

106TH CONGRESS
1ST SESSION

S. 1249

To deny Federal public benefits to individuals who participated in Nazi persecution.

IN THE SENATE OF THE UNITED STATES

JUNE 21, 1999

Mr. TORRICELLI introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To deny Federal public benefits to individuals who participated in Nazi persecution.

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 “Nazi Benefits Termi-
5 nation Act of 1999”.

6 **SEC. 2. DENIAL OF FEDERAL PUBLIC BENEFITS TO NAZI**
7 **PERSECUTORS.**

8 (a) IN GENERAL.—Notwithstanding any other provi-
9 sion of law, an individual who is determined under this

1 Act to have been a participant in Nazi persecution is not
2 eligible for any Federal public benefit.

3 (b) DEFINITIONS.—In this Act:

4 (1) FEDERAL PUBLIC BENEFIT.—The term
5 “Federal public benefit” shall have the meaning
6 given such term by section 401(c)(1) of the Personal
7 Responsibility and Work Opportunity Reconciliation
8 Act of 1996, but shall not include any benefit de-
9 scribed in section 401(b)(1) of such Act (and, for
10 purposes of applying such section 401(b)(1), the
11 term “alien” shall be considered to mean “indi-
12 vidual”).

13 (2) PARTICIPANT IN NAZI PERSECUTION.—The
14 term “participant in Nazi persecution” means an in-
15 dividual who—

16 (A) if an alien, is shown by a preponder-
17 ance of the evidence to fall within the class of
18 persons who (if present within the United
19 States) would be deportable under section
20 237(a)(4)(D) of the Immigration and Nation-
21 ality Act; or

22 (B) if a citizen, is shown by a preponder-
23 ance of the evidence—

24 (i) to have procured citizenship ille-
25 gally or by concealment of a material fact

1 or willful misrepresentation within the
2 meaning of section 340(a) of the Immigra-
3 tion and Nationality Act; and

4 (ii) to have participated in Nazi perse-
5 cution within the meaning of section
6 212(a)(3)(E) of the Immigration and Na-
7 tionality Act.

8 **SEC. 3. DETERMINATIONS.**

9 (a) HEARING BY IMMIGRATION JUDGE.—If the At-
10 torney General has reason to believe that an individual
11 who has applied for or is receiving a Federal public benefit
12 may have been a participant in Nazi persecution (within
13 the meaning of section 2 of this Act), the Attorney General
14 may provide an opportunity for a hearing on the record
15 with respect to the matter. The Attorney General may del-
16 egate the conduct of the hearing to an immigration judge
17 appointed by the Attorney General under section
18 101(b)(4) of the Immigration and Nationality Act.

19 (b) PROCEDURE.—

20 (1) RIGHT OF RESPONDENTS TO APPEAR.—

21 (A) CITIZENS, PERMANENT RESIDENT
22 ALIENS, AND PERSONS PRESENT IN THE
23 UNITED STATES.—At a hearing under this sec-
24 tion, each respondent may appear in person if
25 the respondent is a United States citizen, a per-

1 manent resident alien, or present within the
2 United States when the proceeding under this
3 section is initiated.

4 (B) OTHERS.—A respondent who is not a
5 citizen, a permanent resident alien, or present
6 within the United States when the proceeding
7 under this section is initiated may appear by
8 video conference.

9 (C) RULE OF INTERPRETATION.—This Act
10 shall not be construed to permit the return to
11 the United States of an individual who is inad-
12 missible under section 212(a)(3)(E) of the Im-
13 migration and Nationality Act.

14 (2) OTHER RIGHTS OF RESPONDENTS.—At a
15 hearing under this section, each respondent may be
16 represented by counsel at no expense to the Federal
17 Government, present evidence, cross-examine wit-
18 nesses, and obtain the issuance of subpoenas for the
19 attendance of witnesses and presentation of evi-
20 dence.

21 (3) RULES OF EVIDENCE.—Unless otherwise
22 provided in this Act, rules regarding the presen-
23 tation of evidence in the hearing shall apply in the
24 same manner in which such rules would apply in a
25 removal proceeding before a United States immigra-

1 tion judge under section 240 of the Immigration and
2 Nationality Act.

3 (c) HEARINGS, FINDINGS AND CONCLUSIONS, AND
4 ORDER.—

5 (1) FINDINGS AND CONCLUSIONS.—Within 60
6 days after the end of a hearing conducted under this
7 section, the immigration judge shall make findings
8 of fact and conclusions of law with respect to wheth-
9 er the respondent has been a participant in Nazi
10 persecution (within the meaning of section 2 of this
11 Act).

12 (2) ORDER.—

13 (A) FINDING THAT RESPONDENT HAS
14 BEEN A PARTICIPANT IN NAZI PERSECUTION.—
15 If the immigration judge finds, by a preponder-
16 ance of the evidence, that the respondent has
17 been a participant in Nazi persecution (within
18 the meaning of section 2 of this Act), the immi-
19 gration judge shall promptly issue an order de-
20 claring the respondent to be ineligible for any
21 Federal public benefit, and prohibiting any per-
22 son from providing such a benefit, directly or
23 indirectly, to the respondent, and shall transmit
24 a copy of the order to any governmental entity

1 or person known to be so providing such a ben-
2 efit.

3 (B) FINDING THAT RESPONDENT HAS NOT
4 BEEN A PARTICIPANT IN NAZI PERSECUTION.—

5 If the immigration judge finds that there is in-
6 sufficient evidence for a finding under subpara-
7 graph (A) that a respondent has been a partici-
8 pant in Nazi persecution (within the meaning of
9 section 2 of this Act), the immigration judge
10 shall issue an order dismissing the proceeding.

11 (C) EFFECTIVE DATE; LIMITATION OF LI-
12 ABILITY.—

13 (i) EFFECTIVE DATE.—An order
14 issued pursuant to subparagraph (A) shall
15 be effective on the date of issuance.

16 (ii) LIMITATION OF LIABILITY.—Not-
17 withstanding clause (i), a person or entity
18 shall not be found to have provided a ben-
19 efit to an individual in violation of this Act
20 until the person or entity has received ac-
21 tual notice of the issuance of an order
22 under subparagraph (A) with respect to
23 the individual and has had a reasonable
24 opportunity to comply with the order.

1 (d) REVIEW BY ATTORNEY GENERAL; SERVICE OF
2 FINAL ORDER.—

3 (1) REVIEW BY ATTORNEY GENERAL.—The At-
4 torney General may, in her discretion, review any
5 finding or conclusion made, or order issued, under
6 subsection (c), and shall complete the review not
7 later than 30 days after the finding or conclusion is
8 so made, or order is so issued. Otherwise, the find-
9 ing, conclusion, or order shall be final.

10 (2) SERVICE OF FINAL ORDER.—The Attorney
11 General shall cause the findings of fact and conclu-
12 sions of law made with respect to any final order
13 issued under this section, together with a copy of the
14 order, to be served on the respondent involved.

15 (e) JUDICIAL REVIEW.—Any party aggrieved by a
16 final order issued under this section may obtain a review
17 of the order by the United States Court of Appeals for
18 the Federal Circuit by filing a petition for such review not
19 later than 30 days after the final order is issued.

20 (f) ISSUE AND CLAIM PRECLUSION.—In any adminis-
21 trative or judicial proceeding under this Act, the ordinary
22 rules of issue preclusion and claim preclusion shall apply.

1 **SEC. 4. JURISDICTION OF UNITED STATES COURT OF AP-**
2 **PEALS FOR THE FEDERAL CIRCUIT OVER AP-**
3 **PEALS UNDER THIS ACT.**

4 Section 1295(a) of title 28, United States Code, is
5 amended—

6 (1) by striking “and” at the end of paragraph
7 (13);

8 (2) by striking the period at the end of para-
9 graph (14) and inserting “; and”; and

10 (3) by adding at the end the following:

11 “(15) of an appeal from a final order issued
12 under the Nazi Benefits Termination Act of 1999.”.

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