115TH CONGRESS
1ST SESSION
S. 2144

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

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mr. VAN HOLLEN (for himself, Mr. CARDIN, Mrs. FEINSTEIN, Mr. REED, Ms. HIRONO, Mrs. GILLIBRAND, Mr. MARKEY, Ms. HARRIS, Mr. WHITEHOUSE, and Ms. CORTEZ Masto) 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.

Be it enacted by the Senate and House of Representa-

tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. ADJUSTMENT OF STATUS OF CERTAIN FOREIGN NA-

TIONALS.

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

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

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

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

(2) RELATIONSHIP OF APPLICATION TO CERTAIN ORDERS.—

(A) IN GENERAL.—An alien who is present in the United States and has been ordered removed, or permitted voluntarily to depart, from the United States under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) may, notwithstanding such order, apply for adjustment of status under paragraph (1).
(B) MOTION NOT REQUIRED.—An alien described in subparagraph (A) may not be re-
quired, as a condition of submitting or approving an application under such subparagraph, to file a motion to reopen, reconsider, or vacate an order described in such subparagraph.

(C) APPROVAL.—If the Secretary of Homeland Security approves an application submitted by an alien under subparagraph (A), the Secretary shall cancel the order related to the alien that is referred to in such subparagraph.

(D) DENIAL.—If the Secretary of Homeland Security renders a final administrative decision to deny an application submitted by an alien under subparagraph (A), the order related to such alien shall be effective and enforceable to the same extent as if such application had not been made.

(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STATUS.—

(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 Na-
tionality Act 8 (8 U.S.C. 1254a);

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

(iii) qualified for temporary protected sta-
tus at the time the last designation was made
by the Secretary of Homeland Security;

(C) has been continuously present in the
United States for at least 3 years and is phys-
ically present in the United States on the date
on which the alien files an application for ad-
justment of status under this section; and

(D) passes all applicable criminal and na-
tional 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 para-
graph (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 to receive an adjustment of status under this section if the Attorney General or the Secretary of Homeland Security determines that the removal of the alien from the United States would result in extreme hardship to the alien or 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 ap-
propriate document signifying such employment
authorization.

(d) 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 para-
graphs (2) and (3), the Secretary of Homeland Se-
curity 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 immi-
grant visa and is otherwise admissible to the
United States for permanent residence.

(2) CONTINUOUS PRESENCE REQUIREMENT.—

(A) IN GENERAL.—The status of an un-
marrried 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.

(e) Availability of Administrative Review.—The Secretary of Homeland Security shall provide applicants 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 proceedings under section 240 of such Act (8 U.S.C. 1229a).

(f) 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. ADDITIONAL REPORTING REQUIREMENTS REGARDING FUTURE DISCONTINUED ELIGIBILITY OF ALIENS FROM COUNTRIES CURRENTLY LISTED 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 “the Attorney General” and inserting “, the Secretary of Homeland Security”;

(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
(C) by striking “The Attorney General” and inserting “The Secretary”; 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”;

(B) in clause (i), as redesignated, 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 Representatives that shall include—

“(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 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. 4. OTHER MATTERS.

(a) Application of Immigration and Nationality Act Provisions.—Except as otherwise specifically provided in this Act, the definitions in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) shall apply in this Act.
(b) SAVINGS PROVISION.—Nothing in this Act may be construed to repeal, amend, alter, modify, effect, or restrict 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.—An 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.