

105TH CONGRESS  
1ST SESSION

# H. R. 2533

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Immigration and Nationality Act to clarify eligibility for relief from removal and deportation for certain aliens.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 1997

Mr. SMITH of Texas introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 and the Immigration and Nationality Act to clarify eligibility for relief from removal and deportation for certain aliens.

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 “Central American De-  
5 portation Relief Act”.

1 **SEC. 2. MODIFICATION OF PHYSICAL PRESENCE RULE**  
2 **WITH REGARD TO SUSPENSION OF DEPORTA-**  
3 **TION.**

4 (a) IN GENERAL.—Section 309(c)(5) of the Illegal  
5 Immigration Reform and Immigrant Responsibility Act of  
6 1996 (Public Law 104–208; division C; 110 Stat. 3009–  
7 627)) is amended to read as follows:

8 “(5) TRANSITIONAL RULES WITH REGARD TO  
9 SUSPENSION OF DEPORTATION.—

10 “(A) CALCULATION OF PERIOD OF CON-  
11 TINUOUS PHYSICAL PRESENCE.—Paragraphs  
12 (1) and (2) of section 240A(d) of the Immigra-  
13 tion and Nationality Act (relating to continuous  
14 residence or physical presence) shall apply to  
15 notices to appear, or orders to show cause (re-  
16 ferred to in section 242B(a)(1) of the Immigra-  
17 tion and Nationality Act, as in effect before the  
18 title III–A effective date), issued before, on, or  
19 after the date of the enactment of this Act.

20 “(B) EXCEPTION FOR CERTAIN ORDERS.—  
21 In any case in which the Attorney General  
22 elects to terminate and reinstate proceedings in  
23 accordance with paragraph (3) of this section,  
24 paragraphs (1) and (2) of section 240A(d) of  
25 the Immigration and Nationality Act shall not

1 apply to an order to show cause issued before  
2 April 1, 1997.

3 “(C) SPECIAL RULE FOR CERTAIN ALIENS  
4 GRANTED TEMPORARY PROTECTION FROM DE-  
5 PORTATION.—

6 “(i) IN GENERAL.—For purposes of  
7 calculating the period of continuous phys-  
8 ical presence under section 244(a) of the  
9 Immigration and Nationality Act (as in ef-  
10 fect before the title III–A effective date) or  
11 section 240A of such Act (as in effect after  
12 the title III–A effective date), such period  
13 is deemed to terminate on April 1, 1997,  
14 in the case of an alien who demonstrates  
15 that the alien has not been convicted at  
16 any time of an aggravated felony (as de-  
17 fined in section 101(a) of the Immigration  
18 and Nationality Act); has not been appre-  
19 hended while attempting to enter the Unit-  
20 ed States unlawfully after December 12,  
21 1990; and is—

22 “(I) a Salvadoran national who  
23 first entered the United States on or  
24 before September 19, 1990; who reg-  
25 istered for benefits pursuant to the

1 settlement agreement in American  
2 Baptist Churches, et al. v.  
3 Thornburgh (ABC), 760 F. Supp.  
4 796 (N.D. Cal. 1991) on or before  
5 October 31, 1991, or applied for tem-  
6 porary protected status on or before  
7 October 31, 1991; and who applied  
8 for asylum under section 208 of the  
9 Immigration and Nationality Act on  
10 or before February 16, 1996;

11 “(II) a Guatemalan national who  
12 first entered the United States on or  
13 before October 1, 1990; who reg-  
14 istered for benefits pursuant to such  
15 settlement agreement on or before De-  
16 cember 31, 1991; and who applied for  
17 asylum under section 208 of the Im-  
18 migration and Nationality Act on or  
19 before January 3, 1995; or

20 “(III) a Nicaraguan national who  
21 first entered the United States on or  
22 before April 1, 1990.

23 “(ii) MOTIONS TO REOPEN DEPORTA-  
24 TION PROCEEDINGS.—Any alien found in-  
25 eligible for suspension of deportation prior

1 to July 10, 1997, solely on the basis of  
2 this paragraph (as in effect prior to the ef-  
3 fective date of the Central American De-  
4 portation Relief Act), and who claims eligi-  
5 bility for suspension of deportation as a re-  
6 sult of the amendments made by section  
7 101 of such Act, may, notwithstanding any  
8 other limitations imposed by law on mo-  
9 tions to reopen, file one motion to reopen  
10 deportation proceedings to apply for sus-  
11 pension of deportation. The Attorney Gen-  
12 eral shall designate a specific time period  
13 in which all such motions to reopen are re-  
14 quired to be filed. The period shall begin  
15 not later than 60 days after the date of the  
16 enactment of the Central American Depor-  
17 tation Relief Act and shall extend for a pe-  
18 riod not to exceed 180 days.”.

19 (b) EFFECTIVE DATE.—The amendment made by  
20 subsection (a) shall take effect as if included in the enact-  
21 ment of the Illegal Immigration Reform and Immigrant  
22 Responsibility Act of 1996 (Public Law 104–208; 110  
23 Stat. 3009–546).

1 **SEC. 3. MODIFICATION OF HARDSHIP RULE WITH REGARD**  
2 **TO SUSPENSION OF DEPORTATION.**

3 (a) IN GENERAL.—Section 309(c) of the Illegal Im-  
4 migration Reform and Immigrant Responsibility Act of  
5 1996 (Public Law 104–208; division C; 110 Stat. 3009–  
6 625)), as amended by section 1, is further amended by  
7 adding at the end the following:

8 “(8) TRANSITIONAL RULE WITH REGARD TO  
9 SUSPENSION OF DEPORTATION HARDSHIP STAND-  
10 ARD.—

11 “(A) IN GENERAL.—Except as provided in  
12 subparagraph (B) and notwithstanding para-  
13 graphs (1) and (2) of section 244(a) of the Im-  
14 migration and Nationality Act (as in effect be-  
15 fore the title III–A effective date), section  
16 240A(b)(1)(D) of the Immigration and Nation-  
17 ality Act shall apply to an alien—

18 “(i) whose application for suspension  
19 of deportation was filed in deportation pro-  
20 ceedings that were commenced before the  
21 title III–A effective date; and

22 “(ii) on which application no final ad-  
23 ministrative action was taken prior to the  
24 date of the enactment of the Central  
25 American Deportation Relief Act.

1           “(B) EXCEPTION.—Subparagraph (A)  
2           shall not apply to any alien described in para-  
3           graph (5)(C)(i).”.

4           (b) EFFECTIVE DATE.—The amendment made by  
5 this section shall take effect on the date of the enactment  
6 of this Act.

7 **SEC. 4. OFFSET FOR LIMITATION ON CANCELLATIONS OF**  
8           **REMOVAL AND SUSPENSIONS OF DEPORTA-**  
9           **TION.**

10          (a) ANNUAL LIMITATION.—Section 240A(e) of the  
11 Immigration and Nationality Act (8 U.S.C. 1229b(e)) is  
12 amended to read as follows:

13          “(e) ANNUAL LIMITATION.—

14               “(1) AGGREGATE LIMITATION.—Subject to  
15 paragraphs (2) and (3), the Attorney General may  
16 not cancel the removal and adjust the status under  
17 this section, nor suspend the deportation and adjust  
18 the status under section 244(a) (as in effect before  
19 the enactment of the Illegal Immigration Reform  
20 and Immigrant Responsibility Act of 1996), of a  
21 total of more than 4,000 aliens in any fiscal year.  
22 The previous sentence shall apply regardless of when  
23 an alien applied for such cancellation and adjust-  
24 ment, or such suspension and adjustment, and  
25 whether such an alien had previously applied for

1 suspension of deportation under such section 244(a).  
2 The numerical limitation under this paragraph shall  
3 apply to the aggregate number of decisions in any  
4 fiscal year to cancel the removal (and adjust the sta-  
5 tus) of an alien, or suspend the deportation (and ad-  
6 just the status) of an alien, under this section or  
7 such section 244(a).

8 “(2) FISCAL YEAR 1997.—For fiscal year 1997,  
9 paragraph (1) shall only apply to decisions to cancel  
10 the removal of an alien, or suspend the deportation  
11 of an alien, made after April 1, 1997.

12 “(3) OFFSET FOR DECISIONS IN EXCESS OF AG-  
13 GREGATE LIMITATION.—In fiscal year 1998 and  
14 subsequent fiscal years, and with respect only to  
15 aliens described in section 309(c)(5)(C) of the Illegal  
16 Immigration Reform and Immigrant Responsibility  
17 Act of 1996 (as amended by the Central American  
18 Deportation Relief Act), the Attorney General may  
19 elect to exceed the aggregate numerical limitation  
20 under paragraph (1) by a number not greater than  
21 10,000. For each such alien granted cancellation of  
22 removal or suspension of deportation in excess of  
23 4,000 in such a fiscal year, the Attorney General  
24 shall reduce by 1, during the next following fiscal

1 year, the total number of immigrant visas that are  
2 made available under section 203(b)(3)(A)(iii).”.

3 (b) CANCELLATION OF REMOVAL AND ADJUSTMENT  
4 OF STATUS FOR CERTAIN NONPERMANENT RESI-  
5 DENTS.—Section 240A(b) of the Immigration and Nation-  
6 ality Act (8 U.S.C. 1229b(b)) is amended in each of para-  
7 graphs (1) and (2) by striking “may cancel removal in  
8 the case of an alien” and inserting “may cancel removal  
9 of, and adjust to the status of an alien lawfully admitted  
10 for permanent residence, an alien”.

11 (c) RECORDATION OF DATE.—Section 240A(b)(3) of  
12 the Immigration and Nationality Act (8 U.S.C.  
13 1229b(b)(3)) is amended to read as follows:

14 “(3) RECORDATION OF DATE.—With respect to  
15 aliens who the Attorney General adjusts to the sta-  
16 tus of an alien lawfully admitted for permanent resi-  
17 dence under paragraph (1) or (2), the Attorney Gen-  
18 eral shall record the alien’s lawful admission for per-  
19 manent residence as of the date of the Attorney  
20 General’s cancellation of removal under paragraph  
21 (1) or (2).”.

22 (d) APRIL 1 EFFECTIVE DATE FOR AGGREGATE LIM-  
23 ITATION.—Section 309(c)(7) of the Illegal Immigration  
24 Reform and Immigrant Responsibility Act of 1996 (Public

1 Law 104–208; division C; 110 Stat. 3009–627)) is amend-  
2 ed to read as follows:

3           “(7) LIMITATION ON SUSPENSION OF DEPORTA-  
4           TION.—After April 1, 1997, the Attorney General  
5           may not suspend the deportation and adjust the sta-  
6           tus under section 244 of the Immigration and Na-  
7           tionality Act (as in effect before the title III–A effec-  
8           tive date) of any alien in any fiscal year, except in  
9           accordance with section 240A(e) of such Act. The  
10          previous sentence shall apply regardless of when an  
11          alien applied for such suspension and adjustment.”.

12          (e) EFFECTIVE DATE.—The amendments made by  
13          this section shall take effect as if included in the enact-  
14          ment of the Illegal Immigration Reform and Immigrant  
15          Responsibility Act of 1996 (Public Law 104–208; 110  
16          Stat. 3009–546).

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