

116TH CONGRESS
1ST SESSION

H. R. 2821

To authorize the cancellation of removal and adjustment of status of certain nationals of certain countries designated for temporary protected status or deferred enforced departure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2019

Ms. VELÁZQUEZ (for herself and Ms. CLARKE of New York) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the cancellation of removal and adjustment of status of certain nationals of certain countries designated for temporary protected status or deferred enforced departure, 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 “American Promise Act
5 of 2019”.

1 **TITLE I—TREATMENT OF CER-**
2 **TAIN NATIONALS OF CERTAIN**
3 **COUNTRIES DESIGNATED**
4 **FOR TEMPORARY PRO-**
5 **TECTED STATUS OR DE-**
6 **FERRED ENFORCED DEPAR-**
7 **TURE**

8 **SEC. 101. ADJUSTMENT OF STATUS FOR CERTAIN NATION-**
9 **ALS OF CERTAIN COUNTRIES DESIGNATED**
10 **FOR TEMPORARY PROTECTED STATUS OR**
11 **DEFERRED ENFORCED DEPARTURE.**

12 (a) IN GENERAL.—Notwithstanding any other provi-
13 sion of law, the Secretary or the Attorney General shall
14 cancel the removal of, and adjust to the status of an alien
15 lawfully admitted for permanent residence, an alien de-
16 scribed in subsection (b) if the alien—

17 (1) applies for such adjustment, including sub-
18 mitting any required documents under section 207,
19 not later than 3 years after the date of the enact-
20 ment of this Act;

21 (2) has been continuously physically present in
22 the United States for a period of not less than 3
23 years before the date of the enactment of this Act;
24 and

1 (3) is not inadmissible under paragraph (1),
2 (2), (3), (6)(D), (6)(E), (6)(F), (6)(G), (8), (10) of
3 section 212(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1182(a)).

5 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
6 TUS.—An alien shall be eligible for adjustment of status
7 under this section if the alien is an individual—

8 (1) who—

9 (A) is a national of a foreign state (or part
10 thereof) (or in the case of an alien having no
11 nationality, is a person who last habitually re-
12 sided in such state) with a designation under
13 subsection (b) of section 244 of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1254a(b))
15 on January 1, 2017, who had or was otherwise
16 eligible for temporary protected status on such
17 date notwithstanding subsections (c)(1)(A)(iv)
18 and (c)(3)(C) of such section; and

19 (B) has not engaged in conduct since such
20 date that would render the alien ineligible for
21 temporary protected status under section
22 244(c)(2) of the Immigration and Nationality
23 Act (8 U.S.C. 1245a(c)(2)); or

24 (2) who was eligible for Deferred Enforced De-
25 parture as of January 1, 2017, and has not engaged

1 in conduct since that date that would render the
2 alien ineligible for Deferred Enforced Departure.

3 (c) APPLICATION.—

4 (1) FEE.—The Secretary shall, subject to an
5 exemption under section 203(c), require an alien ap-
6 plying for adjustment of status under this section to
7 pay a reasonable fee that is commensurate with the
8 cost of processing the application, but does not ex-
9 ceed \$1,140.

10 (2) BACKGROUND CHECKS.—The Secretary
11 may not grant an alien permanent resident status on
12 a conditional basis under this section until the re-
13 quirements of section 202 are satisfied.

14 (3) WITHDRAWAL OF APPLICATION.—The Sec-
15 retary of Homeland Security shall, upon receipt of
16 a request to withdraw an application for adjustment
17 of status under this section, cease processing of the
18 application and close the case. Withdrawal of the ap-
19 plication under this subsection shall not prejudice
20 any future application filed by the applicant for any
21 immigration benefit under this Act or under the Im-
22 migration and Nationality Act (8 U.S.C. 1101 et
23 seq.).

1 **TITLE II—GENERAL PROVISIONS**

2 **SEC. 201. DEFINITIONS.**

3 (a) IN GENERAL.—In this Act:

4 (1) IN GENERAL.—Except as otherwise specifi-
5 cally provided, any term used in this Act that is
6 used in the immigration laws shall have the meaning
7 given such term in the immigration laws.

8 (2) DISABILITY.—The term “disability” has the
9 meaning given such term in section 3(1) of the
10 Americans with Disabilities Act of 1990 (42 U.S.C.
11 12102(1)).

12 (3) FEDERAL POVERTY LINE.—The term “Fed-
13 eral poverty line” has the meaning given such term
14 in section 213A(h) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1183a).

16 (4) IMMIGRATION LAWS.—The term “immigra-
17 tion laws” has the meaning given such term in sec-
18 tion 101(a)(17) of the Immigration and Nationality
19 Act (8 U.S.C. 1101(a)(17)).

20 (5) SECRETARY.—Except as otherwise specifi-
21 cally provided, the term “Secretary” means the Sec-
22 retary of Homeland Security.

23 (6) UNIFORMED SERVICES.—The term “Uni-
24 formed Services” has the meaning given the term

1 “uniformed services” in section 101(a) of title 10,
2 United States Code.

3 (b) TREATMENT OF EXPUNGED CONVICTIONS.—For
4 purposes of adjustment of status under this Act, the terms
5 “convicted” and “conviction”, as used in section 212 of
6 the Immigration and Nationality Act (8 U.S.C. 1182), do
7 not include a judgment that has been expunged or set
8 aside, that resulted in a rehabilitative disposition, or the
9 equivalent.

10 **SEC. 202. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC**
11 **DATA; BACKGROUND CHECKS.**

12 (a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC
13 DATA.—The Secretary may not grant an alien adjustment
14 of status under this Act unless the alien submits biometric
15 and biographic data, in accordance with procedures estab-
16 lished by the Secretary. The Secretary shall provide an
17 alternative procedure for aliens who are unable to provide
18 such biometric or biographic data because of a physical
19 impairment.

20 (b) BACKGROUND CHECKS.—The Secretary shall use
21 biometric, biographic, and other data that the Secretary
22 determines appropriate to conduct security and law en-
23 forcement background checks and to determine whether
24 there is any criminal, national security, or other factor
25 that would render the alien ineligible for adjustment of

1 status under this Act. The status of an alien may not be
2 adjusted unless security and law enforcement background
3 checks are completed to the satisfaction of the Secretary.

4 **SEC. 203. LIMITATION ON REMOVAL; APPLICATION AND**
5 **FEE EXEMPTION; WAIVER OF GROUNDS FOR**
6 **INADMISSIBILITY AND OTHER CONDITIONS**
7 **ON ELIGIBLE INDIVIDUALS.**

8 (a) LIMITATION ON REMOVAL.—An alien who ap-
9 pears to be prima facie eligible for relief under this Act
10 shall be given a reasonable opportunity to apply for such
11 relief and may not be removed until, subject to section
12 206(c), a final decision establishing ineligibility for relief
13 is rendered.

14 (b) APPLICATION.—An alien present in the United
15 States who has been ordered removed or has been per-
16 mitted to depart voluntarily from the United States may,
17 notwithstanding such order or permission to depart, apply
18 for adjustment of status under this Act. Such alien shall
19 not be required to file a separate motion to reopen, recon-
20 sider, or vacate the order of removal. If the Secretary ap-
21 proves the application, the Secretary shall cancel the order
22 of removal. If the Secretary renders a final administrative
23 decision to deny the application, the order of removal or
24 permission to depart shall be effective and enforceable to
25 the same extent as if the application had not been made,

1 only after all available administrative and judicial rem-
2 edies have been exhausted.

3 (c) FEE EXEMPTION.—An applicant may be exempt-
4 ed from paying an application fee required under this Act
5 if the applicant—

6 (1) is younger than 18 years of age;

7 (2) received total income, during the 12-month
8 period immediately preceding the date on which the
9 applicant files an application under this Act, that is
10 less than 150 percent of the Federal poverty line;

11 (3) is in foster care or otherwise lacks any pa-
12 rental or other familial support; or

13 (4) cannot care for himself or herself because of
14 a serious, chronic disability.

15 (d) WAIVER OF GROUNDS OF INADMISSIBILITY.—
16 With respect to any benefit under this Act, the Secretary
17 may waive the grounds of inadmissibility under paragraph
18 (1), subparagraphs (A) through (E) of paragraph (2), sub-
19 paragraphs (D) through (G) of paragraph (6), or para-
20 graph (10)(D) of section 212(a) of the Immigration and
21 Nationality Act (8 U.S.C. 1182(a)) for humanitarian pur-
22 poses, for family unity, or because the waiver is otherwise
23 in the public interest.

24 (e) ADVANCE PAROLE.—During the period beginning
25 on the date on which an alien applies for adjustment of

1 status under this Act and ending on the date on which
2 the Secretary makes a final decision regarding such appli-
3 cation, the alien shall be eligible to apply for advance pa-
4 role. Section 101(g) of the Immigration and Nationality
5 Act (8 U.S.C. 1101(g)) shall not apply to an alien granted
6 advance parole under this section.

7 (f) EMPLOYMENT.—An alien whose removal is stayed
8 pursuant to this Act, or who has pending an application
9 under this Act, shall, upon application to the Secretary,
10 be granted an employment authorization document.

11 **SEC. 204. DETERMINATION OF CONTINUOUS PRESENCE.**

12 (a) EFFECT OF NOTICE TO APPEAR.—Any period of
13 continuous physical presence in the United States of an
14 alien who applies for adjustment of status under this Act
15 shall not terminate when the alien is served a notice to
16 appear under section 239(a) of the Immigration and Na-
17 tionality Act (8 U.S.C. 1229(a)).

18 (b) TREATMENT OF CERTAIN BREAKS IN PRES-
19 ENCE.—

20 (1) IN GENERAL.—Except as provided in para-
21 graphs (2) and (3), an alien shall be considered to
22 have failed to maintain continuous physical presence
23 in the United States under this Act if the alien has
24 departed from the United States for any period ex-

1 ceeding 90 days or for any periods, in the aggregate,
2 exceeding 180 days.

3 (2) EXTENSIONS FOR EXTENUATING CIR-
4 CUMSTANCES.—The Secretary may extend the time
5 periods described in paragraph (1) for an alien who
6 demonstrates that the failure to timely return to the
7 United States was due to extenuating circumstances
8 beyond the alien’s control, including the serious ill-
9 ness of the alien, or death or serious illness of a par-
10 ent, grandparent, sibling, or child of the alien.

11 (3) TRAVEL AUTHORIZED BY THE SEC-
12 RETARY.—Any period of travel outside of the United
13 States by an alien that was authorized by the Sec-
14 retary may not be counted toward any period of de-
15 parture from the United States under paragraph
16 (1).

17 (c) WAIVER OF PHYSICAL PRESENCE.—With respect
18 to aliens who were removed or departed the United States
19 on or after January 20, 2017, and who were continuously
20 physically present in the United States for at least 4 years
21 prior to such removal or departure, the Secretary may,
22 as a matter of discretion, waive the physical presence re-
23 quirement under section 101(a)(2) for humanitarian pur-
24 poses, for family unity, or because a waiver is otherwise
25 in the public interest. The Secretary, in consultation with

1 the Secretary of State, shall establish a procedure for such
2 aliens to apply for relief under section 101 from outside
3 the United States if they would have been eligible for relief
4 under such section, but for their removal or departure.

5 **SEC. 205. EXEMPTION FROM NUMERICAL LIMITATIONS.**

6 Nothing in this Act or in any other law may be con-
7 strued to apply a numerical limitation on the number of
8 aliens who may be granted permanent resident status
9 under this Act.

10 **SEC. 206. AVAILABILITY OF ADMINISTRATIVE AND JUDI-**
11 **CIAL REVIEW.**

12 (a) ADMINISTRATIVE REVIEW.—Not later than 30
13 days after the date of the enactment of this Act, the Sec-
14 retary shall provide to aliens who have applied for adjust-
15 ment of status under this Act a process by which an appli-
16 cant may seek administrative appellate review of a denial
17 of an application for adjustment of status, or a revocation
18 of such status.

19 (b) JUDICIAL REVIEW.—Notwithstanding any other
20 provision of law, an alien may seek judicial review of a
21 denial of an application for adjustment of status, or a rev-
22 ocation of such status, under this Act in the United States
23 district court with jurisdiction over the alien's residence.

24 (c) STAY OF REMOVAL.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), an alien seeking administrative or judicial
3 review under this Act may not be removed from the
4 United States until a final decision is rendered es-
5 tablishing that the alien is ineligible for adjustment
6 of status under this Act.

7 (2) EXCEPTION.—The Secretary may remove
8 an alien described in paragraph (1) pending judicial
9 review if such removal is based on criminal or na-
10 tional security grounds. Such removal does not af-
11 fect the alien’s right to judicial review under this
12 Act. The Secretary shall promptly return a removed
13 alien if a decision to deny an application for adjust-
14 ment of status under this Act, or to revoke such sta-
15 tus, is reversed.

16 **SEC. 207. DOCUMENTATION REQUIREMENTS.**

17 (a) DOCUMENTS ESTABLISHING IDENTITY.—An
18 alien’s application for permanent resident status under
19 this Act may include, as evidence of identity—

20 (1) a passport or national identity document
21 from the alien’s country of origin that includes the
22 alien’s name and the alien’s photograph or finger-
23 print;

24 (2) the alien’s birth certificate and an identity
25 card that includes the alien’s name and photograph;

1 (3) a school identification card that includes the
2 alien's name and photograph, and school records
3 showing the alien's name and that the alien is or
4 was enrolled at the school;

5 (4) a Uniformed Services identification card
6 issued by the Department of Defense;

7 (5) any immigration or other document issued
8 by the United States Government bearing the alien's
9 name and photograph;

10 (6) a State-issued identification card bearing
11 the alien's name and photograph; or

12 (7) any other evidence determined to be credible
13 by the Secretary.

14 (b) DOCUMENTS ESTABLISHING CONTINUOUS PHYS-
15 ICAL PRESENCE.—To establish that an alien has been
16 continuously physically present in the United States, as
17 required under section 101(a)(2), the alien may submit
18 the following forms of evidence:

19 (1) Passport entries, including admission
20 stamps on the alien's passport.

21 (2) Any document from the Department of Jus-
22 tice or the Department of Homeland Security noting
23 the alien's date of entry into the United States.

24 (3) Records from any educational institution
25 the alien has attended in the United States.

1 (4) Employment records of the alien that in-
2 clude the employer's name and contact information.

3 (5) Records of service from the Uniformed
4 Services.

5 (6) Official records from a religious entity con-
6 firming the alien's participation in a religious cere-
7 mony.

8 (7) A birth certificate for a child who was born
9 in the United States.

10 (8) Hospital or medical records showing med-
11 ical treatment or hospitalization, the name of the
12 medical facility or physician, and the date of the
13 treatment or hospitalization.

14 (9) Automobile license receipts or registration.

15 (10) Deeds, mortgages, or rental agreement
16 contracts.

17 (11) Rent receipts or utility bills bearing the
18 alien's name or the name of an immediate family
19 member of the alien, and the alien's address.

20 (12) Tax receipts.

21 (13) Insurance policies.

22 (14) Remittance records, including copies of
23 money order receipts sent in or out of the country.

24 (15) Travel records.

25 (16) Dated bank transactions.

1 (17) Two or more sworn affidavits from individ-
2 uals who are not related to the alien who have direct
3 knowledge of the alien's continuous physical pres-
4 ence in the United States, that contain—

5 (A) the name, address, and telephone num-
6 ber of the affiant; and

7 (B) the nature and duration of the rela-
8 tionship between the affiant and the alien.

9 (18) Any other evidence determined to be cred-
10 ible by the Secretary.

11 (c) DOCUMENTS ESTABLISHING EXEMPTION FROM
12 APPLICATION FEES.—To establish that an alien is exempt
13 from an application fee under section 203(c), the alien
14 may submit to the Secretary the following relevant docu-
15 ments:

16 (1) DOCUMENTS TO ESTABLISH AGE.—To es-
17 tablish that an alien meets an age requirement, the
18 alien may provide proof of identity, as described in
19 subsection (a), that establishes that the alien is
20 younger than 18 years of age.

21 (2) DOCUMENTS TO ESTABLISH INCOME.—To
22 establish the alien's income, the alien may provide—

23 (A) employment records or other records of
24 earned income that have been maintained by
25 the Social Security Administration, the Internal

1 Revenue Service, or any other Federal, State,
2 or local government agency;

3 (B) bank records; or

4 (C) at least 2 sworn affidavits from indi-
5 viduals who are not related to the alien and
6 who have direct knowledge of the alien's work
7 and income that contain—

8 (i) the name, address, and telephone
9 number of the affiant; and

10 (ii) the nature and duration of the re-
11 lationship between the affiant and the
12 alien.

13 (3) DOCUMENTS TO ESTABLISH FOSTER CARE,
14 LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC
15 DISABILITY.—To establish that the alien was in fos-
16 ter care, lacks parental or familial support, or has
17 a serious, chronic disability, the alien may provide at
18 least 2 sworn affidavits from individuals who are not
19 related to the alien and who have direct knowledge
20 of the circumstances that contain—

21 (A) a statement that the alien is in foster
22 care, otherwise lacks any parental or other fa-
23 miliar support, or has a serious, chronic dis-
24 ability, as appropriate;

1 (B) the name, address, and telephone num-
2 ber of the affiant; and

3 (C) the nature and duration of the rela-
4 tionship between the affiant and the alien.

5 (d) **AUTHORITY TO PROHIBIT USE OF CERTAIN**
6 **DOCUMENTS.**—If the Secretary determines, after publica-
7 tion in the Federal Register and an opportunity for public
8 comment, that any document or class of documents does
9 not reliably establish identity or that permanent resident
10 status under this Act is being obtained fraudulently to an
11 unacceptable degree, the Secretary may prohibit or re-
12 strict the use of such document or class of documents.

13 **SEC. 208. RULEMAKING.**

14 (a) **IN GENERAL.**—Not later than 90 days after the
15 date of the enactment of this Act, the Secretary shall pub-
16 lish in the Federal Register interim final rules imple-
17 menting this Act, which shall allow eligible individuals to
18 immediately apply for relief under section 101. Notwith-
19 standing section 553 of title 5, United States Code, the
20 regulation shall be effective, on an interim basis, imme-
21 diately upon publication, but may be subject to change and
22 revision after public notice and opportunity for a period
23 of public comment. The Secretary shall finalize such rules
24 not later than 180 days after the date of publication.

1 (b) PAPERWORK REDUCTION ACT.—The require-
2 ments under chapter 35 of title 44, United States Code,
3 (commonly known as the “Paperwork Reduction Act”)
4 shall not apply to any action to implement this Act.

5 **SEC. 209. CONFIDENTIALITY OF INFORMATION.**

6 (a) IN GENERAL.—The Secretary may not disclose
7 or use information provided in applications filed under this
8 Act (including information provided during administrative
9 or judicial review) for the purpose of immigration enforce-
10 ment.

11 (b) REFERRALS PROHIBITED.—The Secretary, based
12 solely on information provided in an application for adjust-
13 ment of status under this Act (including information pro-
14 vided during administrative or judicial review), may not
15 refer an applicant to U.S. Immigration and Customs En-
16 forcement, U.S. Customs and Border Protection, or any
17 designee of either such entity.

18 (c) LIMITED EXCEPTION.—Notwithstanding sub-
19 sections (a) and (b), information provided in an applica-
20 tion for adjustment of status under this Act may be
21 shared with Federal security and law enforcement agen-
22 cies—

23 (1) for assistance in the consideration of an ap-
24 plication for adjustment of status under this Act;

25 (2) to identify or prevent fraudulent claims;

1 (3) for national security purposes; or

2 (4) for the investigation or prosecution of any
3 felony not related to immigration status.

4 (d) PENALTY.—Any person who knowingly uses, pub-
5 lishes, or permits information to be examined in violation
6 of this section shall be fined not more than \$10,000.

7 **SEC. 210. GRANT PROGRAM TO ASSIST ELIGIBLE APPLI-**
8 **CANTS.**

9 (a) ESTABLISHMENT.—The Secretary of Homeland
10 Security shall establish, within U.S. Citizenship and Immi-
11 gration Services, a program to award grants, on a com-
12 petitive basis, to eligible nonprofit organizations that will
13 use the funding to assist eligible applicants under this Act
14 by providing them with the services described in sub-
15 section (b).

16 (b) USE OF FUNDS.—Grant funds awarded under
17 this section shall be used for the design and implementa-
18 tion of programs that provide—

19 (1) information to the public regarding the eli-
20 gibility and benefits of permanent resident status
21 under this Act, particularly to individuals potentially
22 eligible for such status;

23 (2) assistance, within the scope of authorized
24 practice of immigration law, to individuals submit-

1 ting applications for adjustment of status under this
2 Act, including—

3 (A) screening prospective applicants to as-
4 sess their eligibility for such status;

5 (B) completing applications and petitions,
6 including providing assistance in obtaining the
7 requisite documents and supporting evidence;
8 and

9 (C) providing any other assistance that the
10 Secretary or grantee considers useful or nec-
11 essary to apply for adjustment of status under
12 this Act; and

13 (3) assistance, within the scope of authorized
14 practice of immigration law, and instruction, to indi-
15 viduals—

16 (A) on the rights and responsibilities of
17 United States citizenship;

18 (B) in civics and English as a second lan-
19 guage;

20 (C) in preparation for the General Edu-
21 cation Development test; and

22 (D) in applying for adjustment of status
23 and United States citizenship.

24 (c) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) AMOUNTS AUTHORIZED.—There are author-
2 ized to be appropriated such sums as may be nec-
3 essary for each of the fiscal years 2020 through
4 2030 to carry out this section.

5 (2) AVAILABILITY.—Any amounts appropriated
6 pursuant to paragraph (1) shall remain available
7 until expended.

8 **SEC. 211. PROVISIONS AFFECTING ELIGIBILITY FOR AD-**
9 **JUSTMENT OF STATUS.**

10 An alien’s eligibility to be lawfully admitted for per-
11 manent residence under this Act shall not preclude the
12 alien from seeking any status under any other provision
13 of law for which the alien may otherwise be eligible.

○