

THE SOLVE ACT OF 2004: Safe, Orderly Legal Visas and Enforcement Act of 2004

The SOLVE Act is comprehensive immigration reform legislation that:

- Legalizes hard working people
- Reunites close family members on a humane and timely basis
- Regularizes the flow of legal immigration by reforming the temporary worker system
- Strengthens worker protections by safeguarding employees' rights, and
- Enhances national security

The SOLVE Act recognizes that the current system is broken. All sides of the immigration policy debate agree that our current immigration policies have failed: People are dying at our borders, families endure long separations, many are forced to live underground existences, American businesses cannot find needed workers or determine if their workers are undocumented, and U.S. government resources are spent targeting people who fill our labor market needs rather than those who wish to do us harm. Not only does the current enforcement regime fail to prevent illegal immigration, it also tolerates and even encourages undocumented immigration. In fact, our failed border enforcement policies force migrants to risk their lives crossing the border, at an average rate of more than one death per day, to arrive at jobs in industries that openly acknowledge their reliance on this workforce. Long waiting lists and backlogs in family-based immigration encourage immediate family members to remain here undocumented rather than face long separations from their loved ones or risk crossing a dangerous border. The current immigration system hurts U.S. businesses, U.S. families, and U.S. security while it benefits unscrupulous employers, traffickers, and smugglers, who take advantage and profit from this broken system.

The SOLVE Act proposes needed comprehensive reform that will fix an unworkable and outdated system and will make immigration safe, legal, and orderly: The SOLVE Act includes provisions that will reunite families, reward work, respect workers, and reduce illegal immigration. The SOLVE Act will:

- Reunite families by reducing the years of family separation caused by a backlogged bureaucracy and unduly restrictive laws;
- Reward work by granting immigrants who are in the U.S., working hard, paying taxes, and learning English a chance to earn legal residency over time and get on the path to citizenship;
- Respect workers by reducing the potential for exploitation and downward wage pressures by creating a “break-the-mold” worker visa program that protects the wages and working conditions of U.S. workers and provides equal rights to immigrant workers admitted in the future to fill available jobs; and
- Reduce illegal immigration by devising fair and reasonable rules that are realistic and enforceable. Over time, this measure will replace a chaotic, deadly, and illegal flow of exploitable workers and desperate family members with an orderly, safe, and legal flow of workers with full labor rights and family members with legal immigrant visas.

The SOLVE Act includes reforms that will enhance our security. This measure 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 strengthening our intelligence capacity and ability to verify the validity of documents and determine individuals' identity.

LEGALIZING HARD-WORKING PEOPLE

Today, an estimated eight million people live in the United States without legal immigration status. Even while they work hard, pay taxes, and contribute in many ways to this country, these immigrants live in constant fear of deportation and are vulnerable to exploitation by unscrupulous employers.

Why we need this legislation

Legalizing undocumented workers is good for America. Hard-working immigrants have enriched our nation and improved the quality of our lives. Labor Department projections show that our need for foreign labor will only increase in the coming years. We need these workers to remain in the U.S. so that they can continue contributing to the growth of our economy and our tax base, and the solvency of our social security system.

In addition to a strong work ethic, immigrants have strong family values and a strong love of freedom and commitment to democracy. Their character enriches America beyond just the value of their labor. They have settled in many parts of the United States, established deep roots in our communities and made lasting contributions to the diversity of our nation.

Legalizing undocumented workers is good for labor and business. Legalizing hard-working immigrants will provide employers with a more stable workforce, improve the wages and working conditions of all workers, and curtail an underground labor market susceptible to smuggling, fraud, abuse, and other criminal activity.

Legalizing undocumented workers enhances our national security. A legalization program will allow hard-working, law-abiding individuals to come out of the shadows to be screened by the government. It will also make our communities safer because, when immigrants' deportation fears are assuaged, they are more likely to report crimes and suspicious activity to local law enforcement.

What this legislation would accomplish:

This bill would create a fair and uniform legalization program. Long-time, hard-working residents would be provided with an opportunity to become permanent members of our community. It would create a fair, uniform set of procedures to legalize qualified immigrants.

This bill would create an earned legalization program. Immigrants eligible for legal permanent residency must be long-time residents who are persons of good moral character, present no criminal or national security problems, and are eligible to become U.S. citizens. Permanent residence would be earned by those who can demonstrate that they have taken English and civics classes, undergone security and criminal background checks, paid taxes and contributed positively to their communities.

REUNITING FAMILIES ON A HUMANE AND TIMELY BASIS

Unconscionable backlogs in family immigration keep families separated for years on end. Such separation creates not only unnecessary suffering and great instability in the family, but also the conditions for illegal immigration, as families seek to be reunited after years of separation. These backlogs directly result from an outdated legal immigration system that does not reflect the fact that our nation values families. The current visa allocation system, last revised by Congress in 1990, established inflexible statutory ceilings for family-sponsored immigrant visas that must now be changed.

Why we need this legislation:

Immediate family members are separated for long periods of time. Under current law, a U.S. citizen mother petitioning for her unmarried son or daughter must wait an average of 3½ years. (For Mexicans, family members must wait 10 years to be reunited, and Filipinos must wait 14 years.) A legal permanent resident must wait five years to be united with his spouse and minor children. Unfortunately, the wait is several years longer for people from countries with strong and historic ties to the United States, like Mexico or the Philippines.

There is an increasing demand for family visas. The annual levels of family-sponsored immigration are established by statute, with no mechanism to adjust these levels based on need. The visa backlog seriously undermines our most cherished values of family unity and fundamental fairness, and hampers the successes of immigrant families.

What this legislation would accomplish:

This bill would address the current backlog. We must develop an immigrant visa system that will reunite families in a timely and humane manner. We can do this in several ways including: broadening the definition of *Immediate Relatives* to include spouses and children of permanent residents; and stopping the subtraction of *Immediate Relatives* from the annual cap on family immigration. Such a subtraction artificially depresses the number of available family preference visas.

This bill would address other obstacles that separate families for many years, and in some cases, split them apart permanently. These obstacles include: visa numbers that are lost due to processing delays that need to be recaptured; stringent income requirements that penalize hardworking, low-income immigrant families; and current barrier to reentry that are triggered by prior attempts at family reunification. We must remove these obstacles so that close family members can be reunited with each other.

REGULARIZING THE FLOW OF IMMIGRATION: REFORMING THE TEMPORARY WORKER SYSTEM

Many immigrants, who come to the U.S. to fill voids in our workforce, risk danger and even death to cross our borders. Too many hardworking immigrants who journey to the U.S. are subject to abuse, and too many decent employers in the United States are undercut by unscrupulous competitors who exploit unauthorized workers.

Why we need this legislation:

The status quo is unacceptable. The status quo must be replaced with sound immigration policies that provide a manageable and orderly system of migration. We need immigration policies that not only reflect current economic realities, but also adhere to our tradition as a nation of immigrants.

Our current system has made illegality the norm. Our current “hard” border has spurred the growth of a black market that profits from undocumented workers, as migrants increasingly have come to rely on professional smugglers to find their way past border guards. Once they arrive in this country, many are trapped here, unable to return. We need a program that would significantly diminish future illegal immigration by providing people with a legal avenue to enter the U.S, and return, as many wish, to their home countries, communities and families.

We need effectively focus our national security efforts. We currently spend precious resources targeting people who seek to meet our labor market needs, rather than those who mean to do us harm. By channeling immigrant workers through the legal visa system, we free up resources at our border and elsewhere to focus on measures that enhance our national security.

What this legislation would accomplish:

The bill would create a fair temporary worker program. Past temporary worker programs were fraught with abuses and exploitation, and did not provide full labor protections, labor mobility, the right to organize, and a path to permanent residence. This bill includes a worker program that provides legal visas, family unity, full labor rights, labor mobility, and a path to permanent status.

This bill would address employers’ need for temporary workers without displacing U.S. workers. These “essential workers” would fill unmet needs in hotels, construction, restaurants and other sectors that rely heavily on unskilled and semi-skilled labor for temporary or seasonal positions. Employers seeking these temporary workers must show that they can’t find U.S. workers to fill the jobs, and that hiring these temporary workers will not displace U.S. workers or affect their pay or working conditions.

The bill would provide temporary workers full labor protections. Under this legislation, temporary workers would be afforded all of the labor protections U.S. workers have, including the right to organize, the right to change jobs freely – not only between employers, but across economic sectors – and the fully enforced legal protection of their wages, hours, and working conditions. This bill would protect workers who pursue legal redresses against unscrupulous employers who violate labor protection laws.

This bill would provide temporary workers with the opportunity to obtain permanent legal status. Many foreign workers prefer to work in the U.S. for a period of time and then return to their home countries. But others who choose to make the U.S. their permanent home should have the opportunity to do so. Temporary workers must be provided the opportunity to become permanent residents, and eventually citizens, should they so desire.

STRENGTHENING WORKER PROTECTIONS: SAFEGUARDING EMPLOYEES' RIGHTS

Undocumented immigrants are extremely vulnerable, as they have few labor protections, and are often afraid to come forward to assert their rights. It is difficult for them to join a union, object to illegal wages and unsafe working conditions, or receive compensation for work-related injuries. Unscrupulous employers often use workers' immigration status against them. For example, such an employer will contact immigration officials when an undocumented worker files a labor violation complaint, so the undocumented worker will be deported before having a chance to testify. This tactic enables such employers to continue their illegal practices. Workers who attempt to assert their rights are punished or intimidated. This practice is bad for law-bidding employers and all workers, regardless of legal status.

Why we need this legislation:

Current law prevents exploited workers from asserting their rights. Because labor laws provide inadequate protections for undocumented workers, those who might come forward to file complaints against employers or otherwise exercise their rights are often threatened with deportation. These workers become afraid to seek redress.

Exploitation of any workers is bad for all workers. Our worker protection laws depend on all workers being able to come forward when there is a violation. However, workers are less likely to assert their rights if they think they can be fired for doing so, with no recourse in the courts. All workers suffer when one sector of workers accepts low wages and poor working conditions and is afraid to report safety hazards, labor law violations, or to participate in unions.

Allowing "bad apple" employers to escape punishment is bad for law-abiding employers. Law-abiding employers face unfair competition from employers who hire and exploit undocumented workers. Undocumented workers often work at the lowest-paying and most dangerous jobs in our economy. Some U.S. employers seek out undocumented immigrant workers because they will be less likely to complain.

The Hoffman Plastic Supreme Court decision further undermines workers' rights. In 2002 the Supreme Court decided that undocumented workers were not entitled to back pay, even when they prevailed in legal challenges against employers violating labor laws. By denying a remedy to one group of workers, the *Hoffman* decision undermines the status of all workers. The *Hoffman* decision allows unscrupulous employers act illegally without consequences. It also harms law-abiding employers who must compete with employers who take advantage of undocumented labor.

What this legislation would accomplish:

This bill would enhance worker protections and ensure employer accountability. By preventing any government agency from using information on immigration status acquired during labor-related investigations, employees, regardless of their immigration status, will not be intimidated into silence. Increased civil penalties, especially for "bad actor" employers who have committed more than one violation, will provide a greater deterrent to employers tempted to break the law for economic gain.

This bill would allow full prosecution of employers committing unfair immigration-related practices. By providing stays of removal for undocumented workers legitimately involved in unfair immigration-related employment practice proceedings, the government will not lose key prosecution witnesses. Additionally, employers will know that they cannot commit these violations and avoid retribution.

This bill would repeal the Hoffman decision. An employer must not be allowed to violate labor laws and compete unfairly simply because an employee is undocumented.

ENHANCING NATIONAL SECURITY: COMPREHENSIVELY REFORMING OUR IMMIGRATION LAWS

Our immigration system is broken. Current laws provide no visa category for many needed workers to enter the U.S. legally and no clear path for undocumented workers to legalize their status. This dysfunctional system requires our government to expend valuable resources to identify, detain, and remove these workers, leaving few resources to pursue real national security threats and criminals. Obviously, this situation is untenable. Yet it is unrealistic to think we can deport the eight to ten million immigrants and their families residing here without legal status, or stop the flow of undocumented people crossing our borders to work. We can make immigration legal, safe, and orderly -- and improve national security -- if we place undocumented immigrants on a path to legalization and create new rules for future immigration that make sense.

Why we need this legislation:

To bring immigration under the rule of law. Undocumented immigrant workers and their families are our neighbors, our co-workers, our children's nannies and our parents' caretakers. For too long, our immigration laws have been at odds with economic realities, leading to an increased reliance on smugglers and fake documents. Creating a path to legal status for these valued workers would allow them to come forward, undergo security screenings, and seek legal status. This legislation will allow us to know who is here and who is admitted in the future, and create a realistic and orderly immigration system that can be meaningfully enforced.

To make legality the norm and reduce illegal immigration. We need fair and reasonable rules that are realistic and enforceable. We must replace the chaotic, deadly, and illegal flows at our borders with orderly, safe, and legal avenues for immigrant workers and immigrant families. In the absence of legal means to obtain work and unite with family members, law-abiding people will take desperate measures, including breaking the law and risking their lives. We need laws that embrace reality so that legality becomes the norm.

To improve our enforcement capacity. Enforcing a dysfunctional immigration system leads to more dysfunction and diversion from important objectives. Enforcement resources are inevitably overextended dealing with the undocumented population seeking employment. With laws that encourage illegality, our enforcement agencies waste time and resources investigating workers and families instead of tracking terrorists and criminals. Shrinking the pool of law enforcement targets will enable our officers to train their sights on those who mean to do us harm.

What this legislation would accomplish:

This bill would reduce crime and strengthen measures that enhance our intelligence capacity. By mandating the issuance of machine-readable, tamper-resistant documents with biometric identifiers, this bill would stem the tide of black-market documents and help eliminate a potential avenue for criminals and terrorists to gain entry to our country. Our intelligence capacities would be enhanced by mandating rigorous name-check clearances and extensive background checks.

This bill would enable our law enforcement agencies to focus on terrorists and criminals. By bringing undocumented workers and their families out of the shadows and requiring them to pass thorough security checks, we will dramatically reduce the pool of enforcement targets. Our investigative resources would be more effectively focused on terrorists and criminals.

This bill would encourage legality at our borders. By providing individuals with a legal mechanism to enter the country to work and reunite with family members, we encourage a legal, orderly admissions process. This limits the dangers confronting both immigrants and border patrol agents, and curtails the use of increasingly violent "coyotes" or human smugglers.