

SEPTEMBER 11 FAMILY HUMANITARIAN RELIEF AND  
PATRIOTISM ACT OF 2009

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NOVEMBER 30, 2010.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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Mr. CONYERS, from the Committee on the Judiciary,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 3290]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3290) to provide the spouses and children of aliens who perished in the September 11 terrorist attacks an opportunity to adjust their status to that of an alien lawfully admitted for permanent residence, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

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## PURPOSE AND SUMMARY

H.R. 3290, the “September 11 Family Humanitarian Relief and Patriotism Act of 2009,” permits a defined set of surviving dependents of undocumented workers killed during the terrorist attacks of September 11, 2001, to apply for lawful permanent residence in the United States.

## BACKGROUND AND NEED FOR THE LEGISLATION

Among the nearly 3,000 persons killed during the terrorist attacks of 9/11 was a small group of undocumented workers who worked in the World Trade Center. The surviving family members of these undocumented workers were awarded benefits under the 9/11 Victims Compensation Fund (VCF) after Special Master Kenneth Feinberg verified the deaths of the undocumented workers and identified the dependent spouses or children of the deceased.

In the 110th Congress, the Committee on the Judiciary reported out H.R. 1071, a bill that would have allowed this limited class of surviving dependents the opportunity to apply for adjustment of status or cancellation of removal, so long as neither the dependents nor the deceased were inadmissible or deportable on criminal or national security grounds. At that time, it was believed that approximately 20 people would have benefitted from H.R. 1071.

Subsequent to Committee consideration of H.R. 1071 in the 110th Congress, 16 surviving dependants came forward and offered proffers of information to the Department of Homeland Security in order to obtain temporary immigration relief under existing law. All 16 persons now have been granted some form of temporary immigration relief by the Department of Homeland Security based on current law. The proffers of information also made it possible to more narrowly identify the potential beneficiaries of proposed legislative relief.

H.R. 3290 accordingly more narrowly defines the class of persons eligible for relief than as originally defined in the 110th Congress. Specifically, H.R. 3290 would permit the 16 persons who have already offered proffers to adjust their status to that of aliens lawfully admitted for permanent residence, so long as they: (1) apply for adjustment within 1 year of enactment; (2) are not inadmissible or deportable on criminal or security-related grounds; and (3) have satisfied any Federal tax liability.

## HEARINGS

The Committee on the Judiciary held no hearings on H.R. 3290.

## COMMITTEE CONSIDERATION

On July 23, 2009, the Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law met in open session and ordered the bill H.R. 3290 favorably reported, without amendment, by a vote of 7 to 5, a quorum being present. On September 16, 2009, the Committee met in open session and ordered the bill H.R. 3290 favorably reported, without amendment, by voice vote, a quorum being present.

## COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that the following rollcall vote occurred during the Committee's consideration of H.R. 3290.

1. Two amendments offered by Mr. King were considered en bloc. The amendments would prevent any alien from obtaining lawful permanent resident status under the bill who: (a) had failed to pay any applicable Federal tax liability owed during the period required by law, including any lawful extensions, or (b) was not present in the United States on or before September 11, 2001. Defeated 17 to 6.

## ROLLCALL NO. 1

	Ayes	Nays	Present
Mr. Conyers, Jr., Chairman .....		X	
Mr. Berman .....			
Mr. Boucher .....			
Mr. Nadler .....		X	
Mr. Scott .....		X	
Mr. Watt .....		X	
Ms. Lofgren .....		X	
Ms. Jackson Lee .....		X	
Ms. Waters .....		X	
Mr. Delahunt .....			
Mr. Wexler .....		X	
Mr. Cohen .....		X	
Mr. Johnson .....		X	
Mr. Pierluisi .....			
Mr. Quigley .....		X	
Mr. Gutierrez .....			
Mr. Sherman .....			
Ms. Baldwin .....		X	
Mr. Gonzalez .....			
Mr. Weiner .....		X	
Mr. Schiff .....		X	
Ms. Sánchez .....		X	
Ms. Wasserman Schultz .....		X	
Mr. Maffei .....		X	
Mr. Smith, Ranking Member .....	X		
Mr. Sensenbrenner, Jr. ....			
Mr. Coble .....			
Mr. Gallegly .....	X		
Mr. Goodlatte .....	X		
Mr. Lungren .....			
Mr. Issa .....			
Mr. Forbes .....			
Mr. King .....	X		
Mr. Franks .....			
Mr. Gohmert .....			
Mr. Jordan .....	X		
Mr. Poe .....			
Mr. Chaffetz .....			
Mr. Rooney .....			
Mr. Harper .....	X		
Total .....	6	17	

## COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings

and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3290, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 21, 2009.*

Hon. JOHN CONYERS, Jr., *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3290, the "September 11 Family Humanitarian Relief and Patriotism Act of 2009."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DOUGLAS W. ELMENDORF,  
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.  
Ranking Member

*H.R. 3290—September 11 Family Humanitarian Relief and Patriotism Act of 2009.*

H.R. 3290 would grant permanent U.S. residence to certain spouses and dependents of aliens who died in the terrorist attacks of September 11, 2001. Enacting this legislation could affect direct spending of immigration fees by the Department of Homeland Security and the cost of certain Federal assistance programs. The bill would affect a small number of persons, however, and CBO estimates that enacting H.R. 3290 would have no significant budgetary impact. Enacting the bill would not affect revenues.

H.R. 3290 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no significant costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Peter H. Fontaine, Assistant Director for Budget Analysis.

## PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3290 requires the Secretary of Homeland Security to issue guidance not later than 6 months from the date of enactment providing for the implementation and administration of this Act, and to take steps to ensure that each eligible applicant who applies for benefits under this Act receives such benefits within 6 months of the date of his or application for such benefits.

## CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 4 of the Constitution.

## ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3290 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

## SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

*Sec. 1. Short title.* Section 1 sets forth the short title of the bill as the “September 11 Family Humanitarian Relief and Patriotism Act of 2009.”

*Sec. 2. Adjustment of Status for Certain Victims of Terrorism.* Section 2 states that adjustment of status under the Act is available only to a person who: (1) on September 10, 2001, was the spouse, child, unmarried son, or unmarried daughter of an alien killed in the 9/11 terrorist attacks; (2) was deemed to be a beneficiary of the 9/11 VCF; (3) made a proffer of information to the Department of Homeland Security between April 24, 2008, and August 15, 2008, in connection with a request for immigration relief; and (4) did not willfully make a material misrepresentation or material omission in that proffer of information. Adjustment of status may be granted if such a person: (1) applies for adjustment within 1 year of enactment; (2) is not inadmissible or deportable on criminal or security-related grounds; and (3) has satisfied any Federal tax liability. The Secretary also may grant employment authorization during the pendency of such applications. The Secretary of Homeland Security shall issue guidance to carry out the Act within 6 months of enactment, but promulgation of regulations is not required. The Act in no way limits the existing authority of the agency to perform background or security checks in connection with the adjustment application, and does not require the Secretary to reduce the number of immigrant visas that may be issued under current law.

## DISSENTING VIEWS

We oppose H.R. 3290, the “September 11 Family Humanitarian and Patriotism Act of 2009.”

H.R. 3290 grants lawful permanent resident immigration status to illegal immigrants who: (1) were on September 10, 2001, the spouse, child, or dependent son or daughter of an alien who died as a result of the September 11, 2001, terrorist attacks against the United States; (2) were deemed to be beneficiaries of, and by, the September 11th Victim Compensation Fund of 2001; and (3) made proffers of information to DHS between April 24, 2008 and August 15, 2008 requesting immigration relief.<sup>1</sup> Sixteen individuals are eligible for lawful permanent residence under this bill.

The attacks of September 11, 2001, were heinous acts of international terrorism carried out inside U.S. borders. Over 3,000 individuals were murdered on that day and the entire nation grieved with the families and friends of those who died.

But sympathy for the loss of a loved one provides no rationale to grant legal immigration status to those who have violated U.S. law to enter and remain in the United States. Such a grant is clearly amnesty. Enactment of H.R. 3290 would set a precedent should there be any future terrorist attacks, or other disasters, in which illegal immigrants or temporary visitors or workers are killed. It will erroneously be used as justification for similar amnesties in the event of such attacks.

Proponents of H.R. 3290 have previously cited as one of the main reasons for supporting the legislation that if these illegal immigrants are deported, they may be put at risk of kidnapping and other crimes involving “exploitation for their assets.” In essence, proponents of H.R. 3290 claim that because the illegal immigrants are now wealthy, they should be granted permanent residency. This would seem to set a precedent that wealthy people in countries with high rates of crime should receive asylum because of their wealth.

H.R. 3290 undermines the rule of law and American sovereignty with a grant of legal immigration status to those who lost loved ones in the September 11, 2001 terrorist attacks, based solely on the fact of their loss. While it is certainly understandable, the grant of such a benefit will set an unjustified precedent.

This issue has been raised previously, most recently during the enactment of the USA PATRIOT Act (Pub. L. No. 107–56). The PATRIOT Act gave lawful permanent resident status to the alien spouse and children of U.S. citizens or lawful permanent residents who were killed as a result of the 9/11 terrorist attacks. During PATRIOT Act negotiations, Congress deliberately decided not to grant permanent residence to the family members of illegal immigrants or temporary visitors or workers.

H.R. 3290 predicates adjustment of immigration status on whether the illegal immigrant was deemed to be a beneficiary of the September 11th Victim Compensation Fund of 2001. In essence, if the illegal immigrant submitted a claim for, and received compensation from, the September 11th Victim Compensation

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<sup>1</sup>H.R. 3290, The “September 11 Family Humanitarian Relief and Patriotism Act,” § 2(b)(1).

Fund of 2001 due to the death or injury of a family member, they are eligible for adjustment of status under this bill.

The September 11th Victim Compensation Fund of 2001 was created by the “Air Transportation Safety and System Stabilization Act of 2001” (P.L. 107–42). The purpose of the Fund was to “provide compensation to any individual (or relatives of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes of September 11, 2001.”<sup>2</sup>

Over 7,300 claims for death or injury were paid out by the Fund and over 98% of eligible families of a deceased victim submitted claims.<sup>3</sup> The average claim award for a deceased victim was \$2,082,127. The minimum claim awarded by the fund was \$250,000 and the maximum claim awarded was \$7.1 million.

Since H.R. 3290 applies to a closed group of individuals, it is a de facto private relief bill. Committee Members are provided with full and complete evidence, including biographical background information, on private relief bill beneficiaries prior to the consideration of the bill by the Judiciary Committee.<sup>4</sup>

During the 109th Congress, Members of the Minority requested, through both oral and written communications, on several occasions specific biographical background information regarding the potential beneficiaries of the bill. Specifically the Minority Members requested that the following information be supplied separately for each potential beneficiary:

- City and state or nation of current residence;
- Date and place of birth;
- Occupation & current employment;
- Through what means the person entered the United States (i.e.: crossed the border illegally, entered on a temporary visa, etc.);
- Date on which the person initially entered the United States;
- Date and duration of any departures from the United States;
- Amount of monetary award from the September 11 Victim Compensation Fund;
- Country of national origin;
- Date of birth of any U.S. citizen children; and
- Any criminal history, including date of arrest, case resolution and penalty served or paid.<sup>5</sup>

Despite the repeated requests, and assurances from Majority Members that the information would be provided, very little information was provided to the Minority Members until it became clear that the Department of Homeland Security was willing to consider a grant of temporary legal status to the individuals.<sup>6</sup>

<sup>2</sup>Section 403.

<sup>3</sup>Closing Statement from the Special Master, Mr. Kenneth R. Feinberg, on the Shutdown of the September 11 Victim Compensation Fund.

<sup>4</sup>Rules of Procedure for Private Claims Bills, Subc. On Immigration, Citizenship, Refugees, Border Security and International Law, Rule 1.

<sup>5</sup>Letter from Immigration, Citizenship, Refugees, Border Security and International Law Subcommittee Ranking Member Steve King to Immigration, Citizenship, Refugees, Border Security and International Law Subcommittee Chair Zoe Lofgren, Aug. 21, 2007.

<sup>6</sup>Letter from DHS Assistant Secretary for Policy Stewart Baker to Debra Brown Steinberg, Esq., 2008.

Finally, in August of 2008 the Department of Homeland Security provided the requested information to the Minority. DHS had obtained extensive information, through proffers, from the 16 individuals. Each proffer asked 40 questions to gain information including city and state of current residence, date and place of birth, how the individual entered the United States, date on which they entered the United States, amount of compensation received from the September 11 Victim Compensation Fund, any history in the U.S. immigration system, criminal history, health history, and employment among other things.

On August 15, 2008, DHS announced that it would grant temporary immigration relief, in the form of one year of parole, or one year of deferred action (intent not to prosecute for one year), or a pending U visa application (for illegal immigrants who are victims of crimes and cooperate with U.S. law enforcement in the investigation or prosecution of the criminal, in this case the sentencing phase of the Zacarias Moussaoui trial), to 15 of the individuals who would have been eligible for relief under H.R. 1071 (the similar bill in the 109th Congress). One other individual was refused immigration relief because he had failed to file tax returns for several years.<sup>7</sup>

In addition to opposing H.R. 3290 because it provides amnesty to illegal immigrants, we oppose the bill because the Majority refused to accept two amendments that improved the legislation. First, we offered an amendment to exclude as a beneficiary from the immigration benefits, the individual who had failed to pay federal taxes between the years 1999 and 2006.<sup>8</sup> The individual did not pay his back taxes until it was apparent that he would not receive legal immigration status until he did so. Such a blatant disregard for the law should not be rewarded.

The least we can ask of someone who is receiving amnesty after being in the United States illegally and receiving money from the 9/11 Victim Compensation Fund (\$1,382,252 million in this case), is that he has paid his federal taxes in the manner required by law. The Department of Homeland Security itself stated that such a failure “demonstrates and indifference to the social and legal obligations of residence in this country.”<sup>9</sup> DHS also correctly stated that the failure to file tax returns “reveals a civic irresponsibility.”<sup>10</sup> DHS is correct.

The second amendment we offered excluded two individuals who entered the United States after September 11, 2001, from receiving immigration benefits under H.R. 3290. Supporters of H.R. 3290 claim that the sixteen individuals should be given legal immigration status in part because they have been in the United States for many years and had roots in the country prior to September 11, 2001. Two individuals, however, entered the United States with the consent of DHS, on March 22, 2002. They then left the United States in December of 2003 and returned in April of 2004.<sup>11</sup> They are abusing their initial humanitarian grant of legal entrance by

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<sup>7</sup> Letter from Stewart Baker, Assistant Secretary for Policy, Department of Homeland Security, to Deborah Steinberg, Esq., Aug. 15, 2008.

<sup>8</sup> *Id.* at 3.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 4.

<sup>11</sup> Proffers of information for “Child Three” and “Child Four,” Question Six, June 10, 2008.



seeking to stay permanently. We should not encourage people to enter the country after the fact, in order to obtain a benefit.

STEVE KING.  
GREGG HARPER.

