

117TH CONGRESS
2D SESSION

S. 5301

To amend section 212(d)(5) of the Immigration and Nationality Act to reform immigration parole, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 19, 2022

Mr. GRASSLEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 212(d)(5) of the Immigration and Nationality Act to reform immigration parole, 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 “Immigration Parole
5 Reform Act of 2022”.

6 **SEC. 2. IMMIGRATION PAROLE REFORM.**

7 Section 212(d)(5) of the Immigration and Nationality
8 Act (8 U.S.C. 1182(d)(5)) is amended to read as follows:

9 “(5)(A) Except as provided in subparagraph (B) or
10 section 214(f), the Secretary of Homeland Security, in the

1 discretion of the Secretary, may temporarily parole into
2 the United States any alien applying for admission to the
3 United States who is not present in the United States,
4 under such conditions as the Secretary may prescribe, on
5 a case-by-case basis, and not according to eligibility cri-
6 teria describing an entire class of potential parole recipi-
7 ents, for urgent humanitarian reasons or significant public
8 benefit. Parole granted under this subparagraph may not
9 be regarded as an admission of the alien. When the pur-
10 poses of such parole have been served in the opinion of
11 the Secretary, the alien shall immediately return or be re-
12 turned to the custody from which the alien was paroled.
13 After such return, the case of the alien shall be dealt with
14 in the same manner as the case of any other applicant
15 for admission to the United States.

16 “(B) The Secretary of Homeland Security may grant
17 parole to any alien who—

18 “(i) is present in the United States without
19 lawful immigration status;

20 “(ii) is the beneficiary of an approved petition
21 under section 203(a);

22 “(iii) is not otherwise inadmissible or remov-
23 able; and

24 “(iv) is the spouse or child of a member of the
25 Armed Forces serving on active duty.

1 “(C) For purposes of determining an alien’s eligibility
2 for parole under subparagraph (A), an urgent humani-
3 tarian reason shall be limited to circumstances in which—

4 “(i)(I) the alien has a medical emergency; and

5 “(II)(aa) the alien cannot obtain necessary
6 treatment in the foreign state in which the alien is
7 residing; or

8 “(bb) the medical emergency is life-threatening
9 and there is insufficient time for the alien to be ad-
10 mitted through the normal visa process;

11 “(ii) the alien is the parent or legal guardian of
12 an alien described in clause (i) and the alien de-
13 scribed in clause (i) is a minor;

14 “(iii) the alien is needed in the United States
15 in order to donate an organ or other tissue for
16 transplant and there is insufficient time for the alien
17 to be admitted through the normal visa process;

18 “(iv) the alien has a close family member in the
19 United States whose death is imminent and the alien
20 could not arrive in the United States in time to see
21 such family member alive if the alien were to be ad-
22 mitted through the normal visa process;

23 “(v) the alien is seeking to attend the funeral
24 of a close family member and the alien could not ar-
25 rive in the United States in time to attend such fu-

1 neral if the alien were to be admitted through the
2 normal visa process;

3 “(vi) the alien is an adopted child with an ur-
4 gent medical condition who is in the legal custody of
5 the petitioner for a final adoption-related visa and
6 whose medical treatment is required before the ex-
7 pected award of a final adoption-related visa; or

8 “(vii) the alien is a lawful applicant for adjust-
9 ment of status under section 245 and is returning
10 to the United States after temporary travel abroad.

11 “(D) For purposes of determining an alien’s eligi-
12 bility for parole under subparagraph (A), a significant
13 public benefit may be determined to result from the parole
14 of an alien only if—

15 “(i) the alien has assisted (or will assist, wheth-
16 er knowingly or not) the United States Government
17 in a law enforcement matter;

18 “(ii) the alien’s presence is required by the Gov-
19 ernment in furtherance of such law enforcement
20 matter; and

21 “(iii) the alien is inadmissible, does not satisfy
22 the eligibility requirements for admission as a non-
23 immigrant, or there is insufficient time for the alien
24 to be admitted through the normal visa process.

1 “(E) For purposes of determining an alien’s eligi-
2 bility for parole under subparagraph (A), the term ‘case-
3 by-case basis’ means that the facts in each individual case
4 are considered and parole is not granted based on mem-
5 bership in a defined class of aliens to be granted parole.
6 The fact that aliens are considered for or granted parole
7 one-by-one and not as a group is not sufficient to establish
8 that the parole decision is made on a ‘case-by-case basis’.

9 “(F) The Secretary of Homeland Security may not
10 use the parole authority under this paragraph—

11 “(i) to allow an alien who is the beneficiary of
12 a pending or approved immigrant petition to enter
13 the United States (except as otherwise authorized
14 under this paragraph) before an immigrant visa is
15 issued to such alien;

16 “(ii) to parole into the United States aliens en-
17 tering for the purpose of performing skilled or un-
18 skilled labor;

19 “(iii) to parole into the United States aliens
20 seeking to undertake activities described in existing
21 nonimmigrant classifications, including by paroling
22 aliens seeking to undertake activities authorized
23 under section 101(a)(15)(B) and who are nationals
24 of a country that has not been designated as a pro-
25 gram country under section 212(l) or 217;

1 “(iv) to parole into the United States an alien
2 who is a refugee or who is described in a designated
3 class of aliens granted access to the United States
4 Refugee Admissions Program, unless such alien may
5 otherwise be paroled under this paragraph; or

6 “(v) to parole an alien into the United States
7 for any reason or purpose other than those described
8 in subparagraphs (C) and (D).

9 “(G) Parole granted after a departure from the
10 United States shall not be regarded as an admission of
11 the alien. An alien granted parole, whether as an initial
12 grant of parole or parole upon reentry into the United
13 States, is not eligible to adjust status to lawful permanent
14 residence or for any other immigration benefit if the immi-
15 gration status the alien had at the time of departure did
16 not authorize the alien to adjust status or to be eligible
17 for such benefit.

18 “(H)(i) Except as provided in clauses (ii) and (iii),
19 parole shall be granted to an alien under this paragraph
20 for the shorter of—

21 “(I) a period of sufficient length to accomplish
22 the activity described in subparagraph (C) or (D) for
23 which the alien was granted parole; or

24 “(II) 1 year.

1 “(ii) Grants of parole pursuant to subparagraph (A)
2 may be extended once, in the discretion of the Secretary,
3 for an additional period that is the shorter of—

4 “(I) the period that is necessary to accomplish
5 the activity described in subparagraph (C) or (D) for
6 which the alien was granted parole; or

7 “(II) 1 year.

8 “(iii) Aliens who have a pending application to adjust
9 status to permanent residence under section 245 may re-
10 quest extensions of parole under this paragraph, in 1-year
11 increments, until the application for adjustment has been
12 adjudicated. Such parole shall terminate immediately upon
13 the denial of such adjustment application.

14 “(I) Not later than 90 days after the last day of each
15 fiscal year, the Secretary of Homeland Security shall sub-
16 mit to the Committee on the Judiciary of the Senate and
17 the Committee on the Judiciary of the House of Rep-
18 resentatives and make available to the public, a report—

19 “(i) identifying the total number of aliens pa-
20 roled into the United States under this paragraph
21 during the previous fiscal year; and

22 “(ii) containing information and data regarding
23 all aliens paroled during such fiscal year, includ-
24 ing—

25 “(I) the duration of parole;

1 “(II) the type of parole; and
2 “(III) the current status of the aliens so
3 paroled.”.

4 **SEC. 3. IMPLEMENTATION.**

5 (a) IN GENERAL.—Except as provided in subsection
6 (b), this Act and the amendments made by this Act shall
7 take effect on the date that is 30 days after the date of
8 the enactment of this Act.

9 (b) EXCEPTIONS.—Notwithstanding subsection (a)—

10 (1) any application for parole or advance parole
11 filed by an alien before the date of the enactment of
12 this Act shall be adjudicated under the law that was
13 in effect on the date on which the application was
14 properly filed and any approved advance parole shall
15 remain valid under the law that was in effect on the
16 date on which the advance parole was approved;

17 (2) section 212(d)(5)(G) of the Immigration
18 and Nationality Act, as added by section 2(b), shall
19 take effect on the date of the enactment of this Act;
20 and

21 (3) the provisions of this Act, and the amend-
22 ments made by this Act, affecting aliens who were
23 paroled into the United States pursuant to section
24 212(d)(5)(A) of the Immigration and Nationality
25 Act (8 U.S.C. 1182(d)(5)(A)) before the date of the

1 enactment of this Act shall take effect on the date
2 that is 180 days after such date of enactment.

3 **SEC. 4. CAUSE OF ACTION.**

4 Any person, State, or local government that experi-
5 ences financial harm in excess of \$1,000 due to a failure
6 of the Federal Government to lawfully apply the provisions
7 of this Act or the amendments made by this Act shall have
8 standing to bring a civil action against the Federal Gov-
9 ernment in an appropriate district court of the United
10 States.

11 **SEC. 5. SEVERABILITY.**

12 If any provision of this Act or any amendment by
13 this Act, or the application of such provision or amend-
14 ment to any person or circumstance, is held to be uncon-
15 stitutional, the remainder of this Act and the application
16 of such provision or amendment to any other person or
17 circumstance shall not be affected.

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