

2004

Bush Proposes Guest Worker Program

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Recommended Citation

John Anderson, *Bush Proposes Guest Worker Program*, 9 Pub. Interest L. Rptr. 21 (2004).
Available at: <http://lawcommons.luc.edu/pilr/vol9/iss2/10>

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way to keep students from using drugs is to encourage them to participate in after-school activities.¹⁴ They argue that drug testing creates barriers to those positive activities which creates more harm for the nation's youth.¹⁵

Further opponents to random drug testing wonder about the effect the tests will have on children. They question the propriety of subjecting a student to drug testing when the school does not have any basis to believe the student is using drugs.¹⁶ Some innocent students have indicated that the random testing makes them feel like they are guilty of using drugs when they are not.¹⁷

Furthermore, the American Civil Liberties Union is adamantly opposed to drug testing in schools. The ACLU argues that random drug testing is misplaced in schools, and that it fails to address the society's main problem, alcohol abuse.¹⁸ Graham Boyd, director of the ACLU's Drug Policy Litigation Project, who argued before the Supreme Court Justices in *Earls*, has stated that drug testing in schools presents a slippery slope.¹⁹ Mr. Boyd believes that random drug testing "open[s] the door to the government's inevitable demands for DNA, medical records, financial information, and other personal data."²⁰

Since the Federal Government strongly supports school drug testing but the nation's states argue against the testing programs, it is unclear what is the fate of the nation's children. What is clear is that random drug testing in schools will again become an important national issue, not just for the candidates in the upcoming election, but also for parents and school children across the nation.

1. Stars. Gringo. Armed Police Invade High School, No Drugs Found (11/07/2003) available at <http://portland.indymedia.org/en/2003/11/27561.shtml>

2. Stars, supra note 1

3. *Veronia School District 47J v. Acton*, 515 U.S. 646 (1995).
 4. *Board of Education of Independent School District No. 92 of Pottawatomie County, et al. v. Lindsay Earls*, 536 U.S. 822, (2002).
 5. Justices to Hear Arguments Tomorrow in Landmark ACLU Challenge to Mandatory School Drug Testing, (3/18/2002), available at <http://www.aclu.org/DrugPolicy/DrugPolicy.cfm?ID=10024&c=79>
 6. A Test You Can't Study For - Special Web Feature on Student Drug Testing (10/21/2002) available at <http://www.aclu.org/DrugPolicy/DrugPolicy.cfm?ID=11000&c=79>.
 7. *Earls*, 536 U.S. at 837

8. McLure, Jason. *Guilty Until Proven Innocent: The White House wants to expand random drug testing of schoolchildren*, (2/25/2004), available at <http://msnbc.com/id/4375351>
 9. McLure, supra note 8
 10. McLure, supra note 8
 11. McLure, supra note 8
 12. McLure, supra note 8
 13. Supra note 6
 14. Supra note 6
 15. Supra note 6
 16. McLure, supra note 8
 17. McLure, supra note 8
 18. Supra note 6
 19. Supra note 5
 20. Supra note 5.

BUSH PROPOSES GUEST WORKER PROGRAM

John Anderson

On January 7, 2004, President Bush announced his immigration reform proposal.¹ Recognizing the important role immigrants play in American society and the fear of deportation illegal immigrants live with every day, the Bush Administration proposed a plan that would give temporary legal status to undocumented immigrant workers. The proposal has been praised by business groups and has won some support with immigrant rights groups who say it is a step in the right direction. Others are more hesitant, asserting the program is impractical and does nothing to provide undocumented workers with permanent legal status.

Bush explained that his proposal "will match willing workers with willing employers, without disadvantaging those who have followed the law and waited in line to achieve American citizenship."² The proposal would allow eight million undocumented immigrants to apply for temporary legal status for three years.³ After three years, the foreign workers could renew their legal status at least once. Undocumented immigrants as well as immigrants who have not yet

come to the U.S. could apply for the program.⁴ Participating immigrants would be required to be fully employed throughout their stay. U.S. employers hiring immigrants through the program would have to make a reasonable effort to find a qualified American citizen for the position first. Families of participants in the program would also be granted legal status, on the condition that the participants earned enough money to support their families.⁵

Bush's plan would not offer amnesty for undocumented aliens because after a certain amount of time, participants would not be able to renew their temporary status. The plan would include incentives for the foreign workers to return to their home countries after their legal status has expired. The incentives to return would include credit for the workers in their home countries' retirement system. Additionally, participants would be allowed to legally travel to and from their home countries and the U.S. without having to risk being denied entry.

The U.S. Supreme Court has recognized that the Federal Government has expansive authority

in setting immigration policy. "The Federal Government has broad constitutional powers in determining what aliens shall be admitted to the United States, the period they may remain, regulation of their conduct before naturalization, and the terms and conditions of their naturalization."⁶

In announcing his guest worker proposal, the President acknowledged the importance of immigration to America, stating, "Every generation of immigrants has reaffirmed the wisdom of remaining open to the talents and dreams of the

"Every generation of immigrants has reaffirmed the wisdom of remaining open to the talents and dreams of the world."

world." However, the Bush Administration is also selling the proposal as a means of strengthening U.S. security. The President asserted in his January 7, 2004 announcement of the proposal that the U.S. "will be more secure when we can better account for those who enter our country, instead of the current situation in which millions of people are unknown to the law... And when temporary workers can travel legally and freely, there will be more efficient management of our borders and more effective enforcement against those who pose a danger to our country."

Perhaps the President is making the pitch for immigration reform as a national security issue to counter critics in his party who want to reduce the number of foreign workers in the U.S. U.S. Rep. Lamar Smith of San Antonio, a member of the House Immigration Subcommittee, expressed concern about GOP support for the proposal because of the perception that it is a general amnesty

for undocumented immigrants.⁷ Moreover, Rep. Smith claimed the program would pose a threat to national security by giving terrorists a means of slipping into the U.S. with worker visas.

Congress appears split over the proposal. According to Fred Tsao of the Illinois Coalition for Immigrant and Refugee Rights, "many [in Congress] believe that it does not go far enough, while others believe that the proposal goes too far in 'rewarding lawbreakers.'"⁸ On January 21, 2004, Senators Tom Daschle and Chuck Hagel introduced their own guest worker legislation that expanded on Bush's proposal by providing for the possibility of citizenship for undocumented workers.⁹ It is not clear how strongly President Bush will push to get his guest worker proposal through Congress this year. During a meeting with Mexican President Vicente Fox in March 2004, Bush declined to say when he would press Congress to pass his proposal.¹⁰ Fox has long advocated for Bush to adopt an immigration policy that would help undocumented immigrants in the U.S.

Some immigrant rights advocates have been cautious about judging the President's proposal, waiting for the Administration to provide more details for the plan. Other groups have been more critical of the proposal, characterizing it as "good for employers wanting cheap and vulnerable labor," but doing little for the well-being of immigrants while attempting to appeal to Latino voters.¹¹ It is not clear whether Bush's proposal would allow participants access to government benefits. Tsao indicated that the main flaw in the President's proposal is that it does not offer immigrants any path to permanent legal status and citizenship. "The plan does provide a temporary status, with the right to travel, but after the

status expires, what then? Also, the plan ties the temporary status to the immigrant's employer, and so opens the possibility of exploitation."

Given the strong association many Americans make between immigration policy, the economy, national security, and human rights, the issue of immigration may play an important role in the upcoming presidential election. While Bush's guest worker proposal would grant temporary legal status to illegal workers in the U.S., he is against giving illegal immigrants an amnesty to achieve citizenship.¹² However, John Kerry, the presumptive Democratic Presidential nominee, believes that illegal immigrants who have been in the U.S. for five years, have been working, paying taxes, and can pass a background check should be able to gain legal status.¹³

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