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S. 615

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2007

Mr. LAUTENBERG (for himself, Mr. BROWNBACK, Mr. MENENDEZ, Mr. REID, Mrs. CLINTON, Mr. KENNEDY, Mr. DODD, Mr. LIEBERMAN, Mr. FEINGOLD, and Mr. COLEMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide the nonimmigrant spouses and children of nonimmigrant aliens who perished in the September 11, 2001, 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”.

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

3 (a) ADJUSTMENT OF STATUS.—

4 (1) IN GENERAL.—The status of any alien de-
5 scribed in subsection (b) shall be adjusted by the
6 Secretary of Homeland Security to that of an alien
7 lawfully admitted for permanent residence, if the
8 alien—

9 (A) applies for such adjustment not later
10 than 2 years after the date on which the Sec-
11 retary promulgates final regulations to imple-
12 ment this section; and

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

20 (2) RULES IN APPLYING CERTAIN PROVI-
21 SIONS.—

22 (A) IN GENERAL.—In the case of an alien
23 described in subsection (b) who is applying for
24 adjustment of status under this section—

1 (i) the provisions of section 241(a)(5)
2 of the Immigration and Nationality Act (8
3 U.S.C. 1231(a)(5)) shall not apply; and

4 (ii) the Secretary of Homeland Secu-
5 rity may grant the alien a waiver on the
6 grounds of inadmissibility under subpara-
7 graphs (A) and (C) of section 212(a)(9) of
8 such Act (8 U.S.C. 1182(a)(9)).

9 (B) STANDARDS.—In granting waivers
10 under subparagraph (A)(ii), the Secretary shall
11 use standards used in granting consent under
12 subparagraphs (A)(iii) and (C)(ii) of such sec-
13 tion 212(a)(9).

14 (3) RELATIONSHIP OF APPLICATION TO CER-
15 TAIN ORDERS.—

16 (A) APPLICATION PERMITTED.—An alien
17 present in the United States who has been or-
18 dered excluded, deported, removed, or ordered
19 to depart voluntarily from the United States
20 under any provision of the Immigration and
21 Nationality Act (8 U.S.C. 1101 et seq.) may,
22 notwithstanding such order, apply for adjust-
23 ment of status under paragraph (1).

24 (B) MOTION NOT REQUIRED.—An alien
25 described in subparagraph (A) may not be re-

1 required, as a condition of submitting or granting
2 such application, to file a separate motion to re-
3 open, reconsider, or vacate such order.

4 (C) EFFECT OF DECISION.—If the Sec-
5 retary of Homeland Security grants a request
6 under subparagraph (A), the Secretary shall
7 cancel the order. If the Secretary renders a
8 final administrative decision to deny the re-
9 quest, the order shall be effective and enforce-
10 able to the same extent as if the application had
11 not been made.

12 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
13 TUS.—The benefits provided by subsection (a) shall apply
14 to any alien who—

15 (1) was lawfully present in the United States as
16 a nonimmigrant alien described in section
17 101(a)(15) of the Immigration and Nationality Act
18 (8 U.S.C. 1101(a)(15)) on September 10, 2001;

19 (2) was, on such date, the spouse, child, de-
20 pendent son, or dependent daughter of an alien
21 who—

22 (A) was lawfully present in the United
23 States as a nonimmigrant alien described in
24 section 101(a)(15) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1101(a)(15)) on such
2 date; and

3 (B) died as a direct result of a specified
4 terrorist activity; and

5 (3) was deemed to be a beneficiary of, and by,
6 the September 11th Victim Compensation Fund of
7 2001 (49 U.S.C. 40101 note).

8 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

9 (1) IN GENERAL.—The Secretary of Homeland
10 Security shall establish, by regulation, a process by
11 which an alien subject to a final order of removal
12 may seek a stay of such order based on the filing
13 of an application under subsection (a).

14 (2) DURING CERTAIN PROCEEDINGS.—Notwith-
15 standing any provision of the Immigration and Na-
16 tionality Act (8 U.S.C. 1101 et seq.), the Secretary
17 of Homeland Security shall not order any alien to be
18 removed from the United States, if the alien is in re-
19 moval proceedings under any provision of such Act
20 and has applied for adjustment of status under sub-
21 section (a), except where the Secretary has rendered
22 a final administrative determination to deny the ap-
23 plication.

24 (3) WORK AUTHORIZATION.—The Secretary of
25 Homeland Security shall authorize an alien who has

1 applied for adjustment of status under subsection
2 (a) to engage in employment in the United States
3 during the pendency of such application.

4 (d) AVAILABILITY OF ADMINISTRATIVE REVIEW.—

5 The Secretary of Homeland Security shall provide to ap-
6 plicants for adjustment of status under subsection (a) the
7 same right to, and procedures for, administrative review
8 as are provided to—

9 (1) applicants for adjustment of status under
10 section 245 of the Immigration and Nationality Act
11 (8 U.S.C. 1255); or

12 (2) aliens subject to removal proceedings under
13 section 240 of such Act (8 U.S.C. 1229a).

14 **SEC. 3. CANCELLATION OF REMOVAL FOR CERTAIN IMMI-**
15 **GRANT VICTIMS OF TERRORISM.**

16 (a) IN GENERAL.—Subject to the provisions of the
17 Immigration and Nationality Act (8 U.S.C. 1101 et seq.),
18 other than subsections (b)(1), (d)(1), and (e) of section
19 240A of such Act (8 U.S.C. 1229b), the Secretary of
20 Homeland Security shall, under such section 240A, cancel
21 the removal of, and adjust to the status of an alien law-
22 fully admitted for permanent residence, an alien described
23 in subsection (b), if the alien applies for such relief.

1 (b) ALIENS ELIGIBLE FOR CANCELLATION OF RE-
2 MOVAL.—The benefits provided by subsection (a) shall
3 apply to any alien who—

4 (1) was, on September 10, 2001, the spouse,
5 child, dependent son, or dependent daughter of an
6 alien who died as a direct result of a specified ter-
7 rorist activity; and

8 (2) was deemed to be a beneficiary of, and by,
9 the September 11th Victim Compensation Fund of
10 2001 (49 U.S.C. 40101 note).

11 (c) STAY OF REMOVAL; WORK AUTHORIZATION.—

12 (1) IN GENERAL.—The Secretary of Homeland
13 Security shall provide by regulation for an alien sub-
14 ject to a final order of removal to seek a stay of
15 such order based on the filing of an application
16 under subsection (a).

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

22 (d) MOTIONS TO REOPEN REMOVAL PRO-
23 CEEDINGS.—

24 (1) IN GENERAL.—Notwithstanding any limita-
25 tion imposed by law on motions to reopen removal

1 proceedings (except limitations premised on an
2 alien's conviction of an aggravated felony (as defined
3 in section 101(a)(43) of the Immigration and Na-
4 tionality Act (8 U.S.C. 1101(a)(43))), any alien who
5 has become eligible for cancellation of removal as a
6 result of the enactment of this section may file 1
7 motion to reopen removal proceedings to apply for
8 such relief.

9 (2) **FILING PERIOD.**—The Secretary of Home-
10 land Security shall designate a specific time period
11 in which all such motions to reopen are required to
12 be filed. The period shall begin not later than 60
13 days after the date of enactment of this Act and
14 shall extend for a period not to exceed 240 days.

15 **SEC. 4. EXCEPTIONS.**

16 Notwithstanding any other provision of this Act, an
17 alien may not be provided relief under this Act if the alien
18 is—

19 (1) inadmissible under paragraph (2) or (3) of
20 section 212(a) of the Immigration and Nationality
21 Act (8 U.S.C. 1182(a)), or deportable under para-
22 graph (2) or (4) of section 237(a) of such Act (8
23 U.S.C. 1227(a)), including any individual culpable
24 for a specified terrorist activity; or

1 (2) a family member of an alien described in
2 paragraph (1).

3 **SEC. 5. EVIDENCE OF DEATH.**

4 For purposes of this Act, the Secretary of Homeland
5 Security shall use the standards established under section
6 426 of the Uniting and Strengthening America by Pro-
7 viding Appropriate Tools Required to Intercept and Ob-
8 struct Terrorism (USA PATRIOT Act) Act of 2001 (115
9 Stat. 362) in determining whether death occurred as a di-
10 rect result of a specified terrorist activity.

11 **SEC. 6. DEFINITIONS.**

12 (a) APPLICATION OF IMMIGRATION AND NATION-
13 ALITY ACT PROVISIONS.—Except as otherwise specifically
14 provided in this Act, the definitions used in the Immigra-
15 tion and Nationality Act (8 U.S.C. 1101 et seq.), other
16 than the definitions applicable exclusively to title III of
17 such Act, shall apply in the administration of this Act.

18 (b) SPECIFIED TERRORIST ACTIVITY.—For purposes
19 of this Act, the term “specified terrorist activity” means
20 any terrorist activity conducted against the Government
21 or the people of the United States on September 11, 2001.

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