



H.R. 3651 - The Alien Accountability Act of 2003 (108th Congress)

Summary

On 10/23/13 Rep. Darrell Issa (R-CA) announced that he was planning on introducing his own piece meal legislation in the House that would offer six years of legal status for most undocumented immigrants, but would not include a road to citizenship or any guarantee of renewal after those initial six years had expired. Although the legislation has not yet been introduced, Rep. Issa introduced a seemingly similar bill, [H.R. 3651](#), in 2003. Below is the AILA Summary of that bill.

Registration

- The bill would require an individual unlawfully present on the date the bill was introduced to register with the Department of Homeland Security within a designated 6 month time frame.
- An undocumented individual may jointly register with her employer. If the individual has not already registered and refuses to register with her employer, the employer may notify the Secretary of DHS.
- An employer who submits a joint registration will be relieved of any liability for employing an undocumented individual if the employer pays all back taxes owed that stem from the employment. The Secretary of the Treasury may share this information with a state in order for the state or locality to collect back taxes as long as the state accepts payment of those taxes in lieu of criminal prosecution.
- An undocumented individual whose unlawful presence “is known to officials of [ICE] (as evidenced by documentary records) at any time prior to the alien’s registration under this section is ineligible for such registration.”

Voluntary Departure for Ineligible Individuals:

- If a person is not eligible for registration or the W visa created by the bill and “has not been determined by an immigration judge” to be inadmissible or deportable under the criminal and security related grounds, the undocumented individual may voluntarily depart the U.S. instead of being subject to removal proceedings. If the person departs, the Secretary shall disregard her unlawful entry and presence for any future applications under the immigration laws.
- To be eligible for voluntary departure, the person must demonstrate by clear and convincing evidence the means and intent to leave the U.S. and must pay a voluntary departure bond that is returned upon proof the individual has left the U.S.
- Individuals subject to a pending civil or criminal proceeding, in prison, or on parole, supervised release, or probation are not eligible for voluntary departure.
- There is a civil penalty for failure to depart, and the bill also requires an exit program to collect data about undocumented individuals leaving the U.S. pursuant to voluntary departure.

The W Nonimmigrant Visa:

- The eligibility requirements to adjust status and receive a W visa are –
 - ◆ Unlawfully presence on the date the bill was introduced;
 - ◆ Registration with DHS during the 6 month time frame;
 - ◆ Payment of the necessary application fee;
 - ◆ Abandonment and permanent relinquishment of any other applications for relief from removal for which the individual may be eligible;
 - ◆ Employment or sponsorship –

- The employer or applicant for W status must show that the employment produces adequate means financially to support the applicant and dependents for the duration of the W visa; or
- The applicant demonstrates that another individual possesses the lawful means to adequately support the applicant and has in a legally enforceable writing agreed to support the applicant;
 - ◆ Continuous unlawful presence in the U.S. since the date of introduction of the bill; and
 - ◆ Establishment that “the alien has not been determined by an immigration judge to be inadmissible” or deportable on criminal or security related grounds.
- A W visa holder receives:
 - ◆ An identification document;
 - ◆ Work authorization; and
 - ◆ The ability to travel abroad without prior consent from DHS.
- To obtain the W visa and for any other determination under the immigration laws, any ground of inadmissibility or deportability applicable to the individual “shall be disregarded if the ground is reflected in the records of the Department of Homeland Security or the Department of State on the date on which the alien first applied for such status.”
- No family members may follow to join a W visa holder.
- A W visa authorizes a period of stay of 1 year with the ability to renew up to 5 times in 1 year increments contingent upon satisfaction of the employment or sponsorship requirements.
- If employment or sponsorship terminates or changes, the W visa holder must notify DHS. DHS shall give the W visa holder 30 days to arrange new employment or sponsorship. The 30 day period may be extended up to 2 times. If the W visa holder still cannot find other employment or sponsorship, the status is terminated.
- An applicant for W visa status may receive work authorization after the initial filing of the application, but, the Secretary shall provide work authorization if the application is still pending after 180 days.

End of the W Visa Program:

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- The W visa program expires 6 years after the first person is provided W visa status.
 - A W visa holder may change her status to another nonimmigrant classification or adjust to permanent resident status.