

108TH CONGRESS
1ST SESSION

H. R. 605

To provide for permanent resident status for any alien orphan physically present in the United States who is less than 12 years of age and to provide for deferred enforced departure status for any alien physically present in the United States who is the natural and legal parent of a child born in the United States who is less than 18 years of age.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 5, 2003

Mr. OWENS introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for permanent resident status for any alien orphan physically present in the United States who is less than 12 years of age and to provide for deferred enforced departure status for any alien physically present in the United States who is the natural and legal parent of a child born in the United States who is less than 18 years of age.

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 “Alien Child Protection
3 and Deferred Enforced Departure Family Unity Act of
4 2003”.

5 **SEC. 2. PERMANENT RESIDENT STATUS FOR ANY ALIEN OR-**
6 **PHAN WHO IS PHYSICALLY PRESENT IN THE**
7 **UNITED STATES AND IS LESS THAN 12 YEARS**
8 **OF AGE.**

9 (a) ADJUSTMENT OF STATUS.—

10 (1) IN GENERAL.—Notwithstanding section
11 245(c) of the Immigration and Nationality Act, the
12 status of any alien described in subsection (b) shall
13 be adjusted by the Attorney General to that of an
14 alien lawfully admitted for permanent residence, if
15 the alien—

16 (A) applies for such adjustment; and

17 (B) is otherwise eligible to receive an im-
18 migrant visa and is otherwise admissible to the
19 United States for permanent residence, except
20 in determining such admissibility the grounds
21 for inadmissibility specified in paragraphs (4),
22 (6)(A), (7)(A), and (9) of section 212(a) of the
23 Immigration and Nationality Act shall not
24 apply.

25 (2) RELATIONSHIP OF APPLICATION TO CER-
26 TAIN ORDERS.—An alien present in the United

1 States who has been ordered excluded, deported, re-
2 moved, or ordered to depart voluntarily from the
3 United States under any provision of the Immigra-
4 tion and Nationality Act may, notwithstanding such
5 order, apply for adjustment of status under para-
6 graph (1). Such an alien may not be required, as a
7 condition on submitting or granting such applica-
8 tion, to file a motion to reopen, reconsider, or vacate
9 such order. If the Attorney General grants the appli-
10 cation, the Attorney General shall cancel the order.
11 If the Attorney General renders a final administra-
12 tive decision to deny the application, the order shall
13 be effective and enforceable to the same extent as if
14 the application had not been made.

15 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
16 TUS.—The benefits provided by subsection (a) shall apply
17 to any alien who—

18 (1) at the time of application has not attained
19 the age of 12 years;

20 (2) is physically present in the United States;
21 and

22 (3) has no living legally-recognized parent.

23 (c) STAY OF REMOVAL.—

24 (1) IN GENERAL.—The Attorney General shall
25 provide by regulation for an alien subject to a final

1 order of deportation or removal or exclusion to seek
2 a stay of such order based on the filing of an appli-
3 cation under subsection (a).

4 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
5 standing any provision of the Immigration and Na-
6 tionality Act, the Attorney General shall not order
7 any alien to be removed from the United States, if
8 the alien is in exclusion, deportation, or removal pro-
9 ceedings under any provision of such Act and raises
10 as a defense to such an order the eligibility of the
11 alien to apply for adjustment of status under sub-
12 section (a), except where the Attorney General has
13 rendered a final administrative determination to
14 deny the application.

15 (d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
16 The Attorney General shall provide to applicants for ad-
17 justment of status under subsection (a) the same right to,
18 and procedures for, administrative review as are provided
19 to—

20 (1) applicants for adjustment of status under
21 section 245 of the Immigration and Nationality Act;
22 or

23 (2) aliens subject to removal proceedings under
24 section 240 of such Act.

1 (e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
2 When an alien is granted the status of having been law-
3 fully admitted for permanent residence pursuant to this
4 section, the Secretary of State shall not be required to re-
5 duce the number of immigrant visas authorized to be
6 issued under any provision of the Immigration and Na-
7 tionality Act.

8 (f) APPLICATION OF IMMIGRATION AND NATION-
9 ALITY ACT PROVISIONS.—Except as otherwise specifically
10 provided in this Act, the definitions contained in the Immi-
11 gration and Nationality Act shall apply in the administra-
12 tion of this section. Nothing contained in this Act shall
13 be held to repeal, amend, alter, modify, effect, or restrict
14 the powers, duties, functions, or authority of the Attorney
15 General in the administration and enforcement of such
16 Act or any other law relating to immigration, nationality,
17 or naturalization. The fact that an alien may be eligible
18 to be granted the status of having been lawfully admitted
19 for permanent residence under this section shall not pre-
20 clude the alien from seeking such status under any other
21 provision of law for which the alien may be eligible.

1 **SEC. 3. DEFERRED ENFORCED DEPARTURE FOR ANY ALIEN**
2 **NATURAL AND LEGAL PARENT OF A CHILD**
3 **BORN IN THE UNITED STATES WHO IS LESS**
4 **THAN 18 YEARS OF AGE.**

5 (a) DEFERRED ENFORCED DEPARTURE.—

6 (1) IN GENERAL.—Notwithstanding the Immi-
7 gration and Nationality Act, the removal or enforced
8 departure any alien described in subsection (b) shall
9 be deferred by the Attorney General during any pe-
10 riod in which the alien is the natural and legal par-
11 ent of a child born in the United States who has not
12 attained the age of 18 years, if the alien applies for
13 such deferral.

14 (2) RELATIONSHIP OF APPLICATION TO CER-
15 TAIN ORDERS.—An alien present in the United
16 States who has been ordered excluded, deported, re-
17 moved, or ordered to depart voluntarily from the
18 United States under any provision of the Immigra-
19 tion and Nationality Act may, notwithstanding such
20 order, apply for deferral of enforced departure under
21 paragraph (1). Such an alien may not be required,
22 as a condition on submitting or granting such appli-
23 cation, to file a motion to reopen, reconsider, or va-
24 cate such order. If the Attorney General grants the
25 application, the Attorney General shall cancel the
26 order. If the Attorney General renders a final ad-

1 ministrative decision to deny the application, the
2 order shall be effective and enforceable to the same
3 extent as if the application had not been made.

4 (b) ALIENS ELIGIBLE FOR DEFERRED ENFORCED
5 DEPARTURE.—The benefits provided by subsection (a)
6 shall apply to any alien who—

7 (1) is physically present in the United States;

8 and

9 (2) is the natural and legal parent of a child
10 born in the United States who has not attained the
11 age of 18 years.

12 (c) STAY OF REMOVAL.—

13 (1) IN GENERAL.—The Attorney General shall
14 provide by regulation for an alien subject to a final
15 order of deportation or removal or exclusion to seek
16 a stay of such order based on the filing of an appli-
17 cation under subsection (a).

18 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
19 standing any provision of the Immigration and Na-
20 tionality Act, the Attorney General shall not order
21 any alien to be removed from the United States, if
22 the alien is in exclusion, deportation, or removal pro-
23 ceedings under any provision of such Act and raises
24 as a defense to such an order the eligibility of the
25 alien to apply for adjustment of status under sub-

1 section (a), except where the Attorney General has
2 rendered a final administrative determination to
3 deny the application.

4 (d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

5 The Attorney General shall provide to applicants for de-
6 ferred enforced departure under subsection (a) the same
7 right to, and procedures for, administrative review as are
8 provided to aliens subject to removal proceedings under
9 section 240 of such Act.

10 (e) WORK AUTHORIZATION.—

11 (1) DURING APPLICATION PROCESS.—The At-
12 torney General may authorize an alien who has ap-
13 plied for deferred enforced departure under sub-
14 section (a) to engage in employment in the United
15 States during the pendency of such application and
16 may provide the alien with an “employment author-
17 ized” endorsement or other appropriate document
18 signifying authorization of employment, except that
19 if such application is pending for a period exceeding
20 180 days, and has not been denied, the Attorney
21 General shall authorize such employment.

22 (2) DURING DEFERRED ENFORCED DEPARTURE
23 PERIOD.—The Attorney General shall authorize an
24 alien who is granted deferred enforced departure
25 under subsection (a) to engage in employment in the

1 United States during any period in which deferred
2 enforced departure applies.

3 (f) APPLICATION OF IMMIGRATION AND NATION-
4 ALITY ACT PROVISIONS.—Except as otherwise specifically
5 provided in this Act, the definitions contained in the Immi-
6 gration and Nationality Act shall apply in the administra-
7 tion of this section. Nothing contained in this Act shall
8 be held to repeal, amend, alter, modify, effect, or restrict
9 the powers, duties, functions, or authority of the Attorney
10 General in the administration and enforcement of such
11 Act or any other law relating to immigration, nationality,
12 or naturalization. The fact that an alien may be eligible
13 to be granted deferred enforced departure status under
14 this section shall not preclude the alien from seeking im-
15 migration status under any other provision of law for
16 which the alien may be eligible.

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