protection principles. (*See* pgs. 1295-1298).
- **McConnell-Shelby Amendment 5 proposes a path that would lead to more children being returned to danger.** Amendment 5 would severely limit those unaccompanied children referred to the Office of Refugee Resettlement and would give significantly more discretion to the Department of Homeland Security (DHS) to repatriate arriving children. Children would have to prove to plain-clothes DHS officers that they are “more probable than not” trafficking victims or meriting asylum. This is particularly alarming in light of the [well-documented](#) flaws with DHS’s screening of unaccompanied children at the border that have resulted in at-risk children being returned to their home countries. (*See* pgs. 1295-1298).