

113TH CONGRESS  
1ST SESSION

# H. R. 944

To provide for eligibility for relief from removal for certain Venezuelans.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2013

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

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## A BILL

To provide for eligibility for relief from removal for certain  
Venezuelans.

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 “Venezuelan Liberty  
5       Act”.

6       **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN VEN-**  
7       **EZUELANS.**

8       (a) ADJUSTMENT OF STATUS.—

9               (1) IN GENERAL.—The status of any alien de-  
10       scribed in subsection (b) shall be adjusted by the  
11       Secretary of Homeland Security to that of an alien

1 lawfully admitted for permanent residence, if the  
2 alien—

3 (A) applies for such adjustment before  
4 April 1, 2014; and

5 (B) is otherwise admissible to the United  
6 States for permanent residence, except in deter-  
7 mining such admissibility the grounds for inad-  
8 missibility specified in paragraphs (4), (5),  
9 (6)(A), (7)(A), and (9)(B) of section 212(a) of  
10 the Immigration and Nationality Act (8 U.S.C.  
11 1182(a)) shall not apply.

12 (2) RULES IN APPLYING CERTAIN PROVI-  
13 SIONS.—In the case of an alien described in sub-  
14 section (b) or (d) who is applying for adjustment of  
15 status under this section—

16 (A) the provisions of section 241(a)(5) of  
17 the Immigration and Nationality Act (8 U.S.C.  
18 1231(a)(5)) shall not apply; and

19 (B) the Secretary of Homeland Security  
20 may grant the alien a waiver on the grounds of  
21 inadmissibility under subparagraphs (A) and  
22 (C) of section 212(a)(9) of such Act (8 U.S.C.  
23 1182(a)(9)).

24 In granting waivers under subparagraph (B), the  
25 Secretary shall use standards used in granting con-

1 sent under subparagraphs (A)(iii) and (C)(ii) of  
2 such section 212(a)(9).

3 (3) RELATIONSHIP OF APPLICATION TO CER-  
4 TAIN ORDERS.—An alien present in the United  
5 States who has been ordered excluded, deported, re-  
6 moved, or ordered to depart voluntarily from the  
7 United States under any provision of the Immigra-  
8 tion and Nationality Act may, notwithstanding such  
9 order, apply for adjustment of status under para-  
10 graph (1). Such an alien may not be required, as a  
11 condition of submitting or granting such application,  
12 to file a separate motion to reopen, reconsider, or  
13 vacate such order. If the Secretary of Homeland Se-  
14 curity grants the application, the Attorney General  
15 shall cancel the order. If the Secretary of Homeland  
16 Security renders a final administrative decision to  
17 deny the application, the order shall be effective and  
18 enforceable to the same extent as if the application  
19 had not been made.

20 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
21 TUS.—

22 (1) IN GENERAL.—The benefits provided by  
23 subsection (a) shall apply to any alien who is a na-  
24 tional of Venezuela and who has been physically  
25 present in the United States for a continuous period,

beginning on a date during the required presence period and ending on the date the application for adjustment under such subsection is adjudicated, except an alien shall not be considered to have failed to maintain continuous physical presence by reason of an absence, or absences, from the United States for any periods not exceeding 180 days.

(2) PROOF OF COMMENCEMENT OF CONTINUOUS PRESENCE.—For purposes of establishing that the period of continuous physical presence referred to in paragraph (1) commenced during the required presence period, an alien—

(A) shall demonstrate that the alien, during the required presence period—

(i) applied to the Secretary of Homeland Security for asylum;

(ii) was issued an order to show cause under the Immigration and Nationality Act;

(iii) was placed in exclusion, deportation, or removal proceedings under such Act;

(iv) applied for adjustment of status under section 245 of such Act (8 U.S.C. 1255);

1 (v) applied to the Secretary of Home-  
2 land Security for employment authoriza-  
3 tion;

4 (vi) performed service, or engaged in  
5 a trade or business, within the United  
6 States which is evidenced by records main-  
7 tained by the Commissioner of Social Secu-  
8 rity; or

9 (vii) applied for any other benefit  
10 under the Immigration and Nationality Act  
11 by means of an application establishing the  
12 alien's presence in the United States dur-  
13 ing the required presence period; or

14 (B) shall make such other demonstration  
15 of physical presence as the Secretary of Home-  
16 land Security may provide for by regulation.

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

18 (1) IN GENERAL.—The Secretary of Homeland  
19 Security shall provide by regulation for an alien sub-  
20 ject to a final order of removal to seek a stay of  
21 such order based on the filing of an application  
22 under subsection (a).

23 (2) DURING CERTAIN PROCEEDINGS.—Notwith-  
24 standing any provision of the Immigration and Na-  
25 tionality Act, the Attorney General shall not order

1 any alien to be removed from the United States if  
2 the alien is in removal proceedings under any provi-  
3 sion of such Act and has applied for adjustment of  
4 status under subsection (a), except where the Sec-  
5 retary of Homeland Security has rendered a final  
6 administrative determination to deny the application.

7 (3) WORK AUTHORIZATION.—The Secretary of  
8 Homeland Security may authorize an alien who has  
9 applied for adjustment of status under subsection  
10 (a) to engage in employment in the United States  
11 during the pendency of such application and may  
12 provide the alien with an “employment authorized”  
13 endorsement or other appropriate document signi-  
14 fying authorization of employment, except that if  
15 such application is pending for a period exceeding  
16 180 days, and has not been denied, the Secretary of  
17 Homeland Security shall authorize such employment.

18 (d) ADJUSTMENT OF STATUS FOR SPOUSES AND

19 CHILDREN.—

20 (1) IN GENERAL.—The status of an alien shall  
21 be adjusted by the Secretary of Homeland Security  
22 to that of an alien lawfully admitted for permanent  
23 residence, if—

24 (A) the alien is a national of Venezuela;

25 (B) the alien—

1 (i) is the spouse, child, or unmarried  
2 son or daughter of an alien whose status is  
3 adjusted to that of an alien lawfully admit-  
4 ted for permanent residence under sub-  
5 section (a), except that in the case of such  
6 an unmarried son or daughter, the son or  
7 daughter shall be required to establish that  
8 the son or daughter has been physically  
9 present in the United States for a contin-  
10 uous period beginning on a date during the  
11 required presence period and ending on the  
12 date on which the application for adjust-  
13 ment under this subsection is adjudicated;  
14 or

15 (ii) was, at the time at which an alien  
16 filed for adjustment under subsection (a),  
17 the spouse or child of an alien whose sta-  
18 tus is adjusted, or was eligible for adjust-  
19 ment, to that of an alien lawfully admitted  
20 for permanent residence under subsection  
21 (a), and the spouse, child, or child of the  
22 spouse has been battered or subjected to  
23 extreme cruelty by the alien that filed for  
24 adjustment under subsection (a);

1 (C) the alien applies for such adjustment  
2 and is physically present in the United States  
3 on the date the application is filed;

4 (D) the alien is otherwise admissible to the  
5 United States for permanent residence, except  
6 in determining such admissibility the grounds  
7 for inadmissibility specified in paragraphs (4),  
8 (5), (6)(A), (7)(A), and (9)(B) of section  
9 212(a) of the Immigration and Nationality Act  
10 (8 U.S.C. 1182(a)) shall not apply; and

11 (E) applies for such adjustment before  
12 April 1, 2014.

13 (2) PROOF OF CONTINUOUS PRESENCE.—For  
14 purposes of establishing the period of continuous  
15 physical presence referred to in paragraph (1)(B),  
16 an alien—

17 (A) shall demonstrate that such period  
18 commenced during the required presence period  
19 in a manner consistent with subsection (b)(2);  
20 and

21 (B) shall not be considered to have failed  
22 to maintain continuous physical presence by  
23 reason of an absence, or absences, from the  
24 United States for any period not exceeding 180  
25 days.

1 (e) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

2 The Secretary of Homeland Security shall provide to ap-  
3 plicants for adjustment of status under subsection (a) the  
4 same right to, and procedures for, administrative review  
5 as are provided to applicants for adjustment of status  
6 under section 245 of the Immigration and Nationality Act  
7 (8 U.S.C. 1255).

8 (f) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—

9 When an alien is granted the status of having been law-  
10 fully admitted for permanent residence pursuant to this  
11 section, the Secretary of State shall not be required to re-  
12 duce the number of immigrant visas authorized to be  
13 issued under any provision of the Immigration and Na-  
14 tionality Act.

15 (g) DEFINITION.—For purposes of this Act, the term  
16 “required presence period” means the period beginning on  
17 February 2, 1999, and ending on March 4, 2013.

18 (h) APPLICATION OF IMMIGRATION AND NATION-  
19 ALITY ACT PROVISIONS.—Except as otherwise specifically  
20 provided in this section, the definitions contained in the  
21 Immigration and Nationality Act shall apply in the admin-  
22 istration of this section. Nothing contained in this section  
23 shall be held to repeal, amend, alter, modify, affect, or  
24 restrict the powers, duties, functions, or authority of the  
25 Secretary of Homeland Security in the administration and

1 enforcement of such Act or any other law relating to immi-  
2 gration, nationality, or naturalization. The fact that an  
3 alien may be eligible to be granted the status of having  
4 been lawfully admitted for permanent residence under this  
5 section shall not preclude the alien from seeking such sta-  
6 tus under any other provision of law for which the alien  
7 may be eligible.

