

115TH CONGRESS  
1ST SESSION

# H. R. 2161

To adjust the immigration status of certain Venezuelan nationals who are in the United States.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2017

Mr. CURBELO of Florida (for himself, Mr. SOTO, Ms. ROS-LEHTINEN, and Ms. WASSERMAN SCHULTZ) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To adjust the immigration status of certain Venezuelan nationals who are in the United States.

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 Refugee  
5       Assistance Act”.

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

8       (a) ADJUSTMENT OF STATUS.—

9                   (1) IN GENERAL.—Notwithstanding section  
10                  245(c) of the Immigration and Nationality Act (8

1 U.S.C. 1255(c)), the status of any alien described in  
2 subsection (b) shall be adjusted by the Secretary of  
3 Homeland Security to that of an alien lawfully ad-  
4 mitted for permanent residence, if the alien—

5 (A) applies for such adjustment before  
6 January 1, 2021;

7 (B) is not inadmissible under paragraph  
8 (1), (2), (3), (4), (6)(E), (6)(G), (8), (10)(A),  
9 (10)(C), or (10)(D) of section 212(a) of the Im-  
10 migration and Nationality Act (8 U.S.C.  
11 1182(a));

12 (C) is not deportable under paragraph  
13 (1)(E), (1)(G), (2), (4), (5), or (6) of section  
14 237(a) of such Act (8 U.S.C. 1227(a));

15 (D) has not ordered, incited, assisted, or  
16 otherwise participated in the persecution of any  
17 person on account of race, religion, nationality,  
18 membership in a particular social group, or po-  
19 litical opinion; and

20 (E) has not been convicted of—

21 (i) any offense under Federal or State  
22 law punishable by a maximum term of im-  
23 prisonment of more than 1 year; or

24 (ii) 3 or more offenses under Federal  
25 or State law, for which the alien was con-

victed on different dates for each of the 3 offenses and sentenced to imprisonment for an aggregate of 90 days or more.

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—An alien present in the United States who has been ordered removed, or ordered to depart voluntarily, from the United States under any provision of the Immigration and Nationality Act may, notwithstanding such order, apply for adjustment of status under paragraph (1). Such an alien may not be required, as a condition on submitting or granting such application, to file a motion to reopen, reconsider, or vacate such order. If the Secretary of Homeland Security grants the application, the Secretary of Homeland Security shall cancel the order. If the Secretary of Homeland Security renders a final administrative decision to deny the application, the order shall be effective and enforceable to the same extent as if the application had not been made.

21           (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-  
22 TUS.—The benefits provided by subsection (a) shall apply  
23 to any alien who is a national of Venezuela—  
24           (1) who was physically present in the United  
25 States on January 1, 2013; and

(2) has been physically present in the United States for at least 1 year and is physically present in the United States on the date the application for adjustment of status under this Act is filed, 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 in the aggregate not exceeding 180 days.

**10 (c) STAY OF REMOVAL.—**

11                             (1) IN GENERAL.—The Secretary of Homeland  
12                             Security shall provide by regulation for an alien sub-  
13                             ject to a final order of removal to seek a stay of  
14                             such order based on the filing of an application  
15                             under subsection (a).

1       Homeland Security has rendered a final administrative  
2       determination to deny the application.

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

14                     (d) ADJUSTMENT OF STATUS FOR SPOUSES AND  
15      CHILDREN.—

16                     (1) IN GENERAL.—Notwithstanding section  
17      245(c) of the Immigration and Nationality Act (8  
18      U.S.C. 1255(c)), the status of an alien shall be ad-  
19      justed by the Secretary of Homeland Security to  
20      that of an alien lawfully admitted for permanent res-  
21      idence, if—

22                         (A) the alien is the spouse, child, or un-  
23      married son or daughter, of an alien whose sta-  
24      tus is adjusted to that of an alien lawfully ad-  
25      mitted for permanent residence under sub-

1           section (a), except that in the case of such an  
2           unmarried son or daughter, the son or daughter  
3           shall be required to establish that they have  
4           been physically present in the United States for  
5           at least 1 year;

6                 (B) the alien applies for such adjustment  
7                 and is physically present in the United States  
8                 on the date the application is filed; and

9                 (C) the alien is otherwise eligible to receive  
10               an immigrant visa and is otherwise admissible  
11               to the United States for permanent residence,  
12               except in determining such admissibility the  
13               grounds for exclusion specified in paragraphs  
14               (4), (5), (6)(A), and (7)(A) of section 212(a) of  
15               the Immigration and Nationality Act (8 U.S.C.  
16               1182(a)) shall not apply.

17                 (2) PROOF OF CONTINUOUS PRESENCE.—For  
18               purposes of establishing the period of continuous  
19               physical presence referred to in paragraph (1)(B),  
20               an alien shall not be considered to have failed to  
21               maintain continuous physical presence by reason of  
22               an absence, or absences, from the United States for  
23               any periods in the aggregate not exceeding 180  
24               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—

6               (1) applicants for adjustment of status under  
7   section 245 of the Immigration and Nationality Act  
8   (8 U.S.C. 1255); or

9               (2) aliens subject to removal proceedings under  
10   section 240 of such Act (8 U.S.C. 1229a).

11           (f) LIMITATION ON JUDICIAL REVIEW.—A deter-  
12   mination by the Secretary of Homeland Security as to  
13   whether the status of any alien should be adjusted under  
14   this Act is final and shall not be subject to review by any  
15   court.

16           (g) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—  
17   When an alien is granted the status of having been law-  
18   fully admitted for permanent residence pursuant to this  
19   Act, the Secretary of State shall not be required to reduce  
20   the number of immigrant visas authorized to be issued  
21   under any provision of the Immigration and Nationality  
22   Act.

23           (h) APPLICATION OF IMMIGRATION AND NATION-  
24   ALITY ACT PROVISIONS.—Except as otherwise specifically  
25   provided in this section, the definitions contained in the

1 Immigration and Nationality Act shall apply in the admin-  
2 istration of this Act. Nothing contained in this Act shall  
3 be held to repeal, amend, alter, modify, effect, or restrict  
4 the powers, duties, functions, or authority of the Secretary  
5 of Homeland Security in the administration and enforce-  
6 ment of such Act or any other law relating to immigration,  
7 nationality, or naturalization. The fact that an alien may  
8 be eligible to be granted the status of having been lawfully  
9 admitted for permanent residence under this section shall  
10 not preclude the alien from seeking such status under any  
11 other provision of law for which the alien may be eligible.

