

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

AJR 16 (Reyes)
Version: May 18, 2021
Hearing Date: July 13, 2021
Fiscal: No
Urgency: No
AWM

SUBJECT

Immigration

DIGEST

This resolution urges the President, Vice President, and the Congress of the United States to take a workable, humane, and just approach in solving our nation's broken immigration system.

EXECUTIVE SUMMARY

Between 10.5 and 11 million undocumented immigrants live in the United States, with approximately one quarter living in California. These immigrants are an integral part of California, and the country's, communities, families, and economies. Yet the federal government has not passed comprehensive immigration reform in 30 years, leaving many undocumented Californians with no path to citizenship. Without such a path, California's undocumented immigrants are at a high risk of exploitation and unlawful treatment in housing, jobs, and society at large.

This resolution, on behalf of the California Senate and Assembly, urges the President, Vice President, and the Congress of the United States to take a workable, humane, and just approach to solving our nation's broken immigration system.

This resolution is sponsored by the Coalition for Humane Immigrant Rights (CHIRLA). There is no known opposition

PROPOSED CHANGES TO THE LAW

Existing federal law:

- 1) Provides that the federal government has the exclusive authority to regulate immigration and naturalization. (U.S. Const., art. I, § 8, cls. 3 & 4.)
- 2) Establishes the Deferred Action for Childhood Arrivals program (DACA), which allows some undocumented immigrants who came to the United States as children to receive a renewable two-year period of deferred action from deportation and become eligible for a work permit in the United States. (Office of the President of the United States, Memorandum, *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)* (Jan. 20, 2021), 86 Fed. Reg. 7053 (Jan. 25, 2021); Dept. of Homeland Security, Memorandum, *Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children* (Jun. 15, 2012).)
- 3) Establishes the Temporary Protected Status program (TPS), which is time-limited authorization to reside and work in the United States while their countries of origin recover from the impact of major natural disasters or extreme civil conflict. The United States government may extend a TPS authorization for additional intervals if the recipient's country of origin has not recovered sufficiently from the major natural disaster or extreme civil conflict to permit a safe return. (8 U.S.C. § 1254a.)
- 4) Establishes the Deferred Enforced Departure program (DED), which permits the President of the United States, under their power to conduct foreign relations, to defer removal of residents of a particular country through an executive order or presidential memorandum. Unlike TPS, DED does not confer a pathway to citizenship, but individuals designated for DED may request employment authorization. (See U.S. Const., art. I, § 8, cl. 3.)
- 5) Provides that the Secretary of Homeland Security or the Attorney General may grant asylum to an immigrant who has applied for asylum and who is determined to be a refugee because they are unwilling or unable to return to their country of origin because they have been persecuted or have a well-founded fear of persecution on the basis of specified characteristics or activities. The President of the United States has the authority to set the number of refugees who may be admitted to the United States each year, based on the President's determination of what is justified in light of humanitarian concerns and the national interest. (8 U.S.C. §§ 1101(a)(42), 1157(a)(2), 1158.)

Existing state law:

- 1) Declares that immigrants are valuable and essential members of the California community and points out that almost one in three Californians is foreign-born and

one in two children in California has at least one immigrant parent. (Gov. Code § 7284.2(a).)

This resolution:

- 1) Makes the following legislative declarations:
 - a) The United States of America is a nation of values, founded on the principles that all men and women are created equal, and the promise of freedom for all.
 - b) Our strength as a country has always been greater when we welcome newcomers.
 - c) Today, the United States is an economic and innovation powerhouse due to the labor and lands of Indigenous peoples to whom the United States has continuing trust and treaty responsibilities, the labor of enslaved people and their descendants, and generations of immigrants from every corner of the globe.
 - d) The current immigration system is broken, antiquated, and does not meet the challenges of the 21st century.
 - e) It is estimated that about 11 million undocumented immigrants are in the United States, and California has the largest population of immigrants, both legal and undocumented.
 - f) Immigrants and their children constitute nearly one-half of California's population and live and work in all 58 counties, most notably in the San Diego, Central Valley, Los Angeles, San Bernardino, and Ventura counties, and greater San Francisco area.
 - g) Approximately 77 percent of undocumented immigrants who reside in California live with family members who are legal United States residents and citizens.
 - h) One in 10 workers in California is an undocumented immigrant, and immigrants are a vibrant, productive, and vital part of the state's growing economy.
 - i) Approximately 70 percent of undocumented immigrants have resided in California for at least 10 years and have deep roots in our communities.
 - j) People, businesses, and communities suffer due to an immigration system that is plagued by backlogs, processing delays, and overly complex policies that are insufficient, harmful, and widen the existing deficiencies in the system.
 - k) The majority of Americans support modernizing our nation's immigration laws and keeping families together and strengthening our economy.
 - l) Nearly four in five Californians (78 percent) believe immigrants are a benefit to the state and recognize their contributions to the workforce and economy.
 - m) Modernizing our antiquated and dysfunctional immigration system will uphold our nation's basic values of fairness and equity, as well as access to healthcare.

- n) A comprehensive, as well as compassionate, approach to solve our broken immigration system should be one that works for all communities and families in America.
 - o) A just immigration reform must ensure that it reflects one of our basic values – that we are all created equal – and therefore immigrant must recognize each immigrant’s full humanity.
- 2) Resolves, by the Assembly and the Senate of the State of California, jointly:
- a) That the Legislature urges the President, Vice President, and the Congress of the United States to take a workable, humane, and just approach to solving our nation’s broken immigration system; and
 - b) That the Chief Clerk of the Assembly transmit copies of the resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Majority Leader of the Senate, to each Senator and Representative from California in the Congress of the United States, to the Governor of California, and to the author for appropriate distribution.

COMMENTS

1. Author’s comment

According to the author:

In California, half of California children have at least one immigrant parent. One out of every ten workers is an undocumented immigrant and approximately 70 percent of undocumented immigrants have resided in California for at least 10 years. It has been over 30 years without immigration reform. We are talking about our neighbors, our friends, and our family. Immigrants have deep ties to the community, and contribute to the vibrancy of our society. During the COVID-19 pandemic, our essential workforce consisted of immigrants who risked contracting COVID-19. Because of their status, immigrants live in the constant stress and fear of deportation, of being separated from their family. Some immigrant children had to leave their country of origin at a young age, others have family that they have been unable to see in years. This is the reality immigrants live in. The humane thing to do is to provide immigrants with a pathway to legal permanent residency and to citizenship. There is no better time to pass immigration reform, and AJR 16 calls on Congress to take action on common sense immigration reform.

2. This resolution urges the President, Vice President, and United States Congress to take a workable, humane, and just approach to solving our nation’s broken immigration system

The United States has more immigrants than any other country in the world: nearly 45 million people living in the U.S., or 13.7 percent of the population, were born in another country.¹ Approximately one quarter, or 10.5 million, of those immigrants are undocumented.² California has the largest immigration population in the country, with approximately 10.7 million residents born outside the U.S.³ Recent estimates suggest that less than a quarter, or 2.2 million, of those immigrants are here without documentation.⁴ Although many undocumented immigrants who work pay state, federal, and Social Security taxes, undocumented immigrants – including DACA recipients – are generally ineligible for most federal benefits.⁵

Undocumented workers are an undeniable force in the national and Californian economies, contributing approximately \$1 trillion of GDP nationwide and \$263 billion in California.⁶ Despite their essential contributions, however, California’s undocumented workers are paid lower as compared to their documented counterparts and have not been eligible for many assistance programs provided to other residents, including unemployment benefits and federal coronavirus relief.⁷

Undocumented immigrants are also vital members of California’s families and its culture. Nationwide, a large majority of undocumented immigrants have lived in the United States for ten years or more.⁸ Nearly 40 percent of undocumented immigrants live with their U.S.-born children.⁹ And for many of California’s undocumented

¹ Budiman, *Key findings about U.S. immigration*, Pew Research Center (Aug. 20, 2020), <https://www.pewresearch.org/fact-tank/2020/08/20/key-findings-about-u-s-immigrants/> [last visited Jul. 7, 2021].

² *Ibid.*

³ *Ibid.*

⁴ Pew Research Center, *U.S. unauthorized immigrant population estimates* (Feb. 5, 2019), <https://www.pewresearch.org/hispanic/interactives/u-s-unauthorized-immigrants-by-state/> [last visited Jul. 7, 2021].

⁵ National Immigration Forum, *Fact Sheet: Immigrants and Public Benefits* (Aug. 21, 2018), <https://immigrationforum.org/article/fact-sheet-immigrants-and-public-benefits/> [last visited Jul. 7, 2021].

⁶ Hinojosa & Robinson, *Report Essential but Disposable: Undocumented Workers and Their Mixed-Status Families*, UCLA North American Integration and Development (NAID) Center and the Mexican Instituto Nacional de Estadística y Geografía (Aug. 10, 2020), *available at* http://www.naid.ucla.edu/uploads/4/2/1/9/4219226/essential_undocumented_workers_final.pdf [last visited Jul. 7, 2021], at p. 6.

⁷ *Id.* at pp. 6, 15.

⁸ Passel, et al., *As Growth Stalls, Unauthorized Immigration Population Becomes More Settled*, Per Research Center (Sept. 3, 2014), <https://www.pewresearch.org/hispanic/2014/09/03/as-growth-stalls-unauthorized-immigrant-population-becomes-more-settled/> [last visited Jul. 7, 2021].

⁹ *Ibid.*

residents, California is the only home they have ever known. An estimated 222,795 DACA beneficiaries – “Dreamers” – live in California.¹⁰ The modal age at which Dreamers came to the United States is three years old, and the average age is six years old.¹¹

In the last 12 years, the federal government has taken an increasingly hostile approach to the undocumented immigrants who make our state’s culture, society, and economy richer. President Barack Obama oversaw the greatest number of deportations from the U.S. interior in U.S. history.¹² Under President Donald Trump, the total number of persons deported went down, but the vile, racist rhetoric and the inhumane treatment of immigrants increased exponentially. President Trump started his presidential campaign with baseless, hateful statements about immigrants from Mexico and continued making racist attacks on immigrants throughout his presidency.¹³ His deeds matched his words: one of his first acts as president was to implement a ban on immigration from several majority-Muslim countries;¹⁴ his administration accepted historically low numbers of refugees fleeing persecution in their countries of origin;¹⁵ and he implemented the horrific “family separation” program that tore children from the arms of their parents who were fleeing violence to seek asylum in America.¹⁶ Records suggest over 5,500 children were separated from their families starting in 2017, and, monstrosly, DHS managed to lose track of the parents of 628 separated children.¹⁷ President Trump also attempted to end DACA, but the United States Supreme Court blocked the attempted rescission.¹⁸

President Joseph Biden has begun to roll back some of the Trump administration’s worst attacks on immigration. He has ordered the creation of an interagency task force

¹⁰ Parlapiano & Yourish, *A Typical ‘Dreamer’ Lives in Los Angeles, Is From Mexico, and Came to the U.S. at 6 Years Old*, New York Times (updated Jan 23, 2018), available at <https://www.nytimes.com/interactive/2017/09/05/us/politics/who-are-the-dreamers.html?module=inline> [last visited Jul. 7, 2021].

¹¹ *Ibid.*

¹² Thomson-DeVeaux, *Will The 2020 Democrats Reject Obama’s Immigration Legacy?*, FiveThirtyEight (Jul. 31, 2019), <https://fivethirtyeight.com/features/will-the-2020-democrats-reject-obamas-immigration-legacy/> [last visited Jul. 7, 2021].

¹³ Scott, *Trump’s most insulting – and violent – language is often reserved for immigrants*, Washington Post (Oct. 2, 2019), <https://www.washingtonpost.com/politics/2019/10/02/trumps-most-insulting-violent-language-is-often-reserved-immigrants/> [last visited Jul., 2021].

¹⁴ See Exec. Order No. 13769 (Jan. 27, 2017), 82 Fed. Reg. 8977 (Feb. 1, 2017); Exec. Order No. 13780 (Mar. 6, 2017), 82 F.R. 13209 (Mar. 9, 2017); Presidential Proclamation 9645 (Sept. 24, 2017), 82 Fed. Reg. 45161 (Sept. 27, 2017); see also, *Trump v. Hawaii* (2018) 138 S.Ct. 2392, 2423.

¹⁵ Krogstad, *Key facts about refugees to the U.S.*, Pew Research Center, Oct. 7, 2019, available at <https://www.pewresearch.org/fact-tank/2019/10/07/key-facts-about-refugees-to-the-u-s/> [last visited Jul. 7, 2021].

¹⁶ Levin, *‘We tortured families’: The lingering damage of Trump’s separation policies*, The Guardian (Jan. 4, 2021), <https://www.theguardian.com/us-news/2021/jan/04/trump-administration-family-separation-immigrants-joe-biden> [last visited Jul. 7, 2021].

¹⁷ *Ibid.*

¹⁸ *Dep’t of Homeland Security v. Regents of the University of California* (2018) 140 S.Ct. 1891, 1901.

to reunite the families cruelly separated at the border;¹⁹ reinstated DACA;²⁰ pledged to restore and increase the U.S.'s asylum system;²¹ and has proposed legislation that would create a pathway to citizenship for undocumented immigrants.²² At the same time, the Biden Administration was slow to fulfill its campaign promise of raising the refugee cap, and only raised the cap to a fraction of the number of refugees accepted under the Obama Administration.²³ President Biden has also kept in place a Trump-era policy allowing the immediate expulsion of migrants crossing the border.²⁴ Yet without action from Congress, President Biden will be unable to put in place a comprehensive immigration reform plan.

The House of Representatives has already passed two important pieces of immigration legislation: a bill offering a pathway to legal status to around one million immigrants who were brought to the United States as children, and a bill creating a similar pathway for farmworkers who have worked in the United States without documentation.²⁵ Unfortunately, these measures may be stalled in the Senate. According to reports, Senate Republicans are threatening to filibuster these measures – thereby preventing them from being brought to a vote – unless the administration also agrees to measures limiting asylum and conducting so-called “rapid deportation” for children and teenagers.²⁶ Moreover, the bills passed by the House of Representatives present piecemeal, not comprehensive, immigration, and would leave many of California’s undocumented immigrants with no pathway to citizenship.

This resolution is similar to SJR 2 (Hueso, 2021), which this Committee passed earlier this year and which urged Congress to work with the President and Vice President to enact empathetic and inclusive immigration reform. This resolution, in recognition of

¹⁹ See Exec. Order No. 14011 (Feb. 2, 2021), 86 Fed. Reg. 8273 (Feb. 5, 2021).

²⁰ Office of the President of the United States, Memorandum, *Preserving and Fortifying Deferred Action for Childhood Arrivals (DACA)* (Jan. 20, 2021), 86 Fed. Reg. 7053 (Jan. 25, 2021).

²¹ Exec. Order No. 14010 (Feb. 2, 2021), 86 Fed. Reg. 8267 (Feb. 5, 2021).

²² White House Briefing Room, *Fact Sheet: President Biden Sends Immigration Bill to Congress as Part of His Commitment to Modernize our Immigration System* (Jan. 20, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/01/20/fact-sheet-president-biden-sends-immigration-bill-to-congress-as-part-of-his-commitment-to-modernize-our-immigration-system/> [last visited Jul. 7, 2021].

²³ Sullivan, *Biden says he will raise refugee cap from 15,000 to 62,500 after widespread criticism for extending Trump-era levels*, Washington Post (May 3, 2021), https://www.washingtonpost.com/politics/biden-refugee/2021/05/03/1b833126-ac4d-11eb-ab4c-986555a1c511_story.html [last visited Jul. 7, 2021].

²⁴ O’Toole, *U.S. border closure cracks under pressure from advocates and the easing pandemic*, Los Angeles Times (May 17, 2021), <https://www.latimes.com/politics/story/2021-05-17/cracks-open-in-bidens-border-closure-under-pressure-from-lawsuit-advocates-and-easing-pandemic> [last visited Jul. 7, 2021].

²⁵ Fandos, *House Votes to Give Millions of Dreamers and Farmworkers a Path to Citizenship*, New York Times (Mar. 18, 2021), <https://www.nytimes.com/2021/03/18/us/politics/biden-immigration.html> [last visited Jul. 7, 2021].

²⁶ Kim and Sotomayor, *As house approves ‘dreamers’ bill, Biden pushes for support amid GOP resistance in the Senate*, Washington Post (March 18, 2021), https://www.washingtonpost.com/politics/biden-immigration-dreamers-daca/2021/03/18/ebe53a16-87f0-11eb-8a8b-5cf82c3dffe4_story.html [last visited Mar. 21, 2021].

the same shortcomings in our immigration system, urges the President, Vice President, and Congress to take a workable, humane, and just approach to solving the nation's broken immigration system.

3. Arguments in support

According to bill sponsor CHIRLA:

It has been decades since the last major immigration reform, and during this time, millions of families have endured family separation, faced the extreme challenges of being undocumented in the United States or faced great uncertainty about the temporary protections and benefits they have received. The election of President Joe Biden and the shifts in the U.S. Senate will likely bring immigration relief to the undocumented population in our state and throughout our country. Our Congress and federal administration must act and our state must be ready to support their efforts. Already we've seen in the first one hundred days that President Biden has issued a number of executive orders reversing the previous draconian policies from his predecessor and Congress has introduced four proposals to provide a path to citizenship. [...]

California has much at stake when we consider the importance and impact of federal immigration reform. A single bill may change the lives of millions of Californians and put us all on the road to becoming a more unified California. This resolution will reaffirm California's commitment to a needed policy and, more importantly, our commitment to all Californians, no matter their legal status.

SUPPORT

CHIRLA (sponsor)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation:

SJR 2 (Hueso, 2021) urges the Congress of the United States to work with President Joseph R. Biden to pass comprehensive immigration reform guided by empathy, inclusion, and opportunity. SJR 2 is pending before the Assembly Floor.

AB 1096 (Luz Rivas, 2021) removes the word “alien” from California statutes and replaces it with the terms such as “person,” “resident,” “immigrant,” or “permanent resident” as applicable. AB 1096 is pending before the Senate Floor.

AB 937 (Carrillo, 2021) prohibits state and local agencies from arresting or facilitating the arrest, confinement, detention, transfer, interrogation, or deportation of an individual for an immigration enforcement purpose, and repeals measures requiring the Department of Corrections and the Department of Youth Authority to determine whether persons being detained are subject to deportation. AB 937 is pending before the Senate Public Safety Committee.

AJR 1 (Kalra, 2021) resolves on behalf of the Legislature to call on the United States Congress to abolish ICE, in recognition of ICE’s culture of abuse and participation in deceptive and inhumane practices. AJR 1 was placed on the Assembly inactive file.

Prior Legislation:

ACR 1 (Bonta, Res. Ch. 164, Stats. 2019) condemned regulations adopted by the Department of Homeland Security to prescribe how a determination of inadmissibility for a person who is not a citizen or national is made based on the likelihood that the person will become a public charge and urged the federal government to repeal those regulations.

AJR 11 (Carrillo, Res. Ch. 136, Stats. 2019) urged the President and the Congress of the United States to enact legislation to provide permanent legal status and a path to citizenship for immigrant youths and individuals with Deferred Enforced Departure and Temporary Protected Status.

AJR 9 (Christina Garcia, Res. Ch. 104, Stats. 2019) urged the federal government to stop using ruses against immigrants, revise the tactics used by ICE, cease the unjust detention of undocumented immigrants, end blanket raids against individuals thought to be without documents, and adopt a standard uniform for ICE officers that clearly identifies them as ICE when operating in California.

SJR 1 (Vidak, 2016) would have urged Congress and the President of the United States to work together to create a comprehensive and workable approach to reform the nation’s immigration system according to specified principles. SJR 1 died in the Senate Judiciary Committee.

SJR 2 (Vidak, Res. Ch. 23, Stats. 2015) urged Congress and the President of the United States to work together to create a comprehensive and workable approach to reform the nation’s immigration system.

SJR 31 (Torres, 2014) would have resolved that the Legislature urged the President and Congress of the United States to adopt immigration policies that ensure that unaccompanied minors receive appropriate child welfare services, legal assistance, and access to immigration protection. SJR 31 died in the Assembly.

AJR 49 (Gonzalez, Res. Ch. 169, Stats. 2014) resolved that the Legislature urged President Barack Obama take executive action to suspend any further deportations of unauthorized individuals with no serious criminal history.

PRIOR VOTES:

Assembly Floor (Ayes 63, Noes 2)

Assembly Judiciary Committee (Ayes 8, Noes 2)
