

105TH CONGRESS  
2D SESSION

# H. R. 4291

To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 21, 1998

Mrs. MORELLA (for herself, Mrs. JOHNSON of Connecticut, Ms. NORTON, Mr. SMITH of New Jersey, Mr. BERMAN, Ms. ROS-LEHTINEN, Ms. ROYBAL-ALLARD, Ms. LOFGREN, and Mr. FOX of Pennsylvania) introduced the following bill; which was referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to eliminate, for alien battered spouses and children, certain restrictions rendering them ineligible to apply for adjustment of status, suspension of deportation, and cancellation of removal, 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 “VAWA Restoration  
5 Act”.

1 **SEC. 2. REMOVING BARRIERS TO ADJUSTMENT OF STATUS**  
2 **FOR VICTIMS OF DOMESTIC VIOLENCE.**

3 (a) IN GENERAL.—Section 245 of the Immigration  
4 and Nationality Act (8 U.S.C. 1255) is amended—

5 (1) in subsection (a), by inserting “of an alien  
6 who qualifies for classification under subparagraph  
7 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section  
8 204(a)(1) or” after “The status”;

9 (2) in subsection (c)(2), by striking “201(b) or  
10 a special” and inserting “201(b), an alien who quali-  
11 fies for classification under subparagraph (A)(iii),  
12 (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1), or a  
13 special”;

14 (3) in subsection (c)(4), by striking “201(b)”  
15 and inserting “201(b) or an alien who qualifies for  
16 classification under subparagraph (A)(iii), (A)(iv),  
17 (B)(ii), or (B)(iii) of section 204(a)(1))”;

18 (4) in subsection (c)(5), by inserting “(other  
19 than an alien who qualifies for classification under  
20 subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of  
21 section 204(a)(1))” after “an alien”; and

22 (5) in subsection (c)(8), by inserting “(other  
23 than an alien who qualifies for classification under  
24 subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of  
25 section 204(a)(1))” after “any alien”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 subsection (a) shall apply to applications for adjustment  
3 of status pending on or after the date of the enactment  
4 of this Act.

5 **SEC. 3. REMOVING BARRIERS TO CANCELLATION OF RE-**  
6 **MOVAL AND SUSPENSION OF DEPORTATION**  
7 **FOR VICTIMS OF DOMESTIC VIOLENCE.**

8 (a) IN GENERAL.—

9 (1) SPECIAL RULE FOR CALCULATING CONTIN-  
10 UOUS PERIOD FOR BATTERED SPOUSE OR CHILD.—  
11 Paragraph (1) of section 240A(d) of the Immigra-  
12 tion and Nationality Act (8 U.S.C. 1229b(d)(1)) is  
13 amended to read as follows:

14 “(1) TERMINATION OF CONTINUOUS PERIOD.—

15 “(A) IN GENERAL.—Except as provided in  
16 subparagraph (B), for purposes of this section,  
17 any period of continuous residence or continu-  
18 ous physical presence in the United States shall  
19 be deemed to end when the alien is served a no-  
20 tice to appear under section 239(a) or when the  
21 alien has committed an offense referred to in  
22 section 212(a)(2) that renders the alien inad-  
23 missible to the United States under section  
24 212(a)(2) or removable from the United States

1 under section 237(a)(2) or 237(a)(4), whichever  
2 is earliest.

3 “(B) SPECIAL RULE FOR BATTERED  
4 SPOUSE OR CHILD.—For purposes of subsection  
5 (b)(2), the service of a notice to appear referred  
6 to in subparagraph (A) shall not be deemed to  
7 end any period of continuous physical presence  
8 in the United States.”.

9 (2) EXEMPTION FROM ANNUAL LIMITATION ON  
10 CANCELLATION OF REMOVAL FOR BATTERED  
11 SPOUSE OR CHILD.—Section 240A(e)(3) of the Im-  
12 migration and Nationality Act (8 U.S.C.  
13 1229b(e)(3)) is amended by adding at the end the  
14 following:

15 “(C) Aliens whose removal is cancelled  
16 under subsection (b)(2).”.

17 (3) EFFECTIVE DATE.—The amendments made  
18 by paragraphs (1) and (2) shall take effect as if in-  
19 cluded in the enactment of section 304 of the Illegal  
20 Immigration Reform and Immigrant Responsibility  
21 Act of 1996 (Public Law 104–208; 110 Stat. 587).

22 (b) MODIFICATION OF CERTAIN TRANSITION RULES  
23 FOR BATTERED SPOUSE OR CHILD.—

24 (1) IN GENERAL.—Subparagraph (C) of section  
25 309(c)(5) of the Illegal Immigration Reform and Im-

1 migrant Responsibility Act of 1996 (8 U.S.C. 1101  
2 note) (as amended by section 203 of the Nicaraguan  
3 Adjustment and Central American Relief Act) is  
4 amended—

5 (2) by amending the subparagraph heading to  
6 read as follows:

7 “(C) SPECIAL RULE FOR CERTAIN ALIENS  
8 GRANTED TEMPORARY PROTECTION FROM DE-  
9 PORTATION AND FOR BATTERED SPOUSES AND  
10 CHILDREN.—”; and

11 (3) in clause (i)—

12 (A) by striking “or” at the end of sub-  
13 clause (IV);

14 (B) by striking the period at the end of  
15 subclause (V) and inserting “; or”; and

16 (C) by adding at the end the following:

17 “(VI) is an alien who was issued  
18 an order to show cause or was in de-  
19 portation proceedings prior to April 1,  
20 1997, and who applied for suspension  
21 of deportation under section 244(a)(3)  
22 of the Immigration and Nationality  
23 Act (as in effect before the date of the  
24 enactment of this Act).”.

1           (4) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall take effect as if included in  
3           the enactment of section 309 of the Illegal Immigra-  
4           tion Reform and Immigrant Responsibility Act of  
5           1996 (8 U.S.C. 1101 note).

6 **SEC. 4. ELIMINATING TIME LIMITATIONS ON MOTIONS TO**  
7                           **REOPEN REMOVAL AND DEPORTATION PRO-**  
8                           **CEEDINGS FOR VICTIMS OF DOMESTIC VIO-**  
9                           **LENCE.**

10           (a) REMOVAL PROCEEDINGS.—

11           (1) IN GENERAL.—Section 240(c)(6)(C) of the  
12           Immigration and Nationality Act (8 U.S.C.  
13           1229a(c)(6)(C) is amended by adding at the end the  
14           following:

15                           “(iv) SPECIAL RULE FOR BATTERED  
16                           SPOUSES AND CHILDREN.—There is no  
17                           time limit on the filing of a motion to re-  
18                           open, and the deadline specified in sub-  
19                           section (b)(5)(C) does not apply, if the  
20                           basis of the motion is to apply for adjust-  
21                           ment of status based on a petition filed  
22                           under clause (iii) or (iv) of section  
23                           204(a)(1)(A), clause (ii) or (iii) of section  
24                           204(a)(1)(B), or section 240A(b)(2).”.

1           (2) EFFECTIVE DATE.—The amendments made  
2           by paragraph (1) shall take effect as if included in  
3           the enactment of section 304 of the Illegal Immigra-  
4           tion Reform and Immigrant Responsibility Act of  
5           1996 (Public Law 104–208; 110 Stat. 587).

6           (b) DEPORTATION PROCEEDINGS.—

7           (1) IN GENERAL.—Notwithstanding any limita-  
8           tion imposed by law on motions to reopen deporta-  
9           tion proceedings under the Immigration and Nation-  
10          ality Act (as in effect before the title III–A effective  
11          date in section 309 of the Illegal Immigration Re-  
12          form and Immigrant Responsibility Act of 1996 (8  
13          U.S.C. 1101 note)), there is no time limit on the fil-  
14          ing of a motion to reopen such proceedings, and the  
15          deadline specified in section 242B(c)(3) of the Immi-  
16          gration and Nationality Act (as so in effect) does  
17          not apply, if the basis of the motion is to apply for  
18          relief under clause (iii) or (iv) of section  
19          204(a)(1)(A) of the Immigration and Nationality  
20          Act, clause (ii) or (iii) of section 204(a)(1)(B) of  
21          such Act, or section 244(a)(3) of such Act (as so in  
22          effect).

23          (2) APPLICABILITY.—Paragraph (1) shall apply  
24          to motions filed by aliens who—

1 (A) are, or were, in deportation proceed-  
2 ings under the Immigration and Nationality Act  
3 (as in effect before the title III–A effective date  
4 in section 309 of the Illegal Immigration Re-  
5 form and Immigrant Responsibility Act of 1996  
6 (8 U.S.C. 1101 note)); and

7 (B) have become eligible to apply for relief  
8 under clause (iii) or (iv) of section 204(a)(1)(A)  
9 of the Immigration and Nationality Act, clause  
10 (ii) or (iii) of section 204(a)(1)(B) of such Act,  
11 or section 244(a)(3) of such Act (as in effect  
12 before the title III–A effective date in section  
13 309 of the Illegal Immigration Reform and Im-  
14 migrant Responsibility Act of 1996 (8 U.S.C.  
15 1101 note)) as a result of the amendments  
16 made by—

17 (i) subtitle G of title IV of the Violent  
18 Crime Control and Law Enforcement Act  
19 of 1994 (Public Law 103–322; 108 Stat.  
20 1953 et seq.); or

21 (ii) section 3 of this Act.

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