

**COMPREHENSIVE ENFORCEMENT
AND IMMIGRATION REFORM ACT OF 2005**

TITLE I. BORDER ENFORCEMENT AND VISA SECURITY

Necessary Assets for Controlling the Borders of the United States

Authorizes a five-year plan of recruiting, hiring and training 1,250 new Customs and Border Protection officers and 10,000 Border Patrol agents. The Border Patrol agent figure is the same as that authorized in the Intelligence Reform and Terrorism Prevention Act of 2004.

Authorizes \$2.5 billion over 5 years to acquire and deploy unmanned aerial vehicles, camera poles, vehicle barriers, sensors, and other technologies.

Authorizes \$2.5 billion over 5 years for DHS to acquire or improve the facilities necessary to support its mission of controlling the borders, including ports of entry, checkpoints, Border Patrol stations and the construction of all-weather roads.

Authorizes the Border Patrol to maintain temporary or permanent checkpoints on roadways close to the borders.

Expedited Removal Between the Ports of Entry

Directs DHS to employ the expedited removal process to the entirety of the land borders as soon as operationally possible. Requires supervisory review of decisions to remove inadmissible aliens. Authorizes \$50 million over five years to achieve this objective.

Document Fraud Detection

Requires that all immigration inspectors receive training in identifying and detecting fraudulent travel documents, and that they have access to the Forensic Document Laboratory.

Improved Document Integrity

Requires that immigration-status documents issued by DHS are machine-readable, tamper-resistant, and incorporate biometric identifiers.

Cancellation of Visas

Provides that all visas in the possession of a nonimmigrant alien are void if the alien remains in the U.S. beyond the period of authorized stay. Requires aliens who overstay to return to

consulates abroad to undergo additional screening before being able to return to the U.S.

Biometric Entry-Exit System

Authorizes DHS to collect biometric data from any alien or lawful permanent resident seeking admission to, exit from, transit through, or parole into the U.S. Those who fail to comply with the biometric requirements may be denied entry to the U.S.

Release of Aliens from Non-Contiguous Countries

Increases the minimum bond for any alien from a non-contiguous country who is apprehended at or between the ports of entry on the land borders. Requires DHS to report to Congress on the number of aliens from non-contiguous countries who are apprehended in between land border ports of entry.

Reducing Illegal Immigration and Alien Smuggling on Tribal Lands

Authorizes DHS to distribute such sums as necessary to assist American Indian Tribes contiguous to the border that are adversely affected by illegal immigration. Provides incentives to American Indian Tribes to work with DHS to ensure that necessary access to tribal lands is available to enhance the enforcement of immigration laws.

TITLE II. INTERIOR ENFORCEMENT

Detention Space and Removal Capacity

Authorizes such sums as necessary for DHS to add 10,000 beds to its detention capacity over the next five years.

Detention of Dangerous Aliens

Authorizes DHS to detain aliens who are subject to a final order of removal but who have obtained a stay of removal pending judicial review. Clarifies that DHS has authority to detain aliens beyond the expiration of the removal period, even if their removal is not expected in the foreseeable future, pursuant to regulations issued by DHS.

Increased Criminal Penalties for Alien Smuggling, Document Fraud, Gang Violence, and Drug Trafficking

Enhances criminal penalties for offenses related to smuggling, transporting, or harboring unlawful aliens, and enhances penalties for offenses related to document fraud. Increases criminal penalties for crimes of violence or drug-trafficking offenses committed by aliens who are unlawfully present in the U.S.

Penalty for Countries that do not Accept Return of Nationals

Authorizes DHS, after consulting with the Department of State, to deny admission to nationals of a country that declines to accept the prompt repatriation of its nationals.

No Judicial Review of Visa Revocation

Restricts judicial review of visa revocations, irrespective of whether the revocation forms the sole basis for removal.

Pilot Programs to Test Alternatives to Detention

Directs DHS to expand to all fifty states pilot programs to explore methods of supervising aliens pending administrative review of their immigration cases or deportation.

Institutional Removal Program

Directs DOJ and DHS to develop programs to identify illegal aliens in federal and state correctional facilities, to ensure they are not released into the community and are removed from the U.S. upon completion of their sentences. Authorizes State and local law enforcement to detain criminal aliens beyond the period of their sentences for the purpose of transfer to Federal custody.

Additional Immigration Personnel

Authorizes appropriations for an additional 1,000 DHS investigators over five years, 200 more than that authorized in the Intelligence Reform and Terrorism Prevention Act of 2004.

Establishes a new Assistant Attorney General for Immigration Enforcement in the Department to Justice (DOJ) to coordinate and prioritize immigration litigation and enforcement in the federal courts, including removal/deportation, employer sanctions and alien smuggling/human trafficking.

Authorizes an additional 500 DHS trial attorneys and 250 DOJ immigration judges over five years. Authorizes 250 additional attorneys for the DOJ's Office of Immigration Litigation (OIL), and 250 Assistant U.S. Attorneys over five years to litigate immigration cases.

Completion of Background and Security Checks

Clarifies that DHS has legal authority to withhold the adjudication of any immigration application or request for a benefit, or to withhold evidence of status or employment and travel authorization, until DHS has determined that all appropriate background checks have been

completed.

Denial of Benefits to Terrorists and Criminals

Authorizes DHS to deny any benefit to aliens who may pose a threat to national security.

Reinstatement of Previous Removal Orders

Clarifies that immigration officers may reinstate prior orders of removal against aliens who have been deported and illegally reentered the U.S..

Automated Alien Records

Authorizes \$25 million over five years for DHS to automate the storage of alien records in an electronic format that is interoperable with DOJ alien record-keeping systems and accessible by other appropriate Federal agencies for the purposes of administering U.S. immigration laws.

State and Local Assistance in Enforcement of Federal Immigration Laws

Clarifies the authority of State and local law enforcement officers to enforce Federal immigration laws and encourages State and local law enforcement agencies to collect information regarding immigration violators and to share it with DHS. Nothing in this section may be construed to require State and local law enforcement personnel to report the identity of a victim of, or a witness to, a criminal offense to DHS for immigration enforcement purposes.

State Criminal Alien Assistance Program

Authorizes \$4.45 billion over five years to carry out the State Criminal Alien Assistance Program (SCAAP) to reimburse States and counties for costs associated with the incarceration of criminal illegal aliens. Authorizes \$2 billion over five years to reimburse States and localities for indigent defense, criminal prosecution, autopsies, translators/interpreters, and court costs.

**TITLE III. WORKSITE ENFORCEMENT AND EMPLOYMENT
VERIFICATION SYSTEM**

Part A. Increased Enforcement Resources and Penalties

Worksite Enforcement and Fraud Detection Agents

Authorizes and funds the hiring of 10,000 new DHS personnel dedicated to worksite enforcement over the next five years, and 1,000 new DHS personnel responsible for detecting fraud in the immigration adjudication process.

Penalties for Unauthorized Employment and False Claims of Citizenship

Increases penalties for false claims to citizenship for the purpose of obtaining employment.

Penalties for Misusing Social Security Numbers or Filing False Information with the Social Security Administration

Amends the Social Security Act to add new penalties for the misuse of Social Security numbers and cards. Penalizes the selling of one's own Social Security number. Requires the Internal Revenue Service and the Social Security Administration (SSA) to report to Congress on steps taken to identify and enforce penalties against employers who file incorrect information returns.

Sharing of Information with DHS

Authorizes DHS to obtain the social security number of aliens seeking immigration benefits from DHS.

Part B. Increased Document Integrity

Social Security Cards

Requires SSA to issue machine-readable, tamper-resistant Social Security cards within one year of enactment.

Restricts the issuance of replacement cards unless SSA determines such requests are legitimate.

Requires SSA and DHS to advise Congress within six months on the viability of utilizing biometric authentication documents to authorize employment.

Birth Certificates

Establishes minimum security standards for Federal recognition of State-issued birth certificates, and restricts their release to non-family members. Requires SSA to independently verify birth records submitted in support of applications for Social Security cards.

Part C. Mandatory Electronic Employment Verification of All Workers in the U.S.

Employment Eligibility Verification Program

Renames the Basic Pilot Program the Employment Eligibility Verification Program (EEVP). Requires all employers to participate in mandatory verification within twelve months of enactment.

Improvements to Database Integrity

Requires SSA to identify the sources of false, incorrect or expired Social Security numbers, and take steps to eliminate those vulnerabilities.

Part D. Reduction in Employer Burdens

Reduction in Documents that Establish Identity and Employment Authorization

Reduces the number of documents that individuals may present to establish identity to: Federally-issued identification documents; State-issued driver's licenses that comply with Federal standards; or State-issued identification documents that comply with Federal standards.

Reduction in Documents that Establish Employment Authorization

Requires all persons to present a tamper-resistant, machine-readable Social Security card as evidence of employment authorization.

Good-Faith Compliance

Provides that employers who comply with the requirements of the EEVP establish an affirmative defense that they have not violated the employment verification requirements.

Electronic Filing

Provides that the employment verification documents may be completed electronically by employers and new hires.

**TITLE IV: REQUIREMENTS FOR PARTICIPATING
COUNTRIES**

Accept Return of Nationals

Participating countries must agree to accept, within 3 days, the return of nationals who are ordered removed from the United States.

Gang Violence and Trafficking

Participating countries must agree to work in cooperation with the U.S. in identifying, tracking and reducing gang membership and violence and human trafficking and smuggling.

Assistance in Controlling Border

A participating country must agree to provide resources to control illegal immigration into and out of that country.

Access to Information

A participating country must provide Federal law enforcement authorities access to passport information and criminal records of aliens, as well as admission/entry data to facilitate U.S. entry-exit data systems.

Housing

The workers of a participating country that provides housing incentives for returning workers will be afforded special consideration.

Health Care Costs

A participating country must provide a minimum level of health coverage to participants. Should a participating country provide a level below the minimum coverage definition, coverage must be provided by employer or obtained by alien.

TITLE V. NONIMMIGRANT TEMPORARY WORKER PROGRAM

Nonimmigrant Temporary Worker Category

Establishes a new visa category that allows aliens to enter the U.S. to work temporarily when there are no available U.S. workers.

Background Checks

An alien seeking W nonimmigrant status is required to provide fingerprints and/or any other biometric identifier required by DHS. DOS may not issue a visa to, and DHS may not admit, a W nonimmigrant until all appropriate background checks have been completed.

Biometric Documentation

Evidence of W nonimmigrant status must be machine-readable, tamper-resistant and contain a biometric identifier. DHS shall consult with the Forensic Document Laboratory in designing the document.

Numerical Limitation

Establishes a Temporary Worker Task Force that shall submit a report to the Secretary of Labor regarding use of the W category and effect upon wages and employment of U.S. workers. That

report may then form the basis of an annual limitation on the number of visas that may be issued to W nonimmigrants.

Period of Admission

An alien may be admitted in W status for up to two years. Upon completion of the two year stay, the alien must depart and reside continuously in his home country for one year. The total period of admission for a W nonimmigrant may not exceed six years.

Family Members

Family members of W nonimmigrants may visit principal workers in the U.S. for a period of up to 30 days.

Protection of U.S. Workers

To obtain authorization to employ a W nonimmigrant, an employer must: conduct a labor market test, including advertising in local media and through America's Job Bank; offer the job to any qualified, willing U.S. worker; attest that, based upon the results of that recruitment, there are no qualified and willing U.S. workers; attest that the employer will pay the minimum wage for the position; and attest that the working conditions for the alien will not adversely affect the working conditions of workers similarly employed.

TITLE VI. MANDATORY DEPARTURE AND REENTRY IN LEGAL STATUS

Physical Residence and Application

Allows aliens who are present in the U.S. illegally to apply for Mandatory Departure, which enables them time to depart the United States voluntarily and reenter the country through normal legal channels (e.g. as temporary worker or, if eligible, as an immigrant). An alien who has been illegally and continuously present in the U.S. for 12 months as of the date of introduction of this bill may apply for Mandatory Departure status. DHS shall ensure that the application process is secure and incorporates anti-fraud protections. To be eligible for Mandatory Departure status, an alien must establish that he or she is currently employed.

Mandatory Departure

Provides incentives for aliens to depart the United States immediately, but all aliens are required to depart prior to five years. An alien who fails to depart during the Mandatory Departure period is ineligible for any immigration benefit or relief, other than asylum or protection claims, for a period of ten years.

Reentry in Legal Status

Aliens granted Mandatory Departure are ineligible to obtain permanent resident status (i.e. green card) while in the U.S. – they must depart and reenter through normal legal channels.

Health Care Screening

An alien seeking Mandatory Departure must undergo health screening to determine if s/he is admissible under INA § 212(a)(1).

Acknowledgement

An alien who applies for Mandatory Departure must plead guilty and acknowledge, in writing and under oath, that s/he is unlawfully present in the U.S. and removable/deportable under the law. The alien is required to report any Social Security number that s/he has been using without authorization, and turn in any false or fraudulent documents in his or her possession.

Conditions of Mandatory Departure

During the period of time prior to the alien's departure, DHS shall strictly enforce all administrative immigration violations and the alien will be removable for criminal violations.

Evidence of Mandatory Departure Status

Aliens are registered, fingerprinted, and checked against all available criminal/terrorist lists. Aliens are issued secure, biometric identity documentation.

Incentives for Early Departure

An alien who departs the U.S. and surrenders to DHS his or her Mandatory Departure status within one year of enactment is not subject to any fine when applying for reentry through legal means. After the first year, an alien is subject to a \$2000.00 penalty for each year that the alien fails to depart the U.S., and those fines increase each subsequent year. An alien who fails to depart for several years will not be eligible for a full six year period of W temporary worker status.

Family Members

Spouses and children of those in Mandatory Departure status are subject to the same conditions as the principal alien.

TITLE VII: ALIEN EMPLOYMENT MANAGEMENT SYSTEM

Alien Employment Management System

An employer who seeks to hire a W nonimmigrant (who is coming from abroad for temporary work) or alien granted Mandatory Departure (who is illegally in the U.S.) must verify through the EEVP that the alien is authorized for employment. The EEVP must be interoperable with Social Security databases, and must provide real-time verification of the identity and employment eligibility of the alien.

DHS and DOL Investigations

DHS and DOL are required conduct audits, including random audits, of W nonimmigrant employers. CEIRA establishes penalties, including civil, criminal and debarment, for employers who fail to comply with the wage and working condition provisions and requires DHS to establish protections for alien whistleblowers.

TITLE VIII: PROTECTION AGAINST IMMIGRATION FRAUD

Grants to Support Public Education about the temporary worker program

Assists qualified non profit community organizations by providing grants to help educate the public about their potential eligibility for the temporary worker program or deferred mandatory departure status.

TITLE IX: CIRCULAR MIGRATION

W Nonimmigrant Investment Fund

Authorizes the establishment of W Nonimmigrant Investment Fund. The investment fund will consist of the temporary workers' FICA contributions, and will be deposited in the Temporary Worker Investment Fund administered by the Treasury Department. The temporary worker investment account is the sole property of the worker. When the worker returns permanently to his or her home country, the worker may receive the balance in his or her investment account.

TITLE X: BACKLOG REDUCTION

Recapture of Unused Visas and Termination of Diversity Visa Program

Reduces visa backlog waiting times by allowing the recapture of unused visa numbers. CEIRA also terminates the Diversity Visa program and reallocates those visa numbers.

Restructure Immigrant Visa Numbers

U.S. Senator John Cornyn
U.S. Senator Jon Kyl

Restructures visa number availability to provide additional visas for unskilled workers (who are limited to 5,000/year right now) and other categories where visas have not kept up with demand.