

S 424 IS

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**S. 424**

To amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

**IN THE SENATE OF THE UNITED STATES****February 12, 2009**

Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. SCHUMER, Mr. CARDIN, Mr. WHITEHOUSE, Mr. WYDEN, Mr. KERRY, Mr. BROWN, Mr. MENENDEZ, Mrs. MURRAY, Mr. DODD, Mr. AKAKA, Mr. LAUTENBERG, Mr. INOUE, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

**A BILL**

To amend the Immigration and Nationality Act to eliminate discrimination in the immigration laws by permitting permanent partners of United States citizens and lawful permanent residents to obtain lawful permanent resident status in the same manner as spouses of citizens and lawful permanent residents and to penalize immigration fraud in connection with permanent partnerships.

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

**SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.**

(a) Short Title- This Act may be cited as the `Uniting American Families Act of 2009'.

(b) Amendments to Immigration and Nationality Act- Except as otherwise specifically provided in this Act, if an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(c) Table of Contents- The table of contents for this Act is as follows:



Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.

Sec. 2. Definitions of permanent partner and permanent partnership.

Sec. 3. Worldwide level of immigration.

Sec. 4. Numerical limitations on individual foreign states.

Sec. 5. Allocation of immigrant visas.

Sec. 6. Procedure for granting immigrant status.

Sec. 7. Annual admission of refugees and admission of emergency situation refugees.

Sec. 8. Asylum.

Sec. 9. Adjustment of status of refugees.

Sec. 10. Inadmissible aliens.

Sec. 11. Nonimmigrant status for permanent partners awaiting the availability of an immigrant visa.

Sec. 12. Conditional permanent resident status for certain alien spouses, permanent partners, and sons and daughters.

Sec. 13. Conditional permanent resident status for certain alien entrepreneurs, spouses, permanent partners, and children.

Sec. 14. Deportable aliens.

Sec. 15. Removal proceedings.

Sec. 16. Cancellation of removal; adjustment of status.

Sec. 17. Adjustment of status of nonimmigrant to that of person admitted for permanent residence.

Sec. 18. Application of criminal penalties to for misrepresentation and concealment of facts regarding permanent partnerships.

Sec. 19. Requirements as to residence, good moral character, attachment to the principles of the Constitution.

Sec. 20. Application of family unity provisions to permanent partners of certain LIFE Act beneficiaries.

Sec. 21. Application to Cuban Adjustment Act.

## **SEC. 2. DEFINITIONS OF PERMANENT PARTNER AND PERMANENT PARTNERSHIP.**

Section 101(a) (8 U.S.C. 1101(a)) is amended--

(1) in paragraph (15)(K)(ii), by inserting `or permanent partnership' after `marriage'; and

(2) by adding at the end the following:

`(52) The term `permanent partner' means an individual 18 years of age or older who--

`(A) is in a committed, intimate relationship with another individual 18 years of age or older in which both individuals intend a lifelong commitment;

`(B) is financially interdependent with that other individual;

`(C) is not married to, or in a permanent partnership with, any individual other than that other individual;

`(D) is unable to contract with that other individual a marriage cognizable under this Act; and

`(E) is not a first, second, or third degree blood relation of that other individual.

`(53) The term `permanent partnership' means the relationship that exists between 2 permanent partners.'.

## **SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.**

Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended--

(1) by `spouse' each place it appears and inserting `spouse or permanent partner';

(2) by striking `spouses' and inserting `spouse, permanent partner,';

(3) by inserting `(or, in the case of a permanent partnership, whose permanent partnership was not terminated)' after `was not legally separated from the citizen'; and

(4) by striking `remarries.' and inserting `remarries or enters a permanent partnership with another person.'.

#### **SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.**

(a) Per Country Levels- Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended--

(1) in the paragraph heading, by inserting `, PERMANENT PARTNERS,' after `SPOUSES';

(2) in the heading of subparagraph (A), by inserting `, PERMANENT PARTNERS,' after `Spouses'; and

(3) in the heading of subparagraph (C), by striking `AND DAUGHTERS' inserting `WITHOUT PERMANENT PARTNERS AND UNMARRIED DAUGHTERS WITHOUT PERMANENT PARTNERS'.

(b) Rules for Chargeability- Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended--

(1) by striking `his spouse' and inserting `his or her spouse or permanent partner';

(2) by striking `such spouse' each place it appears and inserting `such spouse or permanent partner'; and

(3) by inserting `or permanent partners' after `husband and wife'.

#### **SEC. 5. ALLOCATION OF IMMIGRANT VISAS.**

(a) Preference Allocation for Family Members of Permanent Resident Aliens- Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended--

(1) by striking the paragraph heading and inserting the following:

`(2) SPOUSES, PERMANENT PARTNERS, UNMARRIED SONS WITHOUT PERMANENT PARTNERS, AND UNMARRIED DAUGHTERS WITHOUT PERMANENT PARTNERS OF PERMANENT RESIDENT ALIENS- ';

(2) in subparagraph (A), by inserting `, permanent partners,' after `spouses'; and

(3) in subparagraph (B), by striking `or unmarried daughters' and inserting `without permanent partners or the unmarried daughters without permanent partners'.

(b) Preference Allocation for Sons and Daughters of Citizens- Section 203(a)(3) (8 U.S.C. 1153(a)(3)) is amended--

(1) by striking the paragraph heading and inserting the following:

`(2) MARRIED SONS AND DAUGHTERS OF CITIZENS AND SONS AND DAUGHTERS WITH PERMANENT PARTNERS OF CITIZENS- ';

(2) by inserting `, or sons or daughters with permanent partners,' after `daughters'.

(c) Employment Creation- Section 203(b)(5)(A)(ii) (8 U.S.C. 1153(b)(5)(A)(ii)) is amended by inserting `permanent partner,' after `spouse,'.

(d) Treatment of Family Members- Section 203(d) (8 U.S.C. 1153(d)) is amended--

(1) by inserting `or permanent partner' after `section 101(b)(1)'; and

(2) by inserting `, permanent partner,' after `the spouse'.

#### **SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

(a) Classification Petitions- Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended--

(1) in subparagraph (A)--

(A) in clause (ii), by inserting `or permanent partner' after `spouse';

(B) in clause (iii)--

(i) by inserting `or permanent partner' after `spouse' each place it appears; and

(ii) in subclause (I), by inserting `or permanent partnership' after `marriage' each place it appears;

(C) in clause (v)(I), by inserting `permanent partner,' after `is the spouse,'; and

(D) in clause (vi)--

(i) by inserting `or termination of the permanent partnership' after `divorce'; and

(ii) by inserting `, permanent partner,' after `spouse'; and

(2) in subparagraph (B)--

(A) by inserting `or permanent partner' after `spouse' each place it appears; and

(B) in clause (ii)--

(i) in subclause (I)(aa), by inserting `or permanent partnership' after `marriage';

(ii) in subclause (I)(bb), by inserting `or permanent partnership' after `marriage' the first place it appears; and

(iii) in subclause (II)(aa), by inserting `(or the termination of the permanent partnership)' after `termination of the marriage'.

(b) Immigration Fraud Prevention- Section 204(c) (8 U.S.C. 1154(c)) is amended--

(1) by inserting `or permanent partner' after `spouse' each place it appears; and

(2) by inserting `or permanent partnership' after `marriage' each place it appears.

## **SEC. 7. ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES.**

Section 207(c) (8 U.S.C. 1157(c)) is amended--

(1) in paragraph (2)--

(A) by inserting `, permanent partner,' after `spouse' each place it appears; and

(B) by inserting `, permanent partner's,' after `spouse's'; and

(2) in paragraph (4), by inserting `, permanent partner,' after `spouse'.

## **SEC. 8. ASYLUM.**

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended--

(1) in the paragraph heading, by inserting `, PERMANENT PARTNER,' after `SPOUSE'; and

(2) in subparagraph (A), by inserting `, permanent partner,' after `spouse'.

## **SEC. 9. ADJUSTMENT OF STATUS OF REFUGEES.**

Section 209(b)(3) (8 U.S.C. 1159(b)(3)) is amended by inserting `, permanent partner,' after `spouse'.

## **SEC. 10. INADMISSIBLE ALIENS.**

(a) Classes of Aliens Ineligible for Visas or Admission- Section 212(a) (8 U.S.C. 1182(a)) is amended--

- (1) in paragraph (3)(D)(iv), by inserting `permanent partner,' after `spouse,';
- (2) in paragraph (4)(C)(i)(I), by inserting `, permanent partner,' after `spouse';
- (3) in paragraph (6)(E)(ii), by inserting `permanent partner,' after `spouse,'; and
- (4) in paragraph (9)(B)(v), by inserting `, permanent partner,' after `spouse'.

(b) Waivers- Section 212(d) (8 U.S.C. 1182(d)) is amended--

- (1) in paragraph (11), by inserting `permanent partner,' after `spouse,'; and
- (2) in paragraph (12), by inserting `, permanent partner,' after `spouse'.

(c) Waivers of Inadmissibility on Health-Related Grounds- Section 212(g)(1)(A) (8 U.S.C. 1182(g)(1)(A)) is amended by inserting `, permanent partner,' after `spouse'.

(d) Waivers of Inadmissibility on Criminal and Related Grounds- Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended by inserting `permanent partner,' after `spouse,'.

(e) Waiver of Inadmissibility for Misrepresentation- Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended by inserting `permanent partner,' after `spouse,'.

## **SEC. 11. NONIMMIGRANT STATUS FOR PERMANENT PARTNERS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.**

Section 214(r) (8 U.S.C. 1184(r)) is amended--

- (1) in paragraph (1), by inserting `or permanent partner' after `spouse'; and
- (2) in paragraph (2), by inserting `or permanent partnership' after `marriage' each place it appears.

## **SEC. 12. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.**

(a) Section Heading-

(1) IN GENERAL- The heading for section 216 (8 U.S.C. 1186a) is amended by striking `AND SONS' and inserting `, PERMANENT PARTNERS, SONS,'.

(2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216 to read as follows:

`Sec. 216. Conditional permanent resident status for certain alien spouses, permanent partners, sons, and daughters.'.

(b) In General- Section 216(a) (8 U.S.C. 1186a(a)) is amended--

- (1) in paragraph (1), by inserting `or permanent partner' after `spouse'; and
- (2) in paragraph (2)--
  - (A) in subparagraph (A), by inserting `or permanent partner' after `spouse';
  - (B) in subparagraph (B), by inserting `permanent partner,' after `spouse,'; and
  - (C) in subparagraph (C), by inserting `permanent partner,' after `spouse,'.

(c) Termination of Status if Finding That Qualifying Marriage Improper- Section 216(b) (8 U.S.C. 1186a(b)) is amended--

- (1) in the subsection heading, by inserting `or Permanent Partnership' after `Marriage'; and

(2) in paragraph (1)(A)--

(A) by inserting `or permanent partnership' after `marriage'; and

(B) in clause (ii)--

(i) by inserting `or has ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after `terminated,'; and

(ii) by inserting `or permanent partner' after `spouse'.

(d) Requirements of Timely Petition and Interview for Removal of Condition- Section 216(c) (8 U.S.C. 1186a(c)) is amended--

(1) in paragraphs (1), (2)(A)(ii), (3)(A)(ii), (3)(C), (4)(B), and (4)(C), by inserting `or permanent partner' after `spouse' each place it appears; and

(2) in paragraph (3)(A), (3)(D), (4)(B), and (4)(C), by inserting `or permanent partnership' after `marriage' each place it appears.

(e) Contents of Petition- Section 216(d)(1) (8 U.S.C. 1186a(d)(1)) is amended--

(1) in subparagraph (A)--

(A) in the heading, by inserting `OR PERMANENT PARTNERSHIP' after `MARRIAGE';

(B) in clause (i)--

(i) by inserting `or permanent partnership' after `marriage';

(ii) in subclause (I), by inserting before the comma at the end `, or is a permanent partnership recognized under this Act'; and

(iii) in subclause (II)--

(I) by inserting `or has not ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after `terminated,'; and

(II) by inserting `or permanent partner' after `spouse'; and

(C) in clause (ii), by inserting `or permanent partner' after `spouse'; and

(2) in subparagraph (B)(i)--

(A) by inserting `or permanent partnership' after `marriage'; and

(B) by inserting `or permanent partner' after `spouse'.

(f) Definitions- Section 216(g) (8 U.S.C. 1186a(g)) is amended--

(1) in paragraph (1)--

(A) by inserting `or permanent partner' after `spouse' each place it appears; and

(B) by inserting `or permanent partnership' after `marriage' each place it appears;

(2) in paragraph (2), by inserting `or permanent partnership' after `marriage';

(3) in paragraph (3), by inserting `or permanent partnership' after `marriage'; and

(4) in paragraph (4)--

(A) by inserting `or permanent partner' after `spouse' each place it appears; and

(B) by inserting `or permanent partnership' after `marriage'.

### **SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.**

(a) In General- Section 216A (8 U.S.C. 1186b) is amended--

(1) in the section heading, by inserting `, PERMANENT PARTNERS,' after `SPOUSES'; and

(2) in paragraphs (1), (2)(A), (2)(B), and (2)(C), by inserting `or permanent partner' after `spouse' each place it appears.

(b) Termination of Status if Finding That Qualifying Entrepreneurship Improper- Section 216A(b)(1) (8 U.S.C. 1186b(b)(1)) is amended by inserting `or permanent partner' after `spouse' in the matter following subparagraph (C).

(c) Requirements of Timely Petition and Interview for Removal of Condition- Section 216A(c) (8 U.S.C. 1186b(c)) is amended, in paragraphs (1), (2)(A)(ii), and (3)(C), by inserting `or permanent partner' after `spouse'.

(d) Definitions- Section 216A(f)(2) (8 U.S.C. 1186b(f)(2)) is amended by inserting `or permanent partner' after `spouse' each place it appears.

(e) Clerical Amendment- The table of contents is amended by amending the item relating to section 216A to read as follows:

`Sec. 216A. Conditional permanent resident status for certain alien entrepreneurs, spouses, permanent partners, and children.'.

### **SEC. 14. DEPORTABLE ALIENS.**

Section 237(a)(1) (8 U.S.C. 1227(a)(1)) is amended--

(1) in subparagraph (D)(i), by inserting `or permanent partners' after `spouses' each place it appears;

(2) in subparagraphs (E)(ii), (E)(iii), and (H)(i)(I), by inserting `or permanent partner' after `spouse';

(3) by inserting after subparagraph (E) the following:

`(F) PERMANENT PARTNERSHIP FRAUD- An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if--

`(i) the alien obtains any admission to the United States with an immigrant visa or other documentation procured on the basis of a permanent partnership entered into less than 2 years before such admission and which, within 2 years subsequent to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that such permanent partnership was not contracted for the purpose of evading any provision of the immigration laws; or

`(ii) it appears to the satisfaction of the Secretary of Homeland Security that the alien has failed or refused to fulfill the alien's permanent partnership, which the Secretary of Homeland Security determines was made for the purpose of procuring the alien's admission as an immigrant.'; and

(4) in paragraphs (2)(E)(i) and (3)(C)(ii), by inserting `or permanent partner' after `spouse' each place it appears.

### **SEC. 15. REMOVAL PROCEEDINGS.**

Section 240 (8 U.S.C. 1229a) is amended--

(1) in the heading of subsection (c)(7)(C)(iv), by inserting `PERMANENT PARTNERS,' after `SPOUSES,'; and

(2) in subsection (e)(1), by inserting `permanent partner,' after `spouse,'.

## **SEC. 16. CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS.**

Section 240A(b) (8 U.S.C. 1229b(b)) is amended--

(1) in paragraph (1)(D), by inserting `or permanent partner' after `spouse'; and

(2) in paragraph (2)--

(A) in the paragraph heading, by inserting `, PERMANENT PARTNER,' after `SPOUSE'; and

(B) in subparagraph (A), by inserting `, permanent partner,' after `spouse' each place it appears.

## **SEC. 17. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.**

(a) Prohibition on Adjustment of Status- Section 245(d) (8 U.S.C. 1255(d)) is amended by inserting `or permanent partnership' after `marriage'.

(b) Avoiding Immigration Fraud- Section 245(e) (8 U.S.C. 1255(e)) is amended--

(1) in paragraph (1), by inserting `or permanent partnership' after `marriage'; and

(2) by adding at the end the following:

`(4)(A) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership if the alien establishes by clear and convincing evidence to the satisfaction of the Secretary of Homeland Security that--

`(i) the permanent partnership was entered into in good faith and in accordance with section 101(a)(52);

`(ii) the permanent partnership was not entered into for the purpose of procuring the alien's admission as an immigrant; and

`(iii) no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien permanent partner.

`(B) The Secretary shall promulgate regulations that provide for only 1 level of administrative appellate review for each alien under subparagraph (A).'

(c) Adjustment of Status for Certain Aliens Paying Fee- Section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)) is amended by inserting `, permanent partner,' after `spouse'.

## **SEC. 18. APPLICATION OF CRIMINAL PENALTIES TO FOR MISREPRESENTATION AND CONCEALMENT OF FACTS REGARDING PERMANENT PARTNERSHIPS.**

Section 275(c) (8 U.S.C. 1325(c)) is amended to read as follows:

`(c) Any individual who knowingly enters into a marriage or permanent partnership for the purpose of evading any provision of the immigration laws shall be imprisoned for not more than 5 years, fined not more than \$250,000, or both.'

## **SEC. 19. REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION.**

Section 316(b) (8 U.S.C. 1427(b)) is amended by inserting `, permanent partner,' after `spouse'.

**SEC. 20. APPLICATION OF FAMILY UNITY PROVISIONS TO PERMANENT PARTNERS OF CERTAIN LIFE ACT BENEFICIARIES.**

Section 1504 of the LIFE Act Amendments of 2000 (division B of Public Law 106-554; 114 Stat. 2763-325) is amended--

- (1) in the heading, by inserting `, permanent partners,' after `spouses';
- (2) in subsection (a), by inserting `, permanent partner,' after `spouse'; and
- (3) in each of subsections (b) and (c)--
  - (A) in each of the subsection headings, by inserting `, Permanent Partners,' after `Spouses'; and
  - (B) by inserting `, permanent partner,' after `spouse' each place it appears.

**SEC. 21. APPLICATION TO CUBAN ADJUSTMENT ACT.**

(a) In General- The first section of Public Law 89-732 (8 U.S.C. 1255 note) is amended--

- (1) in the next to last sentence, by inserting `, permanent partner,' after `spouse' the first 2 places it appears; and
- (2) in the last sentence, by inserting `, permanent partners,' after `spouses'.

(b) Conforming Amendment- Section 101(a)(51)(D) (8 U.S.C. 1101(a)(51)(D)) is amended by striking `or spouse' and inserting `, spouse, or permanent partner'.

END