



FACT SHEET

U.S. Citizenship Act of 2021: A Bill to Protect Workers and Create a Path to Citizenship for 11 Million Undocumented Immigrants

On February 19, 2021, Senator Bob Menendez (D-N.J.) and Representative Linda Sanchez (D-CA) introduced the U.S. Citizenship Act of 2021 in the Senate and House, respectively. The bill, if passed, would create a path to citizenship for the country's 11 million undocumented immigrants, implement very helpful protections for workers, and redirect border security funding towards innovative technology. The bill's language was developed by the Biden Administration after consultation with immigrant, labor, and industry advocates.

This fact sheet highlights the most important components of the bill that apply specifically to farmworkers, but there are many more provisions that would affect farmworkers, their family members and their communities.

Passage of this bill would drastically improve conditions for the nation's approximately 2.5 million farmworkers and their families—documented and undocumented alike. At least one-half of the nation's farmworkers are undocumented immigrants. The bill contains a specific and prompt path to immigration status and citizenship for undocumented farmworkers. Legal immigration status would help remove the fear of arrest and deportation experienced by farmworker families every day. With legal immigration status, farmworkers would be better positioned to speak up against mistreatment on the job, consequently advancing labor conditions for all workers. The bill additionally expands labor protections to cover farmworkers and prevent exploitation and abuse on the job. The legalization program and labor protections would help stabilize the farm labor force and improve our agriculture and food systems. For these reasons, Farmworker Justice strongly supports the U.S. Citizenship Act of 2021.

A Path to Immigration Status and Citizenship for Farmworkers

The U.S. Citizenship Act of 2021 broadly creates a path to citizenship for the country's 11 million undocumented immigrants by allowing eligible individuals to apply for Lawful Prospective Immigrant status (LPI status). In order to qualify for the six-year, renewable status, immigrants must pass background and national security checks, pay their taxes, and show that they have been continuously present in the United States from January 1, 2021 to the date on which they submit their application. With LPI status, immigrants would be authorized to work,

join the military, travel, and live without the constant fear of deportation. After five years, those with LPI status would become eligible to apply for lawful permanent residence, or green cards. Three years later, individuals will become eligible to apply for citizenship.

The bill accelerates this eight-year process for Dreamers, those with Temporary Protected Status, and farmworkers; they would not need to apply for LPI status or wait five years for a green card. Instead, the bill contains a section entitled the Agricultural Workers Adjustment Act, which would make farmworkers immediately eligible for green cards.

To qualify for an immediate green card, farmworkers would be required to:

- a) pass a criminal and national security background check;
- b) submit a completed application;
- c) pay a fee set by the Department of Homeland Security;
- d) show that they have been continuously present in the United States from January 1, 2021 to the date on which they submit their application¹; and
- e) show that they have performed at least 2,300 hours or 400 work days of agricultural work during the five-year period immediately preceding their application.

Farmworkers' family members who satisfy these same requirements—other than agricultural work requirement—would similarly be immediately eligible for a green card. We note that the prior-work-experience requirement of 400 work days could be met by the large majority of farmworkers but there can be difficulties in obtaining proof of that work, which regulations would need to address.

Three years after receiving the green card, these individuals would be eligible to apply for citizenship.

Farmworkers and family members who do not qualify for this farmworker program may be eligible under one of the other pathways to citizenship established in the bill.

Labor Protections

The bill also includes several provisions to protect workers from exploitation, abuse, and retaliation. Specifically, it:

- Removes the agricultural worker exemption from the overtime requirements of the Fair Labor Standards Act. Starting on January 1, 2022, farmworkers who work more than 55 hours in a single work week would be entitled to overtime pay. This hourly cap will fall to 50 hours per week on January 1, 2023; 45 hours per week on January 1, 2024; and 40 hours per week on January 1, 2025.

¹ The Act includes exceptions to this requirement, including where an absence was authorized by the Secretary of Homeland Security or where the absence was “brief, casual, and innocent.”

- Narrows the agricultural worker exemption to the minimum wage requirement in the Fair Labor Standards Act to only employees who are the immediate family members of agricultural employers. All other farmworkers would be entitled to the minimum wage under the FLSA.
- Extends coverage of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA or AWP) so that it protects H-2A temporary foreign workers. AWP) requires employers to disclose and comply with job terms and regulates the use of farm labor contractors.
- Adds additional criminal penalties for employer violations of AWP).
- Establishes an Employment Authorization Commission to make recommendations on policies for verifying the eligibility of noncitizens for employment, to evaluate methods for verification of employment eligibility, and to review the E-Verify program.
- Expands U-Visa eligibility to include noncitizens who assisted the federal government in investigating and prosecuting abusive employers.

The bill does not seek to make changes in the H-2A temporary foreign agricultural worker program.

Structural Changes

The bill not only creates specific pathways to citizenship and vital labor protections, but it also reshapes the way our country responds to immigration generally. By replacing the outdated term “alien” with the more accurate word “noncitizen,” the bill reflects the intrinsic humanity of all people, regardless of their immigration status.

The bill also addresses the root causes of migration instead of violently punishing those who cross our borders in search of a better life. And unlike previous immigration compromises, the bill does not include increased militarization on the border. Instead, it authorizes the development and implementation of additional technology for identifying drugs and contraband along the border as well as adding requirements for oversight, training, and education of immigration agents and officers.

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