

107TH CONGRESS
2D SESSION

S. 672

AN ACT

To amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens “age-out” while awaiting immigration processing, and for other purposes.

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 “Child Status Protec-
5 tion Act”.

1 **SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT’S**
 2 **NATURALIZATION DATE, OR MARRIAGE TER-**
 3 **MINATION DATE, IN DETERMINING STATUS**
 4 **AS IMMEDIATE RELATIVE.**

5 Section 201 of the Immigration and Nationality Act
 6 (8 U.S.C. 1151) is amended by adding at the end the fol-
 7 lowing:

8 “(f) RULES FOR DETERMINING WHETHER CERTAIN
 9 ALIENS ARE IMMEDIATE RELATIVES.—

10 “(1) AGE ON PETITION FILING DATE.—Except
 11 as provided in paragraphs (2) and (3), for purposes
 12 of subsection (b)(2)(A)(i), a determination of wheth-
 13 er an alien satisfies the age requirement in the mat-
 14 ter preceding subparagraph (A) of section 101(b)(1)
 15 shall be made using the age of the alien on the date
 16 on which the petition is filed with the Attorney Gen-
 17 eral under section 204 to classify the alien as an im-
 18 mediate relative under subsection (b)(2)(A)(i).

19 “(2) AGE ON PARENT’S NATURALIZATION
 20 DATE.—In the case of a petition under section 204
 21 initially filed for an alien child’s classification as a
 22 family-sponsored immigrant under section
 23 203(a)(2)(A), based on the child’s parent being law-
 24 fully admitted for permanent residence, if the peti-
 25 tion is later converted, due to the naturalization of
 26 the parent, to a petition to classify the alien as an

1 immediate relative under subsection (b)(2)(A)(i), the
 2 determination described in paragraph (1) shall be
 3 made using the age of the alien on the date of the
 4 parent's naturalization.

5 “(3) AGE ON MARRIAGE TERMINATION DATE.—

6 In the case of a petition under section 204 initially
 7 filed for an alien's classification as a family-spon-
 8 sored immigrant under section 203(a)(3), based on
 9 the alien's being a married son or daughter of a cit-
 10 izen, if the petition is later converted, due to the
 11 legal termination of the alien's marriage, to a peti-
 12 tion to classify the alien as an immediate relative
 13 under subsection (b)(2)(A)(i) or as an unmarried
 14 son or daughter of a citizen under section 203(a)(1),
 15 the determination described in paragraph (1) shall
 16 be made using the age of the alien on the date of
 17 the termination of the marriage.”.

18 **SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND**
 19 **DAUGHTERS SEEKING STATUS AS FAMILY-**
 20 **SPONSORED, EMPLOYMENT-BASED, AND DI-**
 21 **VERSITY IMMIGRANTS.**

22 Section 203 of the Immigration and Nationality Act
 23 (8 U.S.C. 1153) is amended by adding at the end the fol-
 24 lowing:

1 “(h) RULES FOR DETERMINING WHETHER CERTAIN
2 ALIENS ARE CHILDREN.—

3 “(1) IN GENERAL.—For purposes of sub-
4 sections (a)(2)(A) and (d), a determination of
5 whether an alien satisfies the age requirement in the
6 matter preceding subparagraph (A) of section
7 101(b)(1) shall be made using—

8 “(A) the age of the alien on the date on
9 which an immigrant visa number becomes avail-
10 able for such alien (or, in the case of subsection
11 (d), the date on which an immigrant visa num-
12 ber became available for the alien’s parent), but
13 only if the alien has sought to acquire the sta-
14 tus of an alien lawfully admitted for permanent
15 residence within one year of such availability;
16 reduced by

17 “(B) the number of days in the period dur-
18 ing which the applicable petition described in
19 paragraph (2) was pending.

20 “(2) PETITIONS DESCRIBED.—The petition de-
21 scribed in this paragraph is—

22 “(A) with respect to a relationship de-
23 scribed in subsection (a)(2)(A), a petition filed
24 under section 204 for classification of an alien
25 child under subsection (a)(2)(A); or

1 “(B) with respect to an alien child who is
 2 a derivative beneficiary under subsection (d), a
 3 petition filed under section 204 for classifica-
 4 tion of the alien’s parent under subsection (a),
 5 (b), or (c).

6 “(3) RETENTION OF PRIORITY DATE.—If the
 7 age of an alien is determined under paragraph (1)
 8 to be 21 years of age or older for the purposes of
 9 subsections (a)(2)(A) and (d), the alien’s petition
 10 shall automatically be converted to the appropriate
 11 category and the alien shall retain the original pri-
 12 ority date issued upon receipt of the original peti-
 13 tion.”.

14 **SEC. 4. USE OF AGE ON PARENT’S APPLICATION FILING**
 15 **DATE IN DETERMINING ELIGIBILITY FOR**
 16 **ASYLUM.**

17 Section 208(b)(3) of the Immigration and Nationality
 18 Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:

19 “(3) TREATMENT OF SPOUSE AND CHIL-
 20 DREN.—

21 “(A) IN GENERAL.—A spouse or child (as
 22 defined in section 101(b)(1) (A), (B), (C), (D),
 23 or (E)) of an alien who is granted asylum under
 24 this subsection may, if not otherwise eligible for
 25 asylum under this section, be granted the same

status as the alien if accompanying, or following to join, such alien.

“(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(3), if the alien attained 21 years of age after such application was filed but while it was pending.”.

**SEC. 5. USE OF AGE ON PARENT’S APPLICATION FILING
DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.**

Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—

(1) by striking “(2)” and inserting “(2)(A)”;

and

(2) by adding at the end the following:

“(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee sta-

1 tus under this section, shall continue to be classified as
 2 a child for purposes of this paragraph, if the alien attained
 3 21 years of age after such application was filed but while
 4 it was pending.”.

5 **SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR**
 6 **UNMARRIED SONS AND DAUGHTERS OF NAT-**
 7 **URALIZED CITIZENS.**

8 Section 204 of the Immigration and Nationality Act
 9 (8 U.S.C. 1154) is amended by adding at the end the fol-
 10 lowing:

11 “(k) PROCEDURES FOR UNMARRIED SONS AND
 12 DAUGHTERS OF CITIZENS.—

13 “(1) IN GENERAL.—Except as provided in para-
 14 graph (2), in the case of a petition under this sec-
 15 tion initially filed for an alien unmarried son or
 16 daughter’s classification as a family-sponsored immi-
 17 grant under section 203(a)(2)(B), based on a parent
 18 of the son or daughter being an alien lawfully admit-
 19 ted for permanent residence, if such parent subse-
 20 quently becomes a naturalized citizen of the United
 21 States, such petition shall be converted to a petition
 22 to classify the unmarried son or daughter as a fam-
 23 ily-sponsored immigrant under section 203(a)(1).

24 “(2) EXCEPTION.—Paragraph (1) does not
 25 apply if the son or daughter files with the Attorney

1 General a written statement that he or she elects not
 2 to have such conversion occur (or if it has occurred,
 3 to have such conversion revoked). Where such an
 4 election has been made, any determination with re-
 5 spect to the son or daughter's eligibility for admis-
 6 sion as a family-sponsored immigrant shall be made
 7 as if such naturalization had not taken place.

8 “(3) PRIORITY DATE.—Regardless of whether a
 9 petition is converted under this subsection or not, if
 10 an unmarried son or daughter described in this sub-
 11 section was assigned a priority date with respect to
 12 such petition before such naturalization, he or she
 13 may maintain that priority date.

14 “(4) CLARIFICATION.—This subsection shall
 15 apply to a petition if it is properly filed, regardless
 16 of whether it was approved or not before such natu-
 17 ralization.”.

18 **SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHIL-**
 19 **DREN NOT AFFECTED.**

20 Section 204(a)(1)(D) of the Immigration and Nation-
 21 ality Act (8 U.S.C. 1154(a)(1)(D)) is amended by adding
 22 at the end the following new clause:

23 “(iii) Nothing in the amendments made by the Child
 24 Status Protection Act shall be construed to limit or deny
 25 any right or benefit provided under this subparagraph.”.

1 **SEC. 8. EFFECTIVE DATE.**

2 The amendments made by this Act shall take effect
3 on the date of the enactment of this Act and shall apply
4 to any alien who is a derivative beneficiary or any other
5 beneficiary of—

6 (1) a petition for classification under section
7 204 of the Immigration and Nationality Act (8
8 U.S.C. 1154) approved before such date but only if
9 a final determination has not been made on the
10 beneficiary's application for an immigrant visa or
11 adjustment of status to lawful permanent residence
12 pursuant to such approved petition;

13 (2) a petition for classification under section
14 204 of the Immigration and Nationality Act (8
15 U.S.C. 1154) pending on or after such date; or

16 (3) an application pending before the Depart-
17 ment of Justice or the Department of State on or
18 after such date.

Passed the Senate June 13, 2002.

Attest:

Secretary.

107TH CONGRESS
2D SESSION

S. 672

AN ACT

To amend the Immigration and Nationality Act to provide for the continued classification of certain aliens as children for purposes of that Act in cases where the aliens “age-out” while awaiting immigration processing, and for other purposes.