

107TH CONGRESS
1ST SESSION

S. 1167

To amend the Immigration and Nationality Act to permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States.

IN THE SENATE OF THE UNITED STATES

JULY 11, 2001

Mrs. FEINSTEIN (for herself and Mr. HAGEL) 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 permit the substitution of an alternative close family sponsor in the case of the death of the person petitioning for an alien's admission to the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Family Sponsor Immi-
5 gration Act of 2001”.

1 **SEC. 2. SUBSTITUTION OF ALTERNATIVE SPONSOR IF**
 2 **ORIGINAL SPONSOR HAS DIED.**

3 (a) PERMITTING SUBSTITUTION OF ALTERNATIVE
 4 CLOSE FAMILY SPONSOR IN CASE OF DEATH OF PETI-
 5 TIONER.—

6 (1) RECOGNITION OF ALTERNATIVE SPON-
 7 SOR.—Section 213A(f)(5) of the Immigration and
 8 Nationality Act (8 U.S.C. 1183a(f)(5)) is amended
 9 to read as follows:

10 “(5) NON-PETITIONING CASES.—Such term also
 11 includes an individual who does not meet the re-
 12 quirement of paragraph (1)(D) but who—

13 “(A) accepts joint and several liability with
 14 a petitioning sponsor under paragraph (2) or
 15 relative of an employment-based immigrant
 16 under paragraph (4) and who demonstrates (as
 17 provided under paragraph (6)) the means to
 18 maintain an annual income equal to at least
 19 125 percent of the Federal poverty line; or

20 “(B) is a spouse, parent, mother-in-law,
 21 father-in-law, sibling, child (if at least 18 years
 22 of age), son, daughter, son-in-law, daughter-in-
 23 law, brother-in-law, sister-in-law, grandparent,
 24 or grandchild of a sponsored alien or a legal
 25 guardian of a sponsored alien, meets the re-
 26 quirements of paragraph (1) (other than sub-

paragraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

“(i) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

“(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.”.

(2) CONFORMING AMENDMENT PERMITTING SUBSTITUTION.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) is amended by striking “(including any additional sponsor required under section 213A(f))” and inserting “(and any additional sponsor required under section 213A(f) or any alternative sponsor permitted under paragraph (5)(B) of such section)”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amended, in each of paragraphs (2) and (4)(B)(ii), by striking “(5).” and inserting “(5)(A).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to deaths occurring

1 before, on, or after the date of the enactment of this Act,
2 except that, in the case of a death occurring before such
3 date, such amendments shall apply only if—

4 (1) the sponsored alien—

5 (A) requests the Attorney General to rein-
6 state the classification petition that was filed
7 with respect to the alien by the deceased and
8 approved under section 204 of the Immigration
9 and Nationality Act (8 U.S.C. 1154) before
10 such death; and

11 (B) demonstrates that he or she is able to
12 satisfy the requirement of section
13 212(a)(4)(C)(ii) of such Act (8 U.S.C.
14 1182(a)(4)(C)(ii)) by reason of such amend-
15 ments; and

16 (2) the Attorney General reinstates such peti-
17 tion after making the determination described in
18 section 213A(f)(5)(B)(ii) of such Act (as amended
19 by such subsection).

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