

107TH CONGRESS  
1ST SESSION

# H. R. 1452

To amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2001

Mr. FRANK (for himself, Mr. FROST, Mr. DIAZ-BALART, Mr. MCGOVERN, Mr. KENNEDY of Rhode Island, Ms. JACKSON-LEE of Texas, Mr. BALDACCI, Mr. CAPUANO, Mr. DELAHUNT, Mr. FILNER, Mr. MCDERMOTT, Mrs. MINK of Hawaii, Mr. RANGEL, Mr. RODRIGUEZ, Ms. SCHAKOWSKY, Mr. GEORGE MILLER of California, and Mr. LANGEVIN) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to permit certain long-term permanent resident aliens to seek cancellation of removal under such Act, 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 “Family Reunification  
5 Act of 2001”.

1 **SEC. 2. RESTORING ATTORNEY GENERAL'S DISCRETION TO**  
2 **GRANT CANCELLATION OF REMOVAL TO**  
3 **LONG-TERM PERMANENT RESIDENT ALIENS**  
4 **WHEN APPROPRIATE.**

5 (a) CANCELLATION OF REMOVAL FOR CERTAIN PER-  
6 MANENT RESIDENTS.—Section 240A(a) of the Immigra-  
7 tion and Nationality Act (8 U.S.C. 1229b(a)) is amended  
8 to read as follows:

9 “(a) CANCELLATION OF REMOVAL FOR CERTAIN  
10 PERMANENT RESIDENTS.—

11 “(1) IN GENERAL.—The Attorney General may  
12 cancel removal in the case of an alien who is inad-  
13 missible or deportable from the United States, if the  
14 alien—

15 “(A) has been an alien lawfully admitted  
16 for permanent residence for not less than 5  
17 years;

18 “(B) has resided in the United States con-  
19 tinuously for 7 years after having been admit-  
20 ted in any status; and

21 “(C) has not been convicted of—

22 “(i) an aggravated felony or felonies  
23 for which the alien has been sentenced, in  
24 the aggregate, to a term of imprisonment  
25 of 5 years or more; or

1           “(ii) in the case of sentencing imposed  
2           under a system of indeterminate sen-  
3           tencing (as defined in section 20101 of the  
4           Violent Crime Control and Law Enforce-  
5           ment Act of 1994 (42 U.S.C. 13701)), an  
6           aggravated felony or felonies for which—

7                   “(I) the midpoint of the statutory  
8                   range of sentence applicable to the fel-  
9                   ony or felonies is, in the aggregate, 5  
10                  years or more; or

11                  “(II) the alien has served, in the  
12                  aggregate, a term of imprisonment of  
13                  5 years or more.

14           “(2) NO DANGER TO PERSONS OR PROPERTY.—  
15           In the case of an alien convicted of an aggravated  
16           felony involving violence, the Attorney General may  
17           exercise the discretion described in paragraph (1)  
18           only after making a written determination that the  
19           action poses no danger to the safety of persons or  
20           property.

21           “(3) DEFINITION OF TERM OF IMPRISON-  
22           MENT.—For purposes of this subsection (and any  
23           other determination under this Act made solely with  
24           respect to an alien whose removal is canceled under  
25           this subsection), section 101(a)(48)(B) shall be ap-

1       plied so as to exclude from the time periods defined  
2       in the section any period of suspension of the im-  
3       position or execution of a term of imprisonment or a  
4       sentence in whole or in part.

5               “(4) RELEASE FROM DETENTION PENDING DE-  
6       CISION.—Notwithstanding section 236(c)(2), the At-  
7       torney General may release an alien applying for  
8       cancellation of removal under this subsection, pend-  
9       ing a decision on whether the alien is to be removed  
10      from the United States, if the alien demonstrates to  
11      the satisfaction of the Attorney General that the  
12      alien is not a threat to the community and is likely  
13      to appear for any scheduled proceeding. A decision  
14      relating to such release shall be made in accordance  
15      with a procedure that considers the severity of the  
16      offense committed by the alien.”.

17      (b) CANCELLATION OF REMOVAL FOR CERTAIN  
18      OTHER PERMANENT RESIDENTS FOR URGENT HUMANI-  
19      TARIAN REASONS OR SIGNIFICANT PUBLIC BENEFIT.—  
20      Section 240A of the Immigration and Nationality Act (8  
21      U.S.C. 1229b) is amended by adding at the end the fol-  
22      lowing:

23               “(f) CANCELLATION OF REMOVAL FOR CERTAIN  
24      PERMANENT RESIDENTS FOR URGENT HUMANITARIAN  
25      REASONS OR SIGNIFICANT PUBLIC BENEFIT.—

1           “(1) IN GENERAL.—In the case of an alien oth-  
2           erwise eligible for cancellation of removal under sub-  
3           section (a), except that the alien has been convicted  
4           of an aggravated felony that renders the alien un-  
5           able to satisfy the requirement in subsection  
6           (a)(1)(C), the Attorney General may cancel removal  
7           of the alien under such conditions as the Attorney  
8           General may prescribe, but only—

9                   “(A) on a case-by-case basis for urgent hu-  
10                  manitarian reasons, significant public benefit  
11                  (including assuring family unity), or any other  
12                  sufficiently compelling reason; and

13                   “(B) after making a written determination  
14                  that the cancellation of removal poses no dan-  
15                  ger to the safety of persons or property.

16           “(2) RELEASE FROM DETENTION PENDING DE-  
17           CISION.—Subsection (a)(4) shall apply to release of  
18           an alien applying for cancellation of removal under  
19           this subsection in the same manner as such sub-  
20           section applies to an alien applying under subsection  
21           (a).”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23           subsections (a) and (b) shall take effect as if included in  
24           the enactment of section 304 of the Illegal Immigration

1 Reform and Immigrant Responsibility Act of 1996 (Public  
2 Law 104–208; 110 Stat. 3009–587).

3 **SEC. 3. CHANGE IN CONDITIONS FOR TERMINATION OF PE-**  
4 **RIOD OF CONTINUOUS RESIDENCE OR CON-**  
5 **TINUOUS PHYSICAL PRESENCE.**

6 (a) IN GENERAL.—Section 240A(d)(1) of the Immi-  
7 gration and Nationality Act (8 U.S.C. 1229b(d)(1)) is  
8 amended to read as follows:

9 “(1) TERMINATION OF CONTINUOUS PERIOD.—

10 “(A) IN GENERAL.—For purposes of this  
11 section, any period of continuous residence or  
12 continuous physical presence in the United  
13 States of an alien shall be deemed to end upon  
14 the alien’s failure to attend a proceeding under  
15 section 240, unless—

16 “(i) the Attorney General determines  
17 not to seek a removal order in absentia  
18 under section 240(b)(5)(A) based on such  
19 failure;

20 “(ii) any removal order entered in  
21 absentia under such section based on such  
22 failure is rescinded under section  
23 240(b)(5)(C); or

24 “(iii) the alien demonstrates that—

1                   “(I) the failure to appear was in-  
2                   advertent or due to reasonable cause;  
3                   and

4                   “(II) within a relatively brief pe-  
5                   riod subsequent to such failure, the  
6                   alien presented himself or herself in  
7                   person to an immigration officer and  
8                   made known the reasons for such fail-  
9                   ure.

10                   “(B) CONSTRUCTION.—In a case described  
11                   in clause (i), (ii), or (iii) of subparagraph (A),  
12                   the alien’s failure to attend the proceeding  
13                   under section 240 shall not be construed to  
14                   cause a break in the continuity of residence or  
15                   physical presence.”.

16                   (b) EFFECTIVE DATE.—The amendment made by  
17                   subsection (a) shall take effect as if included in the enact-  
18                   ment of section 304 of the Illegal Immigration Reform and  
19                   Immigrant Responsibility Act of 1996 (Public Law 104–  
20                   208; 110 Stat. 3009–587).

21                   **SEC. 4. RELIEF FOR CERTAIN PERMANENT RESIDENT**  
22   **ALIENS IN EXCLUSION, DEPORTATION, OR**  
23   **REMOVAL PROCEEDINGS.**

24                   (a) IN GENERAL.—Notwithstanding any other provi-  
25                   sion of law, including section 240A of the Immigration

1 and Nationality Act (8 U.S.C. 1229b), an alien, whether  
2 physically present in the United States or not, who was  
3 lawfully admitted for permanent residence on April 1,  
4 1997, and who is or was in exclusion, deportation, or re-  
5 moval proceedings on or after such date by reason of hav-  
6 ing committed a criminal offense before such date may—

7           (1) request discretionary administrative relief  
8           from exclusion, deportation, or removal based on  
9           such offense under the provisions of the Immigration  
10          and Nationality Act in effect on the date of the com-  
11          mission of such offense and without regard to the  
12          provisions of paragraphs (5) and (7) of section  
13          309(c) of the Illegal Immigration Reform and Immig-  
14          grant Responsibility Act of 1996 (8 U.S.C. 1101  
15          note); and

16          (2) appeal for administrative review of a denial  
17          (rendered before, on, or after the date of the enact-  
18          ment of this Act) of discretionary relief from exclu-  
19          sion, deportation, or removal based on such offense  
20          under the provisions of the Immigration and Nation-  
21          ality Act in effect on the date of the commission of  
22          such offense and without regard to the provisions of  
23          paragraphs (5) and (7) of section 309(c) of the Ille-  
24          gal Immigration Reform and Immigrant Responsi-  
25          bility Act of 1996 (8 U.S.C. 1101 note).



1 (b) NO DANGER TO PERSONS OR PROPERTY.—In the  
2 case of an alien convicted of an aggravated felony involv-  
3 ing violence, the Attorney General may reverse under sub-  
4 section (a) a denial of discretionary relief rendered before  
5 the date of the enactment of this Act only after making  
6 a written determination that the action poses no danger  
7 to the safety of persons or property.

8 **SEC. 5. APPLICATIONS FOR RELIEF.**

9 (a) ESTABLISHMENT OF APPLICATION PROCESS.—  
10 Notwithstanding section 240(e)(6) of the Immigration and  
11 Nationality Act (8 U.S.C. 1229a(e)(6)) or any other limi-  
12 tation imposed by law on motions to reopen exclusion, de-  
13 portation, or removal proceedings, the Attorney General  
14 shall establish a process (whether through permitting the  
15 reopening of such a proceeding or otherwise) under which  
16 an alien, whether physically present in the United States  
17 or not, who is or was in such a proceedings before the  
18 date of the enactment of this Act (whether or not the alien  
19 has been excluded, deported, or removed as of such  
20 date)—

21 (1) may apply (or reapply) for cancellation of  
22 removal and release from detention under section  
23 240A of the Immigration and Nationality Act, as  
24 amended by sections 2 and 3 of this Act, if the alien  
25 has become eligible for cancellation of removal as a

1 result of one or more of the amendments made by  
2 such sections; or

3 (2) may apply (or reapply) for discretionary re-  
4 lief under section 4 of this Act, if the alien is eligible  
5 for such relief.

6 (b) PAROLE.—The Attorney General should exercise  
7 the parole authority under section 212(d)(5)(A) of the Im-  
8 migration and Nationality Act (8 U.S.C. 1182(d)(5)(A))  
9 for the purpose of permitting aliens who are not physically  
10 present in the United States to participate in the process  
11 established under subsection (a). An alien so paroled shall  
12 not be treated as paroled into the United States for pur-  
13 poses of section 201(c)(4) of the Immigration and Nation-  
14 ality Act (8 U.S.C. 1151(c)(4)).

15 **SEC. 6. PERMITTING CERTAIN PERMANENT RESIDENT**  
16 **ALIENS TO RETURN WITHOUT SEEKING AD-**  
17 **MISSION.**

18 Section 101(a)(13)(C) of the Immigration and Na-  
19 tionality Act (8 U.S.C. 1101(a)(13)(C)) is amended—

20 (1) in clause (iv), by adding “or” at the end;

21 (2) by striking clause (v); and

22 (3) by redesignating clause (vi) as clause (v).

○