



Immigration Legal Services, Education, and Advocacy

March 2, 2017

Senator Laura Ebke
Chairman, Judiciary Committee
Nebraska Legislature
Lincoln, NE

RE: Opposition to LB 505

Dear Chairperson Ebke and Honorable Members of the Committee:

My name is Charles Shane Ellison and I am the legal director for Justice for Our Neighbors-Nebraska, a non-profit organization that provides *pro bono* immigration legal services to asylees and refugees. I am also on the board of directors of the Refugee Empowerment Center (REC), and I formerly served as federal officer within the U.S. Department of Homeland Security where I screened refugees seeking protection within the U.S. through the asylum program. I am testifying today to express my opposition to LB 505. In addition to being legally problematic, the bill is premised upon the unsupported claim that refugees are a security threat.

As applied, LB 505 would be inconsistent with federal regulations related to safeguarding information for refugees and asylees. Section 4 mandates the public disclosure of reports by individual resettlement agencies to include, among other things, a listing of individuals received for resettlement, broken down by month, nation of origin or citizenship, age, sex, family status, nation of entry into the United States, and the basis for refugee/asylee status.¹ In light of the very low number of refugees left to be resettle in FY 2017,² it is not difficult to imagine a scenario in which these public reports could reveal very intimate details about an individual, such as their basis for being granted protection.³ Apart from serving no justifiable public policy, the unauthorized disclosure of information related to the basis of a refugee's or asylee's claim would unequivocally violate federal law.⁴

¹ LB 505, Sec. 4(1).

² See *Omaha refugee resettlement agencies cut jobs after Trump Decreases refugee admissions*, Omaha World Herald, February 18, 2017, available at http://www.omaha.com/news/metro/omaha-refugee-resettlement-agencies-cut-jobs-after-trump-decreases-refugee/article_b3fbf47e-f531-11e6-a40c-5bcb6e22baee.html (describing how President Trump's executive order reducing refugee admissions in FY 2017 from 110,000 to 50,000 will slow refugee admissions in Nebraska down to a trickle in light of the 39,000 refugees that have already been resettled in the U.S. this year).

³ Refugees may have been victims of rape, female genital mutilation, or persecution on account of sexual orientation. If a particular refugee had the misfortune to be the only Syrian female resettled by REC in a given month, anyone in her neighborhood who learns about her nationality and affiliation with REC could use the publically available reports to obtain confidential details about her basis for refugee status (e.g., that she is the victim of rape).

⁴ See 45 C.F.R. § 400.27 ("a State must ensure that no information about, ... [a refugee] and in possession of any agency providing assistance or services to such [refugee] under the plan, will be disclosed in a form identifiable with the individual without the individual's consent"); 8 C.F.R. § 208.6(a) ("Information contained in or pertaining to any asylum application ... shall not be disclosed without the written consent of the applicant."); *Lin v. Dep't of Justice*, 459 F.3d 255, 264 (2d. Cir. 2006) (explaining that one's right to confidentiality under 8 C.F.R. § 208.6(a) is violated when the information disclosed by the government is sufficient to give rise to a reasonable inference that one has applied for asylum). To the extent the bill would require disclosure of any information related to asylees, it could also violate the rules of professional conduct for attorneys. See Nebraska Rules of Professional Conduct § 3-501.6 (detailing the duty of confidentiality).



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Additionally, LB 505's characterization of refugees as a threat to U.S. security is simply not accurate. Refugees remain the most vetted of any class of immigrant to enter the U.S.⁵ Of the more than 65 million people displaced worldwide, approximately 21 million meet the international refugee definition.⁶ However, less than 1 percent of that group will be fortunate enough to have UNHCR submit their case for consideration to be resettled in 1 of the 37 countries accepting refugees.⁷ Then an even smaller subset of that group will be referred to the U.S. for consideration.⁸ At that point, those referred will begin the 18-24 month screening process involving the Department of Homeland Security, the Department of State, the Federal Bureau of Investigations, the Department of Defense, and the National Counterterrorism Center.⁹ This comprehensive process includes a medical screening, repeated biometric checks, background checks, screenings by U.S. intelligence agencies, and individual interviews by specially trained DHS officers.¹⁰ Once this extensive vetting process is complete, and the refugee is approved for resettlement in the U.S., he or she receives cultural orientation and then undergoes one last screening by Customs and Border Protection before being admitted to the U.S.¹¹ This robust screening process is perhaps why there has not been a single fatal terrorist attack by a person accepted into the U.S. as a refugee since the Refugee Act of 1980 became law.¹²

Indeed, even the right-leaning CATO institute estimates that the odds of being harmed by a refugee in a terrorist attack are extremely low (i.e., 1 in 3.64 billion).¹³ To put this in perspective, that means one is 3,493 times more likely to be struck by lightning¹⁴ than he is to be harmed by a refugee in a terrorist attack.

Simply put, this bill is unnecessary, unhelpful, and legally problematic. As such, we oppose LB 505.

Sincerely,

/s/ Charles Shane Ellison

JUSTICE FOR OUR NEIGHBORS-NEBRASKA

⁵ U.S. Refugee Admissions Program, U.S. Department of State, available at <https://www.state.gov/j/prm/ra/admissions/>.

⁶ *Global forced displacement hits record high*, UNHCR, June 20, 2016, available at <http://www.unhcr.org/en-us/news/latest/2016/6/5763b65a4/global-forced-displacement-hits-record-high.html>; *see also* Protracted Refugee Situations, U.S. Department of State, available at <http://www.state.gov/j/prm/policyissues/issues/protracted/> (estimating that the average length of major protracted refugee situations has increased to 17 years).

⁷ *Resettlement*, UNHCR, available at <http://www.unhcr.org/en-us/resettlement.html>; *see also Information on UNHCR Resettlement*, available at <http://www.unhcr.org/en-us/information-on-unhcr-resettlement.html>.

⁸ *Refugees are already vigorously vetted. I know because I vetted them*, Washington Post, February 1, 2017, available at https://www.washingtonpost.com/posteverything/wp/2017/02/01/refugees-are-already-vigorously-vetted-i-know-because-i-vetted-them/?utm_term=.d07afb6ec103 (describing one-tenth of one percent of the total number of displaced people globally will be resettled in the U.S); *see also supra* note 2 (explaining that just 50,000 refugees will be resettled in 2017).

⁹ Barbara Strack & Matt Emrich, *Oversight of the Administration's FY 2016 Refugee Resettlement Program: Fiscal and Security Implications*, October 1, 2015, available at <https://www.dhs.gov/news/2015/10/01/written-testimony-uscis-senate-judiciary-subcommittee-immigration-and-national>.

¹⁰ *See* <https://www.uscis.gov/refugeescreening> (detailing the arduous screening process).

¹¹ *Security Screening of Refugees Admitted to the United States*, available at <http://refugees.org/wp-content/uploads/2015/12/USCRI-Security-Screening-Process-5.16.16.pdf>.

¹² Eric Levenson, *How many fatal terror attacks have refugees carried out in the US? None*, CNN, January 29, 2017, available at <http://www.cnn.com/2017/01/29/us/refugee-terrorism-trnd/>.

¹³ *See Policy Analysis*, CATO, September 13, 2016, available at https://object.cato.org/sites/cato.org/files/pubs/pdf/pa798_1_1.pdf.

¹⁴ *See How Dangerous is Lightning?*, National Weather Service, available at <http://www.lightningsafety.noaa.gov/odds.shtml> (explaining that one's odds of being struck by lightning in a given year 1 in 1,042,000).