

115TH CONGRESS  
1ST SESSION

# H. R. 4384

To amend the Immigration and Nationality Act to provide protected status for certain aliens present in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2017

Ms. CLARKE of New York (for herself, Ms. ROS-LEHTINEN, Ms. JAYAPAL, Ms. LOFGREN, Ms. JACKSON LEE, Mr. MCGOVERN, Ms. LEE, Mr. HASTINGS, Ms. WILSON of Florida, and Mr. CORREA) 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 provide protected status for certain aliens present in the United States, 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 “Act to Sustain the  
5 Protection of Immigrant Residents Earned through TPS  
6 Act of 2017” or the “ASPIRE–TPS Act of 2017”.

1 **SEC. 2. PROTECTED STATUS FOR CERTAIN ALIENS**  
2 **PRESENT IN THE UNITED STATES.**

3 The Immigration and Nationality Act (8 U.S.C. 1101  
4 et seq.) is amended by inserting after section 244 the fol-  
5 lowing:

6 **“SEC. 244A. PROTECTED STATUS FOR CERTAIN ALIENS**  
7 **PRESENT IN THE UNITED STATES.**

8 “(a) IN GENERAL.—Notwithstanding any other pro-  
9 vision of law, including section 244(h), the Secretary of  
10 Homeland Security shall grant protected status under this  
11 section to an alien who meets the eligibility requirements  
12 under subsection (b).

13 “(b) ELIGIBILITY REQUIREMENTS.—The eligibility  
14 requirements are the following:

15 “(1) On January 1, 2017, the alien had been  
16 granted or was eligible for Deferred Enforced De-  
17 parture or for temporary protected status under sec-  
18 tion 244.

19 “(2) The alien has continuously resided in the  
20 United States for the 5-year period prior to the date  
21 of the enactment of this section.

22 “(3) The alien is admissible as an immigrant,  
23 except as otherwise provided under paragraph (2)(A)  
24 of section 244, and is not ineligible under paragraph  
25 (2)(B) of such section, except that in making such  
26 a determination, no conviction for a misdemeanor

1 which conviction occurred earlier than 6 years prior  
2 to the date on which the alien applies for status, or  
3 a renewal of such status, under this section may be  
4 considered.

5 “(4) To the extent and in a manner which the  
6 Secretary establishes, the alien registers for the pro-  
7 tected status under this section during a registration  
8 period of not less than one year.

9 “(c) DURATION OF STATUS.—Protected status under  
10 this section shall be for a period of 6 years, and may be  
11 renewed for additional 6-year periods. An alien seeking to  
12 renew protected status under this section shall re-register  
13 with the Secretary.

14 “(d) NOTICE.—

15 “(1) IN GENERAL.—Not later than 30 days  
16 after the first day of the registration period under  
17 subsection (b)(4), the Secretary shall provide each  
18 alien who was granted temporary protected status  
19 under section 244 or Deferred Enforced Departure  
20 with information concerning protected status under  
21 this section.

22 “(2) REMOVAL PROCEEDINGS.—

23 “(A) IN GENERAL.—The Secretary shall  
24 promptly notify any alien against whom removal  
25 proceedings are initiated who is a national of a

1 country (or in the case of an alien having no  
2 nationality, the country in which the alien last  
3 habitually resided) that on January 1, 2017,  
4 was designated under section 244 or under the  
5 Deferred Enforced Departure program, that  
6 status under this section may be available.

7 “(B) REMOVAL PROCEEDINGS INITIATED  
8 PRIOR TO THE DATE OF ENACTMENT.—The  
9 Secretary shall promptly notify any alien who is  
10 in removal proceedings on the date of the enact-  
11 ment of this section and who is a national of a  
12 country (or in the case of an alien having no  
13 nationality, the country in which the alien last  
14 habitually resided) that on January 1, 2017,  
15 was designated under section 244 or under the  
16 Deferred Enforced Departure program, that  
17 status under this section may be available.

18 “(3) FORM.—Notices under this paragraph  
19 shall be provided in a form and language that the  
20 alien can understand.

21 “(e) TEMPORARY TREATMENT FOR ELIGIBLE  
22 ALIENS.—

23 “(1) REGISTRATION NOT AVAILABLE.—In the  
24 case of an alien who can establish a prima facie case  
25 of eligibility for protected status under this section,

1 but for the fact that the period of registration under  
2 subsection (b)(4) has not begun, until the alien has  
3 had a reasonable opportunity to register during the  
4 first 30 days of such period, the Secretary shall pro-  
5 vide the alien with work authorization under sub-  
6 section (f), and shall not initiate or proceed with re-  
7 moval proceedings against the alien.

8 “(2) DETERMINATION PENDING.—In the case  
9 of an alien who establishes a prima facie case of eli-  
10 gibility for protected status under this section, until  
11 a final determination with respect to the alien’s eli-  
12 gibility for such status has been made, the Secretary  
13 shall provide the alien with work authorization under  
14 subsection (f), and shall not initiate or proceed with  
15 removal proceedings against the alien.

16 “(f) WORK AUTHORIZATION.—

17 “(1) IN GENERAL.—The Secretary shall author-  
18 ize each alien granted protected status under this  
19 section to engage in employment in the United  
20 States and provide the alien with an ‘employment  
21 authorized’ endorsement or other appropriate work  
22 permit.

23 “(2) DURATION.—Work authorization provided  
24 under this section shall be effective throughout the  
25 period the alien is in protected status.

1       “(g) FEES.—The Secretary may require payment of  
2 a reasonable fee, in an amount not to exceed \$50, as a  
3 condition of registering an alien under this section. The  
4 Secretary may impose a separate, additional fee for pro-  
5 viding an alien with documentation of work authorization.  
6 Notwithstanding section 3302 of title 31, United States  
7 Code, all fees collected under this subparagraph shall be  
8 credited to the appropriation to be used in carrying out  
9 this section.

10       “(h) WITHDRAWAL OF PROTECTED STATUS.—The  
11 Secretary shall withdraw protected status granted to an  
12 alien under this section if—

13               “(1) the Secretary finds that the alien was not  
14 in fact eligible for such status under this section; or

15               “(2) the alien fails, without good cause, to reg-  
16 ister with the Secretary at the end of each 36-month  
17 period after the granting of such status, in a form  
18 and manner specified by the Secretary.

19       “(i) TREATMENT OF BRIEF, CASUAL, AND INNOCENT  
20 DEPARTURES AND CERTAIN OTHER ABSENCES.—

21               “(1) IN GENERAL.—For purposes of subsection  
22 (b)(2), an alien shall not be considered to have failed  
23 to maintain continuous residence in the United  
24 States by virtue of brief, casual, and innocent ab-  
25 sences from the United States without regard to

1       whether such absences were authorized by the Sec-  
2       retary.

3           “(2) RENEWAL OF PROTECTED STATUS.—For  
4       purposes of subsection (b)(2), in the case of an alien  
5       seeking to renew protected status under this section,  
6       absence from the United States for a continuous pe-  
7       riod, beginning on the date on which the Secretary  
8       most recently granted or renewed the alien’s pro-  
9       tected status under this section—

10           “(A) of one year or less, shall not break  
11       the continuity of such residency requirement;  
12       and

13           “(B) of longer than one year, shall break  
14       the continuity of such residence, unless the ap-  
15       plicant establishes to the satisfaction of the  
16       Secretary that he did not abandon his residence  
17       in the United States during such period.

18       “(j) CONFIDENTIALITY.—

19           “(1) IN GENERAL.—The Secretary may not dis-  
20       close or use information provided under this section  
21       for the purpose of enforcing the immigration laws.

22           “(2) REFERRALS PROHIBITED.—The Secretary  
23       may not refer any alien granted protected status  
24       under this section to U.S. Immigration and Customs

1 Enforcement or to U.S. Customs and Border Protec-  
2 tion.

3 “(3) EXCEPTION.—Notwithstanding paragraphs  
4 (1) and (2), the Secretary may disclose information  
5 provided under this section to Federal security and  
6 law enforcement agencies—

7 “(A) for assistance in the consideration of  
8 an application for protected status under this  
9 section;

10 “(B) to identify or prevent fraudulent  
11 claims for protected status under this section;

12 “(C) for national security purposes; and

13 “(D) in relation to the investigation or  
14 prosecution of any felony not related to the  
15 alien’s immigration status.

16 “(4) PENALTY.—Whoever knowingly discloses  
17 or uses information in violation of this subsection  
18 shall be fined not more than \$10,000.

19 “(k) TREATMENT DURING PERIOD OF PROTECTED  
20 STATUS.—During a period in which an alien is granted  
21 protected status under this section—

22 “(1) the alien shall be considered a qualified  
23 alien for purposes of title IV of the Personal Re-  
24 sponsibility and Work Opportunity Reconciliation  
25 Act of 1996;



1           “(2) the alien may travel abroad without the  
2 prior consent of the Secretary; and

3           “(3) for purposes of adjustment of status under  
4 section 245 and change of classification under sec-  
5 tion 248, the alien shall be considered as having  
6 been inspected and admitted into the United States,  
7 and as being in, and maintaining lawful status as a  
8 nonimmigrant.

9           “(1) CLARIFICATION.—Nothing in this section shall  
10 be construed as authorizing the Secretary to deny pro-  
11 tected status to an alien based on the alien’s immigration  
12 status or to require any alien, as a condition of being  
13 granted such status, either to relinquish nonimmigrant or  
14 other status the alien may have or to execute any waiver  
15 of other rights under this chapter. The granting of pro-  
16 tected status under this section shall not be considered  
17 to be inconsistent with the granting of nonimmigrant sta-  
18 tus under this chapter.

19           “(m) ADJUSTMENT OF STATUS IN CASES OF EX-  
20 TREME HARDSHIP.—

21           “(1) IN GENERAL.—Notwithstanding any other  
22 provision of law, including section 244(h), the Sec-  
23 retary of Homeland Security shall adjust the status  
24 of an alien to that of an alien lawfully admitted for  
25 permanent residence if the alien—

1           “(A) meets the eligibility requirements of  
2 paragraphs (1) and (3) of subsection (b);

3           “(B) establishes that removal would result  
4 in extreme hardship to the alien or to the  
5 alien’s United States citizen or lawful perma-  
6 nent resident spouse, parent, or child; and

7           “(C) submits an application to the Sec-  
8 retary.

9           “(2) NUMERICAL LIMITATIONS DO NOT  
10 APPLY.—The numerical limitations of sections 201  
11 and 202 shall not apply to the adjustment of aliens  
12 to lawful permanent resident status under this sec-  
13 tion.

14           “(3) RULE OF CONSTRUCTION.—This sub-  
15 section does not prevent an alien granted protected  
16 status under this section who does not meet the re-  
17 quirement of paragraph (1)(B) from adjusting sta-  
18 tus under section 245.

19           “(n) REVIEW.—The Secretary shall establish a proc-  
20 ess for an alien denied protected status under this section  
21 to seek review of such a determination. Such process shall  
22 not prevent an alien from asserting eligibility for status  
23 under this section in removal proceedings.”.

1 **SEC. 3. TEMPORARY PROTECTED STATUS CLARIFICATIONS.**

2 (a) **EXPUNGED CONVICTIONS NOT A BAR.**—Section  
3 244(c)(2) of the Immigration and Nationality Act (8  
4 U.S.C. 1254a(c)(2)) is amended by adding at the end the  
5 following:

6 “(C) **CONVICTION.**—For purposes of this  
7 paragraph, the term ‘conviction’ does not in-  
8 clude an adjudication or judgment of guilt that  
9 has been dismissed, expunged, deferred, an-  
10 nulled, invalidated, withheld, or vacated, an  
11 order of probation without entry of judgment,  
12 or any similar disposition.”.

13 (b) **ALIENS CONSIDERED INSPECTED AND ADMIT-**  
14 **TED INTO THE UNITED STATES.**—Section 244(f)(4) of  
15 the Immigration and Nationality Act (8 U.S.C.  
16 1254a(f)(4)) is amended by inserting after “considered”  
17 the following: “as having been inspected and admitted into  
18 the United States, and”.

19 **SEC. 4. REPORT ON PROTECTED STATUS.**

20 On the date that is 90 days after the date of the en-  
21 actment of this Act, and every 90 days thereafter, the Sec-  
22 retary of Homeland Security shall submit to the Commit-  
23 tees on the Judiciary of the House of Representatives and  
24 of the Senate a report that includes, for the previous 90-  
25 day period—

1           (1) the number of aliens who submitted applica-  
2           tions to the Secretary for protected status under sec-  
3           tion 244A of the Immigration and Nationality Act;

4           (2) the number of such applications that were  
5           approved;

6           (3) the number of aliens present in the United  
7           States with protected status, including information  
8           related to the States in which such aliens reside, the  
9           ages of such aliens, and the duration of their resi-  
10          dence in the United States; and

11          (4) any additional information determined ap-  
12          propriate by the Secretary.

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