

106TH CONGRESS  
2D SESSION

# H. R. 5240

To amend the Immigration and Nationality Act to provide temporary protected status to certain unaccompanied alien children, to provide for the adjustment of status of aliens unlawfully present in the United States who are under 18 years of age, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2000

Mr. WU (for himself, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Ms. ROS-LEHTINEN, and Mr. DIAZ-BALART) 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 temporary protected status to certain unaccompanied alien children, to provide for the adjustment of status of aliens unlawfully present in the United States who are under 18 years of age, 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 “Alien Children Protec-  
5 tion Act of 2000”.

1 **SEC. 2. USE OF APPROPRIATE FACILITIES FOR THE DETEN-**  
2 **TION OF ALIEN CHILDREN.**

3 (a) IN GENERAL.—Except as provided in subsection  
4 (b), in the case of any alien under 18 years of age who  
5 is awaiting final adjudication of the alien’s immigration  
6 status and who does not have a parent, guardian, or rel-  
7 ative in the United States into whose custody the alien  
8 may be released, the Attorney General shall place such  
9 alien in a facility appropriate for children not later than  
10 72 hours after the Attorney General has taken custody  
11 of the alien.

12 (b) EXCEPTION.—The provisions of subsection (a) do  
13 not apply to any alien under 18 years of age who the At-  
14 torney General finds has engaged in delinquent behavior,  
15 is an escape risk, or has a security need greater than that  
16 provided in a facility appropriate for children.

17 (c) DEFINITION.—In this section, the term “facility  
18 appropriate for children” means a facility, such as foster  
19 care or group homes, operated by a private nonprofit orga-  
20 nization, or by a local governmental entity, with experience  
21 and expertise in providing for the legal, psychological, edu-  
22 cational, physical, social, nutritional, and health require-  
23 ments of children. The term “facility appropriate for chil-  
24 dren” does not include any facility used primarily to house  
25 adults or delinquent minors.

1 **SEC. 3. ADJUSTMENT TO PERMANENT RESIDENT STATUS.**

2 Section 245 of the Immigration and Nationality Act  
3 (8 U.S.C. 1255) is amended by adding at the end the fol-  
4 lowing:

5 “(l)(1) The Attorney General may, in the Attorney  
6 General’s discretion, adjust the status of an alien under  
7 18 years of age (or who was under 18 years of age when  
8 taken into Government custody) who has no lawful immi-  
9 gration status in the United States to that of an alien  
10 lawfully admitted for permanent residence if—

11 “(A)(i) the alien (or a parent or legal guardian  
12 acting on the alien’s behalf) has applied for the sta-  
13 tus; and

14 “(ii) the alien has resided in the United States  
15 for a period of 5 consecutive years; or

16 “(B)(i) no parent or legal guardian requests the  
17 alien’s return to the country of the parent’s or  
18 guardian’s domicile, or with respect to whom the At-  
19 torney General finds that returning the child to his  
20 or her country of origin would subject the child to  
21 mental or physical abuse; and

22 “(ii) the Attorney General determines that it is  
23 in the best interests of the alien to remain in the  
24 United States notwithstanding the fact that the  
25 alien is not eligible for asylum protection under sec-  
26 tion 208 or protection under section 101(a)(27)(J).

1       “(2) The Attorney General shall make a determina-  
2 tion under paragraph (1)(B)(ii) based on input from a  
3 person or entity that is not employed by or a part of the  
4 Service and that is qualified to evaluate children and opine  
5 as to what is in their best interest in a given situation.

6       “(3) Upon the approval of adjustment of status of  
7 an alien under paragraph (1), the Attorney General shall  
8 record the alien’s lawful admission for permanent resi-  
9 dence as of the date of such approval, and the Secretary  
10 of State shall reduce by one the number of visas author-  
11 ized to be issued under sections 201(d) and 203(b)(4) for  
12 the fiscal year then current.

13       “(4) Not more than 500 aliens may be granted per-  
14 manent resident status under this subsection in any fiscal  
15 year.”.

16 **SEC. 4. ASSIGNMENT OF GUARDIANS AD LITEM TO ALIEN**  
17 **CHILDREN.**

18       (a) ASSIGNMENT.—Whenever a covered alien is a  
19 party to an immigration proceeding, the Attorney General  
20 shall assign such covered alien a child welfare professional  
21 or other individual who has received training in child wel-  
22 fare matters and who is recognized by the Attorney Gen-  
23 eral as being qualified to serve as a guardian ad litem (in  
24 this section referred to as the “guardian”). The guardian

1 shall not be an employee of the Immigration and Natu-  
2 ralization Service.

3 (b) RESPONSIBILITIES.—The guardian shall ensure  
4 that—

5 (1) the covered alien’s best interests are pro-  
6 moted while the covered alien participates in, or is  
7 subject to, the immigration proceeding; and

8 (2) the covered alien understands the pro-  
9 ceeding.

10 (c) REQUIREMENTS ON THE ATTORNEY GENERAL.—

11 The Attorney General shall serve notice of all matters af-  
12 fecting a covered alien’s immigration status (including all  
13 papers filed in an immigration proceeding) on the covered  
14 alien’s guardian.

15 (d) DEFINITION.—In this section, the term “covered  
16 alien” means an alien—

17 (1) who is under 18 years of age;

18 (2) who has no lawful immigration status in the  
19 United States and is not within the physical custody  
20 of a parent or legal guardian; and

21 (3) whom no parent or legal guardian requests  
22 the person’s return to the country of the parent’s or  
23 guardian’s domicile or with respect to whom the At-  
24 torney General finds that returning the child to his

1 or her country of origin would subject the child to  
2 physical or mental abuse.

3 **SEC. 5. SENSE OF CONGRESS.**

4 Congress commends the Immigration and Naturaliza-  
5 tion Service for its issuance of its “Guidelines for Chil-  
6 dren’s Asylum Claims”, dated December 1998, and en-  
7 courages and supports the Service’s implementation of  
8 such guidelines in an effort to facilitate the handling of  
9 children’s asylum claims.

10 **SEC. 6. GENERAL ACCOUNTING OFFICE REPORT.**

11 The General Accounting Office shall prepare a report  
12 to Congress regarding whether and to what extent U.S.  
13 Embassy and consular officials are fulfilling their obliga-  
14 tion to reunify, on a priority basis, children in foreign  
15 countries whose parent or parents are legally present in  
16 the United States.

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