

SENATE BILL IMPROVEMENTS TO INTERNATIONAL LABOR RECRUITMENT

Internationally recruited workers in both high- and low-wage sectors face fraud, discrimination, severe economic coercion, retaliation and blacklisting, and in some cases forced labor, indentured servitude, debt bondage, and human trafficking. Current law is inadequate at protecting internationally recruited workers from these abuses. Senate Bill 744 contains much needed reforms that would strengthen protections for workers across visa categories, improving transparency in the recruitment process, creating accountability in employment relationships, regulating the causes of economic coercion, and prohibiting discrimination and retaliation. Worker abuses are pervasive across visa categories, and for this reason a comprehensive reform to international labor recruitment, rather than a piecemeal visa-by-visa approach, is critically needed. These reforms will make the United States safer for both Americans and internationally recruited workers.

CURRENT LAW LACKS TRANSPARENCY. The current system of international labor recruitment is not transparent and does not provide workers with sufficient information about the jobs they are accepting or the relationship between their recruiters and employers. The majority of temporary work visa programs do not require that employers execute a formal, written, employment contract with a worker who travels to the U.S. for the sole purpose of working for that employer. Recruiters and employers frequently fail to provide workers with the terms and conditions of employment in a form that is appropriate, verifiable, and easy to understand. Employers and recruiters also present terms that are false or misleading and employ coercive tactics to force workers to sign unfavorable contracts. These unregulated practices interfere with a worker's ability to give informed consent and increase the worker's likelihood of encountering abusive conditions in the workplace. Without this information, workers are ill equipped to protect themselves from fraudulent recruitment practices and unlawful employment conditions. U.S. work visa programs allow these unjust practices through vague and inconsistent regulations and a near total lack of enforcement.

S. 744: The proposed legislation would improve transparency by:

- Creating a public registry of recruiters that U.S. employers would be required to use in their international labor contracting;
- Requiring the disclosure of job-related information including the terms of employment, the identity of the employer and recruiter, and an itemized list of any costs or expenses to be charged to the worker; and
- Requiring the Secretary of State to maintain information related to the identities of foreign labor contractors and the employers to whom the foreign labor contractors supply workers. This information would be made available on-line, including on the websites of U.S. embassies in the official language of that country. The Secretary of State is also charged with annually disclosing data in an on-line, public format regarding the gender, country of origin and state, date of birth, wage, level of training and occupation category, disaggregated by job and by visa category of visas processed.

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Centro de los Derechos del Migrante, Inc. (CDM)
Coalition to Abolish Slavery and Trafficking (CAST)
Department for Professional Employees (DPE)
Economic Policy Institute (EPI)
Farm Labor Organizing Committee (FLOC)
Farmworker Justice
Global Workers Justice Alliance ("Global Workers")
National Domestic Workers Alliance (NDWA)
National Employment Law Project (NELP)
National Guestworker Alliance (NGA)
Safe Horizon
SEIU
SolidarityCenter
Southern Poverty Law Center (SPLC)
UNITEHERE!
Verité

CURRENT LAW FAILS TO HOLD EMPLOYERS ACCOUNTABLE. Employers are rarely held accountable for the abuses suffered during the recruitment or employment of internationally recruited workers. Often, there are multiple levels of recruiters, including international labor brokers that employers select, national recruitment agencies, and community-level agents who compile recruitment lists. Without laws to hold employers accountable for the actions of recruiters in the recruitment supply chain and staffing agencies, workers are unable to seek redress.

S. 744: The proposed legislation would increase employer accountability by:

- Creating a complaint, investigation, and enforcement process for workers, including anti-retaliation provisions to protect workers and their families;
- Establishing an accountability schema by which employers who use unregistered recruiters would be liable for the recruiters' abuses if the worker completes an administrative process first;
- Making information included in employer and recruiter registrations publicly available; and
- Requiring foreign labor recruiters to post a bond in an amount sufficient to ensure the ability of the foreign labor recruiter to faithfully discharge its responsibilities.

CURRENT LAW MAKES WORKERS VULNERABLE TO ECONOMIC COERCION. Labor recruiters charge workers exorbitant fees, frequently in lump sums, to place workers with employers, assist with immigration paperwork, arrange travel to and from the U.S., and in some cases arrange housing. To pay these fees, many workers obtain high interest loans that are nearly impossible to repay by working in their home countries. Workers remain in unfair, unsafe, and even forced labor conditions because the alternative—returning to their home countries where they cannot earn enough to repay pre-employment debt or breach fees—is not a viable option. Although a worker's payment of recruitment fees may be illegal under some U.S. visa categories, and although the practice is prohibited under international conventions, enforcement is lacking, and the practice continues to thrive in the United States. The result of these fees is that workers arrive in the U.S. already in debt, making them even more vulnerable to workplace abuses.

S. 744: The proposed legislation would explicitly prohibit foreign labor contractors from charging workers recruitment fees of any kind, including visa, visa processing, transportation, legal expenses, placement fees and other costs. Additionally, the bill would require that workers receive disclosures on any costs and expenses that will be charged to the worker, such as housing, transportation, health insurance, workers' compensation, medical examinations, and safety equipment costs. The bill would also require that recruiters give workers information stating that the foreign labor contractor or employer is not permitted to charge any fees, among other disclosures.

CURRENT LAW FAILS TO PROHIBIT DISCRIMINATION AND RETALIATION. Discrimination and retaliation against workers who assert their rights are pervasive across visa categories and employment sectors. Although the U.S. government's anti-discrimination laws aim to convert the U.S. workplace into an engine for social equality, guest-worker programs re-classify entire sectors of the U.S. workforce by race, gender, national origin, and age. These programs also allow employers to discriminate against workers who speak out against unlawful employment practices, assert their rights under the law, or organize for better working conditions. Not a single work visa program contains measures to prevent discrimination against workers in the recruitment process.

S. 744: The proposed legislation would prohibit foreign labor contractors from failing to hire or refusing to hire, discharge, intimidate, threaten, restrain, coerce or blacklist any individual or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, because of such individual's race, color, creed, sex, national origin, religion, age, or disability. As mentioned above, the bill would also create a complaint, investigation, and enforcement process for workers, including anti-retaliation provisions to protect workers and their families.