



May 15, 2025

Re: Oppose SJR 1

Dear Members:

We, the undersigned criminal justice and immigration organizations, strongly oppose Senate Joint Resolution 1 (SJR 1) and urge you to block it. If passed, this amendment will enshrine in the Texas Constitution a requirement that judges order pretrial detention without due process of people merely accused of certain criminal offenses, simply because they fall under a dangerously broad definition of “illegal alien” that would include DACA recipients, certain vulnerable crime victims, and people who are seeking asylum. It is an unfunded mandate to Texas counties that will overwhelm jails, cause confusion for magistrates and judges, and separate people from their families all while enriching the private prison industry and laying the groundwork for the federal government’s mass deportation agenda.

SJR 1 is plainly unconstitutional and unprecedented and risks significant unintended consequences. We urge you to stand with your colleagues to block SJR 1 for the following reasons:

SJR 1 will further the federal government’s mass deportation agenda and will result in the automatic pretrial detention of DACA recipients, certain vulnerable crime victims, people seeking asylum, and more.

The amendment would require bail denial for anyone the government has merely accused of certain criminal offenses who meets the dangerously broad definition of “illegal alien.” Many vulnerable people would be affected by this definition—including DACA recipients, asylum seekers, and victims of trafficking, domestic violence, sexual assault, and other serious crimes. Many of these individuals have applied for or received special protections under U.S. immigration law, like T-Visas, U-Visas, VAWA Self petitions, or Special Immigrant Juvenile Status. These protections allow them to stay in the U.S. legally—often to help law enforcement investigate and prosecute crimes—while they wait, sometimes for years, to get a green card.

SJR 1 lays out a very broad list of charges that would trigger automatic pretrial detention—and leaves room for statutory changes that could add even more.

SJR 1 would require judges to deny bail in certain cases where there was no actual physical harm caused. For instance, SJR 1 would require bail denial for any felony during which a “deadly weapon” was exhibited but not actually used, where anything from a high-heeled shoe to a Stanley cup has been considered a deadly weapon by Texas courts.ⁱ Moreover, the amendment lays out several additional loosely defined categories of charges that refer to the general law—such as any third degree felony or higher from the Election Code and any felony involving the manufacture or delivery of a controlled substance. This means that any future modification of the Penal Code could result in more people being subject to automatic pretrial detention without the need for another constitutional amendment.

SJR 1 goes against decades of legal precedent on pretrial detention and will result in thousands of unconvicted, presumptively innocent people being jailed without due process.

The United States Supreme Court in *United States v. Salerno* has specified that pretrial detention should never be the norm, but rather a “carefully limited exception.” The amendment, however, would make pretrial detention the rule for a broad group of people: anyone accused of an eligible offense who meets an incredibly broad definition of “illegal alien.” This categorical denial of bail without an individual assessment violates principles of fairness and due process and is a severe limitation on judicial authority in Texas. Currently, denial of bail is only available for capital offenses and certain circumstances where a person is charged with multiple felonies or violations of release conditions. SJR 1 would require automatic detention of bail for a much broader list of charges, even if a judge believes an accused individual can be safely released to the community while awaiting trial.

SJR 1 will blur the lines between the criminal and immigration legal systems and will result in the erroneous detention of U.S. citizens.

State criminal court judges and magistrates lack the specific training and expertise to make accurate immigration status determinations, which are governed by complex and rapidly evolving federal immigration law. Additionally, only immigration judges and, in certain limited cases U.S. Citizenship and Immigration Services, can make a legal determination about whether someone is removable under immigration law. Undoubtedly, SJR 1 will result in errors and misinterpretation of immigration law, causing prolonged and wrongful detention of U.S. citizens.

SJR 1 will threaten public safety by reducing trust between local law enforcement and the communities they serve.

The amendment would further entangle the criminal legal system with immigration enforcement, taking local police away from their jobs and making immigrant communities fearful of reporting crimes and participating in police investigations. The amendment would destabilize whole communities by mandating pretrial detention for legally innocent parents, siblings, caretakers, and essential workers without any option for release, resulting in those people losing employment, housing, and the ability to care for their children.

SJR 1 is a solution in search of a public safety problem that does not exist.

Under current federal law, undocumented people charged with a wide range of offenses already must be held in mandatory immigration detention. These are not individuals who would or could be released. SJR 1 does not make anyone safer—it primarily shifts the burden and cost of detention from the federal government to Texas counties, leaving more people stuck in local jails while local taxpayers foot the bill.

SJR 1 will place an enormous financial burden on Texas counties while enriching the private prison industry.

If passed, SJR 1 will add an extraordinary financial burden to counties by requiring them to facilitate mandatory pretrial detention—sometimes for years—for anyone subject to its broad definition of “illegal alien.” Texas jails cannot accommodate such a dramatic increase in pretrial detention. Already, nearly half of Texas counties spend millions of dollars sending incarcerated people to other counties or states, often to expensive private facilities, while awaiting trial.

For these reasons, we urge you to stand united **against SJR 1.**

Sincerely,

ACLU National Criminal Law Reform Project
ACLU of Texas
Act 4 SA Action Fund
All of Us or None
Amica Center for Immigrant Rights
Capital Area Private Defender Service of
Travis County
Center for Legal and Evidenced Based
Practices
CRECEN

Esperanza Justice and
Peace Center
Frontera Federation
Frontera Fund
Houston Immigration Legal Services
Collaborative
Immigrant Legal Resource Center
Latino Justice
Mano Amiga San Marcos
National Latina Institute for Reproductive
Justice

National Network for Immigrant and
Refugee Rights
Pretrial Justice Institute
Prison Policy Initiative
Public Counsel
Pure Justice Action Fund
Solidarity Engineering
Texas Civil Rights Project
Texas Jail Project
Texas Organizing Project
United Fort Worth
Vera Institute of Justice
Woori Juntos
Workers Defense Action Fund
Wren Action Group

ⁱ See Sec. 22.01; Sec. 22.02; Cesar Rodriguez, "Trio Arrested in High Heel Shoes Assault," Laredo Morning Times, April 19, 2024, <https://www.lmtonline.com/local/article/three-arrested-high-heel-shoes-assault-19410627.php>; Neena Satija, "Texas lawmakers want to make a major change to the way cash bail is set. Their target: Harris County." Houston Chronicle, April 11, 2025, <https://www.houstonchronicle.com/politics/texas/article/bill-targets-houston-bail-magistrates-judges-20242365.php>.