

116TH CONGRESS
1ST SESSION

S. 879

To provide a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 26, 2019

Mr. VAN HOLLEN (for himself, Mr. CARDIN, Mrs. FEINSTEIN, Ms. KLOBUCHAR, Mr. KAINE, Mr. REED, Ms. CORTEZ MASTO, and Ms. SMITH) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements, 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 TITLES.**

4 This Act may be cited as the “Safe Environment
5 from Countries Under Repression and Emergency Act” or
6 the “SECURE Act”.

1 **SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NA-**
2 **TIONALS.**

3 (a) ADJUSTMENT OF STATUS.—

4 (1) AUTHORIZATION.—

5 (A) IN GENERAL.—Notwithstanding sec-
6 tion 245(c) of the Immigration and Nationality
7 Act (8 U.S.C. 1255(c)), the status of any alien
8 described in subsection (b)(1) shall be adjusted
9 by the Secretary of Homeland Security to that
10 of an alien lawfully admitted for permanent res-
11 idence if the alien—

12 (i) is not inadmissible under para-
13 graph (2) or (3) of section 212(a) of such
14 Act (8 U.S.C. 1182(a));

15 (ii) is not deportable under paragraph
16 (2), (3), or (4) of section 237(a) of such
17 Act (8 U.S.C. 1227(a)); and

18 (iii) is not described in section
19 208(b)(2)(A)(i) of such Act (8 U.S.C.
20 1158(b)(2)(A)(i)).

21 (B) TREATMENT OF EXPUNGED CONVIC-
22 TIONS.—For purposes of this Act, the term
23 “conviction” does not include a judgment that
24 has been expunged or set aside that resulted in
25 a rehabilitative disposition or the equivalent.

26 (2) APPLICATION.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), any alien who is physically
3 present in the United States may apply for ad-
4 justment of status under this section.

5 (B) APPLICATIONS FROM OUTSIDE UNITED
6 STATES FOR CERTAIN ALIENS PREVIOUSLY RE-
7 MOVED OR WHO DEPARTED.—In the case of an
8 alien who, on or after September 28, 2016, was
9 removed from the United States or departed
10 pursuant to an order of voluntary departure,
11 the alien may apply for adjustment of status
12 under this section from outside the United
13 States if, on the day before the date on which
14 the alien was so removed or so departed, the
15 alien was an alien described in subsection
16 (b)(1).

17 (C) FEE.—

18 (i) IN GENERAL.—The Secretary of
19 Homeland Security shall require any alien
20 applying for permanent resident status
21 under this section to pay a reasonable fee
22 that is commensurate with the cost of
23 processing the application. Such fee may
24 not exceed \$1,140.

1 (ii) FEE EXEMPTION.—An applicant
2 may be exempted from paying the applica-
3 tion fee required under clause (i) if the ap-
4 plicant—

5 (I) is younger than 18 years of
6 age;

7 (II) received total income, during
8 the 12-month period immediately pre-
9 ceding the date on which the applicant
10 files an application under this section,
11 that is less than 150 percent of the
12 Federal poverty line;

13 (III) is in foster care or other-
14 wise lacking any parental or other fa-
15 milial support; or

16 (IV) cannot care for himself or
17 herself because of a serious, chronic
18 disability.

19 (D) RELATIONSHIP OF APPLICATION TO
20 CERTAIN ORDERS.—

21 (i) MOTION NOT REQUIRED.—An
22 alien described in subparagraph (A) or (B)
23 who has been the subject of an order of re-
24 moval or voluntary departure may not be
25 required, as a condition of submitting or

1 approving an application under such sub-
2 paragraph, to file a motion to reopen, re-
3 consider, or vacate such order.

4 (ii) APPROVAL.—If the Secretary of
5 Homeland Security approves an application
6 submitted by an alien under this para-
7 graph, the Secretary shall cancel any order
8 of removal or voluntary departure to which
9 the alien is or was subject.

10 (iii) DENIAL.—If the Secretary of
11 Homeland Security renders a final admin-
12 istrative decision to deny an application
13 submitted by an alien under this para-
14 graph, any order of removal or voluntary
15 departure to which the alien is subject
16 shall be effective and enforceable to the
17 same extent as if such application had not
18 been made.

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

21 (1) IN GENERAL.—An alien is described in this
22 subsection if the alien—

23 (A) is a national of a foreign state that
24 was at any time designated under section

1 244(b) of the Immigration and Nationality Act
2 (8 U.S.C. 1254a(b));

3 (B)(i) is in temporary protected status
4 under section 244 of the Immigration and Na-
5 tionality Act (8 U.S.C. 1254a);

6 (ii) held temporary protected status as a
7 national of a designated country listed in para-
8 graph (1);

9 (iii) qualified for temporary protected sta-
10 tus on the date on which the last designation or
11 extension was made by the Secretary of Home-
12 land Security; or

13 (iv) was present in the United States pur-
14 suant to a grant of deferred enforced departure
15 that had been extended beyond September 28,
16 2016;

17 (C)(i) has been continuously present in the
18 United States for not less than 3 years and is
19 physically present in the United States on the
20 date on which the alien files an application for
21 adjustment of status under this section; or

22 (ii) in the case of an alien who, on or after
23 September 28, 2016, was removed from the
24 United States or departed pursuant to an order
25 of voluntary departure, was continuously pres-

ent in the United States for a period of not less than 3 years before the date on which the alien was so removed or so departed; and

(D) passes all applicable criminal and national security background checks.

(2) SHORT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under paragraph (1)(C) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(3) WAIVER AUTHORIZED.—Notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), an alien who fails to meet the continuous physical presence requirement under paragraph (1)(C) shall be considered eligible for adjustment of status under this section if the Attorney General or the Secretary of Homeland Security, as applicable, determines that the removal or continued absence of the alien from the United States, as applicable, would result in extreme hardship to the alien or to the alien's spouse, children, parents, or domestic partner.

(c) STAY OF REMOVAL.—

1 (1) IN GENERAL.—Except as provided in para-
2 graph (2), an alien who is subject to a final order
3 of removal may not be removed if the alien—

4 (A) has a pending application under sub-
5 section (a); or

6 (B)(i) is prima facie eligible to file an ap-
7 plication under subsection (a); and

8 (ii) indicates that he or she intends to file
9 such an application.

10 (2) EXCEPTION.—Paragraph (1) shall not
11 apply to any alien whose application under sub-
12 section (a) has been denied by the Secretary of
13 Homeland Security in a final administrative deter-
14 mination.

15 (3) DURING CERTAIN PROCEEDINGS.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B) and notwithstanding any pro-
18 vision of the Immigration and Nationality Act
19 (8 U.S.C. 1101 et seq.), the Secretary of Home-
20 land Security may not order any alien to be re-
21 moved from the United States if the alien
22 raises, as a defense to such an order, the eligi-
23 bility of the alien to apply for adjustment of
24 status under subsection (a).

1 (B) EXCEPTION.—Subparagraph (A) shall
2 not apply to any alien whose application under
3 subsection (a) has been denied by the Secretary
4 of Homeland Security in a final administrative
5 determination.

6 (4) WORK AUTHORIZATION.—The Secretary of
7 Homeland Security—

8 (A) shall authorize any alien who has ap-
9 plied for adjustment of status under subsection
10 (a) to engage in employment in the United
11 States while such application is pending; and

12 (B) may provide such alien with an “em-
13 ployment authorized” endorsement or other ap-
14 propriate document signifying such employment
15 authorization.

16 (d) ADVANCE PAROLE.—

17 (1) IN GENERAL.—During the period beginning
18 on the date on which an alien applies for adjustment
19 of status under this Act and ending on the date on
20 which the Secretary of Homeland Security makes a
21 final decision regarding such application, the alien
22 shall be eligible to apply for advance parole.

23 (2) APPLICABILITY.—Section 101(g) of the Im-
24 migration and Nationality Act (8 U.S.C. 1101(g))

1 shall not apply to an alien granted advance parole
2 under this subsection.

3 (e) ADJUSTMENT OF STATUS FOR SPOUSES AND
4 CHILDREN.—

5 (1) IN GENERAL.—Notwithstanding section
6 245(c) of the Immigration and Nationality Act (8
7 U.S.C. 1255(c)) and except as provided in para-
8 graphs (2) and (3), the Secretary of Homeland Se-
9 curity shall adjust the status of an alien to that of
10 an alien lawfully admitted for permanent residence
11 if the alien—

12 (A) is the spouse, domestic partner, child,
13 or unmarried son or daughter of an alien whose
14 status has been adjusted to that of an alien
15 lawfully admitted for permanent residence
16 under subsection (a);

17 (B) is physically present in the United
18 States on the date on which the alien files an
19 application for such adjustment of status; and

20 (C) is otherwise eligible to receive an immi-
21 grant visa and is otherwise admissible to the
22 United States for permanent residence.

23 (2) CONTINUOUS PRESENCE REQUIREMENT.—

24 (A) IN GENERAL.—The status of an un-
25 married son or daughter referred to in para-

graph (1)(A) may not be adjusted under paragraph (1) until such son or daughter establishes that he or she has been physically present in the United States for at least 1 year.

(B) SHORT ABSENCES.—An alien shall not be considered to have failed to maintain continuous physical presence in the United States under subparagraph (A) by reason of an absence, or multiple absences, from the United States for any period or periods that do not exceed, in the aggregate, 180 days.

(3) WAIVER.—In determining eligibility and admissibility under paragraph (1)(C), the grounds for inadmissibility under paragraphs (4), (5), (6), (7)(A), and (9) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) shall not apply.

(f) CLARIFICATION OF INSPECTION AND ADMISSION UNDER TEMPORARY PROTECTED STATUS.—Section 244(f)(4) of the Immigration and Nationality Act (8 U.S.C. 1254a(f)(4)) is amended by inserting “as having been inspected and admitted into the United States, and” after “considered”.

(g) AVAILABILITY OF ADMINISTRATIVE REVIEW.—The Secretary of Homeland Security shall provide appli-

1 cants for adjustment of status under subsection (a) the
2 same right to, and procedures for, administrative review
3 as are provided to—

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

7 (2) aliens who are subject to removal pro-
8 ceedings under section 240 of such Act (8 U.S.C.
9 1229a).

10 (h) EXCEPTIONS TO NUMERICAL LIMITATIONS.—
11 The numerical limitations set forth in sections 201 and
12 202 of the Immigration and Nationality Act (8 U.S.C.
13 1151 and 1152) shall not apply to aliens whose status is
14 adjusted pursuant to subsection (a).

15 **SEC. 3. CONFIDENTIALITY OF INFORMATION.**

16 (a) IN GENERAL.—The Secretary of Homeland Secu-
17 rity may not disclose or use information provided in appli-
18 cations filed under section 2 for the purpose of immigra-
19 tion enforcement.

20 (b) REFERRALS PROHIBITED.—The Secretary may
21 not refer any individual who has been granted permanent
22 resident status under section 2 to U.S. Immigration and
23 Customs Enforcement, U.S. Customs and Border Protec-
24 tion, or any designee of either such entity.

1 (c) LIMITED EXCEPTION.—Notwithstanding sub-
 2 sections (a) and (b), information provided in an applica-
 3 tion for permanent resident status under section 2 may
 4 be shared with Federal security and law enforcement
 5 agencies—

6 (1) for assistance in the consideration of an ap-
 7 plication for permanent resident status under such
 8 section;

9 (2) to identify or prevent fraudulent claims;

10 (3) for national security purposes; or

11 (4) for the investigation or prosecution of any
 12 felony not related to immigration status.

13 (d) PENALTY.—Any person who knowingly uses, pub-
 14 lishes, or permits information to be examined in violation
 15 of this section shall be fined not more than \$10,000.

16 **SEC. 4. ADDITIONAL REPORTING REQUIREMENTS REGARD-**
 17 **ING FUTURE DISCONTINUED ELIGIBILITY OF**
 18 **ALIENS FROM COUNTRIES CURRENTLY LIST-**
 19 **ED UNDER TEMPORARY PROTECTED STATUS.**

20 Section 244(b)(3) of the Immigration and Nationality
 21 Act (8 U.S.C. 1254a(b)(3)) is amended—

22 (1) in subparagraph (A)—

23 (A) by striking “Attorney General” each
 24 place such term appears and inserting “Sec-
 25 retary of Homeland Security”; and

1 (B) by inserting “(including a rec-
2 ommendation from the Secretary of State that
3 is received by the Secretary of Homeland Secu-
4 rity not later than 90 days before the end of
5 such period of designation)” after “Govern-
6 ment”; and

7 (2) in subparagraph (B)—

8 (A) by striking “If the Attorney General”
9 and inserting the following:

10 “(i) IN GENERAL.—If the Secretary of
11 Homeland Security”; and

12 (B) in clause (i), as designated by subpara-
13 graph (A), by striking “Attorney General” and
14 inserting “Secretary”; and

15 (C) by adding at the end the following:

16 “(ii) REPORT.—Not later than 3 days
17 after the publication of the Secretary’s de-
18 termination in the Federal Register that a
19 country’s designation under paragraph (1)
20 is being terminated, the Secretary shall
21 submit a report to the Committee on the
22 Judiciary of the Senate and the Committee
23 on the Judiciary of the House of Rep-
24 resentatives that includes—

1 “(I) an explanation of the event
2 or events that initially prompted such
3 country’s designation under para-
4 graph (1);

5 “(II) the progress the country
6 has made in remedying the designa-
7 tion under paragraph (1), including
8 any significant challenges or short-
9 comings that have not been addressed
10 since the initial designation;

11 “(III) a statement indicating
12 whether the country has requested a
13 designation under paragraph (1), a
14 redesignation under such paragraph,
15 or an extension of such designation;
16 and

17 “(IV) an analysis, with applicable
18 and relevant metrics, as determined
19 by the Secretary, of the country’s abil-
20 ity to repatriate its nationals, includ-
21 ing—

22 “(aa) the country’s financial
23 ability to provide for its repatri-
24 ated citizens;

1 “(bb) the country’s financial
2 ability to address the initial des-
3 ignation under paragraph (1)
4 without foreign assistance;

5 “(cc) the country’s gross do-
6 mestic product and per capita
7 gross domestic product per cap-
8 ita;

9 “(dd) an analysis of the
10 country’s political stability and
11 its ability to be economically self-
12 sufficient without foreign assist-
13 ance;

14 “(ee) the economic and so-
15 cial impact the repatriation of
16 nationals in possession of tem-
17 porary protected status would
18 have on the recipient country;
19 and

20 “(ff) any additional metrics
21 the Secretary considers nec-
22 essary.”.

23 **SEC. 5. OTHER MATTERS.**

24 (a) APPLICATION OF IMMIGRATION AND NATION-
25 ALITY ACT PROVISIONS.—Except as otherwise specifically

1 provided in this Act, the definitions under section 101 of
2 the Immigration and Nationality Act (8 U.S.C. 1101)
3 shall apply when such terms are used in this Act.

4 (b) SAVINGS PROVISION.—Nothing in this Act may
5 be construed to repeal, amend, alter, modify, effect, or re-
6 strict the powers, duties, functions, or authority of the
7 Secretary of Homeland Security in the administration and
8 enforcement of the immigration laws.

9 (c) ELIGIBILITY FOR OTHER IMMIGRATION BENE-
10 FITS.—Any alien who is eligible to be granted the status
11 of an alien lawfully admitted for permanent residence
12 under section 2 may not be precluded from seeking such
13 status under any other provision of law for which the alien
14 may otherwise be eligible.

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