

108TH CONGRESS  
1ST SESSION

# S. 1353

To establish new special immigrant categories.

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IN THE SENATE OF THE UNITED STATES

JUNE 26, 2003

Mr. BROWNBACK (for himself and Mr. DEWINE) introduced the following bill;  
which was read twice and referred to the Committee on the Judiciary

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## A BILL

To establish new special immigrant categories.

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 “Widows and Orphans  
5       Act of 2003”.

6       **SEC. 2. NEW SPECIAL IMMIGRANT CATEGORY.**

7       (a) CERTAIN CHILDREN AND WOMEN AT RISK OF  
8       HARM.—Section 101(a)(27) of the Immigration and Na-  
9       tionality Act (8 U.S.C. 1101(a)(27)) is amended—

10               (1) in subparagraph (L), by inserting a semi-  
11       colon at the end;

1           (2) in subparagraph (M), by striking the period  
2       at the end and inserting “; or”; and

3           (3) by adding at the end the following:

4               “(N) subject to subsection (j), an immi-  
5       grant who is not present in the United States—

6               “(i) who is—

7                       “(I) referred to a consular, immi-  
8       gration, or other designated official by  
9       a United States Government agency,  
10      an international organization, or rec-  
11      ognized nongovernmental entity des-  
12      ignated by the Secretary of State for  
13      purposes of such referrals; and

14                      “(II) determined by such official  
15      to be a minor under 10 years of age  
16      (as determined under subsection  
17      (j)(5))—

18                      “(aa) for whom no parent or  
19      legal guardian is able to provide  
20      adequate care;

21                      “(bb) who faces a credible  
22      fear of harm related to his or her  
23      age;

24                      “(cc) who lacks adequate  
25      protection from such harm; and

1 “(dd) for whom it has been  
2 determined to be in his or her  
3 best interests to be admitted to  
4 the United States; or

5 “(ii) who is—

6 “(I) referred to a consular or im-  
7 migration official by a United States  
8 Government agency, an international  
9 organization or recognized nongovern-  
10 mental entity designated by the Sec-  
11 retary of State for purposes of such  
12 referrals; and

13 “(II) determined by such official  
14 to be a female who has—

15 “(aa) a credible fear of  
16 harm related to her sex; and

17 “(bb) a lack of adequate  
18 protection from such harm.”.

19 (b) STATUTORY CONSTRUCTION.—Section 101 of the  
20 Immigration and Nationality Act (8 U.S.C. 1101) is  
21 amended by adding at the end the following:

22 “(j)(1) No natural parent or prior adoptive parent  
23 of any alien provided special immigrant status under sub-  
24 section (a)(27)(N)(i) shall thereafter, by virtue of such

1 parentage, be accorded any right, privilege, or status  
2 under this Act.

3 “(2)(A) No alien who qualifies for a special immi-  
4 grant visa under subsection (a)(27)(N)(ii) may apply for  
5 derivative status or petition for any spouse who is rep-  
6 resented by the alien as missing, deceased, or the source  
7 of harm at the time of the alien’s application and admis-  
8 sion. The Secretary of Homeland Security may waive this  
9 requirement for an alien who demonstrates that the alien’s  
10 representations regarding the spouse were bona fide.

11 “(B) An alien who qualifies for a special immigrant  
12 visa under subsection (a)(27)(N) may apply for derivative  
13 status or petition for any sibling under the age of 10 years  
14 or children under the age of 10 years of any such alien,  
15 if accompanying or following to join the alien. For pur-  
16 poses of this subparagraph, a determination of age shall  
17 be made using the age of the alien on the date the petition  
18 is filed with the Department of Homeland Security.

19 “(3) An alien who qualifies for a special immigrant  
20 visa under subsection (a)(27)(N) shall be treated in the  
21 same manner as a refugee solely for purposes of section  
22 412.

23 “(4) The provisions of paragraphs (4), (5), and  
24 (7)(A) of section 212(a) shall not be applicable to any  
25 alien seeking admission to the United States under sub-

1 section (a)(27)(N), and the Secretary of Homeland Secu-  
2 rity may waive any other provision of such section (other  
3 than paragraph 2(C) or subparagraph (A), (B), (C), or  
4 (E) of paragraph (3) with respect to such an alien for  
5 humanitarian purposes, to assure family unity, or when  
6 it is otherwise in the public interest. Any such waiver by  
7 the Secretary of Homeland Security shall be in writing  
8 and shall be granted only on an individual basis following  
9 an investigation. The Secretary of Homeland Security  
10 shall provide for the annual reporting to Congress of the  
11 number of waivers granted under this paragraph in the  
12 previous fiscal year and a summary of the reasons for  
13 granting such waivers.

14 “(5) For purposes of subsection (a)(27)(N)(i)(II), a  
15 determination of age shall be made using the age of the  
16 alien on the date on which the alien was referred to the  
17 consular, immigration, or other designated official.

18 “(6) The Secretary of Homeland Security shall waive  
19 any application fee for a special immigrant visa for an  
20 alien described in section 101(a)(27)(N).”.

21 (c) ALLOCATION OF SPECIAL IMMIGRANT VISAS.—  
22 Section 203(b)(4) of the Immigration Nationality Act (8  
23 U.S.C. 1153(b)(4)) is amended by striking “(A) or (B)  
24 thereof” and inserting “(A), (B), or (N) thereof”.

1 (d) EXPEDITED PROCESS.—Not later than 45 days  
2 from the date of referral to a consular, immigration, or  
3 other designated official as described in section  
4 101(a)(27)(N) of the Immigration and Nationality Act, as  
5 added by subsection (a), special immigrant status shall be  
6 adjudicated and, if granted, the alien shall be paroled to  
7 the United States pursuant to section 212(d)(5) of that  
8 Act (8 U.S.C. 1182(d)(5)) and allowed to apply for adjust-  
9 ment of status to permanent residence under section 245  
10 of that Act (8 U.S.C. 1255) within 1 year of the alien's  
11 arrival in the United States.

12 (e) REPORT TO CONGRESS.—Not later than 1 year  
13 after the date of enactment of this section, the Secretary  
14 of Homeland Security shall report to the Committees on  
15 the Judiciary of the Senate and the House of Representa-  
16 tives on the progress of the program, including—

17 (1) data related to the implementation of this  
18 section;

19 (2) data regarding the number of placements of  
20 females and children at risk of harm as referred to  
21 in section 101(a)(27)(N) of the Immigration and  
22 Nationality Act, as added by subsection (a); and

23 (3) any other appropriate information that the  
24 Secretary of Homeland Security determines to be  
25 appropriate.

1       (f) AUTHORIZATION OF APPROPRIATIONS.—There is  
2 authorized to be appropriated such sums as may be nec-  
3 essary to carry out this section and the amendments made  
4 by this section.

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