

# CONGRESS MUST ACT TO PROTECT IMMIGRANTS' SAFETY AT SENSITIVE LOCATIONS

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The U.S. Department of Homeland Security (DHS) has longstanding internal policies that restrict immigration enforcement actions in certain “sensitive locations.” These policies are crucial to ensure immigrant families thrive. They recognize that everyone should be able to carry out basic activities and access crucial services without fear or hesitation. However, as immigration enforcement reaches unparalleled levels nationwide, there are numerous reports of arrests taking place at or near sensitive locations. Clearly, existing agency guidance is not enough to protect immigrants and their families.

**Recent research** by the Center for Law and Social Policy (CLASP) confirmed that immigrant families have dramatically changed their daily lives to avoid contact with immigration agents. Many parents are not taking their children to child care, school, or the doctor’s office. This heightened fear and withdrawal from the community hurts families’ wellbeing, interfering with healthy behaviors as well as children’s development. It is more important than ever for members of Congress to stand up for their immigrant constituents and their families.

## CURRENT DEPARTMENT OF HOMELAND SECURITY POLICIES

Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP) actions at sensitive locations are guided by agency memos from 2011 (ICE) and 2013 (CBP) as well as Frequently Asked Questions published in 2016. Based on this guidance:

**Enforcement actions at (or focused on) locations deemed “sensitive” are restricted.** This means that—except in limited circumstances—immigration agents should not conduct apprehensions, arrests, interviews, searches, or surveillance at the following locations:

- **Schools**, such as child care programs, preschools, pre-kindergarten programs, Head Start programs, K-12 schools, colleges and universities, after-care programs, and other education-related activities and events;
- **School bus stops** that are marked and/or known to the officer (during periods when school children are present at the stop);
- **Medical treatment and health care facilities**, such as hospitals, doctors’ offices, accredited health clinics, and emergent or urgent care facilities;
- **Places of worship**, such as churches, synagogues, mosques, and temples;
- **Religious or civil ceremonies or observances**, such as funerals and weddings; and
- **Public demonstrations**, such as marches, rallies, and parades.

Both memos state that this list is not exhaustive, and that agents should exercise caution around any location that could reasonably be viewed as sensitive.

**Except in limited circumstances, agents must obtain written approval before conducting an enforcement action at a sensitive location.**

Agents may conduct enforcement actions at sensitive locations without prior approval when there is an immediate need for action in circumstances related to national security, terrorism, and public safety.

**Agents are permitted to conduct certain non-enforcement activities at sensitive locations.** Officials are permitted to obtain records or documents, serve subpoenas, and guard detainees, among other non-enforcement actions.



## WHY THE SENSITIVE LOCATIONS POLICIES SHOULD BE EXPANDED AND IMPROVED

**A clear definition of sensitive locations would ensure the policies are followed consistently.** The lack of clarity regarding enforcement actions *near* sensitive locations allows ICE and CBP agents to interpret the policies more narrowly. Further, it leads to less uniformity in the way immigration enforcement arrests are conducted across the country. These factors are limiting the policies' effectiveness.

**Including protections for courthouses would make immigrants and communities safer.** Courthouses are not protected under ICE or CBP sensitive locations policies. The practice of conducting enforcement actions at courthouses creates a chilling effect in immigrant communities, leaving them fearful to call police or appear in court. This has serious implications for public safety in communities around the country.

**Sensitive locations in border communities need to know if they are protected.** Sensitive locations within the "immediate vicinity" of the international border (including the functional equivalent of the border) are not protected by the policies. However, neither agency explicitly states the distance from the border that would constitute the "immediate vicinity." This lack of clarity creates confusion about where the policies apply.

**Accountability measures are needed to ensure the policies are being enforced.** Individuals can report violations to ICE Enforcement and Removal Operations (ERO) or the CBP Information Center. However, it is unclear what steps are taken when violations are reported. It is also not clear whether immigrants have any recourse when they are detained as the result of an enforcement action that violates policy. Without accountability measures, ICE and CBP are effectively responsible for policing themselves.

## WHAT LAWMAKERS CAN DO

**Co-sponsor the Protecting Sensitive Locations Act.** The Protecting Sensitive Locations Act (H.R. 1011 and S. 2097) would expand and improve existing sensitive locations policies. The bill would:

- Prohibit enforcement actions within 1,000 feet of a sensitive location;
- Expand the list of locations deemed sensitive;
- Outline recourse for individuals who are arrested or detained in enforcement actions that violate policy; and
- Instituting regular reporting requirements for ICE and CBP to ensure compliance with the statute.

**Provide information, resources, and support to immigrant communities in your state or district.** Members of Congress and their staff are a vital source of accurate information about immigration policies, including sensitive locations policies and their limitations.

You should provide resources to immigrant communities in your state or district, including information on local immigration attorneys and immigrant rights. You should also encourage constituents to report potential violations of sensitive locations policies to ICE or CBP, even if the enforcement action occurs in the "grey area" of *near but not at* a sensitive location.

*The Center for Law and Social Policy (CLASP) and the National Immigration Law Center (NILC) are also collecting information about sensitive locations violations. For questions about the policy or to report a violation, please contact Rebecca Ullrich ([rullrich@clasp.org](mailto:rullrich@clasp.org)) and Mayra Joachin ([joachin@nilc.org](mailto:joachin@nilc.org)).*