AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2920
OFFERED BY M__. ____________

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “American Families United Act”.

SEC. 2. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed—

(1) to provide the Secretary of Homeland Security or the Attorney General with the ability to exercise the discretionary authority provided in this Act, or by an amendment made by this Act, except on a case-by-case basis; or

(2) to otherwise modify or limit the discretionary authority of the Secretary of Homeland Security or the Attorney General under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17))).
SEC. 3. DISCRETIONARY AUTHORITY WITH RESPECT TO
FAMILY MEMBERS OF UNITED STATES CITIZENS.

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

“(D) JUDICIAL DISCRETION.—

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

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

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

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

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

“(ii) LIMITATION ON DISCRETION.—

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

“(II) WIDOW AND SURVIVING CHILD OF DECEASED UNITED STATES CITIZEN.—In the case of the death of a citizen of the United States, the Attorney General may exercise discretion described in clause (i) with respect to an alien who was a child of such citizen, or was the spouse of such citizen and was not legally separated from such citizen on the date of the citizen’s death, if—

“(aa) the Attorney General determines that removal of the child or spouse or the denial of a requested benefit would result in hardship to the child or spouse; and
“(bb) the child or spouse seeks relief requiring such discretion not later than two years after the date of the citizen’s death or demonstrates to the satisfaction of the Attorney General the existence of extraordinary circumstances that prevented the spouse or child from seeking relief within such period.

“(iii) Exclusions.—This subparagraph shall not apply to an alien whom the Attorney General determines—

“(I) is inadmissible under—

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

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

“(II) is deportable under paragraph (2), (4), or (6) of section 237(a).”.

(b) Secretary’s Discretion.—Section 212 of the Immigration and Nationality Act (8 U.S.C. 1182) is amended—
(1) by redesignating the second subsection (t) as subsection (u); and

(2) by adding at the end the following:

“(v) Secretary’s Discretion.—

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

“(A) waive the application of one or more grounds of inadmissibility or deportability in connection with an application for an immigration benefit or request for relief from removal;

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

“(C) decline to reinstate an order of removal under section 241(a)(5); or

“(D) grant such alien permission to reapply for admission to the United States or any other application for an immigration benefit.

“(2) Limitation on Discretion.—

“(A) In General.—The Secretary of Homeland Security may exercise discretion described in paragraph (1) if the Secretary determines that removal of the alien or the denial of
a requested benefit would result in hardship to
the alien’s United States citizen spouse, parent,
or child. There shall be a presumption that
family separation constitutes hardship.

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

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

“(ii) the child or spouse seeks relief
requiring such discretion not later than
two years after the date of the citizen’s
death or demonstrates to the satisfaction
of the Secretary the existence of extraor-
dinary circumstances that prevented the
spouse or child from seeking relief within
such period.
“(3) EXCLUSIONS.—This subsection shall not apply to an alien whom the Secretary determines—

“(A) is inadmissible under—

“(i) paragraph (2) or (3) of subsections (a); or

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

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

SEC. 4. MOTIONS TO REOPEN OR RECONSIDER.

(a) IN GENERAL.—A motion to reopen or reconsider the denial of a petition or application or an order of removal for an alien may be granted if such petition, application, or order would have been adjudicated in favor of the alien had this Act, or an amendment made by this Act, been in effect at the time of such denial or order.

(b) FILING REQUIREMENT.—A motion under subsection (a) shall be filed no later than the date that is 2 years after the date of the enactment of this Act, unless the alien demonstrates to the satisfaction of the Secretary of Homeland Security or Attorney General, as appropriate, the existence of extraordinary circumstances that prevented the alien from filing within such period.