

FOR THE RELIEF OF ESTHER KARINGE

JULY 24, 2012.—Referred to the Private Calendar and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 316]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 316) for the relief of Esther Karinge, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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**Purpose and Summary**

The bill grants permanent resident status to Esther Karinge.

**Background and Need for the Legislation**

Esther Njeri Karinge was born in Kenya in 1962. She came to the United States in 1994 and applied for asylum in 1997. According to her asylum application, she had worked in Kenya for her uncle, a former Kenyan Councilor who fled the country and was living in exile. Due to his political views and the family's Kikuyu eth-

nicity, Esther and her family allegedly suffered through continual harassment, and received several death threats, during a time of civil unrest in the region. An immigration judge denied her request for asylum in 1998 and her appeal was denied in 2003.

Esther's son Nicholas was born in Massachusetts in 1995 with multiple birth defects. He continues to suffer from several severe physical and mental disabilities, including cerebral palsy, spastic quadriplegia, hearing loss and developmental delays. Upon learning of these birth defects, Nicholas' father abandoned the family, leaving Esther as Nicholas' only parent and caretaker. Nicholas is completely dependent on Esther. He needs continuous medical care and requires medical management from numerous specialists. It is feared that "[t]aking Nicholas back to Kenya . . . will eliminate the sophisticated therapy that is Nick's lifeline to diminishing the effects of cerebral palsy on his development. He is now receiving services in arguably the finest settings available in the world. Without these interventions, this extremely bright boy would be unable to navigate either physically or linguistically. His potential, which, with continued therapy and education, is limitless, will be drastically curtailed should current interventions be terminated."

H.R. 316 grants Ms. Karinge permanent residence.

There is precedent in the modern era for the enactment of private bills where the aliens' U.S. citizen family members suffered serious illnesses which would be exacerbated if the aliens were returned home or the U.S. citizens accompanied them home. A private bill was enacted in the 104th Congress for an alien who had earlier been deported to Mexico for marriage fraud.<sup>1</sup> Before his deportation, he married his second wife in a legitimate marriage and they had two children. His wife and one of their children were carriers for Reiter's syndrome, a severe, disabling, incurable arthritic disease who could be triggered by an intestinal infection with an organism widespread in Mexico. Thus, they risked serious illness by joining him in Mexico. The private bill waived the grounds of inadmissibility for marriage fraud. The House Report stated that "this legislation acknowledges the previously set precedent in private legislation that separation due to medical circumstances is viewed . . . as satisfying the standard of extreme hardship to an American citizen."

In the 106th Congress, a private bill was enacted granting permanent residence to an alien whose petition for permanent residence filed by his U.S. citizen wife had been denied because of marriage fraud in his first marriage.<sup>2</sup> The INS believed this second marriage was valid. The alien's U.S. citizen wife had been diagnosed with multiple sclerosis and her doctor indicated that she might rapidly deteriorate as a result of any type of severe stress.

In the 110th Congress, the Immigration Subcommittee requested an ICE report on Ms. Karinge and ICE provided the Subcommittee with a report which contained no derogatory information. On May 8, 2008, the Subcommittee ordered H.R. 1485 (providing relief to Ms. Karinge) favorably reported by voice vote. On May 14, 2008, the Committee ordered the bill favorably reported by voice vote. On September 16, 2008, the bill passed the House by voice vote. In the

<sup>1</sup>See Priv. L. No. 104-3 (H.R. Rep. No. 104-810).

<sup>2</sup>See Priv. L. No. 106-13 (H.R. Rep. No. 106-905).

111th Congress, the Subcommittee requested an ICE report and ICE provided a report which contained no derogatory information. On March 10, 2011, the Subcommittee again voted to request a report. On December 19, 2011, ICE provided the report. It revealed no derogatory information.

### **Hearings**

The Committee on the Judiciary held no hearings on H.R. 316.

### **Committee Consideration**

On June 28, 2012, the Committee met in open session and ordered the bill H.R. 316 favorably reported without amendment, by voice vote, a quorum being present.

### **Committee Votes**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 316.

### **Committee Oversight Findings**

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

### **New Budget Authority and Tax Expenditures**

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

### **Congressional Budget Office Cost Estimate**

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 316, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 5, 2012.*

Hon. LAMAR SMITH, CHAIRMAN,  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed the following legislation ordered reported by the House Committee on the Judiciary on June 28, 2012:

- H.R. 823, a bill for the relief of Maria Carmen Castro Ramirez and J. Refugio Carreno Rojas;
- H.R. 824, a bill for the relief of Daniel Wachira;

- H.R. 316, a bill for the relief of Esther Karinge;
- H.R. 794, a bill for the relief of Allan Bolor Kelley;
- H.R. 357, a bill for the relief of Corina de Chalup Turcinovic;  
and
- H.R. 1857, a bill for the relief of Bartosz Kumor.

Those bills would make certain individuals eligible for permanent U.S. residence and could have a very small effect on fees collected by the Department of Homeland Security and thus would affect direct spending. Therefore, pay-as-you-go procedures apply. CBO estimates, however, that enacting those pieces of legislation would not have a significant impact on the federal budget.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,  
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.  
Ranking Member

### **Performance Goals and Objectives**

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 316 grants permanent resident status to Esther Karinge.

### **Advisory on Earmarks**

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 316 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

### **Section-by-Section Analysis**

The following discussion describes the bill as reported by the Committee.

#### *Sec. 1. Permanent Resident Status for Esther Karinge.*

Subsection (a) provides that Esther Karinge shall be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of the Immigration and Nationality Act (INA) or for adjustment of status to lawful permanent resident.

Subsection (b) provides that if Ms. Karinge enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the INA as of the date of the enactment of this Act.

Subsection (c) provides that subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the ap-

plication for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

Subsection (d) provides that upon the granting of an immigrant visa or permanent residence to Ms. Karinge, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of her birth under section 203(a) of the INA or, if applicable, the total number of immigrant visas that are made available to natives of the country of her birth under section 202(e) of the INA.

Subsection (e) provides that the natural parents, brothers, and sisters of Ms. Karinge shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.