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

Mr. Van Hollen (for himself, Mr. Cardin, Mrs. Feinstein, Ms. Klobuchar, Mr. Kaine, Mr. Reed, and Ms. Cortez Masto) introduced the following bill; which was read twice and referred to the Committee on

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES.

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

4 This Act may be cited as the “Safe Environment
SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NATIONALS.

(a) ADJUSTMENT OF STATUS.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—Notwithstanding section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the status of any alien described in subsection (b)(1) shall be adjusted by the Secretary of Homeland Security to that of an alien lawfully admitted for permanent residence if the alien—

(i) is not inadmissible under paragraph (2) or (3) of section 212(a) of such Act (8 U.S.C. 1182(a));

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

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

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

(2) APPLICATION.—
(A) In General.—Except as provided in subparagraph (B), any alien who is physically present in the United States may apply for adjustment of status under this section.

(B) Applications from Outside United States for Certain Aliens Previously Removed or Who Departed.—In the case of an alien who, on or after September 28, 2016, was removed from the United States or departed pursuant to an order of voluntary departure, the alien may apply for adjustment of status under this section from outside the United States if, on the day before the date on which the alien was so removed or so departed, the alien was an alien described in subsection (b)(1).

(C) Fee.—

(i) In General.—The Secretary of Homeland Security shall require any alien applying for permanent resident status under this section to pay a reasonable fee that is commensurate with the cost of processing the application. Such fee may not exceed $1,140.
(ii) Fee exemption.—An applicant may be exempted from paying the application fee required under clause (i) if the applicant—

(I) is younger than 18 years of age;

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

(III) is in foster care or otherwise lacking any parental or other familial support; or

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

(D) Relationship of application to certain orders.—

(i) Motion not required.—An alien described in subparagraph (A) or (B) who has been the subject of an order of removal or voluntary departure may not be required, as a condition of submitting or
approving an application under such sub-
paragraph, to file a motion to reopen, re-
consider, or vacate such order.

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

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

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

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

(A) is a national of a foreign state that
was at any time designated under section
244(b) of the Immigration and Nationality Act (8 U.S.C. 1254a(b));

(B)(i) is in temporary protected status under section 244 of the Immigration and Nationality Act (8 U.S.C. 1254a);

(ii) held temporary protected status as a national of a designated country listed in paragraph (1);

(iii) qualified for temporary protected status on the date on which the last designation or extension was made by the Secretary of Homeland Security; or

(iv) was present in the United States pursuant to a grant of deferred enforced departure that had been extended beyond September 28, 2016;

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

(ii) in the case of an alien who, on or after September 28, 2016, was removed from the United States or departed pursuant to an order of voluntary departure, was continuously
present 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) IN GENERAL.—Except as provided in paragraph (2), an alien who is subject to a final order of removal may not be removed if the alien—

(A) has a pending application under subsection (a); or

(B)(i) is prima facie eligible to file an application under subsection (a); and

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

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

(3) DURING CERTAIN PROCEEDINGS.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and notwithstanding any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), the Secretary of Homeland Security may not order any alien to be removed from the United States if the alien raises, as a defense to such an order, the eligibility of the alien to apply for adjustment of status under subsection (a).
(B) EXCEPTION.—Subparagraph (A) shall not apply to any alien whose application under subsection (a) has been denied by the Secretary of Homeland Security in a final administrative determination.

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

(A) shall authorize any alien who has applied for adjustment of status under subsection (a) to engage in employment in the United States while such application is pending; and

(B) may provide such alien with an “employment authorized” endorsement or other appropriate document signifying such employment authorization.

(d) ADVANCE PAROLE.—

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

(2) APPLICABILITY.—Section 101(g) of the Immigration and Nationality Act (8 U.S.C. 1101(g))
shall not apply to an alien granted advance parole under this subsection.

(c) Adjustment of Status for Spouses and Children.—

(1) In General.—Notwithstanding section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)) and except as provided in paragraphs (2) and (3), the Secretary of Homeland Security shall adjust the status of an alien to that of an alien lawfully admitted for permanent residence if the alien—

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

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

(C) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence.

(2) Continuous Presence Requirement.—

(A) In General.—The status of an unmarried 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-
cants for adjustment of status under subsection (a) the
same right to, and procedures for, administrative review
as are provided to—

(1) applicants for adjustment of status under
section 245 of the Immigration and Nationality Act
19 (8 U.S.C. 1255); or

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

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

SEC. 3. CONFIDENTIALITY OF INFORMATION.

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

(b) REFERRALS PROHIBITED.—The Secretary may
not refer any individual who has been granted permanent
resident status under section 2 to U.S. Immigration and
Customs Enforcement, U.S. Customs and Border Protec-
tion, or any designee of either such entity.
(c) LIMITED EXCEPTION.—Notwithstanding sub-
sections (a) and (b), information provided in an applica-
tion for permanent resident status under section 2 may
be shared with Federal security and law enforcement
agencies—

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

(2) to identify or prevent fraudulent claims;

(3) for national security purposes; or

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

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

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

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

(1) in subparagraph (A)—

(A) by striking “Attorney General” each
place such term appears and inserting “Sec-
retary of Homeland Security”; and
(B) by inserting “(including a recommendation from the Secretary of State that is received by the Secretary of Homeland Security not later than 90 days before the end of such period of designation)” after “Government”; and

(2) in subparagraph (B)—

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

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

(B) in clause (i), as designated by subparagraph (A), by striking “Attorney General” and inserting “Secretary”; and

(C) by adding at the end the following:

“(ii) REPORT.—Not later than 3 days after the publication of the Secretary’s determination in the Federal Register that a country’s designation under paragraph (1) is being terminated, the Secretary shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representa-
“(I) an explanation of the event or events that initially prompted such country’s designation under paragraph (1);

“(II) the progress the country has made in remedying the designation under paragraph (1), including any significant challenges or shortcomings that have not been addressed since the initial designation;

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

“(IV) an analysis, with applicable and relevant metrics, as determined by the Secretary, of the country’s ability to repatriate its nationals, including—

“(aa) the country’s financial ability to provide for its repatriated citizens;
“(bb) the country’s financial ability to address the initial designation under paragraph (1) without foreign assistance;

“(cc) the country’s gross domestic product and per capita gross domestic product per capita;

“(dd) an analysis of the country’s political stability and its ability to be economically self-sufficient without foreign assistance;

“(ee) the economic and social impact the repatriation of nationals in possession of temporary protected status would have on the recipient country; and

“(ff) any additional metrics the Secretary considers necessary.”.

SEC. 5. OTHER MATTERS.

(a) Application of Immigration and Nationality Act Provisions.—Except as otherwise specifically
provided in this Act, the definitions under section 101 of
the Immigration and Nationality Act (8 U.S.C. 1101)
shall apply when such terms are used in this Act.

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

c) ELIGIBILITY FOR OTHER IMMIGRATION BENEFITS.—Any alien who is eligible to be granted the status
of an alien lawfully admitted for permanent residence
under section 2 may not be precluded from seeking such
status under any other provision of law for which the alien
may otherwise be eligible.