

## **8 AILA Priorities to Protect and Improve Family, Business, and Due Process Provisions In the Senate Immigration Bill**

While all of the pending amendments will have an important impact on the final version of the Senate immigration bill (S. 1639), the eight listed below go to some of the core issues of fairness and workability that are critical to a sound immigration policy. We understand that not everyone can act on the long list of amendments under consideration, and we hope that identifying these eight priorities will help advocates focus their limited time and resources in the areas where we believe we can make a real difference.

**Division IV: Dodd/Menendez Amendment (p. 122)** – **SUPPORT** – to increase the number of immigrant visas for parents of U.S. citizens and the length of time parents can remain in the U.S. on the newly minted nonimmigrant parent visitor visas. Under current law, parents of U.S. citizens are defined as immediate relatives, along with spouses and minor children, and are exempt from annual numeric caps. S. 1639 removes them from this category, subjects them to an annual cap of 40,000 green cards, and creates a new temporary visa category for parents but would limit their stay to 30 days. The Dodd amendment promotes family unity by increasing the annual cap on green cards for parents of U.S. citizens to 90,000 and by extending the permissible duration of stay for parents from 30 days to 180 days. [Status: Pending.](#)

**Division V: Kyl “Side-by-Side” to Dodd/Menendez Amendment (p. 129)** – **OPPOSE** – This “side-by-side” was proposed as an alternative to the Dodd/Menendez amendment on parent visas and is basically a rehash of the onerous provisions contained in the underlying bill. As in S.1639, the side-by-side caps the number of immigrant visas available to parents of U.S. citizens to 40,000 annually; however, under the amendment, if any of the 87,000 visas allocated to spouses and children of LPRs are not used, the unused visas *may* be available to parents. The amendment would also lower the threshold for denying nonimmigrant parent visas to individuals from countries with significant numbers of visa overstayers. Under the amendment, if it is determined that more than 5 percent of nonimmigrant parent visa holders overstay their period of authorized admission, the Secretary may deny visas to individuals from those countries. In S. 1639, the threshold for denying visas is set at 7 percent. [Status: Pending.](#)

**Division VI: Menendez-Obama-Feingold Amendment (p. 130)** – **SUPPORT** – to help preserve family unity by increasing points awarded in the merit-based preference system for family ties in the U.S. As currently proposed, the merit-based point system in S. 1639 awards a maximum of 100 points and would not give any points for family relationships unless a 55-point threshold is met in the other categories (such as employment, education, English and civics). It also awards different points for different family relationships and only gives a paltry additional two points to people who lawfully submitted their green card applications on or after May 1, 2005, only to see their application arbitrarily rejected by this legislation. This amendment removes the 55-point minimum, gives an equal ten

points for each recognized family relationship, and increases the points awarded for filing an application on or after May 1, 2005, to five points. This amendment would increase the maximum points possible for the family category from ten to fifteen points. **Status:** [Pending](#).

**Division XI: Graham/Kyl/Martinez Enforcement Amendment (p. 213) – OPPOSE** – to litter the bill with a broad array of unnecessary, unworkable, anti-due process provisions. This draconian “omnibus” enforcement amendment would, among other things: require DHS to mandatorily detain individuals who overstay their authorized period of admission by 60 days or otherwise violate the conditions of their status; permanently bar visa violators from all immigration benefits; and accelerate the touch back requirement making Z visa applicants return home before receiving Z status. **Status:** [Pending](#).

**Division XII: McCaskill Amendment (p. 247) - OPPOSE** – to temporarily bar repeat violators who hire undocumented workers from federal contracts. This amendment pertains to employers who are found to be repeat violators of the prohibition against hiring undocumented immigrants. Employers found to be repeat violators would be barred from federal contracts for a period of five or more years, with limited exceptions for national defense or national security reasons. In addition, the McCaskill Amendment includes provisions added by Senator Durbin that will impact the H-1B and L-1 programs. The Durbin provisions affect wage determinations and cap the percentage of H-1B employees who can be paid at "skill level 1" at 30%. The Durbin provisions also create new outplacement restrictions and job posting requirements. **Status:** [Pending](#).

**Division XIII: Cantwell Amendment (p. 262) – SUPPORT** – to address some of the bill's changes to the H-1B program by striking the presumption of “immigrant intent” and restoring the “degree equivalency” provision. This amendment also doubles the H-1B exemption to 40,000 for individuals who have earned a master's degree or higher at a U.S. institution of higher education; creates a new H-1B exemption of 20,000 individuals who have earned a master's degree or higher in a STEM field outside the U.S.; and caps at 50,000 the H-1B exemption for workers who are employed at higher education institutions, nonprofits, or government research organizations.

In addition to making improvements to the H-1B provisions in the base bill, this amendment would phase out employer-sponsored green card system over the first five fiscal years after enactment, rather than implement a new untested point system immediately. The amendment also reserves 20,000 green cards out of the worldwide ceiling for each of the first 5 fiscal years to be awarded to the current EB-1 Priority Worker category. **Status:** [Pending](#).

**Division XIV: Coleman Amendment (p. 272) – OPPOSE** – This amendment is very similar to the local law enforcement amendment (SA 1158) offered by Senator Coleman to S. 1348, which failed by a vote of 48-49 during the first week of debate. The amendment would prohibit states and localities from preventing their employees from

inquiring about the immigration status of those they serve if there is “probable cause” to believe the individual being questioned is undocumented.

This amendment differs from SA 1148 in that it creates an exception for health care and education providers. Despite this limited improvement, the amendment still runs counter to long-standing community policing practice and would eliminate state and local control over policing policies. Many cities, counties, and police departments have decided that it is a matter of public safety NOT to ask about immigration status. For instance, in a public letter opposing Senator Coleman’s amendment, Minneapolis Chief of Police Tim Dolan states, “We have learned that the best approach to guarding public health and safety is *not* to ask about immigration status when people report crimes that in no way relate to their immigration status.” Policies that prevent inquiries about immigration status are not “sanctuary” ordinances, but rather laws intended to help maintain the trust of local communities and thereby facilitate the critical work of local law enforcement agencies. If local agencies deem it necessary, current law offers ample opportunity for local police to opt in for ICE enforcement, receive immigration law training, and participate in an MOU, and S. 1639 actually enhances these opportunities. The Coleman amendment would place unnecessary restrictions on state and local agencies that would not help, but hinder the efforts of local police to keep our communities safe. [Status: Pending](#)

**Division XV: Graham “Side-by-Side” to Boxer Amendment (p. 310) – OPPOSE** – to enhance role of state and local police in enforcement of immigration laws. This amendment allows DHS to share any information collected under the bill with state and local police, including information furnished by Z visa applicants. Adds broad categories of individuals to the NCIC for state and local police arrest, including people who have final removal orders, voluntary departure agreements, revoked visas, or who are confirmed to be unlawfully present. As with the Coleman amendment, this expanded role for state and local police in enforcing immigration laws runs directly counter to the wishes of state and local police. The amendment also would erect barriers to naturalization by allowing the use of classified evidence and allowing DHS to deny naturalization applicants based on the individual’s past conduct at any time rather than only considering conduct in the last five years, among other new restrictions. [Status: Pending.](#)