

Mc Collum

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Congressional Record](#)[Link to the Bill
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bytes.](#) [\[Help\]](#)**Fairness for Permanent Residents Act of 1999 (Introduced in the House)**

HR 2999 IH

106th CONGRESS

1st Session

H. R. 2999

To permit the Attorney General to grant relief to certain permanent resident aliens of good moral character who are adversely affected by changes made in 1996 to the definition of aggravated felony under the Immigration and Nationality Act, and to amend certain provisions of such Act relating to detention of an alien pending and after a decision on whether the alien is to be removed from the United States.

IN THE HOUSE OF REPRESENTATIVES**October 1, 1999**

Mr. MCCOLLUM (for himself, Mr. DIAZ-BALART, Ms. ROS-LEHTINEN, Mr. WEXLER, Mr. BILBRAY, and Mr. OSE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To permit the Attorney General to grant relief to certain permanent resident aliens of good moral character who are adversely affected by changes made in 1996 to the definition of aggravated felony under the Immigration and Nationality Act, and to amend certain provisions of such Act relating to detention of an alien pending and after a decision on whether the alien is to be removed from the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Fairness for Permanent Residents Act of 1999'.

SEC. 2. LIMITING THE DISQUALIFICATION, BASED ON COMMISSION OF CERTAIN AGGRAVATED FELONIES, FROM CANCELLATION OF REMOVAL FOR PERMANENT RESIDENTS.

(a) IN GENERAL- Section 240A(a) of the Immigration and Nationality Act (8 U.S.C. 1229b(a)) is amended to read as follows:

`SEC. 240A. (a) CANCELLATION OF REMOVAL FOR CERTAIN PERMANENT RESIDENTS-

`(1) IN GENERAL- The Attorney General may cancel removal in the case of an alien who is inadmissible or deportable from the United States if the alien--

`(A) has been an alien lawfully admitted for permanent residence for not less than 5 years;

`(B) has resided in the United States continuously for 7 years after having been admitted in any status; and

`(C) has not been convicted of any aggravated felony.

`(2) LIMITING APPLICATION OF CERTAIN MODIFICATIONS TO AGGRAVATED FELONY DEFINITION-

`(A) IN GENERAL- An alien described in subparagraph (B) who is otherwise qualified may request the Attorney General to exercise the discretion granted under paragraph (1) as if the following provisions had not been enacted:

`(i) Paragraphs (4) through (6) of section 440(e) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1278).

`(ii) Section 440(e)(8) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1278), as applied only with respect to the addition of subparagraphs (R) and (T) of section 101(a)(43) of this Act.

`(iii) Paragraphs (7), (9), and (10) of section 321(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-628).

`(iv) Section 321(a)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-627), as applied only with respect to subparagraphs (F), (G), and (P) of section 101(a)(43) of this Act.

`(v) Section 440(e)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1277), and section 321(a)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-627), as applied only to an offense described in section 1955 of title 18, United States Code (relating to gambling offenses).

`(vi) Section 321(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-628), as applied only with respect to subparagraphs (F), (G), (M), (P), (Q), (R), (T), and (U) of section 101(a)(43) of this Act, and with respect to subparagraph (J) of such section (but only to the extent subparagraph (J) relates to an offense described in section 1955 of title 18, United States Code).

`(B) ALIEN DESCRIBED- An alien described in this subparagraph is an alien who--

`(i) was convicted of one aggravated felony that is not a serious violent felony (as defined in section 3559(c)(2)(F) of title 18, United States Code);

`(ii) as a direct result of such conviction, is the subject of a removal proceeding--

`(I) the commencement of which would not have been authorized but for the enactment of one or more of the provisions described in clauses (i) through (vi) of subparagraph (A); or

`(II) with respect to which the alien would have satisfied the requirements for the application of discretion granted to the Attorney General under paragraph (1) but for the enactment of one or more of such provisions;

`(iii) has never been convicted of any felony other than the felony described in clause (i); and

`(iv) disregarding such felony, has been a person of good moral character during all periods of residence in the United States.

`(C) NO DANGER TO PERSONS OR PROPERTY- In the case of an alien convicted of an aggravated felony involving violence, the Attorney General may exercise the discretion described in subparagraph (A) only after making a written determination that the action poses no danger to the safety of persons or property. The duty of the Attorney General under this subparagraph may not be delegated to any officer or employee of the Department of Justice other than an Assistant Attorney General, a Deputy Attorney General, an Associate Attorney General, or any other attorney assigned to the Office of the Attorney General or an office of an Assistant Attorney General, a Deputy Attorney General, or an Associate Attorney General.

`(D) APPLICATIONS- An alien may file only one application for relief under this paragraph. Such application shall be filed not later than 60 days after the commencement of the removal proceeding described in subparagraph (B)(ii).'

(b) EFFECTIVE DATE- The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to convictions entered on or after such date.

SEC. 3. DISCRETION TO GRANT RELIEF TO CERTAIN OTHER PERMANENT RESIDENTS.

(a) ESTABLISHMENT OF PROCESS- Notwithstanding section 240(c)(6) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(6)) or any other limitation imposed by law on motions to reopen proceedings under such Act, the Attorney General shall establish a process (whether through permitting the reopening of a proceeding described in subsection (b)(2) or otherwise) under which an alien described in subsection (b) who is otherwise qualified may request the Attorney General to exercise the discretion granted under the authorities described in subsection (c) as if the following provisions had not been enacted:

(1) Paragraphs (4) through (6) of section 440(e) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1278).

(2) Section 440(e)(8) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1278), as applied only with respect to the addition of subparagraphs (R) and (T) of section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43)).

(3) Paragraphs (7), (9), and (10) of section 321(a) of the Illegal Immigration Reform and

Immigrant Responsibility Act of 1996 (110 Stat. 3009-628).

(4) Section 321(a)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-627), as applied only with respect to subparagraphs (F), (G), and (P) of section 101(a)(43) of the Immigration and Nationality Act.

(5) Section 440(e)(1) of the Antiterrorism and Effective Death Penalty Act of 1996 (110 Stat. 1277), and section 321(a)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-627), as applied only to an offense described in section 1955 of title 18, United States Code (relating to gambling offenses).

(6) Section 321(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (110 Stat. 3009-628), as applied only with respect to subparagraphs (F), (G), (M), (P), (Q), (R), (T), and (U) of section 101(a)(43) of the Immigration and Nationality Act, and with respect to subparagraph (J) of such section (but only to the extent subparagraph (J) relates to an offense described in section 1955 of title 18, United States Code).

(b) ALIEN DESCRIBED- An alien described in this subsection is an alien who--

(1) was convicted before the date of the enactment of this Act of one aggravated felony (as defined in section 101(a)(43) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(43))) that is not a serious violent felony (as defined in section 3559(c)(2)(F) of title 18, United States Code);

(2) as a direct result of such conviction, is the subject of a proceeding--

(A) the commencement of which would not have been authorized but for the enactment of one or more of the provisions described in paragraphs (1) through (6) of subsection (a); or

(B) with respect to which the alien would have satisfied the requirements for the application of discretion granted to the Attorney General under one or more of the authorities described in subsection (c) but for the enactment of one or more of such provisions;

(3) is lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

(4) has never been convicted of any felony other than the felony described in paragraph (1); and

(5) disregarding such felony, has been a person of good moral character (as defined in section 101(f) of the Immigration and Nationality Act (8 U.S.C. 1101(f))) during all periods of residence in the United States.

(c) AUTHORITIES- The provisions referred to in this subsection are the following:

(1) Section 240A(a) of the Immigration and Nationality Act (8 U.S.C. 1229b(a)).

(2) Section 212(c) of the Immigration and Nationality Act (as in effect on March 31, 1997).

(3) Section 244(a) of the Immigration and Nationality Act (as in effect on March 31, 1997).

(d) NO DANGER TO PERSONS OR PROPERTY- In the case of an alien convicted of an aggravated felony involving violence, the Attorney General may exercise the discretion described in subsection (a) only after making a written determination that the action poses no danger to the safety of persons or property. The duty of the Attorney General under this subsection may not be

delegated to any officer or employee of the Department of Justice other than an Assistant Attorney General, a Deputy Attorney General, an Associate Attorney General, or any other attorney assigned to the Office of the Attorney General or

an office of an Assistant Attorney General, a Deputy Attorney General, or an Associate Attorney General.

(e) APPLICATIONS- The process established under subsection (a)--

(1) shall permit an alien to file only one application pursuant to this section; and

(2) in the case of a proceeding described in subsection (b)(2) that is commenced after the date of the enactment of this Act, shall require that such application be filed not later than 60 days after such commencement.

SEC. 4. MODIFICATION OF CERTAIN PROVISIONS ON DETENTION AND RELEASE OF ALIENS .

(a) DETENTION AND RELEASE OF CRIMINAL ALIENS PENDING REMOVAL DECISION- Section 236(c) of the Immigration and Nationality Act (8 U.S.C. 1226(c)) is amended--

(1) by adding at the end the following:

“(3) RELEASE FROM CUSTODY- Notwithstanding paragraph (2) or any other provision of this section, the Attorney General may release any alien described in paragraph (1) if the Attorney General determines that the alien does not pose a danger to society, does not pose a flight risk, and is likely to comply with any terms of supervision that are imposed and any subsequent order of removal. If released, the alien shall be subject to supervision under regulations prescribed by the Attorney General that include the provisions specified in subparagraphs (A) through (D) of section 241(a)(3).”; and

(2) by amending subsection (e) to read as follows:

“(e) ADMINISTRATIVE AND JUDICIAL REVIEW-

“(1) ADMINISTRATIVE REVIEW- A decision under this section relating to the release of any alien described in subsection (c)(1) shall be subject to review by the United States Board of Immigration Appeals of the Department of Justice. The preceding sentence shall not be construed as limiting any administrative review otherwise available under law of any action or decision under this section.

“(2) JUDICIAL REVIEW- The Attorney General's discretionary judgment regarding the application of this section shall not be subject to review. No court may set aside any action or decision by the Attorney General under this section regarding the detention or release of any alien or the grant, revocation, or denial of bond or parole.”.

(b) DETENTION OF INADMISSIBLE OR CRIMINAL ALIENS ORDERED REMOVED- Section 241(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1231(a)(6)) is amended to read as follows:

“(6) INADMISSIBLE OR CRIMINAL ALIENS -

“(A) IN GENERAL- An alien ordered removed who is inadmissible under section 212, removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) or who has been determined by the Attorney General to be a risk to the community or unlikely to comply with the order of removal, may be detained beyond the removal period for a

reasonable period of time, not to exceed 3 months after the termination of such period, in order to allow for ongoing negotiations between the United States and a foreign state or states. If such an alien is released, the alien shall be subject to the terms of supervision in paragraph (3). During such 3-month period, the Attorney General shall release the alien upon a showing that the alien does not pose a danger to society, does not pose a flight risk, and is likely to comply with the removal order.

`(B) RELEASE- Notwithstanding any other provision of this section, if the Attorney General determines that an alien ordered removed who is inadmissible under section 212 or removable under section 237(a)(1)(C), 237(a)(2), or 237(a)(4) does not pose a danger to society, does not pose a flight risk, and is likely to comply with the removal order, the Attorney General shall release the alien after the removal period. If released, the alien shall be subject to the terms of supervision in paragraph (3).

`(C) ADMINISTRATIVE REVIEW- A decision under this paragraph relating to the release of any alien shall be subject to review by the United States Board of Immigration Appeals of the Department of Justice. The preceding sentence shall not be construed as limiting any administrative review otherwise available under law of any action or decision under this section.'

(c) EFFECTIVE DATE- The amendments made by this section shall be effective as if included in the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208; 110 Stat. 3009-546) and shall apply to individuals with convictions entered before, on, or after the date of the enactment of this Act.

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H.R.2999Sponsor: Rep McCollum, Bill (introduced 10/1/1999)

Latest Major Action: 10/15/1999 Referred to House subcommittee

Title: To permit the Attorney General to grant relief to certain permanent resident aliens of good moral character who are adversely affected by changes made in 1996 to the definition of aggravated felony under the Immigration and Nationality Act, and to amend certain provisions of such Act relating to detention of an alien pending and after a decision on whether the alien is to be removed from the United States.

COSPONSORS(8), ALPHABETICAL [followed by Cosponsors withdrawn]: (Sort: by date)Rep Bilbray, Brian P. - 10/1/1999 Rep Diaz-Balart, Lincoln - 10/1/1999Rep Frost, Martin - 10/7/1999 Rep Ose, Doug - 10/1/1999Rep Rogan, James E. - 10/19/1999 Rep Ros-Lehtinen, Ileana - 10/1/1999Rep Wexler, Robert - 10/1/1999 Rep Wynn, Albert Russell - 10/12/1999