

S.1200 - Immigration Reform and Control Act of 1986

99th Congress (1985-1986)

Sponsor: [Sen. Simpson, Alan K. \[R-WY\]](#) (Introduced 05/23/1985)
Committees: Senate - Judiciary; Budget
Committee Reports: S.Rept 99-132; H.Rept 99-1000
Latest Action: 11/06/1986 Became Public Law No: 99-603. ([All Actions](#))
Roll Call Votes: There have been [20 roll call votes](#)
Tracker: Introduced Passed Senate Passed House Resolving Differences To President **Became Law**

Summary(5) Text Actions(148) Titles(6) Amendments(42) Cosponsors(0) Committees(2) Related Bills(2)

There are 5 summaries for S.1200. ▼

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Shown Here:

Conference report filed in House (10/14/1986)

(Conference report filed in House, H. Rept. 99-1000)

Immigration Reform and Control Act of 1986 - **Title I: Control of Illegal Immigration - Part A: Employment** - Amends the Immigration and Nationality Act to make it unlawful for a person or other entity to: (1) hire (including through subcontractors), recruit, or refer for a fee for U.S. employment any alien knowing that such person is unauthorized to work, or any person without verifying his or her work status; or (2) continue to employ an alien knowing of such person's unauthorized work status.

Makes verification compliance (including the use of State employment agency documentation) an affirmative defense to any hiring or referral violation.

Establishes an employment verification system. Requires: (1) the employer to attest, on a form developed by the Attorney General, that the employee's work status has been verified by examination of a passport, birth certificate, social security card, alien documentation papers, or other proof; (2) the worker to similarly attest that he or she is a U.S. citizen or national, or authorized alien; and (3) the employer to keep such records for three years in the case of referral or recruitment, or the later of three years or one year after employment termination in the case of hiring.

States that nothing in this Act shall be construed to authorize a national identity card or system.

Directs the President to monitor and evaluate the verification system and implement changes as necessary within 60 days after notifying the appropriate congressional committees (within two years for a major change). Prohibits implementation of a major change unless the Congress provides funds for such purpose. Authorizes related demonstration projects of up to three years.

Limits the use of such verification system or any required identification document to enforcing this Act and not for other law enforcement purposes.

Directs the Attorney General to establish complaint and investigation procedures which shall provide for: (1) individuals and entities to file written, signed complaints regarding potential hiring violations; (2) INS investigations of complaints with substantial probability of validity; (3) Department of Justice-initiated investigations; and (4) designation of a specific INS unit to prosecute such violations.

Sets forth employer sanction provisions. Provides for a six-month period of public education during which no employment violation penalties shall be imposed.

Provides for a subsequent 12-month period during which violators shall be issued warning citations. Defers enforcement for seasonal agricultural services.

Provides, at the end of such citation period, for graduated first and subsequent-offense civil penalties, injunctive remedies, or criminal penalties (for pattern or practice violations). Subjects violators to graduated civil penalties for related paperwork violations.

Directs the Attorney General to provide notice and, upon request, an administrative hearing in the case of a disputed penalty. States that: (1) judicial review of a final administrative penalty shall be in the U.S. court of appeals; and (2) suits to collect unpaid penalties shall be filed in U.S. district courts.

Makes it unlawful for an employer to require an employee to provide any type of financial guarantee or indemnity against any potential employment liability. Subjects violators, after notice and hearing opportunity, to a civil penalty for each violation and the return of any such amounts received.

States that such employer sanction provisions preempt State and local laws.

Requires the General Accounting Office (GAO) to submit to the Congress and to a specially created task force three annual reports regarding the operation of the employer sanction program, including a determination of whether a pattern of national origin discrimination has resulted. States that if the GAO report makes such a determination: (1) the task force shall so report to the Congress; and (2) the House and the Senate shall hold hearings within 60 days.

Terminates employer sanctions 30 days after receipt of the last GAO report if: (1) GAO finds a widespread pattern of discrimination has resulted from the employer sanctions; and (2) the Congress enacts a joint resolution within such 30-day period approving such findings.

Amends the Migrant and Seasonal Agricultural Worker Protection Act to subject farm labor contractors to the requirements of this Act, beginning seven months after enactment.

Directs the Attorney General, in consultation with the Secretary of Labor and the Secretary of Health and Human Services, to conduct a study of the use of a telephone system to verify the employment status of job applicants. Requires related congressional reports.

Directs the Comptroller General to: (1) investigate ways to reduce counterfeiting of social security account number cards; and (2) report to the appropriate congressional committees within one year.

Directs the Secretary of Health and Human Services, acting through the Social Security Administration and in cooperation with the Attorney General and the Secretary of Labor, to: (1) conduct a study of the feasibility of establishing a social security number validation system; and (2) report to the appropriate congressional committees within two years.

Makes it an unfair immigration-related employment practice for an employer of three or more persons to discriminate against any individual (other than an unauthorized alien) with respect to hiring, recruitment, firing, or referral for fee, because of such individual's origin or citizenship (or intended citizenship) status. States that it is not an unfair immigration-related employment practice to hire a U.S. citizen or national over an equally qualified alien.

Requires that complaints of violations of an immigration-related employment practice be filed with the Special Counsel for Immigration-Related Unfair Employment Practices (established by this Act) within the Department of Justice. Prohibits the overlap of immigration-related discrimination complaints and discrimination complaints filed with the Equal Employment Opportunity Commission.

Authorizes the Special Counsel to: (1) investigate complaints and determine (within 120 days) whether to bring such complaints before a specially trained administrative law judge; and (2) initiate investigations and complaints. Permits private actions if the Special Counsel does not file a complaint within such 120-day period. Sets forth related administrative provisions.

Makes it illegal to fraudulently misuse or manufacture entry or work documents.

Part B: Improvement of Enforcement and Services - States that essential elements of the immigration control and reform program established by this Act are increased enforcement and administrative activities of the Border Patrol, the Immigration and Naturalization Service (INS), and other appropriate Federal agencies.

Authorizes increased FY 1987 and 1988 appropriations for: (1) INS; and (2) the Executive Office of Immigration Review. Obligates increased funding in FY 1987 and 1988 for the border patrol.

Directs the Attorney General, from funds appropriated to the Department of Justice for INS, to provide for improved immigration and naturalization services and for enhanced community outreach and in-service personnel training.

Authorizes additional appropriations for wage and hour enforcement.

Revises the criminal penalties for the unlawful transportation of unauthorized aliens into the United States.

Authorizes a \$35,000,000 immigration emergency fund to be established in the Treasury for necessary enforcement activities and related State and local reimbursements.

Permits the owner or operator of a railroad line, international bridge, or toll road to request the Attorney General to inspect and approve measures taken to prevent aliens from illegally crossing into the United States. States that such approved measures shall be prima facie evidence of compliance with obligations under such Act to prevent illegal entries.

Expresses the sense of the Congress that the immigration laws of the United States should be vigorously enforced, while taking care to protect the rights and safety of U.S. citizens and aliens.

Requires INS to have an owner's consent or a warrant before entering a farm or outdoor operations to interrogate persons to determine if undocumented aliens are present.

Prohibits the adjustment of status to permanent resident for violators of (nonimmigrant) visa terms.

Title II: Legalization - Directs the Attorney General to adjust to temporary resident status those aliens who: (1) apply within 18 months; (2) establish that they entered the United States before January 1, 1982, and have resided here continuously in an unlawful status (including Cuban/Haitian entrants) since such date; and (3) are otherwise admissible.

Authorizes similar status adjustment for specified aliens who entered legally as nonimmigrants but whose period of authorized stay ended before January 1, 1982. (States that in the case of exchange visitors the two-year foreign residence requirement must have been met or waived.)

Prohibits the legalization of persons: (1) convicted of a felony or three or more misdemeanors in the United States; or (2) who have taken part in political, religious, or racial persecution. Requires an alien applying for temporary resident status to register under the Military Selective Service Act, if such Act so requires.

Directs the Attorney General to adjust the status of temporary resident aliens to permanent resident if the alien: (1) applies during the one-year period beginning with the 19th month following the grant of temporary resident status; (2) has established continuous residence in the

United States since the grant of temporary resident status; (3) is otherwise admissible and has not been convicted of a felony or three or more misdemeanors committed in the United States; and (4) either meets the minimum requirements for an understanding of English and a knowledge of American history and government, or demonstrates the satisfactory pursuit of a course of study in these subjects. (Authorizes an exemption from such language and history requirement for individuals 65 years of age or older.)

Specifies circumstances in which the Attorney General may terminate an alien's temporary resident status. Permits travel abroad and employment during such period.

Authorizes the filing of status adjustment applications with the Attorney General or designated voluntary or governmental agencies. Directs the Attorney General to work with such agencies to: (1) disseminate program information; and (2) process aliens. Provides for the confidential treatment of application records. Establishes criminal penalties (fines, imprisonment, or both) for: (1) violations of such confidentiality; and (2) false application statements. Provides for application fees.

Waives numerical limitations, labor certification, and other specified entry violations for such aliens. Permits the Attorney General to waive other grounds for exclusion (except criminal, most drug-related, and security grounds) to assure family unity or when otherwise in the national interest.

Requires the Attorney General to provide an alien otherwise eligible but unregistered who is apprehended before the end of the application period, an opportunity to apply for the legalization program before deportation or exclusion proceedings are begun. States that such alien shall be authorized to work in the United States pending disposition of the case.

Provides for administrative and judicial review of a determination respecting an application for adjustment of status under this Act.

Makes legalized aliens (other than Cuban/Haitian entrants) ineligible for Federal financial assistance, Medicaid (with certain exceptions), or food stamps for five years following a grant of temporary resident status and for five years following a grant of permanent resident status (permits aid to the aged, blind, or disabled). States that programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the Vocational Education Act of 1963, chapter 1 of the Education Consolidation and Improvement Act of 1981, the Headstart-Follow Through Act, the Job Training Partnership Act, title IV of the Higher Education Act of 1965, the Public Health Service Act, and titles V, XVI, and XX of the Social Security Act shall not be construed as prohibited assistance. Continues assistance to aliens under the Refugee Education Assistance Act of 1980 without regard to adjustment of status.

Requires the Attorney General to disseminate information regarding the legalization program.

Establishes procedures for the status adjustment to permanent resident of certain Cuban and Haitian entrants who arrived in the United States before January 1, 1982.

Updates from June 30, 1948, to January 1, 1972, the registry date for permanent entry admissions records.

Authorizes FY 1988 through 1991 appropriations for State legalization impact assistance grants. Permits States to spend unused funds through FY 1994. Prohibits offsets for Medicaid and supplemental security income costs. Bases State amounts on the number of legalized aliens and related expenditures. Permits States to use such funds to reimburse public assistance, health, and education costs. Limits reimbursement to actual costs.

Title III: Reform of Legal Immigration - Part A: Temporary Agricultural Workers - Separates temporary agricultural labor from other temporary labor for purposes of nonimmigrant (H-2A visa) worker provisions.

Requires an employer H-2A visa petition to certify that: (1) there are not enough local U.S. workers for the job; and (2) similarly employed U.S. workers' wages and working conditions will not be adversely affected. Authorizes the Secretary of Labor to charge application fees.

Prohibits the Secretary from approving such petition if: (1) the job is open because of a strike or lock-out; (2) the employer violated temporary worker admissions terms; (3) in a case where such workers are not covered by State workers' compensation laws, the employer has not provided equivalent protection at no cost to such workers; or (4) the employer has not made regional recruitment efforts in the traditional or expected labor supply.

Provides with regard to agricultural worker applications that: (1) the Secretary may not require such an application to be filed more than 60 days before needed; (2) the employer shall be notified in writing within seven days if the application requires perfecting; (3) the Secretary shall approve an acceptable application not later than 20 days before needed; and (4) the employer shall provide or secure housing meeting appropriate Federal, State, or local standards, including making provision for family housing for employees principally engaged in the range production of livestock.

Provides that for three years, labor certifications for specified employers shall require such an employer to hire qualified U.S. workers who apply until the end of 50 percent of the H-2A workers' contract work period. Requires the Secretary, six months before the end of such period, to consider the advisability of continuing such requirement and to issue regulations (in the absence of enacting legislation) three months before the end of such period.

States that employers shall not be liable for specified employment penalties if H-2A workers are dismissed in order to meet such 50 percent requirement.

Permits agricultural producer associations to file H-2A petitions.

Provides for expedited administrative appeals of denied certifications.

Prohibits the entry of an alien as an H-2A worker if he or she has violated a term of admission within the previous five years.

Authorizes permanent appropriations beginning with FY 1987 for the purposes of: (1) recruiting domestic workers for temporary labor and services which might otherwise be performed by nonimmigrants and agricultural transition workers; and (2) monitoring terms and conditions under which such individuals are employed.

Authorizes permanent appropriations beginning in FY 1987 to enable the Secretary to make determinations and certifications.

Expresses the sense of the Congress that the President should establish an advisory commission to consult with Mexico and other appropriate countries and advise the Attorney General regarding the temporary worker program.

Establishes a special agricultural worker adjustment program. Provides for permanent resident adjustment for aliens who: (1) apply during a specified 18-month period; (2) have performed at least 90 man-days of seasonal agricultural work during the 12-month period ending May 1, 1986; and (3) are admissible as immigrants. Sets forth adjustment dates based upon periods of work performed in the United States. Authorizes travel and employment during such temporary residence period.

Authorizes applications to be made inside the United States with the Attorney General or designated entities and outside the United States through consular offices. Provides for confidentiality and limited access to such information. Establishes criminal penalties for false application information, and makes an alien so convicted inadmissible for U.S. entry.

Exempts such admissions from numerical entry limitations.

Permits waiver of exclusion (except for specified criminal, drug offense, public charge, Nazi persecution, and national security grounds) for humanitarian or family purposes, or when in the national interest.

Provides for a temporary stay of exclusion or deportation (and authority to work) for apprehended aliens who are able to establish a nonfrivolous claim for status adjustment.

Provides for a single level of administrative appellate review of such status adjustment applications. Limits such review of the order of exclusion or deportation.

Defines "seasonal agricultural services" as the performance of field work related to growing fruits and vegetables of every kind and other perishable commodities as defined in regulations by the Secretary of Agriculture.

Directs the Secretaries of Agriculture and of Labor, jointly before each fiscal year (beginning in FY 1990 and ending in FY 1993) to determine whether additional special agricultural workers should be admitted because of a shortage of such workers in the United States. Sets forth factors to be considered in making such determinations.

Authorizes associations and groups of employers to request additional admissions due to emergency or unforeseen circumstances. Authorizes groups of special agricultural workers to request decreased admissions due to worker oversupply. Requires the Secretaries to make request determinations within 21 days.

Sets forth numerical limitations for such admissions beginning with FY 1990.

Provides for the deportation of newly admitted special agricultural workers who do not perform 60 man-days of seasonal agricultural work in each of the first two years after entry. Prohibits naturalization of such workers unless they have performed 60 man-days of such work in each of five fiscal years.

Treats temporary agricultural workers and special agricultural workers as "eligible legalized aliens" for purposes of Federal assistance to State and local entities for specified costs associated with such workers during their first five years in the United States.

Establishes a 12-member Commission on Agricultural Workers to review the special agricultural worker provisions, the impact of the legalization and employer sanctions on agricultural labor, and other aspects of agricultural labor. Requires a report to the Congress within five years. Authorizes appropriations. Terminates the Commission at the end of the 63-month period beginning with the month after the month of enactment of this Act.

States that specified agricultural workers shall be eligible for legal assistance under the Legal Service Corporation Act.

Part B: Other Changes in the Immigration Law - Increases the annual colonial quota from 600 visas to 5,000 visas.

Includes within the definition of "special immigrant": (1) unmarried sons and daughters and surviving spouses of employees of certain international organizations; and (2) specified retirees of such organizations ("I" status) and their spouses.

Grants nonimmigrant status to: (1) parents of children receiving "I" status while they are minors; and (2) other children of such parents or a surviving "I" status spouse.

Authorizes the three-year pilot visa waiver program for up to eight countries providing similar benefits to U.S. visitors. Requires such visitors to the United States to: (1) have a nonrefundable roundtrip ticket; and (2) stay in the United States for not more than 90 days.

Authorizes an additional 5000 nonpreference visas in each of FY 1987 and 1988 with preference being given to nationals of countries who were adversely affected by Public Law 89-236 (1965 immigration amendments).

Includes the relationship between an illegitimate child and its natural father within the definition of "child" for purposes of status, benefits, or privilege under such Act.

States that for suspension of deportation purposes, an alien shall not be considered to have failed to maintain continuous physical presence in the United States if the absence did not meaningfully interrupt the continuous physical presence.

Prohibits for one year the admission of nonimmigrant alien crew members to perform services during a strike against the employer for whom such aliens intend to work.

Title IV: Reports - Directs the President to transmit to the Congress: (1) not later than January 1, 1989, and not later than January 1 of every third year thereafter, a comprehensive immigration-impact report; and (2) annual reports for three years on unauthorized alien employment and the temporary agricultural worker (H-2A) program.

Directs the Attorney General and the Secretary of State to jointly monitor the visa waiver program established by this Act, and report to the Congress within two years.

Directs the President to submit to the Congress an initial and a second report (three years after the first report) on the impact of the legalization program.

Directs the Attorney General to report to the Congress within 90 days regarding necessary improvements for INS.

Expresses the sense of the Congress that the President should consult with the President of Mexico within 90 days regarding the implementation of this Act and its possible effect on the United States or Mexico.

Title V: State Assistance for Incarceration Costs of Illegal Aliens and Certain Cuban Nationals - Directs the Attorney General to reimburse States for the costs incurred in incarcerating certain illegal aliens and Cuban nationals convicted of felonies. Authorizes appropriations.

Title VI: Commission for the Study of International Migration and Cooperative Economic Development - Establishes a 12-member Commission for the Study of International Migration and Cooperative Economic Development to examine, in consultation with Mexico and other Western Hemisphere sending countries, conditions which contribute to unauthorized migration to the United States and trade and investment programs to alleviate such conditions. Requires a report to the President and to the Congress within three years. Terminates the Commission upon filing of such report, except that the Commission may function for up to 30 additional days to conclude its affairs.

Title VII: Federal Responsibility for Deportable and Excludable Aliens Convicted of Crimes - Provides for the expeditious deportation of aliens convicted of crimes.

Provides for the identification of Department of Defense facilities that could be made available to incarcerate deportable or excludable aliens.