

HR 8392 (The Puerto Rico Status Act) would allow the people of Puerto Rico to elect a permanent, non-territorial political status for Puerto Rico, and lays out partially self-executing procedural pathways to each of the status options delineated.

The bill would call for a plebiscite in 2023 for people on the island to vote one of three status options:

1. Independence
2. Sovereignty in free association with the US
3. Statehood

All three options would recognize the political sovereignty of the Puerto Rican polity. As highlighted by the Supreme Court of the United States' recent jurisprudence, under the current US/PR relationship, Puerto Rico does not enjoy its own independent legally-recognized sovereignty; instead, Puerto Rico's sovereignty derives from the US Constitution. *See Puerto Rico v. Sánchez-Valle*, 579 US 59 (2016). The free association option here is notable because it would explicitly recognize Puerto Rican sovereignty, recognizing that its government would have 'full authority and responsibility over its territory and population under a constitution of its own adoption,' with "full powers and responsibilities consistent with the rights and responsibilities that devolve upon a sovereign nation under international law," with power over its own fiscal and monetary policy, immigration, trade, foreign relations, etc.

The bill would require that the options in the plebiscite be described specifically on the ballot, and would require a voter education campaign to be held prior to the election. Under the bill, if no one option achieves a majority of the vote in the plebiscite, there would be a second runoff plebiscite featuring only the top two options.

The bill lays out a series of procedures for what would happen in the case of an electoral win by each option.

1. For statehood, Puerto Rico would be admitted as a state within a year of the certification of the vote. In the intervening year, there would be a process to review federal law with an eye to facilitating the transition to statehood, focusing on how to migrate Puerto Rico's current territorial participation in federal programs into participation as a co-equal state and member of the union.

At the time of entry into the union, Puerto Rico would get two US Senators, and as many Congressional representatives as the state with the next lowest population has at the time. The office of Resident Commissioner would be eliminated at that time. The new congressional representatives would initially serve in addition to the current 435 voting members of Congress. Congress would have to decide prior to the next round of reapportionment whether it is going to increase the number of seats in the House or fold Puerto Rico into the current 435-member body, which would mean other states would lose seats.

2. For independence, it would require Puerto Rico to hold a constitutional convention within a specific time period to draft a new draft constitution, which would be submitted to the voters. It

further lays out a procedure to create a transition committee made up of locally-appointed members and presidential appointees to make recommendations to congress about actions that need to be taken to effectuate the transition to independence. Puerto Ricans would keep their US citizenship, but any child born in PR after independence would not have automatic birthright citizenship. Contributions paid by island residents into programs like Social Security would be transferred to the Puerto Rican government after it establishes its own social security system. There would be a period of free travel and work between PR and the US that would expire after 25 years.

3. For free association, there would be a similar process to independence. There would be a period to draft and adopt a constitution. Then a bilateral negotiating commission made up of PR representatives and US representatives would meet to negotiate Articles of Free Association between the US and Puerto Rico, which would determine what the nature of the two nations' relationship would be. The voters of Puerto Rico would have to approve the Articles, as would Congress. If the voters of Puerto Rico fail to adopt the negotiated Articles of Free Association, the negotiation process would be repeated. It is unclear what would happen if the Articles of Free Association are rejected after they are submitted to the voters for a second time, or if the Government of the United States fails to ratify them.

Current Puerto Rican who are US citizens would keep their US citizenship, and during the period of the first Articles of Free Association, children born in Puerto Rico to two parents who are American citizens would have birthright American citizenship.

All three options would entail significant legal and administrative work following the outcome of the plebiscite, given that under any of the options, a transition would have to occur that would manage the migration of, for example, federal entitlement programs that currently operate differently in Puerto Rico as a territory into either Puerto Rico's independent government, Puerto Rico as a state within the United State, or to a sovereign Puerto Rico that reaches a heretofore undetermined agreement with the United States as to if and how it would continue participating in those programs. Each option has different ramifications for the citizenship status of Puerto Rican residents and their descendants, their ability to travel to and from the United States, their status as taxpayers, and their access to social safety net programs. In the case of independence and free association, Puerto Rico would also have decisions to make as to how to conduct its foreign relations and national defense.