

**Practice Advisory:
Pursuing Private Immigration Relief Legislation in Congress¹**

March 27, 2024

I. Introduction

As Congress continuously fails to pass humane immigration legislation, many noncitizens remain vulnerable to removal from the United States. While this legislative failure affects all noncitizens negatively, Congress's failure to enact meaningful immigration reform is particularly damaging to noncitizens who are unable to obtain legal status through normal immigration channels—particularly those noncitizens who may present unique cases that involve particularly sympathetic factors. These noncitizens may wonder if it is possible to ask Congress to pass an individual immigration bill to provide them relief. While it is possible for Congress to act on behalf of an individual by passing private immigration legislation, it is very difficult to pass a private bill through Congress and have it signed into law.

This practice advisory explores private bills as a potential solution for certain noncitizens. Section II provides a background on private immigration legislation, including information about Congress's authority to introduce and enact private legislation. Section III explains the congressional procedure for passing private immigration legislation. Section IV discusses how private bill beneficiaries may obtain a stay of removal. Section V provides information about the presidential approval and veto process for private bills. Section VI describes the enactment process for private laws. Section VII discusses the reasons for the decline in private bill enactment over the years. Section VIII highlights unique private bills that fall outside of the more established categories of private bills. Section IX offers practical tips for pursuing a private bill.

II. Authority and Background on Private Immigration Legislation

Private bills are unique pieces of legislation that directly impact or benefit an individual, family, or group of individuals.² Although private bills have historically covered a variety of

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² *Public and Private Laws, 104th Congress (1995–1996) to Present*, govinfo.gov (last updated June 14, 2022), <https://www.govinfo.gov/help/plaw>.

subjects—such as land grants, patents and copyrights, and military honors—the majority of private bills considered and passed by Congress are related to the beneficiary’s immigration status.³ Most private immigration bills grant the beneficiary the ability to adjust to lawful permanent resident (“LPR”) status.⁴ In doing so, many private bills provide a waiver of any grounds of inadmissibility to allow the beneficiary to adjust status.⁵ Historically, some private bills have waived naturalization requirements to allow the beneficiary to naturalize, but these types of private immigration bills are increasingly uncommon.⁶

There are competing theories as to the source of congressional authority to enact private immigration legislation. One theory relies primarily on Congress’s power to “establish a uniform Rule of Naturalization,”⁷ combined with the Necessary and Proper clause.⁸ This theory contends that passing private immigration legislation is “equally as ‘necessary and proper’ to the effectuation of” this enumerated power as the enactment of public laws.⁹ Other scholars have proposed that congressional power to enact private bills stems from the First Amendment, which prohibits Congress from denying the people’s right “to petition the Government for a redress of grievances.”¹⁰ Relatedly, this authority may be based on the power of Congress to pay the debts of the United States, which scholars argue includes non-monetary, “moral,” “honorary” debts.¹¹ Regardless of the source of Congress’s authority to introduce and enact private legislation, the authority itself and congressional consideration of such bills has rarely, if ever, been questioned.¹²

III. Congressional Procedure for Private Immigration Legislation

Private bills are typically (though not always) introduced by the representative or senator who represents the beneficiary in the U.S. Congress.¹³ Companion bills—identical or substantially similar bills introduced in the other chamber of Congress—are rarely introduced for private bills,¹⁴ and the House Rules prohibit co-sponsorship of private legislation.¹⁵ Private

³ Matthew Mantel, *Private Bills and Private Laws*, 99 LAW LIBR. J. 87, 90 (2007).

⁴ Cong. Research Serv. (CRS), *The Legal and Practical Effects of Private Immigration Legislation and Recent Policy Changes* (June 30, 2017); Margaret Mikyung Lee, CRS, 7-5700, *Private Immigration Legislation* 3 (Feb. 28, 2007).

⁵ Lee, *supra* note 4, at 3; Charles Gordon et. al., *Special Legislative Permission to Remain in the United States: Private Relief Bills*, 6 IMMIGRATION LAW AND PROCEDURE § 74.09(2)(d)(iii) (2020).

⁶ Lee, *supra* note 4, at 3; IMMIGRATION LAW AND PROCEDURE, *supra* note 5, § 74.09(2)(d)(iv).

⁷ U.S. CONST. art. I § 8, cl. 4.

⁸ U.S. CONST. art. I § 8, cl. 18.

⁹ Mantel, *supra* note 3, at 89, n. 13 (citing Note, *Private Bills in Congress*, 79 HARV. L. REV. 1684, 1685 (1965)).

¹⁰ U.S. CONST. amend. I; Lee, *supra* note 4, at 1; Mantel, *supra* note 3, at 88; Anne Marie Gallagher, *AILA’s Focus on Private Bills & Pardons in Immigration* 5–6 (2008).

¹¹ U.S. CONST. art. I § 8, cl. 1; Lee, *supra* note 4, at 1; Mantel, *supra* note 3, at 88; Gallagher, *supra* note 10, at 5–6.; *see also United States v. Realty Co.*, 163 U.S. 427, 440 (1896) (“The nation, speaking broadly, owes a ‘debt’ to an individual when his claim grows out of general principles of right and justice,—when, in other words, it is based upon considerations of a moral or merely honorary nature, such as are binding on the conscience or the honor of an individual, although the debt could obtain no recognition in a court of law.”).

¹² Mantel, *supra* note 3 at 89.

¹³ Christopher M. Davis, CRS, R45287, *Private Bills: Procedure in the House* 1 (Jan. 5, 2024).

¹⁴ *Id.*

¹⁵ RULES OF THE HOUSE OF REPRESENTATIVES, 118th Cong., Rule XII, cl. 7.

immigration bills are referred to the House and Senate Judiciary Committees' respective Immigration Subcommittees.¹⁶ Upon request of the private bill sponsor, the Chair of the House or Senate Immigration Subcommittee may request a departmental report from the Department of Homeland Security ("DHS") with information about the bill beneficiary's case and immigration history.¹⁷ Immigration and Customs Enforcement ("ICE") will typically authorize a stay of removal for the bill beneficiary upon receipt of the Subcommittee Chair's request for a departmental report, but this is a discretionary decision.¹⁸

It is important to note that a private bill beneficiary need not have a pending removal order for the House or Senate to consider a private bill for their relief.¹⁹ However, advocates should be aware of the risk of exposure to removal from the United States once the beneficiary sheds light on their case through the private bill process. Through mounting a private bill campaign, an immigrant could draw unwanted attention from DHS and could be placed at risk of removal—either by being put in removal proceedings or, if an immigration judge issues an order of removal, by DHS effectuating a removal order if the private bill does not pass. Additionally, advocates should be aware that, under federal immigration regulations, the introduction of a private bill for a beneficiary with nonimmigrant status will terminate their nonimmigrant status.²⁰

Former Senate Judiciary Committee Ranking Member Diane Feinstein and Senate Immigration Subcommittee Ranking Member Dick Durbin have described private immigration bills as "a critical safety net that Democrats and Republicans alike have carefully used for a small number of the most critical cases."²¹ This reflects the longstanding congressional theory and practice that considers private bills to be an act of last resort.²² In both chambers of Congress, private bills are typically considered only if the beneficiary's case involves extreme hardship and the beneficiary has exhausted all administrative and legal remedies.²³

The ideal conclusion of the private bill process is for both the House and the Senate to pass the private bill. The bill is then sent to the President for signature and becomes private law. The private law beneficiary is then able to become an LPR. Unfortunately, it is increasingly difficult to enact private bills due to strict House and Senate procedure and the polarization of Congress. However, it is still possible for private bill beneficiaries to receive a stay of removal if

¹⁶ Mantel, *supra* note 3, at 95–97.

¹⁷ Lee, *supra* note 4, at 3–4; Office of Congressional Relations, Private Immigration Bills (last updated Dec. 6, 2023), ice.gov/leadership/ocr#ImmBills.

¹⁸ Lee, *supra* note 4, at 3–4; Office of Congressional Relations, Private Immigration Bills (last updated Dec. 6, 2023), ice.gov/leadership/ocr#ImmBills. The stay of removal process is discussed further. *See infra*, Section IV.

¹⁹ Gallagher, *supra* note 10, at 24.

²⁰ 8 C.F.R. § 214.1(d) ("Within the period of initial admission or extension of stay, the nonimmigrant status of an alien shall be terminated by the revocation of a waiver authorized on his or her behalf under section 212(d) (3) or (4) of the Act; by the introduction of a private bill to confer permanent resident status on such alien; or, pursuant to notification in the Federal Register, on the basis of national security, diplomatic, or public safety reasons.")

²¹ Press Release, Office of Senator Diane Feinstein, Feinstein, Durbin Statement on Drastic, Unilateral Changes to Private Bills (May 8, 2017), <https://www.durbin.senate.gov/newsroom/press-releases/durbin-feinstein-statement-on-drastic-unilateral-changes-to-private-bills>.

²² *See* IMMIGRATION LAW AND PROCEDURE, *supra* note 5, § 74.09(2); Mantel, *supra* note 3, at 88, 90; Lee, *supra* note 4, at 2–3.

²³ Lee, *supra* note 4, at 3.

the Chair of the House or Senate Immigration Subcommittee requests a departmental report and ICE exercises its discretion to issue a stay.

The procedures differ significantly between the House and the Senate regarding what steps must be taken before the subcommittee Chair can request a departmental report. The following sections explain these procedures, identify the types of bills that qualify for Committee passage, and describe how a private bill can pass each chamber of Congress.

A. House Procedure

House procedure for private bills is largely controlled by the Immigration Subcommittee's Rules of Procedure and Statement of Policy for Private Immigration Bills ("House Subcommittee Rules"), as well as the Rules of the House of Representatives. The House Subcommittee Rules lay out the various steps a private bill sponsor must take before the House Immigration Subcommittee will consider a private bill. These Rules also outline various categories of bills that the Subcommittee will or will not look upon favorably. The House Subcommittee Rules may change from one Congress to the next. Therefore, practitioners should consult the most current set of Rules when handling a case. This Practice Advisory describes the process as outlined in the most recent, public set of Rules that apply to private bills.²⁴

The most recent House Subcommittee Rules require a private bill sponsor to send a letter to the Chair of the Subcommittee outlining the facts of the beneficiary's case, and to submit a collection of required documentation related to the beneficiary's immigration history.²⁵ The Subcommittee will evaluate a private bill only upon receipt of these documents. However, the Subcommittee will not consider a private bill unless "all administrative and judicial remedies are exhausted."²⁶ The House Subcommittee Rules also provide that the Subcommittee should only entertain private bills that are "designed to prevent extreme hardship to the beneficiary or a U.S. citizen spouse, parent, or child."²⁷

Perhaps most importantly, the House Subcommittee Rules indicate that the Subcommittee will "act favorably on *only* those private bills that meet certain precedents," which are discussed below.²⁸ If the Subcommittee receives the required documentation from a bill sponsor office and determines that the bill meets the precedent and hardship requirements laid out in the House Subcommittee Rules, the Subcommittee will schedule a meeting to consider a

²⁴ At the time of this publication, the House Subcommittee on Immigration and Citizenship had not held a hearing or markup to adopt the Rules of Procedure and Statement of Policy for Private Immigration Bills of the 118th Congress, despite being more than halfway through the Congress.

²⁵ U.S. House of Representatives, Committee on the Judiciary, Subcommittee on Immigration and Citizenship, Rules of Procedure and Statement of Policy for Private Immigration Bills, 117th Cong., rule 1, <https://www.congress.gov/117/meeting/house/111173/documents/HMTG-117-JU01-20210211-SD001.pdf> [hereinafter referred to as "HOUSE SUBCOMMITTEE RULES"].

²⁶ *Id.*, rule 3. The House Subcommittee Rules do not provide a definition or clarification of what is included in "all administrative and judicial remedies." For example, the rules do not indicate if the beneficiary is required to pursue a Motion to Reopen. Advocates should consider referring to the proper jurisdiction's precedent addressing exhaustion requirements.

²⁷ *Id.*, rule 5.

²⁸ *Id.* at Statement of Policy (emphasis added).

motion to request a departmental report from DHS.²⁹ If passed, the issuance of the request for a departmental report may result in a stay of removal for the private bill beneficiary, but this is subject to ICE's discretion.³⁰ Upon receipt of the departmental report and assurance that the report includes no derogatory information about the beneficiary's immigration or criminal history, the Committee will schedule a markup to recommend the bill to proceed to the House floor.³¹

House Rule VX, clause 5 dictates the procedure by which the House can call up a private bill for a floor vote. This clause establishes a separate Private Calendar whereby private bills can only be considered when the Speaker announces to the House their intention to call up a private bill and then, at least a day later, directs the Clerk to call up the bill that has been on the Private Calendar for seven days.³² Additionally, each party appoints an equal number of "Objectors" who are responsible for examining measures on the Private Calendar.³³ Pursuant to Rule XV, clause 5, if two Objectors or two other members object to the private bill, it is recommitted to the Committee.³⁴ If there is no objection, the House proceeds with a vote on the bill, though private bills to which there is no objection are typically disposed of by voice vote.³⁵ Once a private bill has passed the House, it is either (1) sent to the president for signature, if it has already passed the Senate or (2) sent to the Senate for consideration. Only after a bill has been passed by both chambers and signed into law does the beneficiary qualify to receive LPR status.

1. Precedent Requirement

The House Subcommittee's precedent requirement is a critical piece of the private bill process. The House Subcommittee Rules include information on some, but not all, precedents. Those precedents include:

- **Adoption:** The Subcommittee has a long history of considering private bills for cases where the adoption proceedings of a minor were not completed before the child's sixteenth birthday, as required by immigration law.³⁶ In particular, the House Subcommittee Rules provide that the Subcommittee will look favorably upon cases where the child is young and there is a longstanding parent-child relationship.³⁷

²⁹ *Id.*, rules 4, 5.

³⁰ *Id.*; Lee, *supra* note 4, at 2–3; Office of Congressional Relations, Private Immigration Bills (last updated Dec. 6, 2023), ice.gov/leadership/ocr#ImmBills.

³¹ Lee, *supra* note 4, at 3–4.

³² RULES OF THE HOUSE OF REPRESENTATIVES, 118th Cong., Rule XV, cl. 5.

³³ Davis, *supra* note 13, at 2.

³⁴ RULES OF THE HOUSE OF REPRESENTATIVES, 118th Cong., Rule XV, cl. 5.

³⁵ Davis, *supra* note 13, at 2.

³⁶ HOUSE SUBCOMMITTEE RULES, *supra* note 25, at Statement of Policy, sec. A; Lee, *supra* note 4, at 8; IMMIGRATION LAW AND PROCEDURE, *supra* note 5, § 74.09(2)(b); *see, e.g.*, For the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe), Priv. L. No. 107-1 (2001); For the relief of Lindita Idrizi Heath, Priv. L. No. 108-1 (2004); For the relief of Richi James Lesley, Priv. L. No. 108-3 (2004); For the relief of Tanya Andrea Goudea, Priv. L. No. 108-6 (2004); For the relief of Shigeru Yamada, Priv. L. No. 111-1 (2010); For the relief of Allan Bolor Kelley, H.R. 794, 112th Cong. (2011) (passed by the House); For the relief of Bartosz Kumor, H.R. 1857, 112th Cong. (2011) (passed by the House).

³⁷ HOUSE SUBCOMMITTEE RULES, *supra* note 25, at Statement of Policy, sec. A.

For example, Private Law No. 108-6 was enacted for the relief of Tanya Andrea Goudeau, who was born in Sri Lanka and abandoned by her parents to live with her elderly grandmother.³⁸ When an American couple learned of her unstable home conditions, including food scarcity, they initiated adoption proceedings, but the adoption was finalized about two months after her sixteenth birthday.³⁹ The committee report for this bill notes that “[p]recedent dictates that in order for favorable consideration of a private bill that allows an adoption to be considered legitimate for immigration purposes, the adoption must have been initiated prior to the child’s turning 16 and must be finalized.”⁴⁰

Private Law No. 117-1 was enacted for the relief of Rebecca Trimble, who was born in Mexico in 1989.⁴¹ She was adopted by U.S. citizen parents and brought into the country when she was a few days old.⁴² When Ms. Trimble applied for a REAL-ID compliant driver’s license in 2012, she and her adoptive parents learned that the adoption process had not been properly completed.⁴³ The committee report for this bill emphasizes that, “until she was in her early twenties, Ms. Trimble believed she was a U.S. citizen by virtue of adoption,” and that the bill meets the “adoption precedent” based on the facts of her case, as well as the “severe impact that her removal would have on her U.S. citizen family and her community[.]”⁴⁴

- **Death of a U.S. Citizen Spouse:** The Subcommittee has also acted favorably on private bills where the beneficiary was unable to adjust status due to the death of their U.S. citizen spouse.⁴⁵ For example, Anisha Goveas Foti—the beneficiary of Private Law No. 107-5—was married to a United States citizen who was killed in the Gulf Air 072 crash of August 2000, only two months after their wedding.⁴⁶ The couple had initiated the process to allow Ms. Goveas Foti to receive conditional permanent residence as a spouse of a U.S. citizen, but the required interview for that process did not occur before her husband’s death, preventing Ms. Goveas Foti from receiving conditional permanent status and the ability to adjust status in the future.⁴⁷ Congress therefore passed a private bill to grant LPR status to Ms. Goveas Foti.

In 2002, Congress passed the Family Sponsor Immigration Act, which created a humanitarian reinstatement program through which an approved spousal petition beneficiary can have their status reinstated if their spouse dies within the two-year

³⁸ For the relief of Tanya Andrea Goudeau, Priv. L. No. 108-6 (2004); H.R. Rep. No. 108-529, at 1–2 (2004).

³⁹ *Id.* at 2.

⁴⁰ *Id.*

⁴¹ For the relief of Rebecca Trimble, Priv. L. No. 117-1 (2022); H.R. Rep. No. 117-238, at 1–3 (2022).

⁴² H.R. Rep. No. 117-238, at 1–3 (2022).

⁴³ *Id.*

⁴⁴ *Id.* at 3.

⁴⁵ *See, e.g.*, For the relief of Anisha Goveas Foti, Priv. L. No. 107-5 (2002); For the relief of Kumi Iizuka-Barcena, H.R. 5243, 110th Cong. (2008) (passed by the House); For the relief of Hotaru Nakama Ferschke, Priv. L. No. 111-2 (2010).

⁴⁶ For the relief of Anisha Goveas Foti, Priv. L. No. 107-5 (2002); H.R. Rep. No. 107-579, at 1–2 (2002).

⁴⁷ *Id.*

conditional period.⁴⁸ By enacting this bill, Congress rectified this issue and avoided the need for case-by-case solutions through private legislation. Therefore, these types of private bills are rarely, if ever, introduced in Congress today.

- **Medical Cases:** Many of the private bills considered and passed by Congress in recent years are private bills for the relief of individuals with—or spouses and parents of U.S. citizens with—serious medical conditions.⁴⁹ The House Subcommittee Rules provide that the Subcommittee is reluctant to consider private bills where the beneficiary entered the United States specifically for the purpose of seeking medical treatment, but the Subcommittee has done so in the past.⁵⁰ The Rules also require that sponsors of private bills for individuals with medical conditions “provide evidence of the availability of adequate medical treatment in the [beneficiary’s] home country.”⁵¹

Private Law No. 112-1 provided LPR status to a Nigerian national who came to the United States for medical treatment.⁵² The beneficiary, Sopuruchi Chukwueke, suffered from neurofibromatosis—a rare genetic disorder similar to “elephant man disease.”⁵³ He underwent seven major surgeries during his years in the United States to remove tumors, which resulted in the loss of one eye and severe disfigurement of his face.⁵⁴ At the time of the bill’s passage, he knew he would require additional surgeries in the future.⁵⁵ The Committee Report noted that no adequate treatment or comparatively skilled surgeons were available in Nigeria.⁵⁶ The bill was ultimately signed into law.

Several bills passed by the House in recent years also fall under this medical precedent.⁵⁷ For example, in the 116th and 117th Congresses, the House passed private

⁴⁸ Pub. L. No. 107-150 (2002); *see also* USCIS, “Humanitarian Reinstatement” (last reviewed/updated June 7, 2013), <https://www.uscis.gov/green-card/green-card-eligibility/humanitarian-reinstatement>.

⁴⁹ *See, e.g.*, For the relief of Sopuruchi Chukwueke, Priv. L. No. 112-1 (2012); For the relief of Esther Karinge, H.R. 316, 112th Cong. (2007) (passed by the House); For the relief of Daniel Wachira, H.R. 824, 112th Cong. (2011) (passed by the House); For the relief of Arpita Kurdekar, Girish Kurdekar, and Vandana Kurdekar, 116th Cong. (2019) (passed by the House); For the relief of Maria Carmen Castro Ramirez and J. Refugio Carreno Rojas, H.R. 1548, 116th Cong. (2019) (passed by the House); For the relief of Maria Isabel Bueso Barrera, Alberto Bueso Mendoza, Karla Maria Barrera De Bueso, and Ana Lucia Bueso Barrera, H.R. 4225, 116th Cong. (2019) (passed by the House); For the relief of Victoria Galindo Lopez, H.R. 7146, 116th Cong. (2020) (passed by the House); For the relief of Median El-Moustrah, H.R. 7572, 116th Cong. (2020) (passed by the House).

⁵⁰ HOUSE SUBCOMMITTEE RULES, *supra* note 25, at Statement of Policy, sec. D.

⁵¹ *Id.*

⁵² For the relief of Sopuruchi Chukwueke, Priv. L. No. 112-1 (2012); H.R. Rep. No. 112-695, at 1–2 (2012).

⁵³ H.R. Rep. No. 112-695, at 1–2 (2012).

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ *See, e.g.*, For the relief of Arpita Kurdekar, Girish Kurdekar, and Vandana Kurdekar, 116th Cong. (2019) (passed by the House); For the relief of Maria Carmen Castro Ramirez and J. Refugio Carreno Rojas, H.R. 1548, 116th Cong. (2019) (passed by the House); For the relief of Maria Isabel Bueso Barrera, Alberto Bueso Mendoza, Karla Maria Barrera De Bueso, and Ana Lucia Bueso Barrera, H.R. 4225, 116th Cong. (2019) (passed by the House); For the relief of Victoria Galindo Lopez, H.R. 7146, 116th Cong. (2020) (passed by the House); For the relief of Median El-Moustrah, H.R. 7572, 116th Cong. (2020) (passed by the House).

immigration legislation for the relief of Victoria Galindo Lopez.⁵⁸ Ms. Galindo Lopez’s U.S. citizen daughter was sexually assaulted by her father for most of her childhood, resulting in severe mental health problems and sixteen suicide attempts by the time she was seventeen years of age.⁵⁹ The Subcommittee found that deporting Ms. Galindo Lopez—who was her daughter’s primary caregiver and provided medical insurance to cover her daughter’s treatments—would result in the severe deterioration of her daughter’s condition.⁶⁰ The Committee Report from the 117th Congress notes:

It is not the Committee’s intent that this legislation serve as precedent for other private legislation where the hardship resulting from the beneficiary’s removal centers *solely* around an individual’s mental stability or emotional difficulties.⁶¹

In the 116th and 117th Congresses, the Subcommittee approved motions to request a departmental report and ICE granted Ms. Galindo Lopez stays of removal.⁶² The Senate never considered the bills for the relief of Ms. Galindo Lopez and she therefore never received LPR status through the private bill process.

2. Precedent To Which the House Subcommittee is Averse

The House Subcommittee Rules also identify certain categories of cases that the Subcommittee will not look favorably upon. Most prominent among those are:

- **Deferred Action and Parole Cases:** The House Subcommittee Rules indicate that the Subcommittee will be “reluctant” to consider private bills on behalf of a beneficiary “who is in ‘deferred’ status or who has been paroled into the United States indefinitely.”⁶³ The Subcommittee justifies this policy by noting that DHS “reserves the conferral of such status to cases of a particularly compelling nature” and that the Subcommittee will therefore view deferred action and indefinite parolee cases

⁵⁸ For the relief of Victoria Galindo Lopez, H.R. 7146, 116th Cong. (2020) (passed by the House); For the relief of Victoria Galindo Lopez, H.R. 187, 117th Cong. (2020) (passed by the House).

⁵⁹ H.R. Rep. No. 11-236, at 1–2 (2020).

⁶⁰ *Id.* at 2–3.

⁶¹ *Id.* at 3 (emphasis added).

⁶² *Id.*; House Judiciary Committee, Request for a Department of Homeland Security Departmental Report on the Beneficiary of H.R. 7146, For the relief of Victoria Galindo Lopez (June 10, 2020), <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventId=110796>; House Judiciary Committee, Adoption of the Subcommittees Rules of Procedure and Statement of Policy for Private Immigration Bills; and Request for a DHS Departmental Report on the Beneficiaries of H.R. 187, H.R. 680, H.R. 739, and H.R. 785 (Feb. 11, 2021), <https://democrats-judiciary.house.gov/calendar/eventsingle.aspx?EventID=3532>; Cheri Carlson, *California mother, essential worker set to be deported gets 30-days reprieve*, VENTURA COUNTY STAR (June 17, 2020), <https://www.vcstar.com/story/news/local/2020/06/17/coronavirus-essential-worker-undocumented-immigrant-deported-ice/3202432001/>; H.R. Rep. No. 11-236, at 2 (2020) (noting that Ms. Galindo Lopez had recently been granted a stay of removal on January 27, 2021 for a period of one year).

⁶³ HOUSE SUBCOMMITTEE RULES, *supra* note 25, at Statement of Policy, sec. E.

“unsympathetically.”⁶⁴ However, the Rules do not indicate whether the Subcommittee is favorable to considering private bills for individuals who have been paroled into the United States for a limited, finite period of time—the terms under which parole is commonly issued. Indeed, all grants of parole are essentially for a limited, finite period of time due to the termination of parole status upon issuance of a notice to appear.⁶⁵ As described in Section VIII below, the House has still considered and ultimately passed private bills for beneficiaries with existing parole or deferred action status.⁶⁶

B. Senate Procedure

The Senate has its own unique procedure for considering private legislation. The primary difference between House and Senate private bill procedure is that the Senate does not require a subcommittee meeting before requesting a departmental report from DHS.⁶⁷ The Chair may request a report upon request from a sponsor office.⁶⁸ Although private bill resources suggest that the Senate Immigration Subcommittee used to adopt specific rules for considering private bills,⁶⁹ it appears that is no longer the case.⁷⁰ Under the prior rules—and similar to the House Subcommittee Rules—the Chair of the Senate Subcommittee would not request a report or request a stay of removal for a private bill beneficiary who entered the U.S. without inspection unless the bill sponsor could provide documentary evidence that removal would result in “unusual hardship” to the beneficiary or a U.S. citizen relative.⁷¹ Unlike the House, the Senate has no requirement that the case fall under precedent.⁷²

If a private bill passes through the Senate Judiciary Committee, it proceeds to the Senate floor. There is no equivalent “Objector” procedure or Private Calendar in the Senate—a private bill may be considered on any legislative day.⁷³ Modern private bills have generally been considered on the Senate floor through the Senate’s unanimous consent procedure.⁷⁴

⁶⁴ *Id.*

⁶⁵ See 8 C.F.R. § 212.5(e)(2)(i), *see also Matter of Arambula Bravo*, 28 I&N Dec. 388 (BIA 2021) (holding that a notice to appear lacking time and place of the respondent’s initial hearing was still a “charging document” sufficient to terminate a noncitizen’s grant of parole under 8 CFR § 212.5(e)(2)(i)).

⁶⁶ See *infra*, Section VIII.

⁶⁷ Lee, *supra* note 4, at 4 (“The distinction between the Senate and House Subcommittee rules is that the Senate Subcommittee will generally request a report upon the request of the author of a bill without an initial consideration of the merits of the case and only requires a showing of hardship for certain disfavored categories, whereas the House Subcommittee will not request a report in any case unless a motion to request a report has been made at a formal meeting of the Subcommittee and a consideration of whether the ‘extreme hardship’ requirement has been met.”).

⁶⁸ *Id.*

⁶⁹ *Id.* at 3–4.

⁷⁰ The Senate Judiciary Committee website includes no information or documents regarding private bill rules. Additionally, Congressional resources indicate that neither the Committee nor Subcommittee convened to adopt private bill rules at any point during the past several Congresses.

⁷¹ Lee, *supra* note 4, at 3.

⁷² *Id.* at 3, 6–7.

⁷³ Mantel, *supra* note 3, at 96–97.

⁷⁴ *Id.*; Christopher M. Davis, CRS, RS20668, *How Measures Are Brought to the Senate Floor: A Brief Introduction* (Oct. 16, 2019).

IV. Securing a Stay of Removal in Congress

Historically, a stay of removal was provided to a private bill beneficiary simply upon introduction of a private bill in the Senate.⁷⁵ Comity between the executive and legislative branches made issuing a stay of removal a longstanding practice.⁷⁶ However, that is no longer the case. Issuing a stay of removal is a discretionary decision made by ICE, which cannot always be relied upon to issue such a stay.⁷⁷

Prior to 1979, simply introducing a private bill in the Senate would result in a stay of deportation for the beneficiary.⁷⁸ However, this is no longer the case. In the 96th Congress (1979–1980), the Senate adopted rules requiring a bill sponsor to send a letter to the Senate Immigration Subcommittee Chair to make a request for a stay of removal.⁷⁹

In the past, when ICE granted a stay of removal to a private bill beneficiary, the stay of removal remained in place until March 15 of the following Congress.⁸⁰ Additionally, members commonly re-introduced private bills each Congress with the goal of receiving subsequent stays of removal for eligible private bill beneficiaries. In 2017, the Trump administration changed this longstanding policy and announced that ICE would not grant a beneficiary more than one stay of removal through the private bill process, and limited stays of removal to a 6-month duration with the possibility of a one-time 90-day extension.⁸¹ On November 8, 2021, the Biden administration changed ICE’s policy regarding the issuance of stays of removal in conjunction with private immigration legislation.⁸² While the policy memorandum has not been made public, a summary of the policy seems to indicate a retraction of the hardline stance taken by ICE during the Trump

⁷⁵ IMMIGRATION LAW AND PROCEDURE, *supra* note 5, § 74.09(3).

⁷⁶ IMMIGRATION LAW AND PROCEDURE, *supra* note 5, § 74.09(3).

⁷⁷ On September 30, 2021, DHS Secretary Alejandro Mayorkas issued a memorandum on the use of prosecutorial discretion, identifying national security, border security, and public safety as DHS’s priorities for immigration enforcement. Memorandum from Secretary Alejandro N. Mayorkas, U.S. Dep’t of Homeland Security, “Guidelines for the Enforcement of Civil Immigration Law” (Sept. 30, 2021), <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>. On June 10, 2022, the U.S. District Court for the Southern District of Texas vacated Secretary Mayorkas’s September 30, 2021 enforcement guidelines. The government appealed that decision, and on July 21, 2022, the Supreme Court granted certiorari, but did not stay the district court’s decision. *United States v. Texas*, No. 22A17 (22-58) (U.S. July 21, 2022). The Supreme Court heard oral argument in *United States v. Texas* on November 29, 2022, and in June 2023 the Court reversed the decision, holding that the challengers did not have standing to challenge the enforcement priorities. DHS continues to rely on its inherent power to exercise prosecutorial discretion on a case-by-case basis.

⁷⁸ Gallagher, *supra* note 10, at 21.

⁷⁹ *Id.*

⁸⁰ Letter from Thomas D. Homan, Acting Director of U.S. Immigration and Customs Enforcement, to Senator Charles E. Grassley, Chairman of the House Judiciary Committee (May 5, 2017), <https://www.durbin.senate.gov/imo/media/doc/ICE%20Response%20to%20Letter%20on%20Private%20Immigration%20Relief%20Bills.pdf>.

⁸¹ *Id.*; ICE Acting Director Homan, *ICE Policy No. 5004.1: Stays of Removal and Private Immigration Bills*, May 5, 2017, https://www.ice.gov/doclib/foia/dro_policy_memos/removalStaysPrivateImmigrationBills_05_05_2017.pdf.

⁸² See Office of Congressional Relations, Private Immigration Bills (last updated Dec. 6, 2023), [ice.gov/leadership/ocr#ImmBills](https://www.ice.gov/leadership/ocr#ImmBills) (“absent exceptional circumstances, ICE will temporarily refrain from civil immigration enforcement actions pertaining to such noncitizen(s)”; U.S. Immigration and Customs Enforcement, *Private Immigration Relief Legislation—Introduced and Enacted—110th – 118th Congress (2007 – Present)* 1 (last updated Oct. 30, 2023), https://www.ice.gov/doclib/ocr/privateImmReliefLeg_IntroEnacted.pdf).

administration on stays of removal.⁸³ These policy changes serve as a reminder that the stay of removal agreement between Congress and the executive branch remains vulnerable to presidential administrations with hardline immigration policies. Any administration can seemingly choose to decrease or eradicate the relief granted to private bill beneficiaries while Congress considers their bill.

V. Presidential Approval or Veto of Private Bills

When an identical version of a private bill has passed in both chambers of Congress, the bill is presented to the president. Under the United States Constitution, every bill passed by Congress must be presented to the president before it becomes law.⁸⁴ The president has ten days, excluding Sundays, to sign or veto the bill.⁸⁵ The bill becomes law if the president signs the bill or declines to act on the bill in any way.⁸⁶ If Congress has adjourned at the time the president attempts to return an unsigned bill, the bill does not become law and must be reintroduced.⁸⁷

Like any other piece of passed legislation, the president has the authority to veto a private bill that has been passed by both chambers of Congress.⁸⁸ A vetoed bill returns to the chamber of Congress from which it originated, and that chamber can attempt to override the president's veto by a two-thirds majority.⁸⁹ The other chamber then decides whether to attempt their own override vote.⁹⁰

There have been 28 presidential vetoes of private immigration legislation, although the reasons for the vetoes have varied.⁹¹ A handful of private bills were vetoed because the sitting president did not think the beneficiaries were uniquely situated or had a compelling reason to warrant relief.⁹² These beneficiaries included:

- Persons seeking to regain U.S. citizenship after relinquishing it for business reasons;⁹³
- A deserting crewman who was part of the Polish underground during World War II;⁹⁴
- An individual seeking to regain U.S. citizenship after losing it when naturalizing in Italy to marry her Italian husband;⁹⁵ and

⁸³ *Private Immigration Relief Legislation—Introduced and Enacted—110th – 118th Congress (2007 – Present)*, *supra* note 82, at 1.

⁸⁴ U.S. Constitution art. I, §7.

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ *Id.*

⁹¹ Gallagher, *supra* note 10, at 31–32.

⁹² *Id.* at 32.

⁹³ 76th Congress, H.R. 7179, Veto Message Oct. 10, 1940 (H.R. Doc. No. 975, 3d. Sess.), cited in Gallagher, *supra* note 10, at 32.

⁹⁴ 80th Congress, H.R. 3061, Veto Message Apr. 12, 1948 (H.R. Doc. No. 607, 2d. Sess.), cited in Gallagher, *supra* note 10, at 32.

⁹⁵ 81st Congress, H.R. 5016, Veto Message Aug. 14, 1950 (H.R. Doc. No. 683, 2d. Sess.), cited in Gallagher, *supra* note 10, at 32.

- A Spanish national who possessed exceptional talent in fur designing.⁹⁶

Other presidential vetoes were due to the character of the private bill beneficiary.⁹⁷ Many of these types of vetoes occurred shortly after World War II and vetoed private bills for German beneficiaries.⁹⁸ The beneficiaries included Germans who evaded the draft under Hitler and had pending criminal or civil charges,⁹⁹ and an individual who came to the United States prior to World War II but sought repatriation to Germany during the war.¹⁰⁰

Finally, presidents have also vetoed private immigration bills where administrative action could have provided relief.¹⁰¹ Such cases include a private bill for a deserting crewman married to an LPR¹⁰² and a German national married to a U.S. citizen.¹⁰³

VI. Enactment of Private Law

When the president approves a private bill, the enactment process depends in large part on the immigration relief requested through the private bill. However, all private bills, once signed, first go to the Private Bill Control Unit, which then notifies the United States Citizenship and Immigration Services (“USCIS”) district office with jurisdiction.¹⁰⁴ The enactment process varies thereafter. If the private bill conveys LPR status contingent on payment of a visa fee, the USCIS district office will collect the visa fee from the private bill beneficiary and forward it to the Department of State Office of Finance Director along with a letter of transmittal bearing the private law number.¹⁰⁵ Upon receiving the visa fee or if a visa fee is not required, the USCIS district office will prepare Form I-181, Creation of Record of Lawful Permanent Residence, and deliver Form I-357 to the private bill beneficiary.¹⁰⁶ If needed, the Form I-181 preparer will refer the private bill beneficiary to the Social Security Administration for issuance of an unrestricted social security card.¹⁰⁷ If the private bill beneficiary’s LPR status is subject to the visa bulletin, the USCIS district office will forward Form I-181 to the U.S. Department of State Visa Office Director at the Visa Control Office.¹⁰⁸ If the private bill requires termination of removal proceedings, ICE OPLA will ostensibly seek termination and the private bill beneficiary will receive confirmation of the terminated proceedings. More recently, private bills have required

⁹⁶ 81st Congress, S. 305, Veto Message Aug. 29, 1950 (S. Doc. No. 210, 2d. Sess.), cited in Gallagher, *supra* note 10, at 32.

⁹⁷ Gallagher, *supra* note 10, at 32.

⁹⁸ *Id.*

⁹⁹ 76th Congress, S. 1384, Veto Message May 29, 1940 (S. Doc. No. 201, 3d. Sess.), cited in Gallagher, *supra* note 10, at 32.

¹⁰⁰ 83rd Congress, S. 153, Veto Message Mar. 17, 1954 (S. Doc. No. 106, 2d. Sess.), cited in Gallagher, *supra* note 10, at 32.

¹⁰¹ Gallagher, *supra* note 10, at 32.

¹⁰² 76th Congress, H.R. 5640, Veto Message Aug. 26, 1940 (H.R. Doc. No. 935, 3d. Sess.), cited in Gallagher, *supra* note 10, at 33.

¹⁰³ 76th Congress, H.R. 5641, Veto Message Aug. 26, 1940 (H.R. Doc. No. 936, 3d. Sess.), Gallagher, *supra* note 10, at 33.

¹⁰⁴ 8 IMMIGRATION LAW SERVICE § 107.1(c) (2023).

¹⁰⁵ *Id.* § 107.1(h)(2).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

the beneficiary to apply for adjustment of status within a certain period of time, and USCIS will not take any action until the beneficiary files their adjustment application.¹⁰⁹

Private bills that are enacted are delivered to the Office of the Federal Register at the National Archives, assigned a private law number, and included in the United States Statutes at Large.

VII. Decline in Enactment of Private Bills

In addition to the difficulties posed by the precedential requirements in the House, the assigned House Objectors, and the Senate unanimous consent procedure, other factors have contributed to a decline in the enactment of private bills over the past 50 years. Table 1 illustrates the significant decrease in private bill enactments over the past 25 years. Only 37 private bills have been enacted since 1997, compared to more than 700 private bills enacted in the 1970s.¹¹⁰

Various private bill scandals that occurred from the 1950s through the 1980s likely contributed to the decline in the enactment of private immigration legislation. For example, in the 1950s, a North Dakota congressman introduced private bills to stay the deportation of former Nazis.¹¹¹ He also introduced a private bill to provide relief to 75 Pakistani seamen who had jumped overboard their vessel and illegally entered the United States, but the congressman withdrew the bill after he was accused of running a smuggling racket.¹¹² Another congressman introduced a private bill on behalf of an individual who had been smuggled into the United States for \$1,000.¹¹³ These congressmen’s action led to a 1953 investigation into private bills, which would not be the last private bill investigation in the twentieth century.¹¹⁴

Table 1: Private Bills Enacted 105th through 117th Congress (1997–present)¹¹⁵

Congress	Years	Private Bills Enacted	Private Bills Enacted (Immigration)
105 th	1997–1998	10	9
106 th	1999–2000	24	18
107 th	2001–2002	6	3
108 th	2003–2004	6	4
109 th	2005–2006	1	0

¹⁰⁹ See, e.g., H. R. 681, An Act for the relief of Rebecca Trimble (requiring Ms. Trimble to file an application for adjustment of status and pay the USCIS within two years of the date of enactment of the bill).

¹¹⁰ This statistic and related subsequent figures were calculated by running an advanced search on Congress.gov for private bills enacted, passed by one Chamber, or introduced, in each Congress. Generally, the topic of the private bill can be gleaned from the text of the legislation. However, additional information about the beneficiary’s case is generally only available if there exists a Committee Report on the legislation. Information about some private bills is available via public news reporting and other publicly available information about the beneficiary.

¹¹¹ Gallagher, *supra* note 10, at 7.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ See *supra* note 110.

110 th	2007–2008	0	0
111 th	2009–2010	2	2
112 th	2011–2012	1	1
113 th	2013–2014	0	0
114 th	2015–2016	0	0
115 th	2017–2018	1	0
116 th	2019–2020	0	0
117 th	2021–2022	3	3
118 th	2023-2024	0 (as of 3/24/2024)	0
<i>Total</i>		<i>51</i>	<i>37</i>

In 1969, a group of senators were accused of introducing a series of private bills for the relief of 702 Chinese “ship jumpers” per the request of high-powered New York attorneys and lobbyists, who received large payments for each bill.¹¹⁶ This led to a special Senate committee investigation, which eventually cleared the involved senators of any guilt.¹¹⁷

In 1976, Representative Henry Helstoski of New Jersey was indicted for soliciting thousands of dollars in bribes in exchange for introducing private bills for Chilean and Argentine nationals who had previously been deported from the United States.¹¹⁸ Finally, and perhaps most notoriously, the “Abscam” scandal of 1980 involved FBI agents disguised as Muslim Sikhs who caught seven legislators taking bribes in the form of cash and stock in return for introducing private bills for the supposed Sikhs.¹¹⁹ The operation resulted in the conviction and imprisonment of six House members and one senator.¹²⁰

The abuse of the private bill process and public scandals of the mid- to late-twentieth century likely played a large part in the public’s negative perception of private bills and Congress’s decreased willingness to introduce and pass such legislation. Table 2 shows the steep decline in private immigration bill introduction, passage in one chamber of Congress, and enactment over the past 15 years. Only 39 private immigration bills have been introduced in the most recent, concluded Congress (117th Congress), compared to 97 in the 110th Congress (2007–2008). So far in the 118th Congress, 10 immigration private bills have been introduced. Many Congressional offices engage with constituents about their immigration status issues through casework rather than private bills, effectively avoiding any potential backlash for introducing a

¹¹⁶ Mantel, *supra* note 3, at 92; Ashely Dunn, *Congress’ Ticket for Foreigners: ‘Private bills’ have granted citizenship or residency to many who were ineligible under U.S. law. The famous and the notorious have fared well, but not poor refugees*, L.A. TIMES (Feb. 4, 1992), <https://www.latimes.com/archives/la-xpm-1992-02-04-mn-1209-story.html>.

¹¹⁷ Mantel, *supra* note 3, at 92; Dunn, *supra* note 116.

¹¹⁸ Mantel, *supra* note 3, at 92; Dunn, *supra* note 116.

¹¹⁹ Mantel, *supra* note 3, at 92; Dunn, *supra* note 116; Richard Leiby, *To the players in Abscam, the real-life ‘American Hustle,’ the bribes now seem quaint*, WASH. POST (Dec. 26, 2013), https://www.washingtonpost.com/lifestyle/style/to-the-players-in-abscam-the-real-life-american-hustle-the-bribes-now-seem-quaint/2013/12/26/d67648c2-6c15-11e3-a523-fe73f0ff6b8d_story.html; Federal Bureau of Investigations, ABSCAM, <https://www.fbi.gov/history/famous-cases/abscam>.

¹²⁰ Dunn, *supra* note 116.

private bill and the unfortunate improbability that the bill will succeed due to the many barriers to enactment.¹²¹

Table 2: Breakdown of Immigration Private Bills 110th through 117th Congress (2007–present)¹²²

Congress	Years	Introduced	Passed In One Chamber Without Further Action	Enacted
110th	2007–2008	97	4	0
111th	2009–2010	96	1	2
112th	2011–2012	73	6	1
113th	2013–2014	60	1	0
114th	2015–2016	32	0	0
115th	2017–2018	56	0	0
116th	2019–2020	51	5	0
117th	2021–2022	39	2	3
118th	2023–2024	10 (as of 3/24/2024)	0	0
<i>Total</i>		<i>514</i>	<i>19</i>	<i>6</i>

Another significant and likely catalyst of the decline in private bills following the early 1980s was the enactment of the Immigration Reform and Control Act of 1986.¹²³ This statute allowed undocumented immigrants who had been residing in the United States prior to 1982 to apply for LPR status.¹²⁴ Approximately three million individuals adjusted to legal status as a result of this law.¹²⁵ The enactment of this law decreased the population of undocumented immigrants who may have exhausted all judicial and administrative remedies and could have been eligible for a private bill.

VIII. Private Immigration Bills of Note

Due to the House procedures related to private bills and the heavy weight placed on precedent, it is important to consider which previous private bills may lend precedent to a new private bill. Additionally, the Senate’s unanimous consent procedures essentially require that private bills be as objectively sympathetic as possible to achieve passage in that chamber. For that reason, it is important for practitioners to be familiar with past private bills that have had a positive outcome in Congress.

The following are private bills that passed at least one chamber of congress and do not fall within the established precedential categories discussed above. Practitioners should consider

¹²¹ Mantel, *supra* note 3, at 92–93.

¹²² *See supra* note 110.

¹²³ Pub. L. No. 99-603 (1986).

¹²⁴ *Id.*

¹²⁵ Library of Congress, Latinx Resource Guide: Civil Rights Cases and Events in the United States, 1988: Immigration Reform and Control Act of 1986, <https://guides.loc.gov/latinx-civil-rights/irca>.

citing to these cases when arguing for precedent of a private bill that does not fit the mold for private bills approved in the past.

1. For the Relief of Maria Isabel Bueso Barrera, Alberto Bueso Mendoza, Karla Maria Barrera de Bueso, and Ana Lucia Bueso Barrera (116th through 117th Congresses)

Private Law 117-2 from the 117th Congress provides an example of a private bill enacted into law that granted LPR status to deferred action recipients.¹²⁶ Maria Isabel Bueso Barrera and her family came to the United States in 2004 on B-2 visitor visas so that Ms. Bueso Barrera could participate in a clinical trial to treat a rare and life-threatening genetic disorder.¹²⁷ The family received deferred action in 2009 based on Ms. Bueso Barrera's medical condition and her need for ongoing medical treatment.¹²⁸ The Trump administration revoked the family's deferred action status in August of 2019, but reinstated it prior to the House's initial consideration of this bill.¹²⁹ The House therefore passed this bill in the 116th Congress despite the fact that the beneficiaries had ongoing deferred action status. The bill was reintroduced and enacted into law in the 117th Congress.

As evidenced by the Bueso Barrera bill, the clause regarding indefinite parole and deferred action in the House Subcommittee Rules does not seem to be a total bar to consideration of private bills where the beneficiaries have ongoing deferred action status.

2. For the Relief of Corina de Chalup Turcinovic (105th through 116th Congresses)

For years, members of Congress introduced private bills on behalf of Corina de Chalup Turcinovic, who remained in immigration limbo for more than a decade due to egregious government error.¹³⁰ Ms. Turcinovic, a French national, was engaged to Marin Turcinovic. While visiting the United States with his rock band, a drunk driver struck Mr. Turcinovic and rendered him a quadriplegic.¹³¹ Ms. Turcinovic came to the United States through the visa waiver program in order to serve as her fiancé's primary caregiver, and her fiancé became a LPR two years after the couple married.¹³² When Marin Turcinovic applied for naturalization in 2003, USCIS agreed to visit the couple for purposes of completing fingerprinting because Mr.

¹²⁶ Priv. L. No. 117-2 (2022).

¹²⁷ H.R. Rep. No. 116-596, at 2–3 (2020).

¹²⁸ *Id.*

¹²⁹ *Id.*

¹³⁰ See H.R. 4784, 105th Cong. (1998); S. 1916, 105th Cong. (1998) (passed by the Senate); H.R. 5030, 110th Cong. (2008) (passed by the House); H.R. 1009, 111th Cong. (2009); H.R. 357, 112th Cong. (2011) (passed by the House); H.R. 306, 113th Cong. (2013) (passed by the House); H.R. 422, 114th Cong. (2015); H.R. 349, 115th Cong. (2017); H.R. 2737, 116th Cong. (2019).

¹³¹ H.R. Rep. No. 112-621, at 1–2 (2012); see also Carlos Ballesteros, *Beverly woman narrowly avoids getting deported by ICE*, CHI. SUN TIMES (Jul. 3, 2019), <https://chicago.suntimes.com/2019/7/3/20679191/chicago-deportation-beverly-corina-turcinovic-ice-trump-dan-lipinski-private-bill-france-south-side>.

¹³² *Id.*

Turcinovic's physical disability prevented him from visiting a USCIS office to complete the fingerprinting process there.¹³³

USCIS erroneously deemed his naturalization application abandoned because he had not attended his fingerprint appointment, even though USCIS had told the couple they would make special arrangements to do the fingerprinting at their home.¹³⁴ USCIS ultimately granted Marin Turcinovic's motion to reopen, but he tragically died from his injuries before USCIS arranged to fingerprint him, thereby foreclosing Ms. Turcinovic the opportunity to become an LPR through her spouse.¹³⁵ Absent the government's error of denying his naturalization application based on abandonment, Marin Turcinovic would have naturalized and petitioned for Chalup Turcinovic. The bills on behalf of Ms. Turcinovic provide precedent for private bills where egregious government error impacted the beneficiary's ability to gain immigration benefits.

3. For the Relief of Certain Persian Gulf Evacuees (106th Congress)

In November of 2000, then-President Bill Clinton signed into law a private bill that would provide relief to Persian Gulf evacuees who either had U.S. citizen children or who had protected U.S. citizens during the Iraqi invasion of Kuwait.¹³⁶ From September to December of 1990, a total of 2,227 individuals were evacuated, granted parole to come to the United States, and granted temporary work authorization.¹³⁷ Their initial grant of parole was eventually extended to December 31, 1991, but the Immigration and Naturalization Service ("INS") refused to extend their parole beyond that period.¹³⁸ The Clinton administration then granted deferred enforced departure ("DED") to the evacuees, which was set to expire on January 1, 1997 and was never extended or renewed.¹³⁹ While most evacuees were able to adjust to LPR status through employer-sponsored visas or other means, 54 families (totaling a few hundred individuals) had no means to adjust their status.¹⁴⁰

This private bill was introduced to grant LPR status to those families. Prior to House passage, the Chairman of the Immigration Subcommittee requested that the INS stay the deportation of these individuals to allow for a thorough investigation of the merits of each case.¹⁴¹ During this process, the Subcommittee was provided with extensive documentation and information on each of the beneficiaries which confirmed that they had pursued all

¹³³ *Id.* Pursuant to the Homeland Security Act of 2002, on March 1, 2003, USCIS assumed responsibility for the immigration service functions of the federal government. See U.S. Citizenship and Immigration Services, USCIS Policy Manual, Vol. 1 - General Policies and Procedures, Pt. A - Public Services, Ch. 1 - Purpose and Background, <https://www.uscis.gov/policy-manual/volume-1-part-a-chapter-1>. The transfer of responsibility from the INS to USCIS may explain why USCIS failed to schedule the at-home biometrics appointment and instead deemed the application abandoned. See U.S. Gov't Accountability Off., GAO-05-81, *Management Challenges Remain in Transforming Immigration Programs* (Oct. 2004), <https://www.gao.gov/assets/gao-05-81.pdf>.

¹³⁴ *Id.*

¹³⁵ *Id.*

¹³⁶ Priv. L. No. 106-9 (2000).

¹³⁷ H.R. Rep. No. 106-580, at 2 (2000).

¹³⁸ *Id.*

¹³⁹ *Id.*

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

administrative and judicial remedies.¹⁴² The enactment of this private bill granted LPR status to those individuals.

The Persian Gulf Evacuees example is important precedent for a few reasons. First, it is a successful private bill that covered a large group of individuals. Second, this private bill is noteworthy because it concerns a group of people who were paroled into the United States for humanitarian reasons. Although the House Subcommittee Rules state that the Subcommittee is reluctant to consider private bills for those with indefinite grants of parole,¹⁴³ the beneficiaries of this private bill were granted a limited period of parole followed by a limited period of deferred status. Furthermore, by passing the Persian Gulf Evacuees bill, Congress indicated its desire to provide a permanent solution for a group of individuals who were paroled into the United States following a military operation that implicated the interests of the United States. Practitioners representing Ukrainians and Afghans who are unable to eventually adjust their status may wish to consider seeking a private bill for these two groups based on the same rationale.

IX. Practical Steps When Pursuing a Private Bill

Once a practitioner has decided to pursue private legislation for their client or clients, they might consider doing the following:

- Determine whether you can gain significant favorable press coverage for the situation of the beneficiary, which can bring attention to the case from constituents who may call a representative or senator and ask them to introduce a private bill.¹⁴⁴
- Try to meet with House and Senate Immigration Subcommittee staff from both the Majority and the Minority offices to generally learn more about the private bill process in each chamber and gauge their interest in private legislation.
- Ask the House Immigration Subcommittee for additional information regarding private bill precedents and the Subcommittee’s definition of what “all administrative and judicial remedies have been exhausted”¹⁴⁵ entails, and if there have ever been any exceptions to this rule.
- Ask the Senate Immigration Subcommittee if there are any subcommittee rules related to private bills. Also inquire as to which senators have historically been unwilling to consider or unsympathetic to private bills.
- Decide whether you need a group or individual private bill. If you need an individual private bill, consider whether a group private bill might be more strategic. If a group

¹⁴² *Id.*

¹⁴³ HOUSE SUBCOMMITTEE RULES, *supra* note 25, at Statement of Policy, sec. E.

¹⁴⁴ Rebecca Trimble’s private bill was triggered by a story in an Alaska Landmine, Jeff Landfield, *Government orders deportation of Bethel military wife and mother*, ALASKA LANDMINE (Mar. 3, 2020), <https://alaskalandmine.com/landmines/government-orders-deportation-of-bethel-military-wife-and-mother/>. The publication of the blog post caused an outpouring of support for Rebecca Trimble, which resulted in the Alaska Congressional delegation introducing a private bill in the Senate within a month of the publication of the blog post, and the enactment of private legislation less than three years later. See Jeff Landfield, *Nearly a year later, Rebecca Trimble is still in deportation limbo*, ALASKA LANDMINE (Dec. 30, 2020), <https://alaskalandmine.com/landmines/nearly-a-year-later-rebecca-trimble-is-still-in-deportation-limbo/>.

¹⁴⁵ HOUSE SUBCOMMITTEE RULES, *supra* note 25, rule 3.

- private bill is more strategic, reach out to other practitioners with the goal of identifying other cases to include.
- Research the members of Congress representing the noncitizen’s home district. Congress.gov contains records on all private bills and makes this research simple. If all representatives are equally unlikely to sponsor a private bill, either because they have blanket policies against sponsoring these bills or because they are vocally anti-immigrant, identify members of Congress who have been outspoken about a specific issue area affecting the case in the past who may be interested in introducing a private bill for the client.
 - Identify a coalition to conduct outreach to conservative senators who have historically been unsympathetic to private bills and advocate for their support of a private bill.
 - It is key to frame private bills as universally sympathetic as possible to prevent conservative senators from objecting to passage in the Senate.
 - Work closely with a member of Congress or senator to ensure that the text of any private bill will resolve the immigration issue faced by the client.¹⁴⁶

X. Conclusion

Though the enactment of private laws providing for immigration relief has declined in the past few decades, it continues to remain a viable option to obtain LPR status for certain noncitizens who have exceptionally appealing cases, and where no other remedy exists to accord them immigration status. Practitioners should keep private bills in mind when other paths have failed, and look to the few resources available to guide them through this process.

¹⁴⁶ Some private legislation that has been introduced is “template” legislation that does not resolve specific questions of inadmissibility or removability but merely allocates a visa number to a particular beneficiary.