

118TH CONGRESS
1ST SESSION

S. 505

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

FEBRUARY 16, 2023

Mr. GRASSLEY (for himself, Mr. COTTON, Mr. CASSIDY, Mr. VANCE, Mr. LANKFORD, Mr. TUBERVILLE, Mrs. BRITT, Mr. LEE, and Ms. ERNST) 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 2023”.

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:

1 “(5)(A) Except as provided in subparagraphs (B)
2 and (C) and section 214(f), the Secretary of Homeland
3 Security, in the discretion of the Secretary, may tempo-
4 rarily parole into the United States any alien applying for
5 admission to the United States who is not present in the
6 United States, under such conditions as the Secretary may
7 prescribe, on a case-by-case basis, and not according to
8 eligibility criteria describing an entire class of potential
9 parole recipients, for urgent humanitarian reasons or sig-
10 nificant public benefit. Parole granted under this subpara-
11 graph may not be regarded as an admission of the alien.
12 When the purposes of such parole have been served in the
13 opinion of the Secretary, the alien shall immediately re-
14 turn or be returned to the custody from which the alien
15 was paroled. After such return, the case of the alien shall
16 be dealt with in the same manner as the case of any other
17 applicant for admission to the United States.

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

20 “(i) is present in the United States without
21 lawful immigration status;

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

24 “(iii) is not otherwise inadmissible or remov-
25 able; and

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

3 “(C) The Secretary of Homeland Security may grant
4 parole to any alien—

5 “(i) who is a national of the Republic of Cuba
6 and is living in the Republic of Cuba;

7 “(ii) who is the beneficiary of an approved peti-
8 tion under section 203(a);

9 “(iii) for whom an immigrant visa is not imme-
10 diately available;

11 “(iv) who meets all eligibility requirements for
12 an immigrant visa;

13 “(v) who is not otherwise inadmissible; and

14 “(vi) who is receiving a grant of parole in fur-
15 therance of the commitment of the United States to
16 the minimum level of annual legal migration of
17 Cuban nationals to the United States specified in
18 the U.S.–Cuba Joint Communiqué on Migration,
19 done at New York September 9, 1994, and re-
20 affirmed in the Cuba-United States: Joint Statement
21 on Normalization of Migration, Building on the
22 Agreement of September 9, 1994, done at New York
23 May 2, 1995.

24 “(D) For purposes of determining an alien’s eligi-
25 bility for parole under subparagraph (A), an urgent hu-

1 humanitarian reason shall be limited to circumstances in
2 which the alien establishes that—

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

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

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

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

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

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

22 “(v) the alien is seeking to attend the funeral
23 of a close family member and the alien could not ar-
24 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 “(E) 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 “(F) 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 “(G) The Secretary of Homeland Security may not
10 use the parole authority under this paragraph to parole
11 an alien into the United States for any reason or purpose
12 other than those described in subparagraphs (B), (C), (D),
13 and (E).

14 “(H) An alien granted parole may not accept employ-
15 ment, except that an alien granted parole pursuant to sub-
16 paragraph (B) or (C) is authorized to accept employment
17 for the duration of the parole, as evidenced by an employ-
18 ment authorization document issued by the Secretary of
19 Homeland Security.

20 “(I) Parole granted after a departure from the
21 United States shall not be regarded as an admission of
22 the alien. An alien granted parole, whether as an initial
23 grant of parole or parole upon reentry into the United
24 States, is not eligible to adjust status to lawful permanent
25 residence or for any other immigration benefit if the immi-

1 gration status the alien had at the time of departure did
2 not authorize the alien to adjust status or to be eligible
3 for such benefit.

4 “(J)(i) Except as provided in clauses (ii) and (iii),
5 parole shall be granted to an alien under this paragraph
6 for the shorter of—

7 “(I) a period of sufficient length to accomplish
8 the activity described in subparagraph (D) or (E)
9 for which the alien was granted parole; or

10 “(II) 1 year.

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

14 “(I) the period that is necessary to accomplish
15 the activity described in subparagraph (D) or (E)
16 for which the alien was granted parole; or

17 “(II) 1 year.

18 “(iii) Aliens who have a pending application to adjust
19 status to permanent residence under section 245 may re-
20 quest extensions of parole under this paragraph, in 1-year
21 increments, until the application for adjustment has been
22 adjudicated. Such parole shall terminate immediately upon
23 the denial of such adjustment application.

24 “(K) Not later than 90 days after the last day of
25 each fiscal year, the Secretary of Homeland Security shall

1 submit to the Committee on the Judiciary of the Senate
2 and the Committee on the Judiciary of the House of Rep-
3 resentatives and make available to the public, a report—

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

7 “(ii) containing information and data regarding
8 all aliens paroled during such fiscal year, includ-
9 ing—

10 “(I) the duration of parole;

11 “(II) the type of parole; and

12 “(III) the current status of the aliens so
13 paroled.”.

14 **SEC. 3. IMPLEMENTATION.**

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

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

20 (1) any application for parole or advance parole
21 filed by an alien before the date of the enactment of
22 this Act shall be adjudicated under the law that was
23 in effect on the date on which the application was
24 properly filed and any approved advance parole shall

1 remain valid under the law that was in effect on the
2 date on which the advance parole was approved;

3 (2) section 212(d)(5)(I) of the Immigration and
4 Nationality Act, as added by section 2(b), shall take
5 effect on the date of the enactment of this Act; and

6 (3) aliens who were paroled into the United
7 States pursuant to section 212(d)(5)(A) of the Im-
8 migration and Nationality Act (8 U.S.C.
9 1182(d)(5)(A)) before January 1, 2023, shall con-
10 tinue to be subject to the terms of parole that were
11 in effect on the date on which their respective parole
12 was approved.

13 **SEC. 4. CAUSE OF ACTION.**

14 Any person, State, or local government that experi-
15 ences financial harm in excess of \$1,000 due to a failure
16 of the Federal Government to lawfully apply the provisions
17 of this Act or the amendments made by this Act shall have
18 standing to bring a civil action against the Federal Gov-
19 ernment in an appropriate district court of the United
20 States.

21 **SEC. 5. SEVERABILITY.**

22 If any provision of this Act or any amendment by
23 this Act, or the application of such provision or amend-
24 ment to any person or circumstance, is held to be uncon-
25 stitutional, the remainder of this Act and the application

- 1 of such provision or amendment to any other person or
- 2 circumstance shall not be affected.

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