

117TH CONGRESS
1ST SESSION

S. 2753

To amend the Immigration and Nationality Act to authorize lawful permanent resident status for certain college graduates who entered the United States as children, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 15, 2021

Mr. PADILLA (for himself, Mr. PAUL, Mr. DURBIN, Ms. COLLINS, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to authorize lawful permanent resident status for certain college graduates who entered the United States as children, 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 “America’s Children
5 Act” or the “Protecting Children of Long-term Visa Hold-
6 ers Act of 2021”.

1 **SEC. 2. PERMANENT RESIDENT STATUS FOR CERTAIN COL-**
2 **LEGE GRADUATES WHO ENTERED THE**
3 **UNITED STATES AS CHILDREN.**

4 (a) REQUIREMENTS.—Section 201(b)(1) of the Im-
5 migration and Nationality Act (8 U.S.C. 1151(b)(1)) is
6 amended by adding at the end the following:

7 “(F) Alien who—

8 “(i) is not inadmissible under section
9 212(a) or deportable under section 237(a);

10 “(ii) was admitted to the United
11 States as a dependent child of a non-
12 immigrant admitted pursuant to an ap-
13 proved employer petition under section 214
14 or as a dependent child of a nonimmigrant
15 with status under section 101(a)(15)(E),
16 and was lawfully present in the United
17 States pursuant to such status for an ag-
18 gregate period of not less than 4 years;

19 “(iii) had at the time of the applica-
20 tion been lawfully present in the United
21 States for an aggregate period of not less
22 than 10 years; and

23 “(iv) has graduated from an institu-
24 tion of higher education (as defined in sec-
25 tion 102(a) of the Higher Education Act of

1 1965 (20 U.S.C. 1002(a)) in the United
2 States.”.

3 (b) PETITION.—Section 204(a)(1) of the Immigra-
4 tion and Nationality Act (8 U.S.C. 1154(a)(1)) is amend-
5 ed by adding at the end the following:

6 “(M) Any alien entitled to classification
7 under section 201(b)(1)(F) may file a petition
8 with the Secretary of Homeland Security for
9 such classification.”.

10 **SEC. 3. AGE-OUT PROTECTIONS.**

11 (a) AGE-OUT PROTECTIONS FOR IMMIGRANTS.—

12 (1) IN GENERAL.—Section 101(b) of the Immi-
13 gration and Nationality Act (8 U.S.C. 1101(b)) is
14 amended by adding at the end the following—

15 “(6) A determination of whether an alien is a
16 child shall be made as follows:

17 “(A) For purposes of a petition under sec-
18 tion 204 and a subsequent application for an
19 immigrant visa or adjustment of status, such
20 determination shall be made using the age of
21 the alien on the date on which the petition is
22 filed with the Secretary of Homeland Security
23 or the date on which an application for a labor
24 certification under section 212(a)(5)(A)(i) is

1 filed with the Secretary of Labor, whichever is
2 earlier.

3 “(B) For purposes of a petition under sec-
4 tion 214(d) and a subsequent application for
5 adjustment of status under section 245(d), such
6 determination shall be made using the age of
7 the alien on the date on which the petition is
8 filed with the Secretary of Homeland Security.

9 “(C) In the case of a petition under section
10 204 filed for an alien’s classification as a mar-
11 ried son or daughter of a United States citizen
12 under section 203(a)(2), if the petition is later
13 converted, due to the legal termination of the
14 alien’s marriage, to a petition to classify the
15 alien as an immediate relative under paragraph
16 (2)(A)(i) or as an unmarried son or daughter of
17 a United States citizen under section 203(a)(1),
18 the determination of the alien’s age shall be
19 made using the age of the alien on the date of
20 the termination of the marriage.”.

21 (2) TECHNICAL AND CONFORMING AMEND-
22 MENT.—Section 201 of the Immigration and Nation-
23 ality Act (8 U.S.C. 1151) is amended by striking
24 subsection (f).

25 (3) EFFECTIVE DATE.—

1 (A) IN GENERAL.—The amendments made
2 by this section shall be effective as if included
3 in the Child Status Protection Act (Public Law
4 107–208; 116 Stat. 927).

5 (B) MOTION TO REOPEN OR RECON-
6 SIDER.—A motion to reopen or reconsider the
7 denial of a petition or application described in
8 the amendments made by paragraph (1) that
9 would have been approved if the amendments
10 described in such paragraph had been in effect
11 at the time of adjudication of the petition or
12 application may be granted if such motion is
13 filed with the Secretary of Homeland Security
14 or the Attorney General not later than the date
15 that is 2 years after the date of the enactment
16 of this Act.

17 (b) AGE-OUT PROTECTIONS FOR NONIMMIGRANTS.—
18 Section 214 of the Immigration and Nationality Act (8
19 U.S.C. 1184) is further amended by adding at the end
20 the following:

21 “(s) An alien who entered the United States as a de-
22 pendent child of a nonimmigrant admitted pursuant to an
23 approved employer petition under this section or as a non-
24 immigrant described in section 101(a)(15)(E), and who is
25 the principal or derivative beneficiary of a properly filed

1 pending or approved petition under section 204, shall be
2 entitled to retain derivative nonimmigrant status notwith-
3 standing any time or age limitations until the petition is
4 denied or the alien receives the status of alien lawfully ad-
5 mitted to permanent residence.”.

6 (c) EMPLOYMENT AUTHORIZATION.—Section 214 of
7 the Immigration and Nationality Act (8 U.S.C. 1184), as
8 amended by subsection (b), is further amended by adding
9 at the end the following:

10 “(t) The Secretary of Homeland Security shall au-
11 thorize an alien who entered the United States as a de-
12 pendent child of a nonimmigrant admitted pursuant to an
13 approved employer petition under this section or as a non-
14 immigrant described in section 101(a)(15)(E), and who is
15 the derivative beneficiary of a properly filed pending or
16 approved petition under section 204, to engage in employ-
17 ment in the United States, and shall provide such alien
18 with an ‘employment authorized’ endorsement or other ap-
19 propriate work permit.”.

20 **SEC. 4. PRIORITY DATE RETENTION.**

21 Section 203(h) of the Immigration and Nationality
22 Act (8 U.S.C. 1153(h)) is amended to read as follows:

23 “(h) RETENTION OF PRIORITY DATES.—The priority
24 date for an individual shall be the date that a petition
25 under section 204 is filed with the Secretary of Homeland

1 Security (or the Secretary of State, if applicable), unless
2 such petition was preceded by the filing of a labor certifi-
3 cation with the Secretary of Labor, in which case that date
4 shall constitute the priority date. The principal beneficiary
5 and all derivative beneficiaries shall retain the priority
6 date associated with the earliest of any approved petition
7 or labor certification and such priority date shall be appli-
8 cable to any subsequently approved petition.”.

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