IMMIGRATION NURSING RELIEF ACT OF 1989

[Public Law 101–238, December 18, 1989]

[As Amended Through P.L. 102–232, Enacted December 12, 1991]

[Currency: This publication is a compilation of the text of Public Law 101–238. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at https://www.govinfo.gov/app/collection/comps/]

[Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Nursing Relief Act of 1989".

SEC. 2. [8 U.S.C. 1255 note] ADJUSTMENT OF STATUS FOR CERTAIN H–1 NONIMMIGRANT NURSES.

(a) IN GENERAL.—The numerical limitations of sections 201 and 202 of the Immigration and Nationality Act shall not apply to the adjustment of status under section 245 of such Act of an immigrant, and the immigrant's accompanying spouse and children—

(1) who, as of September 1, 1989, has the status of a nonimmigrant under paragraph (15)(H)(i) of section 101(a) of such Act to perform services as a registered nurse,

(2) who, for at least 3 years before the date of application for adjustment of status (whether or not before, on, or after, the date of the enactment of this Act), has been employed as a registered nurse in the United States, and

(3) whose continued employment as a registered nurse in the United States meets the standards established for the certification described in section 212(a)(5)(A)[1] of such Act.

The Attorney General shall promulgate regulations to carry out this subsection by not later than 90 days after the date of the enactment of this Act.

(b) TRANSITION.—For purposes of adjustment of status under section 245 of the Immigration and Nationality Act in the case of an alien who, as of September 1, 1989,[2] is present in the United States in the status[3] of a nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered

[1] § 307(l)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1757) substituted a reference to "212(a)(5)(A)" for a reference to "212(a)(14)".

[2] § 162(f)(1)(A) of the Immigration Act of 1990 (P.L. 101–649, Nov. 29, 1990, 104 Stat. 5011) substituted September 1, 1989, for December 31, 1989.

[3] § 162(f)(1)(B) of that Act substituted "status" for "lawful status".

nurse,[4] who, as of September 1, 1989, is present in the United States and had been admitted to the United States in the status of nonimmigrant under section 101(a)(15)(H)(i) of such Act to perform services as a registered nurse but has failed to maintain that status due to the expiration of the time limitation with respect to such status, or who is the spouse or child of such an alien, unauthorized employment[5] performed before the date of the enactment of the Immigration Act of 1990 shall not be taken into account in applying section 245(c)(2) of the Immigration and Nationality Act and such an alien shall be considered as having continued to maintain[6] lawful status throughout his or her stay in the United States as a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out the amendments made by section 162(f)(1) of the Immigration Act of 1990.

(c) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.

(d) APPLICATION PERIOD.—The alien, and accompanying spouse and children, must apply for such adjustment within the 5-year period beginning on the date the Attorney General promulgates regulations required under subsection (a).

SEC. 3. REQUIREMENTS FOR ADMISSION OF NONIMMIGRANT NURSES DURING 5-YEAR PERIOD.

(a) ESTABLISHMENT OF A NEW NONIMMIGRANT CLASSIFICATION FOR NONIMMIGRANT NURSES.—Section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) is amended—

(1) by inserting "(a) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 212(m)(1), and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) for the facility for which the alien will perform the services, or (b)" after "(i)", and

(2) by inserting "(other than services as a registered nurse)" after "to perform services".

(b) REQUIREMENTS.—[Omitted; added subsection (m) to § 212.]

(c) [8 U.S.C. 1182 note] IMPLEMENTATION.—The Secretary of Labor (in consultation with the Secretary of Health and Human Services) shall—

[4] The phrase "who, as of September 1, 1989" through "time limitation with respect to such status" was inserted by § 302(e)(10) of the Miscellaneous and Technical Immigration and Naturalization Amendments of 1991 (P.L. 102–232, Dec. 12, 1991, 105 Stat. 1746), effective as if included in the Immigration Nursing Relief Act of 1989.

[5] § 162(f)(1)(C) of the Immigration Act of 1990 inserted the phrase "unauthorized employment" and all that follows through "Nationality Act and".

[6] § 162(f)(1)(D) of that Act struck "lawful status as such a nonimmigrant until the end of the 120-day period beginning on the date the Attorney General promulgates regulations carrying out subsection (a)" and inserted all that follows "maintain".

(1) first publish final regulations to carry out section 212(m) of the Immigration and Nationality Act (as added by this section) not later than the first day of the 8th month beginning after the date of the enactment of this Act [viz., August 1, 1990]; and

(2) provide for the appointment (by January 1, 1991) of an advisory group, including representatives of the Secretary, the Secretary of Health and Human Services, the Attorney General, hospitals, and labor organizations representing registered nurses, to advise the Secretary—

(A) concerning the impact of this section on the nursing shortage,

(B) on programs that medical institutions may implement to recruit and retain registered nurses who are United States citizens or immigrants who are authorized to perform nursing services,

(C) on the formulation of State recruitment and retention plans under section 212(m)(3) of the Immigration and Nationality Act, and

(D) on the advisability of extending the amendments made by this section beyond the 5-year period described in subsection (d).

(d) [8 U.S.C. 1182 note] LIMITING APPLICATION OF NONIMMIGRANT CHANGES TO 5-YEAR PERIOD.—The amendments made by the previous provisions of this section shall apply to classification petitions filed for nonimmigrant status only during the 5-year period beginning on [viz., September 1, 1990] the first day of the 9th month beginning after the date of the enactment of this Act.

SEC. 4. FRAUD PREVENTION IN SAW PROGRAM.

(a) Section 210(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1160(a)(3)) is amended by—

(1) inserting "(A)" before "During", and

(2) inserting at the end of such paragraph the following new subparagraph:

"(B) Before any alien becomes eligible for adjustment of status under paragraph (2), the Attorney General may deny adjustment to permanent status and provide for termination of the temporary resident status granted such alien under paragraph (1) if—

"(i) the Attorney General finds by a preponderance of the evidence that the adjustment to temporary resident status was the result of fraud or willful misrepresentation as set out in section 212(a)(19), or

"(ii) the alien commits an act that (I) makes the alien inadmissible to the United States as an immigrant, except as provided under subsection (c)(2), or (II) is convicted of a felony or 3 or more misdemeanors committed in the United States.".

(b) Section 210(b)(6)(A) of the Immigration and Nationality Act (8 U.S.C. 1160) is amended to read as follows:

"(A) use the information furnished pursuant to an application filed under this section for any purpose other than to make a determination on the application including

a determination under subparagraph (a)(3)(B), or for enforcement of paragraph (7).".

SEC. 5. [8 U.S.C. 1324a note] PILOT PROJECTS FOR SECURE DOCUMENTS.

(a) CONSULTATION.—Before June 1, 1991, the Attorney General shall consult with State governments on any proper State initiative to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a). The result of such consultations shall be reported, before September 1, 1991, to the Committees on the Judiciary of the Senate and House of Representatives of the United States.

(b) ASSISTANCE FOR STATE INITIATIVES.—After such consultation described in subsection (a), the Attorney General shall make grants to, and enter into contracts with (to such extent or in such amounts as are provided in an appropriation Act), the State of California and at least 2 other States with large immigrant populations to promote any State initiatives to improve the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General $10,000,000 for fiscal year 1992 to carry out subsection (b).

(d) REPORT REQUIRED.—The Attorney General shall report to the Committees on the Judiciary of the Senate and House of Representatives not later than August 1, 1993, on the security of State or local documents which would satisfy the requirements of section 274A(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1324a), and any improvements in such documents that have occurred as a result of this section.

SEC. 6. ADDITIONAL USES OF STATE LEGALIZATION IMPACT ASSISTANCE GRANT FUNDS.

(a) IN GENERAL.—Section 204(c) of the Immigration Reform and Control Act of 1986 is amended—

(1) in paragraph (1)—

(A) by striking "and" at the end of subparagraph (B),

(B) by striking the period at the end of subparagraph (C) and inserting a comma, and

(C) by inserting after subparagraph (C) the following new subparagraphs:

"(D) to make payments for public education and outreach (including the provision of information to individual applicants) to inform temporary resident aliens regarding—

"(i) the requirements of sections 210, 210A, and 245A of the Immigration and Nationality Act regarding the adjustment of resident status,

"(ii) sources of assistance for such aliens obtaining the adjustment of status described in clause (i), including educational, informational, referral services, and the rights and responsibilities of such aliens and aliens lawfully admitted for permanent residence,

"(iii) the identification of health, employment, and social services, and

"(iv) the importance of identifying oneself as a temporary resident alien to service providers,

except that nothing in this subparagraph may be construed as authorizing the provision of client counseling or any other service which would assume responsibility for the alien's application for the adjustment of status described in clause (i),

"(E)(i) subject to clause (ii), to make payments for education and outreach efforts by State agencies regarding unfair discrimination in employment practices based on national origin or citizenship status,

"(ii) except that the State agencies shall not initiate such efforts until after such consultation with the Office of the Special Counsel for Unfair Immigration-Related Employment Practices as is appropriate to ensure, to the maximum extent feasible, a uniform program."; and

(2) in paragraph (2), by adding at the end the following new subparagraph:

"(D) Of the amount allotted to a State with respect to any fiscal year, a State may not use more than—

"(i) 1 percent (or, if greater, $100,000) for payments under paragraph (1)(D), and

"(ii) 1 percent (or, if greater, $100,000) for payments under paragraph (1)(E).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to the use of allotments for fiscal years beginning with fiscal year 1989.