

Congress of the United States
Washington, DC 20515

December 18, 2023

The Honorable Merrick Garland
Attorney General
Department of Justice
950 Pennsylvania Avenue
Washington, DC 20530

Dear Attorney General Garland:

We write to express grave concern over Texas Senate Bill 4 (4),¹ legislation signed into law by Texas Governor Greg Abbott today, December 18, 2023. This legislation authorizes state law enforcement officers to arrest and detain people and state judges to order mass deportations. This bill is set to be the most extreme anti-immigrant state bill in the United States; it is clearly preempted by federal law and when it goes into effect will likely result in racial profiling, significant due process violations, and unlawful arrests of citizens, lawful permanent residents, and others. In practice, this would place people with authorization to be in the United States, even United States citizens, at risk of being forced to leave Texas. SB 4 is dangerously reminiscent of a shameful time in American history – “Operation Wetback” in the 1950s. This operation included Border Patrol agents and local officials using military-style tactics to remove Mexican immigrants, including those who lawfully entered the United States or were United States citizens, and the justification for these brutal tactics included widespread stereotypes about Mexicans.² We urge you to assert your authority over federal immigration and foreign policy and pursue legal action, as appropriate, to stop this unconstitutional and dangerous legislation from going into effect.

Governor Abbott and Republicans in Texas have repeatedly targeted marginalized communities and are increasingly infringing on federal authority over immigration and foreign policy. In 2021, Governor Abbott launched Operation Lone Star (OLS), an initiative from the state law enforcement and Texas National Guard to target suspected migrants for arrest and state and local criminal prosecution.³ In addition to violating the Supremacy Clause, OLS also raises concerns over due process and civil rights – as this operation has already led to unequal and discriminatory application of the law on the basis of race, national origin, or color. In particular, OLS has led to prolonged and arbitrary detention, unfair hearings, and an increase in dangerous vehicular pursuits.⁴ Abbott has also transported thousands of migrants to locations across the country, disrupting federal efforts to coordinate the movement of migrants to communities ready to integrate them. This has endangered migrants, led to the death of three-year-old child, and is yet another example of Abbott’s overstepping his authority.⁵

¹ Indicates Texas Legislature’s 4th special session.

² <https://www.history.com/news/operation-wetback-eisenhower-1954-deportation>

³ <https://www.texastribune.org/2022/03/30/operation-lone-star-texas-explained/>


⁴ <https://www.aclutx.org/en/cases/texas-migrant-arrest-program-under-operation-lone-star>

We are concerned that, without intervention from the Justice Department, Governor Abbott and Texas authorities will continue these harmful and unconstitutional actions – including through SB 4.

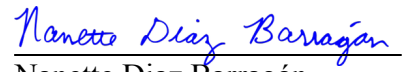
SB 4 is dangerous for the people of Texas and interferes with the federal government’s exclusive authority over immigration and foreign affairs. SB 4 also potentially impedes on due process and civil rights everyone in the United States is entitled to, regardless of the color of their skin or suspected immigration status. SB 4 would make it a misdemeanor, and in some cases a felony, at the state level to cross the border from Mexico into Texas without authorization, allowing Texas law enforcement to inquire about a person’s immigration status and make arrests. SB 4 would also require a state judge to order people convicted of illegal entry or reentry to leave Texas for Mexico or face further prosecution for a misdemeanor or felony if they do not comply with the *state* judge’s order to leave the country.⁶ This law will also create significant issues where the law seeks to remove people to a foreign nation, which the state has neither legal nor the practical ability to do. The process of removing people from the United States is constitutionally a federal process and excluding federal authorities, including Department of Homeland Security agents trained in immigration law and federal judges trained to enforce it, will obstruct asylum cases, result in erroneous determinations, and put many people in danger.

SB 4 is an unlawful attempt to engage in federal immigration enforcement. This law will also interfere with federal efforts to create a safe, humane, and orderly system at the border. Last, this law will impede the constitutional rights and civil liberties of those in Texas. In light of these concerns, we urge the Department of Justice to step in immediately to intervene and prevent this harmful piece of legislation from being implemented.

Respectfully,



Joaquin Castro
Member of Congress



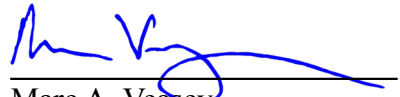
Nanette Diaz Barragán
Member of Congress

⁵ <https://www.texastribune.org/2023/05/11/texas-abbott-migrant-buses-washington-kamala-harris-title-42/>;
<https://www.texastribune.org/2023/08/11/child-death-border-custody/>

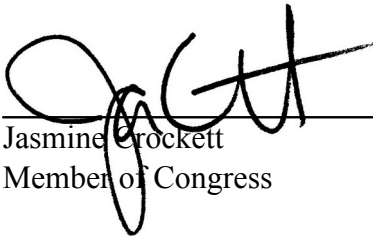
⁶ <https://www.texastribune.org/2023/11/14/texas-house-border-wall-crossing-crime-bill/>



Delia C. Ramirez
Member of Congress



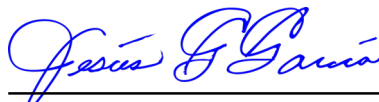
Marc A. Veasey
Member of Congress



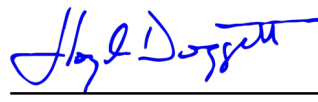
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Member of Congress



Greg Casar
Member of Congress



Jesús G. "Chuy" García
Member of Congress



Lloyd Doggett
Member of Congress



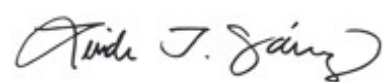
J. Luis Correa
Member of Congress



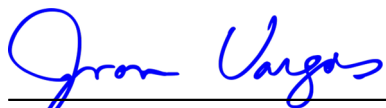
Sheila Jackson Lee
Member of Congress



Veronica Escobar
Member of Congress



Linda T. Sánchez
Member of Congress



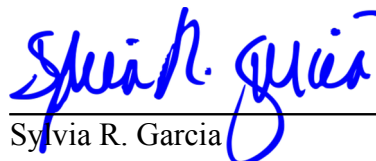
Juan Vargas
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Sylvia R. Garcia
Member of Congress



Grace F. Napolitano
Member of Congress



Al Green
Member of Congress



Vicente Gonzalez
Member of Congress



Lizzie Fletcher
Member of Congress



Norma J. Torres
Member of Congress

CC:

The Honorable Joseph R. Biden, President of the United States
The Honorable Antony J. Blinken, Secretary of State
The Honorable Lloyd J. Austin III, Secretary of Defense

The Honorable Alejandro Mayorkas, Secretary of Homeland Security