

105TH CONGRESS  
1ST SESSION

# H. R. 2442

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.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 9, 1997

Mrs. MEEK of Florida 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 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 “Fairness for Immi-  
5       grants Facing Persecution in Their Native Country Act  
6       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.—

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

18                               “(i) the alien has not been convicted  
19                               at any time of an aggravated felony, and—

20                                       “(I) is a Haitian—

21   “(aa) who filed an applica-  
22   tion for asylum with the Immi-  
23   gration and Naturalization Serv-  
24   ice before October 15, 1994, and  
25   the Immigration and Naturaliza-

1           tion Service had not granted, de-  
2           nied, or referred that application  
3           as of April 1, 1997; or

4           “(bb) who was paroled into  
5           the United States prior to Octo-  
6           ber 15, 1994, to file an applica-  
7           tion for asylum;

8           “(II) was not apprehended after  
9           December 19, 1990, at the time of  
10          entry, and is either—

11          “(aa) a Salvadoran national  
12          who first entered the United  
13          States on or before September  
14          19, 1990, who registered for ben-  
15          efits pursuant to the ABC settle-  
16          ment agreement on or before Oc-  
17          tober 31, 1991, or applied for  
18          Temporary Protected Status on  
19          or before October 31, 1991; or

20          “(bb) a Guatemalan national  
21          who first entered the United  
22          States on or before October 1,  
23          1990, and who registered for  
24          benefits pursuant to the ABC

1 settlement agreement by Decem-  
2 ber 31, 1991; or

3 “(cc) the spouse or unmar-  
4 ried son or daughter of an alien  
5 described in (aa) who entered the  
6 United States on or before Sep-  
7 tember 19, 1990, or the spouse  
8 or unmarried son or daughter of  
9 an alien described in (bb) who  
10 entered the United States on or  
11 before October 1, 1990; or

12 “(III) is a Nicaraguan, Guate-  
13 malan, or Salvadoran who filed an ap-  
14 plication for asylum with the Immi-  
15 gration and Naturalization Service be-  
16 fore April 1, 1990, and the Immigra-  
17 tion and Naturalization Service had  
18 not granted, denied, or referred that  
19 application as of April 1, 1997; and

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

23 “(iii) the alien—

24 “(I) is removable under any law  
25 of the United States except the provi-

sions specified in subclause (II) of this clause, has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character, and is a person whose removal would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

“(II) is removable under paragraph (2) (other than section 237(a)(2)(A)(iii)) of section 237(a), paragraph (3) of section 237(a), or paragraph (2) of section 212(a), has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a

1 ground for deportation, and proves  
2 that during all of such period he has  
3 been and is a person of good moral  
4 character, and is a person whose re-  
5 moval would, in the opinion of the At-  
6 torney General, result in exceptional  
7 and extremely unusual hardship to the  
8 alien or to his spouse, parent or child,  
9 who is a citizen of the United States,  
10 or an alien lawfully admitted for per-  
11 manent residence.

12 “(B) Subsection (d) of this section shall  
13 not apply to determinations under this para-  
14 graph, and an alien shall not be considered to  
15 have failed to maintain continuous physical  
16 presence in the United States under clause  
17 (A)(iii) of this paragraph if the alien dem-  
18 onstrates that the absence from the United  
19 States was brief, casual, and innocent, and did  
20 not meaningfully interrupt the continuous phys-  
21 ical presence.”.

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

1        SEC. 3. Any alien who has become eligible for suspen-  
2    sion of deportation or cancellation of removal as a result  
3    of the amendments made by section 2, may, notwithstand-  
4    ing any other limitations on motions to reopen imposed  
5    by the Immigration and Nationality Act or by regulation,  
6    file one motion to reopen to apply for suspension of depor-  
7    tation or cancellation of removal. The Attorney General  
8    shall designate a specific time period in which all such mo-  
9    tions to reopen must be filed. The period must begin no  
10   later than 120 days after the date of enactment of this  
11   Act and shall extend for a period of 180 days.

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