

111TH CONGRESS
1ST SESSION

S. 815

To amend the Immigration and Nationality Act to exempt surviving spouses of United States citizens from the numerical limitations described in section 201 of such Act.

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2009

Mr. NELSON of Florida (for himself, Mr. DURBIN, Mrs. FEINSTEIN, Mr. KENNEDY, Mr. KERRY, and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to exempt surviving spouses of United States citizens from the numerical limitations described in section 201 of such Act.

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. RELIEF FOR SURVIVING SPOUSES.**

4 (a) IN GENERAL.—The second sentence of section
5 201(b)(2)(A)(i) of the Immigration and Nationality Act
6 (8 U.S.C. 1151(b)(2)(A)(i)) is amended by inserting “(or,
7 if married to such citizen for less than 2 years at the time
8 of the citizen’s death, an alien who proves by a preponder-
9 ance of the evidence that the marriage was entered into

1 in good faith and not solely for the purpose of obtaining
2 an immigration benefit)” after “for at least 2 years at the
3 time of the citizen’s death”.

4 (b) APPLICABILITY.—

5 (1) IN GENERAL.—The amendment made by
6 subsection (a) shall apply to all applications and pe-
7 titions relating to immediate relative status under
8 section 201(b)(2)(A)(i) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1151(b)(2)(A)(i)) pending on
10 or after the date of the enactment of this Act.

11 (2) TRANSITION CASES.—

12 (A) IN GENERAL.—Notwithstanding any
13 other provision of law, an alien described in
14 subparagraph (B) who seeks immediate relative
15 status pursuant to the amendment made by
16 subsection (a) shall file a petition under section
17 204(a)(1)(A)(ii) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1154(a)(1)(A)(ii)) not
19 later than the date that is 2 years after the
20 date of the enactment of this Act.

21 (B) ALIENS DESCRIBED.—An alien is de-
22 scribed in this subparagraph if—

23 (i) the alien’s United States citizen
24 spouse died before the date of the enact-
25 ment of this Act;

1 (ii) the alien and the citizen spouse
2 were married for less than 2 years at the
3 time of the citizen spouse's death; and

4 (iii) the alien has not remarried.

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