



Rubio's Deceptive Amnesty Ad

By Jon Feere

Sen. Marco Rubio (R-Fla.) appears in a new television advertisement designed to promote the immigration amnesty bill currently being debated in Congress. The minute-long advertisement calls the proposal “conservative immigration reform” and attempts to make amnesty appealing to Republican voters. Partisan politics aside, the amnesty ad is misleading on a number of counts, outlined below.

The ad was produced by Facebook's Mark Zuckerberg who created the [floundering FWD.us](http://flounderingFWD.us), an advocacy group aimed at promoting amnesty. One of the group's offshoots is something called “[Americans for a Conservative Direction](#)”, which is cited at the end of the ad. Here is the transcript:

RUBIO: Anyone who thinks what we have now in immigration is not a problem is fooling themselves. What we have in place today is de facto amnesty.

ANNOUNCER: Conservative leaders have a plan, the toughest immigration enforcement measures in the history of the United States.

RUBIO: They have to pass the background check, they have to be able to pay a registration fee, they have to pay a fine.

ANNOUNCER: Border security on steroids. Tough border triggers have no giveaways for law breakers.

RUBIO: “No federal benefits, no food stamps, no welfare, no Obamacare, they have to prove that they're gainfully employed.

ANNOUNCER: Bold, very conservative, a tough line on immigration.

RUBIO: It puts in place the toughest enforcement measures in the history of the United States, potentially in the world and it once and for all deals with the issue of those that are here illegally but does so in a way that's fair and compassionate but does not encourage people to come illegally in the future and isn't unfair to the people that have done it the right way.

ANNOUNCER: Stand with Marco Rubio to end de facto amnesty, support Conservative Immigration Reform.

Every claim made in the ad is deceptive, and each claim is addressed below.

RUBIO: “Anyone who thinks what we have now in immigration is not a problem is fooling themselves. What we have in place today is de facto amnesty.”

Very few Americans believe that we don't have a serious problem with illegal immigration. It is true that this country is experiencing a de facto amnesty for illegal aliens, and it is largely the result of the Obama administra-

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tion refusing to enforce immigration laws on the books. The problem is that Rubio wants to turn this “de facto” amnesty into a formal amnesty, and grant millions of law-breakers work permits, driver’s licenses, Social Security accounts, travel documents, and an unknown number of additional state-level benefits. Rubio is trying to help President Obama fulfill his campaign goal of keeping all illegal aliens in the country and giving them benefits reserved for legal residents. If Rubio was actually troubled by the de facto amnesty being advanced by the Obama administration, Rubio would side with the ICE officials who are suing the Obama administration over the president’s effort to prevent them from doing their jobs. Top-ranking ICE official Chris Crane explained the lawsuit to Fox News, [here](#). Mr. Crane’s recent congressional testimony, available [here](#), raises many troubling issues. ICE’s additional concern is that the amnesty bill would make permanent their inability to enforce the law by giving DHS Secretary Janet Napolitano “[virtually unlimited discretion](#)” to waive all enforcement of immigration law. If an amnesty is passed, the Obama administration will likely continue to undermine any immigration enforcement provisions in the bill.

ANNOUNCER: “Conservative leaders have a plan, the toughest immigration enforcement measures in the history of the United States.”

The so-called “Gang of Eight” senators who wrote the bill aren’t all “conservative leaders”, unless you consider Sen. Dick Durbin (D-Ill.), Sen. Charles Schumer (D-N.Y.), and Sen. Robert Menendez (D-N.J.) to fit that description. True, the gang also includes Republican senators, but it is up for debate whether one considers Sen. Lindsay Graham (R-S.C.), Sen. John McCain (R-Ariz.), and Sen. Jeff Flake (R-Ariz.) to be conservative on immigration. Their [immigration report card](#) grades, from the pro-enforcement group NumbersUSA, are troubling: Graham has a “C”, McCain a “D”, and a Flake “C”. This is in contrast to Sen. Jeff Sessions (R-Ala.), who sits on the Senate Judiciary Committee, who has an “A+” from NumbersUSA.

The voiceover in the ad also cites a newspaper article for the “toughest enforcement measures in the history of the United States” language. This commercial carefully avoided some of the language in the article’s full sentence, particularly the part noting that this bill would allow previously deported illegal aliens to return to the country. The article’s [full sentence](#) reads:

The controversial proposal would grant most of the 11 million people here illegally a path to citizenship and give thousands of deported individuals a chance to return, but would also adopt some of the toughest immigration enforcement measures in the history of the United States.

No immigration bill in the history of the United States has ever permitted previously deported illegal aliens to return to the United States to receive citizenship, so it is difficult to see how this news organization concluded that the bill is the “toughest” our country has ever seen. Of course, the article is really claiming that the bill would “adopt some” tough enforcement measures, not that the bill itself is tough.

On closer inspection, many of these measures (noted below) are not as tough as they seem to be.

RUBIO: “They have to pass the background check, they have to be able to pay a registration fee, they have to pay a fine.”

Within six months of the bill’s passage, illegal immigrants would become immediately eligible for legal status, and many of the hoops that illegal immigrants would have to jump through to get such status do not amount to much. It is likely that any illegal immigrants who simply *claim* to be eligible will be able to avoid deportation, even if they’re already in detention. This is exactly what is already happening under President Obama’s deferred action program. ICE agents are being instructed to release any illegal aliens who claim to be eligible, even if they haven’t filled out an application form. The same situation will unfold under the large-scale amnesty bill. ICE will be virtually handcuffed and will not be able to carry out most enforcement.

To acquire the primary legal status offered under this bill, illegal immigrants would have to undergo a simple background check. But the bill would still grant legal status to illegal immigrants with a significant amount of criminality on their rap sheet. For example, crimes like ID theft and vandalism are not considered serious enough to deny a person status, despite the fact that such crimes create real victims. Specifically, two misdemeanors will not result in legal status being denied and under the bill multiple misdemeanors could be counted as “one” misdemeanor, provided they occur on the same day. Additionally, any problematic history an illegal immigrant has in his home country is unlikely to be uncovered; in a sense, our public safety

would depend on the bookkeeping of police departments in the alien's homeland, and there are many things that Americans consider criminal that are not criminal overseas.

Finally, the government's capacity to conduct background checks on millions of illegal immigrants is questionable. ICE Union head Chris Crane [explained](#) in a video interview with the *Daily Caller* that there is "no such thing as a background check on a foreign national." The 1986 amnesty also had background checks, but hundreds of thousands of fraudulent applicants were rubber-stamped. The amnesty granted legal status to someone who used his new status to freely travel to the Middle East to pick up terrorist training and helped lead the 1993 World Trade Center bombing. Had we enforced our immigration laws, he would have been removed from the country and the attack might never have occurred.

The recent Boston Marathon bombing should also illustrate the government's inability to carefully vet backgrounds. The FBI interviewed at least one of the terrorists, his family members, and his neighbors, in addition to analyzing his Internet usage. They apparently found nothing that would have raised a red flag. Despite the fact that DHS estimates there are many problematic foreign-born people living in the United States, the millions of illegal aliens applying for the amnesty will not have nearly as vigorous of a background check as the Boston bombers had, suggesting that some bad people will receive legal status through the bill. As written, the bill [would allow](#) known gang members to become U.S. citizens if they simply "renounce" their gang affiliation.

Rubio also claims that illegal aliens applying for the amnesty would have to pay a fee, but there are waivers and no specificity. The bill simply notes that illegal aliens aged 16 and older who want legal status will have to pay a fee "in an amount determined by [DHS Secretary Janet Napolitano]". While it is unclear how much the fee would be, the bill says it should be enough to cover processing the applications. (See [here](#) for David North's estimate of the size of the fee needed to process applicants properly.) But in the next section, the bill gives Napolitano the power to limit the fee and to exempt "classes of individuals" altogether. With such broad authority granted by Congress, it is unclear whether this fee would apply to most amnesty applicants.

It should also be noted that USCIS already offers waivers for those who cannot afford certain fees — in fact, the Obama administration created a form for such waivers in 2010 — and similar waivers may apply to any future amnesty. To obtain a fee waiver for some existing immigration benefits, an applicant simply must show that they are currently using a welfare program. Currently, 71 percent of illegal alien households with children [make use of at least one form of welfare](#).

Rubio also claims that amnesty applicants would have to pay a fine. A fine is different from a fee and, by definition, a fine is meant to be a punishment for breaking a law. The bill puts the fine at \$500 for the initial legal status — not much of a punishment considering the laws that have been broken. This initial status turns the illegal aliens into legal residents and grants them work permits, driver's licenses, Social Security accounts, and many other benefits. Applicants would have to pay another \$500 over the next six years. If a person wants to upgrade from this provisional status to full green card status (and eventual U.S. citizenship), they would have to pay another \$1,000 many years down the road. But there are many exceptions. For example, people of any age who claim to have entered before age 16 and have a high school degree or GED would not have to pay either of the \$500 fines, nor would they have to pay the \$1,000 fine for green card status. Also, all people under 21 years of age, regardless of when they entered and whether they have a high school degree, would be exempted from both of the \$500 fines.

Furthermore, it is likely that some pro-amnesty groups will assist applicants in paying the fines — some of which will be using taxpayer-provided funds to do so. The bill would actually grant groups like La Raza [\\$150 million of taxpayer dollars](#) to help illegal aliens apply for the amnesty, and the bill grants them a lot of discretion to decide how to spend the money. In reality, the fine may not be much of a punishment at all — particularly if American taxpayers are the ones footing the bill.

Absent from Rubio's list is the requirement that illegal aliens pay back taxes. The reason he is no longer citing it is because that provision [never made it into the bill](#). For months Rubio and other amnesty advocates sold the bill on the notion of requiring illegal aliens to pay back taxes for the years they have worked off the books. But it was simply part of an attempt to mislead the public into thinking this bill is tougher than it really is. Only "assessed" taxes have to be paid, and if the IRS doesn't audit illegal immigrants working off the books — which is won't — then there will be no "assessed" taxes to pay.

ANNOUNCER: “Border security on steroids. Tough border triggers have no giveaways for law breakers.”

DHS Secretary Janet Napolitano simply has to submit a plan for border security and a fencing plan within six months of the passage of this bill. As soon as she submits the plans, illegal aliens become eligible for work permits, Social Security accounts, driver’s licenses, travel documents, and countless state-level benefits. Past amnesties show that these benefits are mostly what illegal aliens are looking for; green card status and U.S. citizenship are not priorities for most illegal immigrants. No border security has to be in place for these benefits to be handed out. A proposed amendment to the bill that would have made border security come *before* these benefits are handed out [was rejected](#) by the Senate. Sen. Jeff Flake and Sen. Lindsey Graham, two of the alleged “conservative leaders” who helped authored this bill, voted against the amendment along with all of the Democrats.

The “triggers” — border security, an entirely new electronic verification system (to replace E-Verify), and an operational exit-tracking system — are required to be in effect before illegal immigrants can upgrade to a green card. But even this isn’t exactly true.

The bill does provide a significant amount of funding for border security, but it remains unclear how that money would be spent and whether the border would ever actually be secured. The bill requires an “effectiveness rate” of 90 percent and defines such a rate as “the percentage calculated by dividing the number of apprehensions and turn-backs in the sector during a fiscal year by the total number of illegal entries in the sector during such fiscal year.” This equation requires some estimate of the number of missed illegal entries, but the metrics of border security have been up for debate for many years and it’s unclear how such an estimate would be reached. Shawn Moran, vice president of the National Border Patrol Council [asks](#), “How are they going to measure effectiveness?” He fears the bill’s language “will put pressure on Border Patrol management to fudge the number in order to fit political purposes.”

Rubio has said that if effective control of these sections of the border is not met within five years, “it goes to a border commission made up of people that live and have to deal with the border and they will take care of that problem.” But in the bill, the “Southern Border Security Commission” would be made up of six Washington-appointed members (two by the president and four by congressional leaders), plus one from each southern border state (appointed by the governor), and it could do nothing but issue recommendations. But it gets worse. The bill also says that if “litigation or a force majeure” prevents the border from being secured then Secretary Napolitano has the authority to go ahead and issue illegal aliens U.S. citizenship anyhow.

One member of the Gang of Eight has asserted that citizenship for illegal immigrants will not be conditioned on actually having a secure border. Sen. Charles Schumer (R-N.Y.) explained, “We are not using border security as a block to a path to citizenship. This [the trigger] will not be a barrier to giving citizenship to the 11 million undocumented immigrants living in our country.”

In other words, there really aren’t any border security triggers at all.

RUBIO: “No federal benefits, no food stamps, no welfare, no Obamacare, they have to prove that they’re gainfully employed.”

Rubio is simply wrong with these assertions. Illegal immigrants are already receiving federal benefits and this bill would do nothing to stop that. This bill would actually extend greater amounts of benefits to illegal immigrants by giving them legal status.

We [estimate](#) that 71 percent of illegal immigrant-headed households with children use at least one welfare program. Illegal immigrants generally receive benefits on behalf of their U.S.-born children, but they, not the children, are collecting the benefits, which support the entire family. Illegal immigrant households with children primarily use food assistance and Medicaid, making almost no use of cash or housing assistance. In contrast, legal immigrant households tend to have relatively high use rates for every type of welfare program. It is undeniable that if the amnesty bill becomes law, the legalized illegal immigrants will have greater access to the welfare state.

As for Obamacare, illegal immigrants who get green card status will have access to Obamacare, causing the aggregate annual deficit to soar to around \$106 billion, [finds](#) the Heritage Foundation. Heritage also concludes that the amnesty applicants who receive green card status would also receive full eligibility for more than 80 means-tested welfare programs.

As to the “gainfully employed” requirement, Rubio is not being completely honest. The most important exemption comes toward the end of the bill, but it’s worth noting at the outset: All education and job requirements in the bill are waived if the immigrant is unable to work or go to school “due to circumstances outside the control of the alien”. The bill provides no explanation of what this might include, and one must ask whether high unemployment rates would count as something outside the control of the amnesty applicants.

Acquiring provisional status does not require evidence of employment. Renewing the status after six years does trigger an employment section of the bill. The section requires that the legalized immigrant fulfill one of two options. In the first option, the alien must prove that he “was regularly employed throughout the period of admission as a registered provisional immigrant, allowing for brief periods lasting not more than 60 days” and “not likely to become a public charge”. But this means that the immigrant could be unemployed for a two-month period and still meet this requirement. Plus, the wording is such that it leaves some interpretation to the courts. What if the immigrant has two “brief periods” of unemployment “lasting not more than 60 days”? By some interpretations, the immigrant would still be able to meet this requirement. Can an immigrant have five such brief periods? Ten? If the bill were written to limit unemployment to 60 days, then it would read “allowing for brief periods of unemployment totaling not more than 60 days”. It is a simple wording change, but it leads to a significantly different outcome.

As an alternative, the alien can “demonstrate average income or resources that are not less than 100 percent of the federal poverty level” for the period he lived here as an alien legalized under the bill. If the alien is the only person in his household, this requirement [means](#) that he would have to be making at least \$11,490 a year.

But standards are low here. Amnesty applicants can submit a number of different documents to prove they worked. This includes any paperwork from a day laborer hiring center or even sworn affidavits from an alien’s family member who is willing to claim that the alien was working.

On top of all this, the work requirements do not have to be met if an amnesty applicant is going to school. The bill defines the education requirement quite broadly.

Furthermore, the employment and educational requirements do not apply to anyone under age 21 at the time of applying for the amnesty’s provisional legal status, nor do they apply to people over age 60. Also exempted is anyone who is a “primary caretaker of a child or another person who requires supervision or is unable to care for himself or herself.”

ANNOUNCER: “Bold, very conservative, a tough line on immigration.”

Considering all the exemptions and waivers already laid out above, it is difficult to conclude that this bill is bold with a “tough line” on immigration. The phrasing in this portion of the Rubio commercial is taken from quotes from pro-amnesty columnists in the media. The word “bold” was [used](#) by a *Washington Post* blogger who supports amnesty. The phrase “very conservative” is [from](#) the same writer; the full sentence is more illuminating:

In essence, if you accept that you have to start somewhere and we have no capability to uproot 11 million people, this is a very conservative-friendly plan.

So the writer called the bill “very conservative-friendly” and the ad shortened it to “very conservative.” One could certainly argue that these have different meanings. But the premise of the full quote is also worthy of debate. Does the United States have no capability to send 11 million people back home? Amnesty advocates constantly argue that the only alternative to mass amnesty is mass deportations. But in reality, both are unworkable. The only solution to the illegal immigration problem is the “attrition through enforcement” policy where we consistently enforce our immigration laws for a period of years and encourage illegal immigrants to go home in greater numbers than they already are. The *Post* blogger does not entertain this option and presents only a choice between amnesty and mass deportations, one embraced by Rubio.

The phrase “tough line on immigration” was taken from a [pro-amnesty columnist](#) from CNN. The same columnist [called](#) Arizona a “rogue state at war” for passing laws attempting to curb illegal immigration. That the pro-amnesty columnist opposed Jan Brewer’s efforts but embraces Rubio should raise flags about Rubio’s commitment to immigration enforcement.

RUBIO: “It puts in place the toughest enforcement measures in the history of the United States, potentially in the world and it once and for all deals with the issue of those that are here illegally but does so in a way that’s fair and compassionate but does not encourage people to come illegally in the future and isn’t unfair to the people that have done it the right way.”

Rubio claims that this comprehensive amnesty will fix the illegal immigration problem “once and for all”. But the American people have been told this before. The 1986 comprehensive amnesty, the Immigration Reform and Control Act (IRCA) was sold to the public as a one-time plan that would not have to be repeated because the bill contained sanctions against employers for hiring illegal immigrants, and other enforcement provisions. But after IRCA legalized about three million illegal aliens, the enforcement provisions never materialized. Today, about 7.5 million illegal aliens are holding jobs and their employers are not being held accountable. Why would anyone believe that the enforcement provisions in yet another amnesty would ever be enforced? In fact, only a few years after IRCA passed, the National Council of La Raza [issued a report](#) calling for the end to workplace enforcement. Interestingly, the author of that report was Cecilia Munoz, who today is President Obama’s chief immigration advisor. Odds are high that she will be working to undermine the enforcement in Rubio’s bill the moment it becomes law. Just last week President Obama [told](#) a roomful of amnesty advocate groups that if the bill becomes law, he will “revisit” the enforcement provisions. In other words, Obama has pledged to administratively narrow the scope of enforcement as soon as 11 million illegal immigrants and their family members acquire legal status through the bill. This is why enforcement must come before any type of legal status. Rubio’s bill is backwards, and it’s clear he hasn’t learned from the [mistakes of IRCA](#).

Rubio also claims that the bill “does not encourage people to come illegally” but he apparently hasn’t been listening to border officials in the field who have come to Washington to testify before Congress. Rubio didn’t see [this Washington Times](#) article:

“We have seen an increase in attempted entries,” Border Patrol Chief Michael J. Fisher told a Senate committee.

He said part of the reason for an increase is that Congress is talking about legalizing illegal immigrants, which is luring more foreigners to try to be in the U.S. when amnesty takes effect.

This should not come as a surprise. Amnesties always encourage illegal immigration because they send the message that illegal entry is a feasible path to legal U.S. residence.

Rubio also claims that amnesty is not unfair to those who are attempting to come to the United States the legal way. The reality is that illegal aliens get to stay in the country the moment they apply for amnesty. If they pass the simple background check, they receive legal status and nearly all the benefits of citizenship, including a work permit, a Social Security account, travel documents, a driver’s license, and many additional state-level benefits. While green card status may be delayed for a period of years, it is undeniable that amnesty applicants are in a much better position compared to those overseas who have applied to come to the United States legally. The amnesty applicant is only in the “back of the line” in the sense that the green card — and eventual U.S. citizenship — would allegedly be delayed until after all existing green card applications are processed. But the fact is, the genuine back of the line is in the illegal alien’s home country.

ANNOUNCER: “Stand with Marco Rubio to end de facto amnesty, support Conservative Immigration Reform.”

Again, Rubio wants to turn the de facto amnesty we’re currently experiencing as a result of non-enforcement of immigration laws into a de jure amnesty for millions of people who do not belong here. Rubio asks you to “stand” with him, but Rubio himself is standing with Obama, Napolitano, La Raza, the ACLU, and many other amnesty supporters who cannot be described as “conservative” in any sense of the word.