



EXPLAINER

WHAT IS THE IMMIGRATION PROPOSAL IN THE HOUSE BUILD BACK BETTER BILL (“WORK PERMITS,” “PAROLE,” “PLAN C”)? WHAT ARE ITS LIMITATIONS?

OVERVIEW

The immigration proposal being advanced by the Democrats grants “parole” under immigration law to a limited group of immigrants without status. This would be a temporary protection from deportation that would last for five years; people who receive parole would also be eligible for work permits. A person could renew this status one time, for another five years. This protection would end at the latest on September 30, 2031.

For decades, politicians have told our communities that we must make tradeoffs, agreeing to narratives and policies that criminalize and dehumanize some of our loved ones in order to protect others. This “parole” proposal would exclude people based on contact with the racist criminal legal system. The program is temporary and not designed to provide permanent protection. In this moment, we call upon our movement family to once and for all reject the idea that we must accept these tradeoffs, that our lives are worth so little that they can be exchanged, compromised and excluded. Everyone should have freedom from the threat of detention and exile, freedom to travel, access to care and services and to full participation in our communities. Parole does not come close to fulfilling these promises.

WHAT WOULD BE THE BENEFITS OF PAROLE UNDER THIS PROGRAM?

- Temporary protection from deportation (unless person loses eligibility - for example, with a disqualifying conviction)
- Work permit
- Permission to travel outside the U.S. (may require a separate application)
- Eligibility for a driver’s license (specifics are state dependent)

A PERSON WOULD GET PAROLE IF THEY MET ALL OF THESE GROUNDS:

- Enter U.S. before January 1, 2011
- Continuously reside in the US since that date
- Not “inadmissible” under certain grounds, including criminal system interactions (see next section for detail), so-called “national security and terrorism”, and helping or encouraging someone to unlawfully enter), and several others
- Payment of one or more application fees (amount to be determined)

HOW LONG WOULD “PAROLE STATUS” LAST?

- Initial grant would be for 5 years.
- Person can renew status one time for up to another 5 years.
- Program would end on September 30, 2031 at the latest, including for people who are in the middle of a 5-year grant.
- So, the total maximum time that a person could have “parole protection” under this proposal is somewhat less than 10 years and would depend on date of passage and how long the application process takes.

WHO WOULD BE EXCLUDED FROM PAROLE BASED ON CRIMINAL SYSTEM CONTACTS?

A person could not get parole if they are “inadmissible” under Section 212(a)(2) of the Immigration and Nationality Act, including:

- They admitted to or had a drug conviction (including marijuana possession).
- They admitted or had a conviction for a crime involving moral turpitude (CIMT). Whether a conviction is considered a CIMT can be complicated and depends on the language of that specific state or federal criminal law. **Very generally**, this tends to include acts like shoplifting, certain kinds of assault, and fraud.
 - There is an exception for people who have only one CIMT if the offense had a maximum possible sentence of one year or less (a misdemeanor or lower level in most states), and the person was sentenced to six months or less. There may also be an exception for people with just one conviction that was committed more than five years before the application and when they were less than 18 years old.
- They had two or more convictions, for which they had a total (combined) sentence of 5 years or more.
- DHS had “reason to believe” they were engaging in drug trafficking or helping someone engage in drug trafficking. DHS would also bar certain family members who benefitted from money from selling drugs, even if they did not sell them, within 5 years of applying for parole.
- They engaged in prostitution, certain prostitution-related conduct, or “commercialized vice.” Commercialized vice includes conduct like gambling. This ground is a bit more complicated, and it is not clear how this would be applied to applicants for this parole program.
- There are a few other grounds that would bar a person from parole, including those related to trafficking in people, money laundering, and violating freedom of religion.

IMPORTANT QUESTIONS

Would there be waivers?

As far as we know, there would be no waivers that would let people who were inadmissible under the “criminal grounds” get parole under this program.

How many people would benefit from this parole program?

This is hard to estimate with certainty. Some advocates estimate that about 7 million people could get parole through this program. We don’t know whether this number includes people who would be ineligible because they are “inadmissible” on criminal or other grounds.

IMPORTANT QUESTIONS (CONTINUED)

Are there any safeguards in the bill to protect the parole program from ending mid-stream or being used by ICE/CBP?

The House bill prohibits future administrations from revoking (taking away) parole that DHS had already granted, if the person remained eligible. It also states that DHS cannot disclose information in the application to ICE or CBP “or use such information for purposes of enforcement.” This language may vary from the Senate version being proposed.

WILL THE PAROLE PROPOSAL LEAD TO PERMANENT STATUS FOR ANYONE?

Yes, but only for a very specific subgroup of people, and not automatically. Under current law, some people are eligible for green cards, primarily through family, but cannot get them without leaving the country first. However, once they do leave the country, they usually cannot come back in for 3 or (more often) 10 years, if they had been without status in the US. If a person in this situation gets parole under the proposed program, they would be able to adjust their status (get green cards) without having to leave the U.S.

This would most frequently apply to people who:

- entered without inspection (typically, crossed border without a visa); AND
- are married to a US citizen OR are the parent of a US citizen who is at least 21 years old OR are unmarried, under 21 year-old children of a US citizen; AND
- that US citizen family member is willing and able to petition (apply for a green card) for them.

At this point we do not know whether this parole program would also allow someone subject to the “permanent bar” to adjust status. Currently, they cannot.

The permanent bar applies when a person has either been deported and reentered the country without inspection or has been present without status in the country for more than one year, left, and then re-entered without inspection. For example, if undocumented people were living in the US for a few years, then went back to Mexico to handle some family matters, and then came back to the US without a visa, they would be subject to the permanent bar.

HOW DOES THE PAROLE PROPOSAL COMPARE WITH DACA?

Parole and DACA are both temporary forms of protection and both make a person eligible for work permits. However, there are several key differences:

- Protection from deportation under the parole program would last longer than DACA, which recipients have to renew every 2 years.
- Parole would be safer than DACA from revocation by future administrations.
- Currently, people who have received DACA can renew it indefinitely, while the parole program could only be renewed once and has a definite end date of September 30, 2031.
- People who receive parole and are otherwise eligible for green cards could get the green cards without leaving the country, while receiving DACA alone does not let people adjust their status to a lawful permanent resident within the U.S.
- DACA has different criminal bars: if a person receives 3 or more misdemeanors or any felony or “significant misdemeanor” (such as a DUI or a DV conviction), they will be ineligible for DACA. “Misdemeanors” can cover offenses that are categorized as lower level by states. DHS also has much more discretion with DACA: it can grant DACA to people with these bars based on rarely-used “exceptional circumstances” or deny DACA even without these specific bars.