



AILA's Take on Senator Cornyn's Enforcement Amendment to S.744

This analysis is based on Senator Cornyn's 1-page summary of the RESULTS amendment which he intends to offer during floor debate on the Senate immigration bill, S.744. The amendment **adds** the following "triggers" to S.744 that must be met before green cards will be given to individuals in the legalization plan: 1) 100% monitoring capability on the entire Southern border; 2) 90% apprehension rate on the Southern border; and 3) biometric exit system for all air and sea ports. The amendment includes more border and interior enforcement, including a 1-strike-you're-out rule for certain misdemeanors.

Legalization Triggers

- ♦ S.744 already establishes tough border security and enforcement triggers by requiring that DHS:
 - Deploy a "Comprehensive Southern Border Strategy"
 - Complete the "Southern Border Fencing Strategy"
 - Implement a mandatory employment verification system
 - Implement an integrated electronic exit system at air and sea ports (repeated in the Cornyn amendment)
- ♦ The new "triggers" Senator Cornyn proposes would likely hold up the legalization of 11 million people who have no control over the implementation of that plan and should not have their future held in limbo if they comply with all the requirements established by the bill.
- ♦ S. 744 already includes the three additional triggers in Cornyn's amendment, but does not make them triggers. Implementing those border security components is an important but complex task that will require planning, testing, and substantial resource allocation. Making those components triggers could delay legalization indefinitely.

Previous biometric pilots experienced significant problems in implementation, were never tested for accuracy, and encountered resistance from the airline industries because of the high operational costs. Any air and sea port exit system must be tested carefully. Failure of such a system would result in major delays for travel and commerce and could jeopardize economic security.
- ♦ **Unreasonable triggers compromise our national security.** An important element of legalization is to encourage millions of people to come out of the shadows and register with the government. We are strengthened as a country by identifying who is here, requiring them to pay fines and taxes, and ensuring background checks are done. Unless immigration reform can offer a clear and reliable plan for legalization, many people may be afraid to participate.
- ♦ **The amendment increases enforcement costs without a clear strategy and purpose.** OMB estimates the cost of this amendment at around \$24 billion, mostly for adding 10,000 officer and agents. These are extremely high costs for expenditures that lack clear justification. For example, the amendment requires additional border patrol agents. Yet the U.S. Border Patrol has doubled in size since 2003 and now employs more than 21,000 agents. If RESULTS were implemented, there would be two to six times more agents along our Southern border than there will be U.S. troops in Afghanistan. We need smart security measures, not merely throwing more money at the border.

Crime bars to RPI status

- ♦ The amendment renders individuals ineligible for legalization for single misdemeanors including domestic abuse, child abuse, and violations of protection order. The amendment would **put victims of violence at greater risk** because it establishes no standard for how severe the crime must be. Many people with old, minor crimes, including the victims of violence themselves, will not be eligible. Victims are often arrested because they defended themselves, or due to language barriers, lack of counsel, or bias against immigrants and women of color – circumstances which at times even lead to the victim pleading to the crime.
- ♦ Cornyn's amendment undermines the American value that people deserve a second chance. Aspiring Americans would be arbitrarily barred from legalizations based only on a single misdemeanor, regardless of whether they have family in the U.S. or other equities in their favor or whether they pose any threat to public safety.
- ♦ S.744 provides for a tough legalization that will exclude deserving individuals from legalization or from ever obtaining legal status. Any further tightening of these exclusion grounds would greatly erode due process and undermine the bill's purpose of bringing individuals and families out of the shadows.