



# AILA's Take on Family Immigration 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American businesses, communities, and families are all affected by the shortcomings of our outdated immigration laws.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.

## Improving family immigration

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S. 744 makes important improvements to the family-sponsored immigration system by reducing the existing backlogs in the family system and allowing some family members to immigrate sooner. But the bill will severely disadvantage some families seeking reunification. In particular, S.744 eliminates the ability of U.S. citizens to petition for their siblings or adult married sons and daughters over the age of 31. The new merit-based system in the bill will not address this gap and will leave many people without a meaningful way to join their family. AILA urges Congress to ensure such families will be united in our future immigration system.

## Who will be disadvantaged by S.744?

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The Senate bill shifts emphasis toward those with higher education and skills in the formal employment sector—characteristics that discount key financial contributions by women and people from countries with less formal economic structures. The new “merit” points system significantly disadvantages women as they are more likely to be primary caregivers or to have gained their work experience in less formal settings. Nonetheless, women with these backgrounds are important contributors to the economy, and the U.S. immigration system should recognize their contributions. These family members should not face permanent separation from their family.

## Why are siblings and adult children good for America?

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- ♦ Policies that strengthen families are good for America. One of our country's many strengths is the way we have woven immigrants' family values into our cultural fabric. The ties between siblings or elderly parents and their adult children are as strong as the other familial bonds respected by our immigration system, and should continue to hold a valued place in our culture.
- ♦ Our employment-based system is mutually strengthened by a well-functioning family-based system. Many businesses are successful only by nature of the support they can draw from the combined resources of family, including siblings and older children. Less family-friendly policies will dissuade employment-based immigrants, who also have families, from investing their talents and resources in America.
- ♦ Perhaps one of the greatest contributions of our immigrant communities has been their reaffirmation of the family-takes-care-of-family ethos. Care for the elderly or infirm comes from within the family, with siblings or adult children often the provider of that care.

## What are the strengths and weaknesses of the key family provisions in S.744?

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- ♦ S.744 improves the family-sponsored immigration system by eliminating the current visa backlogs within 10 years, recapturing unused visas from past years, allowing parents of U.S. citizens to bring their minor children, and allowing for quicker reunification for spouses and minor children of lawful permanent residents.
- ♦ The bill also creates a new merit-based system where individuals would compete annually for a set number of visas. The new system would function alongside the family and employment systems, awarding points for meeting criteria, such as length of employment, skill level, education, English language, and age. Points would also be given for being a sibling or a married son or daughter over 31 years-old. This approach is untested in the U.S. immigration system, and will likely harm families and reduce diversity. Rather than making it permanent, the points system should be piloted to ensure it achieves its intended purpose.

## Case Examples

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**Case Example 1:** Nadine, originally from Trinidad, is a naturalized U.S. citizen. She came to the U.S. for graduate school and was sponsored for an H-1B visa and, later, a green card by a multinational corporation. In recent years, Nadine lost her mother, father, grandmother, and stepfather. She has only her brother, and in 2006 when he was 23, she filed a sibling petition for him. Nadine has always played a maternal role over her brother, even though he is financially independent and operates his own business. Having lost all their family, this has been a difficult time for them to be apart. Under S.744, individuals like Nadine would no longer be able to petition for their siblings, regardless of the family circumstances.

**Case Example 2:** Flora, originally from Colombia, is a naturalized U.S. citizen. She has two sons in Colombia: Claudio is 33 and married. Gustavo is 38 and unmarried. Flora is concerned that it will be more difficult for her to travel to Columbia as she ages. Now Flora and her husband want their family to be together in the U.S. Under S.744, a mother like Flora could only petition for Gustavo, but she would not be able to petition for Claudio because Claudio is married and over the age of 31.