

106TH CONGRESS
1ST SESSION

H. R. 1485

To permit certain long-term permanent resident aliens to seek cancellation of removal or waiver of inadmissibility under the Immigration and Nationality Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 20, 1999

Mr. FRANK of Massachusetts (for himself, Mr. FROST, Mr. DIAZ-BALART, Mr. BENTSEN, Mr. DELAHUNT, Mr. DEUTSCH, Mr. FILNER, Mr. GONZALEZ, Mr. GREEN of Texas, Mr. GUTIERREZ, Mr. HALL of Texas, Mr. LAMPSON, Ms. LEE, Mr. HINCHEY, Mr. HINOJOSA, Ms. JACKSON-LEE of Texas, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. MALONEY of New York, Mr. MARTINEZ, Mr. MCGOVERN, Mrs. MEEK of Florida, Mr. MENENDEZ, Mrs. MORELLA, Mr. ORTIZ, Mr. PASTOR, Mr. REYES, Mr. RODRIGUEZ, Ms. ROS-LEHTINEN, Ms. ROYBAL-ALLARD, Mr. SHAYS, and Mr. WYNN) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To permit certain long-term permanent resident aliens to seek cancellation of removal or waiver of inadmissibility under the Immigration and Nationality Act, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Family Reunification
3 Act of 1999”.

4 **SEC. 2. LIMITING THE DISQUALIFICATION, BASED ON COM-**
5 **MISSION OF AN AGGRAVATED FELONY, FROM**
6 **CANCELLATION OF REMOVAL FOR CERTAIN**
7 **LONG-TERM PERMANENT RESIDENT ALIENS.**

8 (a) CANCELLATION OF REMOVAL FOR CERTAIN PER-
9 MANENT RESIDENTS.—Section 240A(a) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1229b(a)) is amended
11 to read as follows:

12 “(a) CANCELLATION OF REMOVAL FOR CERTAIN
13 PERMANENT RESIDENTS.—

14 “(1) IN GENERAL.—The Attorney General may
15 cancel removal in the case of an alien who is inad-
16 missible or deportable from the United States, if the
17 alien—

18 “(A) has been an alien lawfully admitted
19 for permanent residence for not less than 5
20 years;

21 “(B) has resided in the United States con-
22 tinuously for 7 years after having been admit-
23 ted in any status; and

24 “(C) has not been convicted of—

25 “(i) an aggravated felony or felonies
26 for which the alien has been sentenced, in

1 the aggregate, to a term of imprisonment
2 of 5 years or more; or

3 “(ii) in the case of sentencing imposed
4 under a system of indeterminate sen-
5 tencing (as defined in section 20101 of the
6 Violent Crime Control and Law Enforce-
7 ment Act of 1994 (42 U.S.C. 13701)), an
8 aggravated felony or felonies for which—

9 “(I) the midpoint of the statutory
10 range of sentence applicable to the fel-
11 ony or felonies is, in the aggregate, 5
12 years or more; or

13 “(II) the alien has served, in the
14 aggregate, a term of imprisonment of
15 5 years or more.

16 “(2) NO DANGER TO PERSONS OR PROPERTY.—

17 In the case of an alien convicted of an aggravated
18 felony involving violence, the Attorney General may
19 exercise the discretion described in paragraph (1)
20 only after making a written determination that the
21 action poses no danger to the safety of persons or
22 property.

23 “(3) DEFINITION OF AGGRAVATED FELONY.—

24 For purposes of this subsection (and any other de-
25 termination under this Act made solely with respect

1 to an alien whose removal is canceled under this
2 subsection)—

3 “(A) subparagraphs (F) and (G) of section
4 101(a)(43) shall be applied as if the amend-
5 ment in section 321(a)(3) of the Illegal Immi-
6 gration Reform and Immigrant Responsibility
7 Act of 1996 (Public Law 104–208; 110 Stat.
8 3009–627) had not been made; and

9 “(B) section 101(a)(43)(N) shall be ap-
10 plied by striking “spouse,” through “indi-
11 vidual)” and inserting “immediate family”.

12 “(4) DEFINITION OF TERM OF IMPRISON-
13 MENT.—For purposes of this subsection (and any
14 other determination under this Act made solely with
15 respect to an alien whose removal is canceled under
16 this subsection), section 101(a)(48)(B) shall be ap-
17 plied so as to exclude from the time periods defined
18 in the section any period of suspension of the impo-
19 sition or execution of a term of imprisonment or a
20 sentence in whole or in part.

21 “(5) PERIOD OF CONTINUOUS RESIDENCE.—

22 “(A) SUSPENSION OF PERIOD.—For pur-
23 poses of this subsection and subsection (d)(1)
24 (and any other determination under this Act
25 made solely with respect to an alien whose re-

1 removal is canceled under this subsection), sec-
2 tion 237(a)(2)(A)(i)(II) shall be applied by
3 striking ‘may be’ and inserting ‘is’.

4 “(B) CONTINUATION OF PERIOD UPON
5 SATISFACTION OF CONDITIONS.—

6 “(i) CONTINUATION.—

7 “(I) IN GENERAL.—In the case
8 of an alien otherwise eligible for can-
9 cellation of removal under this sub-
10 section, any period of continuous resi-
11 dence that is deemed to end under
12 subsection (d)(1) upon the commis-
13 sion of an offense described in clause
14 (ii) shall be deemed, for purposes of
15 this subsection, to continue upon the
16 occurrence of the latest of the fol-
17 lowing events (to the extent applicable
18 to the offense):

19 “(aa) The completion of any
20 term of imprisonment imposed
21 for the offense.

22 “(bb) The commencement of
23 any term of probation imposed
24 for the offense (but only to the
25 extent such probation is com-

1 pleted without a probation viola-
2 tion).

3 “(cc) The payment of any
4 fine imposed for the offense.

5 “(II) NO BREAK IN RESI-
6 DENCE.—Such termination and re-
7 commencement shall not be construed
8 to cause a break in the continuity of
9 residence, which shall be calculated
10 taking into account any period before
11 such termination and any period after
12 such recommencement.

13 “(ii) OFFENSES DESCRIBED.—An of-
14 fense described in this clause is—

15 “(I) any aggravated felony that
16 is not described in paragraph (1)(C);
17 or

18 “(II) any other crime that ren-
19 ders the alien removable from the
20 United States under subparagraph
21 (A) or (B) of section 237(a)(2) (in-
22 cluding subparagraph (A)(i) of such
23 section, as modified by subparagraph
24 (A) of this paragraph).

1 “(6) RELEASE FROM DETENTION PENDING DE-
2 CISION.—Notwithstanding section 236(c)(2), the At-
3 torney General may release an alien applying for
4 cancellation of removal under this subsection, pend-
5 ing a decision on whether the alien is to be removed
6 from the United States, if the alien demonstrates to
7 the satisfaction of the Attorney General that the
8 alien is not a threat to the community and is likely
9 to appear for any scheduled proceeding. A decision
10 relating to such release shall be made in accordance
11 with a procedure that considers the severity of the
12 offense committed by the alien.

13 “(7) JUDICIAL REVIEW.—Notwithstanding
14 paragraph (2) of section 242(a), a judgment regard-
15 ing the granting or denial of relief under this sub-
16 section shall be subject to judicial review under sec-
17 tion 242 (and the provisions of such paragraph (2)
18 shall not apply).”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect as if included in the enact-
21 ment of section 304 of the Illegal Immigration Reform and
22 Immigrant Responsibility Act of 1996 (Public Law 104–
23 208; 110 Stat. 3009–587).

24 (c) APPLICATION FOR RELIEF.—

1 (1) IN GENERAL.—Notwithstanding section
2 240(c)(6) of the Immigration and Nationality Act (8
3 U.S.C. 1229a(c)(6)) or any other limitation imposed
4 by law on motions to reopen removal proceedings,
5 the Attorney General shall establish a process
6 (whether through permitting the reopening of a re-
7 moval proceeding or otherwise) under which an alien
8 who—

9 (A) is (or was) in removal proceedings be-
10 fore the date of the enactment of this Act
11 (whether or not the alien has been removed as
12 of such date); and

13 (B) has become eligible for cancellation of
14 removal as a result of the amendment made by
15 subsection (a);

16 may apply (or reapply) for cancellation of removal
17 and release from detention under section 240A(a) of
18 the Immigration and Nationality Act, as amended by
19 such subsection.

20 (2) PAROLE.—The Attorney General should ex-
21 ercise the parole authority under section
22 212(d)(5)(A) of the Immigration and Nationality
23 Act (8 U.S.C. 1182(d)(5)(A)) for the purpose of
24 permitting aliens removed from the United States to

1 participate in the process established under para-
2 graph (1).

3 **SEC. 3. APPLICATION FOR DISCRETIONARY WAIVER OF IN-**
4 **ADMISSIBILITY FOR CERTAIN LONG-TERM**
5 **PERMANENT RESIDENT ALIENS.**

6 (a) IN GENERAL.—The Attorney General shall estab-
7 lish a process (whether through permitting the reopening
8 of a proceeding described in subsection (b) or otherwise)
9 under which an alien described in subsection (b) may re-
10 quest the Attorney General to exercise the discretion
11 granted under section 212(c) of the Immigration and Na-
12 tionality Act (as in effect on March 31, 1997, before its
13 repeal by section 304(b) of the Illegal Immigration Reform
14 and Immigrant Responsibility Act of 1996 (110 Stat.
15 3009–597)) as if—

16 (1) such section 212(c) had been amended—

17 (A) by striking “(c)” and inserting
18 “(c)(1)”;

19 (B) in the first sentence—

20 (i) by inserting “for not less than 5
21 years” after “lawfully admitted for perma-
22 nent residence”; and

23 (ii) by striking “who are returning to
24 a lawful unrelinquished domicile of seven
25 consecutive year” and inserting “who have

1 resided in the United States continuously
2 for 7 years after having been admitted in
3 any status”; and

4 (C) by striking the last sentence and add-
5 ing at the end the following:

6 “(2) Paragraph (1) shall not apply to an alien who
7 has been convicted of—

8 “(A) an aggravated felony or felonies for which
9 the alien has been sentenced, in the aggregate, to a
10 term of imprisonment of 5 years or more; or

11 “(B) in the case of sentencing imposed under a
12 system of indeterminate sentencing (as defined in
13 section 20101 of the Violent Crime Control and Law
14 Enforcement Act of 1994 (42 U.S.C. 13701)), an
15 aggravated felony or felonies for which—

16 “(i) the midpoint of the statutory range of
17 sentence applicable to the felony or felonies is,
18 in the aggregate, 5 years or more; or

19 “(ii) the alien has served, in the aggregate,
20 a term of imprisonment of 5 years or more.”;

21 (2) the amendment in section 321(a)(3) of the
22 Illegal Immigration Reform and Immigrant Respon-
23 sibility Act of 1996 (110 Stat. 3009–627) to sub-
24 paragraphs (F) and (G) of section 101(a)(43) of the

1 Immigration and Nationality Act had not been
2 made;

3 (3) section 321(a)(8) of the Illegal Immigration
4 Reform and Immigrant Responsibility Act of 1996
5 (110 Stat. 3009–628) had amended section
6 101(a)(43)(N) of the Immigration and Nationality
7 Act by striking “for which the term” and all that
8 follows and inserting the following: “, except in the
9 case of a first offense for which the alien has affirm-
10 atively shown that the alien committed the offense
11 for the purpose of assisting, abetting, or aiding only
12 the alien’s immediate family to violate a provision of
13 this Act;”; and

14 (4) section 101(a)(48)(B) of the Immigration
15 and Nationality Act, as added by section 322 of the
16 Illegal Immigration Reform and Immigrant Respon-
17 sibility Act of 1996 (110 Stat. 3009–628), excluded
18 from the time periods defined in the section any pe-
19 riod of suspension of the imposition or execution of
20 a term of imprisonment or a sentence in whole or in
21 part.

22 (b) ALIEN DESCRIBED.—An alien referred to in sub-
23 section (a) is an alien who is the subject of a proceeding—

24 (1) in which the alien would have satisfied the
25 requirements for the application of discretion grant-

1 ed to the Attorney General under section 212(e) of
2 the Immigration and Nationality Act (as in effect
3 before the enactment of section 440(d) of the
4 Antiterrorism and Effective Death Penalty Act of
5 1996 (Public Law 104–132; 110 Stat. 1277)) but
6 for the amendments made by—

7 (A) such section 440(d);

8 (B) paragraphs (3) and (8) of section
9 321(a) of the Illegal Immigration Reform and
10 Immigrant Responsibility Act of 1996 to sub-
11 paragraphs (F), (G), and (N) of section
12 101(a)(43) of the Immigration and Nationality
13 Act; and

14 (C) section 322 of the Illegal Immigration
15 Reform and Immigrant Responsibility Act of
16 1996 (to the extent such section added section
17 101(a)(48)(B) to the Immigration and Nation-
18 ality Act);

19 (2) with respect to which the Attorney General
20 has not elected to proceed under paragraph (2) of
21 section 309(c) of the Illegal Immigration Reform
22 and Immigrant Responsibility Act of 1996 (8 U.S.C.
23 1101 note); and

24 (3) which has not been terminated under para-
25 graph (3) of such section 309(c).

1 (c) NO DANGER TO PERSONS OR PROPERTY.—In the
2 case of an alien convicted of an aggravated felony involv-
3 ing violence, the Attorney General may exercise the discre-
4 tion described in subsection (a) only after making a writ-
5 ten determination that the action poses no danger to the
6 safety of persons or property.

7 (d) JUDICIAL REVIEW.—A judgment regarding the
8 granting or denial of relief under this section shall be sub-
9 ject to judicial review in accordance with section 106 of
10 the Immigration and Nationality Act (as in effect on April
11 23, 1996), notwithstanding section 242 of the Immigra-
12 tion and Nationality Act, section 440(a) of the
13 Antiterrorism and Effective Death Penalty Act of 1996
14 (Public Law 104–132; 110 Stat. 1277), sections 306 and
15 309(c)(4) of the Illegal Immigration Reform and Immi-
16 grant Responsibility Act of 1996 (Public Law 104–208;
17 110 Stat. 3009–607 et seq.), or any other provision of
18 law limiting judicial review of a discretionary decision
19 under section 212(c) of the Immigration and Nationality
20 Act (as in effect before its repeal).

21 (e) PAROLE.—The Attorney General should exercise
22 the parole authority under section 212(d)(5)(A) of the Im-
23 migration and Nationality Act (8 U.S.C. 1182(d)(5)(A))
24 for the purpose of permitting aliens deported from the

1 United States to participate in the process established
2 under subsection (a).

3 **SEC. 4. CANCELLATION OF REMOVAL OR WAIVER OF INAD-**
4 **MISSIBILITY FOR CERTAIN OTHER LONG-**
5 **TERM PERMANENT RESIDENT ALIENS FOR**
6 **URGENT HUMANITARIAN REASONS OR SIG-**
7 **NIFICANT PUBLIC BENEFIT.**

8 (a) CANCELLATION OF REMOVAL.—

9 (1) IN GENERAL.—Section 240A of the Immi-
10 gration and Nationality Act (8 U.S.C. 1229b), as
11 amended by section 2, is further amended by adding
12 at the end the following:

13 “(f) CANCELLATION OF REMOVAL FOR CERTAIN
14 PERMANENT RESIDENTS FOR URGENT HUMANITARIAN
15 REASONS OR SIGNIFICANT PUBLIC BENEFIT.—

16 “(1) IN GENERAL.—In the case of an alien oth-
17 erwise eligible for cancellation of removal under sub-
18 section (a), except that the alien has been convicted
19 of an aggravated felony that renders the alien un-
20 able to satisfy the requirement in subsection
21 (a)(1)(C) (or, in some cases, the requirements in
22 subparagraphs (B) and (C) of subsection (a)(1)), the
23 Attorney General may cancel removal of the alien
24 under such conditions as the Attorney General may
25 prescribe, but only—

1 “(A) on a case-by-case basis for urgent hu-
2 manitarian reasons, significant public benefit
3 (including assuring family unity), or any other
4 sufficiently compelling reason; and

5 “(B) after making a written determination
6 that the cancellation of removal poses no dan-
7 ger to the safety of persons or property.

8 “(2) APPLICATION OF PROVISIONS.—Para-
9 graphs (3) through (7) of subsection (a) shall apply
10 to a determination of whether an alien satisfies the
11 requirements of paragraph (1) of this subsection in
12 the same manner as such paragraphs apply to a de-
13 termination under subsection (a).”.

14 (2) EFFECTIVE DATE.—The amendment made
15 by paragraph (1) shall take effect as if included in
16 the enactment of section 304 of the Illegal Immigra-
17 tion Reform and Immigrant Responsibility Act of
18 1996 (Public Law 104–208; 110 Stat. 3009–587).

19 (3) APPLICATION FOR RELIEF.—

20 (A) IN GENERAL.—Notwithstanding sec-
21 tion 240(c)(6) of the Immigration and Nation-
22 ality Act (8 U.S.C. 1229a(c)(6)) or any other
23 limitation imposed by law on motions to reopen
24 removal proceedings, the Attorney General shall
25 establish a process (whether through permitting

1 the reopening of a removal proceeding or other-
2 wise) under which an alien who—

3 (i) is (or was) in removal proceedings
4 before the date of the enactment of this
5 Act (whether or not the alien has been re-
6 moved as of such date); and

7 (ii) has become eligible for cancella-
8 tion of removal as a result of the amend-
9 ment made by paragraph (1);

10 may apply for cancellation of removal and re-
11 lease from detention under section 240A(f) of
12 the Immigration and Nationality Act, as added
13 by such paragraph.

14 (B) PAROLE.—The Attorney General
15 should exercise the parole authority under sec-
16 tion 212(d)(5)(A) of the Immigration and Na-
17 tionality Act (8 U.S.C. 1182(d)(5)(A)) for the
18 purpose of permitting aliens removed from the
19 United States to participate in the process es-
20 tablished under subparagraph (A).

21 (b) WAIVER OF INADMISSIBILITY.—In the case of an
22 alien otherwise eligible for the relief provided under sec-
23 tion 3, except that the alien has been convicted of an ag-
24 gravated felony or felonies referred to in the amendment
25 described in section 3(a)(1)(C)—

1 (1) the Attorney General shall permit the alien
2 to request the Attorney General to exercise the dis-
3 cretion described in paragraph (2) pursuant to the
4 process established under section 3 (including sub-
5 section (e) of such section);

6 (2) the Attorney General may exercise the dis-
7 cretion described in section 3(a) (including para-
8 graph (1)(B), the strike (but not the addition) in
9 paragraph (1)(C), and paragraphs (2) through (4)
10 of such section), under such conditions as the Attor-
11 ney General may prescribe, but only—

12 (A) on a case-by-case basis for urgent hu-
13 manitarian reasons, significant public benefit
14 (including assuring family unity), or any other
15 sufficiently compelling reason; and

16 (B) after making a written determination
17 that the action poses no danger to the safety of
18 persons or property; and

19 (3) a judgment regarding the granting or denial
20 of relief to the alien under this subsection shall be
21 subject to judicial review in accordance with section
22 3(d) in the same manner as a judgment regarding
23 relief under section 3.

1 **SEC. 5. SUSPENSION OF DEPORTATION FOR CERTAIN**
2 **OTHER ALIENS.**

3 (a) IN GENERAL.—The Attorney General shall estab-
4 lish a process (whether through permitting the reopening
5 of a proceeding described in subsection (b) or otherwise)
6 under which an alien described in subsection (b) may re-
7 quest the Attorney General to exercise the discretion
8 granted under paragraph (1), (2), or (3) of section 244(a)
9 of the Immigration and Nationality Act (as in effect on
10 March 31, 1997) as if—

11 (1) the amendment in section 321(a)(3) of the
12 Illegal Immigration Reform and Immigrant Respon-
13 sibility Act of 1996 (110 Stat. 3009–627) to sub-
14 paragraphs (F) and (G) of section 101(a)(43) of the
15 Immigration and Nationality Act had not been
16 made; and

17 (2) section 321(a)(8) of the Illegal Immigration
18 Reform and Immigrant Responsibility Act of 1996
19 (110 Stat. 3009–628) had amended section
20 101(a)(43)(N) of the Immigration and Nationality
21 Act by striking “for which the term” and all that
22 follows and inserting the following: “, except in the
23 case of a first offense for which the alien has affirm-
24 atively shown that the alien committed the offense
25 for the purpose of assisting, abetting, or aiding only

1 the alien's immediate family to violate a provision of
2 this Act;”.

3 (b) ALIEN DESCRIBED.—An alien referred to in sub-
4 section (a) is an alien who is the subject of a proceeding—

5 (1) in which the alien would have satisfied the
6 requirements for the application of discretion grant-
7 ed to the Attorney General under paragraph (1),
8 (2), or (3) of section 244(a) of the Immigration and
9 Nationality Act (as in effect on March 31, 1997) but
10 for the amendments made by paragraphs (3) and (8)
11 of section 321(a) of the Illegal Immigration Reform
12 and Immigrant Responsibility Act of 1996 to sub-
13 paragraphs (F), (G), and (N) of section 101(a)(43)
14 of the Immigration and Nationality Act;

15 (2) with respect to which the Attorney General
16 has not elected to proceed under paragraph (2) of
17 section 309(c) of the Illegal Immigration Reform
18 and Immigrant Responsibility Act of 1996 (8 U.S.C.
19 1101 note); and

20 (3) which has not been terminated under para-
21 graph (3) of such section 309(c).

22 (c) NO DANGER TO PERSONS OR PROPERTY.—In the
23 case of an alien convicted of an aggravated felony involv-
24 ing violence, the Attorney General may exercise the discre-
25 tion described in subsection (a) only after making a writ-

1 ten determination that the action poses no danger to the
2 safety of persons or property.

3 (d) JUDICIAL REVIEW.—A judgment regarding the
4 granting or denial of relief under this section shall be sub-
5 ject to judicial review in accordance with section 106 of
6 the Immigration and Nationality Act (as in effect on April
7 23, 1996), notwithstanding section 242 of the Immigra-
8 tion and Nationality Act, section 440(a) of the
9 Antiterrorism and Effective Death Penalty Act of 1996
10 (Public Law 104–132; 110 Stat. 1277), sections 306 and
11 309(c)(4) of the Illegal Immigration Reform and Immi-
12 grant Responsibility Act of 1996 (Public Law 104–208;
13 110 Stat. 3009–607 et seq.), or any other provision of
14 law limiting judicial review of a discretionary decision
15 under section 244 of the Immigration and Nationality Act
16 (as in effect on March 31, 1997).

17 (e) PAROLE.—The Attorney General should exercise
18 the parole authority under section 212(d)(5)(A) of the Im-
19 migration and Nationality Act (8 U.S.C. 1182(d)(5)(A))
20 for the purpose of permitting aliens deported from the
21 United States to participate in the process established
22 under subsection (a).

23 **SEC. 6. CONSTRUCTION.**

24 In the case of an alien who is eligible for relief under
25 section 212(c) of the Immigration and Nationality Act (as

1 in effect before the enactment of section 440(d) of the
2 Antiterrorism and Effective Death Penalty Act of 1996)
3 (Public Law 104–132; 110 Stat. 1277), nothing in this
4 Act, or any amendment made by this Act, shall be con-
5 strued to modify such eligibility.

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