

118TH CONGRESS
1ST SESSION

S. _____

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 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.

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”.

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

9 (a) ADJUSTMENT OF STATUS.—

1 (1) AUTHORIZATION.—

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

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

12 (ii) is not deportable under paragraph
13 (2), (3), or (4) of section 237(a) of such
14 Act (8 U.S.C. 1227(a)); and

15 (iii) is not described in section
16 208(b)(2)(A)(i) of such Act (8 U.S.C.
17 1158(b)(2)(A)(i)).

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

23 (2) APPLICATION.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraph (B), any alien who is physically

1 present in the United States may apply for ad-
2 justment of status under this section.

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

15 (C) FEE.—

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

23 (ii) FEE EXEMPTION.—An applicant
24 may be exempted from paying the applica-

1 paragraph, to file a motion to reopen, re-
2 consider, or vacate such order.

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

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

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

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

22 (A) is a national of a foreign state that
23 was at any time designated under section
24 244(b) of the Immigration and Nationality Act
25 (8 U.S.C. 1254a(b));

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

4 (ii) held temporary protected status as a
5 national of a designated foreign state described
6 in subparagraph (A);

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

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

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

20 (ii) in the case of an alien who, on or after
21 September 28, 2016, was removed from the
22 United States or departed pursuant to an order
23 of voluntary departure, was continuously
24 present in the United States for a period of not

1 less than 3 years before the date on which the
2 alien was so removed or so departed; and

3 (D) passes all applicable criminal and na-
4 tional security background checks.

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

12 (3) WAIVER AUTHORIZED.—Notwithstanding
13 any provision of the Immigration and Nationality
14 Act (8 U.S.C. 1101 et seq.), an alien who fails to
15 meet the continuous physical presence requirement
16 under paragraph (1)(C) shall be considered eligible
17 for adjustment of status under this section if the At-
18 torney General or the Secretary of Homeland Secu-
19 rity, as applicable, determines that the removal or
20 continued absence of the alien from the United
21 States, as applicable, would result in extreme hard-
22 ship to the alien or to the alien's spouse, children,
23 parents, or domestic partner.

24 (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-

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

5 (B) SHORT ABSENCES.—An alien shall not
6 be considered to have failed to maintain contin-
7 uous physical presence in the United States
8 under subparagraph (A) by reason of an ab-
9 sence, or multiple absences, from the United
10 States for any period or periods that do not ex-
11 ceed, in the aggregate, 180 days.

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

18 (f) CLARIFICATION OF INSPECTION AND ADMISSION
19 UNDER TEMPORARY PROTECTED STATUS.—Section
20 244(f)(4) of the Immigration and Nationality Act (8
21 U.S.C. 1254a(f)(4)) is amended by inserting “as having
22 been inspected and admitted into the United States, and”
23 after “considered”.

24 (g) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
25 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.