

Side by Side: Temporary Protected Status (TPS), the American Promise Act of 2017, the American Dream and Promise Act of 2019, and the SECURE Act of 2019

Last updated JUNE 21, 2019

	Temporary Protected Status (TPS) (INA § 244)	American Promise Act (APA) of 2017 (H.R. 4253)	American Dream and Promise Act of 2019 (H.R. 6) ¹	Safe Environment from Countries Under Repression and Emergency (SECURE) Act of 2019
Pathway to lawful permanent resident (LPR) status?	No, TPS does not provide a direct pathway to LPR status. However, it does not preclude pursuing a legal pathway through other channels under existing law.	Yes. The bill provides a direct pathway to LPR status.	Yes. The bill provides a direct pathway to LPR status and specifies that it does not preclude adjustment through pathways outside of the bill's provisions.	Yes. The bill provides a direct pathway to LPR status and specifies that it does not preclude adjustment through pathways outside of the bill's provisions.
Nationality (or, for stateless people, country of last habitual residence)	Be a national of a country designated for TPS or a person without nationality who last habitually resided in the designated country (currently includes El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen; termination of TPS designation of the majority of these countries announced under the Trump administration).	TPS: Be a national of any country that had TPS designation as of Jan. 1, 2017 (El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen. Does <i>not</i> ensure coverage to those from Liberia, Sierra Leone, or Guinea). DED: Be a national of any country that had been designated for deferred enforced departure (DED) as of Jan. 1, 2017 (Liberia).	TPS: Be a national of any country that had TPS designation on Jan. 1, 2017 ² (includes El Salvador, Guinea, Haiti, Honduras, Liberia, Nepal, Nicaragua, Somalia, Sierra Leone, Sudan, South Sudan, Syria, and Yemen). DED: Be a national of any country whose nationals had DED as of Jan. 1, 2017 ³ (Liberia).	TPS: Be a national of any country that <i>at any time</i> had TPS designation (includes El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, Yemen, Liberia, Sierra Leone, and Guinea). DED: Be a national of any country whose nationals were under a grant of DED that had been extended beyond Jan. 20, 2017 (Liberia).

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TPS or eligibility for TPS	N/A	<p>Has been granted/was eligible for TPS, or granted DED, on or before Oct. 1, 2017.</p> <p>Must be present in the U.S. (but may have been ordered removed/granted voluntary departure).</p>	<p>Must be a foreign national of a country that had TPS designation on Jan. 1, 2017,⁴ if the person had TPS or was eligible for TPS on that date (even if the person did not register for TPS), or a foreign national who had a grant of DED as of Jan. 1, 2017.⁵</p> <p>May also apply if abroad, if previously removed or voluntarily departed if granted a waiver by U.S. Dept. of Homeland Security (DHS) secretary.⁶</p>	<p>Must be a foreign national of a country that had TPS designation <i>at any time</i>, if the person has/had or was eligible for TPS at the time of their country’s last designation.</p> <p>Must be present in the U.S. (but may have been ordered removed/granted voluntary departure).</p>
Presence/residence requirements	<p>Has been continuously physically present in the U.S. since the effective date of the most recent designation date of the designated country; and has been continuously residing in the U.S. since the date specified for the country of nationality.</p> <p>EXCEPTION: Exception for brief, casual, and innocent departures from the U.S.</p>	<p>Meets the TPS residence requirements for the nationality. Has been continuously physically present in the U.S. for at least 3 years. Must be present when applying.</p> <p>WAIVER: Waiver of the 3-years-of-continuous-presence requirement in cases of extreme hardship, and brief or emergency absences would not count against the requirement.</p>	<p>Has been continuously physically present in the U.S. for at least 3 years before the date of enactment or, as a matter of discretion, if for humanitarian purposes, family unity, or because a waiver would otherwise be in the public interest, the DHS Secretary may waive the physical presence requirement for those who were removed or departed the U.S. on or after Jan. 20, 2017, so long as they were physically present in the U.S. for at least 3 years prior to removal/departure.⁷</p> <p>WAIVER: Waiver of 3-year continuous presence requirement in cases of extenuating circumstances beyond one’s control, such as one’s own serious illness/death or that of a parent, grandparent, sibling, or child, or when issued advance parole (authorization to travel outside the U.S.).</p>	<p>Has been continuously present in the U.S. for at least 3 years, and must be present upon application.</p> <p>WAIVER: Waiver of 3-year continuous presence requirement in cases of extreme hardship, and brief or emergency absences would not count against the requirement.</p>

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Admissibility, deportability, and waivers	<p>Inadmissible if convicted of any felony or 2+ misdemeanors committed in the U.S.; any violation under INA § 212(a), including nonwaivable criminal and security-related grounds; if subject to mandatory bars to asylum; if fail to meet the continuous physical presence and continuous-residence-in-the-U.S. requirements.</p> <p>If granted TPS and fail to reregister without good cause for TPS, TPS terminated.</p>	<p>Must meet all current criminal, national security, and other requirements for admissibility.</p> <p>EXCEPTION: Makes an exception for the following inadmissibility grounds: being a public charge; unauthorized employment; entering U.S. without being admitted or paroled; and overstaying/unlawful presence.</p> <p>WAIVERS: Permits a waiver for <i>any</i> inadmissibility ground under 212(a) for “humanitarian purposes, to assure family unity, or when it is otherwise in the public interest.”</p>	<p>Must meet all current criminal, national security, and other requirements for admissibility.</p> <p>The following are grounds for ineligibility: INA § 212(a) (1) [health related grounds], (2) [criminal and related grounds], (3) [security and related grounds], (6)(D) [being a stowaway], (6)(E) [smugglers], (6)(F) [subject of civil penalty], (6)(G) [student visa abuser], (8) [ineligible for citizenship], or (10) [miscellaneous, such as polygamists, guardians accompanying another who is inadmissible, international child abduction].⁸</p> <p>Excludes expunged and similar convictions from inadmissibility grounds.⁹</p> <p>WAIVERS:¹⁰ Waiver available for humanitarian purposes, family unity, or in the public interest, for the following grounds: INA § 212(a)(1) [health-related], (2)(A) [conviction of certain crimes, such as for crimes of moral turpitude or controlled substance], (2)(C) [controlled substance traffickers], (2)(D) [prostitution and commercialized vice], (6)(D) [stowaways], 6(E) [smugglers], (6)(F) [subject of civil penalty], (6)(G) [student visa abusers], and 10(D) [unlawful voting].¹¹</p> <p>Regardless of the above waivers, <i>no waiver</i> may be granted to an individual if the inadmissibility is based on conviction(s) that would render the person ineligible under INA</p>	<p>Must meet all current criminal and national security requirements for admissibility.</p> <p>May not be deportable for: criminal offenses; failure to register and falsification of documents; and security and related grounds.</p> <p>May not have ordered, incited, assisted, or otherwise participated in the persecution of another.</p> <p>Excludes expunged and similar convictions from inadmissibility grounds.</p> <p>WAIVERS: Waiver available for certain inadmissibility grounds for relatives seeking to adjust, including for grounds of: public charge; unauthorized work; entering U.S. without being admitted or paroled; applying for admission without proper documentation; and previous removal and unlawful presence with prior immigration violations.</p>

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			<p>§ 244(c)(2)(B), the provision in the TPS statute determining those who are ineligible. This includes:</p> <ul style="list-style-type: none"> • Anybody who has been convicted of any felony or 2 or more misdemeanors committed in the U.S., or • Anybody who committed certain offenses, such as: ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion; was convicted of a particularly serious crime constituting a danger to the U.S.; reasonable grounds to believe the person is a danger to the U.S.; etc. (all as covered under 8 USC § 1158(b)(2)(A)).¹² 	
Background check	Must pass background checks.	Must pass background checks.	Must pass background checks. ¹³	Must pass a background check.
Work authorization	Yes, if a TPS beneficiary or if found preliminarily eligible (prima facie eligible) for TPS upon initial review.	Yes, while application is pending.	Yes, while application is pending as well as to those whose removal is stayed under this bill. ¹⁴	Yes, while application is pending.
Travel authorization	Yes, if a TPS beneficiary or if found prima facie eligible for TPS upon initial review.	N/A	Yes, eligible to apply for advance parole at the time of application until final decision is made.	Yes, eligible to apply for advance parole at the time of application until final decision is made.

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Protection from deportation/removal	Yes, if a TPS beneficiary or if found prima facie eligible for TPS upon initial review. Once granted TPS, an individual also may not be detained by DHS based on their immigration status in the U.S.	Yes, while application is pending.	Yes, if application is pending, or if prima facie eligible.	Yes, if application is pending, or if prima facie eligible and individual indicates intention to file. EXCEPTION: No, if application for LPR status has been denied with final administrative determination.
Adjustability of relatives	Cannot confer TPS status to relatives.	The spouse, parent, or unmarried minor or adult child of a successful applicant for LPR status may also adjust status, subject to certain conditions.	Does not create an additional pathway for relatives, but does not preclude relatives from being able to adjust status through existing legal channels.	The spouse, domestic partner, or unmarried minor or adult child of a successful applicant for LPR status may also adjust status, subject to certain conditions.
Application deadline for benefit	File during the open initial registration or reregistration period or meet the requirements for late initial filing during any extension of individuals' country's TPS designation.	Must apply within 3 years after bill's date of enactment.	Must apply within 3 years after bill's date of enactment.	None.
Fees and back taxes	Filing fee is currently a one-time \$50 fee for Form I-821, with no fee for reregistration. Those 14+ must also file an \$85 fee for biometric services for initial application and for reregistration. Work authorization application is \$410.	Fee based on assessment of cost to the government to process the application (current law).	Fee based on assessment of cost to the government to process the application, capped at \$1,140. EXCEPTION: Application fee exemptions are available if the applicant is: under 18; in the year prior to filing the application, has a total income under 150 percent of the federal poverty line, is in foster care or lacking parental/family support; or	Fee based on assessment of cost to the government to process the application, capped at \$1,140. EXCEPTION: Application fee exemptions are available if the applicant is: under 18; in the year prior to filing the application, has a total income under 150 percent of the federal poverty line, is in foster care or lacking parental/family

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			cannot care for his/her/their self because of a serious, chronic disability.	support; or cannot care for his/her/their self because of a serious, chronic disability.
Pathway to U.S. citizenship	No direct pathway to adjust to LPR status and eventual naturalization, but naturalization to U.S. citizenship available through other existing channels under current immigration laws (such as family- or employment-based adjustment).	Yes, may apply to naturalize to U.S. citizenship after 5 years in LPR status. LPR grantees under this bill would not be required to meet English language test requirements and may take the civics test in their own language.	Yes, may apply to naturalize to U.S. citizenship after 5 years in LPR status. ¹⁵	Not explicitly addressed, but as LPRs, would be eligible under existing law to adjust after 5 years in LPR status.
Confidentiality provisions	DHS may share information provided on applications with federal, state, local, and foreign government agencies and authorized organizations in certain circumstances (“approved routine uses”). DHS may also share information for law enforcement purposes or in the interest of national security.	N/A	Information provided in TPS/DED applications (including during administrative or judicial review) ¹⁶ may not be disclosed/used for immigration enforcement purposes, nor may referrals be made to U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP) based solely on information provided in an application for adjustment under this bill (including info provided during administrative or judicial review). ¹⁷ Fine for violation up to \$10,000. EXCEPTIONS: Information is shareable with federal security and law enforcement in considering a filing, to identify fraudulent claims; for national security purposes; or for the investigation/prosecution of any felony not related to a person’s immigration status.	Information provided in TPS/DED applications may not be disclosed/used for immigration enforcement purposes, nor may referrals be made to ICE or CBP. Fine for violation up to \$10,000. EXCEPTIONS: Information is shareable with federal security and law enforcement in considering a filing, to identify fraudulent claims; for national security purposes; or for the investigation/prosecution of any felony not related to a person’s immigration status.

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Administrative/ appellate review	Administrative review so long as not placed in removal proceedings when TPS denied; otherwise, judicial review available for denied applications.	Administrative review. (Whereas American Dream and Promise Act 2019 explicitly states administrative and judicial review, American Promise Act 2017 expressly provides only for “administrative review,” but indicates that such review is the same as for applicants for adjustment of status/ cancellation of removal, which may include judicial review.)	Administrative <i>and</i> judicial review for those denied benefits or a revocation under this act, and a stay of removal while appellate channels pursued, unless the basis for removal is criminal or national security grounds. Nonetheless, removal on such grounds does not interfere with an individual’s right to judicial review and the applicant shall be returned to the U.S. if the decision to deny/revoke is reversed upon appeal. ¹⁸	Administrative review. (Whereas American Dream and Promise Act 2019 explicitly states administrative and judicial review, SECURE and American Promise Act 2017 expressly provides only for “administrative review,” but indicates that such review is the same as for applicants for adjustment of status/cancellation of removal, which may include judicial review.)
TPS reform	N/A	Increases reporting requirements by adding that a report must be provided to Congress within 3 days of notice about decision to terminate a country’s TPS designation, including: what event prompted the TPS designation; how the country has remedied conditions that prompted designation; analysis of country’s ability to reabsorb its population; and economic and social impact of repatriation.	N/A ¹⁹	Increases reporting requirements by adding that a report must be provided to Congress within 3 days of notice to public about decision to terminate a country’s TPS designation, including: the basis for the initial TPS designation; how the country improved such conditions, basis/methodology for making determination; whether the country has requested a designation, redesignation, or extension; any lingering challenges; and the country’s ability to integrate its population. Amends current law to clarify that those granted TPS are considered to be “inspected and admitted” into the U.S. (so people with TPS across the country could adjust status through existing legal channels).

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Other	N/A	Visa numerical limitations will not be imposed on how many people can get LPR status under this bill.	Visa numerical limitations will not be imposed on how many people can get LPR status under this bill. Creates within U.S. Citizenship and Immigration Services a program to award grants to nonprofits to provide services such as public education about eligibility, assistance with screenings/completing applications, and instruction on rights/responsibilities of U.S. citizens, civics, English as a second language instruction, etc.	Visa numerical limitations will not be imposed on how many people can get LPR status under this bill.

¹ H.R. 6 passed the House of Representatives on June 4, 2019. The text in the rows depicts any changes that were made to the bill, substitute amendment H.R. 2821, during markup in the House Judiciary Committee on May 22, 2019. Changes from the originally introduced bill are indicated by endnote; see the endnote for the original provision.

² Original date for TPS designation was Sep. 25, 2016.

³ Original date for TPS designation was Sep. 28, 2016.

⁴ Original date for TPS designation was Sep. 25, 2016.

⁵ Original date for TPS designation was Sep. 28, 2016.

⁶ Original language allowed individuals abroad to apply, if previously removed or voluntarily departed and if the reason for removal or departure was that the person was in the U.S. after their country’s TPS/DED designation expired or was terminated; or, in the case of those who voluntarily departed, because their country’s TPS designation was terminated. The language in the markup bill struck this language and provides a narrower discretionary provision for the DHS secretary to grant a waiver to those abroad if for humanitarian reasons, in the public interest, or for family unity.

⁷ The original language allowed those removed/voluntarily departed who were physically present in U.S. for at least 3 years before removal/departure to automatically meet the physical presence requirement, whereas the markup language leaves it to the discretion of the DHS secretary to waive the physical presence requirement.

⁸ HR 2821 changed the language to list what would render somebody inadmissible, as opposed to H.R. 6, which delineates certain grounds of inadmissibility — INA § 212(a)(4), (5), (6)(A),(6)(B), (6)(C), (7)(A), (9)(A), and (9)(B)) — as inapplicable.

⁹ Presumably, the rest of the grounds that were exempted in H.R. 6, but on which H.R. 2821 is silent, are exempted/are not grounds for ineligibility under the act.

¹⁰ H.R. 2821 changed the grounds under which the DHS secretary may waive the grounds of inadmissibility by changing the grounds that are waivable and by adding a prohibition on waivers for certain convictions.

- ¹¹ The original language in H.R. 6 waived all of INA § 212(a)(2) [conviction of certain crimes (including crimes of moral turpitude or attempt or conspiracy to commit such crime or a state crime relating to a controlled substance)];, as well as INA § 212(a)(6)(E) [smuggling]; (6)(G) [student visa violations], and (10)(D) [unlawful voting].
- ¹² The original language in H.R. 6 was narrower and prohibited just one provision within 8 USC § 1158(b)(2)(A): “has not ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion.”
- ¹³ The original language was silent on whether applicant must pass a background check but required that the applicant establish admissibility, which could be done via background check.
- ¹⁴ The original language provided employment authorization to those who may not be placed in removal proceedings under the bill, too.
- ¹⁵ The original language would have exempted those granted LPR status under this bill from meeting the English language requirements when naturalizing.
- ¹⁶ The original language did not include confidentiality protection for information provided during administrative or judicial review.
- ¹⁷ The original language did not condition prohibition on referrals, whereas the markup language conditions the referral to ICE or CBP.
- ¹⁸ The original language did not include clarification that an individual was entitled to judicial review even if removed on criminal/national security grounds.
- ¹⁹ The original language included additional reporting requirements by adding that a report must be provided to Congress within 3 days of notice to the public about the decision to terminate a country’s TPS designation, including: the basis for the initial TPS designation; how the country improved such conditions, and basis/methodology for making the determination; any lingering challenges; and the country’s ability to integrate its population. In addition, the original language included language that would amend current law to clarify that those granted TPS are considered “inspected and admitted” into the U.S. (so people with TPS could adjust status through existing legal channels).