



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

AMERICA AS A WELCOMING NATION: *A Roadmap*



ENACT

Legislation to
Ensure Lasting,
Systemic Change



CREATE

an Immigration
Benefits System
that Serves the
Nation



REHABILITATE

and Reform our
Immigration Courts



ENSURE

Just and Humane
Enforcement

IT'S TIME FOR CONGRESS TO BUILD A BETTER IMMIGRATION SYSTEM

America needs an immigration system that respects our long traditions as a welcoming nation and builds a foundation for meeting the challenges of the 21st century. The current system is sorely outdated and badly in need of reform. Congress must act swiftly, using not only its legislative power but also its oversight and budget authorities to secure lasting reform.

Comprised of over 15,000 immigration lawyers representing individuals and businesses in every part of our country and in every area of immigration law, AILA offers unparalleled expertise to lawmakers searching for commonsense, pragmatic solutions. As a nonpartisan association, AILA stands ready to assist any member of Congress or administration official willing to work toward reforms that safeguard America's prosperity and values.

AILA calls upon Congress to put aside partisan divisions and advance solutions that best serve American families and businesses and preserve our commitment to protecting those fleeing persecution.



For AILA's comprehensive recommendations to the Biden administration on executive branch reforms, read: [**A Vision for America as a Welcoming Nation: AILA Recommendations for the Future of Immigration**](#).



LAYING THE FOUNDATION FOR AMERICA AS A WELCOMING NATION



LEGAL STATUS FOR PEOPLE WHO ARE UNDOCUMENTED

A Welcoming Nation celebrates the enormous contributions of the millions of people living in the country without status, including Dreamers, Temporary Protected Status (TPS) recipients, farmworkers, and essential workers, and provides a path to legal status for these vital community members.

FAIR AND EFFICIENT PROCESSING OF IMMIGRATION BENEFITS

A Welcoming Nation recognizes that a properly designed and functioning immigration system serves the national interest and creates opportunities for all Americans. It also upholds our values - making sure that families can be reunited and stay together. A Welcoming Nation can keep up with the rapidly changing economy and strengthen our communities.

INDEPENDENT IMMIGRATION COURTS

A Welcoming Nation honors the fundamental American values of fairness and due process. It guarantees a court system that operates efficiently, independently, and impartially.

JUST AND HUMANE IMMIGRATION ENFORCEMENT

A Welcoming Nation ensures the just and humane treatment of all noncitizens. It does not rely on harmful, expensive detention. It ensures all migrants have meaningful access to asylum and other legal relief and provides legal representation to those facing removal.

PROVIDE LEGAL STATUS TO PEOPLE WHO ARE UNDOCUMENTED

For three decades, Congress has been unable to pass systemic reforms to the nation's immigration system. Now is the time for Congress to secure the status of Dreamers, TPS recipients, essential workers, farmworkers, and other people who are undocumented. Legislation protecting these groups would allow community members who have lived in our country for many years – and who have contributed billions to the economy, Social Security, and Medicare – to apply for legal status if they pass background checks and pay taxes. Congress must protect these long-standing members of our communities and secure their future as Americans.

WHAT CONGRESS CAN DO

Pass legislation providing legal status to people who are undocumented, including the American Dream and Promise Act of 2021 (H.R. 6), the Farm Workforce Modernization Act of 2021 (H.R. 1603), the Dream Act of 2021 (S. 264), the Secure Act (S. 879), and the U.S. Citizenship Act (S. 348/H.R. 1177).



72% of voters **support** citizenship for Dreamers, **71%** support a bill providing citizenship to undocumented farmworkers, and **66%** support citizenship for undocumented essential workers. – March 2021 Polling from FWD.us and America's Voice

Undocumented immigrants in the United States paid an **estimated \$20.1 billion** in federal taxes and **\$11.8 billion** in combined state and local taxes in 2018. – New American Economy

A February 2021 **poll** found that an overwhelming majority **69%** of likely voters supported offering a path to citizenship for undocumented immigrants broadly. That support jumps to 72% if you ask specifically about Dreamers. – Data for Progress

ENSURE THE FAIR AND EFFICIENT PROCESSING OF IMMIGRATION BENEFITS

Immigrants who have come to the United States to join family and to work have enriched our nation in every way. They have expanded our economy, strengthened families and communities, and driven entrepreneurship and innovation. Foreign workers have played a vital role in battling the COVID-19 pandemic, providing essential support to Americans relying on our healthcare system for lifesaving medical care.

Currently, the immigration system is out of date. Long-overdue legislative reforms are necessary to make it responsive to the needs of U.S. employers and our rapidly changing economy. U.S. Citizenship and Immigration Services (USCIS), the agency charged with administering the legal immigration system, suffers from [crisis-level delays](#) that have resulted in lost jobs and prolonged family separation.



Moderna [received or renewed](#) 27 high-skilled immigrant visa applications in 2019, according to analysis of data from the U.S. Office of Foreign Labor Certification. In 2019, that number was 100 for Pfizer. — American Immigration Council

WHAT CONGRESS CAN DO

- **Pass legislation that brings our legal immigration system into the 21st century.** AILA supports proposals like the Healthcare Workforce Resilience Act (S. 1024) that would reduce immigrant visa backlogs by recapturing unused visas. Congress should also pass legislation that increases per country visa limits, protects children from aging out, and eliminates numerical visa limits for long-pending applicants.
- **Get the system back on track and on time.** Congress should ensure that USCIS is [accountable](#) to the public and true to its congressionally defined mission by rescinding policies that unnecessarily burden case processing and by providing quality customer service.
- **Ensure full implementation of the Emergency Stopgap USCIS Stabilization Act** to ensure USCIS has the [resources and a plan](#) to address its unprecedented processing delays.



[Walled Off Video](#)

REHABILITATE AND REFORM OUR IMMIGRATION COURTS



Our immigration court system suffers from profound structural problems that have severely eroded its capacity to deliver just decisions in a timely manner. The root cause of this dysfunction is a conflict of interest built into the system: immigration courts are a part of Department of Justice (DOJ) – the very same law-enforcement agency that is charged with prosecuting immigration cases in federal courts. This structural flaw has been taken advantage of to **manipulate** the immigration court for political purposes, fundamentally compromising the integrity of the courts as well as public confidence in its outcomes.

America needs a just and efficient immigration judicial system not just to ensure due process, but also to ensure the success of the enforcement system and the legal immigration system. It is imperative to make immediate reforms to guarantee judicial independence, fairness, and consistency in decision-making.

Ineffective management of the immigration court system continues to impair the quality and quantity of judicial decisions; the **court backlog has skyrocketed to approximately 1.3 million cases.**



PENDING CASES BACKLOG INCREASE

2016: 516,031
2018: 768,257

2020:
1,262,765

https://trac.syr.edu/phptools/immigration/court_backlog/

WHAT CONGRESS CAN DO

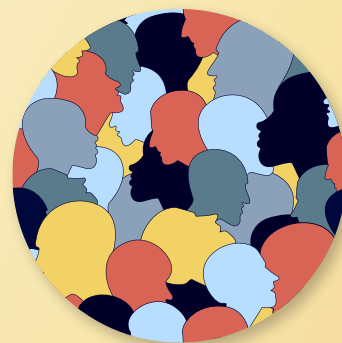
- **Create an Independent Immigration Court.** To operate in a balanced and fair manner, the immigration courts must be **separate and independent** from DOJ. Congress should pass legislation creating an independent, Article I immigration court.
- **Restore due process.** Congress should ensure that DOJ and the Executive Office for Immigration Review (EOIR) **reverse policies** that rush cases at the cost of due process and encourage them to rescind policies that unduly restrict access to asylum and other forms of relief.
- **Support the right to counsel.** Having legal counsel is the single most important factor in ensuring migrants get a fair day in court and in ensuring due process. Congress should pass legislation guaranteeing appointed counsel and access to counsel, and fund Executive Branch programs that support the right to counsel.



[The Immigration Courts: Nothing Like What You Have Imagined](#)

Read more at www.aila.org/immigrationcourts

GUARANTEE JUST AND HUMANE IMMIGRATION ENFORCEMENT



Over the past two decades, the nation's immigration enforcement system – both at the border and in the interior – has grown into a massive machine that is **inhumane, costly, and ineffective**. Each year Americans pay over \$2 billion for immigration detention to keep people in inexcusable conditions.

Congress and the Biden administration should implement a new vision for enforcement based on the principle that everyone must be treated fairly and respectfully. Immigration detention – an outgrowth of the deeply discriminatory criminal justice system – should be supplanted with a humane, orderly system that does not rely on incarceration. All enforcement decisions should consider the equities in each case.

WHAT CONGRESS CAN DO

- **Reduce detention funding.** For FY 2022, Congress should **reduce detention** and custody funding to an annual level of approximately \$700 million based on a goal of reducing overall detention by 75 percent. The 75 percent reduction in funding would support an Average Daily Population (ADP) of no more than 8,500 people in detention.
- **Maximize release from detention for border and interior apprehensions.** Congress and the Biden administration should dedicate more resources to **community-based case management**, supervision, and legal counsel programs, which are highly effective at ensuring appearance at court, far less costly than detention, and more humane.
- **Conduct an immediate review of pending cases.** Congress should call for DHS to review pending cases to determine whether continued enforcement action is justified.
- **Pass The Dignity for Detained Immigrants Act,** which would phase out the use of private detention facilities and promote community-based alternatives to detention.

*"I will always remember that day, it felt like Christmas day. I was overwhelmed with joy, it felt like the darkness had finally been lifted. I had dreamed of my freedom for so long and now I was finally given a fresh start." – Henry,**

Henry was an Immigration Justice Campaign volunteer's client. He narrowly escaped deportation despite having a reasonable fear of persecution in Cameroon. Henry was forced to wait in Mexico for three months before being allowed into the U.S. to seek asylum. When he was finally allowed into the U.S. he was detained and denied release from detention three times. With the assistance and persistence of his pro bono attorneys, after nearly 18 months, Henry was finally released from the Aurora Detention Contract Facility in light of ICE's new enforcement priorities.



Arrivals at the southern border regularly fluctuate; for example, there was a large uptick in 2019. We can and should be prepared to provide people arriving at the border with humanitarian assistance, then rapidly screen and release them so they can appear at immigration court and apply for legal relief if they are eligible. We also need global strategies to address the root causes of migration and displacement.

[See the data on border arrivals from the American Immigration Council](#)

Read more at www.aila.org/detention

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AILA Government Relations Department

Gregory Z. Chen, Esq., Senior Director of Government Relations

Sharvari Dalal-Dheini, Esq., Director of Government Relations

Joy Hardy, Government Relations Assistant

Blanca Hernandez, Liaison Coordinator

Diane Rish, Esq., Associate Director of Government Relations

Melina Roche, Grassroots Advocacy Associate

Paul Stern, Policy Associate

Michael Turansick, Esq., AILA Consultant

Jonathan Valdez, Liaison Coordinator

Kate Voigt, Esq., Senior Associate Director of Government Relations

Jennifer Ibañez Whitlock, Esq., Policy Counsel



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ASSOCIATION

1331 G Street NW, Suite 300, Washington, D.C. 20005
202.507.7600, www.aila.org

The American Immigration Lawyers Association (AILA) is the national bar association of over 15,000 attorneys and law professors who practice and teach immigration law. Founded in 1946, AILA is a nonpartisan, not-for-profit organization that provides continuing legal education, publications and information, professional services, and expertise through its 39 chapters and over 50 national committees. AILA is an affiliated organization of the American Bar Association and is represented in the ABA House of Delegates. For more information about AILA, please visit our website at www.aila.org.