



THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION PRESENTS:

Reforming Immigration for the 21st Century

AILA calls upon our nation's leaders to enact a common sense immigration policy that recognizes the contributions of immigrants, keeps families together, rebuilds America's economy, strengthens America's security, and provides legal status, and eventually citizenship, for aspiring new Americans.

America is a nation of values, founded on the idea that all people are created equal and that all people have rights, no matter where they came from. Our immigration laws should reflect our commitment to these values. They should be grounded in civil and human rights and ensure due process, equal treatment, and fairness.

Legalization

- Legalization should enable the estimated 11 million undocumented immigrants to apply for legal status and work authorization, and eventually a green card and U.S. citizenship.
- A green card should be attainable after a reasonable, definite period of time. At the same time that legalization is being implemented, the legal immigration system must be reformed to eliminate current backlogs and ensure that no one waits years for a green card.
- The legalization plan should be broad and inclusive to ensure the greatest participation. Fitness for legalization should be based on the individual's ability to contribute to our economy and society. A discretionary waiver should be available for those who do not meet all the eligibility criteria.
- Procedural and confidentiality protections should be provided to those applying for legalization to encourage the broadest class of individuals to come forward. A review process should also be made available for those cases that are initially denied.

The Legal Immigration System

- America's legal immigration system must be reformed to provide a flexible and smoothly functioning system that meets the needs of our families, the economy, and our society.
- All aspects of our immigration system are vital to our national interest. Visas in one category should not be cut to offset an increase in another category.
- Existing backlogs must be cleared and measures implemented to ensure that lengthy backlogs will not recur in the future.
- Unused family- and employment-based visas should be recaptured, and a mechanism should be created to ensure that future unused visas are not lost.
- The authority of immigration judges to exercise greater discretion to waive inadmissibility bars for individuals who qualify for a family- or employment-based visa should be restored.
- The per-country cap for employment-based visas and family-based visas should be eliminated. ➔



Immigration laws should be revised and improved to help families and businesses:

Business: Create a future flow program that ensures American businesses have access to essential workers in the U.S., protects workers' rights, guarantees fair wages and working conditions, and provides workers with a means to apply for green cards if they choose to do so. Strengthen employment-based immigration with provisions that:

- Retain in the Congress, and not with an advisory board, the authority to establish appropriate levels of immigration flow.
- Assure that small- to medium-sized businesses, the lifeblood of our economy, have access to needed talent without being subject to excessive and burdensome costs or procedures. Scale any new proposals for nonimmigrant visas to ensure that undue burdens do not fall unfairly on such businesses.
- Include agricultural worker provisions that provide enough visas to meet the needs of the dairy and farming industries, as well as seasonal non-agricultural worker provisions to address the short-term, temporary, or cyclical workforce needs of non-agricultural industries.
- Increase access to green cards for science, technology, engineering and math graduates, entrepreneurs, and investors.
- Exempt accompanying spouses and children from the annual numerical limits on employment-based visas.
- Create a mechanism that enables the legitimate market need for H-1B visas to be met, while at the same time ensuring that the H-1B visa process remains timely.
- Exempt EB-1 from annual numerical limitations. Bring the National Interest Waiver exception to the labor certification requirement into the EB-1 category.



MEET: NADINE

Nadine, originally from Trinidad, came to the U.S. on a student visa in August 1988. She became a scientist in the health field, and a decade later, took the oath of allegiance to become a naturalized citizen. In the past six years, Nadine has lost her mother, grandmother, and stepfather—leaving her with no other close family but her younger brother who still lives in Barbados. Nadine wanted her brother to join her in the U.S. and petitioned for him in 2006 (when he was 23). The long backlogs for sibling visas have kept them from uniting all these years. Nadine is very close with her brother, and in fact was the one there to help deliver him at birth. He is her only family, and she should not have to wait so long to have him join her.

Nadine's case exemplifies the need for immigration reform to shorten the visa backlogs, not only for families but also businesses.

Family: Family is the cornerstone of American values, but the immigration system often hurts families by keeping loved ones apart or separating them for years. Strengthen family-based immigration with provisions that:

- Retain all family-based preference categories and set them at adequate levels to allow family members to unite in a reasonable period of time.
- Include spouses and children of lawful permanent residents (currently the family-based 2A category) within the definition of "immediate relative."
- Provide for the equal treatment of same-sex families in all aspects of immigration law where a qualifying family relationship is required.

Consumer Protection

- Strengthen statutory and regulatory protections against the unauthorized practice of immigration law (UPIIL), improve the exchange of information among law enforcement and state bar authorities to detect and prevent UPIIL, and expand public education on UPIIL.

Humanitarian and Discretionary Relief

- Provide better protections for those fleeing persecution by eliminating the one-year filing deadline for asylum applications and easing restrictions on employment authorization.
- Promote family unity by expanding waivers of inadmissibility and cancellation of removal where the applicant can show hardship to a U.S. citizen or lawful permanent resident spouse, parent, or child.
- Provide agencies and immigration judges with greater discretion to grant relief from removal to promote family unity, to ease hardship, or when it is otherwise in the public interest.
- Ameliorate the harsh consequences of the 3- and 10-year bars and the permanent bar by eliminating the bars or providing for greater discretion in waiving their application.

Interior Enforcement and Detention

Our nation has committed unprecedented resources to immigration enforcement, now totaling \$18 billion annually. However, enforcement policies have not been smart, efficient, or effective, and have not been faithful to our American principles of due process and fairness. Enforcement should not be conducted in a way that harms children or families. Penalties for violations of our immigration laws must be proportionate to the offenses committed.

- The immigration court system is in need of serious reform to improve its independence and integrity. Adequate resources should be allocated to increase the number of judges and other personnel to ensure efficient, thorough, and fair review of every case.
- Each individual facing deportation must be afforded a fair hearing before a judge on the merits of the case and for custody determinations.
- Federal court review of discretionary determinations must be restored.
- Individuals in removal proceedings must have the right to counsel that is, if necessary, paid for by the government.
- Congress should clarify that immigration enforcement is a federal responsibility and that it should be →

MEET: BRENDA

Brenda Gutierrez is the mother of three children. Ms. Gutierrez does not have legal immigration status. Having been a long-time U.S. resident with children who are U.S. citizens and a spouse who has his green card, Ms. Gutierrez qualifies to receive a green card through a limited form of discretionary relief called Cancellation of Removal. An immigration judge is barred, however, from granting her a green card despite all the equities in her favor and her clean record because of a rule in the immigration law that was triggered when the government initiated removal proceedings against her. She lives in fear of being torn apart from her family and the child who needs her. A simple change in the law would restore the authority of immigration judges to grant discretionary relief to people like Ms. Gutierrez.





administered uniformly across the country.

- No one should be deprived of liberty except as a last resort. Costly jail detention should be used only in cases when there is a demonstrated risk of flight and threat to public safety. Effective and less costly alternatives to detention should be expanded. Each person held in detention should be treated humanely.
- All agencies charged with enforcement should operate with accountability and transparency to prevent abuses of authority whether intentional or inadvertent. Congress should enact laws that prohibit and prevent discrimination and racial profiling.

Employment Verification

Effective worksite enforcement is a necessary component of our nation's immigration system. Any such system must:

- Be implemented in a way that minimizes the burdens on small and large businesses in all sectors.
- Be effectively scalable. If E-Verify or any new system is made mandatory, employer usage will grow rapidly from about 400,000 to 15 million.
- Provide the ability for businesses to correct paperwork errors without harsh penalties.
- Provide safe harbor protections for businesses using E-Verify or any new system.
- Provide mechanisms to suspend the rollout of the

employment verification program if patterns of errors develop.

- Be phased-in in a way that safeguards workers' due process rights, ensures safe working conditions, and prevents worker exploitation.
- Ensure that information is kept confidential and used only to determine work eligibility.

Border

The U.S. border is safer and more secure than it has ever been, and in recent years the federal government has committed an unprecedented level of spending and resources to border security.

- Before more U.S. taxpayers' dollars are dedicated to pay for even more border agents, fencing, or surveillance equipment, Congress should establish better methods to measure performance.
- Congress should establish a better balance of resources at the border. Important national security and economic interests are tied to the efficient trade of goods and flow of people through ports of entry. A realignment of resources should be struck by increasing resources at ports of entry to improve the flow of commerce and people while reducing spending on border patrol activities and personnel.
- Training should be increased for all Customs and Border Protection staff in immigration law, racial profiling, and the use of force.

Questions? Contact Us

Crystal Williams
Executive Director
cwilliams@aila.org
202.507.7651

Greg Chen
Director
of Advocacy
gchen@aila.org
202.507.7615

Bob Sakaniwa
Senior Associate
Director of
Advocacy
bsakaniwa@aila.org
202.507.7642

Anu Joshi
Grassroots
Advocacy
Associate
ajoshi@aila.org
202.507.7656

Su Kim
Advocacy
Associate
skim@aila.org
202.507.7657

Karen Lucas
Legislative
Associate
klucas@aila.org
202.507.7645

National Day of Action

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