

Alabama immigration law: Long waits face many who wish to immigrate

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By **Mary Orndorff** -- **The Birmingham News**

WASHINGTON -- The idea that prospective immigrants simply wait their turn to enter the U.S. legally, as advocates of Alabama's immigration law suggest, would apply to only a few because the legal paths for entering the country permanently are selective, limited and backlogged.

There are 4.7 million people from around the world already in line waiting for a chance to move in, according to the latest figures from the U.S. State Department. And the law, as set out in the Immigration and Nationality Act, does not let just anyone get in line.

The law is specific about who is allowed in on a permanent basis, coinciding with four general objectives of federal immigration policy: to reunite families, attract workers with special skills, increase diversity from countries that don't usually have high numbers of immigrants to the U.S., and protect people who are fleeing persecution in their home countries.

If someone wants to immigrate permanently, they have to fall into one of those four categories. Even then, the wait can last years or decades. For example, applications filed by Mexican unmarried sons and daughters of U.S. citizens before April 1993 are the ones being considered now, according to a monthly update from the State Department.

In other words, the proposal that illegal immigrants should have just waited for their turn is not even possible.

"When there is no line to get into, those are times when people feel they don't have options," said Mary Giovagnoli, director of the Immigration Policy Center and former associate chief counsel for United States Citizenship and Immigration Services.

There are 12.6 million legal permanent residents currently living in the United States plus millions more who have long since become naturalized citizens.

So while Alabama and other states focus their energy on ferreting out the 10.8 million people estimated to be in the country illegally, immigration policy has provided for millions more than that to enter legally over the years.

Last year, slightly more than 1 million people became legal permanent residents, down from 1.1 million in 2009. Of those, 3,740 lived in Alabama. Some of them were people already in the country who adjusted their status; others were new arrivals.

Between 1980 and 2009, 25.1 million people gained legal permanent resident status, and 9.6 million of them eventually became naturalized citizens, according to the U.S. Department of Homeland Security Office of Immigration Statistics. After adjustments for deaths, emigration and other factors, the government estimates that there are 12.6 million legal permanent residents currently in the country.

"The system does work for a certain number of people, it's just not really working for everybody," said Giovagnoli, whose center is the research and policy arm of the American Immigration Council, which supports comprehensive immigration reform.

More than half the 1 million new legal permanent residents from last year are immediate relatives of U.S. citizens: spouses of citizens, parents of adult citizens or children of citizens. There is no cap on the number of visas issued in these three categories, and together they account for 476,414 of the new legal permanent residents last year, according to the U.S. Department of Homeland Security's 2010 Yearbook of Immigration Statistics.

The second-largest category of legal permanent residencies granted in 2010 was for other types of family members, of which there were about 214,500. These include married and unmarried adult sons and daughters of U.S. citizens, spouses and dependent children of legal permanent residents, and siblings of adult U.S. citizens. These categories are limited. The caps depend on the number of unused visas in other categories and the formula hasn't been updated in years.

The State Department gives monthly updates for every category and, in countries with especially long waiting lists, those who filed their paperwork years and years ago are just now moving to the front of the line. While unmarried sons and daughters of U.S. citizens from Mexico who filed paperwork before April 1993 are now at the front of the line, people at the front of the line in that same category from China and India filed their paperwork before September 2004. For married sons and daughters of U.S. citizens from Mexico, their list goes back to December 1992, according to the December visa bulletin from the State Department.

Under the employment-based preference system, which led to 148,000 people becoming legal permanent residents last year, an employer has to vouch that an applicant has special skills, an applicant has to have an advanced degree, or they have to fall into some other special category such as investors who will spend money and create jobs in the U.S. These categories also are limited and the caps are rigid.

"We need to create a more flexible system so when the economy is good and there's jobs, there are visas available, and when there's not, you cut back," Giovagnoli said. "If people believe there is a system in place that lets them come when there is a reason to come, it has more of a deterrent effect."

For family and employment preference immigrants, the per-country limit for 2010 was 26,365, according to the Department of Homeland Security. Several countries have waiting lists far greater than

that. Mexico's is 1,381,896, according to the 2010 information from the State Department.

The third category for legal permanent residents is the diversity program, a lottery system capped at 50,000 each year. It is for people who come to the U.S. from countries with historically low immigration rates, such as Ethiopia and Uzbekistan.

The final category is humanitarian, including refugees or those seeking asylum from persecution in their home countries. This category brought about 153,000 people into the country last year. Many of the refugees and asylum seekers came from Burma, Cuba, Iraq and China.

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