

117TH CONGRESS
2D SESSION

S. _____

To protect stateless persons in the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

A BILL

To protect stateless persons in the United States, and for
other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Stateless Protection
5 Act of 2022”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are—

- 8 (1) to resolve the status of stateless persons in
9 the United States and to promote their access to
10 fundamental human rights and human dignity; and

1 (2) to prevent statelessness from occurring
2 under United States law or on United States terri-
3 tory.

4 **SEC. 3. FINDINGS; SENSE OF CONGRESS.**

5 (a) FINDINGS.—Congress makes the following find-
6 ings:

7 (1) The international community has recognized
8 the significance of the right to a nationality in the
9 International Covenant on Civil and Political Rights,
10 done at New York December 16, 1966, to which the
11 United States is a signatory, as well as the Uni-
12 versal Declaration of Human Rights and numerous
13 international treaties, including the Convention Re-
14 lating to the Status of Stateless Persons, done at
15 New York September 28, 1954, and the Convention
16 on the Reduction of Statelessness, done at New York
17 August 30, 1961.

18 (2) Statelessness is an abhorrent violation of
19 fundamental human rights and human dignity, and
20 a life of statelessness has been recognized by the Su-
21 preme Court of the United States as a form of pun-
22 ishment more primitive than torture.

23 (3) Government action and inaction causes
24 statelessness; therefore, governments have the power
25 to resolve and prevent statelessness.

1 (4) The United Nations High Commissioner for
2 Refugees—

3 (A) is the United Nations agency respon-
4 sible for preventing and reducing statelessness;
5 and

6 (B) estimates that there are more than
7 4,200,000 stateless persons worldwide.

8 (5) A 2020 study found that there are approxi-
9 mately 218,000 individuals living in the United
10 States who are stateless or at risk of statelessness.

11 (6) Stateless individuals live in all 50 States,
12 and many such individuals have lived in the United
13 States for years or decades without relief.

14 (7) Despite the presence of stateless persons in
15 the United States, there is no law relating to the
16 identification of stateless persons in the United
17 States or to provide them with a path to legal sta-
18 tus.

19 (8) Stateless persons generally—

20 (A) live without the means to work legally
21 or to travel; and

22 (B) face barriers in opening bank ac-
23 counts, pursuing higher education, and obtain-
24 ing health care.

1 (9) If detained for removal from the United
2 States, a stateless person is often subjected to pro-
3 longed detention and cannot be removed because no
4 country recognizes the person as its citizen.

5 (b) SENSE OF CONGRESS.—It is the sense of Con-
6 gress that to resolve statelessness and its related human
7 suffering, lost potential, and societal impacts, the United
8 States should—

9 (1) provide a legal status to protect stateless
10 persons; and

11 (2) urge the international community to take
12 strong action to prevent statelessness globally.

13 **SEC. 4. PROTECTION OF STATELESS PERSONS IN THE**
14 **UNITED STATES.**

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

18 **“SEC. 245B. PROTECTION OF STATELESS PERSONS IN THE**
19 **UNITED STATES.**

20 “(a) DEFINITIONS.—In this section:

21 “(1) COMPETENT AUTHORITY.—With respect to
22 a foreign country, the term ‘competent authority’—

23 “(A) means the authority responsible for—

24 “(i) conferring nationality on, or with-
25 drawing nationality from, individuals; or

1 “(ii) in the case of nationality having
2 been acquired or withdrawn automatically,
3 clarifying the nationality status of an indi-
4 vidual; and

5 “(B) includes a Federal, local, or regional
6 government entity, a consular official, and a
7 government official at any level, notwith-
8 standing any process by which a decision by
9 such an entity or official may later be over-
10 ridden.

11 “(2) NATIONAL; NATIONALITY.—The terms ‘na-
12 tional’ and ‘nationality’—

13 “(A) refer to a formal link, of a political
14 and legal character, between an individual and
15 a country; and

16 “(B) do not include the concept of nation-
17 ality relating to membership in a religious, lin-
18 guistic, or ethnic group.

19 “(3) NONCITIZEN.—The term ‘noncitizen’ has
20 the meaning given the term ‘alien’ in section 101(a).

21 “(4) OPERATION OF LAW; OPERATION OF ITS
22 LAW.—The terms ‘operation of law’ and ‘operation
23 of its law’—

24 “(A) refer to the consideration by a com-
25 petent authority of a country with respect to an

1 individual in practice, including under the legis-
2 lation, ministerial decrees, regulations, orders,
3 judicial case law, and customary practices of
4 the competent authority; and

5 “(B) include situations in which the posi-
6 tion of the competent authority differs from the
7 law as written, if the position of the competent
8 authority that an individual is not a national of
9 the country is determinative.

10 “(5) RELEVANT ASSOCIATION.—The term ‘rel-
11 evant association’ means a natural person’s connec-
12 tion to a country through—

13 “(A) birth on the territory of the country;

14 “(B) descent from 1 or more individuals
15 who are nationals of the country;

16 “(C) marriage to an individual who is a
17 national of the country;

18 “(D) adoption by an individual who is a
19 national of the country; or

20 “(E) habitual residence in the country.

21 “(6) STATELESS PERSON.—The term ‘stateless
22 person’ means an individual who is not considered as
23 a national by any state under the operation of its
24 law.

1 “(b) MECHANISMS FOR REGULARIZING THE STATUS
2 OF STATELESS PERSONS.—

3 “(1) STATELESS PROTECTED STATUS.—

4 “(A) PRINCIPAL APPLICANTS.—Notwith-
5 standing any other provision of law, the Sec-
6 retary of Homeland Security shall provide
7 stateless protected status to a noncitizen who—

8 “(i) is a stateless person present in
9 the United States;

10 “(ii) applies for such relief;

11 “(iii) has not formally renounced his
12 or her nationality as a result of voluntary,
13 affirmative, and intentional action after ar-
14 rival in the United States and after the
15 date of the enactment of this section, un-
16 less the renunciation was the result of du-
17 ress, coercion, or a reasonable expectation
18 that the noncitizen had acquired or would
19 acquire another nationality or citizenship;
20 and

21 “(iv) is not inadmissible under
22 212(a)(3), except as provided in paragraph
23 (2) of this subsection; and

24 “(v) is not described in section
25 241(b)(3)(B)(i).

1 “(B) TREATMENT OF SPOUSE AND CHIL-
2 DREN.—Notwithstanding any other provision of
3 law, the Secretary of Homeland Security shall
4 provide stateless protected status to a noncit-
5 izen who—

6 “(i) is the spouse or child of a noncit-
7 izen described in subparagraph (A), if such
8 spouse or child is not otherwise eligible for
9 admission under that subparagraph;

10 “(ii) is accompanying, or following to
11 join, such noncitizen;

12 “(iii) established the qualifying rela-
13 tionship to such noncitizen before the date
14 on which such noncitizen applied for state-
15 less protected status;

16 “(iv) is not inadmissible under
17 212(a)(3), except as provided in paragraph
18 (2) of this subsection; and

19 “(v) is not described in section
20 241(b)(3)(B)(i).

21 “(C) STATELESS PROTECTED STATUS.—
22 Noncitizens with stateless protected status—

23 “(i) shall—

1 “(I) receive relevant protections
2 against deportation, removal, and de-
3 tention, as described in paragraph (3);

4 “(II) be authorized for employ-
5 ment, as described in paragraph (4);
6 and

7 “(III) be eligible to apply for a
8 travel document, as described in para-
9 graph (5); and

10 “(ii) shall not face limitations from
11 immigration enforcement officials on their
12 domestic travel.

13 “(D) CONCURRENT GRANT OF LAWFUL
14 PERMANENT RESIDENCE.—

15 “(i) IN GENERAL.—Except as pro-
16 vided in clause (ii), notwithstanding any
17 other provision of law, immediately on
18 granting stateless protected status to a
19 noncitizen, the Secretary of Homeland Se-
20 curity shall adjust the status of the noncit-
21 izen to that of a noncitizen lawfully admit-
22 ted for permanent residence.

23 “(ii) EXCEPTION.—The Secretary of
24 Homeland Security may not adjust the sta-
25 tus of a noncitizen with stateless protected

1 status who is inadmissible under section
2 212(a)(2).

3 “(2) WAIVERS.—

4 “(A) IN GENERAL.—Notwithstanding any
5 other provision of law, the Secretary of Home-
6 land Security may, for humanitarian purposes,
7 in the interests of access to fundamental or en-
8 abling rights, to ensure family unity, or when it
9 is otherwise in the public interest, waive the op-
10 eration of the grounds of inadmissibility set
11 forth in paragraphs (2) and (3) of section
12 212(a), for relief under this section.

13 “(B) FACTORS.—In making a determina-
14 tion under subparagraph (A), the Secretary of
15 Homeland Security shall consider all relevant
16 factors, including—

17 “(i) mitigating and aggravating fac-
18 tors of the basis for inadmissibility;

19 “(ii) the duration of the noncitizen’s
20 residence in the United States; and

21 “(iii) the degree to which the nonciti-
22 zen’s removal, or denial of the noncitizen’s
23 application, would adversely affect the non-
24 citizen or the noncitizen’s United States

1 citizen or lawful permanent resident family
2 members.

3 “(3) RELEASE FROM POST-REMOVAL DETEN-
4 TION.—A grant of stateless protected status under
5 this section shall—

6 “(A) trigger immediate release of an indi-
7 vidual from post-removal detention;

8 “(B) be considered to establish that there
9 is no significant likelihood of the individual’s re-
10 moval in the reasonably foreseeable future; and

11 “(C) establish a presumption that travel
12 documents are not available for the individual.

13 “(4) EMPLOYMENT AUTHORIZATION.—

14 “(A) IN GENERAL.—An individual granted
15 stateless protected status under this section
16 shall receive employment authorization for a re-
17 newable period not less than 5 years.

18 “(B) PENDING APPLICATION.—

19 “(i) IN GENERAL.—During the 150-
20 day period after the date on which an ap-
21 plication for status under this section is
22 submitted, the Secretary of Homeland Se-
23 curity may authorize the applicant to en-
24 gage in employment in the United States.

1 “(ii) MANDATORY EMPLOYMENT AU-
2 THORIZATION.—If the Secretary of Home-
3 land Security has not issued a decision
4 within the 150-day period beginning on the
5 date on which an application for status
6 under this section is submitted, the Sec-
7 retary of Homeland Security shall author-
8 ize the applicant to engage in employment
9 in the United States until the date on
10 which a decision is issued on the applica-
11 tion for lawful permanent residence or
12 stateless protected status.

13 “(5) TRAVEL DOCUMENTS.—

14 “(A) IN GENERAL.—On request, the Sec-
15 retary of Homeland Security shall provide to
16 any noncitizen granted relief under this section,
17 a travel document that facilitates the nonciti-
18 zen’s ability to travel abroad and to be admitted
19 to the United States upon return.

20 “(B) VALIDITY.—The minimum period of
21 validity for a document issued under subpara-
22 graph (A) shall be 10 years.

23 “(6) NATURALIZATION.—Notwithstanding any
24 other provision of law, an individual granted lawful
25 permanent residence status under paragraph (1)(D)

1 may apply for naturalization after having resided
2 continuously in the United States for at least 3
3 years beginning on the date on which such individual
4 is granted lawful permanent resident status.

5 “(c) EVIDENTIARY MATTERS.—

6 “(1) IN GENERAL.—In determining if an indi-
7 vidual is a stateless person under this section, the
8 Secretary of Homeland Security shall consider and
9 obtain any credible evidence relevant to the applica-
10 tion, including information from—

11 “(A) the Department of State, particularly
12 the Bureau of Population, Refugees, and Mi-
13 gration and the Bureau of Democracy, Human
14 Rights, and Labor; and

15 “(B) relevant international and foreign
16 bodies, such as the United Nations High Com-
17 missioner for Refugees, nongovernmental orga-
18 nizations, and the competent authorities of
19 other countries.

20 “(2) DESIGNATION OF SPECIFIC GROUPS OF
21 STATELESS PERSONS.—The Secretary of Homeland
22 Security, in consultation with the Secretary of State,
23 may designate 1 or more specific groups of individ-
24 uals who shall be considered stateless persons for
25 purposes of this section, and a noncitizen who be-

1 longs to a group so designated shall be considered
2 a stateless person.

3 “(3) BURDEN OF PROOF.—The burden of proof
4 with respect to evidentiary matters relating to an
5 application under this section shall be shared be-
6 tween the Secretary of Homeland Security and the
7 applicant.

8 “(4) STANDARD OF PROOF.—

9 “(A) IN GENERAL.—A noncitizen shall be
10 considered to be a stateless person if it is estab-
11 lished to a reasonable degree that the noncit-
12 izen meets the definition of the term ‘stateless
13 person’ under this section.

14 “(B) ASSESSMENT OF NATIONALITY.—The
15 nationality of an individual shall be assessed as
16 of the date on which a determination of eligi-
17 bility under this section is made.

18 “(5) SUBMISSION OF DOCUMENTARY EVI-
19 DENCE.—

20 “(A) SUPPORTING DOCUMENTS FROM AP-
21 PLICANT.—An applicant for relief under this
22 section shall submit, as part of the application
23 for such relief—

24 “(i) a full and truthful account, to the
25 best of the noncitizen’s knowledge, of such

1 noncitizen’s legal status with regard to any
2 country in which the applicant was born or
3 resided before entering the United States
4 or to which the applicant has a relevant as-
5 sociation; and

6 “(ii) all evidence reasonably available,
7 including any valid or expired travel docu-
8 ment.

9 “(B) EVIDENCE AVAILABLE TO SEC-
10 RETARY OF HOMELAND SECURITY.—The Sec-
11 retary of Homeland Security shall obtain and
12 submit to the immigration officer or immigra-
13 tion judge and the applicant or, as applicable,
14 the applicant’s counsel, all available evidence re-
15 garding the legal status of the applicant in the
16 applicant’s country of birth or prior residence
17 or any country to which the applicant has a rel-
18 evant association, including information on the
19 relevant laws and practices of the countries con-
20 cerned.

21 “(C) CONSIDERATION OF RESPONSE.—The
22 Secretary of Homeland Security may consider
23 as substantial evidence that an individual is not
24 considered by a country to be national of the
25 country the following:

1 “(i) After 120 days have elapsed after
2 the Secretary of Homeland Security has
3 requested information from the country
4 with respect to the nationality status of the
5 individual, the lack of response from the
6 competent authority of the country.

7 “(ii) A pro forma response from the
8 country that lacks an application of the
9 law or facts to the particular individual.

10 “(iii) The refusal of the country to ac-
11 cept the individual for deportation or re-
12 moval.

13 “(d) FEES.—The Secretary of Homeland Security
14 may not charge a noncitizen any fee in connection with
15 an application for, or issuance of, lawful status under this
16 section, employment authorization, or travel documents.

17 “(e) JURISDICTION AND REVIEW.—

18 “(1) IN GENERAL.—The Director of U.S. Citi-
19 zenship and Immigration Services shall have juris-
20 diction over an application for stateless protected
21 status and adjustment of status filed by a noncitizen
22 under this section.

23 “(2) REVIEW.—A denial by the Secretary of
24 Homeland Security of an application for relief under
25 this section shall be subject to review by the Admin-

1 Administrative Appeals Office of U.S. Citizenship and Im-
2 migration Services.

3 “(f) EFFECT ON REMOVAL PROCEEDINGS.—With re-
4 spect to a noncitizen in removal proceedings who files an
5 application for relief under this section, the Attorney Gen-
6 eral shall postpone the removal proceedings pending the
7 adjudication of the application.

8 “(g) APPLICANTS WITH FINAL ORDERS OF RE-
9 MOVAL.—

10 “(1) MOTIONS TO REOPEN.—

11 “(A) IN GENERAL.—A noncitizen whose
12 removal, deportation, or exclusion proceedings
13 were concluded before the date of the enact-
14 ment of this section, and who is eligible for re-
15 lief under this section, may file 1 motion to re-
16 open proceedings to apply for such relief not
17 later than 1 year after the date of the enact-
18 ment of this section.

19 “(B) EFFECT OF LIMITATIONS.—A time or
20 numerical limitation on motions to reopen re-
21 moval, deportation, or exclusion proceedings
22 may not be construed to restrict the filing of a
23 motion to reopen under this paragraph if such
24 limitation is based on previously unavailable evi-
25 dence or facts, or on changed facts or cir-

1 cumstances, including a discovery by a noncit-
2 izen that the noncitizen may be a stateless per-
3 son.

4 “(2) STAY OF REMOVAL.—

5 “(A) IN GENERAL.—An applicant for relief
6 under this section who has been issued a final
7 order of removal, deportation, or exclusion may
8 request a stay of removal, deportation, or exclu-
9 sion.

10 “(B) CONSIDERATION OF REQUEST.—With
11 respect to an individual who requests a stay
12 under subparagraph (A), if the Secretary of
13 Homeland Security determines that the applica-
14 tion for relief is bona fide, the Secretary shall
15 automatically stay the execution of the final
16 order of deportation, exclusion, or removal, and
17 the stay will remain in effect until a final deci-
18 sion is made on the applications.

19 “(C) EFFECT OF DENIAL.—If the applica-
20 tion is denied, the stay of the final order is
21 deemed lifted as of the date of such denial,
22 without regard to whether the noncitizen ap-
23 peals the decision.

24 “(3) TERMINATION.—On the grant of an appli-
25 cation for relief under this section to a noncitizen

1 with a final order of removal, deportation, or exclu-
2 sion, the final order shall be deemed canceled by op-
3 eration of law as of the date of the approval.

4 “(h) EXCLUSION FROM NUMERICAL LIMITATIONS.—
5 Individuals provided status under this section shall not be
6 counted against any numerical limitation under sections
7 201(d), 202(a), or 203(b)(4).

8 “(i) RULE OF CONSTRUCTION.—Nothing in this sec-
9 tion may be construed to authorize or require the admis-
10 sion of any noncitizen to the United States.

11 “(j) REPORTS.—

12 “(1) IN GENERAL.—Not later than 120 days
13 after the date of the enactment of this section, and
14 every 90 days thereafter, the Secretary of Homeland
15 Security shall submit to the Committee on the Judi-
16 ciary of the Senate and the Committee on the Judi-
17 ciary of the House of Representatives a report on—

18 “(A) the number of applications submitted
19 under each of paragraphs (1), (4), and (5) of
20 subsection (b) since the date of the enactment
21 of this section, disaggregated by the country of
22 birth of the applicants; and

23 “(B) average timelines for processing each
24 such application.

1 “(2) PUBLIC AVAILABILITY.—The Secretary of
2 Homeland Security shall publish each report sub-
3 mitted under paragraph (1) on the internet website
4 of the Department of Homeland Security, respec-
5 tively.

6 “(k) PUBLICATION OF GUIDANCE.—Not later than
7 120 days after the date of the enactment of this Act, the
8 Secretary of Homeland Security shall publish all policy
9 manuals, guidance, and application instructions relating
10 to applications under this section on the internet website
11 of the Department of Homeland Security.

12 “(l) REGULATIONS.—The Secretary of Homeland Se-
13 curity may issue such regulations as the Secretary of
14 Homeland Security considers appropriate to carry out this
15 section.”.

16 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

17 (1) TABLE OF CONTENTS.—The table of con-
18 tents for the Immigration and Nationality Act (8
19 U.S.C. 1101 et seq.) is amended by inserting after
20 the item relating to section 245A the following:

 “Sec. 245B. Protection of stateless persons in the United States.”.

21 (2) EXCEPTION FOR UNLAWFUL PRESENCE OF
22 STATELESS PERSONS.—Section 212(a)(9)(B)(iii) of
23 the Immigration and Nationality Act (8 U.S.C.
24 1182(a)(9)(B)(iii)) is amended by adding at the end
25 the following:

1 “(V) STATELESS PERSONS.—
2 Clause (i) shall not apply to a noncit-
3 izen who demonstrates that he or she
4 is a stateless person (as defined in
5 section 245B(a)).”.

6 **SEC. 5. PREVENTION OF STATELESSNESS.**

7 (a) BIRTHS TO UNITED STATES CITIZENS OVER-
8 SEAS.—Section 301 of the Immigration and Nationality
9 Act (8 U.S.C. 1401) is amended—

10 (1) in subsection (g), by striking “; and” and
11 inserting a semicolon;

12 (2) in subsection (h), by striking the period at
13 the end and inserting “; and”; and

14 (3) by adding at the end the following:

15 “(i) a person born to a citizen of the United States
16 outside the United States or in an outlying possession of
17 the United States, if such person is born as a stateless
18 person (as defined in section 245B(a)).”.

19 (b) FOUNDLINGS.—Section 301 of the Immigration
20 and Nationality Act (8 U.S.C. 1401) is further amended
21 by striking subsection (f) and inserting the following:

22 “(f) a person of unknown parentage found in the
23 United States while under the age of 18 years, until
24 shown, prior to the person attaining the age of 21 years,
25 not to have been born in the United States;”.

1 (c) STATELESS SAFEGUARDS FOR DERIVATIVE CITI-
2 ZENSHIP AND INTERNATIONAL ADOPTIONS.—

3 (1) STATELESS SAFEGUARDS.—Section 320 of
4 the Immigration and Nationality Act (8 U.S.C.
5 1431) is amended by adding at the end the fol-
6 lowing:

7 “(e)(1) Notwithstanding any other provision of law,
8 a person born outside the United States or in an outlying
9 possession who is or becomes a stateless person (as defined
10 in section 245B(a)) automatically becomes a citizen of the
11 United States on the date on which one of the following
12 conditions has been fulfilled:

13 “(A) One parent is or was a citizen of the
14 United States.

15 “(B) The person was adopted by—

16 “(i) a citizen of the United States; or

17 “(ii) an individual who became a citizen of
18 the United States after the date of such adop-
19 tion.

20 “(2) This subsection applies to any person who meets
21 the criteria under paragraph (1) at any time.”.

22 (2) AGE.—Section 320(a) of the Immigration
23 and Nationality Act (8 U.S.C. 1431(a)) is amended
24 by striking paragraph (2) and inserting the fol-
25 lowing:

1 “(2) The child is under the age of 21 years.”.

2 (3) ENTRY AND CUSTODY.—Section 320(a) of
3 the Immigration and Nationality Act (8 U.S.C.
4 1431(a)) is further amended by striking paragraph
5 (3) and inserting the following:

6 “(3) The child is residing in the United States,
7 and provided such child is under the legal age of
8 adulthood in the State in which the parent of the
9 child or the child resides, is in the legal and physical
10 custody of the citizen parent.”.

11 (d) PROGRAMS TO PREVENT STATELESSNESS.—The
12 Secretary of Homeland Security and Secretary of State
13 shall jointly establish and carry out initiatives to prevent
14 statelessness from occurring, which may include—

15 (1) an assessment of United States citizenship
16 law to determine and amend any provision of law
17 that results in statelessness or a delayed acquisition
18 of nationality that increases the risk of statelessness;

19 (2) studies on the profiles and number of state-
20 less people living in the United States;

21 (3) programs to promote inclusive and non-
22 discriminatory nationality laws and practices in
23 other countries, with particular attention to the pre-
24 vention of atrocity crimes;

1 (4) programs to encourage other countries to
2 establish stateless status determination and protec-
3 tion legislation; and

4 (5) grants to universities and nongovernmental
5 organizations to accelerate research, education, cur-
6 ricula, and knowledge on nationality law and prac-
7 tice and statelessness.