

# Small Changes Could Make Big Difference for Immigrants

by Julián Aguilar

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A demonstrator marches through the streets of downtown Dallas to protest the passage of Arizona's controversial new immigration law.

As Congress prepares for what is expected to be a contentious debate over immigration reform, with issues like the DREAM Act and what kind of reforms constitute "amnesty" expected to be at the forefront, immigration lawyers say addressing lesser-known and arcane policies could be just as important and effective.

The White House has reiterated its intent to present a comprehensive immigration reform plan this year, but immigration attorneys are viewing the debate through a pragmatic lens. And they argue that more minor changes to laws enacted almost 20 years ago could affect immigration as much as two major recent immigration policies from the administration: last year's deferred action policy, which grants certain undocumented immigrants a reprieve from deportation proceedings and legal permission to work for two years; and last week's announcement that the administration in March will allow certain visa applicants who have admitted to being here illegally to obtain a waiver to re-enter the country while their application is being processed instead of being barred from the U.S. for up to 10 years.

"Small changes could be made short of amnesty, amnesty is not even necessary," said Jackie Watson, an Austin-based immigration attorney. "I think the people affected most are actually people who are in the system or could very well be in the system, spouses of U.S. citizens or people who are waiting in long, long immigration lines."

Watson advocated eliminating what is known as the permanent bar, which makes immigrants inadmissible if they commit certain immigration violations, including relatively minor offenses.

"I have clients who are married to U.S. citizens who would be able to adjust [status] except they happen to have two unlawful presence violations and they have a permanent bar," she said. The bar also applies to those who made false claims of citizenship that were once acceptable at ports of entry.

"You can't get a waiver for false claim to citizenship even if you did it as a stupid kid. It's a very severe consequence," Watson said.

Reform advocates argue that permanent bars are a prime reason why otherwise eligible immigrants — who work, pay taxes and have never been convicted of a criminal offense — do not apply for legal status.

For immigrants who entered legally, Watson said the current backlog to process applications for immigration documents deters many from applying. Those who are eligible often wait years or in some cases, more than a decade, for their paperwork to be processed.

Easing wait times for permanent-residency applicants would likely require increased funding for agencies like the U.S. Citizen and Immigration Services, which oversees legal immigration. That could be a tough sell in a Congress that is embroiled in a debate over federal spending, despite the fact that it spends record amounts on immigration enforcement. A report released this week shows that immigration-enforcement funding exceeds that of total funding for four major law enforcement agencies — the FBI, the Secret Service, the U.S. Marshal's Service and the Bureau of Alcohol, Tobacco, Firearms and Explosives — combined.

But Watson said lawmakers should realize immigration reform could produce a return on investment.

“If you legalize people, you have less of a need for border security because you have people who can cross the border, are authorized to be near the border,” she said.

Laura Lichter, president of the American Immigration Attorneys Association, said immigration law also needs a significant overhaul. Even experienced immigration attorneys, she said, get lost in layers of technicalities.

“I think most people who are not immigration lawyers would be shocked to find out how many roadblocks we put in the way of people actually getting legal status,” she said. “This is death penalty work with traffic court rules.”

She advocates for what she calls the three R's – representation, review and resources. Currently, detainees in the immigration system are not guaranteed counsel, which leaves many to unsuccessfully represent themselves or to wait for scarce pro bono help. It has also led to record levels of detained immigrants, Lichter said.

“People should be looking at where we are spending our money and if we are spending that money intelligently,” she said. “Over 400,000 people are in custody. At any given time they’re costing over \$200 for each person.”

Lichter said that immigration reform proponents will push for the big-ticket items, including the DREAM Act and guest-worker programs to fill skilled and unskilled labor shortages. She added, however, that momentum continues to build to the point where at least partial reform is achieved.

“You have a constituency that last May might have been happy with some of the table scraps that we being handed out,” she said. “But now you’ve got the political reality that this constituency deserves more than that they’ve earned a seat at the table.”

But the opposition is still vocal. The Federation for American Immigration Reform, which seeks to stop illegal immigration and limit legal migration to the U.S., last week warned against trusting Congress or the president on immigration.

“Comprehensive immigration reform will mean amnesty for countless millions of illegal aliens, followed by crushing social costs to support this largely low-skilled and poorly educated population, and a crippling blow to already embattled American workers,” wrote FAIR media director Ira Mehlman. “In exchange, the American people will receive promises of future enforcement that the president has already assured us he will not keep.”