

109TH CONGRESS
1ST SESSION

H. R. 3575

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2005

Mrs. MALONEY (for herself, Mr. KING of New York, Mr. WEINER, Mr. NADLER, Mr. HIGGINS, Mr. FARR, Mr. SERRANO, Mr. ENGEL, Mr. OWENS, Mr. McDERMOTT, Mr. LANTOS, Ms. SCHAKOWSKY, Mr. THOMPSON of Mississippi, Ms. SOLIS, Mr. SCHIFF, Mr. BERMAN, Mr. PALLONE, Mr. KENNEDY of Rhode Island, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

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 “September 11 Family
5 Humanitarian Relief and Patriotism Act”.

1 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NON-**
2 **IMMIGRANT VICTIMS OF TERRORISM.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—The status of any alien de-
5 scribed in subsection (b) shall be adjusted by the
6 Secretary of Homeland Security to that of an alien
7 lawfully admitted for permanent residence, if the
8 alien—

9 (A) applies for such adjustment not later
10 than 2 years after the date on which the Sec-
11 retary promulgates final regulations to imple-
12 ment this section; and

13 (B) is otherwise admissible to the United
14 States for permanent residence, except in deter-
15 mining such admissibility the grounds for inad-
16 missibility specified in paragraphs (4), (5),
17 (6)(A), (7)(A), and (9)(B) of section 212(a) of
18 the Immigration and Nationality Act (8 U.S.C.
19 1182(a)) shall not apply.

20 (2) RULES IN APPLYING CERTAIN PROVI-
21 SIONS.—In the case of an alien described in sub-
22 section (b) who is applying for adjustment of status
23 under this section—

24 (A) the provisions of section 241(a)(5) of
25 the Immigration and Nationality Act shall not
26 apply; and

1 (B) the Secretary of Homeland Security
2 may grant the alien a waiver on the grounds of
3 inadmissibility under subparagraphs (A) and
4 (C) of section 212(a)(9) of such Act.

5 In granting waivers under subparagraph (B), the
6 Secretary shall use standards used in granting con-
7 sent under subparagraphs (A)(iii) and (C)(ii) of
8 such section 212(a)(9).

9 (3) RELATIONSHIP OF APPLICATION TO CER-
10 TAIN ORDERS.—An alien present in the United
11 States who has been ordered excluded, deported, re-
12 moved, or ordered to depart voluntarily from the
13 United States under any provision of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1101 et seq.)
15 may, notwithstanding such order, apply for adjust-
16 ment of status under paragraph (1). Such an alien
17 may not be required, as a condition of submitting or
18 granting such application, to file a separate motion
19 to reopen, reconsider, or vacate such order. If the
20 Secretary of Homeland Security grants the applica-
21 tion, the Secretary shall cancel the order. If the Sec-
22 retary renders a final administrative decision to deny
23 the application, the order shall be effective and en-
24 forceable to the same extent as if the application
25 had not been made.

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

4 (1) was lawfully present in the United States as
5 a nonimmigrant alien described in section
6 101(a)(15) of the Immigration and Nationality Act
7 (8 U.S.C. 1101(a)(15)) on September 10, 2001;

8 (2) was, on such date, the spouse, child, de-
9 pendent son, or dependent daughter of an alien
10 who—

11 (A) was lawfully present in the United
12 States as a nonimmigrant alien described in
13 section 101(a)(15) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(15)) on such
15 date; and

16 (B) died as a direct result of a specified
17 terrorist activity; and

18 (3) was deemed to be a beneficiary of, and by,
19 the September 11th Victim Compensation Fund of
20 2001 (42 U.S.C. 40101).

21 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

22 (1) IN GENERAL.—The Secretary of Homeland
23 Security shall provide by regulation for an alien sub-
24 ject to a final order of removal to seek a stay of

1 such order based on the filing of an application
2 under subsection (a).

3 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
4 standing any provision of the Immigration and Na-
5 tionality Act (8 U.S.C. 1101 et seq.), the Secretary
6 of Homeland Security shall not order any alien to be
7 removed from the United States, if the alien is in re-
8 moval proceedings under any provision of such Act
9 and has applied for adjustment of status under sub-
10 section (a), except where the Secretary has rendered
11 a final administrative determination to deny the ap-
12 plication.

13 (3) WORK AUTHORIZATION.—The Secretary of
14 Homeland Security shall authorize an alien who has
15 applied for adjustment of status under subsection
16 (a) to engage in employment in the United States
17 during the pendency of such application.

18 (d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
19 The Secretary of Homeland Security shall provide to ap-
20 plicants for adjustment of status under subsection (a) the
21 same right to, and procedures for, administrative review
22 as are provided to—

23 (1) applicants for adjustment of status under
24 section 245 of the Immigration and Nationality Act;
25 or

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

3 **SEC. 3. CANCELLATION OF REMOVAL FOR CERTAIN IMMI-**
4 **GRANT VICTIMS OF TERRORISM.**

5 (a) IN GENERAL.—Subject to the provisions of the
6 Immigration and Nationality Act (8 U.S.C. 1101 et seq.),
7 other than subsections (b)(1), (d)(1), and (e) of section
8 240A of such Act (8 U.S.C. 1229b), the Secretary of
9 Homeland Security shall, under such section 240A, cancel
10 the removal of, and adjust to the status of an alien law-
11 fully admitted for permanent residence, an alien described
12 in subsection (b), if the alien applies for such relief.

13 (b) ALIENS ELIGIBLE FOR CANCELLATION OF RE-
14 MOVAL.—The benefits provided by subsection (a) shall
15 apply to any alien who—

16 (1) was, on September 10, 2001, the spouse,
17 child, dependent son, or dependent daughter of an
18 alien who died as a direct result of a specified ter-
19 rorist activity; and

20 (2) was deemed to be a beneficiary of, and by,
21 the September 11th Victim Compensation Fund of
22 2001 (49 U.S.C. 40101).

23 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

24 (1) IN GENERAL.—The Secretary of Homeland
25 Security shall provide by regulation for an alien sub-

1 ject to a final order of removal to seek a stay of
2 such order based on the filing of an application
3 under subsection (a).

4 (2) WORK AUTHORIZATION.—The Secretary of
5 Homeland Security shall authorize an alien who has
6 applied for cancellation of removal under subsection
7 (a) to engage in employment in the United States
8 during the pendency of such application.

9 (d) MOTIONS TO REOPEN REMOVAL PRO-
10 CEEDINGS.—Notwithstanding any limitation imposed by
11 law on motions to reopen removal proceedings (except lim-
12 itations premised on an alien’s conviction of an aggravated
13 felony (as defined in section 101(a)(43) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1101(a)(43))), any
15 alien who has become eligible for cancellation of removal
16 as a result of the enactment of this section may file one
17 motion to reopen removal proceedings to apply for such
18 relief. The Secretary of Homeland Security shall designate
19 a specific time period in which all such motions to reopen
20 are required to be filed. The period shall begin not later
21 than 60 days after the date of the enactment of this Act
22 and shall extend for a period not to exceed 240 days.

1 **SEC. 4. EXCEPTIONS.**

2 Notwithstanding any other provision of this Act, an
3 alien may not be provided relief under this Act if the alien
4 is—

5 (1) inadmissible under paragraph (2) or (3) of
6 section 212(a) of the Immigration and Nationality
7 Act (8 U.S.C. 1182(a)), or deportable under para-
8 graph (2) or (4) of section 237(a) of such Act (8
9 U.S.C. 1227(a)), including any individual culpable
10 for a specified terrorist activity; or

11 (2) a member of the family of an alien de-
12 scribed in paragraph (1).

13 **SEC. 5. EVIDENCE OF DEATH.**

14 For purposes of this Act, the Secretary of Homeland
15 Security shall use the standards established under section
16 426 of the Uniting and Strengthening America by Pro-
17 viding Appropriate Tools Required to Intercept and Ob-
18 struct Terrorism (USA PATRIOT ACT) Act of 2001 in
19 determining whether death occurred as a direct result of
20 a specified terrorist activity.

21 **SEC. 6. DEFINITIONS.**

22 (a) APPLICATION OF IMMIGRATION AND NATION-
23 ALITY ACT PROVISIONS.—Except as otherwise specifically
24 provided in this Act, the definitions used in the Immigra-
25 tion and Nationality Act (8 U.S.C. 1101 et seq.) (exclud-

1 ing the definitions applicable exclusively to title III of such
2 Act) shall apply in the administration of this Act.

3 (b) SPECIFIED TERRORIST ACTIVITY.—For purposes
4 of this Act, the term “specified terrorist activity” means
5 any terrorist activity conducted against the Government
6 or the people of the United States on September 11, 2001.

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