

118TH CONGRESS
1ST SESSION

S. 1667

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

MAY 17, 2023

Mr. PADILLA (for himself, Mr. PAUL, Mr. DURBIN, Ms. COLLINS, Mr. KING, Mr. CRAMER, and Ms. SINEMA) 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 CHIL-
5 DREN Act of 2023” or the “Protecting Children of Long-
6 Term Visa Holders Act of 2023”.

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) Any alien who—

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

10 “(ii) was lawfully present in the United
11 States as a dependent child of a nonimmigrant
12 admitted to engage in employment in the
13 United States (other than a nonimmigrant de-
14 scribed in subparagraph (A), (G), (N), or (S) of
15 section 101(a)(15)) for an aggregate period of
16 not less than 8 years;

17 “(iii) on the date on which an application
18 under section 204(a)(1)(M) is submitted, has
19 been lawfully present in the United States for
20 an aggregate period of not less than 10 years;
21 and

22 “(iv) has graduated from an institution of
23 higher education (as defined in section 102(a)
24 of the Higher Education Act of 1965 (20
25 U.S.C. 1002(a))) in the United States.”.

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

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

8 **SEC. 3. AGE-OUT PROTECTIONS AND PRIORITY DATE RE-**
 9 **TENTION.**

10 (a) AGE-OUT PROTECTIONS.—

11 (1) IN GENERAL.—The Immigration and Na-
 12 tionality Act (8 U.S.C. 1101 et seq.) is amended—

13 (A) in section 101(b) (8 U.S.C. 1101(b)),
 14 by adding at the end the following:

15 “(6) DETERMINATION OF CHILD STATUS.—A
 16 determination as to whether an alien is a child shall
 17 be made as follows:

18 “(A) IN GENERAL.—For purposes of a pe-
 19 tition under section 204 and any subsequent
 20 application for an immigrant visa or adjustment
 21 of status, such determination shall be made
 22 using the age of the alien on the earlier of—

23 “(i) the date on which the petition is
 24 filed with the Secretary of Homeland Secu-
 25 rity; or

1 “(ii) the date on which an application
2 for a labor certification under section
3 212(a)(5)(A)(i) is filed with the Secretary
4 of Labor.

5 “(B) CERTAIN DEPENDENTS OF NON-
6 IMMIGRANTS.—With respect to an alien who,
7 for an aggregate period of 8 years before at-
8 taining the age of 21, was in the status of a de-
9 pendent child of a nonimmigrant pursuant to a
10 lawful admission as an alien eligible to be em-
11 ployed in the United States (other than a non-
12 immigrant described in subparagraph (A), (G),
13 (N), or (S) of section 101(a)(15)), notwith-
14 standing clause (i), the determination of the
15 alien’s age shall be based on the date on which
16 such initial nonimmigrant employment-based
17 petition or application was filed by the alien’s
18 nonimmigrant parent.

19 “(C) FAILURE TO ACQUIRE STATUS AS
20 ALIEN LAWFULLY ADMITTED FOR PERMANENT
21 RESIDENCE.—With respect to an alien who has
22 not sought to acquire status as an alien lawfully
23 admitted for permanent residence during the 2
24 years beginning on the date on which an immi-
25 grant visa becomes available to such alien, the

1 alien's age shall be determined based on the
2 alien's biological age, unless the failure to seek
3 to acquire such status was due to extraordinary
4 circumstances.”; and

5 (B) in section 201(f) (8 U.S.C. 1151)—

6 (i) by striking the subsection heading
7 and all that follows through “TERMI-
8 NATION DATE.—” in paragraph (3) and
9 inserting “RULE FOR DETERMINING
10 WHETHER CERTAIN ALIENS ARE IMME-
11 DIATE RELATIVES.—”; and

12 (ii) by striking paragraph (4).

13 (2) EFFECTIVE DATE.—

14 (A) IN GENERAL.—The amendments made
15 by this subsection shall be effective as if in-
16 cluded in the Child Status Protection Act (Pub-
17 lic Law 107–208; 116 Stat. 927).

18 (B) MOTION TO REOPEN OR RECON-
19 sider.—

20 (i) IN GENERAL.—A motion to reopen
21 or reconsider the denial of a petition or ap-
22 plication described in the amendment made
23 by paragraph (1)(A) may be granted if—

24 (I) such petition or application
25 would have been approved if the

1 amendment described in such para-
2 graph had been in effect at the time
3 of adjudication of the petition or ap-
4 plication;

5 (II) the individual seeking relief
6 pursuant to such motion was in the
7 United States at the time the under-
8 lying petition or application was filed;
9 and

10 (III) such motion is filed with the
11 Secretary of Homeland Security or
12 the Attorney General not later than
13 the date that is 2 years after the date
14 of the enactment of this Act.

15 (ii) EXEMPTION FROM NUMERICAL
16 LIMITATIONS.—Notwithstanding any other
17 provision of law, an individual granted re-
18 lief pursuant to a motion to reopen or re-
19 consider under clause (i) shall be exempt
20 from the numerical limitations in sections
21 201, 202, and 203 of the Immigration and
22 Nationality Act (8 U.S.C. 1151, 1152, and
23 1153).

1 (b) NONIMMIGRANT DEPENDENT CHILDREN.—Sec-
2 tion 214 of the Immigration and Nationality Act (8 U.S.C.
3 1184) is amended by adding at the end the following:

4 “(s) DERIVATIVE BENEFICIARIES.—

5 “(1) IN GENERAL.—Except as described in
6 paragraph (2), the determination as to whether an
7 alien who is the derivative beneficiary of a properly
8 filed pending or approved immigrant petition under
9 section 204 is eligible to be a dependent child shall
10 be based on whether the alien is determined to be
11 a child under section 101(b)(6).

12 “(2) LONG-TERM DEPENDENTS.—If otherwise
13 eligible, an alien who is determined to be a child
14 pursuant to section 101(b)(6)(B) may change status
15 to, or extend status as, a dependent child of a non-
16 immigrant with an approved employment-based peti-
17 tion under this section or an approved application
18 under section 101(a)(15)(E), notwithstanding such
19 alien’s marital status.

20 “(3) EMPLOYMENT AUTHORIZATION.—An alien
21 admitted to the United States as a dependent child
22 of a nonimmigrant who is described in this section
23 is authorized to engage in employment in the United
24 States incident to status.”.

1 (c) PRIORITY DATE RETENTION.—Section 203(h) of
2 the Immigration and Nationality Act (8 U.S.C. 1153(h))
3 is amended—

4 (1) by striking the subsection heading and in-
5 serting “RETENTION OF PRIORITY DATES”;

6 (2) by striking paragraphs (1) through (4);

7 (3) by redesignating paragraph (5) as para-
8 graph (3); and

9 (4) by inserting before paragraph (3) the fol-
10 lowing:

11 “(1) IN GENERAL.—The priority date for an in-
12 dividual shall be the date on which a petition under
13 section 204 is filed with the Secretary of Homeland
14 Security or the Secretary of State, as applicable, un-
15 less such petition was preceded by the filing of a
16 labor certification with the Secretary of Labor, in
17 which case the date on which the labor certification
18 is files shall be the priority date.

19 “(2) APPLICABILITY.—The principal beneficiary
20 and all derivative beneficiaries shall retain the pri-
21 ority date associated with the earliest of any ap-
22 proved petition or labor certification, and such pri-
23 ority date shall be applicable to any subsequently ap-
24 proved petition.”.

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