

# The Immigration Bill Offers Options for the Undocumented, But Eliminates Certain Family-Based Options

By Jerry Grzeca and John Sesini  
April 2013



On Wednesday, Senators introduced a bill, "Border Security, Economic Opportunity, and Immigration Modernization of 2013," to overhaul the current immigration system in the U.S. As anticipated, the bill offers a thirteen-year pathway to citizenship for the 11 million undocumented immigrants in the U.S. while substantially increasing border security to decrease the possibility of future illegal immigration. Currently, 80% of all visas are family-based visas. Under the new bill 50% of all visas will remain family-based and 50% would be employment-based.

Please note this is only a bill. No law has changed yet and there is no exact time frame for when the laws will change.

Many immigrants and immigrant families will benefit from a new pathway to citizenship for undocumented individuals as well as DREAMers. However, there are significant changes to the family-based immigration system as well.

## New Pathways to Citizenship

The thirteen-year pathway to citizenship will begin with applying for Registered Provisional Immigration (RPI) status, which will authorize employment in the U.S. and international travel. The bill currently will provide a one-year period for applications, with a possible extension to two years. If an undocumented immigrant has continuously lived in the U.S. since December 31, 2011, he or she will be eligible to begin the pathway to citizenship by applying for Registered Provisional Immigration (RPI) status.

The applicant may also include a spouse and children in the application, if they reside in the U.S. Furthermore, certain qualifying family members who had been deported on noncriminal grounds, but who have spouses or children in the U.S. may apply to return in RPI status. In order to qualify, the applicant must pay a \$500 fine, ensure all back taxes are paid, have no felony convictions, have no more than two misdemeanor convictions, and never have unlawfully voted. The second step occurs six years after receiving RPI status. Individuals must renew their status by paying a \$500 fine.

Then, after another four years, individuals must apply for a merit-based visa and pay a \$1000 fine. The bill creates two tracks of merit-based visas. The first track will consider people who have been in the U.S. for a long time, including those in the country working under RPI status for ten years. At this stage, applicants must demonstrate that they have worked regularly in the U.S. and have an understanding of civics and the English language, among other requirements. Finally, three years after receiving the merit-based visa, the individual will be eligible to apply to become a U.S. citizen.

In addition to this thirteen-year pathway to citizenship, individuals in DREAM Act status will be eligible for a lawful permanent resident (LPR) status only five years after the bill is enacted. Once they become LPRs, they will immediately be eligible to apply to become a citizen of the U.S.

While this is long road to become a citizen, many of the undocumented immigrants in the U.S. do not currently have options to become documented in the U.S. These pathways give hope to many who were otherwise destined to remaining the U.S. in undocumented status.

## Changes in Family Based Preference System

One important changes involves the "immediate relative (IR)" category. The bill will allow spouses, minor unmarried children of LPRs to be in this category. This category currently is in the family preference system, which means a spouse or child of a lawful permanent resident normally must wait three years for a visa to be available. The bill moves this category into the "immediate relative" category, eliminating the three-year wait and allowing these individuals to become lawful permanent residents in the same manner spouses and children of U.S. citizens do.

In addition, all IRs will have derivatives, spouses and children, included in their applications, which is currently not allowed. The bill also offers LPRs the opportunity to apply for fiancé(e)s to immigrate with a K visa, a privilege only offered to U.S. citizens in our existing immigration system.

Currently, our family preference system has four categories. In order to use these visas in other categories, unfortunately, the bill reduces the categories of family members eligible for green cards, eliminating siblings of U.S. citizens, and limiting sons and daughters of citizens to those younger than 31. It also eliminates the diversity lottery.

The bill will eliminate also eliminate the family preference backlog, allowing all with pending family-based petitions to immigrate within ten years of the enactment of the bill. In addition, the bill will expand the V visa to permit individuals with approved family petitions to live in the U.S. and allows certain family members to visit the U.S. for sixty days by expanding the V visa.

A smaller, yet significant change will provide immigration benefits to individuals when an immediate relative dies before the enactment of the bill, if the beneficiary self-petitions within the two-years following the enactment. This will be available to beneficiaries inside and outside of the U.S. as well as those who were removed who would not have relief. Widows will not be subject to the two year filing deadline.

As this bill offers sweeping changes to our immigration system, it is important that the immigrant community obtains information from reliable resources. The bill also provides additional support to the Attorney General's office to prosecute Notarios for the Unauthorized Practice of Law. The bill, if enacted, has the possibility of dramatically changing the futures of many undocumented immigrants as well as family members of immigrants in the U.S. Grzeca Law Group is committed to serving the immigrant community and protecting this community from notarios.

For more information about this bill, or for information about any other immigration matter, please contact Grzeca Law Group at 414-342-3000.

Milwaukee: 414-342-3000  
Madison: 608-234-5004  
Green Bay: 888-471-1400

GRZECA LAW GROUP, S.C.  
1434 West State Street  
Milwaukee, WI 53233

www.grzecalaw.com  
clients@grzecalaw.com