

ACLU Vote Recommendations

S. 744 (Title I) Senate Judiciary Committee Markup

Thursday, May 09, 2013

It is expected that the Senate Judiciary Committee will today take up amendments to the trigger provisions and Title I of S. 744, the Border Security, Economic Opportunity, and Immigration Modernization Act. The American Civil Liberties Union, the nation's largest and oldest civil liberties organization, with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide, urges the members of the Senate Judiciary Committee to support or oppose amendments as noted below. In doing so, we urge members to preserve a bill that creates a welcoming roadmap to citizenship for aspiring Americans living in and contributing to the nation. Fundamental fairness as guaranteed by the Constitution requires that these individuals be brought within the legal embrace of U. S. citizenship. At the same time, the legislation must transform wasteful and abusive border enforcement and end state and local intrusions into immigration policy and enforcement. The positions we urge members to take on the following amendments are guided by these principles.

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SUPPORT

- Sen. Blumenthal Amendment 10
 - This amendment would help assure that state and local law enforcement agencies do not receive federal funding for engaging in discriminatory practices.
- Sen. Coons Amendment 2
 - This amendment would restrict the practice of deporting migrants to dangerous locations.
- Sen. Feinstein Amendment 2
 - This amendment would improve due process in the immigration justice system by providing additional resources to an overextended system. Such resources would help ensure access to meaningful judicial review. We OPPOSE Sen. Grassley Amendment 17, which would severely restrict judicial review, if it is offered as a 2nd degree amendment.
- Sen. Feinstein Amendment 6
 - This amendment would require humane conditions of confinement for children in CBP custody.
- Sen. Feinstein Amendment 11
 - This amendment would define the "Southwest border region" as a 25-mile area along the border and limit abusive enforcement activities further in the interior of the country.
- Sen. Feinstein Amendment 12
 - This amendment would clarify the primacy of federal law in the carrying out of immigration enforcement and would limit the ability of states and localities to engage in discriminatory enforcement practices.

OPPOSE

- Sen. Cornyn Amendments 1 and 7; Sen. Feinstein Amendment 1
 - Sections of each of these amendments would incentivize racial profiling by local law enforcement agencies by offering reimbursement based on the filing of charges, not convictions. The amendment would thus provide reimbursement even for pre-textual arrests in the border region.

OPPOSE (cont.)

- **Sen. Cornyn Amendment 5**
 - This amendment would permit broad law enforcement and intelligence agency access to RPI applications and would represent a significant invasion of privacy without cause and without judicial oversight.
- **Sen. Cruz Amendment 1**
 - This amendment would contribute to the further militarization of the Southwest border region despite the tremendous build-up of such resources in recent years to an all-time high level. There is bipartisan agreement that throwing additional money at an already massive force is wasteful in the extreme.
- **Sen. Feinstein Amendment 9**
 - By providing additional reimbursement to state and local law enforcement, this amendment would heighten the risk of providing financial incentives to engage in racial profiling. We would encourage consideration of Sen. Blumenthal Amendment 10 in the alternative.
- **Sen. Grassley Amendments 1, 3, and 4**
 - These amendments would extend border enforcement build-up to areas not deemed to be high risk and, in the case of Amendment 3, to the northern border. Border enforcement practices are at an all-time high in effectiveness and scope and extending those resources to areas that don't need it is wasteful. These amendments would also make it more difficult for the effectiveness targets to be reached, thus making it less likely that aspiring citizens would ever receive the benefit of the citizenship program.
- **Sen. Grassley Amendment 6**
 - This amendment would restrict the ability of administration officials to adjust RPI status to that of permanent resident when certain things beyond the control of the official prevent implementation of border security provisions or if ten years have elapsed. The latter provision would effectively preclude RPIs from gaining permanent status or citizenship since the bill requires ten years in RPI status before eligibility for LPR status for most current immigrants.
- **Sen. Hatch Amendment 3**
 - This amendment would require DNA identification for all RPI applicants. It would contribute to the government's collection of massive amounts of personal information without cause and without judicial oversight.
- **Sen. Lee Amendment 1**
 - This amendment would make it more difficult to achieve the necessary certifications to enable the citizenship program to take effect.
- **Sen. Lee Amendment 4**
 - This amendment would require further Congressional approval before the citizenship program could begin to take effect, thus making it less likely ever to occur.
- **Sen. Sessions Amendment 9**
 - This amendment would impose onerous and over-the-top border enforcement requirements that would inevitably delay the effective date of the citizenship program.
- **Sen. Sessions Amendment 11**
 - This amendment would set unrealistic goalposts for border enforcement that would have the effect of delaying or preventing the citizenship program from taking effect.
- **Sen. Sessions Amendments 37 and 38**
 - This amendment would remove the requirement to issue 'use of force' policies and conduct training. In light of the history of abuse by border enforcement personnel and the massive further build-up required by the bill, such policies are critically needed.