

117TH CONGRESS
1ST SESSION

H. R. 2064

To amend the Immigration and Nationality Act to provide for certain protections for aliens granted temporary protected status or deferred enforced departure, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2021

Mr. SMITH of New Jersey introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide for certain protections for aliens granted temporary protected status or deferred enforced departure, 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 TITLE.**

4 This Act may be cited as the “TPS and DED Protec-
5 tion Act of 2021”.

1 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NON-IMMI-**
2 **GRANT NATIONALS GRANTED TEMPORARY**
3 **PROTECTED STATUS OR DEFERRED EN-**
4 **FORCED DEPARTURE.**

5 Title II of the Immigration and Nationality Act (8
6 U.S.C. 1101 et seq.) is amended by inserting after section
7 244 the following (and amending the table of contents ac-
8 cordingly):

9 **“SEC. 244A. ADJUSTMENT OF STATUS FOR CERTAIN NA-**
10 **TIONALS IN RECEIPT OF TEMPORARY PRO-**
11 **TECTED STATUS OR DEFERRED ENFORCED**
12 **DEPARTURE.**

13 “(a) IN GENERAL.—The status of any alien described
14 in subsection (c) shall be adjusted by the Secretary of
15 Homeland Security to that of an alien lawfully admitted
16 for permanent residence, if the alien—

17 “(1) applies for such adjustment within 3 years
18 after the date of enactment of this section;

19 “(2) is determined to be admissible to the
20 United States for permanent residence; and

21 “(3) meets the criteria established under sub-
22 section (c).

23 “(b) CERTAIN GROUNDS FOR INADMISSIBILITY INAP-
24 PLICABLE.—

25 “(1) IN GENERAL.—For purposes of deter-
26 mining admissibility under subsection (a)(2), the

1 grounds for inadmissibility specified in paragraphs
2 (4), (5), (6)(A), and (7)(A) of section 212(a) of the
3 Immigration and Nationality Act shall not apply.

4 “(2) ADDITIONAL WAIVER FOR INDIVIDUAL
5 ALIENS.—The Secretary may waive any other provi-
6 sion of section 212(a) in the case of an individual
7 alien for humanitarian purposes, to assure family
8 unity, or when it is otherwise in the public interest.

9 “(c) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
10 TUS.—

11 “(1) IN GENERAL.—An alien shall be eligible
12 for adjustment of status if—

13 “(A) the alien is a national of a country
14 (or part of a country) with a designation under
15 244(b) of the Immigration and Nationality Act
16 during the period specified in section 244(b)(2)
17 and who was granted temporary protected sta-
18 tus, or was otherwise eligible for temporary pro-
19 tected status, on or before October 1, 2017, or
20 has been granted Deferred Enforced Departure
21 (hereinafter in this section referred to as
22 ‘DED’) on or before October 1, 2017; and

23 “(B) the alien has been continuously phys-
24 ically present in the United States for a period

1 of not less than 3 years before the date of the
2 enactment of this section.

3 “(2) TPS ALIENS PREVIOUSLY REMOVED OR
4 DEPARTED.—An alien shall be eligible for adjust-
5 ment of status if the alien was removed or volun-
6 tarily departed from the United States on or after
7 September 25, 2016, if the alien—

8 “(A) applies from abroad;

9 “(B) was continuously physically present
10 in the United States for a period of not less
11 than 3 years before the date of removal or de-
12 parture;

13 “(C) had temporary protected status on
14 such date, or was otherwise eligible, on such
15 date, for temporary protected status notwith-
16 standing subsections (c)(1)(A)(iv) and (c)(3)(C)
17 of section 244 of the Immigration and Nation-
18 ality Act (8 U.S.C. 1254a); and

19 “(D) the sole reason for the alien’s re-
20 moval or departure was—

21 “(i) that the alien was present in the
22 United States after the expiration of the
23 designation of that foreign state (or part
24 thereof) under section 244(b)(3)(B) of the

1 Immigration and Nationality Act (8 U.S.C.
2 1254a(b)(3)(B)); or

3 “(ii) in the case of a voluntary depart-
4 ture, the alien did so on the basis of the
5 Secretary’s determination to terminate
6 such designation.

7 “(3) DED ALIENS PREVIOUSLY REMOVED OR
8 DEPARTED.—An alien shall be eligible for adjust-
9 ment of status if the alien was removed or volun-
10 tarily departed from the United States on or after
11 September 28, 2016, if the alien—

12 “(A) applies from abroad;

13 “(B) is under a grant of Deferred En-
14 forced Departure as of September 28, 2016;

15 “(C) was continuously physically present in
16 the United States for a period of not less than
17 3 years before the date of removal or departure;
18 and

19 “(D) the sole reason for the alien’s re-
20 moval or departure—

21 “(i) was that the alien was present in
22 the United States after the expiration of
23 the deferral of enforced departure directed
24 in the Presidential Memorandum on De-
25 ferred Enforced Departure for Liberians

1 issued on September 28, 2016, or any sub-
2 sequent extension of such deferral; or

3 “(ii) in the case of a voluntary depar-
4 ture, the alien did so on the basis of the
5 President’s determination to terminate
6 such presidential memorandum or exten-
7 sion.

8 “(d) WAIVER AUTHORIZED.—Notwithstanding any
9 provision of the Immigration and Nationality Act, an alien
10 who fails to meet the continuous physical presence require-
11 ment under paragraph (2) of subsection (c) shall be con-
12 sidered eligible for status adjustment as provided in this
13 section if the Attorney General or the Secretary deter-
14 mines that the removal of the alien from the United States
15 would result in extreme hardship to the alien, their spouse,
16 their children, their parents, or their domestic partner.

17 “(e) EFFECT OF APPLICATION ON CERTAIN OR-
18 DERS.—An alien present in the United States who has
19 been ordered removed or has been granted voluntary de-
20 parture from the United States may, notwithstanding
21 such order, apply for adjustment of status under this sec-
22 tion. Such alien shall not be required to file a separate
23 motion to reopen, reconsider, or vacate the order of re-
24 moval. If the Secretary approves the application, the Sec-
25 retary shall cancel the order of removal. If the Secretary

1 renders a final administrative decision to deny the applica-
2 tion, the order of removal shall be effective and enforce-
3 able to the same extent as if the application had not been
4 made.

5 “(f) WORK AUTHORIZATION.—The Secretary shall
6 authorize an alien who has applied for adjustment of sta-
7 tus under this section to engage in employment in the
8 United States during the pendency of such application and
9 shall provide the alien with an appropriate document signi-
10 fying authorization of employment.

11 “(g) ADJUSTMENT OF STATUS FOR CERTAIN FAMILY
12 MEMBERS.—

13 “(1) IN GENERAL.—The status of an alien shall
14 be adjusted by the Secretary to that of an alien law-
15 fully admitted for permanent residence if the alien—

16 “(A) is the spouse, parent, or unmarried
17 son or daughter of an alien whose status is ad-
18 justed under this section;

19 “(B) applies for adjustment under this sec-
20 tion within 3 years after the date of enactment
21 of this Act; and

22 “(C) is determined to be admissible to the
23 United States for permanent residence.

24 “(2) CERTAIN GROUNDS FOR INADMISSIBILITY
25 INAPPLICABLE.—For purposes of determining ad-

1 missibility under subsection (g)(1)(C), the grounds
2 for inadmissibility specified in paragraphs (4), (5),
3 (6)(A), and (7)(A) of section 212(a) shall not apply.

4 “(h) AVAILABILITY OF ADMINISTRATIVE REVIEW.—
5 The Secretary shall provide to aliens applying for adjust-
6 ment of status under this section the same right to, and
7 procedures for, administrative review as are provided to—

8 “(1) applicants for adjustment of status under
9 section 245; or

10 “(2) aliens subject to removal proceedings
11 under section 240.

12 “(i) NO OFFSET IN NUMBER OF VISAS AVAIL-
13 ABLE.—The granting of adjustment of status under this
14 section shall not reduce the number of immigrant visas
15 authorized to be issued under any provision of the Immi-
16 gration and Nationality Act.

17 “(j) TREATMENT OF BRIEF, CASUAL, AND INNOCENT
18 DEPARTURES AND CERTAIN OTHER ABSENCES.—An
19 alien who has failed to maintain the 3-year continuous
20 physical presence requirement under subsection (c) be-
21 cause of brief, casual, and innocent departures or, emer-
22 gency travel, or extenuating circumstances outside of the
23 control of the alien, shall not be considered to have failed
24 to maintain continuous physical presence in the United
25 States.

1 “(k) RULE OF CONSTRUCTION.—Nothing in this Act
2 shall be construed to include aliens (as a class or indi-
3 vidual basis) from previously designated countries that no
4 longer have valid temporary protected status designation
5 under section 244(b), or aliens who no longer have a valid
6 deferred enforced departure status, unless such designated
7 status or previously deferred enforced departure expires
8 on or after January 1, 2017.

9 “(l) DEFINITIONS.—In this section:

10 “(1) The term ‘domestic partner’ means an
11 adult of at least 18 years of age in a committed rela-
12 tionship with the alien applying for adjustment. A
13 committed relationship is one in which the employee
14 and the domestic partner of the employee are each
15 other’s sole domestic partner (and are not married
16 to or domestic partners with anyone else) and share
17 responsibility for a significant measure of each oth-
18 er’s common welfare and financial obligations. This
19 includes, but is not limited to, any relationship be-
20 tween two individuals of the same or opposite sex
21 that is granted legal recognition by a State or by the
22 District of Columbia as a marriage or analogous re-
23 lationship (including, but not limited to, a civil
24 union).

1 “(2) The term ‘provide for its repatriated citi-
 2 zens’ means a country’s ability to provide safety,
 3 and social safety net services, including preventive
 4 healthcare services, and housing.

5 “(3) The term ‘Deferred Enforced Departure’
 6 or ‘DED’ refers to the presidential directive issued
 7 on September 28, 2016.”.

8 **SEC. 3. REPORTING REQUIREMENTS REGARDING FUTURE**
 9 **DISCONTINUED ELIGIBILITY OF ALIENS**
 10 **FROM COUNTRIES CURRENTLY LISTED**
 11 **UNDER TEMPORARY PROTECTED STATUS.**

12 (a) ADDITIONAL REPORTING REQUIREMENTS.—Sec-
 13 tion 244(b)(3) of the Immigration and Nationality Act (8
 14 U.S.C. 1254a(b)(3)) is amended by adding at the end, the
 15 following:

16 “(D) REPORT ON TERMINATIONS.—Within
 17 3 days after the Attorney General’s announce-
 18 ment, including by notice in the Federal Reg-
 19 ister, of a country’s designation being termi-
 20 nated from Temporary Protected Status, the
 21 Attorney General shall submit to the Committee
 22 on the Judiciary of the Senate and the House
 23 Judiciary Committee a report that includes—

24 “(i) an explanation of the event or
 25 events that initially prompted a country’s

1 designation under temporary protected sta-
2 tus;

3 “(ii) the progress the country has
4 made in remedying the designation speci-
5 fied in clause (i), including any significant
6 challenges or shortcomings that have not
7 been addressed since the initial designa-
8 tion; and

9 “(iii) an analysis, with applicable and
10 relevant metrics as determined by the Sec-
11 retary, of the country’s ability to repatriate
12 its nationals, including—

13 “(I) the country’s financial abil-
14 ity to provide for its repatriated citi-
15 zens;

16 “(II) the country’s financial abil-
17 ity to address the initial designation
18 specified in clause (i) without foreign
19 assistance;

20 “(III) the country’s gross domes-
21 tic product, gross domestic product
22 per capita, and an analysis of the
23 country’s ability to be economically
24 self-sufficient without foreign assist-
25 ance;

1 “(IV) the economic and social
 2 impact repatriation of nationals in
 3 possession of temporary protected sta-
 4 tus would have on the recipient coun-
 5 try; and

6 “(V) any additional metrics the
 7 Secretary deems necessary.”.

8 **SEC. 4. ADJUSTMENT OF RELATION OF PERIOD OF TEM-**
 9 **PORARY PROTECTED STATUS TO CANCELLA-**
 10 **TION OF REMOVAL.**

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

13 (1) by striking “With respect to an alien” and
 14 inserting the following:

15 “(1) IN GENERAL.—With respect to an alien”;
 16 and

17 (2) by adding at the end, the following:

18 “(2) WAIVER FOR CERTAIN TEMPORARY PRO-
 19 TECTED STATUS HOLDERS.—The provisions in sub-
 20 section (e) shall not apply to an alien who is eligible
 21 for adjustment of status pursuant to section 244A
 22 of the Immigration and Nationality Act.”.

23 **SEC. 5. ELIGIBILITY FOR NATURALIZATION.**

24 (a) IN GENERAL.—Notwithstanding sections 319(b),
 25 328, and 329 of the Immigration and Nationality Act (8

1 U.S.C. 1430(b), 1439, and 1440), an alien whose status
 2 is adjusted under section 244A of the Immigration and
 3 Nationality Act to that of an alien lawfully admitted for
 4 permanent residence may apply for naturalization under
 5 chapter 2 of title III of the Immigration and Nationality
 6 Act (8 U.S.C. 1421 et seq.) not earlier than 5 years after
 7 such adjustment of status.

8 (b) LANGUAGE REQUIREMENT WAIVER.—Section
 9 312(b)(2) of the Immigration and Nationality Act (8
 10 U.S.C. 1423(b)(2)) is amended—

11 (1) in subparagraph (A), by adding “or” at the
 12 end;

13 (2) in subparagraph (B), by striking the period
 14 and inserting “; or”; and

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

16 “(C) is an alien in receipt of status adjust-
 17 ment under section 244A of the Immigration
 18 and Nationality Act.”.

19 **SEC. 6. DESIGNATION FOR PURPOSES OF GRANTING TEM-**
 20 **PORARY PROTECTED STATUS.**

21 (a) DESIGNATION.—

22 (1) IN GENERAL.—For purposes of section 244
 23 of the Immigration and Nationality Act (8 U.S.C.
 24 1254a), Venezuela and Eritrea shall be treated as if
 25 each had been designated under subsection (b)(1)(C)

1 of that section, subject to the provisions of this sec-
2 tion.

3 (2) PERIOD OF DESIGNATION.—The initial pe-
4 riod of the designation referred to in paragraph (1)
5 shall be for the 18-month period beginning on the
6 date of the enactment of this Act.

7 (b) ALIENS ELIGIBLE.—As a result of the designa-
8 tion made under subsection (a), an alien who is a national
9 of Venezuela or Eritrea is deemed to satisfy the require-
10 ments under paragraph (1) of section 244(c) of the Immi-
11 gration and Nationality Act (8 U.S.C. 1254a(c)), subject
12 to paragraph (3) of such section, if the alien—

13 (1) has been continuously physically present in
14 the United States since the date of the enactment of
15 this Act;

16 (2) is admissible as an immigrant, except as
17 otherwise provided in paragraph (2)(A) of such sec-
18 tion, and is not ineligible for temporary protected
19 status under paragraph (2)(B) of such section; and

20 (3) registers for temporary protected status in
21 a manner established by the Secretary of Homeland
22 Security.

23 (c) CONSENT TO TRAVEL ABROAD.—

24 (1) IN GENERAL.—The Secretary of Homeland
25 Security shall give prior consent to travel abroad, in

1 accordance with section 244(f)(3) of the Immigra-
2 tion and Nationality Act (8 U.S.C. 1254a(f)(3)), to
3 an alien who is granted temporary protected status
4 pursuant to the designation made under subsection
5 (a) if the alien establishes to the satisfaction of the
6 Secretary of Homeland Security that emergency and
7 extenuating circumstances beyond the control of the
8 alien require the alien to depart for a brief, tem-
9 porary trip abroad.

10 (2) TREATMENT UPON RETURN.—An alien re-
11 turning to the United States in accordance with an
12 authorization described in paragraph (1) shall be
13 treated as any other returning alien provided tem-
14 porary protected status under section 244 of the Im-
15 migration and Nationality Act (8 U.S.C. 1254a).

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