



H.R. 1036 - American Families United Act

Summary

The bill amends the Immigration and Nationality Act to: Provide waivers that consider hardship to USC and LPR children if there is unlawful presence or other grounds of inadmissibility related to their parents; Redefine convictions so they are consistent with most state laws; Allow Immigration Judges and DHS to grant waivers in the public interest for certain grounds of inadmissibility; and Allow deportation for a false claim to US citizenship only if a person knowingly misrepresent his status as a USC.

1. Unlawful presence waiver:

- Eligible if entered U.S. before 16 and holds higher education degree
- LPR and USC children can be qualifying relatives for hardship purposes
- Hardship does not have to be “extreme” and family separation in itself is deemed hardship

2. Inadmissibility ground for misrepresentations

- Misrepresentations limited to last 3 years

3. False claims to US Citizenship

- Replaces the words “falsely represents” or “has falsely represented” to “knowingly misrepresents”
- Special rule for false claim to USC: under 18 OR lacked the mental competence to knowingly misrepresent.

4. Misrepresentation waiver (replaces 212(i) waiver) and false claims to USC waiver

- Hardship can be on alien, alien’s LPR or USC spouse, parent, or child.

5. Definition of conviction

- Where a State or Federal court enters an adjudication or judgment of guilt that has been withheld, deferred, expunged, annulled, invalidated or vacated, or enters an order of probation without entry of judgment, or any similar disposition under State or Federal law such judgment or adjudication shall not be considered a conviction for purposes of this Act.
- Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include only the actual period of incarceration or confinement ordered by a court of law. The suspension of the imposition or execution of that imprisonment or sentence in whole or in part shall not be included as a part of the sentence for purposes of this Act. (as opposed to period of incarceration or confinement that was ordered by the court, regardless of suspension of the imposition)

6. Judicial and Secretary Discretion permitted.

- IJ: With certain exclusions (such as serious crimes set forth in act) the immigration judge may exercise discretion to decline to order the alien removable, deportable, ineligible or inadmissible from the United States and terminate proceedings or grant permission to reapply for admission or any application for relief from removal if the judge determines that such removal, deportation, ineligibility or inadmissibility is against the public interest or would result in hardship to the alien's United States citizen or lawful permanent resident parent, spouse, or child, or the judge determines the alien is prima facie eligible for naturalization
- Secretary: with certain exclusions (such as serious crimes set forth in act) may exercise discretion to waive a ground of ineligibility, inadmissibility or deportability or grant permission to reapply for admission or any application for immigration benefits if the Secretary determines that such ineligibility, removal or refusal of admission is against the public interest or would result in hardship, including family separation, to the alien's United States citizen or permanent resident parent, spouse, or child.
- Hardship: For purposes of this subparagraph, family separation in and of itself shall be deemed to be a hardship and shall be deemed to be against the public interest.
- NOTE: Excluded from waiver if a felony conviction described in section 101(a)(43) would have been classified as an aggravated felony at the time of conviction.

7. Reinstatement Of Removal Orders.

- Exception for alien that reentered prior to attaining the age of 18 years,
- Exception if reinstatement of the prior order of removal would not be in the public interest or would result in hardship, including family separation, to the alien's United States citizen or permanent resident parent, spouse, or child.

Status

On February 14, 2017, the bill was introduced to the House of Representatives by Congressman Bill O'Rourke and was subsequently referred to the House Committee on the Judiciary and on March 6 to the Subcommittee on Immigration and Border Security.

Cosponsors

Rep. Eric Swalwell	(D-CA-15)	Original Cosponsor
Rep. Beto O'Rourke	(D-TX-16)	(Introduced 02/14/2017)
Rep. Steven Pearce	(R-NM-2)	Original Cosponsor
Rep. Erik Paulsen	(R-MN-3)	
Rep. Will Hurd	(R-TX-23)	



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