



AMENDMENTS TO S.744 THAT AFFECT CHILDREN AND FAMILIES

June 18, 2013

The First Focus Campaign for Children (FFCC) is committed to advocating for passage of immigration reform that addresses the specific needs and interests of children. As the Senate continues deliberation of the Border Security, Economic Opportunity, and Immigration Modernization Act (S.744), FFCC will be working to defend the provisions in the bill that keep families together and promote children's well-being, defend against attacks on children and families, and support amendments that will improve outcomes for children. The following is a list of amendments that FFCC has determined could benefit or harm children and families.

This list will be updated accordingly as amendments are filed.

POSITIVE AMENDMENTS

Adoption

- **Landrieu 1222:** Applies amendments made in the Child Citizenship Act of 2000 retroactively to all individuals adopted by a U.S. citizen in an international adoption, repeals the pre-adoption parental visitation requirements for automatic citizenship, and amends requirements under section 320 of the Immigration and Nationality Act relating to automatic citizenship for children born outside the U.S. who have a U.S. citizen parent. *(Agreed to by voice vote June 18)*
- **Klobuchar 1262:** To allow orphans who have established connections with potential adoptive parents in the U.S. and are in humanitarian emergency situations to be admitted to the U.S. under humanitarian parole while their petitions are processed.
- **Klobuchar 1297:** To provide that an adoption processed by the Central Authority of another convention country will permit an alien child adopted abroad through the Hague Convention process to immigrate before the child has been in the legal and physical custody of the adoptive parent for 2 years.

DREAM

- **Blumenthal-Murkowski 1327:** The "Little DREAMers" amendment ensures that the youngest DREAMers have access to the same 5-year path to citizenship as older DREAMers if they are under the age of 18 after completing 5 years of Registered Provisional Immigrant (RPI) status.
- **Blumenthal 1428:** Clarifies Blumenthal-Murkowski so that Little Dreamers can naturalize before age 18.
- **Murray 1460:** Promotes access to affordability for higher education for DREAM-eligible students by creating a DREAMer Access Grant to incentivize states to offer in-state tuition and financial aid to support DREAMers pursuit of higher education.

Pathway to Citizenship

- **Cardin 1294:** Adds community service to the employment and education requirement for RPI status and adjustment to LPR status, expanding the pathway to citizenship to parents and other immigrants who have a difficult time meeting employment and education requirements.
- **Blumenthal 1433:** Exempts individuals in RPI status from minimum income or resource requirements if their income was adversely affected by a labor shortage or employment law violation. This will allow more individuals in RPI status to renew their status and adjust to LPR status if their employment was impacted by circumstances out of their control. Some immigrant parents would be allowed to remain in RPI status as a result, which would promote family unity.

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- **Blumenthal 1436:** Changes the date of presence requirement to qualify for RPI status to April 17, 2013. This would make more children and their parents eligible for RPI status, promoting family unity and allowing more children to pursue naturalization.

Health Care and Safety Net

- **Boxer 1282:** Time in RPI or blue card status satisfies the five-year bar on access to the safety net.

Protections for Children

- **Boxer 1199 & 1240:** Requires training of National Guard and Coast Guard personnel pertaining to border protection, immigration law enforcement, and vulnerable populations such as children and victims of crime.
- **Boxer 1257:** Improves access to safety net benefits for victims of domestic abuse, including children, that allow them to escape abuse and exploitation.
- **Boxer 1260:** Requires DHS to establish standards for short-term custody by CBP.
- **Landrieu 1340:** Requires Federal agencies and Federal courts to consider the best interest of the child in all decisions concerning unaccompanied children.
- **Murphy 1451:** Prohibits the placement of children in adult detention facilities and includes information on child detention in the reporting section of the bill.
- **Murray 1368:** Prohibits the use of restraints on pregnant women in detention except in extraordinary circumstances and prohibits detention officers from being in the room during childbirth.
- **Murray 1412:** Provides additional protections for victims of domestic violence, including children, such as judicial review of orders of deportation and allows the cancellation of removal for victims of domestic violence.
- **Murray 1414:** Provides additional protections for victims of domestic violence, including children, such as stays of deportation for VAWA self-petitioners.
- **Murray 1418:** Requires DHS to issue an annual report on their use of force against U.S. citizens and immigrants. The report must include each instance when force was used, including the age, gender, race, and nationality of the person affected.
- **Stabenow 1405:** Reforms the domestic refugee resettlement programs by requiring a report on current practices, providing additional assistance for secondary migrants (many of whom are children), and collecting additional data on domestic refugee resettlement.

Taxes

- **Hirono 1317:** Provides that an individual who is lawfully present, employed, and paying their share of Federal taxes that fund federal programs shall not be denied access to those programs on the basis of their immigration status.

Visas and Entry

- **Hirono 1415:** Retains family-sponsored immigrant categories for older married sons and daughters and siblings of U.S. citizens, helping to promote family unity.
- **Leahy 1181:** Allows spouses and children of long-term contract (more than 1 year) agricultural workers and W-1 visa holders to be admitted to the United States during the worker's period of employment.
- **Schatz 1337:** Restores family-sponsored immigrant categories for older married sons and daughters and siblings of U.S. citizens 10 years after enactment of S.744.

Youth Employment

- **Sanders 1283:** Establishes a youth employment program for low-income youth age 16-24 that are unemployed using a \$10 surcharge on certain employment-based visas.

NEGATIVE AMENDMENTS

Birthright Citizenship

- **Vitter 1292:** Denies citizenship to babies born in the U.S. unless at least one of the child's parents is a citizen, an LPR, or an immigrant in active service in the armed forces. This amendment is extremely harmful for children, likely unconstitutional, and represents a major step backwards on civil rights.

DREAM

- **Manchin 1219:** Requires a degree from an institution of higher learning to be eligible for the DREAM title, delaying the pathway to citizenship for DREAMers.

Family Unity

- **Coburn 1349:** Eliminates the provision that allows individuals who have been deported or removed from the US to apply for RPI status. This would prevent previously removed DREAM-eligible youth and the parents of U.S. citizen and LPR children from being able to return to the U.S. to apply for citizenship and reunite with their families.

Health Care & Safety Net

- **Hatch 1246:** Limits the government's ability to waive restrictions on federal means-tested benefits for those in Registered Provisional Immigrant (RPI) status, lawfully present immigrants (LPRs), and to provide nonimmigrants with any benefits. It also prohibits the Secretary of Health and Human Services (HHS) from providing states with waivers for safety net programs.
- **Hatch 1248:** Adds a five-year bar for Affordable Care Act (ACA) subsidies for RPIs, DREAMers, and blue card holders after adjusting to LPR status, forcing aspiring citizens to remain without access to affordable health care for at least 10-15 years.
- **Lee 1215:** Requires annual report on the amounts of federal means-tested benefits provided in each state for households with RPIs, creating a chilling effect to accessing benefits for mixed-legal status families which include U.S. citizen children.
- **Paul 1202:** Restricts refugees, asylees, individuals in RPI status, and other noncitizens from receiving a number of public benefits, including:
 - Earned Income Tax Credit (EITC)
 - Temporary Assistance for Needy Families (TANF) and programs, including child care, under part A of title IV of Social Security Act
 - Medical assistance provided under State Medicaid plan or under waiver of such plan, other than emergency medical assistance
 - Children's Health Insurance Program (CHIP)
 - Supplemental Nutrition Assistance Program (SNAP)
 - Supplemental Security Income (SSI) benefits
 - Federal Pell Grants
 - Housing vouchers under Section 8
 - Federal Old-Age, Survivors, and Disability Insurance (OSAI & SSDI)
 - Health insurance benefits for aged and disabled under Medicare
 - Social Services Block Grant services and related funding under subtitle A of title XX of SSA
- **Wicker 1229:** Revokes RPI status if an individual claims a federal means-tested public benefit, is no longer eligible for the status, knowingly used fraudulent documentation, or leaves the country for 180 days.

Immigration Enforcement Policies

- **Coats 1376:** Strikes the provision that authorizes the Secretary of DHS to use secure alternatives programs to maintain custody over individuals detained under the INA. This could contribute to family separation by increasing the number of parents held in detention centers rather than secure alternatives.
- **Coburn 1362:** Requires DHS, not later than 120 days after enactment, to initiate removal proceedings against at least 90 percent of nonimmigrants who have exceeded their authorized period of admission. Requires a quarterly report on number of those who exceeded authorized stay, the number against whom DHS has initiated removal proceedings, and statistics categories by visa type and national origin. This would greatly increase the number of deportations and threaten family unity.
- **Collins 1391:** Requires refugees to submit biographic and biometric data that must be checked against multiple databases before an individual can be admitted as a refugee, including child refugees. This creates unnecessary delays for a vulnerable group of immigrants.
- **Grassley 1301:** Replaces sections 3704 to 3707 to increase penalties, including prison sentences, and fines on individuals who enter the country as undocumented immigrants, who reenter after an order of deportation, or who use fraudulent documents. Increasing these onerous fines would be especially difficult for children, who could face up to 10 years in prison after multiple attempts at reentry under this amendment.
- **Inhofe 1203:** Allows individuals, including children, to spend an unlimited time in detention prior to removal proceedings.

Path to Citizenship

- **Coburn 1363:** Strikes the entire judicial review process from RPI status, taking away individuals' ability to appeal a rejection of an RPI application and creating barriers to legalization.
- **Fischer 1348:** Requires applicants for RPI status to be English language proficient, limiting the number of eligible applicants with an unreasonable requirement. This has potential negative impacts for all applicants for RPI status, including children.
- **Johanns 1345:** Requires long-term costs of the bill to be paid for, and allows the Secretary of DHS to raise application fees, creating a barrier for low-income families.
- **Johnson 1380:** Limits application for RPI status to one year only, creating a barrier for those who may require additional time, including vulnerable children, such as those in foster care or other forms temporary guardianship.
- **Lee 1210:** Prohibits individuals who have left or attempted to reenter the U.S. following a deportation order from being eligible for RPI status, threatening family unity and the ability of previously removed parents and DREAMers from obtaining RPI status.
- **Lee 1213:** Prohibits the waiver or reduction of fees for applicants seeking RPI status, making adjustment of status more difficult for low-income families.
- **Lee 1214:** Restricts the use of sworn affidavits or other unspecified documents to verify employment or education of an RPI applying for LPR status which would increase the burden of proof for DREAMers and domestic workers and other non-traditional workers.
- **Paul 1332:** Suspends RPI and blue card status by eliminating the cap on nonimmigrant and immigrant work visas, by making those who would be eligible for RPI or blue card status able to apply for a nonimmigrant or immigrant visa while remaining in the country and immediately receiving a work permit. Also provides a 50,000 cap on asylees and makes refugees and asylees eligible for public benefits for only one year.
- **Rubio 1225:** Requires those who adjust to RPI who are 16 years of older to read, write, and speak the English language, creating an additional barrier to accessing RPI status and further delaying access to the path to citizenship.

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- **Vitter 1443:** Strikes the section that authorizes \$50 million to create a grant program for nonprofits that assist people applying for RPI status.
- **Wicker 1230:** Prohibits application for RPI status if an individual had previously filed and been denied an asylum application or failed to leave the US following the granting of a voluntary departure.
- **Wicker 1232:** Doubles penalties on both RPI applicants and adjustment to LPR status from \$1000 to \$2000 each, increasing the burden for low-income parents to access path to citizenship.

Protections for Children

- **Coburn 1350:** Strikes the provision that grants unaccompanied children and children with disabilities legal counsel in immigration proceedings.
- **Coburn 1351:** Also strikes the provision that grants unaccompanied children and children with disabilities legal counsel in immigration proceedings.
- **Enzi 1468:** Strikes the section that requires DHS to issue policies governing the use of force by DHS personnel.
- **Grassley 1306:** Weakens provisions that grant legal representation to unaccompanied immigrant minors, and only requires counsel to represent an unaccompanied immigrant child with a serious mental disability.
- **Grassley 1399:** Strikes protections for child refugees and asylees.
- **Grassley 1400:** Strikes protections for stateless individuals in the United States. Millions of children around the world are currently stateless and many countries offer no protections for these children. This amendment would remove important protections that would be put in place by S.744, including providing conditional resident status and work authorization.

Taxes and Income Supports

- **Enzi 1398:** Denies the refundable portion of the Child Tax Credit (CTC) to families filing with an Individual Taxpayer Identification Number (ITIN), rather than a Social Security Number. This would take an important anti-poverty tax credit away from many low-income children.
- **Grassley 1379:** Prevents families in RPI status from claiming the Earned Income Tax Credit (EITC) against any tax payments they seek to make for tax years prior to gaining work authorization.
- **Hatch 1247:** Prohibits application for RPI status, or adjustment to LPR status, unless new tax payment documentation requirements to require RPI applicants to provide proof to the Department of Treasury that they have no owed federal tax liability from an individual's original date of entry into the U.S. are satisfied. This requirement would be unworkable for families, employers, and the IRS, with the overall effect of creating a barrier against immigrant parents adjusting to and maintaining RPI status.
- **Johnson 1381:** Prevents families the EITC during the entire RPI status. This would deny children access to the EITC for a minimum of 10 years and create a two-tiered tax system in which legal, work authorized families filing taxes with Social Security numbers would be subjected to a different tax rate than other working families on the same level of income.
- **Lee 1212:** Prohibits application for RPI status unless applicants document, in cooperation with the Internal Revenue Service, the payment of owed Federal back tax liability, interest, and penalties. This requirement creates an application barrier and financial hurdles for immigrant parents.
- **Vitter 1289:** Denies the child tax credit (CTC) to anyone who files taxes with an individual taxpayer identification number (ITIN). This denies an important tax credit that lifts millions of children out of poverty every year to immigrant families who are paying taxes.

Triggers/Barriers to Legalization

The following amendments threaten to delay the path to citizenship for children and families:

- **Coats 1277:** Before processing applications to adjust status from RPI to LPR status, the Southern Border Security Strategy must be 100 percent deployed and 100 percent operational.
- **Coats 1287:** Prohibits the granting of RPI status to any individual until the Secretary of Homeland Security has maintained effective control of “high-risk sectors” along the Southern borders for at least 6 months.
- **Coats 1374:** Requires Secretary of DHS to consult with the Attorney General, the Secretary of the Interior, and other appropriate officials in submitting the Comprehensive Southern Border Security Strategy.
- **Coats 1442:** Requires that the Secretary of DHS certifies effective control of high-risk border sectors along the Southern border for at least 6 months before applications for RPI status can be processed, and requires effective control of the Southern border for at least 6 months before applications for LPR status can be processed.
- **Coburn 1356:** Requires a Joint Resolution of Approval of the Comprehensive Border Security Strategy and Southern Border Fencing Strategy be enacted into law before applications for RPI status are processed.
- **Cornyn 1251:** Bars adjustment of status for individuals convicted of certain misdemeanors, such as domestic violence, and provides approximately 5,000 more border patrol agents. Also requires DHS to meet a number of requirements before those in RPI status can adjust to LPR status, including:
 - 100 percent monitoring capacity on the Southern border
 - 90 percent apprehension rate on the Southern border
 - Biometric exit system for all air and sea ports
- **Grassley 1195:** Prohibits the granting of RPI status to any individual until the Secretary of Homeland Security has maintained effective control on the borders for at least 6 months, further delaying access to the path to citizenship.
- **Grassley 1336:** Prohibits adjustment of status to LPR status until the Treasury has been repaid in full for the initial funding of the CIR Trust Fund.
- **Thune 1196:** Restricts granting of RPI status to any alien prior to the governors of the States of the southern border (CA, TX, NM, and AZ) approving the Secretary of Homeland Security’s southern border strategy and the successful implementation of such strategy.
- **Thune 1197:** Requires the completion of 350 miles of reinforced, double-layered fencing prior to the granting of RPI status. Also requires completion of 700 miles of the same fencing prior to the adjustment of RPI status to LPR status. *(Not agreed to 39-54 on June 18)*
- **Thune 1270:** Requires the exit data system to be operational at ten airports before processing applications for RPI status.
- **Thune 1271:** Requires employers with more than 500 employees to be participating in the E-Verify system before processing applications for RPI status.
- **Vitter 1201:** Prohibits adjustment to LPR status or naturalization for any individual unlawfully present in the US until the Secretary of Homeland Security is certain that the biometric border system is established at every land, sea and air point of entry.
- **Vitter 1228:** Prohibits granting LPR status or adjustment to citizenship status for any individual unlawfully present in the US until the Secretary of Homeland Security verifies that the biometric border system is established at every land, sea and air point of entry and Congress passes a joint resolution acknowledging that this system is sufficiently established. *(Not agreed to 36-58 on June 18)*
- **Vitter 1254:** Restricts Secretary from processing RPI applications prior to meeting the triggers such as those in Cornyn 1251.