

105TH CONGRESS
1ST SESSION

H. R. 2302

To amend the Immigration and Nationality Act to clarify the relief available under current law, and to provide additional relief and procedural rights for certain aliens who would otherwise be ineligible for such procedural rights.

IN THE HOUSE OF REPRESENTATIVES

JULY 30, 1997

Mr. DIAZ-BALART (for himself, Ms. ROS-LEHTINEN, Mr. GILMAN, Mr. SMITH of New Jersey, Mr. MCINTOSH, Mr. SOUDER, Mr. KING, Mr. GUTIERREZ, Mr. MENENDEZ, Mrs. MEEK of Florida, Mr. DEUTSCH, Mr. PASTOR, and Mr. BERMAN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to clarify the relief available under current law, and to provide additional relief and procedural rights for certain aliens who would otherwise be ineligible for such procedural rights.

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 “Immigration Technical
5 Revisions Act of 1997”.

1 SEC. 2. (a) Section 240A, subsection (e), of the Im-
2 migration and Nationality Act is amended—

3 (1) in the first sentence, by striking “this sec-
4 tion” and inserting in lieu thereof “section
5 240A(b)(1)”;

6 (2) by striking “, nor suspend the deportation
7 and adjust the status under section 244(a) (as in ef-
8 fect before the enactment of the Illegal Immigration
9 Reform and Immigrant Responsibility act of
10 1996),”; and

11 (3) by striking the last sentence in the sub-
12 section and inserting in lieu thereof “The previous
13 sentence shall apply only to removal cases com-
14 menced on or after April 1, 1997, including cases
15 where the Attorney General exercises authority pur-
16 suant to paragraph (2) or (3) of section 309(c) of
17 the Illegal Immigration Reform and Immigrant Re-
18 sponsibility Act of 1996 (P.L. 104–208, Division C,
19 110 Stat. 3009).”.

20 (b) Section 309, subsection (c), of the Illegal Immi-
21 gration Reform and Immigrant Responsibility Act of 1996
22 (P.L. 104–208, Division C, 110 Stat. 3009) is amended
23 by striking paragraph (7).

24 (c) Section 240A of the Immigration and Nationality
25 Act is amended—

1 (1) in subsection (b), paragraph (3), by striking
2 “(1) or (2)” in the first and third sentences of that
3 paragraph and inserting in lieu thereof “(1), (2), or
4 (3)”;

5 (2) in subsection (b), by redesignating para-
6 graph (3) as paragraph (4);

7 (3) in subsection (d), paragraph (1), by striking
8 “this section.” and inserting in lieu thereof “sub-
9 sections (a), (b)(1), and (b)(2).”; and

10 (4) in subsection (b), by adding after paragraph
11 (2) the following new paragraph:

12 “(3) SPECIAL RULE FOR CERTAIN ALIENS COV-
13 ERED BY THE SETTLEMENT AGREEMENT IN AMER-
14 ICAN BAPTIST CHURCHES ET AL. V. THORNBURGH
15 (ABC), 760 F. SUPP. 796 (N.D. CAL. 1991).—

16 “(A) The Attorney General may, in his or
17 her discretion, cancel removal and adjust the
18 status from such cancellation in the case of an
19 alien who is removable from the United States
20 if the alien demonstrates that—

21 “(i) the alien has not been convicted
22 at any time of an aggravated felony, and

23 “(I) was not apprehended after
24 December 19, 1990, at the time of
25 entry, and is either—

1 “(aa) a Salvadoran national
2 who first entered the United
3 States on or before September
4 19, 1990, who registered for ben-
5 efits pursuant to the ABC settle-
6 ment agreement on or before Oc-
7 tober 31, 1991, or applied for
8 Temporary Protected Status on
9 or before October 31, 1991; or

10 “(bb) a Guatemalan national
11 who first entered the United
12 States on or before October 1,
13 1990, and who registered for
14 benefits pursuant to the ABC
15 settlement agreement by Decem-
16 ber 31, 1991; or

17 “(cc) the spouse or unmar-
18 ried son or daughter of an alien
19 described in (aa) who entered the
20 United States on or before Sep-
21 tember 19, 1990, or the spouse
22 or unmarried son or daughter of
23 an alien described in (bb) who
24 entered the United States on or
25 before October 1, 1990; or

1 “(II) is a Nicaraguan, Guate-
2 malan, or Salvadoran who filed an ap-
3 plication for asylum with the Immi-
4 gration and Naturalization Service be-
5 fore April 1, 1990, and the Immigra-
6 tion and Naturalization Service had
7 not granted, denied, or referred that
8 application as of April 1, 1997; and

9 “(ii) the alien is not described in
10 paragraph (4) of section 237(a) or para-
11 graph (3) of section 212(a) of the Act; and

12 “(iii) the alien—

13 “(I) is removable under any law
14 of the United States except the provi-
15 sions specified in subclause (II) of this
16 clause, has been physically present in
17 the United States for a continuous pe-
18 riod of not less than seven years im-
19 mediately preceding the date of such
20 application, and proves that during all
21 of such period he was and is a person
22 of good moral character, and is a per-
23 son whose removal would, in the opin-
24 ion of the Attorney General, result in
25 extreme hardship to the alien or to his

1 spouse, parent, or child, who is a citi-
2 zen of the United States or an alien
3 lawfully admitted for permanent resi-
4 dence; or

5 “(II) is removable under para-
6 graph (2) (other than section
7 237(a)(2)(A)(iii)) of section 237(a),
8 paragraph (3) of section 237(a), or
9 paragraph (2) of section 212(a), has
10 been physically present in the United
11 States for a continuous period of not
12 less than 10 years immediately follow-
13 ing the commission of an act, or the
14 assumption of a status, constituting a
15 ground for deportation, and proves
16 that during all of such period he has
17 been and is a person of good moral
18 character, and is a person whose re-
19 moval would, in the opinion of the At-
20 torney General, result in exceptional
21 and extremely unusual hardship to the
22 alien or to his spouse, parent or child,
23 who is a citizen of the United States,
24 or an alien lawfully admitted for per-
25 manent residence.

1 “(B) Subsection (d) of this section shall
2 not apply to determinations under this para-
3 graph, and an alien shall not be considered to
4 have failed to maintain continuous physical
5 presence in the United States under clause
6 (A)(iii) of this paragraph if the alien dem-
7 onstrates that the absence from the United
8 States was brief, casual, and innocent, and did
9 not meaningfully interrupt the continuous phys-
10 ical presence.”.

11 (d) The amendments made by this section shall be
12 effective as if included in the Illegal Immigration Reform
13 and Immigrant Responsibility Act of 1996 (P.L. 104–208,
14 Division C, 110 Stat. 3009).

15 SEC. 3. Any alien who has become eligible for suspen-
16 sion of deportation or cancellation of removal as a result
17 of the amendments made by section 2, may, notwithstand-
18 ing any other limitations on motions to reopen imposed
19 by the Immigration and Nationality Act or by regulation,
20 file one motion to reopen to apply for suspension of depor-
21 tation or cancellation of removal. The Attorney General
22 shall designate a specific time period in which all such mo-
23 tions to reopen must be filed. The period must begin no

- 1 later than 120 days after the date of enactment of this
- 2 Act and shall extend for a period of 180 days.

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