



N.Y. State Senator Introduces Bill to Give Vote to Illegal Aliens

New York state Senator Gustavo Rivera (D-Bronx) introduced a bill on June 16 to create a special status allowing aliens who are not in the United States legally under federal law to enjoy certain privileges by virtue of being “New York State Citizens.”

The right to vote is among many rights and privileges usually reserved for citizens (or at least legal residents) that S. 7879, “The New York Is Home Act,” extends to state residents who are in the United States illegally.



Rep. Karim Camara introduced a companion bill, A10129, in the state assembly. The act states that it “extends voting rights to all State Citizens. State Citizens may vote in all State and local elections.”

Rivera says that his New York Is Home Act is the first bill in the United States that would provide such extensive rights to non-citizens who can show they have lived and paid taxes in New York for at least three years — regardless of their immigration status.

“Nearly 3 million people in the state of New York currently reside here and make New York their home, but can’t fully participate in civic, political, and economic life,” Rivera said in a telephone interview with Reuters.

Under the legislation, applicants for state citizenship would have to take an oath to uphold the state’s constitution and laws, and pledge their willingness to serve on a jury, according to the bill summary.

Apparently, no pledge to obey federal immigration laws would be required to obtain New York State citizenship. And while constitutionalists may uphold the right of each state to determine its own qualifications for voting, S. 7879 sets a bad precedent by granting privileges traditionally reserved for citizens to those who have not yet earned a place at the table by adhering to the legal requirements to become first legal residents, and then citizens. The Naturalization Oath of Allegiance to the United States of America that all immigrants take when they become U.S. citizens states: “I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same.” Obviously, those who have violated our immigration laws are not defending our laws, and do not meet a prerequisite for citizenship, which should also be a prerequisite for voting.

As we noted, the New York Is Home Act mandates an oath to uphold the state’s constitution and laws, but says nothing about federal laws. Upon meeting the requirements, non-citizens — including those here in violation of federal immigration law — would receive a form of state citizenship, granting them access to Medicaid coverage, professional licensing, resident tuition assistance, and driver’s licenses, in addition to the above-mentioned voting rights.

“It’s mind-boggling,” declared Michael Olivas, a professor at the University of Houston Law Center who



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specializes in immigration law, as quoted in *Business Week*. “I don’t believe there’s ever been a serious attempt to codify so many benefits and opportunities.”

Rivera regards his legislation as more of a precedent-setter than one that will see passage this year. “We have a bill here that could be a model of what we need to do across the country,” he said. The Bronx Democrat acknowledged that the bill “certainly will not pass this session,” and compared it to same-sex marriage, which took years to win passage in some states. Rivera may be right, but an even greater danger is that the precedent set by S. 7879 is that it may serve as a model not only by other states, but for the federal government, as well.

An oddity of the legislation is that even if passed it would not override federal immigration law, so illegal aliens in New York would still be subject to federal laws barring them from legally working in the United States. (These aliens are “undeniably circumscribed by current federal immigration law,” the bill laments.) Which raises an important point: Since the bill states, “Many of these New Yorkers [who are here illegally, under federal law] pay taxes, with approximately \$744 million paid in state and local taxes each year,” any documentation of the taxes paid by these aliens (such as withholding statements) would also document that the law is being broken. If Rivera is speaking of state and city income taxes (which are withheld by employers) not only the aliens, but their employers as well, have broken the law by hiring them. Unless, that is, all of that \$744 million came from sales taxes, which even foreign visitors to New York pay — and no one suggests giving them the right to vote.

Rivera also conveniently ignores the cost of government benefits paid to illegal immigrants in the form of social-welfare programs such as healthcare and education, which may actually exceed the tax revenue collected from them.

The New York is Home Act cleverly pretends to recognize federal immigration law while attempting to circumvent it. It first observes:

The state of New York respects the exclusive province of the federal government to regulate immigration and the flow of immigrants into and out of our country. However, this state retains and asserts its historic authority to define its citizenry, and to affirmatively provide state and local public benefits to citizens of the state of New York. The state seeks to provide such benefits to all of its citizens, irrespective of that individual’s eligibility for the same under federal law or pursuant to federal funding. There is nothing in this act that should be deemed to conflict with federal law.

However, in every case where present law restricts what those who are in our country illegally can do (or not do), the Rivera Bill makes an exception for those who possess New York State Citizenship. For example:

- “No person shall be capable of holding a civil office who shall not, at the time he shall be chosen thereto, have attained the age of eighteen years ... be a citizen of the United States OR A NEW YORK STATE CITIZEN.” (Emphasis in original.)
- “Every applicant for a license or renewal thereof shall certify in the application in a written statement under oath ... [shall] be a United States citizen [or], an alien lawfully admitted for permanent residence in the United States OR A NEW YORK STATE CITIZEN.” (Emphasis in original.)
- “[It is prohibited by the proposed law] for an employer or licensing agency, because of an individual’s age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics, marital status, STATUS AS A NEW YORK STATE CITIZEN, or domestic violence victim status, to refuse to hire or employ or to bar or to discharge from employment such individual or



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to discriminate against such individual in compensation or in terms, conditions or privileges of employment.” (Emphasis in original.)

The above section creates an impossible dilemma for employers, since they are in violation of federal law if they hire an illegal alien, but would likely be in violation of New York state law if they refuse to hire an illegal alien who has been granted New York State citizenship!

S. 7879 goes on for page after page, with the “status as a New York State citizen” exception laboriously inserted into every law where those who do not have legal status under federal law are presently restricted. The legislation states that “New York State Citizenship creates a path for immigrants — documented and undocumented — to have the ability to fully contribute to our State’s economy, to contribute to our State’s political and legal processes and to have equal access to State higher education opportunities and health benefits.”

While even Rivera admits there is little chance of his bill being passed during this session, even the most bizarre ideas have a way of spreading. Residents of other states should be on the alert for similar bills being introduced in their own legislatures.





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