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SPLC Recommendations for Preventing Abuse and Exploitation in U.S. Guest Worker Programs

The Southern Poverty Law Center (SPLC) has long fought to protect immigrant workers from workplace exploitation and other human rights abuses. It has filed lawsuits, exposed civil rights violations and pushed for meaningful immigration reform.

Several plans to overhaul the nation's immigration system, including Senate Bill 744, contain important protections for U.S. and foreign workers that must be preserved as the legislation moves through Congress. But the SPLC has found they lack critical protections to prevent foreign workers from enduring the abuse and exploitation so prevalent in current guest worker programs.

Meaningful reform must include these protections:

ACCESS TO JUSTICE

Immigration reform should not slam the courthouse door in the face of guest workers. This means having a lawyer's help if your boss won't pay you for all the hours you worked. But under SB 744, workers with general, non-agricultural W, H-2B and RPI visas are denied access to the legal services dedicated to the poor, such as the Legal Services Corporation (LSC). All low-wage workers, including guest workers, should be eligible for LSC-funded legal assistance to protect their basic rights.

PRIVATE RIGHT OF ACTION TO ENFORCE WORKER PROTECTIONS

SB 744 has important protections for domestic and foreign workers in the H-2B and W visa programs, including a right to the prevailing wage as well as anti-retaliation and discrimination provisions. It also grants U.S. workers the right to not be displaced by a foreign worker.

A right without a remedy is like having no right at all. The current bill does not provide guest workers with access to federal court to enforce these protections. A private federal right of action

guarantees guest workers the opportunity to recover wages and hold employers accountable for abuse, discrimination and retaliation without clogging state courts.

REGULATION OF FOREIGN LABOR RECRUITERS

It is essential that the bill's provisions regulating foreign labor recruiters remain intact. The bill must also provide workers a private right of action in federal court that will allow them to hold employers liable when they benefit from abusive recruitment practices.

U.S. employers often rely on individuals or agencies to recruit guest workers abroad. These labor recruiters typically charge exorbitant fees that force guest workers into debt, leaving them vulnerable to exploitation that frequently rises to the level of human trafficking. Regulation and a private right of action can curtail this abuse.

PATH TO PERMANENCY FOR GUEST WORKERS

SB 744 grants a path to citizenship to all W visa workers. Congress must preserve this path and extend it to H-2B guest workers. All guest workers should have an opportunity to apply for permanency in the United States and a path to citizenship. The path to permanency and citizenship must be broad and fair – reflecting the American value that those who contribute to this nation's success are equal members of our society.

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The Southern Poverty Law Center, based in Alabama with offices in Florida, Georgia, Louisiana and Mississippi, is a nonprofit civil rights organization dedicated to fighting hate and bigotry, and to seeking justice for the most vulnerable members of society. For more information, see www.splcenter.org.