

1 **SEC. 3. DISCRETIONARY AUTHORITY WITH RESPECT TO**
2 **FAMILY MEMBERS OF UNITED STATES CITI-**
3 **ZENS.**

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

8 “(D) JUDICIAL DISCRETION.—

9 “(i) IN GENERAL.—In the case of an
10 alien who is the spouse or child of a citizen
11 of the United States, the Attorney General
12 may, subject to clause (ii)—

13 “(I) terminate any removal pro-
14 ceedings against the alien;

15 “(II) decline to order the alien
16 removed from the United States;

17 “(III) grant the alien permission
18 to reapply for admission to the United
19 States; or

20 “(IV) waive the application of
21 one or more grounds of inadmissibility
22 or deportability, in connection with
23 any request for relief from removal.

24 “(ii) LIMITATION ON DISCRETION.—

25 “(I) IN GENERAL.—The Attorney
26 General may exercise the discretion

1 described in clause (i) if the Attorney
2 General determines that removal of
3 the alien or the denial of a request for
4 relief from removal would result in
5 hardship to the alien's United States
6 citizen spouse, parent, or child. There
7 shall be a presumption that family
8 separation constitutes hardship.

9 “(II) WIDOW AND SURVIVING
10 CHILD OF DECEASED UNITED STATES
11 CITIZEN.—In the case of the death of
12 a citizen of the United States, the At-
13 torney General may exercise discretion
14 described in clause (i) with respect to
15 an alien who was a child of such citi-
16 zen, or was the spouse of such citizen
17 and was not legally separated from
18 such citizen on the date of the citi-
19 zen's death, if—

20 “(aa) the Attorney General
21 determines that removal of the
22 child or spouse or the denial of a
23 requested benefit would result in
24 hardship to the child or spouse;
25 and

1 “(bb) the child or spouse
2 seeks relief requiring such discre-
3 tion not later than two years
4 after the date of the citizen’s
5 death or demonstrates to the sat-
6 isfaction of the Attorney General
7 the existence of extraordinary cir-
8 cumstances that prevented the
9 spouse or child from seeking re-
10 lief within such period.

11 “(iii) EXCLUSIONS.—This subpara-
12 graph shall not apply to an alien whom the
13 Attorney General determines—

14 “(I) is inadmissible under—

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

17 “(bb) subparagraph (A),
18 (C), or (D) of section 212(a)(10);
19 or

20 “(II) is deportable under para-
21 graph (2), (4), or (6) of section
22 237(a).”.

23 (b) SECRETARY’S DISCRETION.—Section 212 of the
24 Immigration and Nationality Act (8 U.S.C. 1182) is
25 amended—

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

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

4 “(v) SECRETARY’S DISCRETION.—

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

9 “(A) waive the application of one or more
10 grounds of inadmissibility or deportability in
11 connection with an application for an immigra-
12 tion benefit or request for relief from removal;

13 “(B) decline to issue a notice to appear or
14 other charging document requiring such an
15 alien to appear for removal proceedings;

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

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

21 “(2) LIMITATION ON DISCRETION.—

22 “(A) IN GENERAL.—The Secretary of
23 Homeland Security may exercise discretion de-
24 scribed in paragraph (1) if the Secretary deter-
25 mines that removal of the alien or the denial of

1 a requested benefit would result in hardship to
2 the alien's United States citizen spouse, parent,
3 or child. There shall be a presumption that
4 family separation constitutes hardship.

5 “(B) WIDOW AND SURVIVING CHILD OF
6 DECEASED UNITED STATES CITIZEN.—In the
7 case of the death of a citizen of the United
8 States, the Secretary of Homeland Security
9 may exercise discretion described in paragraph
10 (1) with respect to an alien who was a child of
11 such citizen, or was the spouse of such citizen
12 and was not legally separated from such citizen
13 on the date of the citizen's death, if—

14 “(i) the Secretary determines that the
15 denial of a requested benefit would result
16 in hardship to the child or spouse; and

17 “(ii) the child or spouse seeks relief
18 requiring such discretion not later than
19 two years after the date of the citizen's
20 death or demonstrates to the satisfaction
21 of the Secretary the existence of extraor-
22 dinary circumstances that prevented the
23 spouse or child from seeking relief within
24 such period.

1 “(3) EXCLUSIONS.—This subsection shall not
2 apply to an alien whom the Secretary determines—
3 “(A) is inadmissible under—
4 “(i) paragraph (2) or (3) of sub-
5 sections (a); or
6 “(ii) subparagraphs (A), (C), or (D)
7 of subsection (a)(10); or
8 “(B) is deportable under paragraphs (2),
9 (4), or (6) of section 237(a).”.

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

11 (a) IN GENERAL.—A motion to reopen or reconsider
12 the denial of a petition or application or an order of re-
13 moval for an alien may be granted if such petition, appli-
14 cation, or order would have been adjudicated in favor of
15 the alien had this Act, or an amendment made by this
16 Act, been in effect at the time of such denial or order.

17 (b) FILING REQUIREMENT.—A motion under sub-
18 section (a) shall be filed no later than the date that is
19 2 years after the date of the enactment of this Act, unless
20 the alien demonstrates to the satisfaction of the Secretary
21 of Homeland Security or Attorney General, as appro-
22 priate, the existence of extraordinary circumstances that
23 prevented the alien from filing within such period.

