

To Increase Public Safety by Denying RPI Status to an Alien Who Has Committed Certain Crimes, Reducing the Number of Misdemeanors Making an Applicant Ineligible for RPI Status, and Eliminating the Secretary's Ability to Waive the Misdemeanor Requirement

This amendment would deny registered provisional immigrant (RPI) status to an alien who has committed crimes of domestic violence, child abuse, and assault resulting in bodily injury or driving while intoxicated.

It would also reduce from 3 to 2 the number of misdemeanors that trigger ineligibility for RPI status, and it would eliminate the Secretary's ability to waive the misdemeanor requirement.

S. 744 Rewards Criminal Aliens with Serious Criminal Records by Giving Them Citizenship

Bill sponsors claim the bill has tough rules to prevent serious criminals from qualifying for legalization.

Unfortunately, the bill contains huge loopholes and waivers that enable serious criminals to qualify for RPI status.

Under S. 744, applicants are disqualified from gaining RPI status after they receive three or more misdemeanor convictions, and only ***if convicted on different dates for each offense.***

In other words, this means that an illegal alien can be convicted of two serious crimes and still be allowed to gain U.S. citizenship.

Worse still, if the crimes were committed all on the same day, then it only counts against the applicant once.

Under these kinds of rules, a person can commit an *unlimited* number of crimes and still be eligible for RPI status, as long as they all happen on the same day.

S. 744 does not account for the fact that many felonies are plead down to misdemeanors.

First, a criminal alien who qualifies for RPI status under these weak standards are likely to be more serious criminals than the bill sponsors allege.

Some defend this by saying misdemeanors as less serious than felonies, and so they should not stop someone from gaining RPI status.

However, the bill ignores the fact that many aliens plea down from a felony to a misdemeanor.

Although the bill specifically states illegal aliens with felony convictions are ineligible, as long as the criminal aliens plea down their convictions they can operate inside this loophole.

Consider the following example:

The bill only counts the alien's misdemeanor convictions toward RPI ineligibility if he was ***convicted on different dates for each offense***.

As a result, if a serious criminal is convicted on one day for three, four, five or any number of misdemeanors at once, that set of convictions only counts as 1 misdemeanor conviction for purposes of this bill.

An alien could have 2 sets of 5 misdemeanor convictions and still qualify for RPI status because, although it is a total of 10 misdemeanors, since he was convicted on 2 separate days, those are classified as 2 convictions for purposes of legalization.

It is important to remember that misdemeanors can be very serious crimes.

Some would say the bill only legalizes petty criminal aliens or those without serious criminal records.

However, each state has the ability to classify their crimes as felonies or misdemeanors.

Thus, some states may assign serious crimes to misdemeanor status, which would allow aliens with convictions for these crimes the ability to legalize through the RPI process.

Consider the following crimes that are classified as misdemeanors in various states.

1. Oklahoma: Assault, domestic abuse against a pregnant woman, stalking, biochemical assault, owners/proprietors of buildings who knowingly allow prostitution on the premises;
2. Florida: Assault on law enforcement officers, human smuggling, unlawful carrying of a chemical weapon or other deadly weapon, and unlawful placing or discharging of a bomb resulting in bodily harm;
3. Texas: Public lewdness, terroristic threats, assault, soliciting prostitution, and engaging in organized criminal activity; and
4. New York: Assault, stalking, sexual abuse in the second degree, endangering the welfare of a child.

Under this bill, an alien may be convicted of these serious violations and still receive amnesty.

By requiring “conviction” of crimes, the bill would overlook the criminal pasts of many people.

Under the bill, a criminal alien must be **convicted** of these misdemeanors for it to count against his eligibility for RPI status.

As a result, the restrictions on RPI eligibility do not apply to a wide range of criminal conduct.

A criminal alien who merely serves probation or was only charged with an offense will still qualify for RPI status.

In addition, because juvenile criminals are technically “adjudicated delinquent” and not “convicted,” these aliens would also qualify for RPI status.

The bill provides the DHS Secretary with too much waiver authority to overlook criminal histories.

The Secretary would be allowed to waive certain crimes that would otherwise make the alien inadmissible if it is for humanitarian purposes, to ensure family unity or otherwise in the public interest.

This broad waiver ability allows the Secretary to define what qualifies as being “in the public interest.”

Not only may she waive the misdemeanor requirement, she can also waive crimes that, under current immigration law, would otherwise make the alien inadmissible.

Those include crimes of moral turpitude, violations of federal or state drug laws, and prostitution, among others.

As a result, the bill would allow criminal aliens with significant criminal histories who are threats to the public safety of American citizens.

This Legislation Ignores the Rule of Law.

One of the primary principles setting the U.S. apart from all other nations is our adherence to the rule of law.

It is important to remember that liberty is dependent upon the rule of law.

When our rule of law is undermined, the defining values of our nation are jeopardized.

We cannot have a government that guarantees freedom, without a government that guarantees the rule of law.

Granting citizenship to those who broke our laws ahead of others who are pursuing citizenship through legal channels is fundamentally unfair and undermines the legal immigration process.

Unfortunately, this and many other provisions of the bill fly in the face of that principle. The bill discourages enforcement of both our criminal law and current immigration law.

As a nation, we have an obligation to our citizens—***and to legal immigrants***—to uphold the rule of law and ensure the process is fair to all.

While this is a small step toward restoring the rule of law to this legislation, it is a necessary one.

I urge adoption of my amendment.