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H. R. 2820

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and entered the United States as children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2019

Ms. ROYBAL-ALLARD introduced the following bill; which was referred to the Committee on the Judiciary

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A BILL

To authorize the cancellation of removal and adjustment of status of certain individuals who are long-term United States residents and entered the United States as children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dream Act of 2019''.

TITLE I—TREATMENT OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN

SEC. 101. PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS FOR CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) CONDITIONAL BASIS FOR STATUS.—Notwithstanding any other provision of law, and except as provided in section 103(c)(2), an alien shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence under this section, to have obtained such status on a conditional basis subject to the provisions of this Act.

(b) REQUIREMENTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence on a conditional basis, or without the conditional basis as provided in section 103(c)(2), an alien who is inadmissible or deportable from the United States (or is under a grant of Deferred Enforced Departure or has temporary protected status

under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a)) if—

(A) the alien has been continuously physically present in the United States since the date that is 4 years before the date of the enactment of this Act;

(B) the alien was younger than 18 years of age on the date on which the alien entered the United States and has continuously resided in the United States since such entry;

(C) the alien—

(i) subject to section 203(d), is not inadmissible under paragraph (1), (6)(E), (6)(G), (8), or (10) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(ii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iii) is not barred from adjustment of status under this Act based on the criminal and national security grounds de-

scribed under subsection (c), subject to the provisions of such subsection; and

(D) the alien—

(i) has been admitted to an institution of higher education;

(ii) has been admitted to an area career and technical education school at the postsecondary level;

(iii) in the United States, has obtained—

(I) a high school diploma or a commensurate alternative award from a public or private high school;

(II) a General Education Development credential, a high school equivalency diploma recognized under State law, or another similar State-authorized credential;

(III) a credential or certificate from an area career and technical education school at the secondary level; or

(IV) a recognized postsecondary credential; or

(iv) is enrolled in secondary school or in an education program assisting students in—

(I) obtaining a high school diploma or its recognized equivalent under State law;

(II) passing the General Education Development test, a high school equivalence diploma examination, or other similar State-authorized exam;

(III) obtaining a certificate or credential from an area career and technical education school providing education at the secondary level; or

(IV) obtaining a recognized post-secondary credential.

(2) APPLICATION FEE.—

(A) IN GENERAL.—The Secretary may, subject to an exemption under section 203(c), require an alien applying under this section to pay a reasonable fee that is commensurate with the cost of processing the application but does not exceed $495.00.

(B) SPECIAL PROCEDURE FOR APPLICANTS WITH DACA.—The Secretary shall establish a

streamlined procedure for aliens who have been granted DACA and who meet the requirements for renewal (under the terms of the program in effect on January 1, 2017) to apply for cancellation of removal and adjustment of status to that of an alien lawfully admitted for permanent residence on a conditional basis under this section, or without the conditional basis as provided in section 103(c)(2). Such procedure shall not include a requirement that the applicant pay a fee, except that the Secretary may require an applicant who meets the requirements for lawful permanent residence without the conditional basis under section 103(c)(2) to pay a fee that is commensurate with the cost of processing the application, subject to the exemption under section 203(c).

(3) BACKGROUND CHECKS.—The Secretary may not grant an alien permanent resident status on a conditional basis under this section until the requirements of section 202 are satisfied.

(4) MILITARY SELECTIVE SERVICE.—An alien applying for permanent resident status on a conditional basis under this section, or without the conditional basis as provided in section 103(c)(2), shall

establish that the alien has registered under the Military Selective Service Act (50 U.S.C. 3801 et seq.), if the alien is subject to registration under such Act.

(c) CRIMINAL AND NATIONAL SECURITY BARS.—

(1) GROUNDS OF INELIGIBILITY.—Except as provided in paragraph (2), an alien is ineligible for adjustment of status under this Act (whether on a conditional basis or without the conditional basis as provided in section 103(c)(2)) if any of the following apply:

(A) The alien is inadmissible under paragraph (2) or (3) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)).

(B) Excluding any offense under State law for which an essential element is the alien's immigration status, and any minor traffic offense, the alien has been convicted of—

(i) any felony offense;

(ii) 3 or more misdemeanor offenses (excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was

entered, and any offense involving civil disobedience without violence) not occurring on the same date, and not arising out of the same act, omission, or scheme of misconduct; or

(iii) a misdemeanor offense of domestic violence, unless the alien demonstrates that such crime is related to the alien having been—

(I) a victim of domestic violence, sexual assault, stalking, child abuse or neglect, abuse or neglect in later life, or human trafficking;

(II) battered or subjected to extreme cruelty; or

(III) a victim of criminal activity described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(U)(iii)).

(2) WAIVERS FOR CERTAIN MISDEMEANORS.—For humanitarian purposes, family unity, or if otherwise in the public interest, the Secretary may—

(A) waive the grounds of inadmissibility under subparagraphs (A), (C), and (D) of section 212(a)(2) of the Immigration and Nation-

ality Act (8 U.S.C. 1182(a)(2)), unless the conviction forming the basis for inadmissibility would otherwise render the alien ineligible under paragraph (1)(B) (subject to subparagraph (B)); and

(B) for purposes of clauses (ii) and (iii) of paragraph (1)(B), waive consideration of—

(i) one misdemeanor offense if the alien has not been convicted of any offense in the 5-year period preceding the date on which the alien applies for adjustment of status under this Act; or

(ii) up to two misdemeanor offenses if the alien has not been convicted of any offense in the 10-year period preceding the date on which the alien applies for adjustment of status under this Act.

(3) AUTHORITY TO CONDUCT SECONDARY REVIEW.—

(A) IN GENERAL.—Notwithstanding an alien's eligibility for adjustment of status under this Act, and subject to the procedures described in this paragraph, the Secretary of Homeland Security may, as a matter of nondelegable discretion, provisionally deny an appli-

cation for adjustment of status (whether on a conditional basis or without the conditional basis as provided in section 103(c)(2)) if the Secretary, based on clear and convincing evidence, which shall include credible law enforcement information, determines that the alien is described in subparagraph (B) or (C).

(B) PUBLIC SAFETY.—An alien is described in this subparagraph if—

(i) excluding simple possession of cannabis or cannabis-related paraphernalia, any offense involving cannabis or cannabis-related paraphernalia which is no longer prosecutable in the State in which the conviction was entered, any offense under State law for which an essential element is the alien's immigration status, any offense involving civil disobedience without violence, and any minor traffic offense, the alien—

(I) has been convicted of a misdemeanor offense punishable by a term of imprisonment of more than 30 days; or

(II) has been adjudicated delinquent in a State or local juvenile court proceeding that resulted in a disposition ordering placement in a secure facility; and

(ii) the alien poses a significant and continuing threat to public safety related to such conviction or adjudication.

(C) GANG PARTICIPATION.—An alien is described in this subparagraph if the alien has, within the 5 years immediately preceding the date of the application, knowingly, willingly, and willfully participated in offenses committed by a criminal street gang (as described in subsections (a) and (c) of section 521 of title 18, United States Code) with the intent to promote or further the commission of such offenses.

(D) EVIDENTIARY LIMITATION.—For purposes of subparagraph (C), allegations of gang membership obtained from a State or Federal in-house or local database, or a network of databases used for the purpose of recording and sharing activities of alleged gang members across law enforcement agencies, shall not es-

tablish the participation described in such paragraph.

(E) NOTICE.—

(i) IN GENERAL.—Prior to rendering a discretionary decision under this paragraph, the Secretary of Homeland Security shall provide written notice of the intent to provisionally deny the application to the alien (or the alien's counsel of record, if any) by certified mail and, if an electronic mail address is provided, by electronic mail (or other form of electronic communication). Such notice shall—

(I) articulate with specificity all grounds for the preliminary determination, including the evidence relied upon to support the determination; and

(II) provide the alien with not less than 90 days to respond.

(ii) SECOND NOTICE.—Not more than 30 days after the issuance of the notice under clause (i), the Secretary of Homeland Security shall provide a second writ-

ten notice that meets the requirements of such clause.

(iii) NOTICE NOT RECEIVED.—Notwithstanding any other provision of law, if an applicant provides good cause for not contesting a provisional denial under this paragraph, including a failure to receive notice as required under this subparagraph, the Secretary of Homeland Security shall, upon a motion filed by the alien, reopen an application for adjustment of status under this Act and allow the applicant an opportunity to respond, consistent with clause (i)(II).

(F) JUDICIAL REVIEW.—An alien is entitled to judicial review of the Secretary's decision to provisionally deny an application under this paragraph in accordance with the procedures described in section 206(c).

(4) DEFINITIONS.—For purposes of this subsection—

(A) the term ''felony offense'' means an offense under Federal or State law that is punishable by a maximum term of imprisonment of more than 1 year;

(B) the term ''misdemeanor offense'' means an offense under Federal or State law that is punishable by a term of imprisonment of more than 5 days but not more than 1 year;

(C) the term ''crime of domestic violence'' means any offense that has as an element the use, attempted use, or threatened use of physical force against a person committed by a current or former spouse of the person, by an individual with whom the person shares a child in common, by an individual who is cohabiting with or has cohabited with the person as a spouse, by an individual similarly situated to a spouse of the person under the domestic or family violence laws of the jurisdiction where the offense occurs, or by any other individual against a person who is protected from that individual's acts under the domestic or family violence laws of the United States or any State, Indian tribal government, or unit of local government; and

(D) the term ''convicted'' or ''conviction'' does not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

(d) LIMITATION ON REMOVAL OF CERTAIN ALIEN MINORS.—An alien who is under 18 years of age and meets the requirements under subparagraphs (A), (B), and (C) of subsection (b)(1) shall be provided a reasonable opportunity to meet the educational requirements under subsection (b)(1)(D). The Attorney General or the Secretary may not commence or continue with removal proceedings against such an alien.

(e) WITHDRAWAL OF APPLICATION.—The Secretary of Homeland Security shall, upon receipt of a request to withdraw an application for adjustment of status under this section, cease processing of the application, and close the case. Withdrawal of the application under this subsection shall not prejudice any future application filed by the applicant for any immigration benefit under this Act or under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

SEC. 102. TERMS OF PERMANENT RESIDENT STATUS ON A CONDITIONAL BASIS.

(a) PERIOD OF STATUS.—Permanent resident status on a conditional basis is—

(1) valid for a period of 10 years, unless such period is extended by the Secretary; and

(2) subject to termination under subsection (c).

(b) NOTICE OF REQUIREMENTS.—At the time an alien obtains permanent resident status on a conditional basis, the Secretary shall provide notice to the alien regarding the provisions of this Act and the requirements to have the conditional basis of such status removed.

(c) TERMINATION OF STATUS.—The Secretary may terminate the permanent resident status on a conditional basis of an alien only if the Secretary—

(1) determines that the alien ceases to meet the requirements under section 101(b)(1)(C); and

(2) prior to the termination, provides the alien—

(A) notice of the proposed termination; and

(B) the opportunity for a hearing to provide evidence that the alien meets such requirements or otherwise to contest the proposed termination.

(d) RETURN TO PREVIOUS IMMIGRATION STATUS.—An alien whose permanent resident status on a conditional basis expires under subsection (a)(1) or is terminated under subsection (c), shall return to the immigration status that the alien had immediately before receiving permanent resident status on a conditional basis.

SEC. 103. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS.

(a) ELIGIBILITY FOR REMOVAL OF CONDITIONAL BASIS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall remove the conditional basis of an alien's permanent resident status granted under this Act and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(A) is described in section 111(b)(1)(C);

(B) has not abandoned the alien's residence in the United States during the period in which the alien has permanent resident status on a conditional basis; and

(C)(i) has obtained a degree from an institution of higher education, or has completed at least 2 years, in good standing, of a program in the United States leading to a bachelor's degree or higher degree or a recognized postsecondary credential from an area career and technical education school providing education at the postsecondary level;

(ii) has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge; or

(iii) demonstrates earned income for periods totaling at least 3 years and that, during at least 75 percent of such earning periods, the alien had a valid employment authorization, except that, in the case of an alien who was enrolled in an institution of higher education, an area career and technical education school to obtain a recognized postsecondary credential, or an education program described in section 101(b)(1)(D)(iii), the Secretary shall reduce such total 3-year requirement by the total of such periods of enrollment.

(2) HARDSHIP EXCEPTION.—

(A) IN GENERAL.—The Secretary shall remove the conditional basis of an alien's permanent resident status and grant the alien status as an alien lawfully admitted for permanent residence if the alien—

(i) satisfies the requirements under subparagraphs (A) and (B) of paragraph (1);

(ii) demonstrates compelling circumstances for the inability to satisfy the requirements under subparagraph (C) of such paragraph; and

(iii) demonstrates that—

(I) the alien has a disability;

(II) the alien is a full-time caregiver; or

(III) the removal of the alien from the United States would result in hardship to the alien or the alien's spouse, parent, or child who is a national of the United States or is lawfully admitted for permanent residence.

(3) CITIZENSHIP REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the conditional basis of an alien's permanent resident status granted under this Act may not be removed unless the alien demonstrates that the alien satisfies the requirements under section 312(a) of the Immigration and Nationality Act (8 U.S.C. 1423(a)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to an alien who is unable to meet the requirements under such section 312(a) due to disability.

(4) APPLICATION FEE.—The Secretary may, subject to an exemption under section 203(c), re-

quire aliens applying for removal of the conditional basis of an alien's permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application.

(5) BACKGROUND CHECK.—The Secretary may not remove the conditional basis of an alien's permanent resident status until the requirements of section 202 are satisfied.

(b) TREATMENT FOR PURPOSES OF NATURALIZATION.—

(1) IN GENERAL.—For purposes of title III of the Immigration and Nationality Act (8 U.S.C. 1401 et seq.), an alien granted permanent resident status on a conditional basis shall be considered to have been admitted to the United States, and be present in the United States, as an alien lawfully admitted for permanent residence.

(2) LIMITATION ON APPLICATION FOR NATURALIZATION.—An alien may not apply for naturalization while the alien is in permanent resident status on a conditional basis.

(c) TIMING OF APPROVAL OF LAWFUL PERMANENT RESIDENT STATUS.—

(1) IN GENERAL.—An alien granted permanent resident status on a conditional basis under this Act

may apply to have such conditional basis removed at any time after such alien has met the eligibility requirements set forth in subsection (a).

(2) APPROVAL WITH REGARD TO INITIAL APPLICATIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent resident status without conditional basis, any alien who—

(i) demonstrates eligibility for lawful permanent residence status on a conditional basis under section 101(b); and

(ii) subject to the exceptions described in subsections (a)(2) and (a)(3)(B) of this section, already has fulfilled the requirements of paragraphs (1) and (3) of subsection (a) of this section at the time such alien first submits an application for benefits under this Act.

(B) BACKGROUND CHECKS.—Subsection (a)(5) shall apply to an alien seeking lawful permanent resident status without conditional basis in an initial application in the same man-

ner as it applies to an alien seeking removal of the conditional basis of an alien's permanent resident status. Section 101(b)(3) shall not be construed to require the Secretary to conduct more than one identical security or law enforcement background check on such an alien.

(C) APPLICATION FEES.—In the case of an alien seeking lawful permanent resident status without conditional basis in an initial application, the alien shall pay the fee required under subsection (a)(4), subject to the exemption allowed under section 203(c), but shall not be required to pay the application fee under section 101(b)(2).

TITLE II—GENERAL PROVISIONS

SEC. 201. DEFINITIONS.

In this Act:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) AREA CAREER AND TECHNICAL EDUCATION SCHOOL.—The term ''area career and technical education school'' has the meaning given such term in

section 3 of the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2302).

(3) DACA.—The term ''DACA'' means deferred action granted to an alien pursuant to the Deferred Action for Childhood Arrivals policy announced by the Secretary of Homeland Security on June 15, 2012.

(4) DISABILITY.—The term ''disability'' has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(5) FEDERAL POVERTY LINE.—The term ''Federal poverty line'' has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(6) HIGH SCHOOL; SECONDARY SCHOOL.—The terms ''high school'' and ''secondary school'' have the meanings given such terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(7) IMMIGRATION LAWS.—The term ''immigration laws'' has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(8) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education''—

(A) except as provided in subparagraph (B), has the meaning given such term in section 102 of the Higher Education Act of 1965 (20 U.S.C. 1002); and

(B) does not include an institution of higher education outside of the United States.

(9) RECOGNIZED POSTSECONDARY CREDENTIAL.—The term ''recognized postsecondary credential'' has the meaning given such term in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102).

(10) SECRETARY.—Except as otherwise specifically provided, the term ''Secretary'' means the Secretary of Homeland Security.

(11) UNIFORMED SERVICES.—The term ''Uniformed Services'' has the meaning given the term ''uniformed services'' in section 101(a) of title 10, United States Code.

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

(a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant an alien adjustment of status under this Act, on either a conditional or perma-

nent basis, unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for adjustment of status under this Act, on either a conditional or permanent basis. The status of an alien may not be adjusted, on either a conditional or permanent basis, unless security and law enforcement background checks are completed to the satisfaction of the Secretary.

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

(a) LIMITATION ON REMOVAL.—An alien who appears to be prima facie eligible for relief under this Act shall be given a reasonable opportunity to apply for such relief and may not be removed until, subject to section

206(c), a final decision establishing ineligibility for relief is rendered.

(b) APPLICATION.—An alien present in the United States who has been ordered removed or has been permitted to depart voluntarily from the United States may, notwithstanding such order or permission to depart, apply for adjustment of status under this Act. Such alien shall not be required to file a separate motion to reopen, reconsider, or vacate the order of removal. If the Secretary approves the application, the Secretary shall cancel the order of removal. If the Secretary renders a final administrative decision to deny the application, the order of removal or permission to depart shall be effective and enforceable to the same extent as if the application had not been made, only after all available administrative and judicial remedies have been exhausted.

(c) FEE EXEMPTION.—An applicant may be exempted from paying an application fee required under this Act if the applicant—

(1) is younger than 18 years of age;

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

(3) is in foster care or otherwise lacks any parental or other familial support; or

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

(d) WAIVER OF GROUNDS OF INADMISSIBILITY.—With respect to any benefit under this Act, and in addition to the waivers under section 101(c)(2), the Secretary may waive the grounds of inadmissibility under paragraph (1), (6)(E), (6)(G), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(e) ADVANCE PAROLE.—During the period beginning on the date on which an alien applies for adjustment of status under this Act and ending on the date on which the Secretary makes a final decision regarding such application, the alien shall be eligible to apply for advance parole. Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g)) shall not apply to an alien granted advance parole under this section.

(f) EMPLOYMENT.—An alien whose removal is stayed pursuant to this Act, who may not be placed in removal proceedings pursuant to this Act, or who has pending an application under this Act, shall, upon application to the

Secretary, be granted an employment authorization document.

SEC. 204. DETERMINATION OF CONTINUOUS PRESENCE AND RESIDENCE.

(a) EFFECT OF NOTICE TO APPEAR.—Any period of continuous physical presence or continuous residence in the United States of an alien who applies for permanent resident status under this Act (whether on a conditional basis or without the conditional basis as provided in section 103(c)(2)) shall not terminate when the alien is served a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRESENCE OR RESIDENCE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an alien shall be considered to have failed to maintain—

(A) continuous physical presence in the United States under this Act if the alien has departed from the United States for any period exceeding 90 days or for any periods, in the aggregate, exceeding 180 days; and

(B) continuous residence in the United States under this Act if the alien has departed from the United States for any period exceeding

180 days, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that the alien did not in fact abandon residence in the United States during such period.

(2) EXTENSIONS FOR EXTENUATING CIRCUMSTANCES.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien's control, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(3) TRAVEL AUTHORIZED BY THE SECRETARY.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under paragraph (1).

(c) WAIVER OF PHYSICAL PRESENCE.—With respect to aliens who were removed or departed the United States on or after January 20, 2017, and who were continuously physically present in the United States for at least 4 years prior to such removal or departure, the Secretary may, as a matter of discretion, waive the physical presence requirement under section 101(b)(1)(A) for humanitarian

purposes, for family unity, or because a waiver is otherwise in the public interest. The Secretary, in consultation with the Secretary of State, shall establish a procedure for such aliens to apply for relief under section 101 from outside the United States if they would have been eligible for relief under such section, but for their removal or departure.

SEC. 205. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this Act or in any other law may be construed to apply a numerical limitation on the number of aliens who may be granted permanent resident status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)).

SEC. 206. AVAILABILITY OF ADMINISTRATIVE AND JUDICIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall provide to aliens who have applied for adjustment of status under this Act a process by which an applicant may seek administrative appellate review of a denial of an application for adjustment of status, or a revocation of such status.

(b) JUDICIAL REVIEW.—Except as provided in subsection (c), and notwithstanding any other provision of law, an alien may seek judicial review of a denial of an

application for adjustment of status, or a revocation of such status, under this Act in the United States district court with jurisdiction over the alien's residence.

(c) JUDICIAL REVIEW OF A PROVISIONAL DENIAL.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if, after notice and the opportunity to respond under section 101(c)(3)(E), the Secretary provisionally denies an application for adjustment of status under this Act, the alien shall have 60 days from the date of the Secretary's determination to seek review of such determination in the United States District Court for the District of Columbia or in the United States district court with jurisdiction over the alien's residence.

(2) SCOPE OF REVIEW AND DECISION.—Notwithstanding any other provision of law, review under paragraph (1) shall be de novo and based solely on the administrative record, except that the applicant shall be given the opportunity to supplement the administrative record and the Secretary shall be given the opportunity to rebut the evidence and arguments raised in such submission. Upon issuing its decision, the court shall remand the matter, with appropriate instructions, to the Depart-

ment of Homeland Security to render a final decision on the application.

(3) APPOINTED COUNSEL.—Notwithstanding any other provision of law, an applicant seeking judicial review under paragraph (1) shall be represented by counsel. Upon the request of the applicant, counsel shall be appointed for the applicant, in accordance with procedures to be established by the Attorney General within 90 days of the date of the enactment of this Act, and shall be funded in accordance with fees collected and deposited in the Immigration Counsel Account under section 212.

(d) STAY OF REMOVAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this Act may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) EXCEPTION.—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds described in this Act. Such removal shall not affect the alien's right to judicial review under this Act. The Secretary shall promptly

return a removed alien if a decision to deny an application for adjustment of status under this Act, or to revoke such status, is reversed.

SEC. 207. DOCUMENTATION REQUIREMENTS.

(a) DOCUMENTS ESTABLISHING IDENTITY.—An alien's application for permanent resident status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)) may include, as evidence of identity—

(1) a passport or national identity document from the alien's country of origin that includes the alien's name and the alien's photograph or fingerprint;

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

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

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

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

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

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

(b) DOCUMENTS ESTABLISHING ENTRY, CONTINUOUS PHYSICAL PRESENCE, LACK OF ABANDONMENT OF RESIDENCE.—To establish that an alien was younger than 18 years of age on the date on which the alien entered the United States, as required under section 101(b)(1)(B), that an alien has been continuously physically present in the United States, as required under section 101(b)(1)(A), or that an alien has not abandoned residence in the United States, as required under section 103(a)(1)(B), the alien may submit the following forms of evidence:

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

(2) Any document from the Department of Justice or the Department of Homeland Security noting the alien's date of entry into the United States.

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

(4) Employment records of the alien that include the employer's name and contact information, or other records demonstrating earned income.

(5) Records of service from the Uniformed Services.

(6) Official records from a religious entity confirming the alien's participation in a religious ceremony.

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

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

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

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

(12) Tax receipts.

(13) Insurance policies.

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

(15) Travel records.

(16) Dated bank transactions.

(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct

knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(18) Any other evidence determined to be credible by the Secretary.

(c) DOCUMENTS ESTABLISHING ADMISSION TO AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has been admitted to an institution of higher education, the alien may submit to the Secretary a document from the institution of higher education certifying that the alien—

(1) has been admitted to the institution; or

(2) is currently enrolled in the institution as a student.

(d) DOCUMENTS ESTABLISHING RECEIPT OF A DEGREE FROM AN INSTITUTION OF HIGHER EDUCATION.—To establish that an alien has acquired a degree from an institution of higher education in the United States, the alien may submit to the Secretary a diploma or other document from the institution stating that the alien has received such a degree.

(e) DOCUMENTS ESTABLISHING RECEIPT OF A HIGH SCHOOL DIPLOMA, GENERAL EDUCATIONAL DEVELOPMENT CREDENTIAL, OR A RECOGNIZED EQUIVALENT.—To establish that in the United States an alien has earned a high school diploma or a commensurate alternative award from a public or private high school, has obtained the General Education Development credential, or otherwise has satisfied section 101(b)(1)(D)(iii), the alien may submit to the Secretary—

(1) a high school diploma, certificate of completion, or other alternate award;

(2) a high school equivalency diploma or certificate recognized under State law;

(3) evidence that the alien passed a State-authorized exam, including the General Education Development test, in the United States;

(4) evidence that the alien successfully completed an area career and technical education program, such as a certification, certificate, or similar alternate award;

(5) evidence that the alien obtained a recognized postsecondary credential; or

(6) any other evidence determined to be credible by the Secretary.

(f) DOCUMENTS ESTABLISHING ENROLLMENT IN AN EDUCATIONAL PROGRAM.—To establish that an alien is enrolled in any school or education program described in section 101(b)(1)(D)(iv) or 103(a)(1)(C), the alien may submit school records from the United States school that the alien is currently attending that include—

(1) the name of the school; and

(2) the alien's name, periods of attendance, and current grade or educational level.

(g) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under section 203(c), the alien may submit to the Secretary the following relevant documents:

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

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

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

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

(B) bank records; or

(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work and income that contain—

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

(ii) the nature and duration of the relationship between the affiant and the alien.

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

(A) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, or has a serious, chronic disability, as appropriate;

(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(h) DOCUMENTS ESTABLISHING QUALIFICATION FOR HARDSHIP EXEMPTION.—To establish that an alien satisfies one of the criteria for the hardship exemption set forth in section 103(a)(2)(A)(iii), the alien may submit to the Secretary at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that warrant the exemption, that contain—

(1) the name, address, and telephone number of the affiant; and

(2) the nature and duration of the relationship between the affiant and the alien.

(i) DOCUMENTS ESTABLISHING SERVICE IN THE UNIFORMED SERVICES.—To establish that an alien has served in the Uniformed Services for at least 2 years and, if discharged, received an honorable discharge, the alien may submit to the Secretary—

(1) a Department of Defense form DD–214;

(2) a National Guard Report of Separation and Record of Service form 22;

(3) personnel records for such service from the appropriate Uniformed Service; or

(4) health records from the appropriate Uniformed Service.

(j) DOCUMENTS ESTABLISHING EARNED INCOME.—

(1) IN GENERAL.—An alien may satisfy the earned income requirement under section 103(a)(1)(C)(iii) by submitting records that—

(A) establish compliance with such requirement; and

(B) have been maintained by the Social Security Administration, the Internal Revenue Service, or any other Federal, State, or local government agency.

(2) OTHER DOCUMENTS.—An alien who is unable to submit the records described in paragraph (1) may satisfy the earned income requirement by submitting at least 2 types of reliable documents that provide evidence of employment or other forms of earned income, including—

(A) bank records;

(B) business records;

(C) employer or contractor records;

(D) records of a labor union, day labor center, or organization that assists workers in employment;

(E) sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien's work, that contain—

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

(ii) the nature and duration of the relationship between the affiant and the alien;

(F) remittance records; or

(G) any other evidence determined to be credible by the Secretary.

(k) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)) is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 208. RULE MAKING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register interim final rules implementing this Act, which shall allow eligible individuals to immediately apply for relief under section 101 or 103(c)(2). Notwithstanding section 553 of title 5, United States Code, the regulation shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for a period of public comment. The Secretary shall finalize such rules not later than 180 days after the date of publication.

(b) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the ''Paperwork Reduction Act'') shall not apply to any action to implement this Act.

SEC. 209. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—The Secretary may not disclose or use information (including information provided during administrative or judicial review) provided in applications filed under this Act or in requests for DACA for the purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based solely on information provided in an application for adjustment of status under this Act (including information pro-

vided during administrative or judicial review) or an application for DACA, may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for adjustment of status under this Act may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this Act;

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

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

(d) PENALTY.—Any person who knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 210. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this Act

by providing them with the services described in subsection (b).

(b) USE OF FUNDS.—Grant funds awarded under this section shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)), particularly to individuals potentially eligible for such status;

(2) assistance, within the scope of authorized practice of immigration law, to individuals submitting applications for adjustment of status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)), including—

(A) screening prospective applicants to assess their eligibility for such status;

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

(C) providing any other assistance that the Secretary or grantee considers useful or nec-

essary to apply for adjustment of status under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)); and

(3) assistance, within the scope of authorized practice of immigration law, and instruction, to individuals—

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

(B) in civics and English as a second language;

(C) in preparation for the General Education Development test; and

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

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) AMOUNTS AUTHORIZED.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2020 through 2030 to carry out this section.

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

SEC. 211. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUSTMENT OF STATUS.

An alien's eligibility to be lawfully admitted for permanent residence under this Act (whether on a conditional basis, or without the conditional basis as provided in section 103(c)(2)) shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.

SEC. 212. SUPPLEMENTARY SURCHARGE FOR APPOINTED COUNSEL.

(a) IN GENERAL.—Except as provided in section 202 and in cases where the applicant is exempt from paying a fee under section 203(c), in any case in which a fee is charged pursuant to this Act, an additional surcharge of $25 shall be imposed and collected for the purpose of providing appointed counsel to applicants seeking judicial review of the Secretary's decision to provisionally deny an application under section 206(c)(3).

(b) IMMIGRATION COUNSEL ACCOUNT.—There is established in the general fund of the Treasury a separate account which shall be known as the ''Immigration Counsel Account''. Fees collected under subsection (a) shall be deposited into the Immigration Counsel Account and shall to remain available until expended for purposes of providing appointed counsel as required under this Act.

(c) REPORT.—At the end of each 2-year period, beginning with the establishment of this account, the Secretary of Homeland Security shall submit a report to the Congress concerning the status of the account, including any balances therein, and recommend any adjustment in the prescribed fee that may be required to ensure that the receipts collected from the fee charged for the succeeding two years equal, as closely as possible, the cost of providing appointed counsel as required under this Act.

SEC. 213. ANNUAL REPORT ON PROVISIONAL DENIAL AUTHORITY.

Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the Congress a report detailing the number of applicants that receive—

(1) a provisional denial under this Act;

(2) a final denial under this Act without seeking judicial review;

(3) a final denial under this Act after seeking judicial review; and

(4) an approval under this Act after seeking judicial review.

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