

ISSUANCE OF NONQUOTA IMMIGRANT VISAS TO CERTAIN
ELIGIBLE ORPHANS

Pub. L. 87-301, §25, Sept. 26, 1961, 75 Stat. 657, as amended by Pub. L. 99-653, §11, Nov. 14, 1986, 100 Stat. 3657; Pub. L. 100-525, §8(j)(2), Oct. 24, 1988, 102 Stat. 2617, provided that: "At any time prior to the expiration of the one hundred and eightieth day immediately following the enactment of this Act [Sept. 26, 1961] a special nonquota immigrant visa may be issued to an eligible orphan as defined in section 4 of the Act of September 11, 1957, as amended (8 U.S.C. 1205; 71 Stat. 639, 73 Stat. 490, 74 Stat. 505), if a visa petition filed in behalf of such eligible orphan was (A) approved by the Attorney General prior to September 30, 1961, or (B) pending before the Attorney General prior to September 30, 1961, and the Attorney General approves such petition."

[Section 23(c) of Pub. L. 99-653, as added by Pub. L. 100-525, §8(r), Oct. 24, 1988, 102 Stat. 2619, provided that: "The amendments made by section 11 [amending section 25 of Pub. L. 87-301 set out above and repealing sections 1 and 2 of Pub. L. 87-885] take effect on November 14, 1986."]

ADOPTED SONS OR ADOPTED DAUGHTERS, PREFERENCE
STATUS

Section 5(c) of Pub. L. 86-363 provided that aliens granted a preference pursuant to petitions approved by the Attorney General on the ground that they were the adopted sons or adopted daughters of United States citizens were to remain in that status notwithstanding the provisions of section 1 of Pub. L. 86-363, unless they acquired a different immigrant status pursuant to a petition approved by the Attorney General.

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF
PETITIONS APPROVED PRIOR TO JULY 1, 1958

Section 12A of Pub. L. 85-316, as added by section 2 of Pub. L. 85-700, Aug. 21, 1958, 72 Stat. 699, providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1958, shall be held to be nonquota immigrants and issued visas, was repealed by Pub. L. 87-301, §24(a)(6), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 12A of Pub. L. 85-316 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

ISSUANCE OF NONQUOTA IMMIGRANT VISAS ON BASIS OF
PETITIONS APPROVED PRIOR TO JULY 1, 1957

Section 12 of Pub. L. 85-316 providing that aliens eligible for quota immigrant status on basis of a petition approved prior to July 1, 1957, shall be held to be nonquota immigrants, and if otherwise admissible, be issued visas, was repealed by Pub. L. 87-301, §24(a)(5), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 12 of Pub. L. 85-316 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

SPECIAL NONQUOTA IMMIGRANT VISAS FOR REFUGEES

Section 6 of Pub. L. 86-363 authorizing issuance of nonquota immigrant visas to aliens eligible to enter for permanent residence if the alien was the beneficiary of a visa petition approved by the Attorney General, and such petition was filed by a person admitted under former section 1971 et seq., of Title 50, Appendix, was repealed by Pub. L. 87-301, §24(a)(7), Sept. 26, 1961, 75 Stat. 657.

Repeal of section 6 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

NONQUOTA IMMIGRANT STATUS OF SPOUSES AND
CHILDREN OF CERTAIN ALIENS

Section 4 of Pub. L. 86-363 providing that an alien registered on a consular waiting list was eligible for

quota immigrant status on basis of a petition approved prior to Jan. 1, 1959, along with the spouse and children of such alien, was repealed by Pub. L. 87-301, §24(a)(7), Sept. 26, 1961.

Repeal of section 4 of Pub. L. 86-363 effective upon expiration of the one hundred and eightieth day immediately following Sept. 26, 1961, see section 24(b) of Pub. L. 87-301, set out as a note under former section 1255a of this title.

§ 1154. Procedure for granting immigrant status

(a) Petitioning procedure

(1)(A)(i) Except as provided in clause (viii), any citizen of the United States claiming that an alien is entitled to classification by reason of a relationship described in paragraph (1), (3), or (4) of section 1153(a) of this title or to an immediate relative status under section 1151(b)(2)(A)(i) of this title may file a petition with the Attorney General for such classification.

(ii) An alien spouse described in the second sentence of section 1151(b)(2)(A)(i) of this title also may file a petition with the Attorney General under this subparagraph for classification of the alien (and the alien's children) under such section.

(iii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if the alien demonstrates to the Attorney General that—

(aa) the marriage or the intent to marry the United States citizen was entered into in good faith by the alien; and

(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

(II) For purposes of subclause (I), an alien described in this subclause is an alien—

(aa)(AA) who is the spouse of a citizen of the United States;

(BB) who believed that he or she had married a citizen of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this chapter to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such citizen of the United States; or

(CC) who was a bona fide spouse of a United States citizen within the past 2 years and—

(aaa) whose spouse died within the past 2 years;

(bbb) whose spouse lost or renounced citizenship status within the past 2 years related to an incident of domestic violence; or

(ccc) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the United States citizen spouse;

(bb) who is a person of good moral character;

(cc) who is eligible to be classified as an immediate relative under section 1151(b)(2)(A)(i) of this title or who would have been so classi-

fied but for the bigamy of the citizen of the United States that the alien intended to marry; and

(dd) who has resided with the alien's spouse or intended spouse.

(iv) An alien who is the child of a citizen of the United States, or who was a child of a United States citizen parent who within the past 2 years lost or renounced citizenship status related to an incident of domestic violence, and who is a person of good moral character, who is eligible to be classified as an immediate relative under section 1151(b)(2)(A)(i) of this title, and who resides, or has resided in the past, with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's citizen parent. For purposes of this clause, residence includes any period of visitation.

(v) An alien who—

(I) is the spouse, intended spouse, or child living abroad of a citizen who—

(aa) is an employee of the United States Government;

(bb) is a member of the uniformed services (as defined in section 101(a) of title 10); or

(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

(II) is eligible to file a petition under clause (iii) or (iv),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (iii) or (iv), as applicable.

(vi) For the purposes of any petition filed under clause (iii) or (iv), the denaturalization, loss or renunciation of citizenship, death of the abuser, divorce, or changes to the abuser's citizenship status after filing of the petition shall not adversely affect the approval of the petition, and for approved petitions shall not preclude the classification of the eligible self-petitioning spouse or child as an immediate relative or affect the alien's ability to adjust status under subsections (a) and (c) of section 1255 of this title or obtain status as a lawful permanent resident based on the approved self-petition under such clauses.

(vii) An alien may file a petition with the Secretary of Homeland Security under this subparagraph for classification of the alien under section 1151(b)(2)(A)(i) of this title if the alien—

(I) is the parent of a citizen of the United States or was a parent of a citizen of the United States who, within the past 2 years, lost or renounced citizenship status related to an incident of domestic violence or died;

(II) is a person of good moral character;

(III) is eligible to be classified as an immediate relative under section 1151(b)(2)(A)(i) of this title;

(IV) resides, or has resided, with the citizen daughter or son; and

(V) demonstrates that the alien has been battered or subject to extreme cruelty by the citizen daughter or son.

(viii)(I) Clause (i) shall not apply to a citizen of the United States who has been convicted of a specified offense against a minor, unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that the citizen poses no risk to the alien with respect to whom a petition described in clause (i) is filed.

(II) For purposes of subclause (I), the term "specified offense against a minor" is defined as in section 16911 of title 42.

(B)(i)(I) Except as provided in subclause (II), any alien lawfully admitted for permanent residence claiming that an alien is entitled to a classification by reason of the relationship described in section 1153(a)(2) of this title may file a petition with the Attorney General for such classification.

(I)¹ Subclause (I) shall not apply in the case of an alien lawfully admitted for permanent residence who has been convicted of a specified offense against a minor (as defined in subparagraph (A)(viii)(II)), unless the Secretary of Homeland Security, in the Secretary's sole and unreviewable discretion, determines that such person poses no risk to the alien with respect to whom a petition described in subclause (I) is filed.

(ii)(I) An alien who is described in subclause (II) may file a petition with the Attorney General under this clause for classification of the alien (and any child of the alien) if such a child has not been classified under clause (iii) of section 1153(a)(2)(A) of this title and if the alien demonstrates to the Attorney General that—

(aa) the marriage or the intent to marry the lawful permanent resident was entered into in good faith by the alien; and

(bb) during the marriage or relationship intended by the alien to be legally a marriage, the alien or a child of the alien has been battered or has been the subject of extreme cruelty perpetrated by the alien's spouse or intended spouse.

(II) For purposes of subclause (I), an alien described in this paragraph is an alien—

(aa)(AA) who is the spouse of a lawful permanent resident of the United States; or

(BB) who believed that he or she had married a lawful permanent resident of the United States and with whom a marriage ceremony was actually performed and who otherwise meets any applicable requirements under this chapter to establish the existence of and bona fides of a marriage, but whose marriage is not legitimate solely because of the bigamy of such lawful permanent resident of the United States; or

(CC) who was a bona fide spouse of a lawful permanent resident within the past 2 years and—

(aaa) whose spouse lost status within the past 2 years due to an incident of domestic violence; or

(bbb) who demonstrates a connection between the legal termination of the marriage within the past 2 years and battering or extreme cruelty by the lawful permanent resident spouse;

¹ So in original. Probably should be "(II)".

(bb) who is a person of good moral character;
 (cc) who is eligible to be classified as a spouse of an alien lawfully admitted for permanent residence under section 1153(a)(2)(A) of this title or who would have been so classified but for the bigamy of the lawful permanent resident of the United States that the alien intended to marry; and

(dd) who has resided with the alien's spouse or intended spouse.

(iii) An alien who is the child of an alien lawfully admitted for permanent residence, or who was the child of a lawful permanent resident who within the past 2 years lost lawful permanent resident status due to an incident of domestic violence, and who is a person of good moral character, who is eligible for classification under section 1153(a)(2)(A) of this title, and who resides, or has resided in the past, with the alien's permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien) under such section if the alien demonstrates to the Attorney General that the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien's permanent resident parent.

(iv) An alien who—

(I) is the spouse, intended spouse, or child living abroad of a lawful permanent resident who—

(aa) is an employee of the United States Government;

(bb) is a member of the uniformed services (as defined in section 101(a) of title 10); or

(cc) has subjected the alien or the alien's child to battery or extreme cruelty in the United States; and

(II) is eligible to file a petition under clause (ii) or (iii),

shall file such petition with the Attorney General under the procedures that apply to self-petitioners under clause (ii) or (iii), as applicable.

(v)(I) For the purposes of any petition filed or approved under clause (ii) or (iii), divorce, or the loss of lawful permanent resident status by a spouse or parent after the filing of a petition under that clause shall not adversely affect approval of the petition, and, for an approved petition, shall not affect the alien's ability to adjust status under subsections (a) and (c) of section 1255 of this title or obtain status as a lawful permanent resident based on an approved self-petition under clause (ii) or (iii).

(II) Upon the lawful permanent resident spouse or parent becoming or establishing the existence of United States citizenship through naturalization, acquisition of citizenship, or other means, any petition filed with the Immigration and Naturalization Service and pending or approved under clause (ii) or (iii) on behalf of an alien who has been battered or subjected to extreme cruelty shall be deemed reclassified as a petition filed under subparagraph (A) even if the acquisition of citizenship occurs after divorce or termination of parental rights.

(C) Notwithstanding section 1101(f) of this title, an act or conviction that is waivable with respect to the petitioner for purposes of a determination of the petitioner's admissibility under

section 1182(a) of this title or deportability under section 1227(a) of this title shall not bar the Attorney General from finding the petitioner to be of good moral character under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii) if the Attorney General finds that the act or conviction was connected to the alien's having been battered or subjected to extreme cruelty.

(D)(i)(I) Any child who attains 21 years of age who has filed a petition under clause (iv) of subsection (a)(1)(A) of this section or subsection (a)(1)(B)(iii) of this section that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a petitioner for preference status under paragraph (1), (2), or (3) of section 1153(a) of this title, whichever paragraph is applicable, with the same priority date assigned to the self-petition filed under clause (iv) of subsection (a)(1)(A) of this section or subsection (a)(1)(B)(iii) of this section. No new petition shall be required to be filed.

(II) Any individual described in subclause (I) is eligible for deferred action and work authorization.

(III) Any derivative child who attains 21 years of age who is included in a petition described in clause (ii) that was filed or approved before the date on which the child attained 21 years of age shall be considered (if the child has not been admitted or approved for lawful permanent residence by the date the child attained 21 years of age) a VAWA self-petitioner with the same priority date as that assigned to the petitioner in any petition described in clause (ii). No new petition shall be required to be filed.

(IV) Any individual described in subclause (III) and any derivative child of a petition described in clause (ii) is eligible for deferred action and work authorization.

(ii) The petition referred to in clause (i)(III) is a petition filed by an alien under subparagraph (A)(iii), (A)(iv), (B)(ii) or (B)(iii) in which the child is included as a derivative beneficiary.

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

(iv) Any alien who benefits from this subparagraph may adjust status in accordance with subsections (a) and (c) of section 1255 of this title as an alien having an approved petition for classification under subparagraph (A)(iii), (A)(iv), (B)(ii), or (B)(iii).

(v) For purposes of this paragraph, an individual who is not less than 21 years of age, who qualified to file a petition under subparagraph (A)(iv) or (B)(iii) as of the day before the date on which the individual attained 21 years of age, and who did not file such a petition before such day, shall be treated as having filed a petition under such subparagraph as of such day if a petition is filed for the status described in such subparagraph before the individual attains 25 years of age and the individual shows that the abuse was at least one central reason for the filing delay. Clauses (i) through (iv) of this subparagraph shall apply to an individual described in this clause in the same manner as an individual

filing a petition under subparagraph (A)(iv) or (B)(iii).

(E) Any alien desiring to be classified under section 1153(b)(1)(A) of this title, or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

(F) Any employer desiring and intending to employ within the United States an alien entitled to classification under section 1153(b)(1)(B), 1153(b)(1)(C), 1153(b)(2), or 1153(b)(3) of this title may file a petition with the Attorney General for such classification.

(G)(i) Any alien (other than a special immigrant under section 1101(a)(27)(D) of this title) desiring to be classified under section 1153(b)(4) of this title, or any person on behalf of such an alien, may file a petition with the Attorney General for such classification.

(ii) Aliens claiming status as a special immigrant under section 1101(a)(27)(D) of this title may file a petition only with the Secretary of State and only after notification by the Secretary that such status has been recommended and approved pursuant to such section.

(H) Any alien desiring to be classified under section 1153(b)(5) of this title may file a petition with the Attorney General for such classification.

(I)(i) Any alien desiring to be provided an immigrant visa under section 1153(c) of this title may file a petition at the place and time determined by the Secretary of State by regulation. Only one such petition may be filed by an alien with respect to any petitioning period established. If more than one petition is submitted all such petitions submitted for such period by the alien shall be voided.

(ii)(I) The Secretary of State shall designate a period for the filing of petitions with respect to visas which may be issued under section 1153(c) of this title for the fiscal year beginning after the end of the period.

(II) Aliens who qualify, through random selection, for a visa under section 1153(c) of this title shall remain eligible to receive such visa only through the end of the specific fiscal year for which they were selected.

(III) The Secretary of State shall prescribe such regulations as may be necessary to carry out this clause.

(iii) A petition under this subparagraph shall be in such form as the Secretary of State may by regulation prescribe and shall contain such information and be supported by such documentary evidence as the Secretary of State may require.

(J) In acting on petitions filed under clause (iii) or (iv) of subparagraph (A) or clause (ii) or (iii) of subparagraph (B), or in making determinations under subparagraphs (C) and (D), the Attorney General shall consider any credible evidence relevant to the petition. The determination of what evidence is credible and the weight to be given that evidence shall be within the sole discretion of the Attorney General.

(K) Upon the approval of a petition as a VAWA self-petitioner, the alien—

(i) is eligible for work authorization; and

(ii) may be provided an “employment authorized” endorsement or appropriate work permit incidental to such approval.

(L) Notwithstanding the previous provisions of this paragraph, an individual who was a VAWA petitioner or who had the status of a non-immigrant under subparagraph (T) or (U) of section 1101(a)(15) of this title may not file a petition for classification under this section or section 1184 of this title to classify any person who committed the battery or extreme cruelty or trafficking against the individual (or the individual’s child) which established the individual’s (or individual’s child’s) eligibility as a VAWA petitioner or for such nonimmigrant status.

(2)(A) The Attorney General may not approve a spousal second preference petition for the classification of the spouse of an alien if the alien, by virtue of a prior marriage, has been accorded the status of an alien lawfully admitted for permanent residence as the spouse of a citizen of the United States or as the spouse of an alien lawfully admitted for permanent residence, unless—

(i) a period of 5 years has elapsed after the date the alien acquired the status of an alien lawfully admitted for permanent residence, or

(ii) the alien establishes to the satisfaction of the Attorney General by clear and convincing evidence that the prior marriage (on the basis of which the alien obtained the status of an alien lawfully admitted for permanent residence) was not entered into for the purpose of evading any provision of the immigration laws.

In this subparagraph, the term “spousal second preference petition” refers to a petition, seeking preference status under section 1153(a)(2) of this title, for an alien as a spouse of an alien lawfully admitted for permanent residence.

(B) Subparagraph (A) shall not apply to a petition filed for the classification of the spouse of an alien if the prior marriage of the alien was terminated by the death of his or her spouse.

(b) Investigation; consultation; approval; authorization to grant preference status

After an investigation of the facts in each case, and after consultation with the Secretary of Labor with respect to petitions to accord a status under section 1153(b)(2) or 1153(b)(3) of this title, the Attorney General shall, if he determines that the facts stated in the petition are true and that the alien in behalf of whom the petition is made is an immediate relative specified in section 1151(b) of this title or is eligible for preference under subsection (a) or (b) of section 1153 of this title, approve the petition and forward one copy thereof to the Department of State. The Secretary of State shall then authorize the consular officer concerned to grant the preference status.

(c) Limitation on orphan petitions approved for a single petitioner; prohibition against approval in cases of marriages entered into in order to evade immigration laws; restriction on future entry of aliens involved with marriage fraud

Notwithstanding the provisions of subsection (b) of this section no petition shall be approved if (1) the alien has previously been accorded, or

² So in original. Probably should be “child’s”.

has sought to be accorded, an immediate relative or preference status as the spouse of a citizen of the United States or the spouse of an alien lawfully admitted for permanent residence, by reason of a marriage determined by the Attorney General to have been entered into for the purpose of evading the immigration laws, or (2) the Attorney General has determined that the alien has attempted or conspired to enter into a marriage for the purpose of evading the immigration laws.

(d) Recommendation of valid home-study

(1) Notwithstanding the provisions of subsections (a) and (b) of this section no petition may be approved on behalf of a child defined in subparagraph (F) or (G) of section 1101(b)(1) of this title unless a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.

(2) Notwithstanding the provisions of subsections (a) and (b) of this section, no petition may be approved on behalf of a child defined in section 1101(b)(1)(G) of this title unless the Secretary of State has certified that the central authority of the child's country of origin has notified the United States central authority under the convention referred to in such section 1101(b)(1)(G) of this title that a United States citizen habitually resident in the United States has effected final adoption of the child, or has been granted custody of the child for the purpose of emigration and adoption, in accordance with such convention and the Intercountry Adoption Act of 2000 [42 U.S.C. 14901 et seq.].

(e) Subsequent finding of non-entitlement to preference classification

Nothing in this section shall be construed to entitle an immigrant, in behalf of whom a petition under this section is approved, to be admitted³ the United States as an immigrant under subsection (a), (b), or (c) of section 1153 of this title or as an immediate relative under section 1151(b) of this title if upon his arrival at a port of entry in the United States he is found not to be entitled to such classification.

(f) Preferential treatment for children fathered by United States citizens and born in Korea, Vietnam, Laos, Kampuchea, or Thailand after 1950 and before October 22, 1982

(1) Any alien claiming to be an alien described in paragraph (2)(A) of this subsection (or any person on behalf of such an alien) may file a petition with the Attorney General for classification under section 1151(b), 1153(a)(1), or 1153(a)(3) of this title, as appropriate. After an investigation of the facts of each case the Attorney General shall, if the conditions described in paragraph (2) are met, approve the petition and forward one copy to the Secretary of State.

(2) The Attorney General may approve a petition for an alien under paragraph (1) if—

(A) he has reason to believe that the alien (i) was born in Korea, Vietnam, Laos,

Kampuchea, or Thailand after 1950 and before October 22, 1982, and (ii) was fathered by a United States citizen;

(B) he has received an acceptable guarantee of legal custody and financial responsibility described in paragraph (4); and

(C) in the case of an alien under eighteen years of age, (i) the alien's placement with a sponsor in the United States has been arranged by an appropriate public, private, or State child welfare agency licensed in the United States and actively involved in the intercountry placement of children and (ii) the alien's mother or guardian has in writing irrevocably released the alien for emigration.

(3) In considering petitions filed under paragraph (1), the Attorney General shall—

(A) consult with appropriate governmental officials and officials of private voluntary organizations in the country of the alien's birth in order to make the determinations described in subparagraphs (A) and (C)(ii) of paragraph (2); and

(B) consider the physical appearance of the alien and any evidence provided by the petitioner, including birth and baptismal certificates, local civil records, photographs of, and letters or proof of financial support from, a putative father who is a citizen of the United States, and the testimony of witnesses, to the extent it is relevant or probative.

(4)(A) A guarantee of legal custody and financial responsibility for an alien described in paragraph (2) must—

(i) be signed in the presence of an immigration officer or consular officer by an individual (hereinafter in this paragraph referred to as the "sponsor") who is twenty-one years of age or older, is of good moral character, and is a citizen of the United States or alien lawfully admitted for permanent residence, and

(ii) provide that the sponsor agrees (I) in the case of an alien under eighteen years of age, to assume legal custody for the alien after the alien's departure to the United States and until the alien becomes eighteen years of age, in accordance with the laws of the State where the alien and the sponsor will reside, and (II) to furnish, during the five-year period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence, or during the period beginning on the date of the alien's acquiring the status of an alien lawfully admitted for permanent residence and ending on the date on which the alien becomes twenty-one years of age, whichever period is longer, such financial support as is necessary to maintain the family in the United States of which the alien is a member at a level equal to at least 125 per centum of the current official poverty line (as established by the Director of the Office of Management and Budget, under section 9902(2) of title 42 and as revised by the Secretary of Health and Human Services under the second and third sentences of such section) for a family of the same size as the size of the alien's family.

(B) A guarantee of legal custody and financial responsibility described in subparagraph (A)

³ So in original. Probably should be followed by "to".

may be enforced with respect to an alien against his sponsor in a civil suit brought by the Attorney General in the United States district court for the district in which the sponsor resides, except that a sponsor or his estate shall not be liable under such a guarantee if the sponsor dies or is adjudicated a bankrupt under title 11.

(g) Restriction on petitions based on marriages entered while in exclusion or deportation proceedings

Notwithstanding subsection (a) of this section, except as provided in section 1255(e)(3) of this title, a petition may not be approved to grant an alien immediate relative status or preference status by reason of a marriage which was entered into during the period described in section 1255(e)(2) of this title, until the alien has resided outside the United States for a 2-year period beginning after the date of the marriage.

(h) Survival of rights to petition

The legal termination of a marriage may not be the sole basis for revocation under section 1155 of this title of a petition filed under subsection (a)(1)(A)(iii) of this section or a petition filed under subsection (a)(1)(B)(ii) of this section pursuant to conditions described in subsection (a)(1)(A)(iii)(I) of this section. Remarriage of an alien whose petition was approved under subsection (a)(1)(B)(ii) or (a)(1)(A)(iii) of this section or marriage of an alien described in clause (iv) or (vi) of subsection (a)(1)(A) of this section or in subsection (a)(1)(B)(iii) of this section shall not be the basis for revocation of a petition approval under section 1155 of this title.

(i) Professional athletes

(1) In general

A petition under subsection (a)(4)(D)⁴ of this section for classification of a professional athlete shall remain valid for the athlete after the athlete changes employers, if the new employer is a team in the same sport as the team which was the employer who filed the petition.

(2) "Professional athlete" defined

For purposes of paragraph (1), the term "professional athlete" means an individual who is employed as an athlete by—

(A) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed \$10,000,000 per year, if the association governs the conduct of its members and regulates the contests and exhibitions in which its member teams regularly engage; or

(B) any minor league team that is affiliated with such an association.

(j) Job flexibility for long delayed applicants for adjustment of status to permanent residence

A petition under subsection (a)(1)(D) of this section for an individual whose application for adjustment of status pursuant to section 1255 of this title has been filed and remained unadjudicated for 180 days or more shall remain valid with respect to a new job if the individual changes jobs or employers if the new job is in the same or a similar occupational classification as the job for which the petition was filed.

⁴ So in original. Probably should be subsection "(a)(1)(D)".

(k) Procedures for unmarried sons and daughters of citizens

(1) In general

Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 1153(a)(2)(B) of this title, based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 1153(a)(1) of this title.

(2) Exception

Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.

(3) Priority date

Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.

(4) Clarification

This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.

(l) Surviving relative consideration for certain petitions and applications

(1) In general

An alien described in paragraph (2) who resided in the United States at the time of the death of the qualifying relative and who continues to reside in the United States shall have such petition described in paragraph (2), or an application for adjustment of status to that of a person admitted for lawful permanent residence based upon the family relationship described in paragraph (2), and any related applications, adjudicated notwithstanding the death of the qualifying relative, unless the Secretary of Homeland Security determines, in the unreviewable discretion of the Secretary, that approval would not be in the public interest.

(2) Alien described

An alien described in this paragraph is an alien who, immediately prior to the death of his or her qualifying relative, was—

(A) the beneficiary of a pending or approved petition for classification as an immediate relative (as described in section 1151(b)(2)(A)(i) of this title);

(B) the beneficiary of a pending or approved petition for classification under section 1153(a) or (d) of this title;

(C) a derivative beneficiary of a pending or approved petition for classification under section 1153(b) of this title (as described in section 1153(d) of this title);

(D) the beneficiary of a pending or approved refugee/asylee relative petition under section 1157 or 1158 of this title;

(E) an alien admitted in “T” non-immigrant status as described in section 1101(a)(15)(T)(ii) of this title or in “U” non-immigrant status as described in section 1101(a)(15)(U)(ii) of this title; or

(F) an asylee (as described in section 1158(b)(3) of this title).

(June 27, 1952, ch. 477, title II, ch. 1, § 204, 66 Stat. 179; Pub. L. 87–885, § 3, Oct. 24, 1962, 76 Stat. 1247; Pub. L. 89–236, § 4, Oct. 3, 1965, 79 Stat. 915; Pub. L. 94–571, § 7(b), Oct. 20, 1976, 90 Stat. 2706; Pub. L. 95–417, §§ 2, 3, Oct. 5, 1978, 92 Stat. 917; Pub. L. 96–470, title II, § 207, Oct. 19, 1980, 94 Stat. 2245; Pub. L. 97–116, §§ 3, 18(d), Dec. 29, 1981, 95 Stat. 1611, 1620; Pub. L. 97–359, Oct. 22, 1982, 96 Stat. 1716; Pub. L. 99–639, §§ 2(c), 4(a), 5(b), Nov. 10, 1986, 100 Stat. 3541, 3543; Pub. L. 100–525, § 9(g), Oct. 24, 1988, 102 Stat. 2620; Pub. L. 101–649, title I, § 162(b), title VII, § 702(b), Nov. 29, 1990, 104 Stat. 5010, 5086; Pub. L. 102–232, title III, §§ 302(e)(4), (5), 308(b), 309(b)(5), Dec. 12, 1991, 105 Stat. 1745, 1746, 1757, 1758; Pub. L. 103–322, title IV, § 40701(a), (b)(1), (c), Sept. 13, 1994, 108 Stat. 1953, 1954; Pub. L. 103–416, title II, § 219(b)(2), Oct. 25, 1994, 108 Stat. 4316; Pub. L. 104–208, div. C, title III, § 308(e)(1)(A), (f)(2)(A), title VI, § 624(b), Sept. 30, 1996, 110 Stat. 3009–619, 3009–621, 3009–699; Pub. L. 106–279, title III, § 302(b), Oct. 6, 2000, 114 Stat. 839; Pub. L. 106–313, title I, § 106(c)(1), Oct. 17, 2000, 114 Stat. 1254; Pub. L. 106–386, div. B, title V, §§ 1503(b)–(d), 1507(a)(1), (2), (b), Oct. 28, 2000, 114 Stat. 1518–1521, 1529, 1530; Pub. L. 107–208, §§ 6, 7, Aug. 6, 2002, 116 Stat. 929; Pub. L. 109–162, title VIII, §§ 805(a), (c), 814(b), (e), 816, Jan. 5, 2006, 119 Stat. 3056, 3059, 3060; Pub. L. 109–248, title IV, § 402(a), July 27, 2006, 120 Stat. 622; Pub. L. 109–271, § 6(a), Aug. 12, 2006, 120 Stat. 762; Pub. L. 111–83, title V, § 568(d)(1), Oct. 28, 2009, 123 Stat. 2187.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (a)(1)(A)(iii)(II)(aa)(BB), (B)(ii)(II)(aa)(BB), was in the original, “this Act”, meaning act June 27, 1952, ch. 477, 66 Stat. 163, known as the Immigration and Nationality Act, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 1101 of this title and Tables.

The Child Status Protection Act, referred to in subsec. (a)(1)(D)(iii), is Pub. L. 107–208, Aug. 6, 2002, 116 Stat. 927, which amended this section and sections 1151, 1153, 1157, and 1158 of this title and enacted provisions set out as notes under sections 1101 and 1151 of this title. For complete classification of this Act to the Code, see Short Title of 2002 Amendments note set out under section 1101 of this title and Tables.

The Intercountry Adoption Act of 2000, referred to in subsec. (d)(2), is Pub. L. 106–279, Oct. 6, 2000, 114 Stat. 825, which is classified principally to chapter 143 (§ 14901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 14901 of Title 42 and Tables.

AMENDMENTS

2009—Subsec. (I). Pub. L. 111–83 added subsec. (I).

2006—Subsec. (a)(1)(A)(i). Pub. L. 109–248, § 402(a)(1), substituted “Except as provided in clause (viii), any” for “Any”.

Subsec. (a)(1)(A)(vii). Pub. L. 109–162, § 816, added cl. (vii).

Subsec. (a)(1)(A)(viii). Pub. L. 109–248, § 402(a)(2), added cl. (viii).

Subsec. (a)(1)(B)(i). Pub. L. 109–248, § 402(a)(3), redesignated cl. (i) as first subcl. (I), substituted “Except as provided in subclause (II), any alien” for “Any alien”, and added a second subcl. (I).

Subsec. (a)(1)(D)(v). Pub. L. 109–271, which directed insertion of “or (B)(iii)” after “(A)(iv)”, was executed by making the insertion after “(A)(iv)” both places it appeared, to reflect the probable intent of Congress.

Pub. L. 109–162, § 805(c)(1), added cl. (v).

Subsec. (a)(1)(D)(i)(D). Pub. L. 109–162, § 805(a)(1)(A), inserted “or subsection (a)(1)(B)(iii) of this section” after “subsection (a)(1)(A) of this section” in two places.

Subsec. (a)(1)(D)(i)(III). Pub. L. 109–162, § 805(a)(1)(B), substituted “a VAWA self-petitioner” for “a petitioner for preference status under paragraph (1), (2), or (3) of section 1153(a) of this title, whichever paragraph is applicable.”.

Subsec. (a)(1)(D)(iv). Pub. L. 109–162, § 805(a)(2), added cl. (iv).

Subsec. (a)(1)(K). Pub. L. 109–162, § 814(b), added subpar. (K).

Subsec. (a)(1)(L). Pub. L. 109–162, § 814(e), added subpar. (L).

2002—Subsec. (a)(1)(D)(iii). Pub. L. 107–208, § 7, added cl. (iii).

Subsec. (k). Pub. L. 107–208, § 6, added subsec. (k).

2000—Subsec. (a)(1)(A)(iii). Pub. L. 106–386, § 1503(b)(1)(A), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “An alien who is the spouse of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 1151(b)(2)(A)(i) of this title, and who has resided in the United States with the alien’s spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iv)) under such section if the alien demonstrates to the Attorney General that—

“(I) the alien is residing in the United States, the marriage between the alien and the spouse was entered into in good faith by the alien, and during the marriage the alien or a child of the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien’s spouse; and

“(II) the alien is a person whose removal, in the opinion of the Attorney General, would result in extreme hardship to the alien or a child of the alien.”

Subsec. (a)(1)(A)(iv). Pub. L. 106–386, § 1503(b)(2), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “An alien who is the child of a citizen of the United States, who is a person of good moral character, who is eligible to be classified as an immediate relative under section 1151(b)(2)(A)(i) of this title, and who has resided in the United States with the citizen parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

“(I) the alien is residing in the United States and during the period of residence with the citizen parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien’s citizen parent; and

“(II) the alien is a person whose removal, in the opinion of the Attorney General, would result in extreme hardship to the alien.”

Subsec. (a)(1)(A)(v). Pub. L. 106–386, § 1503(b)(3), added cl. (v).

Subsec. (a)(1)(A)(vi). Pub. L. 106–386, § 1507(a)(1), added cl. (vi).

Subsec. (a)(1)(B)(ii). Pub. L. 106–386, § 1503(c)(1), amended cl. (ii) generally. Prior to amendment, cl. (ii)

read as follows: “An alien who is the spouse of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 1153(a)(2)(A) of this title, and who has resided in the United States with the alien’s legal permanent resident spouse may file a petition with the Attorney General under this subparagraph for classification of the alien (and any child of the alien if such a child has not been classified under clause (iii)) under such section if the alien demonstrates to the Attorney General that the conditions described in subclauses (I) and (II) of subparagraph (A)(iii) are met with respect to the alien.”

Subsec. (a)(1)(B)(iii). Pub. L. 106-386, §1503(c)(2), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “An alien who is the child of an alien lawfully admitted for permanent residence, who is a person of good moral character, who is eligible for classification under section 1153(a)(2)(A) of this title, and who has resided in the United States with the alien’s permanent resident alien parent may file a petition with the Attorney General under this subparagraph for classification of the alien under such section if the alien demonstrates to the Attorney General that—

“(I) the alien is residing in the United States and during the period of residence with the permanent resident parent the alien has been battered by or has been the subject of extreme cruelty perpetrated by the alien’s permanent resident parent; and

“(II) the alien is a person whose removal, in the opinion of the Attorney General, would result in extreme hardship to the alien.”

Subsec. (a)(1)(B)(iv). Pub. L. 106-386, §1503(c)(3), added cl. (iv).

Subsec. (a)(1)(B)(v). Pub. L. 106-386, §1507(a)(2), added cl. (v).

Subsec. (a)(1)(C) to (I). Pub. L. 106-386, §1503(d)(1), (2), added subpars. (C) and (D) and redesignated former subpars. (C) to (G) as (E) to (I), respectively. Former subpar. (H) redesignated (J).

Subsec. (a)(1)(J). Pub. L. 106-386, §1503(d)(1), (3), redesignated subpar. (H) as (J) and inserted “or in making determinations under subparagraphs (C) and (D),” after “subparagraph (B).”

Subsec. (d). Pub. L. 106-279 designated existing provisions as par. (1), substituted “subparagraph (F) or (G) of section 1101(b)(1)” for “section 1101(b)(1)(F)”, and added par. (2).

Subsec. (h). Pub. L. 106-386, §1507(b), inserted at end “Remarriage of an alien whose petition was approved under subsection (a)(1)(B)(ii) or (a)(1)(A)(iii) of this section or marriage of an alien described in clause (iv) or (vi) of subsection (a)(1)(A) of this section or in subsection (a)(1)(B)(iii) of this section shall not be the basis for revocation of a petition approval under section 1155 of this title.”

Subsec. (j). Pub. L. 106-313 added subsec. (j).

1996—Subsec. (a)(1)(A)(iii)(II), (iv)(II), (B)(iii)(II). Pub. L. 104-208, §308(e)(1)(A), substituted “removal” for “deportation”.

Subsec. (e). Pub. L. 104-208, §308(f)(2)(A), substituted “be admitted” for “enter”.

Subsec. (i). Pub. L. 104-208, §624(b), added subsec. (i).

1994—Subsec. (a)(1). Pub. L. 103-322, §40701(a), in subpar. (A), designated first sentence as cl. (i) and second sentence as cl. (ii) and added cls. (iii) and (iv), in subpar. (B), designated existing provisions as cl. (i) and added cls. (ii) and (iii), and added subpar. (H).

Subsec. (a)(1)(A). Pub. L. 103-416 in second sentence inserted “spouse” after “alien” and “of the alien (and the alien’s children)” after “for classification”.

Subsec. (a)(2). Pub. L. 103-322, §40701(b)(1), in subpar. (A), substituted “for the classification of the spouse of an alien if the alien,” for “filed by an alien who,” in introductory provisions and in subpar. (B), substituted “for the classification of the spouse of an alien if the prior marriage of the alien” for “by an alien whose prior marriage”.

Subsec. (h). Pub. L. 103-322, §40701(c), added subsec. (h).

1991—Subsec. (a)(1)(A). Pub. L. 102-232, §302(e)(4)(A), inserted sentence at end authorizing filing of petitions by aliens described in second sentence of section 1151(b)(2)(A)(i) of this title.

Subsec. (a)(1)(F). Pub. L. 102-232, §302(e)(4)(B), substituted “Attorney General” for “Secretary of State”.

Subsec. (a)(1)(G)(iii). Pub. L. 102-232, §302(e)(4)(C), struck out “or registration” after “petition”.

Subsec. (e). Pub. L. 102-232, §302(e)(5), substituted “as an immigrant” for “as a immigrant”.

Subsec. (f)(4)(A)(ii)(II). Pub. L. 102-232, §309(b)(5), substituted “the second and third sentences of such section” for “section 9847 of title 42”.

Subsec. (g). Pub. L. 102-232, §308(b), made technical correction to directory language of Pub. L. 101-649, §702(b). See 1990 Amendment note below.

1990—Subsec. (a)(1). Pub. L. 101-649, §162(b)(1), added par. (1) and struck out former par. (1) which read as follows: “Any citizen of the United States claiming that an alien is entitled to a preference status by reason of a relationship described in paragraph (1), (4), or (5) of section 1153(a) of this title, or to an immediate relative status under section 1151(b) of this title, or any alien lawfully admitted for permanent residence claiming that an alien is entitled to a preference status by reason of the relationship described in section 1153(a)(2) of this title, or any alien desiring to be classified as a preference immigrant under section 1153(a)(3) of this title (or any person on behalf of such an alien), or any person desiring and intending to employ within the United States an alien entitled to classification as a preference immigrant under section 1153(a)(6) of this title, may file a petition with the Attorney General for such classification. The petition shall be in such form as the Attorney General may by regulations prescribe and shall contain such information and be supported by such documentary evidence as the Attorney General may require. The petition shall be made under oath administered by any individual having authority to administer oaths, if executed in the United States, but, if executed outside the United States, administered by a consular officer or an immigration officer.”

Subsec. (b). Pub. L. 101-649, §162(b)(2), substituted reference to section 1153(b)(2) or 1153(b)(3) of this title for reference to section 1153(a)(3) or (6) of this title, and reference to preference under section 1153(a) or (b) of this title for reference to a preference status under section 1153(a) of this title.

Subsec. (e). Pub. L. 101-649, §162(b)(3), substituted “immigrant under subsection (a), (b), or (c) of section 1153 of this title” for “preference immigrant under section 1153(a) of this title”.

Subsec. (f). Pub. L. 101-649, §162(b)(5), (6), redesignated subsec. (g) as (f) and struck out former subsec. (f) which related to applicability of provisions to qualified immigrants specified in section 1152(e) of this title.

Subsec. (f)(1). Pub. L. 101-649, §162(b)(4), substituted reference to section 1153(a)(3) of this title for reference to section 1153(a)(4) of this title.

Subsec. (g). Pub. L. 101-649, §702(b), as amended by Pub. L. 102-232, §308(b), inserted “except as provided in section 1255(e)(3) of this title,” after “Notwithstanding subsection (a) of this section,”.

Pub. L. 101-649, §162(b)(6), redesignated subsec. (h) as (g). Former subsec. (g) redesignated as (f).

Subsec. (h). Pub. L. 101-649, §162(b)(6), redesignated subsec. (h) as (g).

1988—Subsec. (c). Pub. L. 100-525, §9(g)(1), substituted “an immediate relative” for “a nonquota”.

Subsec. (g)(3)(A). Pub. L. 100-525, §9(g)(2), substituted “(C)(ii) of paragraph (2)” for “(C)(i) of paragraph 2”.

1986—Subsec. (a). Pub. L. 99-639, §2(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 99-639, §4(a), inserted “(1)” after “if” and “, or has sought to be accorded,” and added cl. (2).

Subsec. (h). Pub. L. 99-639, §5(b), added subsec. (h).

1982—Subsec. (g). Pub. L. 97-359 added subsec. (g).

1981—Subsec. (a). Pub. L. 97-116, §18(d), substituted “of a relationship described in paragraph” for “of the relationships described in paragraphs”.

Subsec. (d). Pub. L. 97-116, §3, redesignated subsec. (e) as (d). Former subsec. (d), directing that the Attorney General forward to the Congress a Statistical summary of petitions for immigrant status approved by him under section 1153(a)(3) or 1153(a)(6) of this title and that the reports be submitted to Congress on the first and fifteenth day of each calendar month in which Congress was in session, was struck out.

Subsecs. (e), (f). Pub. L. 97-116, §3, redesignated as subsec. (e) the subsec. (f) relating to subsequent finding of non-entitlement. See 1978 Amendment note below. Former subsec. (e) redesignated (d).

1980—Subsec. (d). Pub. L. 96-470 substituted provision requiring the Attorney General to forward to Congress a statistical summary of approved petitions for professional or occupational preferences for provision requiring the Attorney General to forward to Congress a report on each petition approved for professional or occupational preference stating the basis for his approval and the facts pertinent in establishing qualifications for preferential status.

1978—Subsec. (c). Pub. L. 95-417, §2, struck out “no more than two petitions may be approved for one petitioner on behalf of a child as defined in section 1101(b)(1)(E) or 1101(b)(1)(F) of this title unless necessary to prevent the separation of brothers and sisters and” after “subsection (b) of this section”.

Subsecs. (e), (f). Pub. L. 95-417, §3, added subsec. (e) and redesignated former subsec. (e), relating to subsequent finding of non-entitlement, as subsec. (f) without regard to existing subsec. (f), relating to provisions applicable to qualified immigrants, added by Pub. L. 94-571.

1976—Subsec. (f). Pub. L. 94-571 added subsec. (f).

1965—Subsec. (a). Pub. L. 89-236 substituted provisions spelling out the statutory grounds for filing a petition for preference status and prescribing the authority of the Attorney General to require documentary evidence in support and the form of the petition, for provisions prohibiting consular officers from granting preference status before being authorized to do so in cases of applications based on membership in the ministry of a religious denomination or high education, technical training, or specialized experience which would be substantially beneficial to the United States.

Subsec. (b). Pub. L. 89-236 substituted provisions authorizing investigation of petitions by the Attorney General, consultation with the Secretary of Labor, and authorization to consular officers, for provisions specifying the form of application for preference status on the basis of membership in the ministry of a religious denomination or high education, technical training, or specialized experience which would be substantially beneficial to the United States and the circumstances making an application appropriate.

Subsec. (c). Pub. L. 89-236 substituted provisions limiting the number of orphan petitions which may be approved for one petitioner and prohibiting approval of any petition of an alien whose prior marriage was determined by the Attorney General to have been entered into for the purpose of evading the immigration laws, for provisions which related to investigation of facts by the Attorney General and submission of reports to Congress covering the granting of preferential status.

Subsec. (d). Pub. L. 89-236 substituted provisions requiring the Attorney General to submit reports to Congress on each approved petition for professional or occupational preference, for provisions prohibiting a statutory construction of the section which would entitle an immigrant to preferential classification if, upon arrival at the port of entry, he was found not to be entitled to such classification.

Subsec. (e). Pub. L. 89-236 added subsec. (e).

1962—Subsec. (c). Pub. L. 87-885 provided for submission of reports to Congress.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-208 effective Aug. 6, 2002, and applicable to certain beneficiary aliens, see section 8 of Pub. L. 107-208, set out as a note under section 1151 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-279 effective Apr. 1, 2008, see section 505(a)(2), (b) of Pub. L. 106-279, set out as an Effective Dates; Transition Rule note under section 14901 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(e)(1)(A), (f)(2)(A) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

Amendment by Pub. L. 103-322 effective Jan. 1, 1995, see section 40701(d) of Pub. L. 103-322, set out as a note under section 1151 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by sections 302(e)(4), (5) and 308(b) of Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 162(b) of Pub. L. 101-649 effective Nov. 29, 1990, but only insofar as section 162(b) relates to visas for fiscal years beginning with fiscal year 1992, with general transition provisions, see section 161(b), (c) of Pub. L. 101-649, set out as a note under section 1101 of this title.

Section 702(c) of Pub. L. 101-649 provided that: “The amendments made by this section [amending sections 1154 and 1255 of this title] shall apply to marriages entered into before, on, or after the date of the enactment of this Act [Nov. 29, 1990].”

EFFECTIVE DATE OF 1986 AMENDMENT

Section 4(b) of Pub. L. 99-639 provided that: “The amendment made by subsection (a) [amending this section] shall apply to petitions filed on or after the date of the enactment of this Act [Nov. 10, 1986].”

Section 5(c) of Pub. L. 99-639 provided that: “The amendments made by this section [amending this section and section 1255 of this title] shall apply to marriages entered into on or after the date of the enactment of this Act [Nov. 10, 1986].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-571 effective on first day of first month which begins more than sixty days after Oct. 20, 1976, see section 10 of Pub. L. 94-571, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

CONSTRUCTION OF 2009 AMENDMENT

Pub. L. 111-83, title V, §568(d)(2), Oct. 28, 2009, 123 Stat. 2187, provided that: “Nothing in the amendment made by paragraph (1) [amending this section] may be construed to limit or waive any ground of removal, basis for denial of petition or application, or other criteria for adjudicating petitions or applications as otherwise provided under the immigration laws of the

United States other than ineligibility based solely on the lack of a qualifying family relationship as specifically provided by such amendment.”

ABOLITION OF IMMIGRATION AND NATURALIZATION
SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

ALIEN SHEEPHERDERS

Act Sept. 3, 1954, ch. 1254, §§ 1–3, 68 Stat. 1145, provided for the importation of skilled alien shepherders upon approval by the Attorney General, certification to the Secretary of State by the Attorney General of names and addresses of shepherders whose applications for importation were approved, and issuance of not more than 385 special nonquota immigrant visas. Provisions of said act expired on Sept. 3, 1955, by terms of section 1 thereof.

§ 1155. Revocation of approval of petitions; effective date

The Secretary of Homeland Security may, at any time, for what he deems to be good and sufficient cause, revoke the approval of any petition approved by him under section 1154 of this title. Such revocation shall be effective as of the date of approval of any such petition.

(June 27, 1952, ch. 477, title II, ch. 1, § 205, 66 Stat. 180; Pub. L. 86–363, § 5(a), (b), Sept. 22, 1959, 73 Stat. 644, 645; Pub. L. 87–301, §§ 3, 10, Sept. 26, 1961, 75 Stat. 650, 654; Pub. L. 89–236, § 5, Oct. 3, 1965, 79 Stat. 916; Pub. L. 104–208, div. C, title III, § 308(g)(3)(A), Sept. 30, 1996, 110 Stat. 3009–622; Pub. L. 108–458, title V, § 5304(c), Dec. 17, 2004, 118 Stat. 3736.)

AMENDMENTS

2004—Pub. L. 108–458 substituted “Secretary of Homeland Security” for “Attorney General” and struck out at end “In no case, however, shall such revocation have effect unless there is mailed to the petitioner’s last known address a notice of the revocation and unless notice of the revocation is communicated through the Secretary of State to the beneficiary of the petition before such beneficiary commences his journey to the United States. If notice of revocation is not so given, and the beneficiary applies for admission to the United States, his admissibility shall be determined in the manner provided for by sections 1225 and 1229a of this title.”

1996—Pub. L. 104–208 substituted “1229a” for “1226”.

1965—Pub. L. 89–236 struck out entire section which had set out, in subsections (a) to (d), the procedure for granting nonquota status or preference by reason of relationship and inserted in its place, with minor changes, provisions formerly contained in section 1156 of this title authorizing the Attorney General to revoke his approval of petitions for good and sufficient cause.

1961—Subsec. (b). Pub. L. 87–301, § 3(a), provided that no petition for quota immigration status or a preference shall be approved if the beneficiary is an alien defined in section 1101(b)(1)(F) of this title, established requirements to be met by petitioners before a petition for nonquota immigrant status for a child as defined in section 1101(b)(1)(F) can be approved by the Attorney General, and authorized the administration of oaths by immigration officers when the petition is executed outside the United States.

Subsec. (c). Pub. L. 87–301, §§ 3(b), 10, substituted “section 1101(b)(1)(E) or (F)” for “section 1101(b)(1)(E)”, and provided that no petition shall be approved if the alien had previously been accorded a nonquota status under

section 1101(a)(27)(A) of this title or a preference quota status under section 1153(a)(3) of this title, by reason of marriage entered into to evade the immigration laws.

1959—Subsec. (b). Pub. L. 86–363, § 5(a), authorized filing of petitions by any United States citizen claiming that an immigrant is his unmarried son or unmarried daughter, by any alien lawfully admitted for permanent residence claiming that an immigrant is his unmarried son or unmarried daughter instead of child, or by any United States citizen claiming that an immigrant is his married son or married daughter instead of son or daughter, and prohibited approval of petition for quota immigrant status or preference of alien without proof of parent relationship of the petitioner to such alien.

Subsec. (c). Pub. L. 86–363, § 5(b), limited approval to two petitions for one petitioner in behalf of a child as defined in section 1101(b)(1)(E) of this title unless necessary to prevent separation of brothers and sisters.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–458, title V, § 5304(d), Dec. 17, 2004, 118 Stat. 3736, provided that: “The amendments made by this section [amending this section and sections 1201 and 1227 of this title] shall take effect on the date of enactment of this Act [Dec. 17, 2004] and shall apply to revocations under sections 205 and 221(i) of the Immigration and Nationality Act (8 U.S.C. 1155, 1201(i)) made before, on, or after such date.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89–236, see section 20 of Pub. L. 89–236, set out as a note under section 1151 of this title.

§ 1156. Unused immigrant visas

If an immigrant having an immigrant visa is denied admission to the United States and removed, or does not apply for admission before the expiration of the validity of his visa, or if an alien having an immigrant visa issued to him as a preference immigrant is found not to be a preference immigrant, an immigrant visa or a preference immigrant visa, as the case may be, may be issued in lieu thereof to another qualified alien.

(June 27, 1952, ch. 477, title II, ch. 1, § 206, 66 Stat. 181; Pub. L. 89–236, § 6, Oct. 3, 1965, 79 Stat. 916; Pub. L. 104–208, div. C, title III, § 308(d)(4)(D), Sept. 30, 1996, 110 Stat. 3009–618.)

AMENDMENTS

1996—Pub. L. 104–208 substituted “denied admission to the United States and removed” for “excluded from admission to the United States and deported”.

1965—Pub. L. 89–236 substituted provisions allowing immigrant visas or preference immigrant visas to be issued to another qualified alien in lieu of immigrants excluded or deported, immigrants failing to apply for admission, or immigrants found not to be preference immigrants, for provisions relating to revocation of approval of petitions which, with minor amendments, were transferred to section 1155 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104–208, set out as a note under section 1101 of this title.