



## AILA's Take on Legalization in S. 744

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American businesses, communities, and families are all affected by the shortcomings of our outdated immigration laws. The Senate immigration bill, S. 744, which passed out of committee on May 21, presents the best opportunity in decades to effectuate a lasting solution. As reform moves forward, the American Immigration Lawyers Association (AILA) urges Congress to enact the best possible law that meets our nation's needs.

It is in our nation's security, economic and humanitarian interests to bring millions of undocumented immigrants out of the shadows. To succeed in achieving this goal, the legalization program must ensure that: undocumented immigrants feel safe coming forward to apply, financial and technical requirements for legalization can reasonably be met, and eligibility criteria are not overly rigid. Accordingly, S. 744 includes the following measures:

### **Confidentiality**

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Confidentiality is critical to convince millions of undocumented immigrants living in fear of deportation that it is safe to come forward. Information provided in legalization applications will remain confidential and can be used only for immigration purposes, unless it relates to a felony, national security, or fraud.

### **Legal review of denials and safeguards against deportation**

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Undocumented individuals who have been living in the shadows will need assurances that merely applying for legalization will not automatically end in detention and deportation. The bill includes stringent eligibility requirements and also gives the government limited discretion to determine whether to deport individuals if their applications are denied.

### **Oversight**

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A two-step review process – first, administrative review by the agency and second, independent federal court review – builds public confidence in the fairness and accuracy of procedures, thereby encouraging qualified people to apply.

### **Ability to travel outside the United States**

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Undocumented immigrants in the U.S. have often been unable to travel abroad for many years. The bill recognizes that individuals must be able to visit their families outside the U.S. while they go through the long process of obtaining lawful permanent residence.

### **Flexible application requirements**

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An effective legalization program must not exclude large numbers of immigrants for overly technical reasons. Many of the undocumented do not have official documentation. The bill recognizes this reality and provides flexibility regarding the types of documents that may be submitted.

### **Affordability and support for applicants**

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More than a quarter of undocumented families have annual incomes of less than \$20,000. The bill permits the payment of the \$1000 penalty in installments and authorizes the creation of appropriate exemptions. The bill also establishes a grant program for nonprofits to assist potential applicants.

### **Discretion to permit some individuals who have been deported or who recently reentered to apply**

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The general rule in this bill is that those who have been deported or who have recently reentered the U.S. are excluded from legalization. However, in the interests of family unity and because of our commitment to "DREAMers," certain individuals who have a U.S. citizen or lawful permanent resident spouse or parent, or who were younger than 16 when they first entered the U.S., will be given a narrow opportunity to make their case for discretionary permission apply for legalization.

### **Application period**

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The application period must be long enough for the government and other organizations to broadly publicize the program and for potential applicants to seek legal assistance and collect the required documentation. The magnitude of the program suggests that the current timetable of one year, with the possibility of an 18-month extension, is ambitious.