

109TH CONGRESS  
1ST SESSION

# H. R. 251

To assist aliens who were transplanted to the United States as children  
in continuing their education and otherwise integrating into American society.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2005

Ms. JACKSON-LEE of Texas introduced the following bill; which was referred  
to the Committee on the Judiciary

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## A BILL

To assist aliens who were transplanted to the United States  
as children in continuing their education and otherwise  
integrating into American society.

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 “Preserving Educational  
5 Opportunities for Immigrant Children Act of 2005”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-  
8 ings:

9 (1) Many children are brought to the United  
10 States at a very young age by parents or other

1 adults to accompany them during the adults' stay in  
2 the United States.

3 (2) In many such instances, parents or other  
4 adults traveling to the United States enter and or  
5 remain in this country without benefit of inspection  
6 or authorization to be present in the United States.

7 (3) Many children brought to the United States  
8 by parents or other adults arrive in this country  
9 without the ability to make independent decisions  
10 about where they wish to live. Once in the United  
11 States, many such children also are incapable of  
12 independent living.

13 (4) Because of the early age at which many  
14 children arrive in the United States, as they become  
15 older, they become fully integrated into American  
16 life, learning English and either losing or never ac-  
17 quiring the language of their native country. At the  
18 same time, many lose all ties to relatives in their  
19 country of origin or previous country of habitual res-  
20 idence.

21 (5) Many such children attend public elemen-  
22 tary and secondary schools in the United States.  
23 Often, they excel in academics and contribute to  
24 both their communities and the families with whom  
25 they live.

1           (6) Current United States immigration laws do  
2 not provide the Attorney General with adequate  
3 flexibility to take into account the special humani-  
4 tarian circumstances in which such transplanted  
5 alien children live. Consequently, such children are  
6 in danger of being removed to a country they do not  
7 know, an eventuality that would cause enormous dis-  
8 ruptions in their lives and in the lives of their loved  
9 ones.

10           (7) Current immigration laws effectively pre-  
11 clude States and units of local government from pro-  
12 viding such children access to State systems of high-  
13 er education. Consequently, many such children can-  
14 not continue their education upon graduating from  
15 high school.

16           (b) PURPOSES.—The purposes of this Act are—

17           (1) to provide for aliens who, through no fault  
18 of their own, were brought to the United States as  
19 children, opportunities to regularize their status in  
20 the United States, attend college, and become con-  
21 tributing members of their communities in this coun-  
22 try; and

23           (2) to repeal certain legislative barriers that im-  
24 pede the ability of such aliens to become fully inte-  
25 grated into United States society.

1 **SEC. 3. DEFINITIONS.**

2 (a) **TRANSPLANTED CHILD.**—As used in this Act, the  
3 term, “transplanted child” means an alien who is de-  
4 scribed in section 101(a)(51) of the Immigration and Na-  
5 tionality Act (as amended by subsection (b) of this Act).

6 (b) **AMENDMENT TO THE IMMIGRATION AND NA-**  
7 **TIONALITY ACT.**—Section 101(a) of the Immigration and  
8 Nationality Act (8 U.S.C. 1101(a)) is amended by adding  
9 at the end the following new paragraph:

10 “(51) The term ‘transplanted child’ means an  
11 alien who has been granted cancellation of removal  
12 under section 240A(b)(3) or who has pending before  
13 the Attorney General an application for cancellation  
14 of removal under such section.”.

15 **SEC. 4. RESTORATION OF STATE FLEXIBILITY IN PRO-**  
16 **VIDING IN-STATE TUITION FOR COLLEGE-AGE**  
17 **ALIEN CHILDREN.**

18 (a) **RESTORATION.**—The Illegal Immigration Reform  
19 and Immigrant Responsibility Act of 1996 (division C of  
20 Public Law 104–208; 8 U.S.C. 1623) is amended by strik-  
21 ing section 505.

22 (b) **APPLICABILITY.**—The amendment made by sub-  
23 section (a) shall apply to postsecondary education benefits  
24 provided on or after July 1, 1998.

1 **SEC. 5. ELIGIBILITY OF TRANSPLANTED CHILDREN FOR**  
2 **PUBLIC BENEFITS.**

3 Section 431(b) of the Personal Responsibility and  
4 Work Opportunity Reconciliation Act of 1996 (8 U.S.C.  
5 1641(b)) is amended—

6 (1) at the end of paragraph (6), by striking “;  
7 or” and inserting a semicolon;

8 (2) at the end of paragraph (7), by striking the  
9 period and inserting “; or”; and

10 (3) by adding after paragraph (7) the following  
11 new paragraph:

12 “(8) an alien who is a transplanted child, as de-  
13 fined in section 101(a)(51) of the Immigration and  
14 Nationality Act.”.

15 **SEC. 6. AUTHORITY OF ATTORNEY GENERAL TO ADJUST**  
16 **STATUS OF CERTAIN CHILDREN.**

17 (a) **IN GENERAL.**—Section 240A(b) of the Immigra-  
18 tion and Nationality Act (8 U.S.C. 1229b(b)) is amended  
19 by—

20 (1) redesignating paragraph (3) as paragraph  
21 (4); and

22 (2) inserting after paragraph (2) the following  
23 new paragraph:

24 “(3) **SPECIAL RULE FOR ALIENS BROUGHT TO**  
25 **THE UNITED STATES AS CHILDREN.**—

1           “(A) AUTHORITY.—Subject to subpara-  
2 graph (B), the Attorney General may cancel the  
3 removal of, and adjust to the status of an alien  
4 lawfully admitted for permanent residence, an  
5 alien who is inadmissible or deportable from the  
6 United States, if the Attorney General deter-  
7 mines that—

8           “(i)(I) in the case of an alien who has  
9 not attained the age of 18, the alien has  
10 been physically present in the United  
11 States for a continuous period of not less  
12 than 3 years immediately preceding the  
13 date of such application and during such  
14 period the alien has been a person of good  
15 moral character; or

16           “(II) in the case of an alien who is 18  
17 years of age or older, the alien has been  
18 physically present in the United States for  
19 a continuous period of not less than 5  
20 years immediately preceding the date of  
21 such application, including at least 3 years  
22 of continuous residence before reaching 18  
23 years of age and during such 5 year period  
24 the alien has been a person of good moral  
25 character; and

1           “(ii) the removal would result in ex-  
2           treme hardship to the alien, the alien’s  
3           child, or the alien’s parent.

4           “(B) RESTRICTIONS ON AUTHORITY.—The  
5           authority of the Attorney General under sub-  
6           paragraph (A) shall not apply to—

7           “(i) an alien who is inadmissible  
8           under section 212(a)(2)(A)(i)(I) or deport-  
9           able under section 237(a)(2)(A)(i) (relat-  
10          ing to crimes of moral turpitude) unless  
11          the Attorney General determines that the  
12          alien’s removal would result in extreme  
13          hardship to the alien, the alien’s child, or  
14          (in the case of an alien who is a child) to  
15          the alien’s parent; or

16          “(ii) an alien who is inadmissible  
17          under section 212(a)(3), or deportable  
18          under section 237(a)(2)(D)(i) or  
19          237(a)(2)(D)(ii) (relating to security and  
20          related grounds).”.

21          (b) CONFORMING AMENDMENT.—Section 240A(b) of  
22          the Immigration and Nationality Act (8 U.S.C. 1229b(b)),  
23          is amended in paragraph (4) (as so redesignated by the  
24          amendment made by subsection (a)) by striking “para-

- 1 graph (1) or (2)” each place it appears and inserting
- 2 “paragraph (1), (2), or (3).”.

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