

118TH CONGRESS
1ST SESSION

H. R. 1698

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 22, 2023

Ms. ESCOBAR (for herself, Ms. SALAZAR, Mr. RASKIN, Ms. TLAIB, Ms. WILLIAMS of Georgia, Ms. NORTON, Ms. JACOBS, Ms. BARRAGÁN, Mr. CORREA, Ms. SCANLON, Mr. ALLRED, Ms. JAYAPAL, Mr. DOGGETT, Ms. ROSS, Mr. NEGUSE, Ms. VELÁZQUEZ, and Ms. OMAR) introduced the following bill; which was 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 “American Families
5 United Act”.

6 **SEC. 2. RULE OF CONSTRUCTION.**

7 Nothing in this Act shall be construed—

8 (1) to provide the Secretary of Homeland Secu-
9 rity or the Attorney General with the ability to exer-

1 cise the discretionary authority provided in this Act,
2 or by an amendment made by this Act, except on a
3 case-by-case basis; or

4 (2) to otherwise modify or limit the discre-
5 tionary authority of the Secretary of Homeland Se-
6 curity or the Attorney General under the immigra-
7 tion laws (as defined in section 101(a)(17) of the
8 Immigration and Nationality Act (8 U.S.C.
9 1101(a)(17))).

10 **SEC. 3. DISCRETIONARY AUTHORITY WITH RESPECT TO**
11 **FAMILY MEMBERS OF UNITED STATES CITI-**
12 **ZENS.**

13 (a) APPLICATIONS FOR RELIEF FROM REMOVAL.—
14 Section 240(c)(4) of the Immigration and Nationality Act
15 (8 U.S.C. 1229a(c)(4)) is amended by adding at the end
16 the following:

17 “(D) JUDICIAL DISCRETION.—

18 “(i) IN GENERAL.—In the case of an
19 alien who is the spouse or child of a citizen
20 of the United States, the Attorney General
21 may subject to clause (ii)—

22 “(I) terminate any removal pro-
23 ceedings against the alien;

24 “(II) decline to order the alien
25 removed from the United States;

1 “(III) grant the alien permission
2 to reapply for admission to the United
3 States; or

4 “(IV) subject to clause (iii),
5 waive the application of one or more
6 grounds of inadmissibility or deport-
7 ability in connection with any request
8 for relief from removal.

9 “(ii) LIMITATION ON DISCRETION.—

10 “(I) IN GENERAL.—The Attorney
11 General may exercise the discretion
12 described in clause (i) if the Attorney
13 General determines that removal of
14 the alien or the denial of a request for
15 relief from removal would result in
16 hardship to the alien’s United States
17 citizen spouse, parent, or child. There
18 shall be a presumption that family
19 separation constitutes hardship.

20 “(II) WIDOW AND SURVIVING
21 CHILD OF DECEASED UNITED STATES
22 CITIZEN.—In the case of the death of
23 a citizen of the United States, the At-
24 torney General may exercise discretion
25 described in clause (i) with respect to

1 an alien who was a child of such cit-
2 izen, or was the spouse of such citizen
3 and was not legally separated from
4 such citizen on the date of the citi-
5 zen's death, if—

6 “(aa) the Attorney General
7 determines that removal of the
8 child or spouse or the denial of a
9 requested benefit would result in
10 hardship to the child or spouse;
11 and

12 “(bb) the child or spouse
13 seeks relief requiring such discre-
14 tion not later than two years
15 after the date of the citizen's
16 death or demonstrates to the sat-
17 isfaction of the Attorney General
18 the existence of extraordinary cir-
19 cumstances that prevented the
20 spouse or child from seeking re-
21 lief within such period.

22 “(iii) EXCLUSIONS.—This subpara-
23 graph shall not apply to an alien whom the
24 Attorney General determines—

25 “(I) is inadmissible under—

1 “(aa) paragraph (2) or (3)
2 of section 212(a); or

3 “(bb) subparagraph (A),
4 (C), or (D) of section 212(a)(10);
5 or

6 “(II) is deportable under para-
7 graph (2), (4), or (6) of section
8 237(a).”.

9 (b) SECRETARY’S DISCRETION.—Section 212 of the
10 Immigration and Nationality Act (8 U.S.C. 1182) is
11 amended—

12 (1) by redesignating the second subsection (t)
13 as subsection (u); and

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

15 “(u) SECRETARY’S DISCRETION.—

16 “(1) IN GENERAL.—In the case of an alien who
17 is the spouse or child of a citizen of the United
18 States, the Secretary of Homeland Security may,
19 subject to paragraph (2)—

20 “(A) waive the application of one or more
21 grounds of inadmissibility or deportability in
22 connection with an application for an immigra-
23 tion benefit or request for relief from removal;

1 “(B) decline to issue a notice to appear or
2 other charging document requiring such an
3 alien to appear for removal proceedings;

4 “(C) decline to reinstate an order of re-
5 moval under section 241(a)(5); or

6 “(D) grant such alien permission to re-
7 apply for admission to the United States or any
8 other application for an immigration benefit.

9 “(2) LIMITATION ON DISCRETION.—

10 “(A) IN GENERAL.—The Secretary of
11 Homeland Security may exercise discretion de-
12 scribed in paragraph (1) if the Secretary deter-
13 mines that removal of the alien or the denial of
14 a requested benefit would result in hardship to
15 the alien’s United States citizen spouse, parent,
16 or child. There shall be a presumption that
17 family separation constitutes hardship.

18 “(B) WIDOW AND ORPHAN OF DECEASED
19 UNITED STATES CITIZEN.—In the case of the
20 death of a citizen of the United States, the Sec-
21 retary of Homeland Security may exercise dis-
22 cretion described in paragraph (1) with respect
23 to an alien who was a child of such citizen, or
24 was the spouse of such citizen and was not le-

1 gally separated from such citizen on the date of
2 the citizen's death, if—

3 “(i) the Secretary determines that the
4 denial of a requested benefit would result
5 in hardship to the child or spouse; and

6 “(ii) the child or spouse seeks relief
7 requiring such discretion not later than
8 two years after the date of the citizen's
9 death or demonstrates to the satisfaction
10 of the Secretary the existence of extraor-
11 dinary circumstances that prevented the
12 spouse or child from seeking relief within
13 such period.

14 “(3) EXCLUSIONS.—This subsection shall not
15 apply to an alien whom the Secretary determines—

16 “(A) is inadmissible under—

17 “(i) paragraph (2) or (3) of sub-
18 sections (a); or

19 “(ii) subparagraphs (A), (C), or (D)
20 of subsection (a)(10); or

21 “(B) is deportable under paragraphs (2),
22 (4), or (6) of section 237(a).”.

23 **SEC. 4. MOTIONS TO REOPEN OR RECONSIDER.**

24 (a) IN GENERAL.—A motion to reopen or reconsider
25 the denial of a petition or application or an order of re-

1 moval for an alien may be granted if such petition, appli-
2 cation, or order would have been adjudicated in favor of
3 the alien had this Act, or an amendment made by this
4 Act, been in effect at the time of such denial or order.

5 (b) FILING REQUIREMENT.—A motion under sub-
6 section (a) shall be filed no later than the date that is
7 2 years after the date of the enactment of this Act, unless
8 the alien demonstrates to the satisfaction of the Secretary
9 of Homeland Security or Attorney General, as appro-
10 priate, the existence of extraordinary circumstances that
11 prevented the alien from filing within such period.

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