

8 U.S.C. 1182(d)

(5)

(A)

The Attorney General may, except as provided in subparagraph (B) or in [section 1184\(f\) of this title](#), in his discretion parole into the United States temporarily under such conditions as he may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant public benefit any alien applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States.

(B)

The Attorney General may not parole into the United States an alien who is a refugee unless the Attorney General determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under [section 1157 of this title](#).

8 CFR 212.5

8 CFR 212.5 Parole of aliens into the United States.

(a) The authority of the Secretary to continue an alien in custody or grant parole under section 212(d)(5)(A) of the Act shall be exercised by the Assistant Commissioner, Office of Field Operations; Director, Detention and Removal; directors of field operations; port directors; special agents in charge; deputy special agents in charge; associate special agents in charge; assistant special agents in charge; resident agents in charge; field office directors; deputy field office directors; chief patrol agents; district directors for services; and those other officials as may be designated in writing, subject to the parole and detention authority of the Secretary or his designees. The Secretary or his designees may invoke, in the exercise of discretion, the authority under section [212\(d\)\(5\)\(A\)](#) of the Act. (Revised 6/12/03; [68 FR 35151](#))(Revised 6/7/02; [67 FR 39255](#)) (Added effective 1/29/01; [65 FR 82254](#))

(b) The parole of aliens within the following groups who have been or are detained in accordance with [§ 235.3\(b\)](#) or [\(c\)](#) of this chapter would generally be justified only on a case-by-case basis for "urgent humanitarian reasons" or "significant public benefit," provided the aliens present neither a security risk nor a risk of absconding: (Redesignated as paragraph (b), previously

paragraph (a) effective 1/29/01; **65 FR 82254**) (Paragraph (a) revised effective 4/1/97; **62 FR 10312**)

(1) Aliens who have serious medical conditions in which continued detention would not be appropriate;

(2) Women who have been medically certified as pregnant;

(3) Aliens who are defined as juveniles in **§ 236.3(a)** of this chapter. The Director, Detention and Removal; directors of field operations; field office directors; deputy field office directors; or chief patrol agents shall follow the guidelines set forth in § 236.3(a) of this chapter and paragraphs (b)(3)(i) through (iii) of this section in determining under what conditions a juvenile should be paroled from detention: (Introductory text revised 6/12/03; **68 FR 35151**)(Introductory text revised 6/7/02; **67 FR 39255**)(Amended effective 1/29/01; **65 FR 82254**)

(i) Juveniles may be released to a relative (brother, sister, aunt, uncle, or grandparent) not in Service detention who is willing to sponsor a minor and the minor may be released to that relative notwithstanding that the juvenile has a relative who is in detention.

(ii) If a relative who is not in detention cannot be located to sponsor the minor, the minor may be released with an accompanying relative who is in detention.

(iii) If the Service cannot locate a relative in or out of detention to sponsor the minor, but the minor has identified a non-relative in detention who accompanied him or her on arrival, the question of releasing the minor and the accompanying non-relative adult shall be addressed on a case-by-case basis;

(4) Aliens who will be witnesses in proceedings being, or to be, conducted by judicial, administrative, or legislative bodies in the United States; or

(5) Aliens whose continued detention is not in the public interest as determined by those officials identified in paragraph (a) of this section. (Revised 6/12/03; **68 FR 35151**) (Revised 6/7/02; **67 FR 39255**)

(c) In the case of all other arriving aliens, except those detained under **§ 235.3(b)** or **(c)** of this chapter and paragraph (b) of this section, those officials listed in paragraph (a) of this section may, after review of the individual case, parole into the United States temporarily in accordance with section **212(d)(5)(A)** of the Act, any alien applicant for admission, under such terms and conditions, including those set forth in paragraph (d) of this section, as he or she may deem appropriate. An alien who arrives at a port-of-entry and applies for parole into the United States for the sole purpose of seeking adjustment of status under section **245A** of the Act, without benefit of advance authorization as described in paragraph (f) of this section shall be denied parole and detained for removal in accordance with the provisions of **§ 235.3(b)** or **(c)** of this chapter. An alien seeking to enter the United States for the sole purpose of applying for adjustment of status under section **210** of the Act shall be denied parole and detained for removal under **§ 235.3(b)** or **(c)** of this chapter, unless the alien has been recommended for approval of such application for adjustment by a consular officer at an Overseas Processing Office. (Revised 6/12/03; **68 FR 35151**)(Revised 6/7/02; **67 FR 39255**) (Redesignated as paragraph (c) and amended, previously paragraph (b) effective 1/29/01; **65 FR 82254**) (Paragraph (b) revised effective 4/1/97; **62 FR 10312**)

(d) Conditions. In any case where an alien is paroled under paragraph (b) or (c) of this section, those officials listed in paragraph (a) of this section may require reasonable assurances that the alien will appear at all hearings and/or depart the United States when required to do so. Not all factors listed need be present for parole to be exercised. Those officials should apply reasonable discretion. The consideration of all relevant factors includes: (Introductory text revised 6/12/03; **68 FR 35151**) (Introductory text revised 6/7/02; **67 FR 39257**) (Redesignated as paragraph (d) and amended, previously paragraph (c) effective 1/29/01; **65 FR 82254**) (Introductory text revised 4/1/97; **62 FR 10312**)

(1) The giving of an undertaking by the applicant, counsel, or a sponsor to ensure appearances or departure, and a bond may be required on Form I-352 in such amount as may be deemed appropriate; (Revised 6/12/03; **68 FR 35151**)(Revised 6/7/02; 67 FR 39257) (Revised effective 4/1/97; **62 FR 10312**)

(2) Community ties such as close relatives with known addresses; and

(3) Agreement to reasonable conditions (such as periodic reporting of whereabouts).

(e) Termination of parole -- (1) Automatic. Parole shall be automatically terminated without written notice (i) upon the departure from the United States of the alien, or, (ii) if not departed, at the expiration of the time for which parole was authorized, and in the latter case the alien shall be processed in accordance with paragraph (e)(2) of this section except that no written notice shall be required. (Redesignated as paragraph (e), and amended previously paragraph (d) effective 1/29/01; **65 FR 82254**)

(2)(i) On notice. In cases not covered by paragraph (e)(1) of this section, upon accomplishment of the purpose for which parole was authorized or when in the opinion of the district director or chief patrol agent in charge of the area in which the alien is located, the Deputy Executive Associate Commissioner for Detention and Removal, or the Director of the Office of Juvenile Affairs, neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States, parole shall be terminated upon written notice to the alien and he or she shall be restored to the status that he or she had at the time of parole. When a charging document is served on the alien, the charging document will constitute written notice of termination of parole, unless otherwise specified. Any further inspection or hearing shall be conducted under section **235** or **240** of the Act and this chapter, or any order of exclusion, deportation, or removal previously entered shall be executed. If the exclusion, deportation, or

removal order cannot be executed within a reasonable time, the alien shall again be released on parole unless in the opinion of the district director, chief patrol agent, the Deputy Executive Associate Commissioner for Detention and Removal, or the Director of the Office of Juvenile Affairs the public interest requires that the alien be continued in custody. (Revised 6/7/02; **67 FR 39255**) (Amended effective 1/29/01; **65 FR 82254**) (Revised effective 4/1/97; **62 FR 10312**)

(ii) An alien who is granted parole into the United States after enactment of the Immigration Reform and Control Act of 1986 for other than the specific purpose of applying for adjustment of status under section **245A** of the Act shall not be permitted to avail him or herself of the privilege of adjustment thereunder. Failure to abide by this provision through making such an application will subject the alien to termination of parole status and institution of proceedings under sections **235** and **236** of the Act without the written notice of termination required by **§ 212.5(e)(2)(i)** of this chapter. (Amended effective 1/29/01; **65 FR 82254**)

(iii) Any alien granted parole into the United States so that he or she may transit through the United States in the course of removal from Canada shall have his or her parole status terminated upon notice, as specified in **8 CFR 212.5(e)(2)(i)**, if he or she makes known to an immigration officer of the United States a fear of persecution or an intention to apply for asylum. Upon termination of parole, any such alien shall be regarded as an arriving alien, and processed accordingly by the Department of Homeland Security. (Added effective 12-29-04; **69 FR 69480**)

(f) Advance authorization. When parole is authorized for an alien who will travel to the United States without a visa, the alien shall be issued an appropriate document authorizing travel. (Amended effective 11/28/11; **76 FR 53764**) (Redesignated as paragraph (f), previously paragraph (e) effective 1/29/01; **65 FR 82254**)

(g) Parole for certain Cuban nationals. Notwithstanding any other provision respecting parole, the determination whether to release on parole, or to revoke the parole of, a native of Cuba who

last came to the United States between April 15, 1980, and October 20, 1980, shall be governed by the terms of **§ 212.12**. (Amended 12/21/01; **65 FR 80281**) (Redesignated as paragraph (g), previously paragraph (f) effective 1/29/01; **65 FR 82254**)

(h) Effect of parole of Cuban and Haitian nationals. (1) Except as provided in paragraph (h)(2) of this section, any national of Cuba or Haiti who was paroled into the United States on or after October 10, 1980, shall be considered to have been paroled in the special status for nationals of Cuba or Haiti, referred to in section 501(e)(1) of the Refugee Education Assistance Act of 1980, Public Law 96-422, as amended (8 U.S.C. 1522 note). (Redesignated as paragraph (h) and amended, previously paragraph (g) effective 1/29/01; **65 FR 82254**)(Paragraph (g) added 7/12/96; **61 FR 36610**)

(2) A national of Cuba or Haiti shall not be considered to have been paroled in the special status for nationals of Cuba or Haiti, referred to in section 501(e)(1) of the Refugee Education Assistance Act of 1980, Public Law 96-422, as amended, if the individual was paroled into the United States:

(i) In the custody of a Federal, State or local law enforcement or prosecutorial authority, for purposes of criminal prosecution in the United States; or

(ii) Solely to testify as a witness in proceedings before a judicial, administrative, or legislative body in the United States.