

117TH CONGRESS  
1ST SESSION

# H. R. 5517

To amend the Immigration and Nationality Act to alter the definition of “conviction”, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 8, 2021

Mr. ESPAILLAT (for himself, Ms. OCASIO-CORTEZ, Mr. CARSON, Ms. TITUS, Ms. NORTON, Ms. MENG, Ms. OMAR, Mr. MCGOVERN, Ms. SCHAKOWSKY, Mr. GARCÍA of Illinois, Mr. VARGAS, Mr. TAKANO, Ms. SCANLON, Mr. JONES, Mr. CÁRDENAS, and Ms. VELÁZQUEZ) 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 alter the definition of “conviction”, 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 “Fair Adjudications for  
5 Immigrants Act”.

6 **SEC. 2. EXPUNGEMENT AND SENTENCING.**

7 (a) DEFINITION OF CONVICTION.—

1           (1) IN GENERAL.—Section 101(a)(48) of the  
2           Immigration and Nationality Act (8 U.S.C.  
3           1101(a)(48)) is amended to read as follows:

4           “(48)(A) The term ‘conviction’ means a formal judg-  
5           ment of guilt entered by a court.

6           “(B) The following may not be considered a convic-  
7           tion for purposes of this Act:

8           “(i) An adjudication or judgment of guilt that  
9           has been dismissed, expunged, deferred, annulled, in-  
10          validated, withheld, vacated, or pardoned federally or  
11          by a State or locality, including by the President of  
12          the United States or by a person or agency author-  
13          ized by State law to grant such pardon.

14          “(ii) Any adjudication in which the court has  
15          issued—

16                 “(I) a judicial recommendation against re-  
17                 moval;

18                 “(II) an order of probation without entry  
19                 of judgment; or

20                 “(III) any similar disposition.

21          “(iii) A judgment that is on appeal or is within  
22          the time to file direct appeal.

23          “(C)(i) Unless otherwise provided, with respect to an  
24          offense, any reference to a term of imprisonment or a sen-

1 tence is considered to include only the period of incarceration  
2 ation ordered by a court.

3 “(ii) Any such reference shall be considered to ex-  
4 clude any portion of a sentence of which the imposition  
5 or execution was suspended.”.

6 (2) RETROACTIVE APPLICABILITY.—The  
7 amendment made by this subsection shall apply with  
8 respect to any conviction, adjudication, or judgment  
9 entered before, on, or after the date of the enact-  
10 ment of this Act.

11 (b) JUDICIAL RECOMMENDATION AGAINST RE-  
12 MOVAL.—The grounds of inadmissibility and deportability  
13 under sections 212(a)(2) and 237(a)(2) of the Immigra-  
14 tion and Nationality Act (8 U.S.C. 1182(a)(2) and  
15 1227(a)(2)) shall not apply to an alien with a criminal  
16 conviction if, after having provided notice and an oppor-  
17 tunity to respond to the prosecuting authorities, the sen-  
18 tencing court issues a recommendation to the Secretary  
19 that the alien not be removed on the basis of the convic-  
20 tion.

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