

**REPORT OF THE
CHIEF LEGISLATIVE ANALYST**

DATE: June 25, 2018

TO: Honorable Members of the Rules, Elections & Intergovernmental Relations Committee

FROM: Sharon M. Tso 
Chief Legislative Analyst

Council File No: 18-0002-S74
Assignment No: 18-06-0564

SUBJECT: Resolution to SUPPORT any legislation and/or administrative action which would aid migrant families that have been separated by the Department of Homeland Security.

CLA RECOMMENDATION: Adopt Resolution (Martinez - Wesson) to include in the City's 2017-2018 Federal Legislative Program, SUPPORT for any legislation and/or administrative action which would aid migrant families that have been separated by the Department of Homeland Security.

SUMMARY

The Resolution (Martinez - Wesson), introduced June 8, 2018, advises that hostile rhetoric and increased immigration enforcement policies have created a state of fear among undocumented immigrants nationwide. A Department of Justice memorandum, released April 6, 2018, directed United States Attorney's Offices along the Southwest border to immediately begin a zero-tolerance policy and prosecute all those having been detained illegally entering the United States. Any minor accompanying a migrant referred for prosecution would subsequently be considered an "unaccompanied child" and placed under the custody of the Department of Health and Human Services.

The Resolution further advises that Attorney General Jeff Sessions acknowledged the separation of families as a consequence of the zero-tolerance policy. Enforcement of the policy is intended as a deterrent for future immigration but unnecessarily endangers minors by removing their parents or guardians.

The Resolution recommends that the City support any legislation or administrative action which would aid migrant families that have been separated by the Department of Homeland Security.

BACKGROUND

In 1985, the Flores Settlement specified that migrant children should be detained in "the least restrictive environment" and limited how long those children could be detained. The Department of Justice memorandum titled "Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)" directed United States Attorney's Offices to immediately begin prosecuting all cases of illegal entry into the United States, including asylum seekers if they do not enter through a port of entry. Accompanying minors can not be detained alongside their families pending prosecution, resulting in the separation of families.

Prior to the zero-tolerance policy, there was no systematic separation of families by the Department of Homeland Security or any other federal agency. A halt on enforcement of the policy would prevent family separations pending legislative or administrative action to address the issue.

According to Customs and Border Protection, 2,342 children were separated from their families in the period between May 5, 2018 and June 9, 2018. This figure does not account for other unaccompanied children that were detained as a direct consequence of the zero-tolerance policy. Due to the high volume of separations, the capacity and conditions of the shelters in which the separated children have been placed has also raised concern.

There are several proposals pending in the United States Congress which seek to alleviate or otherwise mitigate the issue of family separations through various means, including a stop to family separations, increasing the efficiency of case processing, finding caretakers for the children, allowing parents to visit, and/or providing more shelters.

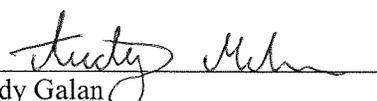
One proposal is the “Keep Families Together Act” (Feinstein) which would prevent the separation of families near the border, unless determined necessary to the safety or best interests of the child. To address separated families, the bill provides for the parents or guardians to be provided with adequate information on the status and whereabouts of their child.

An executive order titled “Affording Congress an Opportunity to Address Family Separation” was signed by President Trump on June 20, 2018, which directs the Department of Homeland Security to detain families together rather than separate families and prioritize the adjudication of proceedings involving “alien families.” The executive order also requests the Department of Justice to file a claim with the U.S. District Court for the Central District of California to revise the Flores Settlement. The executive order does not address the issue of families that were separated prior to the executive order, requiring further legislative or administrative action.

Support for any legislation or administrative action which would aid migrant families that have been separated by the Department of Homeland Security is consistent with City efforts to ensure the safety and well-being of all residents, regardless of legal status.

DEPARTMENTS NOTIFIED

None



Andy Galan
Analyst

Attachments: 1. Resolution

RESOLUTION RULES, ELECTIONS & INTERGOVERNMENTAL RELATIONS

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, hostile rhetoric and increased immigration enforcement policies have created a state of fear and worry among the population of undocumented immigrants, not only in Los Angeles, but nationwide; and

WHEREAS, on April 6, 2018, the Office of the Attorney General, Jeff Sessions, released a memorandum with the subject "Zero-Tolerance for Offenses Under 8 U.S.C. § 1325(a)," that directed United States Attorney's Offices along the Southwest Border to immediately adopt a zero-tolerance policy for illegal entry into the United States; and

WHEREAS, this policy would result in the referral for prosecution of all migrants found to have entered the United States illegally, including asylum seekers; and

WHEREAS, upon the prosecution of a migrant under this policy, any accompanying minor, classified as under 18 years of age, would lose their guardian and be considered an "unaccompanied child" and placed in the custody of the Department of Health and Human Services' Office of Refugee Resettlement; and

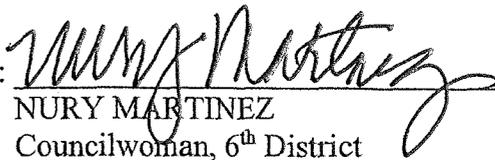
WHEREAS, as stated by Attorney General Jeff Sessions in remarks made on May 7, 2018, the separation of minors from their families is an acknowledged consequence of the enforcement of the zero-tolerance policy; and

WHEREAS, the enforcement of a zero-tolerance policy is being enacted as a deterrent to those who may attempt to illegally enter the United States in the future by unfairly punishing individuals and families who have already been apprehended in the United States; and

WHEREAS, the separation caused by this policy could result in the separation of families for a significant period of time and would furthermore endanger unaccompanied minors by placing them in uncertain situations without guardianship; and

WHEREAS, the Department of Health and Human Services' system for guaranteeing the safety of unaccompanied minors has been shown to have an inability to effectively track those placed with caretakers;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2017-2018 Federal Legislative Program SUPPORT for any legislation and/or administrative action which would aid migrant families that have been separated by the Department of Homeland Security.

PRESENTED BY: 
NURY MARTINEZ
Councilwoman, 6th District

JUN 08 2018

SECONDED BY: 