

Legal Update

On Day 1, Biden Administration Introduces “The US Citizenship Act of 2021”

On his first day in office, President Biden took a series of actions to realize his vision for US immigration policy. Fulfilling one of his major campaign promises, President Biden has introduced a [comprehensive immigration reform bill](#), “The U.S. Citizenship Act of 2021.”

Through the reform bill, the Biden administration seeks to establish “a new system to responsibly manage and secure our border, keep our families and communities safe, and better manage migration across the Hemisphere.” As one of the most sweeping immigration reform proposals in the last 30 years, the bill includes the following key provisions:

1. Pathway to Citizenship for Undocumented Workers	<ul style="list-style-type: none"> Establishes a 5-year path to temporary legal status, or a green card, for those living in the United States as of January 1, 2021, if they pass background checks, pay taxes, and fulfill other basic requirements. The requirement of living in the United States on January 1, 2021, may be waived in some cases for family reunification purposes. Establishes a subsequent 3-year path from green card to naturalization, pending additional background checks and citizenship application. Changes the word “alien” to “noncitizen” in immigration laws. Applies to 11+ million undocumented workers in the United States, including the Deferred Action for Childhood Arrivals or “DACA” (also known as the “Dreamers”), those with Temporary Protected Status (TPS), and immigrant farmworkers.
2. Employment-Based Visas and Green Cards	<ul style="list-style-type: none"> Reduces administrative burdens and expands pathways for employment-based visas and green cards, including for graduates of US universities with advanced STEM degrees and workers in lower-wage sectors. Incentivizes higher wages for nonimmigrant, high-skilled visas to reduce competition with American workers. Protects work authorization for dependents of H-1B visa holders and children from “aging out” of the system. Enables the Department of Homeland Security (DHS) to adjust green card availability based on macroeconomic conditions. Creates a regional economic development pilot program.

3. Family Reunification	<ul style="list-style-type: none"> • Enables certain family-based sponsored foreign nationals to join their family in the United States temporarily while waiting for green cards. • Includes support for LGBTQ+ families and families of those who fought alongside the United States in World War II. • Re-institutes the Central American Minors program to reunite children with US relatives and creates a Central American Family Reunification Parole Program to more quickly unite families with approved family sponsorship petitions. • Reduces administrative burdens, increases per-country visa caps, and eliminates other provisions separating families. • Increases diversity lottery visas to 80,000 from 55,000.
4. Worker Protection and Employment Verification	<ul style="list-style-type: none"> • Requires the Departments of Homeland Security and Labor to establish a commission involving labor, employer, and civil rights organizations to make recommendations for improving the employment verification process. • Expands U visa access to workers who suffer serious labor violations and cooperate with worker protection agencies. • Establishes protections for workers who are victims of workplace retaliation from deportation in order to allow labor agencies to interview these workers. • Establishes protections for migrant and seasonal workers and increases penalties for employers who violate labor laws.

The proposed bill would also include a number of additional provisions targeted to protect vulnerable populations and improve border security and infrastructure.

5. Asylum Seekers and Vulnerable Populations	<ul style="list-style-type: none"> • Reduces administrative burdens and backlogs for vulnerable populations, including asylum seekers. • Expands protections for holders of U visas, T visas, VAWA applicants, and foreign nationals assisting US troops. • Eliminates religion-based discrimination in the immigration system and limits future executive authority to enact such bans.
6. Smart Border Screening and Enhanced Enforcement Against Criminal Organizations	<ul style="list-style-type: none"> • Increases funding for technology to expedite and expand screening for narcotics and other contraband at all ports. • Provides funding to improve port infrastructure to process asylum seekers and prevent narcotics from entering the United States. • Enhances the ability to prosecute those involved in human smuggling and trafficking. • Expands measures to increase sanctions against foreign narcotics traffickers, their organizations, and their networks. • Requires an interagency effort to improve and expand transnational anti-gang task forces in Central America.

7. Protection for Border Communities	<ul style="list-style-type: none"> • Provides funding for training and education for agent and officer safety and professionalism. • Creates a Border Community Stakeholder Advisory Committee to investigate misconduct and issue DHS-wide policies on use of force. • Directs the Government Accountability Office (GAO) to study the impact of DHS’s authority to waive environmental and state and federal laws to expedite the border wall construction • Provides funding for efforts to develop standards of care for individuals in Customs and Border Protection (CBP) custody.
8. Supporting Vulnerable Individuals and Improving Immigration Courts	<ul style="list-style-type: none"> • Provides funding to state and local governments, private organizations, educational institutions, community-based organizations, and not-for-profit organizations to expand programs to promote integration and inclusion, increase English-language instruction, and provide assistance to individuals seeking to become citizens. • Provides funding for legal orientation programs and counseling for children, vulnerable individuals, and others when needed, and funding for school districts educating unaccompanied children. • Seeks additional administrative support for immigration courts and case management. • Provides additional discretion for immigration judges and adjudicators.
9. Addressing the Root Causes of Migration	<ul style="list-style-type: none"> • Codifies and funds President Biden’s \$4 billion 4-year inter-agency plan to address the underlying causes of migration in the region, including by increasing conditional assistance to El Salvador, Guatemala, and Honduras. • Establishes Designated Processing Centers throughout Central America to register and process displaced persons for refugee resettlement and other lawful migration avenues—either to the United States or other partner countries.

The Biden administration is expected to take executive actions to reverse other Trump administration immigration actions, including putting an end to the prohibition on arrivals from several predominantly Muslim countries and African countries, defunding construction of the border wall, and revoking the exclusion of undocumented immigrants from Census counts.

Mayer Brown will be providing full coverage of the Biden administration’s immigration priorities as part of our [10Hundred](#) series. For example, our regularly updated [Immigration Priorities Heat Map](#) provides a visual overview of the immigration priorities of the previous administration and, more substantially, those of the Biden administration in its first 100, 300 and 500 days.

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