



Summary of the U.S. Citizenship Act 2021 Bill (Feb. 18, 2021)

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Summary of the U.S. Citizenship Act 2021 Bill (Feb. 18, 2021)

Title I: Earned Path to Citizenship and Other Reforms

Lawful Prospective Immigrant Status

- creates lawful prospective immigrant status for eligible individuals, including spouses and children of eligible noncitizens, which will permit adjustment of status (*see infra*)
- proposed permanent status will be valid for six years, and renewal thereafter upon the continued satisfaction of eligibility requirements
- status will convey lawful presence, employment authorization, and travel/reentry permission for all purposes to the noncitizen except the noncitizen will not be entitled to:
 - tax credit for health insurance coverage
 - cost-sharing provisions under the American Care Act

Adjustment of Status of Lawful Prospective Immigrant Status

- permits adjustment of status from lawful prospect immigrant status to lawful permanent resident if the noncitizen:
 - has been in lawful prospective immigrant status for at least five years;
 - remains eligible for lawful prospective immigrant status at the time of application to adjust status;
 - maintains continuous presence in the U.S.; and
 - is otherwise admissible

The DREAM Act

- creates pathway to lawful permanent resident status for eligible noncitizens who:
 - were younger than 18 when initially entered the U.S.;
 - have earned a high diploma or equivalency;
 - have completed two years at a higher education institute, earned a post-secondary degree, or earned a degree from a technical education program;
 - have earned income for relevant periods totally at least three years (time limit is reduced if enrolled in a secondary education program); and

- are otherwise admissible
- extends to spouses and children of eligible noncitizens
- separate streamlined process for individuals who have DACA

The American Promise Act

- creates pathway to lawful permanent residence for noncitizens who:
 - have been continuously present in the U.S. since Jan. 1, 2017;
 - were eligible and/or received temporary protected status or deferred enforced departure on Jan. 1, 2017; and
 - are otherwise admissible
- extends to spouses and children of eligible noncitizens
- deems temporary protected status as a lawful inspection and admission

Agricultural Workers Adjustment Act

- creates pathway to lawful permanent residence for noncitizens who:
 - during the five years preceding the date on which the noncitizen applies to adjust status, he/she performed agricultural labor/services for at least 2,3000 hours or 400 work days
- extends to spouses and children of eligible noncitizens

General Adjustment of Status Provisions

- applicable only to the above proposed adjustment of status programs
- requests Dep't of Homeland Security to set a maximum adjustment of status filing fee for a family
- requires continuous physical presence in the U.S. on Jan. 1, 2021
 - permits brief, causal, innocent departures if authorized by the Dep't of Homeland Security
 - issuance of a Notice to Appear doesn't interrupt continuous presence

Ineligibility and Inadmissibility

- applicable only to the proposed adjustment of status programs
- noncitizens inadmissible:
 - under INA §§ 212(a)(2),¹ 212(a)(3),² 212(a)(6)(E),³ 212(a)(8),⁴ 212(a)(10)(C),⁵ 212(a)(10)(E)⁶
 - if convicted of a felony
 - if convicted of three or more misdemeanors
 - excludes most marijuana offenses, non-violent civil disobedience, minor traffic offenses
 - excludes multiple offenses arising out of the same act, occurring on the same date
- noncitizens ineligible if on Jan. 1, 2021:
 - was a lawful permanent resident
 - admitted as a refugee

1 crime-related grounds
 2 security-related grounds
 3 unlawful entry and immigration-related grounds
 4 ineligible for citizenship
 5 international child abduction
 6 former U.S. citizens who renounced citizenship to avoid taxation

- granted asylum
- was in a period of authorized stay as a diplomatic or ambassador

Waivers

- applicable only to the above proposed adjustment of status programs
- creates humanitarian, family unity, and public interest inadmissibility waivers, which are to consider all mitigating and aggravating factors, including:
 - severity of underlying conduct, circumstances, or violation
 - duration of noncitizen’s residence in the U.S.
 - evidence of rehabilitation
 - extent to which noncitizen’s removal/denial of waiver will adversely affect the noncitizen or the noncitizen’s U.S. citizen or lawful permanent resident family
- available to noncitizens who have been removed/voluntarily departed the U.S. on or after Jan. 20, 2017, and who resided in the U.S. for at least three years prior to removal/departure
- waives inadmissibility under:
 - INA §§ 212(a)(2)(A),⁷ 212(a)(2)(B),⁸ 212(a)(2)(C),⁹ 212(a)(2)(D),¹⁰ 212(a)(6)(E),¹¹ 212(a)(10)(C),¹² 212(a)(10)(E)¹³
 - one misdemeanor if five years prior to the adjustment application, the noncitizen hasn’t been convicted of any offense
 - two misdemeanors if ten years prior to the adjustment application, the noncitizen hasn’t been convicted of any offense

Expungement and Sentencing

- excludes from the definition of “conviction:”
 - any dismissed, expunged, deferred, annulled, invalidated, withheld, or vacated
 - an order of probation without entry of judgment
 - any judgment on appeal or within the time to file an appeal
- imprisonment or sentence will only include the period of incarceration ordered by a court, excluding any suspended portion of it

Petty Offense Exception

- extends the petty offense exception to two convictions

Judicial Review

- expands judicial review to include questions of law (in addition to constitutional claims)

⁷ crimes involving moral turpitude and controlled substance offenses

⁸ multiple criminal convictions

⁹ controlled substance trafficking

¹⁰ prostitution and commercialized vice crimes

¹¹ unlawful entry and immigration-related grounds

¹² international child abduction

¹³ former U.S. citizens who renounced citizenship to avoid taxation

- provides the U.S. district court with jurisdiction to review denied, revoked, rescinded adjustments of status under the above programs

LIFE Act

- extends V Nonimmigrant Status (i.e., LIFE Act) to noncitizens who are approved beneficiaries of an approved Form I-130/I-140

Naturalization

- allows noncitizens to apply to naturalize after three years of maintaining lawful permanent residence

Title II: Addressing the Root Causes of Migration and Responsibly Managing the Southern Border

Development in Central America

- funds inter-agency plan to address underlying causes of migration in Central America, including increased assistance to El Salvador, Guatemala, and Honduras conditioned on each country's ability to reduce corruption, violence, and poverty
- expands investigations/intelligence to increase sanctions against foreign narcotics traffickers
- requires transnational anti-gang task forces to disrupt and dismantle gangs, including programs related to gang intervention and prevention for at-risk youth

Refugee Resettlement

- expands refugee resettle in coordination with Western Hemisphere countries by working with the UNHCR and foreign governments through diplomatic channels to support and strengthen domestic resettlement capacity, as well as meaningful internal asylum adjudication that comports with basic due process
- expands corporation with the UNHCR and Western Hemisphere countries that host Central American refugees and asylum seekers to assure that immediate protection and humanitarian needs of refugees and asylum seekers, in addition to local integration initiatives to help refugees and asylum seekers rebuild their lives

Central American Refugee Program

- creates linguistically and culturally appropriate public information campaigns in Central America to disseminate information about the dangers of travel to the U.S., immigration law and policy in the U.S., and the availability of humanitarian protections in Western Hemisphere countries
- establishes asylum processing centers in Central America to register, screen, and process refugees, as well as facilitate resettlement/relocation to the U.S. and other countries

Central American Minors Program

- allows reunification for minors from El Salvador, Honduras, and Guatemala who are children of individuals lawfully present in the U.S.

Central American Family Reunification Parole Program

- allows noncitizens in El Salvador, Honduras, and Guatemala who are the beneficiaries of approved immigrant visa petitions where the immigrant visa isn't immediately available to be paroled into the U.S.

Customs and Border Protection/Immigration and Customs Enforcement

- authorizes funding to develop and implement technology to expedite screening and identify narcotics/contraband at each land, air, and sea port of entry
- authorizes funding to improve infrastructure at ports of entry to process asylum seekers
- requires training/continued education to CBP and ICE offices regarding accountability, professional standards, and ethics
- requires issuance of Dep't of Homeland Security-wide policies governing use of force

Southern Border

- creates a Border Community Stakeholder Advisory Committee

Welfare at the Border

- provides funding to Dep't of Homeland Security and Dep't of Health and Human Services to develop guidelines and protocol for standards of care for individuals, families, and children in Dep't of Homeland Security custody

Title III: Reform of the Immigrant Visa System

Recapture of Immigrant Visas

- worldwide level of family-sponsored immigrants per year will equal 480,000 plus unused visas from previous fiscal year plus unused visa numbers from fiscal years 1992 to 2020
- worldwide level of employment-sponsored immigrants per year will equal 170,000 plus unused visas from previous fiscal year plus unused visa numbers from fiscal years 1992 to 2020
- effective date will be each fiscal year, beginning with fiscal year 2022

Family-Sponsored Per Country Limits

- increases family-sponsored per country limits

Reclassification of Relatives of U.S. Citizens

- below categories of relatives of U.S. citizens will be classified as immediate relatives:
 - spouses and minor children
 - spouses or children of accompanying/following-to-join of immediate relatives
 - spouses, children, and parents of deceased U.S. citizens

Reclassification of Relatives of Lawful Permanent Residents

- below categories of relatives will be classified as immediate relatives:
 - spouses and minor children
 - spouses or children of accompanying/following-to-join of immediate relatives
 - spouses, children, and parents of deceased lawful permanent residents
 - children born to lawful permanent resident on temporary visit abroad

Inadmissibility Bars

- repeals the three-year, ten-year, and permanent bars
- restructures inadmissibility bars where:
 - arriving noncitizen removed under INA § 235(b)(1) or § 240 who seek admission within five years of removal (or within twenty years if subsequent removal, or at any time if convicted of an aggravated felony) is inadmissible
 - noncitizen is inadmissible if seeks admission within ten years of departure where a removal order is outstanding
- willful misrepresentation of U.S. citizenship remains an inadmissibility/removability except if under twenty-one at the time of the misrepresentation

Orphans, Widow/ers

- permits noncitizen whose petitioning relative died prior to the final adjudication of the immigrant visa to continue the adjudication as if the death did not occur
- applicable to deaths of immediate relative, preference category relative, derivative beneficiary of employment-based immigrant, and spouse/child of refugee/asylee
- permits fee-less motion to reopen for noncitizens whose petitioning relative died prior to the enactment of this Act
- allows widow/ers of U.S. citizens to naturalize after three years in lawful permanent resident status

Filipino Veterans Family Reunification Act

- un/married sons and daughters of U.S. citizens whose parent naturalized pursuant to INA § 405 are exempted from the immigrant visa limit

Child Status Protection Act

- minor child's age who is following to join the K-1/K-3 noncitizen parent will be determined as of the date that the parent's petition is submitted to Dep't of Homeland Security
- if the age of a derivative child is more than twenty-one and the parent files a petition for the child, the priority date will be the original family-based petition priority date (for which the parent was the beneficiary)

Permanent Partners

- creates “permanent partner” category that is equal to “spouse”
- applicable to LIFE Act, Cuban Adjustment Act, and VAWA
- defined as individual who is:
 - at least eighteen years of age,
 - in a committed/intimate relationship with another individual who is at least eighteen years old,
 - financially interdependent,
 - not married to/in partnership with another individual,
 - unable – in the jurisdiction of his/her domicile – to marry, and
 - not a first- to third-degree blood relation
- extends to biological child of noncitizen permanent partner if the child was under eighteen when the partnership was formed

Nationality at Birth

- derived citizenship extends to child:
 - legally recognized parent-child relationship formed within the first year of child’s life without regard to genetic or gestational relationship
 - born through assisted reproductive technology regardless of genetic or gestational relationship

Religious Discrimination

- extends to nonimmigrant visas, admission/entry, or approval/revocation of immigration benefit on basis of religion, except if statutorily required

Suspension/Restriction of Entry of Class of Noncitizens

- limits the authority of POTUS to temporarily suspend/restrict class of noncitizens to protect public safety, but it must:
 - be in consultation with the Dep’ts of Homeland Security and State
 - be only to the extent required to address specific acts
 - be narrowly tailored and using the least restrictive means
 - specify the duration,
 - provide a rebuttable presumption to grant family-based and humanitarian waivers

Diversity Visa Program

- increases the program from 55,000 to 80,000 visas per annum

Employment-Based Immigration

- noncitizens who are beneficiaries of an approved immigrant visa petition with a priority date of more than ten years are exempt from numerical limitations
- increases unskilled immigrant visas from 10,000 to 40,000 per annum
- creates Regional Economic Development Immigrant Visa Pilot Program to admit 10,000 immigrants whose employment is essential to economic development of certain areas

- noncitizens on F, H-1B, L, or O visas can extend status in one-year increments if 365 days have passed since filing the labor certification or petition under INA § 203(b)

U.S. Citizenship and Integration Foundation

- creates the U.S. Citizenship and Integration Foundation to promote citizenship preparation, as well as assistance for noncitizens seeking lawful permanent resident status where founded activities include:
 - citizenship preparation and naturalization application assistance services for low-income lawful permanent resident populations
 - supporting innovative and creative solutions to naturalization barriers
 - increasing the use of, and access to, technology in citizenship preparation classes

Immigration Integration at State and Local Levels

- creates a pilot program to award grants to state and local gov'ts and other entities (including nonprofits) to set up immigrant councils to carry out programming to integrate new immigrants, including:
 - improving English skills
 - engaging caretakers with limited English proficiency in their child's education
 - improving/expanding access to workforce training programs
 - teaching U.S. history and civics
 - improving financial literacy
 - engaging communities receiving immigrants in the citizenship and civic integration process by:
 - increasing local service capacity
 - building connections between new immigrants and long-time residents
 - communicating the contributions of communities receiving new immigrants
 - engaging clients from all community sectors

English as a Gateway to Integration Grant Program

- awards to eligible entities (including nonprofits) that:
 - support English language programs to limited English-proficient individuals
 - support and promote social, economic, and civic integration of adult English language learners
 - incorporate use of technology to develop literacy skills

Workforce Development and Share Prosperity Program

- creates programming to award grant to eligible entities (including nonprofits) with expertise in workforce development and adult education

Citizenship Education Grants

- increases funding to \$25,000,000 for citizenship education and training grants

In-State Tuition

- requires that secondary education institutions offer in-state residence tuition to eligible noncitizens (i.e., individuals granted asylum, refugee status, or special immigrant status)

Citizenship Test

- deems English and civics requirements satisfied if a noncitizen submits the N-400 with evidence that he/she completed grades nine through twelve in the U.S. and graduated with a high school diploma
- waives English and civics requirements if the noncitizen:
 - can't comply with the requirements because of a physical, mental, developmental, intellectual disability
 - is older than sixty-five
- English language requirements will be waived if, at the time of application, the noncitizen:
 - is older than fifty and has been living in the U.S. for at least twenty years after being admitted for permanent residence
 - is older than fifty-five and has been living in the U.S. for at least fifteen years after being admitted for permanent residence
 - is older than sixty and has been living in the U.S. for at least ten years after being admitted for permanent residence
- civics requirement waived, on a case-by-case, for noncitizens who are older than sixty and have lived in the U.S. for at least ten years as a lawful permanent resident

Title IV: Immigration Courts, Family Values, and Vulnerable Populations

Detention Alternatives

- expands family case management programming to recently apprehended noncitizen family units
- develops additional community-based programming to promote detention alternatives
- expands contracting with nonprofit organizations to operate detention alternatives and family case management
- ensures Legal Orientation Program for noncitizens subject to detention alternatives and family case management
- other detention alternatives include expanded supervision mechanisms, including community-based supervision and support

Immigration Judges and Board Members

- increases immigration judge hiring by a minimum of fifty-five per year in 2021, 2022, 2023, and 2024
- stipulates all newly hired immigration judges and Board members must be (1) highly qualified experts on immigration law, and (2) training in conducting fair trials
- requires that newly hired immigration judges and Board members should equally draw from government attorneys and private sector attorneys
- requires mandatory sensitivity training for immigration judges and Board Members

Immigration Court and Due Process

- requires that noncitizens receive a complete copy of all documents in DHS's possession at the initiation of removal proceedings
- ensures detained noncitizens have access to counsel inside the detention facilities

Right to Counsel

- permits the government to appoint counsel – at its expense – to particular individuals in removal proceedings:
 - (1) unaccompanied minors;
 - (2) particularly vulnerable individuals (e.g., persons with disabilities; victims of abuse, torture, or violence; pregnant women)
 - (3) parents of minor U.S. citizen children
- creates an Immigration Counsel Fund to support the expense by charging a \$25 surcharge on all filing fees

Legal Orientation Program, Legal Orientation Program for Custodians, and Immigration Court Helpdesk

- ensures LOP orientations are available to all detained noncitizens regardless of immigration status, immigration history, or available relief
- ensures LOPC orientations are available to all custodians of unaccompanied minors regardless of immigration status, or available relief
- expands ICH to all immigration courts

Asylum One-Year Filing Deadline

- eliminates the OYFD
- permits, within a to-be-determined time, for noncitizens granted withholding of removal to reopen the case if asylum was denied only because of the OYFD

Asylum and Withholding of Removal EADs

- orders Dep't of Homeland Security to issue regulations to determine when an asylum seeker may file the I-765 (the time limit can't exceed 180 days of filing the I-589)
- increases validity of withholding of removal EADs to two years

U Visas

- increases the annual cap from 10,000 to 30,000
- orders Dep't of Homeland Security to issue regulations to allow noncitizens with pending U Visas to apply for EADs within 180 days of filing the I-918
- protects noncitizens with pending U Visas from detention and removal (absent national security concerns)

T Visas

- orders Dep't of Homeland Security to issue regulations to allow noncitizens with pending T Visas to apply for EADs within 180 days of filing the I-914
- protects noncitizens with pending T Visas from detention and removal (absent national security concerns)

VAWA

- protects noncitizens with pending VAWA from detention and removal (absent national security concerns)

Syrian Special Immigrant Visas

- extends the SIV program to Syrians
- includes Syrian SIVs in the refugee resettlement programming

Repatriation to El Salvador, Guatemala, and Honduras

- ensures coordination with the governments of El Salvador, Guatemala, and Honduras to:
 - (1) provide comprehensive, local reintegration services for repatriated noncitizens;
 - (2) create relevant educational/vocational training centers for repatriated noncitizens;
 - (3) promote hiring of repatriated noncitizens;
 - (4) ensure issuance of identity documents to repatriated noncitizens; and
 - (5) monitor the safety of repatriated unaccompanied minors

Title V: Employment Authorization and Protecting Workers from Exploitation

Commission on Employment Authorization

- requires the Dep'ts of Homeland Security and Labor to form a commission comprised of labor, employer, and civil rights organizations to recommend improvements to the employment verification process

Power Act

- emphasizes U visa relief for workers who suffer serious labor violations and cooperate with worker protection agencies
- protects workers who are victims of workplace retaliation from removal

Civil Penalties

- imposes additional civil penalties – up to \$5,000 per violation – on employers who violate wage/hour, labor relations, family/medical leave, OSHA, civil rights, and discrimination against undocumented workers

Workforce Protection

- reaffirms that all rights, remedies, and relief to violations of workplace rights applies to all employees regardless of immigration status

Discriminatory Employment Practices

- makes it “an unfair immigration-related employment practice” to discriminate against any individual on the basis on national origin or immigration status (excluding undocumented individuals), which includes:
 - misuse of employment verification
 - discrimination based on national origin or citizenship status
 - failure to protect personal information collected through employment verification
 - intimidations, threats, coercion, or retaliation against an individual whose rights have been violated
 - requesting documents other than those required by law
 - withholding employment record
 - withholding professional, commercial, or business license to an individual who is employment-authorized regardless of immigration status

Fairness for Farmworkers

- proposes that, beginning Jan. 1, 2022, employers must compensate farmworkers at a rate of 15% of regular employee rate for hours worked over a set minimum hours in a workweek
- amends the Migrant and Seasonal Agricultural Worker Protection Act by limiting the exemption to immediate family members, thus defining migrant worker more broadly to protect larger groups of people

Protections for Migrant and Seasonal Laborers

- imposes fines and/or incarceration for first-time and subsequent violations
- adds additional, distinct penalties for:
 - destroying identification documents
 - restricting travel
 - causing bodily injury
 - causing another’s death
 - violating record keeping/wage requirements