

Union Calendar No. 584

110TH CONGRESS
2^D SESSION

H. R. 1071

[Report No. 110-909]

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 15, 2007

Mrs. MALONEY of New York (for herself, Mr. KING of New York, Mr. NADLER, Mr. SERRANO, Mr. ISRAEL, Mr. ENGEL, Mr. BERMAN, Ms. SCHAKOWSKY, Mr. HARE, and Mr. RANGEL) introduced the following bill; which was referred to the Committee on the Judiciary

OCTOBER 3, 2008

Additional sponsors: Mr. GRIJALVA, Mr. ACKERMAN, Mr. SIRES, Mr. BURTON of Indiana, Mr. PALLONE, Mr. LANTOS, Ms. CLARKE, Mr. HOLT, Mr. WEINER, and Mr. SHAYS

OCTOBER 3, 2008

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on February 15, 2007]

A BILL

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to

that of an alien lawfully admitted for permanent residence, 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 “September 11 Family*
 5 *Humanitarian Relief and Patriotism Act”.*

6 **SEC. 2. ADJUSTMENT OF STATUS FOR CERTAIN NON-**
 7 **IMMIGRANT VICTIMS OF TERRORISM.**

8 (a) *ADJUSTMENT OF STATUS.*—

9 (1) *IN GENERAL.*—*The status of any alien de-*
 10 *scribed in subsection (b) shall be adjusted by the Sec-*
 11 *retary of Homeland Security to that of an alien law-*
 12 *fully admitted for permanent residence, if the alien—*

13 (A) *applies for such adjustment not later*
 14 *than 2 years after the date on which the Sec-*
 15 *retary promulgates final regulations to imple-*
 16 *ment this section; and*

17 (B) *is otherwise admissible to the United*
 18 *States for permanent residence, except in deter-*
 19 *mining such admissibility the grounds for inad-*
 20 *missibility specified in paragraphs (4), (5),*
 21 *(6)(A), (7)(A), and (9)(B) of section 212(a) of*
 22 *the Immigration and Nationality Act (8 U.S.C.*
 23 *1182(a)) shall not apply.*

1 (2) *RULES IN APPLYING CERTAIN PROVISIONS.—*
2 *In the case of an alien described in subsection (b) who*
3 *is applying for adjustment of status under this sec-*
4 *tion—*

5 *(A) the provisions of section 241(a)(5) of the*
6 *Immigration and Nationality Act shall not*
7 *apply; and*

8 *(B) the Secretary of Homeland Security*
9 *may grant the alien a waiver of the grounds of*
10 *inadmissibility under subparagraphs (A) and*
11 *(C) of section 212(a)(9) of such Act.*

12 *In granting waivers under subparagraph (B), the*
13 *Secretary shall use standards used in granting con-*
14 *sent under subparagraphs (A)(iii) and (C)(ii) of such*
15 *section 212(a)(9).*

16 (3) *RELATIONSHIP OF APPLICATION TO CERTAIN*
17 *ORDERS.—An alien present in the United States who*
18 *has been ordered excluded, deported, removed, or or-*
19 *dered to depart voluntarily from the United States*
20 *under any provision of the Immigration and Nation-*
21 *ality Act (8 U.S.C. 1101 et seq.) may, notwith-*
22 *standing such order, apply for adjustment of status*
23 *under paragraph (1). Such an alien may not be re-*
24 *quired, as a condition of submitting or granting such*
25 *application, to file a separate motion to reopen, re-*

1 *consider, or vacate such order. If the Secretary of*
2 *Homeland Security grants the application, the Sec-*
3 *retary shall cancel the order. If the Secretary renders*
4 *a final administrative decision to deny the applica-*
5 *tion, the order shall be effective and enforceable to the*
6 *same extent as if the application had not been made.*

7 *(b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-*
8 *TUS.—The benefits provided by subsection (a) shall apply*
9 *to any alien who—*

10 *(1) was lawfully present in the United States as*
11 *a nonimmigrant alien described in section 101(a)(15)*
12 *of the Immigration and Nationality Act (8 U.S.C.*
13 *1101(a)(15)) on September 10, 2001;*

14 *(2) was, on such date, the spouse, child, depend-*
15 *ent son, or dependent daughter of an alien who—*

16 *(A) was lawfully present in the United*
17 *States as a nonimmigrant alien described in sec-*
18 *tion 101(a)(15) of the Immigration and Nation-*
19 *ality Act (8 U.S.C. 1101(a)(15)) on such date;*
20 *and*

21 *(B) died as a direct result of a specified ter-*
22 *rorist activity; and*

23 *(3) was deemed to be a beneficiary of, and by,*
24 *the September 11th Victim Compensation Fund of*
25 *2001 (42 U.S.C. 40101).*

1 (c) *STAY OF REMOVAL; WORK AUTHORIZATION.*—

2 (1) *IN GENERAL.*—*The Secretary of Homeland*
3 *Security and the Attorney General shall provide by*
4 *regulation for an alien subject to a final order of re-*
5 *moval to seek a stay of such order based on the filing*
6 *of an application under subsection (a).*

7 (2) *DURING CERTAIN PROCEEDINGS.*—*Notwith-*
8 *standing any provision of the Immigration and Na-*
9 *tionality Act (8 U.S.C. 1101 et seq.), the Attorney*
10 *General shall not order any alien to be removed from*
11 *the United States, if the alien is in removal pro-*
12 *ceedings under any provision of such Act and has ap-*
13 *plied for adjustment of status under subsection (a),*
14 *except where the Secretary has rendered a final ad-*
15 *ministrative determination to deny the application.*

16 (3) *WORK AUTHORIZATION.*—*The Secretary of*
17 *Homeland Security shall authorize an alien who has*
18 *applied for adjustment of status under subsection (a)*
19 *to engage in employment in the United States during*
20 *the pendency of such application.*

21 (d) *AVAILABILITY OF ADMINISTRATIVE REVIEW.*—*The*
22 *Secretary of Homeland Security shall provide to applicants*
23 *for adjustment of status under subsection (a) the same right*
24 *to, and procedures for, administrative review as are pro-*
25 *vided to—*

1 (1) *applicants for adjustment of status under*
2 *section 245 of the Immigration and Nationality Act;*
3 *or*

4 (2) *aliens subject to removal proceedings under*
5 *section 240 of such Act.*

6 **SEC. 3. CANCELLATION OF REMOVAL FOR CERTAIN IMMI-**
7 **GRANT VICTIMS OF TERRORISM.**

8 (a) *IN GENERAL.*—*Subject to the provisions of the Im-*
9 *migration and Nationality Act (8 U.S.C. 1101 et seq.),*
10 *other than subsections (b)(1), (d)(1), and (e) of section 240A*
11 *of such Act (8 U.S.C. 1229b), the Attorney General shall,*
12 *under such section 240A, cancel the removal of, and adjust*
13 *to the status of an alien lawfully admitted for permanent*
14 *residence, an alien described in subsection (b), if the alien*
15 *applies for such relief.*

16 (b) *ALIENS ELIGIBLE FOR CANCELLATION OF RE-*
17 *MOVAL.*—*The benefits provided by subsection (a) shall*
18 *apply to any alien who—*

19 (1) *was, on September 10, 2001, the spouse,*
20 *child, dependent son, or dependent daughter of an*
21 *alien who died as a direct result of a specified ter-*
22 *rorist activity; and*

23 (2) *was deemed to be a beneficiary of, and by,*
24 *the September 11th Victim Compensation Fund of*
25 *2001 (49 U.S.C. 40101).*

1 (c) *STAY OF REMOVAL; WORK AUTHORIZATION.*—

2 (1) *IN GENERAL.*—*The Secretary of Homeland*
3 *Security and the Attorney General shall provide by*
4 *regulation for an alien subject to a final order of re-*
5 *moval to seek a stay of such order based on the filing*
6 *of an application under subsection (a).*

7 (2) *WORK AUTHORIZATION.*—*The Secretary of*
8 *Homeland Security shall authorize an alien who has*
9 *applied for cancellation of removal under subsection*
10 *(a) to engage in employment in the United States*
11 *during the pendency of such application.*

12 (d) *MOTIONS TO REOPEN REMOVAL PROCEEDINGS.*—
13 *Notwithstanding any limitation imposed by law on motions*
14 *to reopen removal proceedings (except limitations premised*
15 *on an alien's conviction of an aggravated felony (as defined*
16 *in section 101(a)(43) of the Immigration and Nationality*
17 *Act (8 U.S.C. 1101(a)(43))), any alien who has become eli-*
18 *gible for cancellation of removal as a result of the enactment*
19 *of this section may file one motion to reopen removal pro-*
20 *ceedings to apply for such relief. The Secretary of Homeland*
21 *Security and the Attorney General shall designate a specific*
22 *time period in which all such motions to reopen are re-*
23 *quired to be filed. The period shall begin not later than 60*
24 *days after the date of the enactment of this Act and shall*
25 *extend for a period not to exceed 240 days.*

1 **SEC. 4. EXCEPTIONS.**

2 *Notwithstanding any other provision of this Act, an*
3 *alien may not be provided relief under this Act if the alien*
4 *is—*

5 *(1) inadmissible under paragraph (2) or (3) of*
6 *section 212(a) of the Immigration and Nationality*
7 *Act (8 U.S.C. 1182(a)), or deportable under para-*
8 *graph (2) or (4) of section 237(a) of such Act (8*
9 *U.S.C. 1227(a)), including any individual culpable*
10 *for a specified terrorist activity; or*

11 *(2) a member of the family of an alien described*
12 *in paragraph (1).*

13 **SEC. 5. EVIDENCE OF DEATH.**

14 *For purposes of this Act, the Secretary of Homeland*
15 *Security and the Attorney General shall use the standards*
16 *established under section 426 of the Uniting and Strength-*
17 *ening America by Providing Appropriate Tools Required*
18 *to Intercept and Obstruct Terrorism (USA PATRIOT ACT)*
19 *Act of 2001 in determining whether death occurred as a*
20 *direct result of a specified terrorist activity.*

21 **SEC. 6. DEFINITIONS.**

22 *(a) APPLICATION OF IMMIGRATION AND NATIONALITY*
23 *ACT PROVISIONS.—Except as otherwise specifically pro-*
24 *vided in this Act, the definitions used in the Immigration*
25 *and Nationality Act (8 U.S.C. 1101 et seq.) (excluding the*

1 *definitions applicable exclusively to title III of such Act)*
2 *shall apply in the administration of this Act.*

3 **(b) SPECIFIED TERRORIST ACTIVITY.**—*For purposes of*
4 *this Act, the term “specified terrorist activity” means any*
5 *terrorist activity conducted against the Government or the*
6 *people of the United States on September 11, 2001.*

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