

111TH CONGRESS
1ST SESSION

S. 1085

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

IN THE SENATE OF THE UNITED STATES

MAY 20, 2009

Mr. MENENDEZ (for himself, Mrs. GILLIBRAND, Mr. KENNEDY, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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 redesign-
24 nated 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)—

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)”;
- 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”.

○