

Union Calendar No. 207

106TH CONGRESS
1ST SESSION

H. R. 1788

[Report No. 106-321, Parts I and II]

A BILL

To deny Federal public benefits to individuals who participated in Nazi persecution.

SEPTEMBER 14, 1999

Reported from the Committee on the Judiciary

OCTOBER 6, 1999

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

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IN THE HOUSE OF REPRESENTATIVES

MAY 13, 1999

Mr. FRANKS of New Jersey (for himself, Mr. FRELINGHUYSEN, and Mr. LANTOS) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 14, 1999

Reported from the Committee on the Judiciary

SEPTEMBER 14, 1999

Referral to the Committee on Government Reform extended for a period ending not later than October 1, 1999

OCTOBER 1, 1999

Referral to the Committee on Government Reform extended for a period ending not later than October 6, 1999

OCTOBER 6, 1999

Additional sponsors: Mr. BALLENGER, Mr. FROST, Mr. SANFORD, Ms. SCHAKOWSKY, Mr. BROWN of California, Mr. KASICH, Mr. LIPINSKI, Mr. WEINER, Mr. LOBIONDO, Mr. WAXMAN, Mrs. MYRICK, Mr. SNYDER, Mr. DOYLE, Mr. GONZALEZ, Mr. ENGLISH, Mr. SHERMAN, Mr. GUTIERREZ, Mr. HASTINGS of Florida, Mr. McNULTY, Mr. TIAHRT, Mr. BOYD, Mr. FOLEY, Mrs. THURMAN, Mr. MCINTOSH, Ms. BERKLEY, Ms. ROSLEHTINEN, Mr. McDERMOTT, Mr. MEEHAN, Mr. GREEN of Wisconsin, Mr. BARRETT of Wisconsin, Mr. TURNER, Mr. ROGAN, Ms. JACKSON-LEE of Texas, Mr. LATOURETTE, Mr. MALONEY of Connecticut, Ms.

WOOLSEY, Mr. BEREUTER, Mr. SWEENEY, Mr. GILMAN, Mr. MENENDEZ,
Mr. SMITH of Washington, Mr. SENSENBRENNER, Mr. PASCRELL, Mrs.
MALONEY of New York, and Mr. MCGOVERN

OCTOBER 6, 1999

Reported from the Committee on Government Reform 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 italic]

A BILL

To deny Federal public benefits to individuals who
participated in Nazi persecution.

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 “Nazi Benefits Termi-
5 nation Act of 1999”.

6 **SEC. 2. DENIAL OF FEDERAL PUBLIC BENEFITS TO NAZI**
7 **PERSECUTORS.**

8 (a) **IN GENERAL.**—Notwithstanding any other provi-
9 sion of law, an individual who is determined under this
10 Act to have been a participant in Nazi persecution is not
11 eligible for any Federal public benefit.

12 (b) **DEFINITIONS.**—In this Act:

13 (1) **FEDERAL PUBLIC BENEFIT.**—The term
14 “Federal public benefit” shall have the meaning
15 given such term by section 401(e)(1) of the Personal
16 Responsibility and Work Opportunity Reconciliation

1 Act of 1996, but shall not include any benefit de-
2 scribed in section 401(b)(1) of such Act (and, for
3 purposes of applying such section 401(b)(1), the
4 term “alien” shall be considered to mean “indi-
5 vidual”).

6 ~~(2) PARTICIPANT IN NAZI PERSECUTION.~~—The
7 term “participant in Nazi persecution” means an in-
8 dividual who—

9 ~~(A)~~ if an alien, is shown by a preponder-
10 ance of the evidence to fall within the class of
11 persons who (if present within the United
12 States) would be deportable under section
13 ~~237(a)(4)(D)~~ of the Immigration and Nation-
14 ality Act; or

15 ~~(B)~~ if a citizen, is shown by a preponder-
16 ance of the evidence—

17 ~~(i)~~ to have procured citizenship ille-
18 gally or by concealment of a material fact
19 or willful misrepresentation within the
20 meaning of section ~~340(a)~~ of the Immigra-
21 tion and Nationality Act; and

22 ~~(ii)~~ to have participated in Nazi perse-
23 cution within the meaning of section
24 ~~212(a)(3)(E)~~ of the Immigration and Na-
25 tionality Act.

1 **SEC. 3. DETERMINATIONS.**

2 (a) **HEARING BY IMMIGRATION JUDGE.**—If the At-
3 torney General has reason to believe that an individual
4 who has applied for or is receiving a Federal public benefit
5 may have been a participant in Nazi persecution (within
6 the meaning of section 2 of this Act), the Attorney General
7 may provide an opportunity for a hearing on the record
8 with respect to the matter. The Attorney General may del-
9 egate the conduct of the hearing to an immigration judge
10 appointed by the Attorney General under section
11 101(b)(4) of the Immigration and Nationality Act.

12 (b) **PROCEDURE.**—

13 (1) **RIGHT OF RESPONDENTS TO APPEAR.**—

14 (A) **CITIZENS, PERMANENT RESIDENT**
15 **ALIENS, AND PERSONS PRESENT IN THE**
16 **UNITED STATES.**—At a hearing under this sec-
17 tion, each respondent may appear in person if
18 the respondent is a United States citizen, a per-
19 manent resident alien, or present within the
20 United States when the proceeding under this
21 section is initiated.

22 (B) **OTHERS.**—A respondent who is not a
23 citizen, a permanent resident alien, or present
24 within the United States when the proceeding
25 under this section is initiated may appear by
26 video conference.

1 (C) ~~RULE OF INTERPRETATION.~~—This Act
2 shall not be construed to permit the return to
3 the United States of an individual who is inad-
4 missible under section 212(a)(3)(E) of the Im-
5 migration and Nationality Act.

6 ~~(2) OTHER RIGHTS OF RESPONDENTS.~~—At a
7 hearing under this section, each respondent may be
8 represented by counsel at no expense to the Federal
9 Government, present evidence, cross-examine wit-
10 nesses, and obtain the issuance of subpoenas for the
11 attendance of witnesses and presentation of evi-
12 dence.

13 ~~(3) RULES OF EVIDENCE.~~—Unless otherwise
14 provided in this Act, rules regarding the presen-
15 tation of evidence in the hearing shall apply in the
16 same manner in which such rules would apply in a
17 removal proceeding before a United States immigra-
18 tion judge under section 240 of the Immigration and
19 Nationality Act.

20 ~~(c) HEARINGS, FINDINGS AND CONCLUSIONS, AND~~
21 ~~ORDER.~~—

22 ~~(1) FINDINGS AND CONCLUSIONS.~~—Within 60
23 days after the end of a hearing conducted under this
24 section, the immigration judge shall make findings
25 of fact and conclusions of law with respect to wheth-

1 er the respondent has been a participant in Nazi
2 persecution (within the meaning of section 2 of this
3 Act).

4 (2) ORDER.—

5 (A) FINDING THAT RESPONDENT HAS
6 BEEN A PARTICIPANT IN NAZI PERSECUTION.—

7 If the immigration judge finds, by a preponderance of the evidence, that the respondent has
8 been a participant in Nazi persecution (within
9 the meaning of section 2 of this Act), the immigration judge shall promptly issue an order declaring the respondent to be ineligible for any
10 Federal public benefit, and prohibiting any person from providing such a benefit, directly or
11 indirectly, to the respondent, and shall transmit
12 a copy of the order to any governmental entity
13 or person known to be so providing such a benefit.
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19 (B) FINDING THAT RESPONDENT HAS NOT
20 BEEN A PARTICIPANT IN NAZI PERSECUTION.—

21 If the immigration judge finds that there is insufficient evidence for a finding under subparagraph (A) that a respondent has been a participant in Nazi persecution (within the meaning of
22
23
24

1 section 2 of this Act), the immigration judge
2 shall issue an order dismissing the proceeding.

3 ~~(C) EFFECTIVE DATE; LIMITATION OF LI-~~
4 ~~ABILITY.—~~

5 (i) ~~EFFECTIVE DATE.—~~An order
6 issued pursuant to subparagraph (A) shall
7 be effective on the date of issuance.

8 (ii) ~~LIMITATION OF LIABILITY.—~~Not-
9 withstanding clause (i), a person or entity
10 shall not be found to have provided a ben-
11 efit to an individual in violation of this Act
12 until the person or entity has received ac-
13 tual notice of the issuance of an order
14 under subparagraph (A) with respect to
15 the individual and has had a reasonable
16 opportunity to comply with the order.

17 ~~(d) REVIEW BY ATTORNEY GENERAL; SERVICE OF~~
18 ~~FINAL ORDER.—~~

19 ~~(1) REVIEW BY ATTORNEY GENERAL.—~~The At-
20 torney General may, in her discretion, review any
21 finding or conclusion made, or order issued, under
22 subsection (c), and shall complete the review not
23 later than 30 days after the finding or conclusion is
24 so made, or order is so issued. Otherwise, the find-
25 ing, conclusion, or order shall be final.

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Nazi Benefits Termi-*
3 *nation Act of 1999”.*

4 **SEC. 2. DENIAL OF FEDERAL PUBLIC BENEFITS TO NAZI**
5 **PERSECUTORS.**

6 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
7 *sion of law, an individual who is determined under this*
8 *Act to have been a participant in Nazi persecution is not*
9 *eligible for any Federal public benefit.*

10 (b) *DEFINITIONS.*—*In this Act:*

11 (1) *FEDERAL PUBLIC BENEFIT.*—*The term “Fed-*
12 *eral public benefit” shall have the meaning given such*
13 *term by section 401(c)(1) (without regard to section*
14 *401(c)(2)) of the Personal Responsibility and Work*
15 *Opportunity Reconciliation Act of 1996, but shall not*
16 *include any benefit described in section 401(b)(1) of*
17 *such Act (and, for purposes of applying such section*
18 *401(b)(1), the term “alien” shall be considered to*
19 *mean “individual”).*

20 (2) *PARTICIPANT IN NAZI PERSECUTION.*—*The*
21 *term “participant in Nazi persecution” means an in-*
22 *dividual who—*

23 (A) *if an alien, is shown by a preponder-*
24 *ance of the evidence to fall within the class of*
25 *persons who (if present within the United*
26 *States) would be deportable under section*

1 237(a)(4)(D) of the Immigration and Nation-
2 ality Act or inadmissible under section
3 212(a)(3)(E)(i) of such Act; or

4 (B) if a citizen, is shown by a preponder-
5 ance of the evidence—

6 (i) to have procured citizenship ille-
7 gally or by concealment of a material fact
8 or willful misrepresentation within the
9 meaning of section 340(a) of the Immigra-
10 tion and Nationality Act; and

11 (ii) to have participated in Nazi perse-
12 cution within the meaning of section
13 212(a)(3)(E) of the Immigration and Na-
14 tionality Act.

15 **SEC. 3. DETERMINATIONS.**

16 (a) *HEARING BY IMMIGRATION JUDGE.*—If the Attor-
17 ney General has reason to believe that an individual who
18 has applied for or is receiving a Federal public benefit may
19 have been a participant in Nazi persecution (within the
20 meaning of section 2 of this Act), the Attorney General may
21 provide an opportunity for a hearing on the record with
22 respect to the matter. The Attorney General may delegate
23 the conduct of the hearing to an immigration judge ap-
24 pointed by the Attorney General under section 101(b)(4) of
25 the Immigration and Nationality Act.

1 **(b) PROCEDURE.—**

2 **(1) RIGHT OF RESPONDENTS TO APPEAR.—**

3 **(A) CITIZENS, PERMANENT RESIDENT**
4 **ALIENS, AND PERSONS PRESENT IN THE UNITED**
5 **STATES.—***At a hearing under this section, each*
6 *respondent may appear in person if the respond-*
7 *ent is a United States citizen, a permanent resi-*
8 *dent alien, or present within the United States.*

9 **(B) OTHERS.—***A respondent who is not a*
10 *citizen, a permanent resident alien, or present*
11 *within the United States may appear by video*
12 *conference. A respondent who was present in the*
13 *United States when the proceeding was initiated*
14 *and who is no longer present in the United*
15 *States at the time of hearing may appear by*
16 *video conference.*

17 **(C) RULE OF INTERPRETATION.—***This Act*
18 *shall not be construed to permit the return to the*
19 *United States of an individual who is inadmis-*
20 *sible under section 212(a)(3)(E) of the Immigra-*
21 *tion and Nationality Act.*

22 **(D) APPLICATION OF RULES TO OTHER**
23 **PROCEEDINGS.—***The rules described in this*
24 *paragraph concerning the right of a respondent*
25 *to appear shall apply to any other hearing, re-*

1 *view, conference, or proceeding of any sort in*
2 *which a determination of an immigration judge*
3 *or ineligibility of benefits pursuant to this Act is*
4 *an issue.*

5 (2) *OTHER RIGHTS OF RESPONDENTS.*—*At a*
6 *hearing under this section, each respondent may be*
7 *represented by counsel (but at no expense to the Fed-*
8 *eral Government, present evidence, cross-examine wit-*
9 *nesses, and obtain the issuance of subpoenas for the*
10 *attendance of witnesses and presentation of evidence.*

11 (3) *RULES OF EVIDENCE.*—*Unless otherwise pro-*
12 *vided in this Act, rules regarding the presentation of*
13 *evidence in the hearing shall apply in the same man-*
14 *ner in which such rules would apply in a removal*
15 *proceeding before a United States immigration judge*
16 *under section 240 of the Immigration and Nation-*
17 *ality Act.*

18 (4) *STAY OF PROCEEDINGS.*—*Hearings brought*
19 *under this section may be stayed pending resolution*
20 *of other proceedings or pending appeal only upon the*
21 *joint request of the parties.*

22 (c) *HEARINGS, FINDINGS AND CONCLUSIONS, AND*
23 *ORDER.*—

24 (1) *FINDINGS AND CONCLUSIONS.*—*Within 60*
25 *days after the end of a hearing conducted under this*

1 *section, the immigration judge shall make findings of*
2 *fact and conclusions of law with respect to whether*
3 *the respondent has been a participant in Nazi perse-*
4 *cution (within the meaning of section 2 of this Act).*

5 (2) ORDER.—

6 (A) *FINDING THAT RESPONDENT HAS BEEN*
7 *A PARTICIPANT IN NAZI PERSECUTION.—If the*
8 *immigration judge finds, by a preponderance of*
9 *the evidence, that the respondent has been a par-*
10 *ticipant in Nazi persecution (within the mean-*
11 *ing of section 2 of this Act), the immigration*
12 *judge shall promptly issue an order declaring the*
13 *respondent to be ineligible for any Federal public*
14 *benefit, and prohibiting any person from pro-*
15 *viding such a benefit, directly or indirectly, to*
16 *the respondent, and shall transmit a copy of the*
17 *order to any governmental entity or person*
18 *known to be so providing such a benefit and to*
19 *any governmental entity or person known to*
20 *have received an application for benefits that has*
21 *not been finally adjudicated.*

22 (B) *FINDING THAT RESPONDENT HAS NOT*
23 *BEEN A PARTICIPANT IN NAZI PERSECUTION.—If*
24 *the immigration judge finds that there is insuffi-*
25 *cient evidence for a finding under subparagraph*

1 (A) that a respondent has been a participant in
2 Nazi persecution (within the meaning of section
3 2 of this Act), the immigration judge shall issue
4 an order dismissing the proceeding.

5 (C) *EFFECTIVE DATE; LIMITATION OF LI-*
6 *ABILITY.—*

7 (i) *EFFECTIVE DATE.—*An order issued
8 pursuant to subparagraph (A) shall be effec-
9 tive on the date of issuance.

10 (ii) *LIMITATION OF LIABILITY.—*Not-
11 withstanding clause (i), a person or entity
12 shall not be found to have provided a benefit
13 to an individual in violation of this Act
14 until the person or entity has received ac-
15 tual notice of the issuance of an order under
16 subparagraph (A) with respect to the indi-
17 vidual and has had a reasonable oppor-
18 tunity to comply with the order.

19 (d) *REVIEW BY ATTORNEY GENERAL; SERVICE OF*
20 *FINAL ORDER.—*

21 (1) *REVIEW BY ATTORNEY GENERAL.—*The Attor-
22 ney General may, in her discretion, review any find-
23 ing or conclusion made, or order issued, under sub-
24 section (c), and shall initiate any review not later

1 *than 30 days after the finding or conclusion is so*
2 *made, or order is so issued.*

3 (2) *SERVICE OF FINAL ORDER.*—*The Attorney*
4 *General shall cause the findings of fact and conclu-*
5 *sions of law made with respect to any final order*
6 *issued under this section, together with a copy of the*
7 *order, to be served on the respondent involved.*

8 (3) *EFFECTIVE DATE OF FINAL ORDER.*—*If the*
9 *Attorney General does not initiate the review pro-*
10 *vided for in paragraph (1), any order, finding, or*
11 *conclusion under subsection (c) shall become final*
12 *upon the expiration of 30 days after the finding, con-*
13 *clusion, or order is so issued. If the Attorney General*
14 *does initiate the review provided for in paragraph*
15 *(1), any order, finding, or conclusion shall become*
16 *final either upon the issuance of a decision by the At-*
17 *torney General or upon expiration of 90 days after*
18 *the order, finding, or conclusion under subsection (c)*
19 *is issued, whichever is earlier.*

20 (e) *JUDICIAL REVIEW.*—*Any party aggrieved by a*
21 *final order issued under this section may obtain a review*
22 *of the order by the United States Court of Appeals for the*
23 *Federal Circuit, by filing a petition for such review not*
24 *later than 30 days after the final order becomes final, or*

1 completion of any review by the Attorney General, which-
2 ever is later.

3 (f) *ISSUE AND CLAIM PRECLUSION.*—In any adminis-
4 trative or judicial proceeding under this Act, the ordinary
5 rules of issue preclusion and claim preclusion shall apply.

6 **SEC. 4. JURISDICTION OF UNITED STATES COURT OF AP-**
7 **PEALS FOR THE FEDERAL CIRCUIT OVER AP-**
8 **PEALS UNDER THIS ACT.**

9 Section 1295(a) of title 28, United States Code, is
10 amended—

11 (1) by striking “and” at the end of paragraph
12 (13);

13 (2) by striking the period at the end of para-
14 graph (14) and inserting “; and”;

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

16 “(15) of an appeal from a final order issued
17 under the Nazi Benefits Termination Act of 1999.”.