

IMMIGRATION REFORM

The Issue: Our current immigration system is badly broken and in dire need of a top-to-bottom overhaul. Immigration laws that are out of sync with 21st century economic realities and demographics have given rise to a vast underground economy characterized by criminal smugglers, fake documents, and millions of undocumented immigrants who are vulnerable to exploitation. Our borders are unmanageable, and we are unable to focus our enforcement resources on those who mean us harm. Moreover, our immigration system is plagued by backlogs, delays, and dysfunction: close family members are separated for years and even decades; businesses lack access to the workers they need to grow or remain open; U.S. and immigrant workers are exposed to mistreatment; and immigration raids and mass detention are now part of the landscape.

AILA's Position: We believe that any cogent plan to realistically reform our immigration laws must consider the entirety of the system's problems and must approach the issue through the lens of national self-interest. The failings of our current model run deep and long so we begin by articulating the necessary changes at the most general level. Any plan to restore the integrity of our system must: 1) require the undocumented population to come out of the shadows and *earn* legal status; 2) provide fair and lawful ways for American businesses to hire much-needed immigrant workers who help grow our economy while protecting U.S. workers from unfair competition; 3) reduce the unreasonable and counterproductive backlogs in family-based and employment-based immigration by reforming the permanent immigration system; and 4) protect our national security and the rule of law while preserving and restoring fundamental principles of due process and equal protection.

Specifically, AILA believes that a practical solution to our immigration crisis must:

1. Address the Situation of People Living and Working Here: Most undocumented workers are law-abiding, hardworking individuals who pay their taxes and contribute to our society. They are essential to many sectors of our economy. By requiring these people to come out of the shadows, register with the government, pay a hefty fine, go through security checks, and earn the privilege of permanent legal status, we can restore the rule of law in our workplaces and communities.
2. Enhance Channels for Legal Workers: Current immigration laws do not meet the needs of our economy or workers. In the current regime, there is *no* visa category authorizing essential workers in low- or semi-skilled occupations to work in the U.S., except on a seasonal basis. That seasonal, employment-based visa—the H-2B program—is wholly inadequate to meet labor needs in a broad range of industries, from landscaping to hospitality to health care. Moreover, even as a seasonal visa, the H-2B program is inadequate, flawed, and in need of reform. A “break-the-mold” program would provide visas, full labor rights, job portability, and a path to permanent residence over time for those who would not displace U.S. workers. It would thereby significantly diminish illegal immigration by creating a legal avenue for people to enter the U.S. and return, as many wish, to their countries, communities, and families.

Comprehensive reform also must expand legal channels for temporary workers in high-skilled professions. Despite overwhelming evidence of the number of high-tech workers that American businesses require, and the shortage of U.S. workers available to fill these positions, Congress has maintained arbitrarily low caps on the number of visas available for high-skilled foreign workers. An expanded H-1B visa program would allow American businesses to hire the workers they need and enable the U.S. to maintain its competitive edge in the global economy.

3. Reform the Family-Based and Employment-Based Permanent-Residency Preference Systems: U.S. citizens and legal permanent residents are regularly required to wait 7-10 years (and sometimes up to 20 years) to reunite with their close family members. Such long separations make no sense in our pro-family nation and undermine one of the central goals of our immigration system: family unity. Relatedly, backlogs for employment-based immigrant visas have increased dramatically for workers with certain high-demand skill sets from certain countries. These backlogs make it difficult for employers to attract and retain the best and brightest talent from around the world, thus undermining our competitiveness in the global economy. Any workable comprehensive immigration reform proposal must eliminate our family-based and employment-based immigrant visa backlogs and reform our preference systems to adjust to 21st century realities.
4. Restore the Rule of Law and Enhance Security: By encouraging those who are already here to come out of the shadows, and by creating legal channels to provide for the future flow of workers, we can restore the rule of law in our workplaces and communities and focus our enforcement resources on those who mean us harm. We need smart enforcement that includes effective inspections and screening practices, fair proceedings, efficient processing, and strategies that crack down on criminal smugglers and lawbreaking employers. At the same time, our border security practices must facilitate the cross-border flow of goods and people that is essential to our economy. A vibrant economy is essential to fund our security needs.

Recent Legislation: The only bill in the 110th Congress that addresses the enormous challenges ahead of us in a realistic and comprehensive manner is H.R. 1645, the Security Through Regularized Immigration and Vibrant Economy (STRIVE) Act of 2007. Building a strong foundation for reform with a balanced approach and pragmatic policy specifics, the STRIVE Act provides the blueprint for a workable, humane, enforceable immigration system. Although it is highly unlikely that this bill will be enacted this Congress, it contains the component pieces for a lasting reform that must be revisited in the 111th Congress.

As the bar association for immigration attorneys and professors, we believe our collective expertise provides a unique vantage from which to assess the failures and successes of nearly every aspect of immigration policy. We have a multitude of detailed suggestions for reforming the myriad failings in our immigration system and stand ready to engage Congress and the Administration in pursuing reforms that will advance our national interest.