

111TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To amend the Immigration and Nationality Act to promote family unity,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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Mr. MENENDEZ introduced the following bill; which was read twice and  
referred to the Committee on \_\_\_\_\_

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**A BILL**

To amend the Immigration and Nationality Act to promote  
family unity, 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 “Reuniting Families  
5 Act”.

6 **SEC. 2. RECAPTURE OF IMMIGRANT VISAS LOST TO BU-**  
7 **REAUCRATIC DELAY.**

8 (a) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-  
9 MIGRANTS.—Section 201(c) of the Immigration and Na-

1 tionality Act (8 U.S.C. 1151(c)) is amended to read as  
2 follows:

3 “(c) WORLDWIDE LEVEL OF FAMILY-SPONSORED  
4 IMMIGRANTS.—

5 “(1) IN GENERAL.—Subject to subparagraph  
6 (B), the worldwide level of family-sponsored immi-  
7 grants under this subsection for a fiscal year is  
8 equal to the sum of—

9 “(A) 480,000; and

10 “(B) the sum of—

11 “(i) the number computed under  
12 paragraph (2); and

13 “(ii) the number computed under  
14 paragraph (3).

15 “(2) UNUSED VISA NUMBERS FROM PREVIOUS  
16 FISCAL YEAR.—The number computed under this  
17 paragraph for a fiscal year is the difference, if any,  
18 between—

19 “(A) the worldwide level of family-spon-  
20 sored immigrant visas established for the pre-  
21 vious fiscal year; and

22 “(B) the number of visas issued under sec-  
23 tion 203(a), subject to this subsection, during  
24 the previous fiscal year.

1           “(3) UNUSED VISA NUMBERS FROM FISCAL  
2 YEARS 1992 THROUGH 2007.—The number computed  
3 under this paragraph is the difference, if any, be-  
4 tween—

5           “(A) the difference, if any, between—

6           “(i) the sum of the worldwide levels of  
7 family-sponsored immigrant visas estab-  
8 lished for fiscal years 1992 through 2007;  
9 and

10           “(ii) the number of visas issued under  
11 section 203(a), subject to this subsection,  
12 during such fiscal years; and

13           “(B) the number of unused visas from fis-  
14 cal years 1992 through 2007 that were issued  
15 after fiscal year 2007 under section 203(a),  
16 subject to this subsection.”.

17       (b) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
18 IMMIGRANTS.—Section 201(d) of the Immigration and  
19 Nationality Act (8 U.S.C. 1151(d)) is amended to read  
20 as follows:

21       “(d) WORLDWIDE LEVEL OF EMPLOYMENT-BASED  
22 IMMIGRANTS.—

23           “(1) IN GENERAL.—The worldwide level of em-  
24 ployment-based immigrants under this subsection for  
25 a fiscal year is equal to the sum of—

1 “(A) 140,000;

2 “(B) the number computed under para-  
3 graph (2); and

4 “(C) the number computed under para-  
5 graph (3).

6 “(2) UNUSED VISA NUMBERS FROM PREVIOUS  
7 FISCAL YEAR.—The number computed under this  
8 paragraph for a fiscal year is the difference, if any,  
9 between—

10 “(A) the worldwide level of employment-  
11 based immigrant visas established for the pre-  
12 vious fiscal year; and

13 “(B) the number of visas issued under sec-  
14 tion 203(b), subject to this subsection, during  
15 the previous fiscal year.

16 “(3) UNUSED VISA NUMBERS FROM FISCAL  
17 YEARS 1992 THROUGH 2007.—The number computed  
18 under this paragraph is the difference, if any, be-  
19 tween—

20 “(A) the difference, if any, between—

21 “(i) the sum of the worldwide levels of  
22 employment-based immigrant visas estab-  
23 lished for each of fiscal years 1992  
24 through 2007; and

1                   “(ii) the number of visas issued under  
2                   section 203(b), subject to this subsection,  
3                   during such fiscal years; and

4                   “(B) the number of unused visas from fis-  
5                   cal years 1992 through 2007 that were issued  
6                   after fiscal year 2007 under section 203(b),  
7                   subject to this subsection.”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall take effect on the date which is 60 days  
10 after the date of the enactment of this Act.

11 **SEC. 3. RECLASSIFICATION OF SPOUSES AND MINOR CHIL-**  
12 **DREN OF LEGAL PERMANENT RESIDENTS AS**  
13 **IMMEDIATE RELATIVES.**

14           (a) IN GENERAL.—Section 201(b)(2) of the Immi-  
15 gration and Nationality Act (8 U.S.C. 1151(b)(2)) is  
16 amended to read as follows:

17                   “(2) IMMEDIATE RELATIVE.—

18                           “(A) IN GENERAL.—

19                                   “(i) IMMEDIATE RELATIVE DE-  
20                                   FINED.—In this subparagraph, the term  
21                                   ‘immediate relative’ means a child, spouse,  
22                                   or parent of a citizen of the United States  
23                                   or a child or spouse of a lawful permanent  
24                                   resident (and for each family member of a  
25                                   citizen or lawful permanent resident under

1           this subparagraph, such individual’s spouse  
2           or child who is accompanying or following  
3           to join the individual), except that, in the  
4           case of parents, such citizens shall be at  
5           least 21 years of age.

6           “(ii) PREVIOUSLY ISSUED VISA.—  
7           Aliens admitted under section 211(a) on  
8           the basis of a prior issuance of a visa  
9           under section 203(a) to their accom-  
10          panying parent who is an immediate rel-  
11          ative.

12          “(iii) PARENTS AND CHILDREN.—An  
13          alien who was the child or parent of a cit-  
14          izen of the United States or a child of a  
15          lawful permanent resident at the time of  
16          the citizen’s or resident’s death if the alien  
17          files a petition under 204(a)(1)(A)(ii) with-  
18          in 2 years after such date or prior to  
19          reaching 21 years of age.

20          “(iv) SPOUSE.—An alien who was the  
21          spouse of a citizen of the United States or  
22          lawful permanent resident for not less than  
23          2 years at the time of the citizen’s or resi-  
24          dent’s death or, if married for less than 2  
25          years at the time of the citizen’s or resi-

1           dent’s death, proves by a preponderance of  
2           the evidence that the marriage was entered  
3           into in good faith and not solely for the  
4           purpose of obtaining an immigration ben-  
5           efit and was not legally separated from the  
6           citizen or resident at the time of the citi-  
7           zen’s or resident’s death, and each child of  
8           such alien, shall be considered, for pur-  
9           poses of this subsection, an immediate rel-  
10          ative after the date of the citizen’s or resi-  
11          dent’s death if the spouse files a petition  
12          under section 204(a)(1)(A)(ii) before the  
13          earlier of—

14                           “(I) 2 years after such date; or

15                           “(II) the date on which the  
16                           spouse remarries.

17                           “(v) SPECIAL RULE.—For purposes of  
18                           this subparagraph, an alien who has filed  
19                           a petition under clause (iii) or (iv) of sec-  
20                           tion 204(a)(1)(A) remains an immediate  
21                           relative if the United States citizen or law-  
22                           ful permanent resident spouse or parent  
23                           loses United States citizenship or residence  
24                           on account of the abuse.

1           “(B) BIRTH DURING TEMPORARY VISIT  
2 ABROAD.—Aliens born to an alien lawfully ad-  
3 mitted for permanent residence during a tem-  
4 porary visit abroad.”.

5       (b) ALLOCATION OF IMMIGRANT VISAS.—Section  
6 203(a) of the Immigration and Nationality Act (8 U.S.C.  
7 1153(a)) is amended—

8           (1) in paragraph (1), by striking “23,400” and  
9 inserting “38,000”;

10          (2) by striking paragraph (2) and inserting the  
11 following:

12           “(2) UNMARRIED SONS AND UNMARRIED  
13 DAUGHTERS OF PERMANENT RESIDENT ALIENS.—  
14 Qualified immigrants who are the unmarried sons or  
15 unmarried daughters (but are not the children) of  
16 an alien lawfully admitted for permanent residence  
17 shall be allocated visas in a number not to exceed  
18 60,000, plus any visas not required for the class  
19 specified in paragraph (1).”;

20          (3) in paragraph (3), by striking “23,400” and  
21 inserting “38,000”; and

22          (4) in paragraph (4), by striking “65,000” and  
23 inserting “90,000”.

24       (c) TECHNICAL AND CONFORMING AMENDMENTS.—

1           (1) RULES FOR DETERMINING WHETHER CER-  
2           TAIN ALIENS ARE IMMEDIATE RELATIVES.—Section  
3           201(f) of the Immigration and Nationality Act (8  
4           U.S.C. 1151(f)) is amended—

5                   (A) in paragraph (1), by striking “para-  
6                   graphs (2) and (3),” and inserting “paragraph  
7                   (2),”;

8                   (B) by striking paragraph (2);

9                   (C) by redesignating paragraphs (3) and  
10                  (4) as paragraphs (2) and (3), respectively; and

11                  (D) in paragraph (3), as redesignated by  
12                  subparagraph (C), by striking “through (3)”  
13                  and inserting “and (2)”.

14           (2) NUMERICAL LIMITATION TO ANY SINGLE  
15           FOREIGN STATE.—Section 202 of the Immigration  
16           and Nationality Act (8 U.S.C. 1152) is amended—

17                   (A) in subsection (a)(4)—

18                           (i) by striking subparagraphs (A) and  
19                           (B);

20                           (ii) by redesignating subparagraphs  
21                           (C) and (D) as subparagraphs (A) and  
22                           (B), respectively; and

23                           (iii) in subparagraph (A), as redesi-  
24                           gnated by clause (ii), by striking “section

1                   203(a)(2)(B)” and inserting “section  
2                   203(a)(2)”;

3                   (B) in subsection (e), in the flush matter  
4 following paragraph (3), by striking “, or as  
5 limiting the number of visas that may be issued  
6 under section 203(a)(2)(A) pursuant to sub-  
7 section (a)(4)(A)”.

8                   (3) ALLOCATION OF IMMIGRATION VISAS.—Sec-  
9 tion 203(h) of the Immigration and Nationality Act  
10 (8 U.S.C. 1153(h)) is amended—

11                   (A) in paragraph (1)—

12                   (i) in the matter preceding subpara-  
13 graph (A), by striking “subsections  
14 (a)(2)(A) and (d)” and inserting “sub-  
15 section (d)”;

16                   (ii) in subparagraph (A), by striking  
17 “becomes available for such alien (or, in  
18 the case of subsection (d), the date on  
19 which an immigrant visa number became  
20 available for the alien’s parent),” and in-  
21 serting “became available for the alien’s  
22 parent,”; and

23                   (iii) in subparagraph (B), by striking  
24 “applicable”;

1 (B) by amending paragraph (2) to read as  
2 follows:

3 “(2) PETITIONS DESCRIBED.—The petition de-  
4 scribed in this paragraph is a petition filed under  
5 section 204 for classification of the alien’s parent  
6 under subsection (a), (b), or (c).”; and

7 (C) in paragraph (3), by striking “sub-  
8 sections (a)(2)(A) and (d)” and inserting “sub-  
9 section (d)”.

10 (4) PROCEDURE FOR GRANTING IMMIGRANT  
11 STATUS.—Section 204 of the Immigration and Na-  
12 tionality Act (8 U.S.C. 1154) is amended—

13 (A) in subsection (a)(1)—

14 (i) in subparagraph (A)—

15 (I) in clause (i), by inserting “or  
16 lawful permanent resident” after “cit-  
17 izen”;

18 (II) in clause (ii), by striking  
19 “described in the second sentence of  
20 section 201(b)(2)(A)(i) also” and in-  
21 serting “, alien child, or alien parent  
22 described in section 201(b)(2)(A)”;

23 (III) in clause (iii)—

## 12

1 (aa) in subclause (I)(aa), by  
2 inserting “or legal permanent  
3 resident” after “citizen”; and

4 (bb) in subclause (II)(aa)—  
5 (AA) in subitems (AA)  
6 and (BB), by inserting “or  
7 legal permanent resident;”  
8 after “citizen” each place  
9 that term appears;

10 (BB) in subitem (CC),  
11 by inserting “or legal per-  
12 manent resident” after “cit-  
13 izen” each place that term  
14 appears; and

15 (CC) in subitem  
16 (CC)(bbb), by inserting “or  
17 legal permanent resident”  
18 after “citizenship”;

19 (IV) in clause (iv), by inserting  
20 “or legal permanent resident” after  
21 “citizen” each place that term ap-  
22 pears;

23 (V) in clause (v)(I), by inserting  
24 “or legal permanent resident” after  
25 “citizen”; and

- 1 (VI) in clause (vi)—
- 2 (aa) by inserting “or legal
- 3 permanent resident status” after
- 4 “renunciation of citizenship”;
- 5 and
- 6 (bb) by inserting “or legal
- 7 permanent resident” after “abus-
- 8 er’s citizenship”;
- 9 (ii) by striking subparagraph (B);
- 10 (iii) in subparagraph (C), by striking
- 11 “subparagraph (A)(iii), (A)(iv), (B)(ii), or
- 12 (B)(iii)” and inserting “clause (iii) or (iv)
- 13 of subparagraph (A)”; and
- 14 (iv) in subparagraph (J), by striking
- 15 “or clause (ii) or (iii) of subparagraph
- 16 (B)”;
- 17 (B) in subsection (a), by striking para-
- 18 graph (2);
- 19 (C) in subsection (c)(1), by striking “or
- 20 preference status”; and
- 21 (D) in subsection (h), by striking “or a pe-
- 22 tition filed under subsection (a)(1)(B)(ii)”.

23 **SEC. 4. COUNTRY LIMITS.**

24 Section 202(a)(2) of the Immigration and Nationality  
25 Act (8 U.S.C. 1152(a)(2)) is amended by striking “7 per-

1 cent (in the case of a single foreign state) or 2 percent”  
2 and inserting “10 percent (in the case of a single foreign  
3 state) or 5 percent”.

4 **SEC. 5. PROMOTING FAMILY UNITY.**

5 Section 212(a)(9) of the Immigration and Nationality  
6 Act (8 U.S.C. 1182(a)(9)) is amended—

7 (1) in subparagraph (B)—

8 (A) in clause (iii)—

9 (i) in subclause (I), by striking “18  
10 years of age” and inserting “21 years of  
11 age”;

12 (ii) by moving subclause (V) 4 ems to  
13 the right; and

14 (iii) by adding at the end the fol-  
15 lowing:

16 “(VI) Clause (i) shall not apply  
17 to an alien for whom an immigrant  
18 visa is available or was available on or  
19 before the date of the enactment of  
20 the Reuniting Families Act, and is  
21 otherwise admissible to the United  
22 States for permanent residence.”; and

23 (B) in clause (v)—

1 (i) by striking “spouse or son or  
2 daughter” and inserting “spouse, son,  
3 daughter, or parent”;

4 (ii) by striking “extreme”;

5 (iii) by inserting “, son, daughter, or”  
6 after “lawfully resident spouse”; and

7 (iv) by striking “alien.” and inserting  
8 “alien or, if the Attorney General deter-  
9 mines that a waiver is necessary for hu-  
10 manitarian purposes, to ensure family  
11 unity or is otherwise in the public inter-  
12 est.”; and

13 (2) in subparagraph (C), by amending clause  
14 (ii) to read as follows:

15 “(ii) EXCEPTIONS.—Clause (i) shall  
16 not apply to an alien—

17 “(I) seeking admission more than  
18 10 years after the date of the alien’s  
19 last departure from the United States  
20 if, prior to the alien’s reembarkation  
21 at a place outside the United States  
22 or attempt to be readmitted from a  
23 foreign contiguous territory, the Sec-  
24 retary of Homeland Security has con-

1                   sent to the alien’s reapplication for  
2                   admission; or

3                   “(II) for whom an immigrant  
4                   visa is available or was available on or  
5                   before the date of the enactment of  
6                   the Reuniting Families Act, and is  
7                   otherwise admissible to the United  
8                   States for permanent residence.”.

9   **SEC. 6. RELIEF FOR ORPHANS, WIDOWS, AND WIDOWERS.**

10       (a) IN GENERAL.—

11               (1) SPECIAL RULE FOR ORPHANS AND  
12       SPOUSES.—In applying clauses (iii) and (iv) of sec-  
13       tion 201(b)(2)(A) of the Immigration and Nation-  
14       ality Act, as added by section 3(a), to an alien whose  
15       citizen or lawful permanent resident relative died be-  
16       fore the date of the enactment of this Act, the alien  
17       relative may file the classification petition under sec-  
18       tion 204(a)(1)(A)(ii) of such Act, as amended by  
19       section 3(c)(4)(A)(i)(II), not later than 2 years after  
20       the date of the enactment of this Act.

21               (2) ELIGIBILITY FOR PAROLE.—If an alien was  
22       excluded, deported, removed, or departed voluntarily  
23       before the date of the enactment of this Act based  
24       solely upon the alien’s lack of classification as an  
25       immediate relative (as defined in section

1       201(b)(2)(A)(i) of the Immigration and Nationality  
2       Act, as amended by section 3(a)) due to the death  
3       of such citizen or resident—

4               (A) such alien shall be eligible for parole  
5       into the United States pursuant to the Attorney  
6       General’s discretionary authority under section  
7       212(d)(5) of such Act (8 U.S.C. 1182(d)(5));  
8       and

9               (B) such alien’s application for adjustment  
10       of status shall be considered notwithstanding  
11       section 212(a)(9) of such Act (8 U.S.C.  
12       1182(a)(9)).

13       (b) ADJUSTMENT OF STATUS.—Section 245 of the  
14       Immigration and Nationality Act (8 U.S.C. 1255) is  
15       amended by adding at the end the following:

16       “(n) APPLICATION FOR ADJUSTMENT OF STATUS BY  
17       SURVIVING SPOUSES, PARENTS, AND CHILDREN.—

18               “(1) IN GENERAL.—An alien described in para-  
19       graph (2) who applies for adjustment of status be-  
20       fore the death of the qualifying relative may have  
21       such application adjudicated as if such death had  
22       not occurred.

23               “(2) ALIEN DESCRIBED.—An alien described in  
24       this paragraph is an alien who—

1                   “(A) is an immediate relative (as described  
2                   in section 201(b)(2)(A));

3                   “(B) is a family-sponsored immigrant (as  
4                   described in subsection (a) or (d) of section  
5                   203); or

6                   “(C) is a derivative beneficiary of an em-  
7                   ployment-based immigrant under section 203(b)  
8                   (as described in section 203(d)).”.

9                   (c) TRANSITION PERIOD.—

10                   (1) IN GENERAL.—Notwithstanding a denial of  
11                   an application for adjustment of status for an alien  
12                   whose qualifying relative died before the date of the  
13                   enactment of this Act, such application may be re-  
14                   newed by the alien through a motion to reopen,  
15                   without fee, if such motion is filed not later than 2  
16                   years after such date of enactment.

17                   (2) ELIGIBILITY FOR PAROLE.—If an alien de-  
18                   scribed in section 245(n)(2) of the Immigration and  
19                   Nationality Act, as added by subsection (b), was ex-  
20                   cluded, deported, removed, or departed voluntarily  
21                   before the date of the enactment of this Act—

22                   (A) such alien shall be eligible for parole  
23                   into the United States pursuant to the Attorney  
24                   General’s discretionary authority under section

1           212(d)(5) of the Immigration and Nationality  
2           Act (8 U.S.C. 1182(d)(5)); and

3           (B) such alien’s application for adjustment  
4           of status shall be considered notwithstanding  
5           section 212(a)(9) of such Act (8 U.S.C.  
6           1182(a)(9)).

7           (d) PROCESSING OF IMMIGRANT VISAS AND DERIVA-  
8           TIVE PETITIONS.—

9           (1) IN GENERAL.—Section 204(b) of the Immi-  
10          gration and Nationality Act (8 U.S.C. 1154(b)) is  
11          amended—

12           (A) by striking “After an investigation”  
13           and inserting the following:

14           “(1) IN GENERAL.—After an investigation”;  
15          and

16           (B) by adding at the end the following:

17           “(2) DEATH OF QUALIFYING RELATIVE.—

18           “(A) IN GENERAL.—Any alien described in  
19           subparagraph (B) whose qualifying relative died  
20           before the completion of immigrant visa proc-  
21           essing may have an immigrant visa application  
22           adjudicated as if such death had not occurred.  
23           An immigrant visa issued before the death of  
24           the qualifying relative shall remain valid after  
25           such death.

1           “(B) ALIEN DESCRIBED.—An alien de-  
2           scribed in this subparagraph is an alien who—

3                   “(i) is an immediate relative (as de-  
4                   scribed in section 201(b)(2)(A));

5                   “(ii) is a family-sponsored immigrant  
6                   (as described in subsection (a) or (d) of  
7                   section 203);

8                   “(iii) is a derivative beneficiary of an  
9                   employment-based immigrant under section  
10                  203(b) (as described in section 203(d)); or

11                  “(iv) is the spouse or child of a ref-  
12                  ugee (as described in section 207(c)(2)) or  
13                  an asylee (as described in section  
14                  208(b)(3)).”.

15           (2) TRANSITION PERIOD.—

16                   (A) IN GENERAL.—Notwithstanding a de-  
17                   nial or revocation of an application for an immi-  
18                   grant visa for an alien whose qualifying relative  
19                   died before the date of the enactment of this  
20                   Act, such application may be renewed by the  
21                   alien through a motion to reopen, without fee,  
22                   if such motion is filed not later than 2 years  
23                   after such date of enactment.

24                   (B) INAPPLICABILITY OF BARS TO  
25                   ENTRY.—Notwithstanding section 212(a)(9) of

1           the Immigration and Nationality Act (8 U.S.C.  
2           1182(a)(9)), an alien’s application for an immi-  
3           grant visa shall be considered if the alien was  
4           excluded, deported, removed, or departed volun-  
5           tarily before the date of the enactment of this  
6           Act.

7           (e) NATURALIZATION.—Section 319(a) of the Immi-  
8           gration and Nationality Act (8 U.S.C. 1430(a)) is amend-  
9           ed by inserting “(or, if the spouse is deceased, the spouse  
10          was a citizen of the United States)” after “citizen of the  
11          United States”.

12       **SEC. 7. EXEMPTION FROM IMMIGRANT VISA LIMIT FOR**  
13                       **CERTAIN VETERANS WHO ARE NATIVES OF**  
14                       **PHILIPPINES.**

15          Section 201(b)(1) of the Immigration and Nationality  
16          Act (8 U.S.C. 1151(b)(1)) is amended by adding at the  
17          end the following:

18               “(F) Aliens who are eligible for an immigrant  
19          visa under paragraph (1) or (3) of section 203(a)  
20          and who have a parent who was naturalized pursu-  
21          ant to section 405 of the Immigration Act of 1990  
22          (8 U.S.C. 1440 note).”.

23       **SEC. 8. FIANCÉE CHILD STATUS PROTECTION.**

24          (a) DEFINITION.—Section 101(a)(15)(K)(iii) of the  
25          Immigration and Nationality Act (8 U.S.C.

1 1101(a)(15)(K)(iii) is amended by inserting “, provided  
2 that a determination of the age of such minor child is  
3 made using the age of the alien on the date on which the  
4 petition is filed with the Secretary of Homeland Security  
5 to classify the alien’s parent as the fiancée or fiancé of  
6 a United States citizen (in the case of an alien parent de-  
7 scribed in clause (i)) or as the spouse of a United States  
8 citizen under section 201(b)(2)(A)(i) (in the case of an  
9 alien parent described in clause (ii));” before the semicolon  
10 at the end.

11 (b) ADJUSTMENT OF STATUS AUTHORIZED.—Section  
12 214(d) of the Immigration and Nationality Act (8 U.S.C.  
13 1184(d)(1)) is amended—

14 (1) by redesignating paragraphs (2) and (3) as  
15 paragraphs (3) and (4), respectively; and

16 (2) in paragraph (1), by striking “In the event”  
17 and inserting the following:

18 “(2)(A) If an alien does not marry the petitioner  
19 under paragraph (1) within 3 months after the alien and  
20 the alien’s minor children are admitted into the United  
21 States, such alien and children shall be required to depart  
22 from the United States. If such aliens fail to depart from  
23 the United States, they shall be removed in accordance  
24 with sections 240 and 241.

1       “(B) Subject to subparagraphs (C) and (D), if an  
2 alien marries the petitioner described in section  
3 101(a)(15)(K)(i) within 3 months after the alien is admit-  
4 ted into the United States, the Secretary of Homeland Se-  
5 curity or the Attorney General, subject to the provisions  
6 of section 245(d), may adjust the status of the alien, and  
7 any minor children accompanying or following to join the  
8 alien, to that of an alien lawfully admitted for permanent  
9 residence on a conditional basis under section 216 if the  
10 alien and any such minor children apply for such adjust-  
11 ment and are not determined to be inadmissible to the  
12 United States.

13       “(C) Paragraphs (5) and (7)(A) of section 212(a))  
14 shall not apply to an alien who is eligible to apply for ad-  
15 justment of his or her status to an alien lawfully admitted  
16 for permanent residence under this section.

17       “(D) An alien eligible for a waiver of inadmissibility  
18 as otherwise authorized under this Act shall be permitted  
19 to apply for adjustment of his or her status to that of  
20 an alien lawfully admitted for permanent residence under  
21 this section.”.

22       (c) AGE DETERMINATION.—Section 245(d) of the  
23 Immigration and Nationality Act (8 U.S.C. 1155(d)) is  
24 amended—

1           (1) by inserting “(1)” before “The Attorney  
2       General”; and

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

4       “(2) A determination of the age of an alien admitted  
5 to the United States under section 101(a)(15)(K)(iii) shall  
6 be made, for purposes of adjustment to the status of an  
7 alien lawfully admitted for permanent residence on a con-  
8 ditional basis under section 216, using the age of the alien  
9 on the date on which the petition is filed with the Sec-  
10 retary of Homeland Security to classify the alien’s parent  
11 as the fiancée or fiancé of a United States citizen (in the  
12 case of an alien parent admitted to the United States  
13 under section 101(a)(15)(K)(i)) or as the spouse of a  
14 United States citizen under section 201(b)(2)(A)(i) (in the  
15 case of an alien parent admitted to the United States  
16 under section 101(a)(15)(K)(ii)).”.

17       (d) EFFECTIVE DATE.—

18           (1) IN GENERAL.—The amendments made by  
19 this section shall be effective as if included in the  
20 Immigration Marriage Fraud Amendments of 1986  
21 (Public Law 99–639).

22           (2) APPLICABILITY.—The amendments made  
23 by this section shall apply to all petitions or applica-  
24 tions described in such amendments that—

1 (A) are pending as of the date of the en-  
2 actment of this Act; or

3 (B) have been denied, but would have been  
4 approved if such amendments had been in effect  
5 at the time of adjudication of the petition or  
6 application.

7 (3) MOTION TO REOPEN OR RECONSIDER.—A  
8 motion to reopen or reconsider a petition or applica-  
9 tion described in paragraph (2)(B) shall be granted  
10 if such motion is filed with the Secretary of Home-  
11 land Security or the Attorney General not later than  
12 2 years after the date of the enactment of this Act.

13 **SEC. 9. EQUAL TREATMENT FOR ALL STEPCHILDREN.**

14 Section 101(b)(1)(B) of the Immigration and Nation-  
15 ality Act (8 U.S.C. 1101(b)(1)(B)) is amended by striking  
16 “, provided the child had not reached the age of eighteen  
17 years at the time the marriage creating the status of step-  
18 child occurred”.