

4 Clinton Plan Takeaways For Business Immigration Attys

By Allissa Wickham

Law360, New York (May 06, 2015, 7:35 PM ET) -- Hillary Clinton said Tuesday that if she becomes president, she will support a pathway to citizenship and may expand deferred action for people living in the U.S. illegally, policies that could help employers tap into new pools of authorized and skilled labor.



Democratic presidential candidate and former U.S. Secretary of State Hillary Clinton speaks at Rancho High School on May 5, 2015, in Las Vegas. (Credit: Getty)

Clinton surprised many advocates Tuesday when she came out strongly in favor of an immigration overhaul during a roundtable discussion at Rancho High School in Las Vegas, advocating not only for a path to citizenship, but also for deferred action for parents of young immigrants who were brought to the country without legal permission, also known as DREAMers.

The move goes a step beyond what would be granted under President Barack Obama's executive actions, which would only allow immigrant parents to apply for deferred action if their child is a U.S. citizen or green card holder.

Given Clinton's strikingly progressive stance on immigration, attorneys should keep four things from her conversation in mind.

More Authorized Workers Would Aid Compliance, Economy

If a program for DREAMer parents included a work authorization, it could help employers feel more

confident that they're in compliance with immigration law when hiring workers, and could boost the economy through taxes and Social Security payments, said Ted Ruthizer of Kramer Levin Naftalis & Frankel LLP.

"It's going to give people, employers, the comfort and the confidence to know that they are in compliance with the immigration laws and they're doing everything the right way," Ruthizer said.

Path to Citizenship Could Help Retain Skilled Workers

Clinton also talked about utilizing the talents of students residing in the country illegally in order to keep the U.S. globally competitive, which could open up more skilled labor to American companies. Her comments come amidst the annual call for raising the H-1B visa cap for skilled workers, following a lottery for the highly sought-after visas conducted by U.S. Citizenship and Immigration Services.

Daniel Kowalski of the Fowler Law Firm noted that while raising the H-1B cap would be a short-term solution, opening up access to green cards and citizenship is a more sustainable answer to the need for skilled workers.

"If the immigration system is reformed such that it's easier and faster to get a green card ... [and] easier to become a citizen, that will help us compete internationally," Kowalski said.

Elizabeth Stern, head of Mayer Brown LLP's global mobility and migration practice, argued that Clinton should push the issue of attracting talent from abroad harder during future campaign appearances, along with her plans on border security and relief for individuals in the country illegally.

"The protectionist approach to the H-1B, which is 85,000 visas max every year, is a drop in the bucket compared to one month's job growth in America," Stern said. "So, if we can, if the business world can make an impression on our politicians to stop politicking and start resolving, that will go a long way."

More Empowered Immigrants Could Mean More Lawsuits

Angelo Paparelli of Seyfarth Shaw LLP agreed that adding DREAMer parents to the authorized labor pool would be a "tremendous boost to the economy" and bring stability to certain industries. He noted, however, that it could also lead to an uptick in employment law-related claims, as workers who are less afraid of being deported may be more vocal about possible labor violations.

"Right now, we're seeing a very high level of class action litigation in the employment sphere," Paparelli said. "I have to believe that that would increase as people are no longer fearful of a deportation order."

Ramping Up Deferred Action Programs Might Pressure Congress

Creating more deferred action programs, like one for DREAMer parents, could also put more pressure on Congress to pass comprehensive immigration legislation, Paparelli said. He argued that once such programs are in place, they often gain a constituency that would loudly object if the program was taken away.

"If the next president ... were forced to perpetuate or expand these measures, I think that it would build momentum toward the grant of comprehensive immigration reform," Paparelli noted.