



Questions & Answers

The Safe, Orderly, Legal Visas and Enforcement (SOLVE) Act of 2004

Q: Is there a new amnesty?

A: No. Several members of Congress introduced an immigration bill – the “Safe, Orderly, Legal Visas and Enforcement Act of 2004” (the SOLVE Act) – but no new law has been passed and there is no new legalization program yet. Congress will have to pass a law in order to create any new immigration program.

Be aware because some people may try to convince immigrants to pay money to be included in a new amnesty program. There is no new immigration program – do not give money to anyone.

Q: Why do we need comprehensive immigration reform?

A: While the current U.S. immigration system appears fair, reasonable, and highly-regulated on paper, the current system is broken and in need of reform. The status quo is unacceptable, and the problem will continue to worsen unless comprehensive reforms are initiated immediately. Under the current system people are dying at the border, families endure long separations, people are forced to live an underground existence in the shadows of society, and U.S. government resources are spent tracking people who want to comply with the law rather than focusing on those who wish to do us harm. Because of these problems, the current immigration system hurts U.S. businesses, U.S. families, and U.S. security while it benefits unscrupulous employers, traffickers, and smugglers, who profit from this broken system. We cannot continue to apply short-term solutions to our immigration problems; rather, we need comprehensive solutions that get at the root causes of the problems.

Q: How does the SOLVE Act address these problems?

A: The SOLVE Act provides a comprehensive approach to the U.S.’s immigration problems and gets at the root causes of undocumented immigration. It legalizes undocumented workers who are already here in the U.S. Plus, the bill looks forward and creates legal channels for future immigrant workers. It also provides these workers with strong labor protections and protects U.S. workers too. Very importantly, the SOLVE Act removes the bureaucratic obstacles to family reunification and allows family members who have been waiting for years for their visas to come to the U.S.

More specifically, the SOLVE Act has four important elements:

- 1. Earned Legalization.** Under the SOLVE Act, immigrants who have been in the U.S. for five or more years as of May 4, 2004, can demonstrate that they have worked at least 24 months in the U.S., have paid their taxes, and who demonstrate an understanding of English and U.S. civics (or can prove they have tried to enroll in English and civics classes) can legalize their immigration status. The applicant's spouse and unmarried children under 21 would also be eligible.
- 2. Family Reunification.** The SOLVE Act would reduce the years of separation caused by backlogs in the family immigration system. It would also reduce the income test for the affidavit of support from 125% to 100% of the poverty level, allowing more families to qualify for family immigration visas. Additionally, the bill repeals the three- and ten- year bars to reentry, which prevent many families from reuniting.
- 3. Future workers.** The SOLVE Act addresses the future flow of immigrant workers by providing a way for 350,000 migrants to work temporarily in the United States each year. Immediate family members may accompany the temporary workers, but will be eligible to work only if they also qualify for a work visa. Temporary workers can apply for permanent residency after working in the U.S. for several years. This program attempts to replace the current undocumented migrant stream with legal workers whose rights are protected.
- 4. Worker protections.** The SOLVE Act strengthens worker protections for both immigrant workers and U.S. workers so that employers cannot take advantage of vulnerable immigrant workers at the expense of U.S. workers. Temporary workers will be able to pursue a private right of action against employers who fail to comply with the requirements of the temporary worker program, and a complaint process will be set up for workers with grievances. The SOLVE Act also provides a *Hoffman* fix so that all workers, regardless of immigration status, can receive compensation due to them for an employer's illegal acts.

Q: How will the SOLVE Act enhance national security?

A: Under the current system, immigrants are coming to the U.S. without proper documents and without the knowledge of the U.S. government. Often, undocumented immigrants use false or fraudulent papers and, as a result, the authorities do not know the identity of people living in the U.S. Undocumented immigrants are also often fearful of contact with the police if they fear they will be deported. This is bad for national security and public safety. The SOLVE Act enhances our security by bringing immigration under the rule of law, enabling our law enforcement agencies to focus on terrorists and criminals rather than workers and families, encouraging legality at our borders, and providing immigrants with valid identification documents.

Q: How is this bill different from President Bush's proposal?

A: The President proposed an unlimited new guestworker program through which undocumented immigrants already working in the U.S. would be able to obtain a temporary work visa that would be good for several years. People in other countries would also be able to apply for these visas to come to the U.S. to work for several years. However, once the visa expires, the guestworker would have to return to his or her home country. These temporary visas could not be adjusted to "green cards" or permanent residency. The President's plan did not address the issue of family-immigration backlogs. Most importantly, after the President put forward general principles, he did not back them up with a serious legislative proposal or any attempt to get the bipartisan support needed to pass an immigration reform law.

The SOLVE Act is a serious legislative proposal. It is also more moderate than the President's proposal in that it does not increase or decrease immigration. Rather, it creates legal channels for immigrants so that immigration to the U.S. goes through a legal, controlled, and safe system. The SOLVE Act addresses those undocumented immigrants who are already living and working in the U.S., but also looks to legalize future flows of needed workers and avoid future undocumented migration. Unlike the Bush proposal, the SOLVE Act provides a path to permanent residency and eventual citizenship for undocumented workers and for future immigrant workers who wish to remain in the U.S. The SOLVE Act also provides strong protections for U.S. and immigrant workers so that unscrupulous employers cannot take advantage of vulnerable foreign labor. The SOLVE Act also addresses the important issue of family-immigration backlogs and allows close family members to be reunited in a timely manner.

Q: Does NCLR support the SOLVE Act?

A: Yes, NCLR is very supportive of the SOLVE Act. NCLR believes this is the only bill that addresses our broken immigration system comprehensively; it gets to the root causes of undocumented immigration and creates legal, safe, and orderly channels for future immigration to the U.S. This bill would bring millions of undocumented immigrants out of the shadows and into the mainstream U.S. economy and society, which is better for all Americans.

Q: Will the SOLVE Act pass soon?

A: Unfortunately, because it is an election year, it is very unlikely that a large immigration reform package such as the SOLVE Act will pass this year. However, it is important that this bill be introduced so that it sets the framework for next year's debate on comprehensive immigration reform. Advocates around the country will be asking their legislators to cosponsor the SOLVE Act, building momentum for it to be enacted as soon as possible.

Q: What are the next steps?

A: NCLR will continue to work with our allies and with Congress to pass the SOLVE Act, but we recognize that it may take some time to build sufficient support to pass it. In the meantime, NCLR wants to see the DREAM Act and the AgJOBS bills pass. These bills enjoy broad,

bipartisan support and can pass this year. Passing these laws would mean that hundreds of thousands of immigrant farmworkers would gain legal status, and tens of thousands of immigrant students could go to college. We urge Congress and the White House to pass these important pieces of legislation.

NCLR has analyses, talking points, and more materials on the SOLVE Act. For more information on the SOLVE Act, contact Michele Waslin, Senior Immigration Policy Analyst, at mwaslin@nclr.org.