116TH CONGRESS  1ST SESSION  H. R. 2821

To authorize the cancellation of removal and adjustment of status of certain nationals of certain countries designated for temporary protected status or deferred enforced departure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. VELÁZQUEZ introduced the following bill; which was referred to the Committee on

A BILL

To authorize the cancellation of removal and adjustment of status of certain nationals of certain countries designated for temporary protected status or deferred enforced departure, and for other purposes.

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

2  SECTION 1. SHORT TITLE.

3  This Act may be cited as the “American Promise Act

4  of 2019”.
TITLE I—TREATMENT OF CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE

SEC. 101. ADJUSTMENT OF STATUS FOR CERTAIN NATIONALS OF CERTAIN COUNTRIES DESIGNATED FOR TEMPORARY PROTECTED STATUS OR DEFERRED ENFORCED DEPARTURE.

(a) In General.—Notwithstanding any other provision of law, the Secretary or the Attorney General shall cancel the removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien described in subsection (b) if the alien—

(1) applies for such adjustment, including submitting any required documents under section 207, not later than 3 years after the date of the enactment of this Act;

(2) has been continuously physically present in the United States for a period of not less than 3 years before the date of the enactment of this Act; and
(3) is not inadmissible under paragraph (1),
(2), (3), (6)(D), (6)(E), (6)(F), (6)(G), (8), (10) of
section 212(a) of the Immigration and Nationality
Act (8 U.S.C. 1182(a)).

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
TUS.—An alien shall be eligible for adjustment of status
under this section if the alien is an individual—

(1) who—

(A) is a national of a foreign state (or part
thereof) (or in the case of an alien having no
nationality, is a person who last habitually re-
sided in such state) with a designation under
subsection (b) of section 244 of the Immigra-
tion and Nationality Act (8 U.S.C. 1254a(b))
on January 1, 2017, who had or was otherwise
eligible for temporary protected status on such
date notwithstanding subsections (c)(1)(A)(iv)
and (c)(3)(C) of such section; and

(B) has not engaged in conduct since such
date that would render the alien ineligible for
temporary protected status under section
244(c)(2) of the Immigration and Nationality
Act (8 U.S.C. 1245a(c)(2)); or

(2) who was eligible for Deferred Enforced De-
parture as of January 1, 2017, and has not engaged
in conduct since that date that would render the
alien ineligible for Deferred Enforced Departure.
(c) APPLICATION.—
(1) FEE.—The Secretary shall, subject to an
exemption under section 203(c), require an alien ap-
plying for adjustment of status under this section to
pay a reasonable fee that is commensurate with the
cost of processing the application, but does not ex-
ceed $1,140.
(2) BACKGROUND CHECKS.—The Secretary
may not grant an alien permanent resident status on
a conditional basis under this section until the re-
quirements of section 202 are satisfied.
(3) WITHDRAWAL OF APPLICATION.—The Sec-
retary of Homeland Security shall, upon receipt of
a request to withdraw an application for adjustment
of status under this section, cease processing of the
application and close the case. Withdrawal of the ap-
lication under this subsection shall not prejudice
any future application filed by the applicant for any
immigration benefit under this Act or under the Im-
migration and Nationality Act (8 U.S.C. 1101 et
seq).
TITLE II—GENERAL PROVISIONS

SEC. 201. DEFINITIONS.

(a) IN GENERAL.—In this Act:

(1) IN GENERAL.—Except as otherwise specifically provided, any term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) DISABILITY.—The term "disability" has the meaning given such term in section 3(1) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(1)).

(3) FEDERAL POVERTY LINE.—The term "Federal poverty line" has the meaning given such term in section 213A(h) of the Immigration and Nationality Act (8 U.S.C. 1183a).

(4) IMMIGRATION LAWS.—The term "immigration laws" has the meaning given such term in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

(5) SECRETARY.—Except as otherwise specifically provided, the term "Secretary" means the Secretary of Homeland Security.

(6) UNIFORMED SERVICES.—The term "Uniformed Services" has the meaning given the term
“uniformed services” in section 101(a) of title 10, United States Code.

(b) TREATMENT OF EXPUNGED CONVICTIONS.—For purposes of adjustment of status under this Act, the terms “convicted” and “conviction”, as used in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182), do not include a judgment that has been expunged or set aside, that resulted in a rehabilitative disposition, or the equivalent.

SEC. 202. SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA; BACKGROUND CHECKS.

(a) SUBMISSION OF BIOMETRIC AND BIOGRAPHIC DATA.—The Secretary may not grant an alien adjustment of status under this Act unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for aliens who are unable to provide such biometric or biographic data because of a physical impairment.

(b) BACKGROUND CHECKS.—The Secretary shall use biometric, biographic, and other data that the Secretary determines appropriate to conduct security and law enforcement background checks and to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for adjustment of
status under this Act. The status of an alien may not be
adjusted unless security and law enforcement background
checks are completed to the satisfaction of the Secretary.

SEC. 203. LIMITATION ON REMOVAL; APPLICATION AND
FEE EXEMPTION; WAIVER OF GROUNDS FOR
INADMISSIBILITY AND OTHER CONDITIONS
ON ELIGIBLE INDIVIDUALS.

(a) LIMITATION ON REMOVAL.—An alien who ap-
pears to be prima facie eligible for relief under this Act
shall be given a reasonable opportunity to apply for such
relief and may not be removed until, subject to section
206(c), a final decision establishing ineligibility for relief
is rendered.

(b) APPLICATION.—An alien present in the United
States who has been ordered removed or has been per-
mitted to depart voluntarily from the United States may,
notwithstanding such order or permission to depart, apply
for adjustment of status under this Act. Such alien shall
not be required to file a separate motion to reopen, recons-
sider, or vacate the order of removal. If the Secretary ap-
proves the application, the Secretary shall cancel the order
of removal. If the Secretary renders a final administrative
decision to deny the application, the order of removal or
permission to depart shall be effective and enforceable to
the same extent as if the application had not been made,
only after all available administrative and judicial remedies have been exhausted.

(c) Fee Exemption.—An applicant may be exempted from paying an application fee required under this Act if the applicant—

(1) is younger than 18 years of age;

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

(3) is in foster care or otherwise lacks any parental or other familial support; or

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

(d) Waiver of Grounds of Inadmissibility.—With respect to any benefit under this Act, the Secretary may waive the grounds of inadmissibility under paragraph (1), subparagraphs (A) through (E) of paragraph (2), subparagraphs (D) through (G) of paragraph (6), or paragraph (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)) for humanitarian purposes, for family unity, or because the waiver is otherwise in the public interest.

(e) Advance Parole.—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 makes a final decision regarding such appli-
cation, the alien shall be eligible to apply for advance par-
role. 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 section.

(f) EMPLOYMENT.—An alien whose removal is stayed
pursuant to this Act, or who has pending an application
under this Act, shall, upon application to the Secretary,
be granted an employment authorization document.

SEC. 204. DETERMINATION OF CONTINUOUS PRESENCE.

(a) EFFECT OF NOTICE TO APPEAR.—Any period of
continuous physical presence in the United States of an
alien who applies for adjustment of status under this Act
shall not terminate when the alien is served a notice to
appear under section 239(a) of the Immigration and Na-
tionality Act (8 U.S.C. 1229(a)).

(b) TREATMENT OF CERTAIN BREAKS IN PRE-
SENCE.—

(1) IN GENERAL.—Except as provided in para-
graphs (2) and (3), an alien shall be considered to
have failed to maintain continuous physical presence
in the United States under this Act if the alien has
departed from the United States for any period ex-
ceeding 90 days or for any periods, in the aggregate, exceeding 180 days.

(2) Extensions for extenuating circumstances.—The Secretary may extend the time periods described in paragraph (1) for an alien who demonstrates that the failure to timely return to the United States was due to extenuating circumstances beyond the alien’s control, including the serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child of the alien.

(3) Travel authorized by the Secretary.—Any period of travel outside of the United States by an alien that was authorized by the Secretary may not be counted toward any period of departure from the United States under paragraph (1).

(e) Waiver of physical presence.—With respect to aliens who were removed or departed the United States on or after January 20, 2017, and who were continuously physically present in the United States for at least 4 years prior to such removal or departure, the Secretary may, as a matter of discretion, waive the physical presence requirement under section 101(a)(2) for humanitarian purposes, for family unity, or because a waiver is otherwise in the public interest. The Secretary, in consultation with
the Secretary of State, shall establish a procedure for such
aliens to apply for relief under section 101 from outside
the United States if they would have been eligible for relief
under such section, but for their removal or departure.

SEC. 205. EXEMPTION FROM NUMERICAL LIMITATIONS.

Nothing in this Act or in any other law may be con-
strued to apply a numerical limitation on the number of
aliens who may be granted permanent resident status
under this Act.

SEC. 206. AVAILABILITY OF ADMINISTRATIVE AND JUDI-
CIAL REVIEW.

(a) ADMINISTRATIVE REVIEW.—Not later than 30
days after the date of the enactment of this Act, the Sec-
retary shall provide to aliens who have applied for adjust-
ment of status under this Act a process by which an appli-
cant may seek administrative appellate review of a denial
of an application for adjustment of status, or a revocation
of such status.

(b) JUDICIAL REVIEW.—Notwithstanding any other
 provision of law, an alien may seek judicial review of a
denial of an application for adjustment of status, or a rev-
ocation of such status, under this Act in the United States
district court with jurisdiction over the alien’s residence.

(c) STAY OF REMOVAL.—
(1) **IN GENERAL.**—Except as provided in paragraph (2), an alien seeking administrative or judicial review under this Act may not be removed from the United States until a final decision is rendered establishing that the alien is ineligible for adjustment of status under this Act.

(2) **EXCEPTION.**—The Secretary may remove an alien described in paragraph (1) pending judicial review if such removal is based on criminal or national security grounds. Such removal does not affect the alien's right to judicial review under this Act. The Secretary shall promptly return a removed alien if a decision to deny an application for adjustment of status under this Act, or to revoke such status, is reversed.

**SEC. 207. DOCUMENTATION REQUIREMENTS.**

(a) **DOCUMENTS ESTABLISHING IDENTITY.**—An alien's application for permanent resident status under this Act may include, as evidence of identity—

(1) a passport or national identity document from the alien's country of origin that includes the alien's name and the alien's photograph or fingerprint;

(2) the alien's birth certificate and an identity card that includes the alien's name and photograph;
(3) a school identification card that includes the alien's name and photograph, and school records showing the alien's name and that the alien is or was enrolled at the school;

(4) a Uniformed Services identification card issued by the Department of Defense;

(5) any immigration or other document issued by the United States Government bearing the alien's name and photograph;

(6) a State-issued identification card bearing the alien's name and photograph; or

(7) any other evidence determined to be credible by the Secretary.

(b) DOCUMENTS ESTABLISHING CONTINUOUS PHYSICAL PRESENCE.—To establish that an alien has been continuously physically present in the United States, as required under section 101(a)(2), the alien may submit the following forms of evidence:

(1) Passport entries, including admission stamps on the alien’s passport.

(2) Any document from the Department of Justice or the Department of Homeland Security noting the alien's date of entry into the United States.

(3) Records from any educational institution the alien has attended in the United States.
(4) Employment records of the alien that include the employer's name and contact information.

(5) Records of service from the Uniformed Services.

(6) Official records from a religious entity confirming the alien's participation in a religious ceremony.

(7) A birth certificate for a child who was born in the United States.

(8) Hospital or medical records showing medical treatment or hospitalization, the name of the medical facility or physician, and the date of the treatment or hospitalization.

(9) Automobile license receipts or registration.

(10) Deeds, mortgages, or rental agreement contracts.

(11) Rent receipts or utility bills bearing the alien's name or the name of an immediate family member of the alien, and the alien's address.

(12) Tax receipts;

(13) Insurance policies.

(14) Remittance records, including copies of money order receipts sent in or out of the country.

(15) Travel records.

(16) Dated bank transactions.
(17) Two or more sworn affidavits from individuals who are not related to the alien who have direct knowledge of the alien's continuous physical presence in the United States, that contain—

(A) the name, address, and telephone number of the affiant; and

(B) the nature and duration of the relationship between the affiant and the alien.

(18) Any other evidence determined to be credible by the Secretary.

(e) DOCUMENTS ESTABLISHING EXEMPTION FROM APPLICATION FEES.—To establish that an alien is exempt from an application fee under section 203(c), the alien may submit to the Secretary the following relevant documents:

(1) DOCUMENTS TO ESTABLISH AGE.—To establish that an alien meets an age requirement, the alien may provide proof of identity, as described in subsection (a), that establishes that the alien is younger than 18 years of age.

(2) DOCUMENTS TO ESTABLISH INCOME.—To establish the alien's income, the alien may provide—

(A) employment records or other records of earned income that have been maintained by the Social Security Administration, the Internal
Revenue Service, or any other Federal, State, or local government agency;
(B) bank records; or
(C) at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the alien’s work and income that contain—
(i) the name, address, and telephone number of the affiant; and
(ii) the nature and duration of the relationship between the affiant and the alien.

(3) DOCUMENTS TO ESTABLISH FOSTER CARE, LACK OF FAMILIAL SUPPORT, OR SERIOUS, CHRONIC DISABILITY.—To establish that the alien was in foster care, lacks parental or familial support, or has a serious, chronic disability, the alien may provide at least 2 sworn affidavits from individuals who are not related to the alien and who have direct knowledge of the circumstances that contain—
(A) a statement that the alien is in foster care, otherwise lacks any parental or other familiar support, or has a serious, chronic disability, as appropriate;
(B) the name, address, and telephone number of the affiant; and

(C) the nature and duration of the relationship between the affiant and the alien.

(d) AUTHORITY TO PROHIBIT USE OF CERTAIN DOCUMENTS.—If the Secretary determines, after publication in the Federal Register and an opportunity for public comment, that any document or class of documents does not reliably establish identity or that permanent resident status under this Act is being obtained fraudulently to an unacceptable degree, the Secretary may prohibit or restrict the use of such document or class of documents.

SEC. 208. RULE MAKING.

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall publish in the Federal Register interim final rules implementing this Act, which shall allow eligible individuals to immediately apply for relief under section 101. Notwithstanding section 553 of title 5, United States Code, the regulation shall be effective, on an interim basis, immediately upon publication, but may be subject to change and revision after public notice and opportunity for a period of public comment. The Secretary shall finalize such rules not later than 180 days after the date of publication.
(b) PAPERWORK REDUCTION ACT.—The requirements under chapter 35 of title 44, United States Code, (commonly known as the "Paperwork Reduction Act") shall not apply to any action to implement this Act.

SEC. 209. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—The Secretary may not disclose or use information provided in applications filed under this Act (including information provided during administrative or judicial review) for the purpose of immigration enforcement.

(b) REFERRALS PROHIBITED.—The Secretary, based solely on information provided in an application for adjustment of status under this Act (including information provided during administrative or judicial review), may not refer an applicant to U.S. Immigration and Customs Enforcement, U.S. Customs and Border Protection, or any designee of either such entity.

(c) LIMITED EXCEPTION.—Notwithstanding subsections (a) and (b), information provided in an application for adjustment of status under this Act may be shared with Federal security and law enforcement agencies—

(1) for assistance in the consideration of an application for adjustment of status under this Act;

(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, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 210. GRANT PROGRAM TO ASSIST ELIGIBLE APPLICANTS.

(a) ESTABLISHMENT.—The Secretary of Homeland Security shall establish, within U.S. Citizenship and Immigration Services, a program to award grants, on a competitive basis, to eligible nonprofit organizations that will use the funding to assist eligible applicants under this Act by providing them with the services described in subsection (b).

(b) USE OF FUNDS.—Grant funds awarded under this section shall be used for the design and implementation of programs that provide—

(1) information to the public regarding the eligibility and benefits of permanent resident status under this Act, particularly to individuals potentially eligible for such status;

(2) assistance, within the scope of authorized practice of immigration law, to individuals submit-
ting applications for adjustment of status under this
Act, including—

(A) screening prospective applicants to as-
sess their eligibility for such status;

(B) completing applications and petitions,
including providing assistance in obtaining the
requisite documents and supporting evidence;
and

(C) providing any other assistance that the
Secretary or grantee considers useful or nec-
 essary to apply for adjustment of status under
this Act; and

(3) assistance, within the scope of authorized
practice of immigration law, and instruction, to indi-
viduals—

(A) on the rights and responsibilities of
United States citizenship;

(B) in civics and English as a second lan-
guage;

(C) in preparation for the General Edu-
cation Development test; and

(D) in applying for adjustment of status
and United States citizenship.

(c) AUTHORIZATION OF APPROPRIATIONS.—
(1) AMOUNTS AUTHORIZED.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2020 through 2030 to carry out this section.

(2) AVAILABILITY.—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

SEC. 211. PROVISIONS AFFECTING ELIGIBILITY FOR ADJUDICATION OF STATUS.

An alien’s eligibility to be lawfully admitted for permanent residence under this Act shall not preclude the alien from seeking any status under any other provision of law for which the alien may otherwise be eligible.