H. R. 1468

To authorize the cancellation of removal and adjustment of status of certain aliens who are long-term United States residents and who entered the United States as children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 9, 2017

Mr. CURBelo of Florida (for himself, Mr. COFFMAN, Mr. DENHAM, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. AMODEI, Mr. VALADAO, Miss GONZA´LEZ-COLO´N of Puerto Rico, Mr. UPTON, and Mr. REICHERT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, and Armed Services, 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.

A BILL

To authorize the cancellation of removal and adjustment of status of certain aliens who are long-term United States residents and who entered the United States as children, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Recognizing America’s Children Act”.
SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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Sec. 8. Exclusive jurisdiction.
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Sec. 11. GAO report.
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SEC. 3. DEFINITIONS.

In this Act:

(1) IN GENERAL.—Except as otherwise specifically provided, a term used in this Act that is used in the immigration laws shall have the meaning given such term in the immigration laws.

(2) ALIEN ENLISTEE.—The term “alien enlistee” means a conditional permanent resident that seeks to maintain or extend such status by means of satisfaction of the requirements of this Act relating to enlistment and service in the Armed Forces of the United States.

(3) ALIEN POSTSECONDARY STUDENT.—The term “alien postsecondary student” means a conditional permanent resident that seeks to maintain or extend such status by means of satisfaction of the
requirements of this Act relating to enrollment in, and graduation from, an institution of higher education in the United States.

(4) Conditional Permanent Resident.—

(A) Definition.—The term “conditional permanent resident” means an alien who is granted conditional permanent resident status under this Act.

(B) Description.—A conditional permanent resident—

(i) shall not be considered to be an alien who is unlawfully present in the United States for purposes of the immigration laws, including section 505 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1623);

(ii) shall be considered to be an alien lawfully admitted for permanent residence in the United States on a conditional basis;

(iii) has the intention permanently to reside in the United States;

(iv) is not required to have a foreign residence which the alien has no intention of abandoning; and
(v) shall be considered inspected and
admitted for the purposes of section
245(a) of the Immigration and Nationality
Act (8 U.S.C. 1255(a)).

(5) CONVICTION.—The term “conviction” does
not include an adjudication or judgment of guilt that
has been dismissed, expunged, deferred, annulled, in-
validated, withheld, or vacated, an order of proba-
tion without entry of judgment, or any similar dis-
position. Section 101(a)(48)(B) of the Immigration
and Nationality Act shall not apply for purposes of
this Act.

(6) IMMIGRATION LAWS.—The term “immigra-
tion laws” has the meaning given such term in sec-
tion 101(a)(17) of the Immigration and Nationality
Act (8 U.S.C. 1101(a)(17)).

(7) INSTITUTION OF HIGHER EDUCATION.—The
term “institution of higher education” has the
meaning given such term in section 102 of the High-
er Education Act of 1965 (20 U.S.C. 1002), except
that the term does not include an institution of high-
er education outside the United States.

(8) MILITARY-RELATED TERMS.—The terms
“armed forces”, “active duty”, “active service”, and
“active status” have the meanings given those terms in section 101 of title 10, United States Code.

SEC. 4. CANCELLATION OF REMOVAL OF CERTAIN LONG-TERM RESIDENTS WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) Special Rule for Certain Long-Term Residents Who Entered the United States as Children.—

(1) In general.—Notwithstanding any other provision of law and except as otherwise provided in this Act, the Secretary of Homeland Security may cancel removal of an alien who is inadmissible or deportable from the United States or who is the child of another alien who is lawfully present in the United States with status under section 101(a)(15)(E)(ii), and grant the alien conditional permanent resident status, if the alien demonstrates by a preponderance of the evidence that—

(A) the alien has been physically present in the United States for a continuous period since January 1, 2012;

(B) the alien was younger than 16 years of age on the date the alien initially entered the United States;
(C) the alien, if the alien is 18 years of age or older—

(i) has earned a high school diploma, a commensurate alternative award from a public or private high school or secondary school, obtained a general education development certificate recognized under State law, or a high school equivalency diploma in the United States;

(ii) the alien has been admitted to an institution of higher education in the United States; or

(iii) the alien has a valid work authorization;

(D) the alien has been a person of good moral character (as defined in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f))) since the date the alien initially entered the United States;

(E) subject to paragraph (2), the alien—

(i) is not inadmissible under paragraph (1), (2), (3), (4), (6)(E), (8), (10)(A), (10)(C), or (10)(D) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));
(ii) is not deportable under paragraph (1)(E), (1)(G), (2), (4), (5), or (6) of section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a));

(iii) has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; and

(iv) other than an offense under State or local law for which an essential element was the alien’s immigration status, a minor traffic offense, or a violation of this Act, has not been convicted of—

(I) any offense under Federal or State law punishable by a maximum term of imprisonment of more than 1 year; or

(II) any combination of offenses under Federal or State law, for which the alien was sentenced to imprisonment for a total of more than 1 year; and
(F) the alien has never been under a final administrative or judicial order of exclusion, deportation, or removal, unless the alien—

(i) has remained in the United States under color of law after such order was issued; or

(ii) received the order before attaining the age of 18 years.

(2) WAIVER.—With respect to any benefit under this Act, the Secretary of Homeland Security may waive subclauses (I) and (II) of subsection (a)(1)(E)(iv) of this section, the ground of inadmissibility under paragraph (1), (4), or (6) of section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a)), and the ground of deportability under paragraph (1) of section 237(a) of that Act (8 U.S.C. 1227(a)), for humanitarian purposes or family unity or when it is otherwise in the public interest.

(3) PROCEDURES.—The Secretary of Homeland Security shall provide a procedure by regulation allowing eligible individuals to apply affirmatively for the relief available under this subsection without being placed in removal proceedings.
(4) Submission of biometric and biographic data.—The Secretary of Homeland Security may not cancel the removal of an alien or grant conditional permanent resident status to the alien under this subsection unless the alien submits biometric and biographic data, in accordance with procedures established by the Secretary. The Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(5) Background checks.—

(A) Requirement for background checks.—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines is appropriate—

(i) to conduct security and law enforcement background checks of an alien seeking relief available under this subsection; and

(ii) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such relief.
(B) Completion of Background Checks.—The security and law enforcement background checks required by subparagraph (A) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary cancels the removal of the alien under this subsection.

(6) Medical Examination.—An alien applying for relief available under this subsection shall undergo a medical observation and examination. The Secretary of Homeland Security, with the concurrence of the Secretary of Health and Human Services, shall prescribe policies and procedures for the nature and timing of such observation and examination.

(7) Military Selective Service.—An alien applying for relief available under this subsection shall establish that the alien has registered under the Military Selective Service Act (50 U.S.C. App. 451 et seq.), if the alien is subject to such registration under that Act.

(b) Termination of Continuous Period.—For purposes of this section, any period of continuous residence or continuous physical presence in the United States of an alien who applies for cancellation of removal under subsection (a) shall not terminate when the alien is served
a notice to appear under section 239(a) of the Immigration and Nationality Act (8 U.S.C. 1229(a)).

(c) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

(1) IN GENERAL.—An alien shall be considered to have failed to maintain continuous physical presence in the United States under subsection (a) if the alien has departed from the United States for any period in excess of 90 days or for any periods in the aggregate exceeding 180 days.

(2) EXTENSIONS FOR EXCEPTIONAL CIRCUMSTANCES.—The Secretary of Homeland Security may extend the time periods described in paragraph (1) by 90 days if the alien demonstrates that the failure to timely return to the United States was due to exceptional circumstances. The exceptional circumstances determined sufficient to justify an extension should be no less compelling than serious illness of the alien, or death or serious illness of a parent, grandparent, sibling, or child.

(d) REGULATIONS.—

(1) INITIAL PUBLICATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall publish regulations implementing this section.
(2) INTERIM REGULATIONS.—Notwithstanding section 553 of title 5, United States Code, the regulations required by paragraph (1) shall be effective, on an interim basis, immediately upon publication but may be subject to change and revision after public notice and opportunity for a period of public comment.

(3) FINAL REGULATIONS.—Within a reasonable time after publication of the interim regulations in accordance with paragraph (1), the Secretary of Homeland Security shall publish final regulations implementing this section.

(e) REMOVAL OF ALIEN.—The Secretary of Homeland Security may not remove any alien who—

(1) has a pending application for conditional permanent resident status under this Act; or

(2) establishes prima facie eligibility for cancellation of removal and conditional permanent resident status under subsection (a) and is provided a reasonable opportunity to file an application under subsection (a).

SEC. 5. CONDITIONAL PERMANENT RESIDENT STATUS.

(a) LENGTH OF STATUS.—Conditional permanent resident status granted under section 4 shall be valid for
an initial period of 5 years, subject to termination under
subsection (c) of this section.

(b) Terms of Conditional Permanent Resident
Status.—

(1) Employment.—A conditional permanent
resident shall be authorized—

(A) to be employed in the United States
incident to conditional permanent resident sta-
tus; and

(B) to enlist in the armed forces as pro-
vided in section 504(b)(1)(D) of title 10,
United States Code, as added by section 12.

(2) Travel.—A conditional permanent resident
may travel outside the United States and may be ad-
mitted (if otherwise admissible) upon return to the
United States without having to obtain a visa if—

(A) the alien is the bearer of valid, unex-
pired documentary evidence of conditional per-
manent resident status; and

(B) the alien’s absence from the United
States was not for a period exceeding 180 days
or the alien was absent from the United States
due to active service in the armed forces.

c) Termination of Status.—
(1) IN GENERAL.—The Secretary of Homeland Security shall terminate the conditional permanent resident status of any alien if the Secretary determines that the alien is 18 years of age or older and—

(A) in the case of—

(i) an alien postsecondary student, the alien failed to enroll in an accredited institution of higher education in the United States within 1 year after the date on which the alien was granted conditional permanent resident status or to remain so enrolled;

(ii) an alien described under section 4(a)(1)(C), the alien has not been employed for a total period of 48 months during the 5-year period beginning on the date that the alien was granted conditional permanent resident status; or

(iii) an alien enlistee, the alien—

(I) failed to enlist, and be accepted for enlistment, in the armed forces within 9 months after the date on which the alien was granted conditional permanent resident status; or
(II) has received a dishonorable
or other than honorable discharge
from the armed forces;
(B) ceases to meet the requirements of
subparagraph (D) or (E) of section 4(a)(1); or
(C) has become a public charge.

(2) Return to previous immigration status.—Any alien whose conditional permanent resident status is terminated under paragraph (1) shall return to the immigration status the alien had immediately prior to receiving conditional permanent resident status.

(d) Extension of Status.—The Secretary of Homeland Security shall extend the conditional permanent resident status of an alien for a second period of 5 years if the following requirements are met:

(1) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(2) The alien is in compliance with section 4(a)(1)(E).

(3) The alien has not abandoned the alien’s residence in the United States. For purposes of this subparagraph, the Secretary shall presume that the alien has abandoned such residence if the alien is
absent from the United States for more than 365 days, in the aggregate, during the period of conditional permanent resident status, unless the alien demonstrates that the alien has not abandoned the alien’s residence.

(4) The alien is 18 years of age or older and—

(A) in the case of an alien postsecondary student, has been graduated from an accredited institution of higher education in the United States;

(B) in the case of an alien described under section 4(a)(1)(C), the alien has been employed for a total period of 48 months during the 5-year period beginning on the date that the alien was granted conditional permanent resident status; or

(C) in the case of an alien enlistee, has served as a member of a regular or reserve component of the armed forces in an active duty status for at least 3 years, and, if discharged, received an honorable discharge.

SEC. 6. REMOVAL OF CONDITIONAL BASIS FOR PERMANENT RESIDENCE.

(a) IN GENERAL.—A conditional permanent resident may file with the Secretary of Homeland Security, in ac-
cordance with subsection (c), an application to remove the conditional basis of permanent residency and to have the alien’s status adjusted to that of an alien lawfully admitted for permanent residence. The application shall provide, under penalty of perjury, the facts and information so that the Secretary may make the determination described in subsection (b)(1).

(b) ADJUDICATION OF APPLICATION FOR ADJUSTMENT OF STATUS.—

(1) IN GENERAL.—If an application is filed in accordance with subsection (a) for an alien, the Secretary of Homeland Security shall make a determination as to whether the alien meets the requirements set out in subsection (d).

(2) ADJUSTMENT OF STATUS IF FAVORABLE DETERMINATION.—Notwithstanding any other provision of law, including paragraphs (2), (3), (4), and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), if the Secretary determines that the alien meets such requirements, the Secretary shall notify the alien of such determination and adjust the alien’s status to that of an alien lawfully admitted for permanent residence, effective as of the date of approval of the application.
(3) TERMINATION IF ADVERSE DETERMINATION.—If the Secretary determines that the alien does not meet such requirements, the Secretary shall notify the alien of such determination and terminate the conditional permanent resident status of the alien as of the date of the determination.

(c) TIME TO FILE APPLICATION.—

(1) IN GENERAL.—An alien shall file an application for adjustment of status during the period—

(A) beginning on the date on which the alien obtained an extension of status under section 5(d); and

(B) ending on either the date that is 10 years after the date of the initial grant of conditional permanent resident status or any other expiration date of the conditional permanent resident status as extended by the Secretary of Homeland Security in accordance with this Act.

(2) STATUS DURING PENDENCY.—The alien shall be deemed to be in conditional permanent resident status in the United States during the period in which such application is pending.

(d) CONTENTS OF APPLICATION.—Each application for an alien under subsection (a) shall contain information
to permit the Secretary of Homeland Security to determine whether each of the following requirements is met:

(1) The alien has demonstrated good moral character during the entire period the alien has been a conditional permanent resident.

(2) The alien is in compliance with section 4(a)(1)(E).

(3) The alien has not abandoned the alien’s residence in the United States. For purposes of this paragraph—

(A) the Secretary shall presume that the alien has abandoned such residence if the alien is absent from the United States for more than 730 days, in the aggregate, during the period of conditional permanent resident status, unless the alien demonstrates that the alien has not abandoned the alien’s residence; and

(B) an alien who is absent from the United States due to active service in the armed forces has not abandoned the alien’s residence in the United States during the period of such service.

(c) CITIZENSHIP REQUIREMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the status of a conditional permanent resident shall not have the conditional basis for per-
manent residency removed or be adjusted to perma-
ent resident status unless the alien demonstrates
that the alien satisfies the requirements of section
312(a) of the Immigration and Nationality Act (8
U.S.C. 1423(a)).

(2) Exception.—Paragraph (1) shall not
apply to an alien who is unable because of a physical
or developmental disability or mental impairment to
meet the requirements of such paragraph.

(f) Payment of Federal Taxes.—

(1) In general.—Not later than the date on
which an application is filed under subsection (a) for
adjustment of status, the alien shall satisfy any ap-
plicable Federal tax liability due and owing on such
date.

(2) Applicable Federal Tax Liability.—
For purposes of paragraph (1), the term “applicable
Federal tax liability” means liability for Federal
taxes imposed under the Internal Revenue Code of
1986, including any penalties and interest thereon.

(g) Submission of Biometric and Biographic
Data.—The Secretary of Homeland Security may not ad-
just the status of an alien under this section unless the
alien submits biometric and biographic data, in accordance
with procedures established by the Secretary. The Sec-
Secretary shall provide an alternative procedure for applicants who are unable to provide such biometric or biographic data because of a physical impairment.

(h) **Background Checks.**—

(1) **Requirement for background checks.**—The Secretary of Homeland Security shall utilize biometric, biographic, and other data that the Secretary determines appropriate—

(A) to conduct security and law enforcement background checks of an alien applying for adjustment of status under this section; and

(B) to determine whether there is any criminal, national security, or other factor that would render the alien ineligible for such adjustment of status.

(2) **Completion of background checks.**—The security and law enforcement background checks required by paragraph (1) shall be completed, to the satisfaction of the Secretary, prior to the date the Secretary grants adjustment of status.

(i) **Exemption from numerical limitations.**—Nothing in this section or in any other law may be construed to apply a numerical limitation on the number of aliens who may be eligible for adjustment of status under this section.
(j) Eligibility for Naturalization.—

(1) In General.—An alien whose status is adjusted under this section to that of an alien lawfully admitted for permanent residence may be naturalized upon compliance with all the requirements of the immigration laws.

(2) Alien Enlistees.—For purposes of section 316(a), an alien enlistee whose status was adjusted under this section shall be deemed to have satisfied the requirements of paragraphs (1) and (2) of such section, and may apply for naturalization.

SEC. 7. TREATMENT OF ALIENS MEETING REQUIREMENTS FOR EXTENSION OF CONDITIONAL PERMANENT RESIDENT STATUS.

If, on the date of the enactment of this Act, an alien has satisfied all the requirements of sections 4(a)(1) and 5(d)(1)(D), the Secretary of Homeland Security may cancel removal and grant conditional permanent resident status in accordance with section 4, and may extend conditional permanent resident status in accordance with section 5(d). The alien may apply for adjustment of status in accordance with section 6(a) if the alien has met the requirements of section 5(d)(1) during the entire period of conditional permanent resident status.
SEC. 8. EXCLUSIVE JURISDICTION.

The Secretary of Homeland Security shall have exclusive jurisdiction to determine eligibility for relief under this Act, except where the alien has been placed into deportation, exclusion, or removal proceedings either prior to or after filing an application for cancellation of removal and conditional permanent resident status or adjustment of status under this Act, in which case the Attorney General shall have exclusive jurisdiction and shall assume all the powers and duties of the Secretary until proceedings are terminated, or if a final order of deportation, exclusion, or removal is entered the Secretary shall resume all powers and duties delegated to the Secretary under this Act. If the Secretary grants relief under this Act, the final order of deportation, exclusion, or removal shall be terminated.

SEC. 9. CONFIDENTIALITY OF INFORMATION.

(a) PROHIBITION.—Except as provided in subsection (b), no officer or employee of the United States may—

(1) use the information furnished by an individual pursuant to an application filed under this Act to initiate removal proceedings against any person identified in the application;

(2) make any publication whereby the information furnished by any particular individual pursuant to an application under this Act can be identified; or
(3) permit anyone other than an officer or employee of the United States Government, the alien, or, in the case of an application filed under this Act with a designated entity, that designated entity, to examine such application filed under this Act.

(b) REQUIRED DISCLOSURE.—The Attorney General or the Secretary of Homeland Security shall provide the information furnished under this Act, and any other information derived from such furnished information, to—

(1) a Federal, State, tribal, or local law enforcement agency, intelligence agency, national security agency, component of the Department of Homeland Security, court, or grand jury in connection with a criminal investigation or prosecution, a background check conducted pursuant to the Brady Handgun Violence Protection Act (Public Law 103–159; 107 Stat. 1536) or an amendment made by that Act, or for homeland security or national security purposes, if such information is requested by such entity or consistent with an information sharing agreement or mechanism; or

(2) an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).
(c) Fraud in Application Process or Criminal Conduct.—Notwithstanding any other provision of this section, information concerning whether an alien seeking relief under this Act has engaged in fraud in an application for such relief or at any time committed a crime may be used or released for immigration enforcement, law enforcement, or national security purposes.

(d) Penalty.—Whoever knowingly uses, publishes, or permits information to be examined in violation of this section shall be fined not more than $10,000.

SEC. 10. TREATMENT OF CONDITIONAL PERMANENT RESIDENTS FOR CERTAIN PURPOSES.

(a) In General.—An individual granted conditional permanent resident status under this Act shall, while such individual remains in such status, be considered lawfully present for all purposes.

(b) For Purposes of the 5-Year Eligibility Waiting Period Under PRWORA.—An individual who has met the requirements under this Act for adjustment from conditional permanent resident status to lawful permanent resident status shall be considered, as of the date of such adjustment, to have completed the 5-year period specified in section 403 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613).
SEC. 11. GAO REPORT.

Not later than 7 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report setting forth—

(1) the number of aliens who were eligible for cancellation of removal and grant of conditional permanent resident status under section 4(a);  
(2) the number of aliens who applied for cancellation of removal and grant of conditional permanent resident status under section 4(a);  
(3) the number of aliens who were granted conditional permanent resident status under section 4(a); and  
(4) the number of aliens whose status was adjusted to that of an alien lawfully admitted for permanent residence under section 6.

SEC. 12. MILITARY ENLISTMENT.

Section 504(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

“(D) An alien who is a conditional permanent resident (as that term is defined in section 3 of the Recognizing America’s Children Act).”.
SEC. 13. NATURALIZATION OF ENLISTEES.

For purposes of sections 328 and 329 of the Immigration and Nationality Act, an alien enlistee shall be considered to have been lawfully admitted for permanent residence, without regard to the conditional status of such admission.