

116TH CONGRESS
2D SESSION

H. R. 8708

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

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 30, 2020

Ms. ESCOBAR (for herself, Mr. WOODALL, and Mr. SOTO) 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. FINDINGS.**

7 Congress finds the following:

8 (1) The rights and interests of U.S. citizens
9 should be protected by our Nation’s immigration
10 laws.

1 (2) It is the intent of Congress to provide the
2 Attorney General and Secretary of Homeland Secu-
3 rity with the limited ability to exercise their discre-
4 tion in favor of the spouses, children, and parents of
5 American citizens in immigration proceedings, on a
6 case-by-case basis, to ensure fairness and prevent
7 hardships associated with family separation.

8 **SEC. 3. RULE OF CONSTRUCTION.**

9 Nothing in this Act shall be construed to provide the
10 Attorney General or the Secretary of Homeland Security
11 with the ability to exercise the discretionary authority pro-
12 vided in this Act, except on a case-by-case basis.

13 **SEC. 4 DEFINITION OF CONVICTION.**

14 (1) IN GENERAL.—Section 101(a)(48) of the
15 Immigration and Nationality Act (8 U.S.C.
16 1101(a)(48)) is amended by striking subparagraphs
17 (A) and (B) and inserting the following:

18 “(A) The term ‘conviction’ means, with re-
19 spect to an alien, a final, formal judgment of
20 guilt entered by a court. A State or Federal
21 court adjudication or judgment of guilt that has
22 been withheld, deferred, expunged, annulled, in-
23 validated, or vacated; an order of probation
24 without entry of judgment; or any similar dis-
25 position under State or Federal law shall not be

1 considered a conviction for purposes of the im-
2 migration laws.

3 “(B) A pardon entered by a State or Fed-
4 eral authority shall render the underlying con-
5 viction null and void for purposes of the immi-
6 gration laws.

7 “(C) Any reference to a term of imprison-
8 ment or sentence with respect to an offense is
9 deemed to include only the actual period of in-
10 carceration or confinement ordered by a court
11 of law. The suspension of the imposition or exe-
12 cution of a term of imprisonment or sentence in
13 whole or in part shall not be included as a part
14 of the sentence for purposes of the immigration
15 laws.”.

16 (2) EFFECTIVE DATE AND APPLICATION.—The
17 amendments made by paragraph (1) shall take effect
18 on the date of the enactment of this Act and shall
19 apply to convictions and sentences entered before,
20 on, or after the date of the enactment of this Act.

1 **SEC. 5. DISCRETIONARY AUTHORITY WITH RESPECT TO RE-**
2 **MOVAL, DEPORTATION, INELIGIBILITY OR IN-**
3 **ADMISSIBILITY OF CITIZEN FAMILY MEM-**
4 **BERS.**

5 (a) APPLICATIONS FOR RELIEF FROM REMOVAL.—
6 Section 240(c)(4) of the Immigration and Nationality Act
7 (8 U.S.C. 1229a(c)(4)) is amended by adding at the end
8 the following:

9 “(D) JUDICIAL DISCRETION.—

10 “(i) IN GENERAL.—In the case of an
11 alien subject to removal, deportation, or
12 exclusion proceedings, the Attorney Gen-
13 eral may, for reasons described in clause
14 (ii)—

15 “(I) decline to order such alien
16 removed, deported, or excluded from
17 the United States;

18 “(II) terminate such removal, de-
19 portation, or exclusion proceedings;
20 and

21 “(III) grant such alien permis-
22 sion to reapply for admission to the
23 United States or any other application
24 for relief from removal.

1 “(ii) LIMITATION ON DISCRETION.—
2 The Attorney General may exercise the
3 discretion described in clause (i)—

4 “(I) for humanitarian purposes;
5 or

6 “(II) to preserve family unity in
7 the United States if the alien is—

8 “(aa) the spouse of a United
9 States citizen; or

10 “(bb) the parent of a United
11 States citizen child and such
12 child’s other parent is a United
13 States citizen or was a United
14 States citizen at the time of such
15 other parent’s death.

16 “(iii) EXCLUSIONS.—This subpara-
17 graph shall not apply to an alien whom the
18 Attorney General determines—

19 “(I) is inadmissible or deportable
20 under—

21 “(aa) subparagraph (B),
22 (C), (D)(ii), (E), (H), or (I) of
23 section 212(a)(2);

24 “(bb) section 212(a)(3);

1 “(cc) subparagraph (A), (C),
2 or (D) of section 212(a)(10); or

3 “(dd) paragraph (2)(A)(ii),
4 (2)(A)(v), (2)(F), (4), or (6) of
5 section 237(a); or

6 “(II) has—

7 “(aa) been convicted of con-
8 duct described in paragraph (8),
9 (11), or (12) of section 103 of
10 the Trafficking Victims Protec-
11 tion Act of 2000 (22 U.S.C.
12 7102); or

13 “(bb) a felony conviction de-
14 scribed in section 101(a)(43) that
15 would have been classified as an
16 aggravated felony at the time of
17 conviction.”.

18 (b) SECRETARY’S DISCRETION.—Section 212 of the
19 Immigration and Nationality Act (8 U.S.C. 1182) is
20 amended—

21 (1) by redesignating the second subsection (t)
22 as subsection (u); and

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

24 “(v) SECRETARY’S DISCRETION.—

1 “(1) IN GENERAL.—In the case of an alien who
2 is inadmissible under subsection (a), deportable
3 under section 237, or ineligible for any immigration
4 benefit or relief under the immigration laws, the
5 Secretary of Homeland Security may, for reasons
6 described in paragraph (2)—

7 “(A) and subject to paragraph (3), waive
8 one or more grounds of inadmissibility or de-
9 portability;

10 “(B) decline to issue a notice to appear re-
11 quiring such an alien to appear in a removal
12 proceeding;

13 “(C) decline to reinstate an order of re-
14 moval under section 241(a)(5); and

15 “(D) grant such an alien permission to re-
16 apply for admission to the United States or any
17 other application for immigration benefits.

18 “(2) LIMITATION ON DISCRETION.—The Sec-
19 retary of Homeland Security may exercise the dis-
20 cretion described in clause (i)—

21 “(A) for humanitarian purposes; or

22 “(B) to preserve family unity in the United
23 States if the alien is—

24 “(i) the spouse of a United States cit-
25 izen; or

1 “(ii) the parent of a United States cit-
2 izen child and such child’s other parent is
3 a United States citizen or was a United
4 States citizen at the time of such other
5 parent’s death.

6 “(3) This subsection shall not apply to an alien
7 whom the Secretary determines—

8 “(A) is inadmissible or deportable under—

9 “(i) subparagraph (B), (C), (D)(ii),
10 (E), (H), or (I) of subsection (a)(2);

11 “(ii) subsection (a)(3);

12 “(iii) subparagraph (A), (C), or (D) of
13 subsection (a)(10); or

14 “(iv) paragraph (2)(A)(ii), (2)(A)(v),
15 (2)(F), or (6) of section 237(a); or

16 “(B) has—

17 “(i) been convicted of conduct de-
18 scribed in paragraph (8), (11), or (12) of
19 section 103 of the Trafficking Victims Pro-
20 tection Act of 2000 (22 U.S.C. 7102); or

21 “(ii) a felony conviction described in
22 section 101(a)(43) that would have been
23 classified as an aggravated felony at the
24 time of conviction;”.

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