

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for a process for granting lawful permanent resident status to aliens from certain countries who meet specified eligibility requirements.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by _____

Viz:

1 Add at the end the following:

2 **SEC. 7. SAFE ENVIRONMENT FOR COUNTRIES UNDER RE-**

3 **PRESSION AND EMERGENCY.**

4 (a) **ADJUSTMENT OF STATUS OF CERTAIN FOREIGN**

5 **NATIONALS.—**

6 (1) **ADJUSTMENT OF STATUS.—**

7 (A) **AUTHORIZATION.—**

8 (i) **IN GENERAL.—**Notwithstanding

9 section 245(c) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1255(c)), the status
2 of any alien described in paragraph (2)(A)
3 shall be adjusted by the Secretary of
4 Homeland Security to that of an alien law-
5 fully admitted for permanent residence if
6 the alien—

7 (I) is not inadmissible under
8 paragraph (2) or (3) of section 212(a)
9 of such Act (8 U.S.C. 1182(a));

10 (II) is not deportable under para-
11 graph (2), (3), or (4) of section
12 237(a) of such Act (8 U.S.C.
13 1227(a)); and

14 (III) is not described in section
15 208(b)(2)(A)(i) of such Act (8 U.S.C.
16 1158(b)(2)(A)(i)).

17 (ii) TREATMENT OF EXPUNGED CON-
18 VICTIONS.—For purposes of this section,
19 the term “conviction” does not include a
20 judgment that has been expunged or set
21 aside that resulted in a rehabilitative dis-
22 position or the equivalent.

23 (B) APPLICATION.—

24 (i) IN GENERAL.—Except as provided
25 in clause (ii), any alien who is physically

1 present in the United States may apply for
2 adjustment of status under this subsection.

3 (ii) APPLICATIONS FROM OUTSIDE
4 UNITED STATES FOR CERTAIN ALIENS
5 PREVIOUSLY REMOVED OR WHO DE-
6 PARTED.—In the case of an alien who, on
7 or after September 28, 2016, was removed
8 from the United States or departed pursu-
9 ant to an order of voluntary departure, the
10 alien may apply for adjustment of status
11 under this section from outside the United
12 States if, on the day before the date on
13 which the alien was so removed or so de-
14 parted, the alien was an alien described in
15 paragraph (2)(A).

16 (iii) FEE.—

17 (I) IN GENERAL.—The Secretary
18 of Homeland Security shall require
19 any alien applying for permanent resi-
20 dent status under this subsection to
21 pay a reasonable fee that is commen-
22 surate with the cost of processing the
23 application. Such fee may not exceed
24 \$1,140.

1 (II) FEE EXEMPTION.—An appli-
2 cant may be exempted from paying
3 the application fee required under
4 subclause (I) if the applicant—

5 (aa) is younger than 18
6 years of age;

7 (bb) received total income,
8 during the 12-month period im-
9 mediately preceding the date on
10 which the applicant files an ap-
11 plication under this subsection,
12 that is less than 150 percent of
13 the Federal poverty line;

14 (cc) is in foster care or oth-
15 erwise lacking any parental or
16 other familial support; or

17 (dd) cannot care for himself
18 or herself because of a serious,
19 chronic disability.

20 (iv) RELATIONSHIP OF APPLICATION
21 TO CERTAIN ORDERS.—

22 (I) MOTION NOT REQUIRED.—An
23 alien described in clause (i) or (ii) who
24 has been the subject of an order of re-
25 moval or voluntary departure may not

1 be required, as a condition of submit-
2 ting or approving an application
3 under such clause, to file a motion to
4 reopen, reconsider, or vacate such
5 order.

6 (II) APPROVAL.—If the Secretary
7 of Homeland Security approves an ap-
8 plication submitted by an alien under
9 this subparagraph, the Secretary shall
10 cancel any order of removal or vol-
11 untary departure to which the alien is
12 or was subject.

13 (III) DENIAL.—If the Secretary
14 of Homeland Security renders a final
15 administrative decision to deny an ap-
16 plication submitted by an alien under
17 this subparagraph, any order of re-
18 moval or voluntary departure to which
19 the alien is subject shall be effective
20 and enforceable to the same extent as
21 if such application had not been
22 made.

23 (2) ALIENS ELIGIBLE FOR ADJUSTMENT OF
24 STATUS.—

1 (A) IN GENERAL.—An alien is described in
2 this paragraph if the alien—

3 (i) is a national of a foreign state that
4 was at any time designated under section
5 244(b) of the Immigration and Nationality
6 Act (8 U.S.C. 1254a(b));

7 (ii)(I) is in temporary protected status
8 under section 244 of the Immigration and
9 Nationality Act (8 U.S.C. 1254a);

10 (II) held temporary protected status
11 as a national of a designated country listed
12 in clause (i);

13 (III) qualified for temporary protected
14 status on the date on which the last des-
15 ignation or extension was made by the Sec-
16 retary of Homeland Security; or

17 (IV) was present in the United States
18 pursuant to a grant of deferred enforced
19 departure that had been extended beyond
20 September 28, 2016;

21 (iii)(I) has been continuously present
22 in the United States for not less than 3
23 years and is physically present in the
24 United States on the date on which the

1 alien files an application for adjustment of
2 status under this subsection; or

3 (II) in the case of an alien who, on or
4 after September 28, 2016, was removed
5 from the United States or departed pursu-
6 ant to an order of voluntary departure,
7 was continuously present in the United
8 States for a period of not less than 3 years
9 before the date on which the alien was so
10 removed or so departed; and

11 (iv) passes all applicable criminal and
12 national security background checks.

13 (B) SHORT ABSENCES.—An alien shall not
14 be considered to have failed to maintain contin-
15 uous physical presence in the United States
16 under subparagraph (A)(iii) by reason of an ab-
17 sence, or multiple absences, from the United
18 States for any period or periods that do not ex-
19 ceed, in the aggregate, 180 days.

20 (C) WAIVER AUTHORIZED.—Notwith-
21 standing any provision of the Immigration and
22 Nationality Act (8 U.S.C. 1101 et seq.), an
23 alien who fails to meet the continuous physical
24 presence requirement under subparagraph
25 (A)(iii) shall be considered eligible for adjust-

1 ment of status under this subsection if the At-
2 torney General or the Secretary of Homeland
3 Security, as applicable, determines that the re-
4 moval or continued absence of the alien from
5 the United States, as applicable, would result in
6 extreme hardship to the alien or to the alien's
7 spouse, children, parents, or domestic partner.

8 (3) STAY OF REMOVAL.—

9 (A) IN GENERAL.—Except as provided in
10 subparagraph (B), an alien who is subject to a
11 final order of removal may not be removed if
12 the alien—

13 (i) has a pending application under
14 paragraph (1); or

15 (ii)(I) is prima facie eligible to file an
16 application under paragraph (1); and

17 (II) indicates that he or she intends to
18 file such an application.

19 (B) EXCEPTION.—Subparagraph (A) shall
20 not apply to any alien whose application under
21 paragraph (1) has been denied by the Secretary
22 of Homeland Security in a final administrative
23 determination.

24 (C) DURING CERTAIN PROCEEDINGS.—

1 (i) IN GENERAL.—Except as provided
2 in clause (ii) and notwithstanding any pro-
3 vision of the Immigration and Nationality
4 Act (8 U.S.C. 1101 et seq.), the Secretary
5 of Homeland Security may not order any
6 alien to be removed from the United States
7 if the alien raises, as a defense to such an
8 order, the eligibility of the alien to apply
9 for adjustment of status under paragraph
10 (1).

11 (ii) EXCEPTION.—Clause (i) shall not
12 apply to any alien whose application under
13 paragraph (1) has been denied by the Sec-
14 retary of Homeland Security in a final ad-
15 ministrative determination.

16 (D) WORK AUTHORIZATION.—The Sec-
17 retary of Homeland Security—

18 (i) shall authorize any alien who has
19 applied for adjustment of status under
20 paragraph (1) to engage in employment in
21 the United States while such application is
22 pending; and

23 (ii) may provide such alien with an
24 “employment authorized” endorsement or

1 other appropriate document signifying such
2 employment authorization.

3 (4) ADVANCE PAROLE.—

4 (A) IN GENERAL.—During the period be-
5 ginning on the date on which an alien applies
6 for adjustment of status under this section and
7 ending on the date on which the Secretary of
8 Homeland Security makes a final decision re-
9 garding such application, the alien shall be eli-
10 gible to apply for advance parole.

11 (B) APPLICABILITY.—Section 101(g) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1101(g)) shall not apply to an alien granted ad-
14 vance parole under this paragraph.

15 (5) ADJUSTMENT OF STATUS FOR SPOUSES
16 AND CHILDREN.—

17 (A) IN GENERAL.—Notwithstanding sec-
18 tion 245(c) of the Immigration and Nationality
19 Act (8 U.S.C. 1255(c)) and except as provided
20 in subparagraphs (B) and (C), the Secretary of
21 Homeland Security shall adjust the status of an
22 alien to that of an alien lawfully admitted for
23 permanent residence if the alien—

24 (i) is the spouse, domestic partner,
25 child, or unmarried son or daughter of an

1 alien whose status has been adjusted to
2 that of an alien lawfully admitted for per-
3 manent residence under paragraph (1);

4 (ii) is physically present in the United
5 States on the date on which the alien files
6 an application for such adjustment of sta-
7 tus; and

8 (iii) is otherwise eligible to receive an
9 immigrant visa and is otherwise admissible
10 to the United States for permanent resi-
11 dence.

12 (B) CONTINUOUS PRESENCE REQUIRE-
13 MENT.—

14 (i) IN GENERAL.—The status of an
15 unmarried son or daughter referred to in
16 subparagraph (A)(i) may not be adjusted
17 under subparagraph (A) until such son or
18 daughter establishes that he or she has
19 been physically present in the United
20 States for at least 1 year.

21 (ii) SHORT ABSENCES.—An alien shall
22 not be considered to have failed to main-
23 tain continuous physical presence in the
24 United States under clause (i) by reason of
25 an absence, or multiple absences, from the

1 United States for any period or periods
2 that do not exceed, in the aggregate, 180
3 days.

4 (C) WAIVER.—In determining eligibility
5 and admissibility under subparagraph (A)(iii),
6 the grounds for inadmissibility under para-
7 graphs (4), (5), (6), (7)(A), and (9) of section
8 212(a) of the Immigration and Nationality Act
9 (8 U.S.C. 1182(a)) shall not apply.

10 (6) CLARIFICATION OF INSPECTION AND ADMIS-
11 SION UNDER TEMPORARY PROTECTED STATUS.—
12 Section 244(f)(4) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1254a(f)(4)) is amended by in-
14 sserting “as having been inspected and admitted into
15 the United States, and” after “considered”.

16 (7) AVAILABILITY OF ADMINISTRATIVE RE-
17 VIEW.—The Secretary of Homeland Security shall
18 provide applicants for adjustment of status under
19 paragraph (1) the same right to, and procedures for,
20 administrative review as are provided to—

21 (A) applicants for adjustment of status
22 under section 245 of the Immigration and Na-
23 tionality Act (8 U.S.C. 1255); or

1 (B) aliens who are subject to removal pro-
2 ceedings under section 240 of such Act (8
3 U.S.C. 1229a).

4 (8) EXCEPTIONS TO NUMERICAL LIMITA-
5 TIONS.—The numerical limitations set forth in sec-
6 tions 201 and 202 of the Immigration and Nation-
7 ality Act (8 U.S.C. 1151 and 1152) shall not apply
8 to aliens whose status is adjusted pursuant to para-
9 graph (1).

10 (b) CONFIDENTIALITY OF INFORMATION.—

11 (1) IN GENERAL.—The Secretary of Homeland
12 Security may not disclose or use information pro-
13 vided in applications filed under subsection (a) for
14 the purpose of immigration enforcement.

15 (2) REFERRALS PROHIBITED.—The Secretary
16 may not refer any individual who has been granted
17 permanent resident status under subsection (a) to
18 U.S. Immigration and Customs Enforcement, U.S.
19 Customs and Border Protection, or any designee of
20 either such entity.

21 (3) LIMITED EXCEPTION.—Notwithstanding
22 paragraphs (1) and (2), information provided in an
23 application for permanent resident status under sub-
24 section (2) may be shared with Federal security and
25 law enforcement agencies—

1 (A) for assistance in the consideration of
2 an application for permanent resident status
3 under such subsection;

4 (B) to identify or prevent fraudulent
5 claims;

6 (C) for national security purposes; or

7 (D) for the investigation or prosecution of
8 any felony not related to immigration status.

9 (4) PENALTY.—Any person who knowingly
10 uses, publishes, or permits information to be exam-
11 ined in violation of this section shall be fined not
12 more than \$10,000.

13 (c) ADDITIONAL REPORTING REQUIREMENTS RE-
14 GARDING FUTURE DISCONTINUED ELIGIBILITY OF
15 ALIENS FROM COUNTRIES CURRENTLY LISTED UNDER
16 TEMPORARY PROTECTED STATUS.—Section 244(b)(3) of
17 the Immigration and Nationality Act (8 U.S.C.
18 1254a(b)(3)) is amended—

19 (1) in subparagraph (A)—

20 (A) by striking “Attorney General” each
21 place such term appears and inserting “Sec-
22 retary of Homeland Security”; and

23 (B) by inserting “(including a rec-
24 ommendation from the Secretary of State that
25 is received by the Secretary of Homeland Secu-

1 rity not later than 90 days before the end of
2 such period of designation)” after “Govern-
3 ment”; and

4 (2) in subparagraph (B)—

5 (A) by striking “If the Attorney General”
6 and inserting the following:

7 “(i) IN GENERAL.—If the Secretary of
8 Homeland Security”; and

9 (B) in clause (i), as designated by subpara-
10 graph (A), by striking “Attorney General” and
11 inserting “Secretary”; and

12 (C) by adding at the end the following:

13 “(ii) REPORT.—Not later than 3 days
14 after the publication of the Secretary’s de-
15 termination in the Federal Register that a
16 country’s designation under paragraph (1)
17 is being terminated, the Secretary shall
18 submit a report to the Committee on the
19 Judiciary of the Senate and the Committee
20 on the Judiciary of the House of Rep-
21 resentatives that includes—

22 “(I) an explanation of the event
23 or events that initially prompted such
24 country’s designation under para-
25 graph (1);

1 “(II) the progress the country
2 has made in remedying the designa-
3 tion under paragraph (1), including
4 any significant challenges or short-
5 comings that have not been addressed
6 since the initial designation;

7 “(III) a statement indicating
8 whether the country has requested a
9 designation under paragraph (1), a
10 redesignation under such paragraph,
11 or an extension of such designation;
12 and

13 “(IV) an analysis, with applicable
14 and relevant metrics, as determined
15 by the Secretary, of the country’s abil-
16 ity to repatriate its nationals, includ-
17 ing—

18 “(aa) the country’s financial
19 ability to provide for its repatri-
20 ated citizens;

21 “(bb) the country’s financial
22 ability to address the initial des-
23 ignation under paragraph (1)
24 without foreign assistance;

1 “(cc) the country’s gross do-
2 mestic product and per capita
3 gross domestic product per cap-
4 ita;

5 “(dd) an analysis of the
6 country’s political stability and
7 its ability to be economically self-
8 sufficient without foreign assist-
9 ance;

10 “(ee) the economic and so-
11 cial impact the repatriation of
12 nationals in possession of tem-
13 porary protected status would
14 have on the recipient country;
15 and

16 “(ff) any additional metrics
17 the Secretary considers nec-
18 essary.”.

19 (d) OTHER MATTERS.—

20 (1) APPLICATION OF IMMIGRATION AND NA-
21 TIONALITY ACT PROVISIONS.—Except as otherwise
22 specifically provided in this section, the definitions
23 under section 101 of the Immigration and Nation-
24 ality Act (8 U.S.C. 1101) shall apply when such
25 terms are used in this section.

1 (2) SAVINGS PROVISION.—Nothing in this sec-
2 tion may be construed to repeal, amend, alter, mod-
3 ify, effect, or restrict the powers, duties, functions,
4 or authority of the Secretary of Homeland Security
5 in the administration and enforcement of the immi-
6 gration laws.

7 (3) ELIGIBILITY FOR OTHER IMMIGRATION
8 BENEFITS.—Any alien who is eligible to be granted
9 the status of an alien lawfully admitted for perma-
10 nent residence under subsection (a) may not be pre-
11 cluded from seeking such status under any other
12 provision of law for which the alien may otherwise
13 be eligible.