

107TH CONGRESS
1ST SESSION

H. R. 1582

To amend the Immigration and Nationality Act to adjust the status of certain long-staying alien children, to lower high school drop out rates for certain immigrant children, and to restore the right of State and local governments to decide whom they will admit to their State and local colleges and universities.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2001

Mr. GUTIERREZ introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to adjust the status of certain long-staying alien children, to lower high school drop out rates for certain immigrant children, and to restore the right of State and local governments to decide whom they will admit to their State and local colleges and universities.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Immigrant Children’s
3 Educational Advancement and Dropout Prevention Act of
4 2001”.

5 **SEC. 2. FINDINGS AND PURPOSES.**

6 (a) FINDINGS.—Congress makes the following find-
7 ings:

8 (1) Undocumented children come to the United
9 States for a variety of reasons. Most are brought to
10 the United States by adults and have no ability to
11 make an independent decision about whether or not
12 to migrate to the United States. Some come with
13 their parents. Others are brought by smugglers and
14 traffickers intent on exploiting them.

15 (2) It is the policy of the United States Govern-
16 ment, supported both by acts of Congress and Su-
17 preme Court precedent, to permit undocumented
18 children to attend public schools in the United
19 States. This policy is rooted in recognition of the
20 fact that such children often are not in a position to
21 make an independent decision about where they will
22 live, of the vulnerability of children, and by the de-
23 sire to ensure that such children have an oppor-
24 tunity to become educated while in the United
25 States.

1 (3) Each year, 50,000 to 75,000 such undocu-
2 mented children graduate from United States public
3 schools after having resided in the United States for
4 5 or more years.

5 (4) Young children who have resided in the
6 United States for a substantial period of their lives
7 often are acculturated as Americans, including
8 learning to speak English. Often, they consider
9 themselves Americans and have little or no knowl-
10 edge or ties to the country in which they were born.

11 (5) Current law provides little avenue for long-
12 staying alien children to regularize their immigration
13 status. This, in turn, prevents them from continuing
14 their education past high school, making it less like-
15 ly that they will succeed in life and encouraging
16 many to drop out of high school before graduating.

17 (6) While current law requires State and local
18 governments to provide elementary and secondary
19 education to undocumented alien children, the law
20 effectively precludes State and local governments
21 from providing in-State tuition to these same alien
22 children once they have graduated from high school.

23 (b) PURPOSES.—The purposes of this Act are—

24 (1) to provide an opportunity to certain alien
25 children who were brought to the United States at

1 a young age and have since been acculturated in the
 2 United States to adjust their status to lawful perma-
 3 nent residency and become contributing members of
 4 United States society;

5 (2) to restore to each State the flexibility to
 6 provide in-State tuition to all children residing in the
 7 State, including to undocumented alien children; and

8 (3) to permit and encourage alien children who
 9 were brought to the United States at a young age
 10 and have been educated in United States elementary
 11 and secondary schools to continue their education
 12 through high school graduation and into college.

13 **SEC. 3. ATTORNEY GENERAL AUTHORITY TO ADJUST STA-**
 14 **TUS OF CERTAIN CHILDREN.**

15 (a) IN GENERAL.—Section 240A(b) of the Immigra-
 16 tion and Nationality Act (8 U.S.C. 1229b(b)) is
 17 amended—

18 (1) in paragraph (3)—

19 (A) by striking “paragraph (1) or (2)” and
 20 inserting “paragraph (1), (2), or (3)” each
 21 place it appears;

22 (B) by redesignating such paragraph as
 23 paragraph (5); and

24 (C) by moving such paragraph to follow
 25 paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

“(3) RULE FOR ALIEN RESIDENTS BROUGHT TO THE UNITED STATES AS CHILDREN.—

“(A) AUTHORITY.—Subject to the restrictions in subparagraph (D), the Attorney General shall cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien demonstrates that—

“(i) in the case of an alien who—

“(I) has not attained the age of 21 at the time of application, the alien has been physically present in the United States for a continuous period of not less than five years immediately preceding the date of such application, or

“(II) has attained the age of 21 but had not attained the age of 25 at the time of application, such alien has been physically present in the United States for a continuous period of not less than five years immediately pre-

1 ceding the date of such application,
2 including the five years immediately
3 preceding the attainment of the age of
4 21;

5 “(ii) the alien has been a person of
6 good moral character during the five-year
7 period preceding the application and ad-
8 mission; and

9 “(iii) the alien is either a secondary
10 school student in the United States, is at-
11 tending an accredited two-year or four-year
12 post secondary educational institution in
13 the United States, or has submitted an ap-
14 plication for admission to an accredited
15 two-year or four-year post-secondary edu-
16 cational institution in the United States.

17 “(B) TREATMENT OF MINOR CHILDREN.—

18 The status of an alien shall be adjusted by the
19 Attorney General to that of an alien lawfully
20 admitted for permanent residence if the alien is
21 the child of an alien described in subparagraph
22 (A).

23 “(C) APPLICATION FOR RELIEF.—The At-
24 torney General shall provide a procedure by
25 regulation allowing eligible individuals to apply

1 affirmatively for the relief available under this
2 paragraph without being placed in removal pro-
3 ceedings.

4 “(D) RESTRICTIONS ON AUTHORITY.—The
5 provisions of this paragraph shall not apply to
6 any of the following aliens:

7 “(i) An alien who is inadmissible
8 under section 212(a)(2)(A)(i)(I) or is de-
9 portable under section 237(a)(2)(A)(i) (re-
10 lating to crimes of moral turpitude) unless
11 the Attorney General determines that the
12 alien’s removal would result in extreme
13 hardship to the alien, the alien’s child, or
14 (in the case of an alien who is a child) to
15 the alien’s parent.

16 “(ii) An alien who is inadmissible
17 under section 212(a)(3) or is deportable
18 under section 237(a)(2)(D)(i) or
19 237(a)(2)(D)(ii) (relating to security and
20 related grounds).”.

21 (b) EXEMPTION FROM NUMERICAL LIMITATIONS.—
22 Section 240A(e)(3) of such Act (8 U.S.C. 1229b(e)) is
23 amended by adding at the end the following new subpara-
24 graph:

1 “(C) Aliens described in subsection
2 (b)(3).”.

3 **SEC. 4. ELIGIBILITY OF CANCELLATION APPLICANTS FOR**
4 **FEDERAL AND STATE HIGHER EDUCATION**
5 **ASSISTANCE.**

6 Notwithstanding any other provision of law, a child
7 who has applied for relief under section 240A(b)(3) of the
8 Immigration and Nationality Act (as added by the section
9 3(a)) but whose application has not been finally adju-
10 dicated, shall be deemed to be a “qualified alien” under
11 section 431(b) of the Personal Responsibility and Work
12 Opportunity Reconciliation Act of 1996 (8 U.S.C.
13 1641(b)) for the purpose of receiving any post-secondary
14 education benefit, including any grants, loans, or scholar-
15 ships.

16 **SEC. 5. STATE CONTROL OVER HIGHER EDUCATION ADMIS-**
17 **SIONS IN STATE SYSTEMS.**

18 (a) IN GENERAL.—Section 505 of the Illegal Immi-
19 gration Reform and Immigrant Responsibility Act of 1996
20 (division C of Public Law 104–208; 110 Stat 3009–672;
21 8 U.S.C. 1623) is hereby repealed.

22 (b) EFFECTIVE DATE.—The repeal made by sub-
23 section (a) shall take effect as if included in the enactment

1 of the Illegal Immigration Reform and Immigrant Respon-
2 sibility Act of 1996.

