

## Twitter Thread by Aaron Reichlin-Melnick



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**We finally have the U.S. Citizenship Act Bill Text! I'm going to go through some portions of the bill right now and highlight some of the major changes and improvements that it would make to our immigration system.**

### **Thread:**

The immigration bill text is out!

Senate version: <https://t.co/aJUmtVW6lr>

House version: <https://t.co/JMKjQaDi04>

Excuse me while I go at this with a highlighter.

— Nicole Narea (@nicolenarea) February 18, 2021

First the Bill makes a series of promises changes to the way we talk about immigrants and immigration law.

Gone would be the term "alien" and in its place is "noncitizen."

Also gone would be the term "alienage," replaced with "noncitizenship."

10 **SEC. 3. TERMINOLOGY WITH RESPECT TO NONCITIZENS.**

11 (a) IMMIGRATION AND NATIONALITY ACT.—

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

14 (A) in section 101(a) (8 U.S.C. 1101(a))—

15 (i) by striking paragraph (3) and in-  
16 serting the following:

17 “(3) NONCITIZEN.—The term ‘noncitizen’ means any  
18 person not a citizen or national of the United States.”;  
19 and

20 (ii) by adding at the end the fol-  
21 lowing:

22 “(53) NONCITIZENSHIP.—The term ‘noncitizenship’  
23 means the condition of being a noncitizen.”;

24 (B) by striking “an alien” each place it ap-  
25 pears and inserting “a noncitizen”;

Now we get to the "earned path to citizenship" for all undocumented immigrants present in the United States on January 1, 2021.

Under this bill, anyone who satisfies the eligibility criteria for a new "lawful prospective immigrant status" can come out of the shadows.

1 **TITLE I—EARNED PATH TO CITI-**  
2 **ZENSHIP AND OTHER RE-**  
3 **FORMS**

4 **Subtitle A—Earned Path to**  
5 **Citizenship**

6 **SEC. 1101. LAWFUL PROSPECTIVE IMMIGRANT STATUS.**

7 (a) IN GENERAL.—Chapter 5 of title II of the Immi-  
8 gration and Nationality Act (8 U.S.C. 1255 et seq.) is  
9 amended by inserting after section 245A the following:

So, what are the eligibility criteria for becoming a "lawful prospective immigrant status"? Those are in a new INA 245G and include:

- Payment of the appropriate fees
- Continuous presence after January 1, 2021
- Not having certain criminal record (but there's a waiver)

3           “(2) PAYMENT OF FEES.—  
4           “(A) IN GENERAL.—A noncitizen who is  
5           18 years of age or older shall pay to the De-  
6           partment of Homeland Security a processing  
7           fee in an amount determined by the Secretary.  
8           “(B) RECOVERY OF COSTS.—The proc-  
9           essing fee referred to in subparagraph (A) shall  
10          be set at a level sufficient to recover the cost  
11          of processing the application.  
12          “(C) AUTHORITY TO LIMIT FEES.—The  
13          Secretary may—  
14                  “(i) limit the maximum processing fee  
15                  payable under this paragraph by a family;  
16                  and  
17                  “(ii) for good cause, exempt individual  
18                  applicants or defined classes of applicants  
19                  from the requirement to pay fees under  
20                  this paragraph.  
21          “(D) DEPOSIT.—Fees collected under this  
22          paragraph shall be deposited into the Immigra-  
23          tion Examinations Fee Account pursuant to  
24          section 286(m).

After a person has been in "lawful prospective immigrant status" for at least 5 years, they can apply for a green card, so long as they still pass background checks and have paid back any taxes they are required to do so by law.

However! Some groups don't have to wait 5 years.

13 **“SEC. 245C. ADJUSTMENT OF STATUS OF LAWFUL PRO-**  
14 **SPECTIVE IMMIGRANTS.**

15       “(a) REQUIREMENTS.—Notwithstanding any other  
16 provision of law, the Secretary may adjust the status of  
17 a lawful prospective immigrant to that of a lawful perma-  
18 nent resident if the lawful prospective immigrant—

19               “(1) subject to subsection (b), satisfies the eli-  
20 gibility requirements set forth in section 245G(b),  
21 including all criminal and national security back-  
22 ground checks and the payment of all applicable  
23 fees;

24               “(2) submits an application pursuant to the  
25 procedures under section 245G(b)(1);

Specifically, the bill incorporates the Dream Act, the American Promise Act, and the Agricultural Workers Act.

People who qualify or have DACA, who have TPS, and who have been farmworkers for at least five years, can apply directly for a green card with the 5 year wait.

1 **"SEC. 245D. ADJUSTMENT OF STATUS FOR CERTAIN NON-**  
 2 **CITIZENS WHO ENTERED THE UNITED**  
 3 **STATES AS CHILDREN.**

4 "(a) REQUIREMENTS.—Notwithstanding any other  
 5 provision of law, the Secretary may grant lawful perma-  
 6 nent resident status to a noncitizen if the noncitizen—

7 "(1) satisfies the eligibility requirements set  
 8 forth in section 245G(b), including all criminal and  
 9 national security background checks and the pay-  
 10 ment of all applicable fees;

11 "(2) submits an application pursuant to the  
 12 procedures under section 245G(b)(1);

13 "(3) was younger than 18 years of age on the  
 14 date on which the noncitizen initially entered the  
 15 United States;

16 "(4) has earned a high school diploma, a com-  
 17 mensurate alternative award from a public or private  
 18 high school or secondary school, a general education  
 19 development certificate recognized under State law,  
 20 or a high school equivalency diploma in the United  
 21 States;

22 "(5)(A) has obtained a degree from an institu-  
 23 tion of higher education, or has completed at least  
 24 2 years, in good standing, of a program in the

There ARE some individuals who are present on visas who would be able to apply for "lawful prospective immigrant status," including:

- Spouses/children of qualified individuals
- H-2As
- Anyone who has "has engaged in essential critical infrastructure labor or services"

1           “(A) IN GENERAL.—A noncitizen shall be  
2 ineligible for status under section 245B, 245C,  
3 245D, 245E, and 245F if on January 1, 2021,  
4 the noncitizen was any of the following:

5                   “(i) A lawful permanent resident.

6                   “(ii) A noncitizen admitted as a ref-  
7 ugee under section 207 or granted asylum  
8 under section 208.

9                   “(iii) A noncitizen who, according to  
10 the records of the Secretary or the Sec-  
11 retary of State, is in a period of authorized  
12 stay in a nonimmigrant status described in  
13 section 101(a)(15)(A), other than—

14                   “(I) a spouse or a child of a non-  
15 citizen eligible for status under section  
16 245B, 245C, 245D, 245E, or 245F;

17                   “(II) a noncitizen considered to  
18 be in a nonimmigrant status solely by  
19 reason of section 702 of the Consoli-  
20 dated Natural Resources Act of 2008  
21 (Public Law 110-229; 122 Stat. 854)  
22 or section 244(f)(4) of this Act;

Going back to the criminal bars, first the law excludes those who are inadmissible for pretty much all criminal-related grounds of inadmissibility, or any felony, or 3 misdemeanors (excluding most cannabis-related offenses).

However! There are waivers.

10 “(c) GROUNDS FOR INELIGIBILITY.—  
11 “(1) CERTAIN GROUNDS OF INADMIS-  
12 SIBILITY.—  
13 “(A) IN GENERAL.—Subject to subpara-  
14 graph (B), a noncitizen shall be ineligible for  
15 status under section 245B, 245C, 245D, 245E,  
16 and 245F if the noncitizen—  
17 “(i) is inadmissible under paragraph  
18 (2), (3), (6)(E), (8), (10)(C), or (10)(E) of  
19 section 212(a);  
20 “(ii) has been convicted of a felony of-  
21 fense (excluding any offense under State  
22 law for which an essential element in the  
23 noncitizen’s immigration status); or  
24 “(iii) has been convicted of 3 or more  
25 misdemeanor offenses (excluding simple

Specifically most of the criminal-related inadmissibility-related grounds are waivable, although not all of them. Even some felonies (but not all) would be waivable if they had occurred at least 10 years in the past (5 for misdemeanors) and there have been no new convictions.



13 “(B) WAIVERS.—  
14 “(i) IN GENERAL.—For purposes of  
15 subparagraph (A), the Secretary may, for  
16 humanitarian purposes, family unity, or if  
17 otherwise in the public interest—  
18 “(I) waive inadmissibility  
19 under—  
20 “(aa) subparagraphs (A),  
21 (C), and (D) of section  
22 212(a)(2); and  
23 “(bb) paragraphs (6)(E),  
24 (8), (10)(C), and (10)(E) of such  
25 section;

Importantly, anyone who was facially eligible for this new status could NOT be deported while they went through the process.

14           “(1) OPPORTUNITY TO APPLY AND LIMITATION  
15       ON REMOVAL.—A noncitizen who appears to be  
16       prima facie eligible for status under section 245B,  
17       245C, 245D, 245E, or 245F shall be given a reason-  
18       able opportunity to apply for such adjustment of sta-  
19       tus and, if the noncitizen applies within a reasonable  
20       period, the noncitizen shall not be removed before—  
21           “(A) the Secretary has issued a final deci-  
22       sion denying relief;  
23           “(B) a final order of removal has been  
24       issued; and

I'm going to take a break on this thread now because there is a LOT here and otherwise this thread is going to be 500 tweets long.

Will come back to the bill in a little bit later.

Back to the bill! There's a whole lot of provisions about judicial review and challenges to the system of implementing the new path to the system which I'm going to skip, because frankly it's only a tiny few people who will care enough to dig into it (pages 58-61, folks).

Continuing with the path to citizenship, the bill would allow anyone who applies for the status to work legally in the interim while the government processed the application—which given the number of applicants could be a long time.

1           “(B) EMPLOYMENT AUTHORIZATION.—A  
2           document issued under subparagraph (A)  
3           shall—  
4           “(i) serve as interim proof of the non-  
5           citizen’s authorization to accept employ-  
6           ment in the United States; and  
7           “(ii) be accepted by an employer as  
8           evidence of employment authorization  
9           under section 274A(b)(1)(C) pending a  
10          final decision on the application.

Moving now to the changes to the legal immigration system! First, we have the expansion of "V visas" to any family-sponsored immigrants, allowing them to come to the US in the meantime, rather than wait decades outside the United States for the visa to become available.

19                   **Subtitle B—Other Reforms**

20   **SEC. 1201. V NONIMMIGRANT VISAS.**

21           (a)       NONIMMIGRANT       ELIGIBILITY.—Section  
22   101(a)(15)(V) of the Immigration and Nationality Act (8  
23   U.S.C. 1101(a)(15)(V)) is amended to read as follows:

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1                   “(V) subject to section 214(q)(1), a noncit-  
2           izen who is the beneficiary of an approved peti-  
3           tion under section 203(a) or 245B.”.

4           (b) EMPLOYMENT AND PERIOD OF ADMISSION OF  
5   NONIMMIGRANTS       DESCRIBED       IN       SECTION  
6   101(A)(15)(V).—Section 214(q)(1) of the Immigration  
7   and Nationality Act (8 U.S.C. 1184(q)(1)) is amended to  
8   read as follows:

Next, we have a HUGE provision redefining what a "conviction" is under immigration law.

It would exclude any convictions which were "dismissed, expunged, deferred, annulled, invalidated, withheld, or vacated"—all of which currently count to block people.

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20 **SEC. 1202. EXPUNGEMENT AND SENTENCING.**

21 (a) **DEFINITION OF CONVICTION.**—Section  
22 101(a)(48) of the Immigration and Nationality Act (8  
23 U.S.C. 1101(a)(48)) is amended to read as follows:

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1 “(48)(A) The term ‘conviction’ means, with respect  
2 to a noncitizen, a formal judgment of guilt of the noncit-  
3 izen entered by a court.

The bill also resurrects an old provision of immigration law killed decades ago called "judicial recommendations against removal."

These allow a criminal court judge to declare that a person's conviction should not provide grounds to deport them—with ICE allowed to weigh in.

1       (b) JUDICIAL RECOMMENDATION AGAINST RE-  
2 MOVAL.—The grounds of inadmissibility and deportability  
3 under sections 212(a)(2) and 237(a)(2) of the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1182(a)(2) and  
5 1227(a)(2)) shall not apply to a noncitizen with a criminal  
6 conviction if, not later than 180 days after the date on  
7 which the noncitizen is sentenced, and after having pro-  
8 vided notice and an opportunity to respond to representa-  
9 tives of the State concerned, the Secretary, and pros-  
10 ecuting authorities, the sentencing court issues a rec-  
11 ommendation to the Secretary that the noncitizen not be  
12 removed on the basis of the conviction.

For those interested in crimmigration issues, the bill also expands the definition of a "petty offense" that doesn't provide grounds for deportation, expanding it to two offenses, not just one.

13 **SEC. 1203. PETTY OFFENSES.**

14 Section 212(a)(2)(A)(ii) of the Immigration and Na-  
15 tionality Act (8 U.S.C. 1182(a)(2)(A)(ii)) is amended—

16 (1) in the matter preceding subclause (I), by  
17 striking “to a noncitizen who committed only one  
18 crime”;

19 (2) in subclause (I), by inserting “the noncit-  
20 izen committed only one crime,” before “the crime  
21 was committed when”; and

22 (3) by amending subclause (II) to read as fol-  
23 lows:

24 “(II) the noncitizen committed  
25 not more than 2 crimes, the maximum

Another very important provision restores a general waiver for most grounds of deportability and inadmissibility, that would apply both in immigration court and for the adjudication of benefits.

This would restore authority killed in 1996 by a "tough on crime" Congress.

15 **SEC. 1204. RESTORING FAIRNESS TO ADJUDICATIONS.**

16 (a) WAIVER OF GROUNDS OF INADMISSIBILITY.—  
17 Section 212 of the Immigration and Nationality Act (8  
18 U.S.C. 1182) is amended by inserting after subsection (b)  
19 the following:

20 “(c) HUMANITARIAN, FAMILY UNITY, AND PUBLIC  
21 INTEREST WAIVER.—

22 “(1) IN GENERAL.—Notwithstanding any other  
23 provision of law, except section 245G(c)(1)(B), the  
24 Secretary of Homeland Security or the Attorney  
25 General may waive the operation of any 1 or more

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