

## **Deportation order could bring jail time during appeal**

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### **Body**

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Thousands of people ordered deported after their cases fail in immigration court could face jail time under a new policy of the Bureau of Immigration and Customs Enforcement.

Previously, they could be released after a judge issued a deportation order to make arrangements before leaving.

But in a program being tested in Atlanta and Denver, bureau officials detain them when they walk out of the courtroom. They are held in county facilities that have a contract with the federal government.

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Federal officials say the new policy, announced at the end of March, is an effort to cut down on absconders, those who "go underground" after they are ordered to leave the country.

Larry Orton, a bureau supervisor in Atlanta, said a February 2003 report identifying the agency's biggest challenges showed that immigration officials sent only 13 percent of deportees home under the old policy. And that figure was a meager 2-percentage-point increase from the 11 percent of deportees sent home seven years earlier.

But immigration attorneys say the new rule disregards special circumstances and is unfair to asylum seekers and those who have one more appeal available to them.

They say such a policy can split families and wreak havoc on deportees' economic situations. Glenn Fogle, an Atlanta attorney, said his cases often involve families with small children who may be left in limbo if their parents are thrown in jail.

And because deportees don't understand the system, they may be discouraged from seeking appeals to which they may be entitled.

Typically, a judge's deportation order may be appealed to an immigration board, a panel of three judges that reviews cases. And though the chances of reversal are slim, attorneys say their clients deserve due process.

"An appeal might take from six months to two years," said Natalie Sullivan, an Atlanta immigration attorney. "That has a serious and significant impact on their decision to appeal if they think they're going to be in jail."

Options for release

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Orton said deportees who want to appeal may post a bond at the immigration bureau's discretion. And those who choose not to appeal can still be released if they convince a judge they are not a flight risk.

But Orton said trusting deportees to show up to be sent out of the country simply doesn't work. And then the government wastes resources to go after the absconders.

"At some point between when they get placed in the removal process and when they get the final order, we've got a problem," Orton said. "So we see if we can intercept people at some point in the process."

The agency estimated 40,000 absconders each year. In a news release announcing the new policy, it said an estimated 400,000 such deportees continue to reside in the United States and that 80,000 of them have criminal convictions.

Maria Odom, a metro Atlanta attorney, said the convictions typically are for minor or nonviolent crimes. Violent criminals, she said, do not get released.

Sullivan said the policy targets the wrong people --- those who try to stay in the United States legally. The people who are likely to abscond, she said, are not going to bother with putting their case before a judge. They simply stay under the radar.

The deportees "are low flight risks because they are going through the system," Sullivan said.

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