

118TH CONGRESS
1ST SESSION

H. R. 2453

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 2023

Mr. TIFFANY introduced the following bill; which was 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:

9 “(5)(A) Except as provided in subparagraphs
10 (B) and (C) and section 214(f), the Secretary of

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

18 “(B) The Secretary of Homeland Security may
19 grant 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 peti-
23 tion under section 203(a);

24 “(iii) is not otherwise inadmissible or re-
25 movable; and

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

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

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

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

9 “(iii) for whom an immigrant visa is not
10 immediately available;

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

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

14 “(vi) who is receiving a grant of parole in
15 furtherance of the commitment of the United
16 States to the minimum level of annual legal mi-
17 gration of Cuban nationals to the United States
18 specified in the U.S.-Cuba Joint Communiqué
19 on Migration, done at New York September 9,
20 1994, and reaffirmed in the Cuba-United
21 States: Joint Statement on Normalization of
22 Migration, Building on the Agreement of Sep-
23 tember 9, 1994, done at New York May 2,
24 1995.

1 “(D) The Secretary of Homeland Security may
2 grant parole to an alien who is returned to a contig-
3 uous country under section 235(b)(2)(C) to allow
4 the alien to attend the alien’s immigration hearing.
5 The grant of parole shall not exceed the time re-
6 quired for the alien to be escorted to, and attend,
7 the alien’s immigration hearing scheduled on the
8 same calendar day as the grant, and to immediately
9 thereafter be escorted back to the contiguous coun-
10 try. A grant of parole under this subparagraph shall
11 not be considered for purposes of determining
12 whether the alien is inadmissible under this Act.

13 “(E) For purposes of determining an alien’s eli-
14 gibility for parole under subparagraph (A), an ur-
15 gent humanitarian reason shall be limited to cir-
16 cumstances in which the alien establishes that—

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

19 “(II)(aa) the alien cannot obtain necessary
20 treatment in the foreign state in which the alien
21 is residing; or

22 “(bb) the medical emergency is life-threat-
23 ening and there is insufficient time for the alien
24 to be admitted through the normal visa process;

1 “(ii) the alien is the parent or legal guard-
2 ian of an alien described in clause (i) and the
3 alien described in clause (i) is a minor;

4 “(iii) the alien is needed in the United
5 States in order to donate an organ or other tis-
6 sue for transplant and there is insufficient time
7 for the alien to be admitted through the normal
8 visa process;

9 “(iv) the alien has a close family member
10 in the United States whose death is imminent
11 and the alien could not arrive in the United
12 States in time to see such family member alive
13 if the alien were to be admitted through the
14 normal visa process;

15 “(v) the alien is seeking to attend the fu-
16 neral of a close family member and the alien
17 could not arrive in the United States in time to
18 attend such funeral if the alien were to be ad-
19 mitted through the normal visa process;

20 “(vi) the alien is an adopted child with an
21 urgent medical condition who is in the legal
22 custody of the petitioner for a final adoption-re-
23 lated visa and whose medical treatment is re-
24 quired before the expected award of a final
25 adoption-related visa; or

1 “(vii) the alien is a lawful applicant for ad-
2 justment of status under section 245 and is re-
3 turning to the United States after temporary
4 travel abroad.

5 “(F) For purposes of determining an alien’s eli-
6 gibility for parole under subparagraph (A), a signifi-
7 cant public benefit may be determined to result from
8 the parole of an alien only if—

9 “(i) the alien has assisted (or will assist,
10 whether knowingly or not) the United States
11 Government in a law enforcement matter;

12 “(ii) the alien’s presence is required by the
13 Government in furtherance of such law enforce-
14 ment matter; and

15 “(iii) the alien is inadmissible, does not
16 satisfy the eligibility requirements for admission
17 as a nonimmigrant, or there is insufficient time
18 for the alien to be admitted through the normal
19 visa process.

20 “(G) For purposes of determining an alien’s eli-
21 gibility for parole under subparagraph (A), the term
22 ‘case-by-case basis’ means that the facts in each in-
23 dividual case are considered and parole is not grant-
24 ed based on membership in a defined class of aliens
25 to be granted parole. The fact that aliens are consid-

1 ered for or granted parole one-by-one and not as a
2 group is not sufficient to establish that the parole
3 decision is made on a ‘case-by-case basis’.

4 “(H) The Secretary of Homeland Security may
5 not use the parole authority under this paragraph to
6 parole an alien into the United States for any reason
7 or purpose other than those described in subpara-
8 graphs (B), (C), (D), (E), and (F).

9 “(I) An alien granted parole may not accept
10 employment, except that an alien granted parole
11 pursuant to subparagraph (B) or (C) is authorized
12 to accept employment for the duration of the parole,
13 as evidenced by an employment authorization docu-
14 ment issued by the Secretary of Homeland Security.

15 “(J) Parole granted after a departure from the
16 United States shall not be regarded as an admission
17 of the alien. An alien granted parole, whether as an
18 initial grant of parole or parole upon reentry into
19 the United States, is not eligible to adjust status to
20 lawful permanent residence or for any other immi-
21 gration benefit if the immigration status the alien
22 had at the time of departure did not authorize the
23 alien to adjust status or to be eligible for such ben-
24 efit.

1 “(K)(i) Except as provided in clauses (ii) and
2 (iii), parole shall be granted to an alien under this
3 paragraph for the shorter of—

4 “(I) a period of sufficient length to accom-
5 plish the activity described in subparagraph
6 (D), (E), or (F) for which the alien was grant-
7 ed parole; or

8 “(II) 1 year.

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

13 “(I) the period that is necessary to accom-
14 plish the activity described in subparagraph (E)
15 or (F) for which the alien was granted parole;
16 or

17 “(II) 1 year.

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

1 “(L) Not later than 90 days after the last day
2 of each fiscal year, the Secretary of Homeland Secu-
3 rity shall submit to the Committee on the Judiciary
4 of the Senate and the Committee on the Judiciary
5 of the House of Representatives and make available
6 to the public, a report—

7 “(i) identifying the total number of aliens
8 paroled into the United States under this para-
9 graph during the previous fiscal year; and

10 “(ii) containing information and data re-
11 garding all aliens paroled during such fiscal
12 year, including—

13 “(I) the duration of parole;

14 “(II) the type of parole; and

15 “(III) the current status of the aliens
16 so paroled.”.

17 **SEC. 3. IMPLEMENTATION.**

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

22 (b) **EXCEPTIONS.**—Notwithstanding subsection (a),
23 each of the following exceptions apply:

24 (1) Any application for parole or advance parole
25 filed by an alien before the date of the enactment of

1 this Act shall be adjudicated under the law that was
2 in effect on the date on which the application was
3 properly filed and any approved advance parole shall
4 remain valid under the law that was in effect on the
5 date on which the advance parole was approved.

6 (2) Section 212(d)(5)(J) of the Immigration
7 and Nationality Act, as added by section 2, shall
8 take effect on the date of the enactment of this Act.

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

16 **SEC. 4. CAUSE OF ACTION.**

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

1 **SEC. 5. SEVERABILITY.**

2 If any provision of this Act or any amendment by
3 this Act, or the application of such provision or amend-
4 ment to any person or circumstance, is held to be uncon-
5 stitutional, the remainder of this Act and the application
6 of such provision or amendment to any other person or
7 circumstance shall not be affected.

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