

## 115TH CONGRESS 1ST SESSION H.R. 4184

To adjust the immigration status of certain foreign nationals in temporary protected status who are in the United States, and for other purposes.

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 31, 2017

Mr. Curbelo of Florida (for himself, Mr. Hastings, Ms. Ros-Lehtinen, and Ms. Wilson of Florida) introduced the following bill; which was referred to the Committee on the Judiciary

## A BILL

To adjust the immigration status of certain foreign nationals in temporary protected status who are in the United States, and for other purposes.

- 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 "Extending Status Pro-
- 5 tection for Eligible Refugees with Established Residency
- 6 Act of 2017" or as the "ESPERER Act of 2017".
- 7 SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NA-
- 8 TIONALS.
- 9 (a) Adjustment of Status.—

1	(1) In General.—Notwithstanding section
2	245(c) of the Immigration and Nationality Act (8
3	U.S.C. 1255(c)), the status of any alien described in
4	subsection (b) shall be adjusted by the Secretary of
5	Homeland Security to that of an alien lawfully ad-
6	mitted for permanent residence, if the alien—
7	(A) applies for such adjustment before
8	January 1, 2021;
9	(B) is not inadmissible under paragraph
10	(1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),
11	(10)(C), or (10)(D) of section 212(a) of the Im-
12	migration and Nationality Act (8 U.S.C.
13	1182(a));
14	(C) is not deportable under paragraph
15	(1)(E), (1)(G), (2), (4), (5), or (6) of section
16	237(a) of such Act (8 U.S.C. 1227(a));
17	(D) has not ordered, incited, assisted, or
18	otherwise participated in the persecution of any
19	person on account of race, religion, nationality,
20	membership in a particular social group, or po-
21	litical opinion; and
22	(E) has not been convicted of—
23	(i) any offense under Federal or State
24	law punishable by a maximum term of im-
25	prisonment of more than 1 year: or

1 (ii) three or more offenses under Fed2 eral or State law, for which the alien was
3 convicted on different dates for each of the
4 3 offenses and sentenced to imprisonment
5 for an aggregate of 90 days or more.

- (2) Relationship of application to cer-TAIN ORDERS.—An alien present in the United States who has been ordered removed, or ordered to depart voluntarily, from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Secretary of Homeland Security grants the application, the Secretary of Homeland Security shall cancel the order. If the Secretary of Homeland Security renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.
- 23 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-24 TUS.—The benefits provided by subsection (a) shall apply 25 to any alien—

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1	(1) who is a national of Haiti, Nicaragua, El
2	Salvador, or Honduras;
3	(2) who is in temporary protected status under
4	section 244 of the Immigration and Nationality Act
5	(8 U.S.C. 1254a)—
6	(A) on January 13, 2011; and
7	(B) on the date of the application for ad-
8	justment of status under this Act is filed;
9	(3) who was physically present in the United
10	States on January 12, 2011; and
11	(4) who has been physically present in the
12	United States for at least 1 year and is physically
13	present in the United States on the date the applica-
14	tion for adjustment of status under this Act is filed,
15	except an alien shall not be considered to have failed
16	to maintain continuous physical presence by reason
17	of an absence, or absences, from the United States
18	for any periods in the aggregate not exceeding 180
19	days.
20	(c) Stay of Removal.—
21	(1) IN GENERAL.—The Secretary of Homeland
22	Security shall provide by regulation for an alien sub-
23	ject to a final order of removal to seek a stay of
24	such order based on the filing of an application
25	under subsection (a).

- (2) During Certain Proceedings.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security shall not order any alien to be removed from the United States, if the alien is in removal proceedings under any provision of such Act and raises as a defense to such an order the eligibility of the alien to apply for adjustment of status under subsection (a), except where the Secretary of Homeland Security has rendered a final administrative determination to deny the application.
  - (3) Work authorization.—The Secretary of Homeland Security may authorize an alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States during the pendency of such application and may provide the alien with a "work authorized" endorsement or other appropriate document signifying authorization of employment, except that if such application is pending for a period exceeding 180 days, and has not been denied, the Secretary of Homeland Security shall authorize such employment.
- 23 (d) Adjustment of Status for Spouses and 24 Children.—

- 1 (1) IN GENERAL.—Notwithstanding section
  2 245(c) of the Immigration and Nationality Act (8
  3 U.S.C. 1255(c)), the status of an alien shall be ad4 justed by the Secretary of Homeland Security to
  5 that of an alien lawfully admitted for permanent res6 idence, if—
  - (A) the alien is the spouse, child, or unmarried son or daughter, of an alien whose status is adjusted to that of an alien lawfully admitted for permanent residence under subsection (a), except that in the case of such an unmarried son or daughter, the son or daughter shall be required to establish that they have been physically present in the United States for at least 1 year;
  - (B) the alien applies for such adjustment and is physically present in the United States on the date the application is filed; and
  - (C) the alien is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility the grounds for exclusion specified in paragraphs (4), (5), (6)(A), and (7)(A) of section 212(a) of

- the Immigration and Nationality Act (8 U.S.C.
- 2 1182(a)) shall not apply.
- 3 (2) Proof of continuous presence.—For
- 4 purposes of establishing the period of continuous
- 5 physical presence referred to in paragraph (1)(B),
- 6 an alien shall not be considered to have failed to
- 7 maintain continuous physical presence by reason of
- 8 an absence, or absences, from the United States for
- 9 any periods in the aggregate not exceeding 180
- days.
- 11 (e) Availability of Administrative Review.—
- 12 The Secretary of Homeland Security shall provide to ap-
- 13 plicants for adjustment of status under subsection (a) the
- 14 same right to, and procedures for, administrative review
- 15 as are provided to—
- 16 (1) applicants for adjustment of status under
- section 245 of the Immigration and Nationality Act
- 18 (8 U.S.C. 1255); or
- 19 (2) aliens subject to removal proceedings under
- 20 section 240 of such Act (8 U.S.C. 1229a).
- 21 (f) Limitation on Judicial Review.—A deter-
- 22 mination by the Secretary of Homeland Security as to
- 23 whether the status of any alien should be adjusted under
- 24 this Act is final and shall not be subject to review by any
- 25 court.

- 1 (g) No Offset in Number of Visas Available.—
- 2 When an alien is granted the status of having been law-
- 3 fully admitted for permanent residence pursuant to this
- 4 Act, the Secretary of State shall not reduce the number
- 5 of immigrant visas authorized to be issued under any pro-
- 6 vision of the Immigration and Nationality Act.
- 7 (h) Application of Immigration and Nation-
- 8 ALITY ACT Provisions.—Except as otherwise specifically
- 9 provided in this section, the definitions contained in the
- 10 Immigration and Nationality Act shall apply in the admin-
- 11 istration of this Act. Nothing contained in this Act shall
- 12 be held to repeal, amend, alter, modify, effect, or restrict
- 13 the powers, duties, functions, or authority of the Secretary
- 14 of Homeland Security in the administration and enforce-
- 15 ment of such Act or any other law relating to immigration,
- 16 nationality, or naturalization. The fact that an alien may
- 17 be eligible to be granted the status of having been lawfully
- 18 admitted for permanent residence under this section shall
- 19 not preclude the alien from seeking such status under any
- 20 other provision of law for which the alien may be eligible.