

115TH CONGRESS
1ST SESSION

S. 2144

To provide a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mr. VAN HOLLEN (for himself, Mr. CARDIN, Mrs. FEINSTEIN, Mr. REED, Ms. HIRONO, Mrs. GILLIBRAND, Mr. MARKEY, Ms. HARRIS, Mr. WHITEHOUSE, and Ms. CORTEZ MASTO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Environment
5 from Countries Under Repression and Emergency Act” or
6 the “SECURE Act”.

7 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NA-**
8 **TIONALS.**

9 (a) ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the status of any alien described in subsection (b) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence if the alien—

(A) is not inadmissible under paragraph (2) or (3) of section 212(a) of such Act (8 U.S.C. 1182(a));

(B) is not deportable under paragraph (2), (3), or (4) of section 237(a) of such Act (8 U.S.C. 1227(a)); and

(C) is not described in section 208(b)(2)(A)(i) of such Act (8 U.S.C. 1158(b)(2)(A)(i)).

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien who is present in the United States and has been ordered removed, or permitted voluntarily to depart, from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under paragraph (1).

(B) MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be required, as a condition of submitting or approving an application under such subparagraph, to file a motion to reopen, reconsider, or vacate an order described in such subparagraph.

(C) APPROVAL.—If the Secretary of Homeland Security approves an application submitted by an alien under subparagraph (A), the Secretary shall cancel the order related to the alien that is referred to in such subparagraph.

(D) DENIAL.—If the Secretary of Homeland Security renders a final administrative decision to deny an application submitted by an alien under subparagraph (A), the order related to such alien shall be effective and enforceable to the same extent as if such application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—An alien is described in this subsection if the alien—

(A) is a national of a foreign state that was at any time designated under section

1 244(b) of the Immigration and Nationality Act
2 (8 U.S.C. 1254a(b));

3 (B)(i) is in temporary protected status
4 under section 244 of the Immigration and Na-
5 tionality Act 8 (8 U.S.C. 1254a);

6 (ii) held temporary protected status as a
7 national of a designated country listed in para-
8 graph (1); or

9 (iii) qualified for temporary protected sta-
10 tus at the time the last designation was made
11 by the Secretary of Homeland Security;

12 (C) has been continuously present in the
13 United States for at least 3 years and is phys-
14 ically present in the United States on the date
15 on which the alien files an application for ad-
16 justment of status under this section; and

17 (D) passes all applicable criminal and na-
18 tional security background checks.

19 (2) SHORT ABSENCES.—An alien shall not be
20 considered to have failed to maintain continuous
21 physical presence in the United States under para-
22 graph (1)(C) by reason of an absence, or multiple
23 absences, from the United States for any period or
24 periods that do not exceed, in the aggregate, 180
25 days.

1 (3) WAIVER AUTHORIZED.—Notwithstanding
2 any provision of the Immigration and Nationality
3 Act (8 U.S.C. 1101 et seq.), an alien who fails to
4 meet the continuous physical presence requirement
5 under paragraph (1)(C) shall be considered eligible
6 to receive an adjustment of status under this section
7 if the Attorney General or the Secretary of Home-
8 land Security determines that the removal of the
9 alien from the United States would result in extreme
10 hardship to the alien or the alien’s spouse, children,
11 parents, or domestic partner.

12 (c) STAY OF REMOVAL.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), an alien who is subject to a final order
15 of removal may not be removed if the alien—

16 (A) has a pending application under sub-
17 section (a); or

18 (B)(i) is prima facie eligible to file an ap-
19 plication under subsection (a); and

20 (ii) indicates that he or she intends to file
21 such an application.

22 (2) EXCEPTION.—Paragraph (1) shall not
23 apply to any alien whose application under sub-
24 section (a) has been denied by the Secretary of

1 Homeland Security in a final administrative deter-
2 mination.

3 (3) DURING CERTAIN PROCEEDINGS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B) and notwithstanding any pro-
6 vision of the Immigration and Nationality Act
7 (8 U.S.C. 1101 et seq.), the Secretary of Home-
8 land Security may not order any alien to be re-
9 moved from the United States if the alien
10 raises, as a defense to such an order, the eligi-
11 bility of the alien to apply for adjustment of
12 status under subsection (a).

13 (B) EXCEPTION.—Subparagraph (A) shall
14 not apply to any alien whose application under
15 subsection (a) has been denied by the Secretary
16 of Homeland Security in a final administrative
17 determination.

18 (4) WORK AUTHORIZATION.—The Secretary of
19 Homeland Security—

20 (A) shall authorize any alien who has ap-
21 plied for adjustment of status under subsection
22 (a) to engage in employment in the United
23 States while such application is pending; and

24 (B) may provide such alien with an “em-
25 ployment authorized” endorsement or other ap-

1 appropriate document signifying such employment
2 authorization.

3 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND
4 CHILDREN.—

5 (1) IN GENERAL.—Notwithstanding section
6 245(c) of the Immigration and Nationality Act (8
7 U.S.C. 1255(c)) and except as provided in para-
8 graphs (2) and (3), the Secretary of Homeland Se-
9 curity shall adjust the status of an alien to that of
10 an alien lawfully admitted for permanent residence
11 if the alien—

12 (A) is the spouse, domestic partner, child,
13 or unmarried son or daughter of an alien whose
14 status has been adjusted to that of an alien
15 lawfully admitted for permanent residence
16 under subsection (a);

17 (B) is physically present in the United
18 States on the date on which the alien files an
19 application for such adjustment of status; and

20 (C) is otherwise eligible to receive an immi-
21 grant visa and is otherwise admissible to the
22 United States for permanent residence.

23 (2) CONTINUOUS PRESENCE REQUIREMENT.—

24 (A) IN GENERAL.—The status of an un-
25 married son or daughter referred to in para-

graph (1)(A) may not be adjusted under paragraph (1) until such son or daughter establishes that he or she has been physically present in the United States for at least 1 year.

(B) SHORT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under subparagraph (A) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(3) WAIVER.—In determining eligibility and admissibility under paragraph (1)(C), the grounds for inadmissibility under paragraphs (4), (5), (6), (7)(A), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide applicants for adjustment of status under subsection (a) the same right to, and procedures for, administrative review as are provided to—

(1) applicants for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255); or

1 (2) aliens who are subject to removal pro-
 2 ceedings under section 240 of such Act (8 U.S.C.
 3 1229a).

4 (f) EXCEPTIONS TO NUMERICAL LIMITATIONS.—The
 5 numerical limitations set forth in sections 201 and 202
 6 of the Immigration and Nationality Act (8 U.S.C. 1151
 7 and 1152) shall not apply to aliens whose status is ad-
 8 justed pursuant to subsection (a).

9 **SEC. 3. ADDITIONAL REPORTING REQUIREMENTS REGARD-**
 10 **ING FUTURE DISCONTINUED ELIGIBILITY OF**
 11 **ALIENS FROM COUNTRIES CURRENTLY LIST-**
 12 **ED UNDER TEMPORARY PROTECTED STATUS.**

13 Section 244(b)(3) of the Immigration and Nationality
 14 Act (8 U.S.C. 1254a(b)(3)) is amended—

15 (1) in subparagraph (A)—

16 (A) by striking “the Attorney General”
 17 and inserting “, the Secretary of Homeland Se-
 18 curity”;

19 (B) by inserting “(including a rec-
 20 ommendation from the Secretary of State that
 21 is received by the Secretary of Homeland Secu-
 22 rity not later than 90 days before the end of
 23 such period of designation)” after “Govern-
 24 ment”; and

1 (C) by striking “The Attorney General”
2 and inserting “The Secretary”; and
3 (2) in subparagraph (B)—

4 (A) by striking “If the Attorney General”
5 and inserting the following:

6 “(i) IN GENERAL.—If the Secretary of
7 Homeland Security”;

8 (B) in clause (i), as redesignated, by strik-
9 ing “Attorney General” and inserting “Sec-
10 retary”; and

11 (C) by adding at the end the following:

12 “(ii) REPORT.—Not later than 3 days
13 after the publication of the Secretary’s de-
14 termination in the Federal Register that a
15 country’s designation under paragraph (1)
16 is being terminated, the Secretary shall
17 submit a report to the Committee on the
18 Judiciary of the Senate and the Committee
19 on the Judiciary of the House of Rep-
20 resentatives that shall include—

21 “(I) an explanation of the event
22 or events that initially prompted such
23 country’s designation under para-
24 graph (1);

1 “(II) the progress the country
2 has made in remedying the designa-
3 tion under paragraph (1), including
4 any significant challenges or short-
5 comings that have not been addressed
6 since the initial designation;

7 “(III) a statement indicating
8 whether the country has requested a
9 designation under paragraph (1), a
10 redesignation under such paragraph,
11 or an extension of such designation;
12 and

13 “(IV) an analysis, with applicable
14 and relevant metrics, as determined
15 by the Secretary, of the country’s abil-
16 ity to repatriate its nationals, includ-
17 ing—

18 “(aa) the country’s financial
19 ability to provide for its repatri-
20 ated citizens;

21 “(bb) the country’s financial
22 ability to address the initial des-
23 ignation under paragraph (1)
24 without foreign assistance;

1 “(cc) the country’s gross do-
2 mestic product and per capita
3 gross domestic product per cap-
4 ita;

5 “(dd) an analysis of the
6 country’s political stability and
7 its ability to be economically self-
8 sufficient without foreign assist-
9 ance;

10 “(ee) the economic and so-
11 cial impact repatriation of na-
12 tionals in possession of tem-
13 porary protected status would
14 have on the recipient country;
15 and

16 “(ff) any additional metrics
17 the Secretary considers nec-
18 essary.”.

19 **SEC. 4. OTHER MATTERS.**

20 (a) APPLICATION OF IMMIGRATION AND NATION-
21 ALITY ACT PROVISIONS.—Except as otherwise specifically
22 provided in this Act, the definitions in the Immigration
23 and Nationality Act (8 U.S.C. 1101 et seq.) shall apply
24 in this Act.

1 (b) SAVINGS PROVISION.—Nothing in this Act may
2 be construed to repeal, amend, alter, modify, effect, or re-
3 strict the powers, duties, functions, or authority of the
4 Secretary of Homeland Security in the administration and
5 enforcement of the immigration laws.

6 (c) ELIGIBILITY FOR OTHER IMMIGRATION BENE-
7 FITS.—An alien who is eligible to be granted the status
8 of an alien lawfully admitted for permanent residence
9 under section 2 may not be precluded from seeking such
10 status under any other provision of law for which the alien
11 may otherwise be eligible.

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