

CENTER FOR HUMAN RIGHTS AND CONSTITUTIONAL LAW

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Summary of 2009 Pending Immigration Legislation

S. 1594: Secure and Safe Detention and Asylum Act

111th Congress

8/6/2009—Introduced – Joseph Lieberman I-CT

Actions: Jun 11th Read twice and referred to the Committee on the Judiciary.

Secure and Safe Detention and Asylum Act - Sets forth provisions regarding procedures and standards applicable to aliens detained in Department of Homeland Security (DHS) custody and the conditions of such custody which shall address: (1) new detention standards; (2) fair and humane treatment; (3) solitary confinement limitations; (4) investigation of grievances; (5) access to telephones and legal assistance; (6) detainee transfers; (7) translation capabilities; (8) medical care; (9) vulnerable populations; (10) standards for non-criminal detainees; (11) personnel training; and (12) reporting of detainee deaths. Establishes in DHS: (1) an Office of Detention Oversight; and (2) a detention alternatives program under which detainees may be released under enhanced supervision. Provides for: (1) legal orientation for immigration and asylum detainees; (2) construction or use of less restrictive detention facilities, including facilities for families with children; and (3) quality assurance procedures regarding expedited removal interviews. Authorizes the United States Commission on International Religious Freedom to study the effect of expedited removal provisions, practices, and procedures on asylum claims.

S. 1505: SAVE Act of 2009

7/23/2009—Introduced – Mark Pryor D-AR.

Related: H.R.3308 - Secure America Through Verification and Enforcement Act of 2009

Actions: July 23rd: Read twice and referred to the Committee on Finance.

Secure America Through Verification and Enforcement Act of 2009 or SAVE Act of 2009 - Sets forth border security and enforcement provisions, including provisions respecting: (1) increases in Border Patrol and investigative personnel; (2) recruitment of former military personnel; (3) use of Department of Defense (DOD) equipment; (4) infrastructure improvements; (5) aerial and other surveillance; (5) a national strategy to secure the borders; (6) accountable financing under the Secure Border Initiative; (7) emergency

deployment of Border Patrol agents; and (8) expansion of the Customs-Trade Partnership Against Terrorism along the northern and southern borders. Requires that Department of Homeland Security (DHS) personnel check against terrorist watchlists alien smugglers and smuggled individuals who are interdicted at U.S. borders.

Amends the Immigration and Nationality Act and specified maritime law sections to revise alien smuggling provisions. Sets forth provisions respecting border security on certain federal lands under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to make the basic employment eligibility confirmation pilot program permanent. Sets forth conditions for the mandatory use of the E-verify system. Requires: (1) employer/employee notification of social security number mismatches and multiple uses, and related information sharing with DHS; and (2) establishment of electronic birth and death registration systems. Amends the Internal Revenue Code to: (1) penalize specified employers for failure to correct information returns; and (2) prohibit employers from deducting from gross income wages paid to unauthorized aliens, with an exception for an employer participating in the basic employment eligibility confirmation program. Increases criminal alien program (CAP) personnel. Authorizes border relief grants for local law enforcement agencies within 25 miles of the southern U.S. border. Establishes within DHS a rewards program to assist in the elimination of commercial operations to produce or sell fraudulent immigration-related documents and to assist in the investigation, prosecution, or disruption of commercial alien smuggling operations. Provides for: (1) increased alien detention facilities; (2) additional immigration court judgeships; and (3) a media campaign to inform the public of changes made by this Act including a multilingual media campaign explaining noncompliance penalties.

S. 1247 Orphans, Widows, and Widowers Protection Act

6/11/2009—Introduced – Robert Menendez D-NJ

Related: S.1085 Reuniting Families Act; H.R. 2709 Reuniting Families Act.

Actions: Jun 11th Read twice and referred to the Committee on the Judiciary.

Orphans, Widows, and Widowers Protection Act - Amends the Immigration and Nationality Act to revise the definition of "immediate relative" to: (1) permit a widow or widower of a U.S. citizen to seek permanent resident status if married less than two years by showing through a preponderance of the evidence that the marriage was entered into in good faith and not solely to obtain an immigration benefit; and (2) include an alien who was the child or parent of a U.S. citizen at the time of the citizen's death if the alien parent files a petition within two years after such date or the alien child files a petition prior to reaching 21 years old. Provides specified relief for orphans and spouses regarding: (1) petitions for immediate relative status; (2) parole eligibility; (3) permanent resident status adjustment; and (4) processing of immigrant visas.

H.R. 2709: Reuniting Families Act

6/4/2009—Introduced – Michael Honda D-CA

Related: H.R. 1024 Uniting American Families Act of 2009; S.424 Uniting American Families Act of 2009; S. 1085 Reuniting Families Act; S. 1247 Orphans Widows and Widowers.

Action: Aug 19th Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law; Jun 4th Referred to the House Committee on the Judiciary.

Reuniting Families Act - Amends the Immigration and Nationality Act (INA) to establish the fiscal year worldwide level of employment-based immigrants at 140,000 plus: (1) the previous year's unused visas; and (2) the number of unused visas from FY1992-FY2007. Establishes the fiscal year worldwide level of family-sponsored immigrants at 480,000 plus: (1) the previous year's unused visas; and (2) the number of unused visas from FY1992-FY2007. Revises the definition of "immediate relative" to: (1) mean a child, spouse, or parent of a U.S. citizen or lawful permanent resident (and for each family member of a citizen or resident, such individual's accompanying spouse or child), except that in the case of parents such citizens shall be at least 21 years old; (2) permit a widow or widower of a U.S. citizen or resident to seek permanent resident status if married at least two years at the time of the citizen's or resident's death or, if married less than two years, by showing through a preponderance of the evidence that the marriage was entered into in good faith and not solely to obtain an immigration benefit; and (3) include an alien who was the child or parent of a U.S. citizen or resident at the time of the citizen's or resident's death if the alien files a petition within two years after such date or prior to reaching 21 years old. Increases immigration visas for: (1) unmarried sons and daughters of U.S. citizens; and (2) brothers and sisters of U.S. citizens. Provides a 60,000 visa allocation for the unmarried sons and daughters of permanent resident aliens. Increases annual per country (10% of annual total) and dependent area (5% of annual total) limits for employment-based and family-sponsored immigrant visas. Expands specified family-unity exceptions to unlawful presence-based inadmissibility. Provides specified relief for orphans and spouses regarding: (1) petitions for immediate relative status; (2) parole eligibility; (3) permanent resident status adjustment; and (4) processing of immigrant visas. Filipino Veterans Family Reunification Act - Exempts children of naturalized Filipino World War II veterans from worldwide or numerical immigrant limitations. Makes a minor child of an alien fiancée/ fiancé or of an alien spouse of a U.S. citizen eligible for derivative K-visa status provided that the child's age is determined using such child's age at the date that the petition to classify such child's parent as a K-visa alien is filed with the Secretary of Homeland Security. Authorizes the Secretary or the Attorney General to adjust the status of a fiancée/ fiancé or alien spouse and any minor children (K-visa) to conditional permanent resident status if such alien marries the petitioner within three months after U.S. admission. Redefines "child" for purposes of titles I and II of the Act to include a stepchild under 21 years old. (Current law includes a stepchild who has not reached 18 years old at the time the marriage creating the status of stepchild occurred.) Uniting American Families Act of 2009 - Amends INA to include a "permanent partner" within the scope of such Act.

Defines "permanent partner" as an individual 18 or older who: (1) is in a committed, intimate relationship with another individual 18 or older in which both individuals intend a lifelong commitment; (2) is financially interdependent with the other individual; (3) is not married to, or in a permanent partnership with, anyone other than the individual; (4) is unable to contract with the other individual a marriage cognizable under this Act; and (5) is not a first, second, or third degree blood relation of the other individual. Defines "permanent partnership" as the relationship existing between two permanent partners. Defines "alien permanent partner" as the individual in a permanent partnership who is being sponsored for a visa.

S. 1038 AgJOBS Act of 2009

5/14/2009—Introduced Dianne Fienstein, D-CA

Related: H.R. 2414 Agricultural Job Opportunities

Action: May 14th Read twice and referred to the Committee on the Judiciary.

May 14th Sponsor introductory remarks on measure. (CR S5504-5506, S5517-5520).

Agricultural Job Opportunities, Benefits, and Security Act of 2009 or the AgJOBS Act of 2009 - Directs the Secretary of Homeland Security (DHS) to confer "blue card status" upon an alien who: (1) has performed agricultural employment in the United States for at least 863 hours or 150 work days during the 24-month period ending on December 31, 2008; (2) applied for such status during the 18-month application period beginning on the first day of the seventh month that begins after the date of enactment of this Act; (3) is otherwise admissible to the United States; and (4) has not been convicted of any felony or a misdemeanor, an element of which involves bodily injury, threat of serious bodily injury, or harm to property in excess of \$500. Limits the number of blue cards that may be issued during the five-year period beginning on the date of the enactment of this Act. Directs the Secretary to adjust a blue card alien (and spouse and minor children) to permanent resident status if the alien has fulfilled specified periods of agricultural employment. Amends the Social Security Act to exempt blue card aliens from prosecution for social security-related identity or payment false statements if such conduct occurred prior to the granting of blue card status. Amends the Immigration and Nationality Act to revise H-2A visa (agricultural labor or temporary or seasonal services) provisions. Replaces the existing labor certification requirement with a labor attestation requirement containing: (1) a description of the nature and location of the job; (2) the job's expected beginning and ending dates; (3) the number of jobs; and (4) specified labor assurances respecting job opportunities covered by collective bargaining agreements and non-covered job opportunities.

H.R. 2076 Border Security and Responsibility Act of 2009

4/23/2009—Introduced – Raul Grijalva D-AZ

Action: May 15th Referred to the Subcommittee on Terrorism, Unconventional Threats and Capabilities.

Border Security and Responsibility Act 2009 - Directs the Secretary of Homeland Security

(Secretary), the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, and the Secretary of Commerce, in consultation with tribal, state, and local officials, to submit to Congress a border protection strategy for the international land borders of the United States. Specifies strategy elements. Amends the the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to revise international land border security provisions, including: (1) eliminating existing southwest border fencing requirements; (2) requiring that border control actions be in accordance with the border strategy required under this Act; and (3) giving priority to the use of remote cameras, sensors, removal of nonnative vegetation, incorporation of natural barriers, additional manpower, unmanned aerial vehicles, or other low impact border enforcement techniques. Prohibits construction of border fencing, physical barriers, roads, lighting, cameras, sensors, or other tactical infrastructure prior to 90 days after such border strategy's submission to Congress. Directs the Secretary, in consultation with the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Defense, the Secretary of Commerce, and the heads of appropriate state and tribal wildlife agencies, to implement a comprehensive monitoring and mitigation plan to address the ecological and environmental impacts of security infrastructure and activities along the international land borders of the United States. Specifies plan requirements.

H.R. 1870: To amend the Immigration and Nationality Act to provide for relief to surviving spouses and children

4/2/2009—Introduced – James McGovern, D-MA

Action: May 26th Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

Amends the Immigration and Nationality Act to allow a surviving spouse of a U.S. citizen who was married for less than two years at the time of the citizen's death who proves by a preponderance of the evidence that the marriage was entered into in good faith and not for the purpose of obtaining an immigration benefit to self-petition (within the required two years) for continued immediate relative status. (Applies such provision to applications and petitions pending on or after the date of enactment of this Act.) Extends the petition filing deadline for two years after the date of the enactment of this Act if: (1) the alien's U.S. citizen spouse died before the date of the enactment of this Act; (2) the alien and the citizen spouse were married for less than two years at the time of the citizen spouse's death; and (3) the alien has not remarried.

S. 729: Development, Relief, and Education for Alien Minors Act of 2009

3/26/2009—Introduced – Richard Durbin, D-IL

Action: Mar 26th Read twice and referred to the Committee on the Judiciary.

Development, Relief, and Education for Alien Minors Act of 2009 or the DREAM Act of 2009 - Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to repeal the denial of an unlawful alien's eligibility for higher education benefits based on

state residence unless a U.S. national is similarly eligible without regard to such state residence. Authorizes the Secretary of Homeland Security to cancel the removal of, and adjust to conditional permanent resident status, an alien who: (1) entered the United States before his or her 16th birthday and has been present in the United States for at least five years immediately preceding enactment of this Act; (2) is a person of good moral character; (3) is not inadmissible or deportable under specified grounds of the Immigration and Nationality Act; (4) at the time of application, has been admitted to an institution of higher education or has earned a high school or equivalent diploma; (5) from the age of 16 and older, has never been under a final order of exclusion, deportation, or removal; and (6) was under age 35 on the date of this Act's enactment. Sets forth the conditions for conditional permanent resident status, including: (1) termination of status for violation of this Act; and (2) removal of conditional status to permanent status. Authorizes an alien who has satisfied the appropriate requirements prior to enactment of this Act to petition the Secretary for conditional permanent resident status. Provides for: (1) exclusive jurisdiction; (2) penalties for false application statements; (3) confidentiality; (4) fee prohibitions; (5) higher education assistance; and (6) a Government Accountability Office (GAO) report respecting the number of aliens adjusted under this Act.

H.R. 1651: Access to Justice Act

3/19/2009—Introduced – James Moran, D-VA.

Action: Apr 27th Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

Access to Justice Act - Amends the Immigration and Nationality Act to authorize an alien to file a motion to reopen a case in removal proceedings on the grounds that counsel or a certified representative provided deficient performance.

H.R. 1215 Immigration Oversight and Fairness Act

2/26/2009—Introduced - Lucille Roybal-Allard, D-CA

Action: Mar 16th Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

Immigration Oversight and Fairness Act - Directs the Secretary of Homeland Security to require live training of all Department of Homeland Security (DHS) personnel who come into contact with unaccompanied alien children. Sets forth detention standards for immigration detention facilities.

Directs the Secretary to: (1) convene a detention advisory committee; (2) promulgate regulations regarding detainee care and custody; (3) implement secure alternatives to detention programs under which eligible aliens are released under supervision, assistance, and monitoring that ensure their appearance at all immigration interviews, appointments, and hearings; and (4) provide protective detention alternatives for specified categories of vulnerable aliens.

S. 424 Uniting American Families Act of 2009

2/12/2009—Introduced – Patrick Leahy, D-VT

Related: H.R. 1024 Uniting American Families Act of 2009; H.R. 2709 Reuniting Families Act

Action: Feb 12th Sponsor introductory remarks on measure. (CR S2233-2234)

Feb 12th Read twice and referred to the Committee on the Judiciary.

Uniting American Families Act of 2009 - Amends the Immigration and Nationality Act to include a "permanent partner" within the scope of such Act. Defines a "permanent partner" as an individual 18 or older who: (1) is in a committed, intimate relationship with another individual 18 or older in which both individuals intend a lifelong commitment; (2) is financially interdependent with the other individual; (3) is not married to, or in a permanent partnership with, any other individual other than the individual; (4) is unable to contract with the other individual a marriage cognizable under this Act; and (5) is not a first, second, or third degree blood relation of the other individual. Defines a "permanent partnership" as the relationship existing between two permanent partners.

H.R. 264: Save America Comprehensive Immigration Act of 2009

1/7/2009—Introduced, Sheila-Jackson-Lee, D-TX

Action: Feb 9th Referred to the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law.

Save America Comprehensive Immigration Act of 2009 - Amends the Immigration and Nationality Act (INA) to provide increased protections and eligibility for family-sponsored immigrants. Directs the Secretary of State to establish a Board of Family-based Visa Appeals within the Department of State. Authorizes the Secretary of Homeland Security (Secretary) to deny a family-based immigration petition by a U.S. petitioner for an alien spouse or child if: (1) the petitioner is on the national sex offender registry for a conviction that resulted in more than one year's imprisonment; (2) the petitioner has failed to rebut such information within 90 days; and (3) granting the petition would put a spouse or child beneficiary in danger of sexual abuse. Directs the Secretary to establish the Task Force to Rescue Immigrant Victims of American Sex Offenders. Authorizes the Secretary to adjust the status of aliens who would otherwise be inadmissible (due to unlawful presence, document fraud, or other specified grounds of inadmissibility) if such aliens have been in the United States for at least five years and meet other requirements. Authorizes the emergency deployment of Border Patrol agents to a requesting border state. Sets forth provisions for Border Patrol acquisition and use of specified equipment. Directs the Secretary to: (1) provide for additional detention space for illegal aliens; (2) increase Border Patrol agents, airport and land border immigration inspectors, immigration enforcement officers, and fraud and document fraud investigators; (3) enhance Border Patrol training and operational facilities; (4) establish immigration, customs, and agriculture inspector occupations within the Bureau of Customs and Border Protection; (5) reestablish the Border Patrol anti-smuggling unit; (6) establish criminal investigator occupations within the

Department of Homeland Security (DHS); (7) increase Border Patrol agent and investigator pay; (8) require foreign language training for appropriate DHS employees; and (9) establish the Fraudulent Documents Task Force. Redefines the term "law enforcement officer" under provisions of the Federal Employees Retirement System (FERS) and the Civil Service Retirement System (CSRS) to include: (1) federal employees not otherwise covered by such term whose duties include the investigation or apprehension of suspected or convicted individuals and who are authorized to carry a firearm; and (2) Internal Revenue Service (IRS) employees whose duties are primarily the collection of delinquent taxes and the securing of delinquent returns. Authorizes S (witness or informant) nonimmigrant status for aliens in possession of critical reliable information concerning commercial alien smuggling or trafficking in immigration documents. Establishes a reward program to assist in eliminating immigration-related commercial document fraud operations. Sets forth unfair immigration-related employment practices. Requires petitioners for nonimmigrant labor to describe their efforts to recruit lawful permanent residents or U.S. citizens. Makes permanent an INA provision allowing adjustment of status of certain aliens for whom family-sponsored or employment-based applications or petitions were filed by a specified date. Lessens immigration consequences for minor criminal offenses. Eliminates retroactive changes in grounds of inadmissibility and removal. Amends criminal offense removal-related provisions. Increases the worldwide level of diversity immigrants. Authorizes adjustment of status for certain nationals or citizens of Haiti. Eliminates mandatory detention in expedited removal proceedings. Amends the Haitian Refugee Immigration Fairness Act of 1998 to: (1) waive document fraud as a ground of inadmissibility; and (2) address determinations with respect to children. Eliminates the one-year filing requirement for asylum applicants. Includes gender persecution within the particular social group category of persecution. Provides for the permanent resident status adjustment of certain temporary protected status persons. Amends the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to eliminate a provision prohibiting restrictions on the communication of immigration status information by a government entity. Replaces the existing fashion model H-1B visa classification with an O-visa classification.

Summary of 2009 Pending Immigration Litigation

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