

Mandatory Detention

Mandatory immigrant detention, is the requirement that certain categories of migrants remain detained throughout the entirety of their immigration proceedings, is a creation of Congress. In 1996, lawmakers passed the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which expanded the definition of what is known as an aggravated felony and exponentially increased the use of mandatory detention, with limited opportunities for judicial review and without the opportunity to seek bond. Under IIRIRA, all noncitizens—including asylum seekers and lawful permanent residents—are subject to mandatory detention and placed in expedited removal proceedings if they are convicted of an aggravated felony: any crime of violence, theft, or burglary for which the term of imprisonment is at least one year, as well as illegal trafficking in drugs, firearms, or destructive devices.

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