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ATTORNEY GENERAL MADIGAN ANNOUNCES MULTISTATE LAWSUIT CHALLENGING FEDERAL ADMINISTRATION'S FAMILY SEPARATION POLICY

President's Executive Order Does Not Fix Unlawful & Cruel Policy

Chicago — Attorney General Lisa Madigan, along with 10 other attorneys general, today announced she will file a lawsuit challenging the federal administration's policy of forced family separation on the U.S. southern border. The lawsuit will be filed in the U.S. District Court for the Western District of Washington.

"The new federal executive order does not bring back together the thousands of families that were torn apart by the federal government's policy, and it does not prevent families from being separated in the future," Madigan said. "I will join with my colleagues across the country to bring action against the federal government for this inhumane and unAmerican policy."

The lawsuit will allege that the administration's family separation policy violates the fundamental due process rights of parents to be with their children, as well as other constitutional and statutory claims. The states will ask the court to order the federal administration to immediately comply with the law beginning with correcting the egregious flaws in his executive order and creating a process to reunify the thousands of families torn apart by his cruel and unconstitutional policy.

Following a close review of the President's executive order, Madigan and the coalition of state attorneys general see two main problems. First, the order does nothing to reunify families already torn apart by the federal administration's policy. Second, the order is riddled with so many caveats that it is rendered meaningless. Specifically, the order requires appropriations, although the total amount is unknown, and the timeline for when or if such an appropriation would happen. It also relies on a federal judge approving a plan to indefinitely detain children, which is an unlikely scenario, and, in any event, would also raise serious legal issues.

On April 6, U.S. Attorney General Jeff Sessions announced a new so-called "zero tolerance" policy on the U.S. southern border. The federal administration has been clear that the purpose of the forced separation policy is not to protect children, but rather to deter potential immigrants from coming to the U.S. In practice, this meant that instead of making case-specific evaluations of individual cases, respecting due process rights and family integrity, the federal administration began prosecuting all possible immigration crimes, accusing and detaining all adults, even those with a legitimate asylum claim. The intended and acknowledged effect of this policy has been the separation of parents and children at the border.

Notably, there is no such "zero tolerance" policy at the northern border, and recent reporting indicates that the Border Patrol only tracks "family unit apprehensions" for immigrants from El Salvador, Guatemala, Honduras and Mexico.

The effects of this policy have been stark. In March and April of 2018, the number of families from Latin America apprehended at the southern border increased dramatically, from 5,475 in February to 8,873 in March (a 62 percent increase) and 9,653 in April (a 76 percent increase from February). That's nearly nine times as many compared to March 2017, and more than nine times as many compared to April 2017. Children have been brought to Illinois who were separated from their families under the current policy.

Joining Madigan in filing the lawsuit are the attorneys general of California, Iowa, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, Oregon, Pennsylvania and Washington.

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