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

IN THE HOUSE OF REPRESENTATIVES

APRIL 30, 2021

Ms. ESCOBAR (for herself and Mr. VALADAO) 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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

Congress finds the following:

(1) The rights and interests of United States citizens should be protected by our Nation’s immigration laws.
(2) It is the intent of Congress to provide the Attorney General and Secretary of Homeland Security with the ability to exercise their discretion in favor of preventing hardship to the spouses, children, and parents of United States citizens in immigration proceedings, on a case-by-case basis, to ensure fairness and prevent hardships associated with family separation.

SEC. 3. RULE OF CONSTRUCTION.

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

SEC. 4. DISCRETIONARY AUTHORITY WITH RESPECT TO REMOVAL, DEPORTATION, INELIGIBILITY OR INADMISSIBILITY OF CITIZEN FAMILY MEMBERS.

(a) Applications for Relief From Removal.—Section 240(c)(4) of the Immigration and Nationality Act (8 U.S.C. 1229a(e)(4)) is amended by adding at the end the following:

“(D) JUDICIAL DISCRETION.—

“(i) IN GENERAL.—In the case of an alien in removal proceedings, who is the spouse or child of a United States citizen,
the Attorney General may, for reasons described in clause (ii)—

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

“(II) terminate such removal proceedings; or

“(III) grant such alien permission to reapply for admission to the United States or any other application for relief from removal.

“(ii) LIMITATION ON DISCRETION.—

“(I) IN GENERAL.—The Attorney General may exercise discretion described in clause (i) if the Attorney General 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.

“(II) HARDSHIP.—For purposes of subclause (I), there is a presumption that family separation shall result in hardship.

“(iii) EXCLUSIONS.—This subparagraph shall not apply to an alien whom the
Attorney General determines is inadmissible or deportable under—

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

“(II) section 212(a)(3);

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

“(IV) paragraph (2)(A)(iii), (2)(A)(v), (2)(F), (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 United States citizen, and who is inadmissible under subsection (a), deportable under section 237, or ineligible for any immigration benefit or relief under the immigration laws as a result of such inadmissibility or deportability, the Sec-
Secretary of Homeland Security may, for reasons described in paragraph (2)—

“(A) waive one or more grounds of inadmissibility or deportability;

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

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

“(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.

“(B) HARDSHIP.—For purposes of subparagraph (A), there is a presumption that family separation shall result in hardship.
“(3) EXCLUSIONS.—This subsection shall not apply to an alien whom the Secretary determines is inadmissible or deportable under—

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

“(B) subsection (a)(3);

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

“(D) paragraph (2)(A)(iii), (2)(A)(v), (2)(F), or (6) of section 237(a).”.

(c) NATIONALITY AT BIRTH AND COLLECTIVE NATURALIZATION.—Section 301(g) of the Immigration and Nationality Act (8 U.S.C. 1401(g)) is amended by striking “for a period or periods totaling not less than five years, at least two of which were after attaining the age of fourteen years”.

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