

The First Focus Campaign for Children is committed to advocating for passage of immigration reform that addresses the specific needs and interests of children. On April 17, 2013, the bipartisan Senate “Gang of Eight” introduced the Border Security, Economic Opportunity, and Immigration Modernization Act (S.744). While the bill as currently drafted represents a historic step forward for children in immigrant families, the bill also falls short of protecting the rights of children and families and ensuring access to critical safety net programs. On May 9, 2013 the Senate Judiciary Committee began markup of S.744, and the following is a list of amendments that FFCC has determined could positively or negatively impact children and families. S.744 was passed out of the Senate Judiciary Committee on May 21, 2013 on a 13-5 vote. The following amendments were filed, and those that were considered and adopted or rejected are noted.

Positive Amendments

Title I

- **Feinstein 6:** Requires Customs and Border Patrol to adopt standards for treatment of children in custody (*passed by SJC 5/9*)
- **Hirono 23:** Provides protections for families, including those with children, apprehended at the border (*passed by SJC 5/9*)

Title II

- **Blumenthal 1:** “Little Dreamers” permits children to adjust to lawfully permanent resident (LPR) status after completing 5 years of registered provisional immigrant (RPI) status under the DREAM title if they are under the age of 18 at time of adjustment to LPR status
- **Blumenthal 8:** Codifies existing Department of Homeland Security enforcement procedures at sensitive locations such as schools, churches, and hospitals. (*passed in SJC by voice vote*)
- **Blumenthal 12:** Allows RPIs who have honorably served in the Armed Forces and meet certain other conditions to become naturalized United States citizens, which can expedite the naturalization process for eligible Dreamers who have completed military service (*passed in SJC by voice vote 5/20*)
- **Coons 10:** Ensures that individuals authorized to be employed in the United States may not be denied professional, commercial, or business licenses on the basis of immigration status, which is beneficial for Dreamers and other young people seeking employment (*second degree passed in SJC by voice vote 5/20*)
- **Hirono 10:** Allows citizens to petition for their son or daughter if their child’s absence from the U.S. is causing the citizen hardship, promoting family unity through the family based immigration system (*Not agreed to on 7-11 vote in SJC 5/21*)
- **Hirono 13:** Promotes family unity by allowing naturalized Dreamers and other naturalized immigrants to petition for parents while in RPI status
- **Hirono 14:** Allows RPIs to petition for their dependent spouse and children who are not physically present in the U.S. to become RPI dependents if they meet the other eligibility requirements
- **Hirono 16:** Removes the five-year waiting period for the Children’s Health Insurance Program (CHIP), Medicaid and the Supplemental Nutrition Assistance Program (SNAP) for children, pregnant women, and lawfully present individuals, reducing the wait for children to be eligible for critical nutrition and health assistance (*withdrawn from SJC 5/20*)
- **Hirono 17:** Allows time in RPI status to count towards five-year waiting period for federal means-tested benefits, so income-eligible children will not have to wait an additional 5 years for critical nutrition and health assistance following time in RPI and LPR status; also provides a state option to eliminate the five-year bar for Medicaid for LPRs, Dreamers, and blue-card holders (*withdrawn from SJC 5/20*)

- **Hirono 21:** Allows students who came to the U.S. as children to access tuition assistance while in RPI status, making college more affordable for Dreamers (*second degree, excluding access to Pell Grants, passed by voice vote 5/20*)

Title III

- **Blumenthal 2:** Prohibits children and other vulnerable populations in immigration detention from being held in solitary confinement (*Passed in SJC by voice vote 5/20*)
- **Feinstein 5:** Creates a pilot program under the Trafficking Victims Protection Act (TVPA) to deter, detect, and prevent child trafficking by utilizing the services of independent child welfare professionals to assist CBP in the screening of children (*Second degree passed by voice vote in SJC 5/20*)
- **Franken 7:** “HELP Separated Children Act” improves immigration enforcement policies to protect child well-being and promote family unity by ensuring that parents’ are able to make decisions regarding their child’s care at the time of apprehension, while in detention, and prior and following removal (*Passed on 18-0 vote in SJC 5/20*)
- **Coons 13:** Puts additional protections in place for immigration enforcement activities at sensitive locations, including schools, hospitals, churches, community centers to help mitigate the adverse impact of immigration enforcement on children and families
- **Hirono 22:** “Child Trafficking Victims Protection Act” provides additional services and protections for unaccompanied minors in CBP custody, including providing adequate medical care and conducting screening upon apprehension (*Second degree passed by voice vote in SJC 5/20*)

Title IV

- **Klobuchar 1:** Grants a child status who seeks derivative RPI status through their parent if the child is a victim of abuse by the principal alien parent (*passed by SJC 5/14*)
- **Hirono 15:** Provides Medicaid coverage for Compact Free Association (COFA) migrants, including children (*passed by SJC 5/14*)

Negative Amendments

Title II

- **Cruz 2:** Makes any individual who has ever been in the U.S. in unlawful status ineligible for means-tested benefits, which would result in nearly 1 million children never being able to access critical health and nutrition benefits (*Not agreed to on 6-12 vote in SJC 5/21*)
- **Cruz 3:** Denies citizenship to anyone who has ever been in the U.S. in unlawful status, including those who entered the U.S. as children (*Not agreed to on 5-13 vote in SJC 5/21*)
- **Cruz 4:** Limits the number of family-sponsored immigrants, making it harder for families to reunify through the family immigration system (*Not agreed to on 6-12 vote in SJC 5/21*)
- **Flake 4:** Require Secretary of Health and Human Services (HHS) to conduct audits to ensure that RPIs are not receiving means-tested public benefits. This is unnecessary since RPIs are not eligible for means-tested benefits, and may result in a chilling factor after adjustment to LPR status and naturalization. (*Adopted by voice vote in SJC 5/21*)
- **Grassley 7:** Increases the fines related to RPI status, including requiring those that qualify under the DREAM Act to pay fines
- **Grassley 10:** To require removal proceedings to commence for an individual who is ineligible for RPI, putting children at risk of family separation and likely reducing the number of undocumented immigrants who apply for RPI status due to fear of deportation if denied.
- **Grassley 11:** Removes the provision that allows individuals who are detained or in removal proceedings but may be eligible for RPI status to apply for such status. It also replaces the provision that allows certain undocumented immigrants who were removed to reenter the U.S. in the interest of family unity with an expansion of DHS’ ability to deport individuals in RPI status. This amendment strikes a number of provisions that are highly beneficial for family

unity and replaces it with a provision that would likely result in more children becoming separated from their families. *(Not agreed to in SJC 5/20)*

- **Grassley 21:** Strikes section 2313 which provides for discretionary authority, including consideration of hardship to children, with respect to the removal, deportation, and inadmissibility of citizen and lawfully permanent resident immediate family members
- **Hatch 5:** Raises the income requirement for individuals applying to renew RPI status from 100% to 125% of the federal poverty level (FPL) and requires them to maintain this income “throughout” the period of admission as an RPI, negatively impacting low-income mixed legal status families by creating additional barriers for immigrant parents to access a path to citizenship
- **Hatch 22:** Modifies provisions relating to the tax payment requirement to all income and employment taxes owed from the first date of entry into the U.S., rather than S. 744’s provision of all taxes assessed by the Internal Revenue Service (IRS). This requirement would be unworkable for families, employers, and the IRS, with the overall effect of creating a barrier against immigrant parents adjusting to, and maintaining, RPI status.
- **Hatch 23:** Creates a 5-year waiting period for tax credits and cost-sharing subsidies under the ACA, creating a new waiting period for children to access health coverage through the ACA
- **Lee 10:** Similar tax modification to Hatch 22 to requires the payment of all taxes owed, rather than assessed, before applying for RPI status, making adjusting status more difficult and financially impossible for many parents, many of whom have U.S. citizen children *(Not adopted by voice vote in SJC 5/21)*
- **Lee 13:** Requires HHS to produce an annual report that estimates for every state: (a) the total amount of federal means-tested public benefits, (b) the amount of federal means-tested public benefits provided to persons who “resided illegally,” and (c) the amount of federal means-tested public benefits provided to households which had any registered provisional immigrants. Such a requirement could create a “chilling effect” and deter parents from applying for benefits for their children.
- **Sessions 17-19:** Changes the “public charge” test to limit children’s ability to adjust to RPI or LPR status and to become a naturalized citizen if they may at any time in the future become a public charge
- **Sessions 20:** Requires all applicants for RPI status to be interviewed before being eligible, which could delay the path to citizenship for all applicants, including children
- **Sessions 24:** Strikes the provision that authorizes the Secretary to permit aliens who were previously removed and are currently outside the United States or have reentered the United States illegally after removal to apply for RPI status, including certain DREAM eligible-youth who are now residing outside the U.S.
- **Sessions 25:** Makes children and other applicants ineligible for RPI status if they are “likely” in the future to get state-sponsored means tested benefit of any sort or access programs such as CHIP, Medicaid, ACA tax credits, TANF, or SSI
- **Sessions 26-28:** Makes children and other applicants ineligible for LPR status if they are “likely” in the future to get state-sponsored, means-tested benefits of any sort, or a range of federal health and nutrition benefits, including CHIP, Medicaid, ACA tax credits, or SNAP
- **Sessions 29:** Raises the income/resource requirement for individuals applying from RPI status to lawful LPR status from at least 125% to 400% of FPL and requires them to maintain employer-sponsored health insurance during the 10 years of RPI status, negatively impacting low-income mixed legal status families by creating additional barriers for immigrant parents to access a path to citizenship
- **Sessions 43:** Requires that before any RPI can adjust to LPR status, on an annual basis the Chief Actuary of the Social Security Administration (SSA) must determine that S.744 would have no harmful effects on the Social Security Trust Fund over the next 75 years. The Chief Actuary of the Centers for Medicare & Medicaid Services (CMS) must also determine that S.744 would have no harmful effect on the Medicare Trust Fund over the next 75 years. This requirement could delay the path to citizenship, possibly indefinitely, for all applicants including children.

Title III

- **Grassley 26:** Strikes section 3405, removing protections for stateless children in the United States, putting an already a vulnerable population at greater risk
- **Grassley 40:** Weakens provisions that grant legal representation to unaccompanied minors, and only requires counsel to represent an unaccompanied alien child with a serious mental disability.
- **Sessions 10:** Alters the public charge test to require the consideration of health and nutrition assistance benefits and prevents individuals, including children, from adjusting to LPR status if they have used Medicaid or SNAP *(Not agreed to by voice vote in SJC 5/20)*
- **Sessions 31:** Denies the Earned Income Tax Credit (EITC) to families with children during the entire RPI period, restricting it until families become LPRs or U.S. citizens, meaning children could be denied access to the EITC, a proven anti-poverty tool, for a minimum of 10 years *(Not agreed to by voice vote in SJC 5/20)*

No Title Specified

- **Sessions 30:** Restricts access to the Child Tax Credit (CTC) by excluding those that file with an Independent Taxpayer Identification Number (ITIN) number, directly harming children in immigrant families, many of whom are U.S. citizen children *(Not agreed to on 8-10 vote in SJC 5/21)*