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144 -
DOMESTIC PARTNERS

Irene Bueno
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Record Type: Record

To: Eric P. Liu/OPD/EOP@EOP
cc: Anna Richter/OPD/EOP@EOP
Subject: Domestic Partners legislation

As I mentioned, attached is legislation introduced by Rep. Nadler that would allow an individual to petition a foreign domestic partners (I will fax you a summary). The President indicated support for such a proposal (I will forward the transcript). I had asked INS to look at this issue and below is some information about what other countries are doing (see below e-mail). Second, I have asked DOJ and INS to review the proposed legislation. Apparently, Sylvia Matthews and Sean Maloney have asked about this proposal. I will let keep you up to date on our review of this legislation and send you a memo that outlines the issues.



domesticpartnersHR 3650

Irene:

Here is a short explanation of how this issue is handled differently in other countries. Let's discuss and we can figure out whether something more detailed would be helpful to you.

Bo

Forward Header

Subject: Same-sex Couple Immigration in Other Countries
Author: Ian G Hinds
Date: 12/02/1999 11:25 AM

From a Backgrounder issued by the Center for Immigration Studies in May 1999:

Australia: has an "interdependent partner" visa classification. Must have an interdependent relationship with an Australian citizen or permanent resident

Available to persons over 18 in an ongoing (12+ months) and mutually committed relationship. Applies both to hetero and homosexual couples.

New Zealand: grants residence to those in a genuine, stable, de facto partnership/relationship with a New Zealand citizen or resident for at least 2 years. Applies to hetero and homosexual couples.

South Africa: treats same sex couples the same as married couples for purposes of immigration law. This is based upon a court decision which ordered

legislation to follow.

Canada: Same sex partner may seek consideration of that relationship as a reason to immigrate to Canada on humanitarian and compassionate grounds. Neither person in the relationship has to be a Canadian citizen or resident at the time of the application, i.e. Canada allows the same sex partner of an eligible immigrant to accompany or follow to join that immigrant. This is done as a matter of administrative discretion and does not appear to be codified in law.

THE WHITE HOUSE
WASHINGTON

FAX COVER SHEET

TO: *Eric Lm/Anna Richter*
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**FROM: Irene B. Bueno, Special Assistant to the President
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DATE: *2/23/00*

PAGES: *9* **INCLUDING COVER**

- ☒ Per my e-mail or voice mail.
☐ For your information or review.
☐ Per your request.

COMMENTS:

*Domestic Partner Legislation Summary
& article*

The Permanent Partners Immigration Act of 2000

Section 1 is the short title for the bill, "Permanent Partners Immigration Act of 2000."

Section 2 adds the definition of permanent partner and permanent partnership to definitions section of Immigration and Naturalization Act (INA). The bill defines permanent partner as an individual over 18 years of age who -- is in a committed, intimate relationship with another unmarried individual over 18 years of age in which both parties intend a lifelong commitment; is financially interdependent with that other individual; is not married to or in a permanent partnership with anyone other than that other individual; is unable to contract with that other individual a marriage cognizable under this Act; and is not a first, second, or third degree blood relation of that other individual.

Section 3 amends the section of the INA that limits the worldwide level of immigration to family-sponsored immigrants, employment-based immigrants, and diversity immigrants. Certain individuals are exempt from these numerical limits including legal permanent residents and immediate family members. Immediate relatives includes children, spouses, and parents. This bill would add "permanent partners" to this list of immediate relatives.

Section 4 amends the section of the INA that limits the level of immigration from individual countries. Under current law, special consideration is given to spouses and children of legal permanent residents so that most are not counted against the numerical limitation placed on each nation. This bill would add "permanent partners" to this group that receives special consideration. In addition, under current law unmarried children receive special consideration. This bill would ensure that unmarried children must also not be in a permanent partnership in order to qualify for the benefits of an unmarried child.

Section 5 amends the section of the INA that allocates visas in a given order: unmarried children of citizens, spouses and unmarried children of permanent resident aliens, married sons and daughters of citizens, skilled workers, etc. This bill would add permanent partners to this section and add that unmarried children must also not be in a permanent partnership in order to qualify for the benefits of an unmarried child. This section would also bar a person who applies for an employment creation-based visa to count his or her permanent partner among citizens employed, and would enable a permanent partner accompanying or following to join his or her permanent partner to be entitled to an immigrant status and immediate issuance of a visa.

Section 6 amends the section of the INA that describes the procedure for granting immigrant status. This section of the bill would allow a foreign permanent partner to file a petition for immediate relative status. It would also bar anyone who had previously filed for a permanent partnership, that was determined by the Attorney General to be fraudulent, from being approved as a permanent partner. This measure is intended to reduce fraud and prevent anyone from abusing the system.

Section 7 amends the section of the INA that describes admission status of spouses and children of refugees. This bill provides that a permanent partner of a refugee who is not him or herself a refugee is entitled to same immigrant status as the refugee if accompanying or following to join the refugee, and that the admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged, and provides that the Attorney General may terminate the refugee status of a permanent partner if the Attorney General determines that the alien was not in fact a refugee.

Section 8 provides that a permanent partner of an alien who is granted asylum may be granted the same immigration status as the alien if accompanying or following to join the alien.

Section 9 provides for the maximum number of adjustments of status to Legal Permanent Resident for refugees and their permanent partners.

Section 10 amends the section of the INA that describes inadmissible aliens. For example, individuals who entered the country illegally, brought others into the country illegally, are members of totalitarian parties, or are likely to become a public charge are generally inadmissible. However, current law also includes numerous exceptions for parents, children, and spouses of US citizens or legal permanent residents who may fall into one of the above categories. This section of the bill would add permanent partners to the group of people who may be eligible for certain exceptions.

Section 11 amends the INA that was written as part of NAFTA. Under current law, citizens of Mexico and Canada who enter the country for business purposes can bring their spouses and children with them. This bill would add permanent partners to this section.

Section 12 provides that an alien permanent partner who receives Legal Permanent Resident status has obtained that status on a conditional basis pursuant to the provisions that follow in this section. This is similar to the conditional status that is granted to spouses under current law. The conditional status can be revoked if the Attorney General

determines within two years that the marriage has been terminated or that the purpose of the marriage was to evade immigration law. Under this bill, the same restrictions would apply to a permanent partnership and the Attorney General would have the ability to revoke the conditional status if the partnership is terminated or was entered into in order to evade immigration laws.

Section 13 amends the section of the INA that grants certain benefits for alien entrepreneurs and allows for conditional permanent resident status of their spouses and children. This bill would also allow permanent partners of alien entrepreneurs to obtain conditional permanent resident status.

Section 14 provides that an alien with conditional permanent resident status as the permanent partner of another is deportable if that status is terminated within two years subsequent to such admission unless the partner can demonstrate to the Attorney General that the relationship was not entered into for the purpose of evading any provisions of the immigration laws.

Section 15 amends the section of the INA which provides that a removal order for failure to appear at a removal hearing may be rescinded because of "exceptional circumstances." Under current law, exceptional circumstances can include the serious illness of a spouse, child, or parent. This bill would add permanent partner to that list.

Section 16 amends the section on cancellation of removal. Under current law, the Attorney General can cancel removal if doing so would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child. This bill would add permanent partner to that list.

Section 17 amends the section on adjustment of status. It adds "permanent partner" to the subsection title regarding restrictions on adjustment of status based on marriages entered while in admissibility or deportation proceedings, provides that an alien in deportation proceedings may not have his or her status adjusted based on a permanent partnership entered into during those proceedings, provides that the prohibition described in (b) above will not apply if an alien establishes to the Attorney General's satisfaction that the permanent partnership was entered into in good faith and not for the purpose of procuring the alien's admission as an immigrant, and (with the two following sections) provides that certain classes of aliens who are the beneficiaries of a petition for classification under the INA or an application for a labor certification and are accompanying their permanent

partners may apply to have their status adjusted to that of an alien lawfully admitted for permanent residence.

Section 18 is designed to prevent partnership fraud by subjecting anyone who knowingly enters into a permanent partnership in order to evade immigration laws to be imprisoned for not more than 5 years, or fined not more than \$250,000 or both.

Section 19 adds the term permanent partner to a list that includes spouses and dependent children that are members of the household of a person who qualifies for the benefits of this subsection. These individuals would then be entitled to the benefits during the period for which they were residing abroad as dependent members of the household of the person.

Section 20 would allow permanent partners who lost U.S. citizenship simply by entering a permanent partnership with someone else, may nevertheless be naturalized as a U.S. citizen if certain conditions are met. This parallels the same provision that exists for married individuals in the same situation.

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March 23, 1999

Gay Couples Are Divided by '96 Immigration Laws



By ANDREW JACOBS

A dozen roses in hand and butterflies in his stomach, Kent McCoy stood in the arrivals area at Kennedy International Airport last summer waiting for his companion, Samer Yahya, to return from a monthlong visit with relatives in Italy.

But as the last passengers trickled out of the customs area that August evening, Mr. McCoy's anticipation turned to panic. Three hours later, with the terminal deserted and the roses wilting, an immigration agent appeared and told Mr. McCoy that his partner of four years had been detained for carrying a flawed visa. "We've got your friend," Mr. McCoy said the officer told him. "We're sending him back."

Mr. Yahya, 29, a theater major at Trinity College in Hartford, says he did not know that his student visa had been improperly issued in the United States when it should have been issued in Rome. Still, he said he was strip-searched, dressed in a prison jumpsuit and shackled to a bench overnight at the airport. He and Mr. McCoy were not allowed to speak, and the next day, he was put on a plane bound for Rome.

Seven months later, the two men are still separated. The American Embassy in Rome denied Mr. Yahya a new student visa, saying that although he was a legitimate student, he was likely to stay in this country illegally after finishing his studies.

Like thousands of gay Americans in relationships with foreigners, Mr. McCoy discovered that although he considered himself married, his relationship with Mr. Yahya had no legal standing and offered him no protection against deportation.

While heterosexuals in similar circumstances can marry and automatically gain residency rights for their spouses -- even if the spouse entered the country illegally -- gay men and women who would be willing to make a similar legal commitment to one another cannot.

Caught in Grip of Inflexible Law

And since 1996, when Congress passed a collection of new immigration laws, the few provisions that once were interpreted to allow gay partners to stay in this country have been eliminated. These laws were aimed, in general, at slowing the tide of illegal immigrants coming to this country, not in particular at this group. But gay couples have been caught up in its strict enforcement.

For example, judges, who previously had the discretion to waive a deportation on humanitarian grounds and might have allowed someone like Mr. Yahya to stay, are now obliged to deport such

illegal immigrants -- even when they and their partners share mortgages, businesses, homes and children.

As a result, immigration lawyers estimated, tens of thousands of relationships have been thrown in jeopardy or broken apart by the new deportation drive, which has sent nearly 290,000 immigrants back to their countries since 1997, more than double the number from the previous two years.

"It doesn't matter that we've been sharing a home and a life for years, that we're essentially married," said Mr. McCoy, 46, an architect who lives in Hartford. "We've been torn apart."

Elaine Komis, a spokeswoman for the Immigration and Naturalization Service, said there was nothing her agency could do. "We don't make the laws," she said. "Congress does. This would be a major change to the immigration preference system, one that requires an act of Congress."

But advocates of rights for gay people said a Congress that passed the 1996 Defense of Marriage Act, legislation that withholds Federal benefits from the partners of gay men and women, is unlikely to change immigration law to help couples like Mr. Yahya and Mr. McCoy.

Representative Bob Barr, a conservative Republican from Georgia, agreed that such legislation would stand little chance.

"It never ceases to amaze me the off-the-wall things people come up with," he said. "How would immigration officials distinguish between life partners and sex partners? How would they even know who is homosexual and who isn't? There would be so much room for abuse."

For many couples, staying together requires a combination of luck, guile and, sometimes, a willingness to break the law.

Foreigners with special skills may qualify for work permits, but such visas are hard to get and last only six years. Some remain here on tourist visas, which allow them to come and go but are issued with the expectation that the visa holder will live in his or her home country and visit the United States occasionally. And so every few months, as a way of pretending that they do not actually live here, such people leave the country, hoping that a border agent will not turn them back on their return.

For a handful, there is asylum, but that option is available only to those who can prove that returning to their home country would expose them to some form of persecution.

There is also the "green card marriage," a fake union to someone of the opposite sex. Such an arrangement is a felony, however, with penalties of imprisonment, fines and a lifetime ban on re-entering the country.

Many who are desperate simply ignore the laws and remain here illegally when their proper documents expire.

And for many, moving to the partner's country, even if the American is willing to give up family and career, is impossible in the face of similar or even more severe immigration restrictions.

When all else fails, there is Canada, one of 10 countries that grant immigration rights to same-sex partners. A growing number of gay Americans are moving there, though many say they do so bitterly.

Bruce MacDonald, 48, a medical social worker in Seattle, has applied to the Canadian Government for immigrant status. If granted, he will have the right to bring in his partner, a Thai national who has been repeatedly denied a visitor's visa by the United States. So far the process has taken two years and cost Mr. MacDonald \$4,000 in legal fees.

"Imagine being forced by your government to leave behind family and friends because your relationship has no value," Mr. MacDonald said. "It's wrenching."

Sitting in the fluorescent glare of an Immigration Court waiting room in Newark last month,

Christiana Pacheco and Alexandra Sousa anxiously held hands while a Federal immigration judge decided their future. With a ticket to Lisbon in her pocket, Ms. Sousa was prepared for the worst.

For the last eight years, the two women have shared a modest ranch house in a Philadelphia suburb, where they have been raising Katie, Ms. Pacheco's 8-year-old daughter from her former marriage.

Born in Portugal, Ms. Sousa, 29, came to the United States with her family as a teen-ager. When her parents returned home several years ago, she was already involved with Ms. Pacheco and decided to stay, even though she was not here legally. "At that point, I had a family of my own," she said.

When the new immigration laws were passed three years ago, Ms. Sousa, a software designer, decided to deal with her undocumented status. On the advice of a lawyer, she filed an asylum claim, citing anti-gay persecution at home. She now realizes it was a mistake.

Isn't There Some State?

During a hearing last year, Judge Nicole Y. K. Kim found no grounds for asylum and suggested the women find another way to preserve their family. "Isn't there some state where you two can get married?" the judge asked. No, there is not, and even if there were, the 1996 Federal law denies gay couples any benefits of marriage under immigration rules.

On this February morning, Judge Kim was deciding whether Ms. Sousa should be deported immediately -- which would have meant being barred from re-entry for up to 10 years -- or allowed to leave and preserve her right to return someday. The judge granted her 120 days to leave, the maximum, and wished her good luck.

"I feel like I'm dying," Ms. Sousa said as the couple and their lawyers left the courtroom. The most harrowing thing, she said, was having to break the news to the child she had raised since infancy. "She won't understand that I don't have the proper papers, that I have to go far away," she said.

Representative Jerrold L. Nadler said he hoped to introduce legislation that would give same-sex partners immigration rights. But Mr. Nadler, a Democrat from New York, said he was not optimistic that such a bill would pass.

"In a Republican Congress, the chances are zero to none," he said. "Anything you do to help gay people deal with real-life problems they see as an affirmation of the gay life style."

The Lesbian and Gay Immigration Rights Task Force, which has about 7,000 members and seven branches nationwide, has started a lobbying campaign to change the law, but its leaders acknowledge that it might be years before the changes gain favor in Congress. It has been only a decade, they point out, since Congress repealed a law that barred gay men and women from entering the United States at all.

Despite the insecurity of holding a temporary student visa, Michel Buffet, a 29-year-old French national, bought a house this month in Montclair, N.J., with his American partner, Robert Mogel, a vice president of a medical supply company. The couple, who have been together for nine years, are also planning to adopt a child.

As he comes to the end of his doctoral program in organizational psychology at Columbia University, Mr. Buffet hopes to secure a work visa by persuading officials that he has skills that are needed in this country -- the only way he can stay here legally.

"I don't think either of us will ever feel relaxed," Mr. Buffet said, "until I have that paper in my hand."

Although he has no clear strategy for bringing him back, Kent McCoy still keeps Samer Yahya's voice on his answering machine's outgoing message. The two communicate several times a day by E-mail, and though Trinity College continues to hold Mr. Yahya's scholarship, Mr. McCoy says

he is starting to lose hope.

At the moment, moving to Canada looks like the only viable option, but Mr. McCoy cringes at the thought of giving up his architectural practice, his friends and his home.

"I'm the third generation in Hartford," he said. "I have an elderly mother to look after. My whole life is here."

He mentioned a friend who recently met a woman during a vacation in Russia. After a brief romance, they were married, and six weeks later, she was living in the United States.

"I'm not asking for special rights," he said. "All I want is to be treated like everyone else."



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HR 3650 IH

106th CONGRESS

2d Session

H. R. 3650

To amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 14, 2000

Mr. NADLER (for himself, Mr. FRANK of Massachusetts, Ms. BALDWIN, Mr. CROWLEY, Mr. DELAHUNT, Mr. LANTOS, Mr. BECERRA, Mr. MCDERMOTT, Mr. HINCHEY, Mr. CAPUANO, Mr. WAXMAN, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE- This Act may be cited as the 'Permanent Partners Immigration Act of 2000'.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT- Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act.

SEC. 2. DEFINITION OF 'PERMANENT PARTNER'.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following:

`(50) The term `permanent partner' means an individual over 18 years of age who--

`(A) is in a committed, intimate relationship with another individual over 18 years of age in which both parties intend a lifelong commitment;

`(B) is financially interdependent with that other individual;

`(C) is not married to or in a permanent partnership with anyone other than that other individual;

`(D) is unable to contract with that other individual a marriage cognizable under this Act; and

`(E) is not a first, second, or third degree blood relation of that other individual.

`(51) The term `permanent partnership' means the relationship that exists between two permanent partners.'.

SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.

Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended--

(1) by inserting `permanent partners,' after `spouses,';

(2) by inserting `or permanent partner' after `spouse' each place such term appears; and

(3) by inserting `or enters a permanent partnership with another person' before the period at the end.

SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.

(a) PER COUNTRY LEVELS- Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended--

(1) in the paragraph heading for paragraph (4), by inserting `, PERMANENT PARTNERS,' after `SPOUSES';

(2) in the subparagraph heading for subparagraph (A), by inserting `, PERMANENT PARTNERS,' after `SPOUSES'; and

(3) in the subparagraph heading for subparagraph (C), by inserting `WITHOUT

PERMANENT PARTNERS' after 'DAUGHTERS'.

(b) RULES FOR CHARGEABILITY- Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended--

(1) by inserting 'or permanent partner' after 'spouse' each place it appears; and

(2) by inserting 'or permanent partners' after 'husband and wife'.

SEC. 5. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY MEMBERS OF PERMANENT RESIDENT ALIENS- Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended--

(1) in the paragraph heading--

(A) by striking 'and' after 'SPOUSES' and inserting ', PERMANENT PARTNERS,'; and

(B) by inserting 'WITHOUT PERMANENT PARTNERS' after 'SONS' and after 'DAUGHTERS'; and

(2) in subparagraph (A)--

(A) by inserting ', permanent partners,' after 'spouses'; and

(B) by inserting 'without permanent partners' after 'sons' and after 'daughters'.

(b) PREFERENCE ALLOCATION FOR SONS AND DAUGHTERS OF CITIZENS- Section 203(a)(3) (8 U.S.C. 1153(a)(3)) is amended--

(1) in the paragraph heading, by inserting 'AND DAUGHTERS AND SONS WITH PERMANENT PARTNERS' after 'DAUGHTERS'; and

(2) by inserting 'or daughters or sons with permanent partners' after 'daughters'.

(c) EMPLOYMENT CREATION- Section 203(b)(5)(A)(iii) (8 U.S.C. 1153(b)(5)(A)(iii)) is amended by inserting 'permanent partner,' after 'spouse,'.

(d) TREATMENT OF FAMILY MEMBERS- Section 203(d) (8 U.S.C. 1153(d)) is amended by inserting ', permanent partner,' after 'spouse' each place the term appears.

SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

(a) CLASSIFICATION PETITIONS- Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is

amended--

(1) in subparagraph (A)(ii), by inserting `or permanent partner' after `spouse';

(2) in subparagraph (A)(iii)--

(A) by inserting `or permanent partner' after `spouse' each place the term appears; and

(B) by inserting `or permanent partnership' after `marriage' each place the term appears in subclause (I); and

(3) in subparagraph (B)(ii), by inserting `or permanent partner' after `spouse' each place the term appears.

(b) IMMIGRATION FRAUD PREVENTION- Section 204(c) (8 U.S.C. 1154(c)) is amended--

(1) by inserting `or permanent partner' after `spouse' each place the term appears; and

(2) by inserting `or permanent partnership' after `marriage' each place the term appears.

SEC. 7. ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES.

Section 207(c) (8 U.S.C. 1157(c)) is amended--

(1) in paragraph (2)--

(A) by inserting `or permanent partner' after `spouse' each place the term appears; and

(B) by inserting `or permanent partner's' after `spouse's'; and

(2) in paragraph (4), by inserting `or permanent partner' after `spouse'.

SEC. 8. ASYLUM.

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended--

(1) in the heading, by inserting `OR PERMANENT PARTNER' after `SPOUSE'; and

(2) by inserting `or permanent partner' after `spouse'.

SEC. 9. ADJUSTMENT OF STATUS OF REFUGEES.

Section 209(b)(3) (8 U.S.C. 1159(b)(3)) is amended by inserting `or permanent partner' after `spouse'.

SEC. 10. INADMISSIBLE ALIENS.

(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION- Section 212(a) (8 U.S.C. 1182(a)) is amended--

- (1) in paragraph (3)(D)(iv), by inserting `permanent partner,' after `spouse,';
- (2) in paragraph (4)(C)(i)(I), by inserting `, permanent partner,' after `spouse';
- (3) in paragraph (6)(E)(ii), by inserting `permanent partner,' after `spouse,'; and
- (4) in paragraph (9)(B)(v), by inserting `, permanent partner,' after `spouse'.

(b) WAIVERS- Section 212(d) (8 U.S.C. 1182(d)) is amended--

- (1) in paragraph (11), by inserting `permanent partner,' after `spouse,'; and
- (2) in paragraph (12)(B), by inserting `, permanent partner,' after `spouse'.

(c) Section 212(g)(1)(A) (8 U.S.C. 1182(g)(1)(A)) is amended by inserting `or permanent partner' after `spouse'.

(d) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended by inserting `permanent partner,' after `spouse,'.

(e) Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended by inserting `permanent partner,' after `spouse,'.

SEC. 11. ADMISSION OF NONIMMIGRANTS.

(a) PERSONS ENTERING UNDER NAFTA- Section 214(e)(2) (8 U.S.C. 1184(e)(2)) is amended by inserting `or permanent partner' after `spouse'.

(b) LIMITATION ON CERTAIN NONIMMIGRANTS- Section 214(g)(2) (8 U.S.C. 1184(g)(2)) is amended by inserting `, permanent partners,' after `spouses'.

SEC. 12. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.

(a) SECTION HEADING-

(1) IN GENERAL- The section heading for section 216 (8 U.S.C. 1186a) is amended by inserting 'AND PERMANENT PARTNERS' after 'SPOUSES'.

(2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216 to read as follows:

'Sec. 216. Conditional permanent resident status for certain alien spouses and permanent partners and sons and daughters.'

(b) IN GENERAL- Section 216(a) (8 U.S.C. 1186a(a)) is amended--

(1) in paragraph (1), by inserting 'or permanent partner' after 'spouse';

(2) in paragraph (2)(A), by inserting 'or permanent partner' after 'spouse';

(3) in paragraph (2)(B), by inserting 'permanent partner,' after 'spouse,'; and

(4) in paragraph (2)(C), by inserting 'permanent partner,' after 'spouse,'.

(c) TERMINATION OF STATUS IF FINDING THAT QUALIFYING MARRIAGE IMPROPER- Section 216(b) of such Act (8 U.S.C. 1186a(b)) is amended--

(1) in the heading, by inserting 'OR PERMANENT PARTNERSHIP' after 'MARRIAGE';

(2) in paragraph (1)(A), by inserting 'or permanent partnership' after 'marriage'; and

(3) in paragraph (1)(A)(ii)--

(A) by inserting 'or has ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after 'terminated,'; and

(B) by inserting 'or permanent partner' after 'spouse'.

(d) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION- Section 216(c) (8 U.S.C. 1186a(c)) is amended--

(1) in paragraphs (1), (2)(A)(ii), (3)(A)(ii), (3)(C), (4)(B), and (4)(C), by inserting 'or permanent partner' after 'spouse' each place the term appears;

(2) in paragraph (3)(A), in the matter following clause (ii), and in paragraph (3)(D), (4)(B), and (4)(C), by inserting 'or permanent partnership' after 'marriage' each place the term appears.

(e) CONTENTS OF PETITION- Section 216(d)(1) of such Act (8 U.S.C. 1186a(d)(1)) is amended--

(1) in the subparagraph heading for subparagraph (A), by inserting 'OR PERMANENT PARTNERSHIP' after 'MARRIAGE';

(2) in subparagraph (A)(i), by inserting 'or permanent partnership' after 'marriage';

(3) in subparagraph (A)(i)(I), by inserting before the comma at the end ', or is a permanent partnership recognized under this Act';

(4) in subparagraph (A)(i)(II)--

(A) by inserting 'or has not ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after 'terminated,'; and

(B) by inserting 'or permanent partner' after 'spouse';

(5) in subparagraph (A)(ii), by inserting 'or permanent partner' after 'spouse'; and

(6) in subparagraph (B)(i)--

(A) by inserting 'or permanent partnership' after 'marriage'; and

(B) by inserting 'or permanent partner' after 'spouse'.

(e) DEFINITIONS- Section 216(g) (8 U.S.C. 1186a(g)) is amended--

(1) in paragraph (1)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partnership' after 'marriage' each place the term appears;

(2) in paragraph (2), by inserting 'or permanent partnership' after 'marriage';

(3) in paragraph (3), by inserting 'or permanent partnership' after 'marriage'; and

(4) in paragraph (4)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partnership' after 'marriage'.

SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.

(a) SECTION HEADING-

(1) IN GENERAL- The section heading for section 216A (8 U.S.C. 1186b) is amended by inserting 'OR PERMANENT PARTNERS' after 'SPOUSES'.

(2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216A to read as follows:

'Sec. 216. Conditional permanent resident status for certain alien entrepreneurs, spouses or permanent partners, and children.'

(b) IN GENERAL- Section 216A(a) (8 U.S.C. 1186b(a)) is amended, in paragraphs (1), (2)(A), (2)(B), and (2)(C), by inserting 'or permanent partner' after 'spouse' each place the term appears.

(c) TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER- Section 216A(b)(1) (8 U.S.C. 1186b(b)(1)) is amended by inserting 'or permanent partner' after 'spouse' in the matter following subparagraph (C).

(d) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION- Section 216A(c) (8 U.S.C. 1186b(c)) is amended, in paragraphs (1), (2)(A)(ii), and (3)(C), by inserting 'or permanent partner' after 'spouse'.

(e) DEFINITIONS- Section 216A(f)(2) (8 U.S.C. 1186b(f)(2)) is amended by inserting 'or permanent partner' after 'spouse' each place the term appears.

SEC. 14. DEPORTABLE ALIENS.

Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended--

(1) in paragraph (1)(D)(i), by inserting 'or permanent partners' after 'spouses' each place the term appears;

(2) in paragraphs (1)(E)(ii), (1)(E)(iii), and (1)(H)(i), by inserting 'or permanent partner' after 'spouse';

(3) by adding at the end of paragraph (1) the following new subparagraph:

'(I) PERMANENT PARTNERSHIP FRAUD- An alien shall be

considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if--

`(i) the alien obtains any admission to the United States with an immigrant visa or other documentation procured on the basis of a permanent partnership entered into less than 2 years prior to such admission and which, within 2 years subsequent to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Attorney General that such permanent partnership was not contracted for the purpose of evading any provisions of the immigration laws; or

`(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's permanent partnership which in the opinion of the Attorney General was made for the purpose of procuring the alien's admission as an immigrant.'; and

(4) in paragraphs (2)(E)(i) and (3)(C)(ii), by inserting `or permanent partner' after `spouse' each place the term appears.

SEC. 15. REMOVAL PROCEEDINGS.

Section 240(e)(1) (8 U.S.C. 1229a(e)(1)) is amended by inserting `or permanent partner' after `spouse'.

SEC. 16. CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS.

Section 240A(b) (8 U.S.C. 1229b(b)) is amended--

(1) in paragraph (1)(D), by inserting `or permanent partner' after `spouse';

(2) in the heading for paragraph (2), by inserting `, PERMANENT PARTNER,' after `SPOUSE'; and

(3) in paragraph (2)(A), by inserting `, permanent partner,' after `spouse'.

SEC. 17. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.

(a) PROHIBITION ON ADJUSTMENT OF STATUS- Section 245(d) (8 U.S.C. 1255(d)) is amended by inserting `or permanent partnership' after `marriage'.

(b) AVOIDING IMMIGRATION FRAUD- Section 245(e) (8 U.S.C. 1255(e)) is amended--

(1) in paragraph (1), by inserting 'or permanent partnership' after 'marriage'; and

(2) by adding at the end the following new paragraph:

'(4) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the permanent partnership was entered into in good faith and in accordance with section 101(a)(50) and the permanent partnership was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien permanent partner. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.'

(c) ADJUSTMENT OF STATUS FOR CERTAIN ALIENS PAYING FEE- Section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)) is amended by inserting 'or permanent partner' after 'spouse' each place the term appears.

(d) INFORMANTS- Section 245(j) of such Act (8 U.S.C. 1255(j)) is amended by inserting 'permanent partner,' after 'spouse,' each place the term appears.

SEC. 18. MISREPRESENTATION AND CONCEALMENT OF FACTS.

Section 275(c) (8 U.S.C. 1325(c)) is amended by inserting 'or permanent partnership' after 'marriage'.

SEC. 19. REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION.

Section 316(b) (8 U.S.C. 1427(b)) is amended by inserting 'or permanent partner' after 'spouse'.

SEC. 20. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

Section 324(a) (8 U.S.C. 1435(a)) is amended, in the matter following 'after September 22, 1922,' by inserting 'or permanent partnership' after 'marriage' each place the term appears.

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REGIONAL WHIP

Congress of the United States
House of Representatives
Washington, DC 20515

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OFFICE OF CONGRESSMAN JERROLD NADLERDate: 2/15/2000 Time: _____To: Jesse and J. PotterFax#: 456-6218 Telephone#: 456-1687

From: Rep. Jerrold Nadler _____ Amy Rutkin _____
Brett Heimov _____ David Lachmann _____
John Doty X _____ Joshua Kruskol _____
Janice Siegel _____ David Greengrass _____
Rachel Kahn _____ Marisa Milton _____
Eric Schmeltzer _____ Intern _____

Number of Pages (including cover sheet): 18Comments: Permanent Partner info

If there is a problem with this fax please contact our office. Thank you.
PHONE 202-225-5635 FAX 202-225-6923

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EMERGENCY MANAGEMENT

REGIONAL WHIP

Congress of the United States
House of Representatives
 Washington, DC 20515

February 4, 2000

CO-SPONSOR

THE PERMANENT PARTNERS IMMIGRATION ACT
End Unfair Discrimination in our Immigration Laws

JERROLD NADLER
 8TH DISTRICT, NEW YORK

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Dear Colleague:

Please join me in co-sponsoring legislation to amend the Immigration and Nationality Act to allow United States citizens and lawful permanent residents to sponsor their "permanent partners" for residency in the United States.

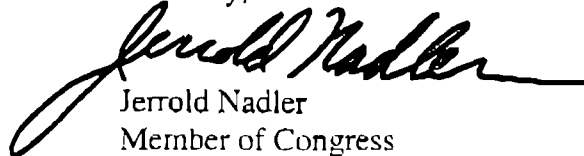
U.S. immigration is largely based on the principle of family unification, which allows U.S. citizens and legal permanent residents to sponsor their spouses (and other family members) for immigration purposes. Unfortunately, our current laws are based upon a restrictive definition of family. Same-sex partners of U.S. citizens and permanent residents are not currently included in family-based immigration. Because of this inhumane policy, thousands of lesbian and gay binational couples are kept apart, torn apart or forced to live with the foreign partner undocumented and in constant fear of deportation. We must combat this injustice in our immigration system.

Currently, thirteen countries recognize gay and lesbian couples for immigration purposes. Of those, six offer immigration rights to same-sex partners who have entered into 'Registered Partnership Agreements', a civil status similar to marriage. The remaining countries which do not have 'registered partnership' permit same-sex partners of their citizens to immigrate based on their relationship.

This bill is about justice, equality, and ending unfair discrimination.

If you would like to be an original co-sponsor of this legislation please contact me or John Doty at 225-5635 before February 10th. Thank you.

Sincerely,


 Jerrold Nadler
 Member of Congress

Current Co-Sponsors of the Permanent Partners Immigration Act

Rep. Barney Frank
Rep. Tammy Baldwin
Rep. Joseph Crowley
Rep. William Delahunt
Rep. Tom Lantos
Rep. Xavier Becerra
Rep. Jim McDermott
Rep. Maurice Hinchey
Rep. Michael Capuano
Rep. Henry Waxman
Rep. Ed Towns
Rep. Nancy Pelosi
Rep. Anthony Weiner

HR 3650 IH

106th CONGRESS

2d Session

H. R. 3650

To amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

February 14, 2000

Mr. NADLER (for himself, Mr. FRANK of Massachusetts, Ms. BALDWIN, Mr. CROWLEY, Mr. DELAHUNT, Mr. LANTOS, Mr. BECERRA, Mr. MCDERMOTT, Mr. HINCHEY, Mr. CAPUANO, Mr. WAXMAN, and Mr. TOWNS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide a mechanism for United States citizens and lawful permanent residents to sponsor their permanent partners for residence in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT.

(a) SHORT TITLE- This Act may be cited as the 'Permanent Partners Immigration Act of 2000'.

(b) AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT- Except as otherwise specifically provided whenever in this Act an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act.

SEC. 2. DEFINITION OF 'PERMANENT PARTNER'.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end the following:

“(50) The term ‘permanent partner’ means an individual over 18 years of age who--

“(A) is in a committed, intimate relationship with another individual over 18 years of age in which both parties intend a lifelong commitment;

“(B) is financially interdependent with that other individual;

“(C) is not married to or in a permanent partnership with anyone other than that other individual;

“(D) is unable to contract with that other individual a marriage cognizable under this Act; and

“(E) is not a first, second, or third degree blood relation of that other individual.

“(51) The term ‘permanent partnership’ means the relationship that exists between two permanent partners.”

SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.

Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended--

- (1) by inserting 'permanent partners,' after 'spouses';
- (2) by inserting 'or permanent partner' after 'spouse' each place such term appears; and
- (3) by inserting 'or enters a permanent partnership with another person' before the period at the end.

SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.

(a) PER COUNTRY LEVELS- Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended--

- (1) in the paragraph heading for paragraph (4), by inserting ', PERMANENT PARTNERS,' after 'SPOUSES';
- (2) in the subparagraph heading for subparagraph (A), by inserting ', PERMANENT PARTNERS,' after 'SPOUSES'; and
- (3) in the subparagraph heading for subparagraph (C), by inserting 'WITHOUT PERMANENT PARTNERS' after 'DAUGHTERS'.

(b) RULES FOR CHARGEABILITY- Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended--

- (1) by inserting 'or permanent partner' after 'spouse' each place it appears; and
- (2) by inserting 'or permanent partners' after 'husband and wife'.

SEC. 5. ALLOCATION OF IMMIGRANT VISAS.

(a) PREFERENCE ALLOCATION FOR FAMILY MEMBERS OF PERMANENT RESIDENT ALIENS- Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended--

(1) in the paragraph heading--

- (A) by striking 'and' after 'SPOUSES' and inserting ', PERMANENT PARTNERS,'; and
- (B) by inserting 'WITHOUT PERMANENT PARTNERS' after 'SONS' and after 'DAUGHTERS'; and

(2) in subparagraph (A)--

- (A) by inserting ', permanent partners,' after 'spouses'; and
- (B) by inserting 'without permanent partners' after 'sons' and after 'daughters'.

(b) PREFERENCE ALLOCATION FOR SONS AND DAUGHTERS OF CITIZENS- Section 203(a)(3) (8 U.S.C. 1153(a)(3)) is amended--

(1) in the paragraph heading, by inserting 'AND DAUGHTERS AND SONS WITH PERMANENT PARTNERS' after 'DAUGHTERS'; and

(2) by inserting 'or daughters or sons with permanent partners' after 'daughters'.

(c) EMPLOYMENT CREATION- Section 203(b)(5)(A)(iii) (8 U.S.C. 1153(b)(5)(A)(iii)) is amended by inserting 'permanent partner,' after 'spouse,'.

(d) TREATMENT OF FAMILY MEMBERS- Section 203(d) (8 U.S.C. 1153(d)) is amended by inserting ', permanent partner,' after 'spouse' each place the term appears.

SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.

(a) CLASSIFICATION PETITIONS- Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended--

- (1) in subparagraph (A)(ii), by inserting 'or permanent partner' after 'spouse';

(2) in subparagraph (A)(iii)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partnership' after 'marriage' each place the term appears in subclause (I); and

(3) in subparagraph (B)(ii), by inserting 'or permanent partner' after 'spouse' each place the term appears.

(b) IMMIGRATION FRAUD PREVENTION- Section 204(c) (8 U.S.C. 1154(c)) is amended--

(1) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(2) by inserting 'or permanent partnership' after 'marriage' each place the term appears.

SEC. 7. ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES.

Section 207(c) (8 U.S.C. 1157(c)) is amended--

(1) in paragraph (2)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partner's' after 'spouse's'; and

(2) in paragraph (4), by inserting 'or permanent partner' after 'spouse'.

SEC. 8. ASYLUM.

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended--

(1) in the heading, by inserting 'OR PERMANENT PARTNER' after 'SPOUSE'; and

(2) by inserting 'or permanent partner' after 'spouse'.

SEC. 9. ADJUSTMENT OF STATUS OF REFUGEES.

Section 209(b)(3) (8 U.S.C. 1159(b)(3)) is amended by inserting 'or permanent partner' after 'spouse'.

SEC. 10. INADMISSIBLE ALIENS.

(a) CLASSES OF ALIENS INELIGIBLE FOR VISAS OR ADMISSION- Section 212(a) (8 U.S.C. 1182(a)) is amended--

(1) in paragraph (3)(D)(iv), by inserting 'permanent partner,' after 'spouse,';

(2) in paragraph (4)(C)(i)(I), by inserting ', permanent partner,' after 'spouse';

(3) in paragraph (6)(E)(ii), by inserting 'permanent partner,' after 'spouse,'; and

(4) in paragraph (9)(B)(v), by inserting ', permanent partner,' after 'spouse'.

(b) WAIVERS- Section 212(d) (8 U.S.C. 1182(d)) is amended--

(1) in paragraph (11), by inserting 'permanent partner,' after 'spouse,'; and

(2) in paragraph (12)(B), by inserting ', permanent partner,' after 'spouse'.

- (c) Section 212(g)(1)(A) (8 U.S.C. 1182(g)(1)(A)) is amended by inserting 'or permanent partner' after 'spouse'.
- (d) Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended by inserting 'permanent partner,' after 'spouse,'.
- (c) Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended by inserting 'permanent partner,' after 'spouse,'.

SEC. 11. ADMISSION OF NONIMMIGRANTS.

- (a) PERSONS ENTERING UNDER NAFTA- Section 214(e)(2) (8 U.S.C. 1184(e)(2)) is amended by inserting 'or permanent partner' after 'spouse'.
- (b) LIMITATION ON CERTAIN NONIMMIGRANTS- Section 214(g)(2) (8 U.S.C. 1184(g)(2)) is amended by inserting ', permanent partners,' after 'spouses'.

SEC. 12. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.

(a) SECTION HEADING-

- (1) IN GENERAL- The section heading for section 216 (8 U.S.C. 1186a) is amended by inserting 'AND PERMANENT PARTNERS' after 'SPOUSES'.
- (2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216 to read as follows:

'Sec. 216. Conditional permanent resident status for certain alien spouses and permanent partners and sons and daughters.'

(b) IN GENERAL- Section 216(a) (8 U.S.C. 1186a(a)) is amended--

- (1) in paragraph (1), by inserting 'or permanent partner' after 'spouse';
- (2) in paragraph (2)(A), by inserting 'or permanent partner' after 'spouse';
- (3) in paragraph (2)(B), by inserting 'permanent partner,' after 'spouse,'; and
- (4) in paragraph (2)(C), by inserting 'permanent partner,' after 'spouse,'.

(c) TERMINATION OF STATUS IF FINDING THAT QUALIFYING MARRIAGE IMPROPER- Section 216(b) of such Act (8 U.S.C. 1186a(b)) is amended--

- (1) in the heading, by inserting 'OR PERMANENT PARTNERSHIP' after 'MARRIAGE';
- (2) in paragraph (1)(A), by inserting 'or permanent partnership' after 'marriage'; and
- (3) in paragraph (1)(A)(ii)--
 - (A) by inserting 'or has ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after 'terminated,'; and
 - (B) by inserting 'or permanent partner' after 'spouse'.

(d) REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION- Section 216(c) (8 U.S.C. 1186a(c)) is amended--

- (1) in paragraphs (1), (2)(A)(ii), (3)(A)(ii), (3)(C), (4)(B), and (4)(C), by inserting 'or permanent partner' after 'spouse' each place the term appears;
- (2) in paragraph (3)(A), in the matter following clause (ii), and in paragraph (3)(D), (4)(B), and (4)(C), by inserting 'or permanent partnership' after 'marriage' each place the term appears.

(e) CONTENTS OF PETITION- Section 216(d)(1) of such Act (8 U.S.C. 1186a(d)(1)) is amended--

(1) in the subparagraph heading for subparagraph (A), by inserting 'OR PERMANENT PARTNERSHIP' after 'MARRIAGE';

(2) in subparagraph (A)(i), by inserting 'or permanent partnership' after 'marriage';

(3) in subparagraph (A)(i)(I), by inserting before the comma at the end ', or is a permanent partnership recognized under this Act';

(4) in subparagraph (A)(i)(II)--

(A) by inserting 'or has not ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after 'terminated,'; and

(B) by inserting 'or permanent partner' after 'spouse';

(5) in subparagraph (A)(ii), by inserting 'or permanent partner' after 'spouse'; and

(6) in subparagraph (B)(i)--

(A) by inserting 'or permanent partnership' after 'marriage'; and

(B) by inserting 'or permanent partner' after 'spouse'.

(e) DEFINITIONS- Section 216(g) (8 U.S.C. 1186a(g)) is amended--

(1) in paragraph (1)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partnership' after 'marriage' each place the term appears;

(2) in paragraph (2), by inserting 'or permanent partnership' after 'marriage';

(3) in paragraph (3), by inserting 'or permanent partnership' after 'marriage'; and

(4) in paragraph (4)--

(A) by inserting 'or permanent partner' after 'spouse' each place the term appears; and

(B) by inserting 'or permanent partnership' after 'marriage'.

SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.

(a) SECTION HEADING-

(1) IN GENERAL- The section heading for section 216A (8 U.S.C. 1186b) is amended by inserting 'OR PERMANENT PARTNERS' after 'SPOUSES'.

(2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216A to read as follows:

'Sec. 216. Conditional permanent resident status for certain alien entrepreneurs, spouses or permanent partners, and children.'

(b) IN GENERAL- Section 216A(a) (8 U.S.C. 1186b(a)) is amended, in paragraphs (1), (2)(A), (2)(B), and (2)(C), by inserting 'or permanent partner' after 'spouse' each place the term appears.

(c) **TERMINATION OF STATUS IF FINDING THAT QUALIFYING ENTREPRENEURSHIP IMPROPER-** Section 216A(b)(1) (8 U.S.C. 1186b(b)(1)) is amended by inserting 'or permanent partner' after 'spouse' in the matter following subparagraph (C).

(d) **REQUIREMENTS OF TIMELY PETITION AND INTERVIEW FOR REMOVAL OF CONDITION-** Section 216A(c) (8 U.S.C. 1186b(c)) is amended, in paragraphs (1), (2)(A)(ii), and (3)(C), by inserting 'or permanent partner' after 'spouse'.

(e) **DEFINITIONS-** Section 216A(f)(2) (8 U.S.C. 1186b(f)(2)) is amended by inserting 'or permanent partner' after 'spouse' each place the term appears.

SEC. 14. DEPORTABLE ALIENS.

Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended--

(1) in paragraph (1)(D)(i), by inserting 'or permanent partners' after 'spouses' each place the term appears;

(2) in paragraphs (1)(E)(ii), (1)(E)(iii), and (1)(H)(i), by inserting 'or permanent partner' after 'spouse';

(3) by adding at the end of paragraph (1) the following new subparagraph:

“(I) **PERMANENT PARTNERSHIP FRAUD-** An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if--

“(i) the alien obtains any admission to the United States with an immigrant visa or other documentation procured on the basis of a permanent partnership entered into less than 2 years prior to such admission and which, within 2 years subsequent to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Attorney General that such permanent partnership was not contracted for the purpose of evading any provisions of the immigration laws; or

“(ii) it appears to the satisfaction of the Attorney General that the alien has failed or refused to fulfill the alien's permanent partnership which in the opinion of the Attorney General was made for the purpose of procuring the alien's admission as an immigrant.”; and

(4) in paragraphs (2)(E)(i) and (3)(C)(ii), by inserting 'or permanent partner' after 'spouse' each place the term appears.

SEC. 15. REMOVAL PROCEEDINGS.

Section 240(e)(1) (8 U.S.C. 1229a(e)(1)) is amended by inserting 'or permanent partner' after 'spouse'.

SEC. 16. CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS.

Section 240A(b) (8 U.S.C. 1229b(b)) is amended--

(1) in paragraph (1)(D), by inserting 'or permanent partner' after 'spouse';

(2) in the heading for paragraph (2), by inserting ', PERMANENT PARTNER,' after 'SPOUSE'; and

(3) in paragraph (2)(A), by inserting ', permanent partner,' after 'spouse'.

SEC. 17. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.

(a) **PROHIBITION ON ADJUSTMENT OF STATUS-** Section 245(d) (8 U.S.C. 1255(d)) is amended by inserting 'or permanent partnership' after 'marriage'.

(b) **AVOIDING IMMIGRATION FRAUD-** Section 245(c) (8 U.S.C. 1255(e)) is amended--

(1) in paragraph (1), by inserting 'or permanent partnership' after 'marriage'; and

(2) by adding at the end the following new paragraph:

'(4) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership if the alien establishes by clear and convincing evidence to the satisfaction of the Attorney General that the permanent partnership was entered into in good faith and in accordance with section 101(a)(50) and the permanent partnership was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien permanent partner. In accordance with regulations, there shall be only one level of administrative appellate review for each alien under the previous sentence.'

(c) ADJUSTMENT OF STATUS FOR CERTAIN ALIENS PAYING FEE- Section 245(i)(1)(B) (8 U.S.C. 1255(i)(1)(B)) is amended by inserting 'or permanent partner' after 'spouse' each place the term appears.

(d) INFORMANTS- Section 245(j) of such Act (8 U.S.C. 1255(j)) is amended by inserting 'permanent partner,' after 'spouse,' each place the term appears.

SEC. 18. MISREPRESENTATION AND CONCEALMENT OF FACTS.

Section 275(c) (8 U.S.C. 1325(c)) is amended by inserting 'or permanent partnership' after 'marriage'.

SEC. 19. REQUIREMENTS AS TO RESIDENCE, GOOD MORAL CHARACTER, ATTACHMENT TO THE PRINCIPLES OF THE CONSTITUTION.

Section 316(b) (8 U.S.C. 1427(b)) is amended by inserting 'or permanent partner' after 'spouse'.

SEC. 20. FORMER CITIZENS OF UNITED STATES REGAINING UNITED STATES CITIZENSHIP.

Section 324(a) (8 U.S.C. 1435(a)) is amended, in the matter following 'after September 22, 1922,' by inserting 'or permanent partnership' after 'marriage' each place the term appears.

END

The Permanent Partners Immigration Act of 2000

Section 1 is the short title for the bill, "Permanent Partners Immigration Act of 2000."

Section 2 adds the definition of permanent partner and permanent partnership to definitions section of Immigration and Naturalization Act (INA). The bill defines permanent partner as an individual over 18 years of age who -- is in a committed, intimate relationship with another unmarried individual over 18 years of age in which both parties intend a lifelong commitment; is financially interdependent with that other individual; is not married to or in a permanent partnership with anyone other than that other individual; is unable to contract with that other individual a marriage cognizable under this Act; and is not a first, second, or third degree blood relation of that other individual..

Section 3 amends the section of the INA that limits the worldwide level of immigration to family-sponsored immigrants, employment-based immigrants, and diversity immigrants. Certain individuals are exempt from these numerical limits including legal permanent residents and immediate family members. Immediate relatives includes children, spouses, and parents. This bill would add "permanent partners" to this list of immediate relatives.

Section 4 amends the section of the INA that limits the level of immigration from individual countries. Under current law, special consideration is given to spouses and children of legal permanent residents so that most are not counted against the numerical limitation placed on each nation. This bill would add "permanent partners" to this group that receives special consideration. In addition, under current law unmarried children receive special consideration. This bill would ensure that unmarried children must also not be in a permanent partnership in order to qualify for the benefits of an unmarried child.

Section 5 amends the section of the INA that allocates visas in a given order: unmarried children of citizens, spouses and unmarried children of permanent resident aliens, married sons and daughters of citizens, skilled workers, etc. This bill would add permanent partners to this section and add that unmarried children must also not be in a permanent partnership in order to qualify for the benefits of an unmarried child. This section would also bar a person who applies for an employment creation-based visa to count his or her permanent partner among citizens employed, and would enable a permanent partner accompanying or following to join his or her permanent partner to be entitled to an immigrant status and immediate issuance of a visa.

Section 6 amends the section of the INA that describes the procedure for granting immigrant status. This section of the bill would allow a foreign permanent partner to file a petition for immediate relative status. It would also bar anyone who had previously filed for a permanent partnership, that was determined by the Attorney General to be fraudulent, from being approved as a permanent partner. This measure is intended to reduce fraud and prevent anyone from abusing the system.

Section 7 amends the section of the INA that describes admission status of spouses and children of refugees. This bill provides that a permanent partner of a refugee who is not him or herself a refugee is entitled to same immigrant status as the refugee if accompanying or following to join the refugee, and that the admission shall be charged against the numerical limitation established in accordance with the appropriate subsection under which the refugee's admission is charged, and provides that the Attorney General may terminate the refugee status of a permanent partner if the Attorney General determines that the alien was not in fact a refugee.

Section 8 provides that a permanent partner of an alien who is granted asylum may be granted the same immigration status as the alien if accompanying or following to join the alien.

Section 9 provides for the maximum number of adjustments of status to Legal Permanent Resident for refugees and their permanent partners.

Section 10 amends the section of the INA that describes inadmissible aliens. For example, individuals who entered the country illegally, brought others into the country illegally, are members of totalitarian parties, or are likely to become a public charge are generally inadmissible. However, current law also includes numerous exceptions for parents, children, and spouses of US citizens or legal permanent residents who may fall into one of the above categories. This section of the bill would add permanent partners to the group of people who may be eligible for certain exceptions.

Section 11 amends the INA that was written as part of NAFTA. Under current law, citizens of Mexico and Canada who enter the country for business purposes can bring their spouses and children with them. This bill would add permanent partners to this section.

Section 12 provides that an alien permanent partner who receives Legal Permanent Resident status has obtained that status on a conditional basis pursuant to the provisions that follow in this section. This is similar to the conditional status that is granted to spouses under current law. The conditional status can be revoked if the Attorney General

determines within two years that the marriage has been terminated or that the purpose of the marriage was to evade immigration law. Under this bill, the same restrictions would apply to a permanent partnership and the Attorney General would have the ability to revoke the conditional status if the partnership is terminated or was entered into in order to evade immigration laws.

Section 13 amends the section of the INA that grants certain benefits for alien entrepreneurs and allows for conditional permanent resident status of their spouses and children. This bill would also allow permanent partners of alien entrepreneurs to obtain conditional permanent resident status.

Section 14 provides that an alien with conditional permanent resident status as the permanent partner of another is deportable if that status is terminated within two years subsequent to such admission unless the partner can demonstrate to the Attorney General that the relationship was not entered into for the purpose of evading any provisions of the immigrations laws.

Section 15 amends the section of the INA which provides that a removal order for failure to appear at a removal hearing may be rescinded because of "exceptional circumstances." Under current law, exceptional circumstances can include the serious illness of a spouse, child, or parent. This bill would add permanent partner to that list.

Section 16 amends the section on cancellation of removal. Under current law, the Attorney General can cancel removal if doing so would result in exceptional and extremely unusual hardship to the alien's spouse, parent, or child. This bill would add permanent partner to that list.

Section 17 amends the section on adjustment of status. It adds "permanent partner" to the subsection title regarding restrictions on adjustment of status based on marriages entered while in admissibility or deportation proceedings, provides that an alien in deportation proceedings may not have his or her status adjusted based on a permanent partnership entered into during those proceedings, provides that the prohibition described in (b) above will not apply if an alien establishes to the Attorney General's satisfaction that the permanent partnership was entered into in good faith and not for the purpose of procuring the alien's admission as an immigrant, and (with the two following sections) provides that certain classes of aliens who are the beneficiaries of a petition for classification under the INA or an application for a labor certification and are accompanying their permanent

partners may apply to have their status adjusted to that of an alien lawfully admitted for permanent residence.

Section 18 is designed to prevent partnership fraud by subjecting anyone who knowingly enters into a permanent partnership in order to evade immigration laws to be imprisoned for not more than 5 years, or fined not more than \$250,000 or both.

Section 19 adds the term permanent partner to a list that includes spouses and dependent children that are members of the household of a person who qualifies for the benefits of this subsection. These individuals would then be entitled to the benefits during the period for which they were residing abroad as dependent members of the household of the person.

Section 20 would allow permanent partners who lost U.S. citizenship simply by entering a permanent partnership with someone else, may nevertheless be naturalized as a U.S. citizen if certain conditions are met. This parallel's the same provision that exists for married individuals in the same situation.

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Gay Couples Are Divided by '96 Immigration Laws

By ANDREW JACOBS

A dozen roses in hand and butterflies in his stomach, Kent McCoy stood in the arrivals area at Kennedy International Airport last summer waiting for his companion, Samer Yahya, to return from a monthlong visit with relatives in Italy.

But as the last passengers trickled out of the customs area that August evening, Mr. McCoy's anticipation turned to panic. Three hours later, with the terminal deserted and the roses wilting, an immigration agent appeared and told Mr. McCoy that his partner of four years had been detained for carrying a flawed visa. "We've got your friend," Mr. McCoy said the officer told him. "We're sending him back."

Mr. Yahya, 29, a theater major at Trinity College in Hartford, says he did not know that his student visa had been improperly issued in the United States when it should have been issued in Rome. Still, he said he was strip-searched, dressed in a prison jumpsuit and shackled to a bench overnight at the airport. He and Mr. McCoy were not allowed to speak, and the next day, he was put on a plane bound for Rome.

Seven months later, the two men are still separated. The American Embassy in Rome denied Mr. Yahya a new student visa, saying that although he was a legitimate student, he was likely to stay in this country illegally after finishing his studies.

Like thousands of gay Americans in relationships with foreigners, Mr. McCoy discovered that although he considered himself married, his relationship with Mr. Yahya had no legal standing and offered him no protection against deportation.

While heterosexuals in similar circumstances can marry and automatically gain residency rights for their spouses -- even if the spouse entered the country illegally -- gay men and women who would be willing to make a similar legal commitment to one another cannot.

Caught in Grip of Inflexible Law

And since 1996, when Congress passed a collection of new immigration laws, the few provisions that once were interpreted to allow gay partners to stay in this country have been eliminated. These laws were aimed, in general, at slowing the tide of illegal immigrants coming to this country, not in particular at this group. But gay couples have been caught up in its strict enforcement.

For example, judges, who previously had the discretion to waive a deportation on humanitarian grounds and might have allowed someone like Mr. Yahya to stay, are now obliged to deport such

illegal immigrants -- even when they and their partners share mortgages, businesses, homes and children.

As a result, immigration lawyers estimated, tens of thousands of relationships have been thrown in jeopardy or broken apart by the new deportation drive, which has sent nearly 290,000 immigrants back to their countries since 1997, more than double the number from the previous two years.

"It doesn't matter that we've been sharing a home and a life for years, that we're essentially married," said Mr. McCoy, 46, an architect who lives in Hartford. "We've been torn apart."

Elaine Komis, a spokeswoman for the Immigration and Naturalization Service, said there was nothing her agency could do. "We don't make the laws," she said. "Congress does. This would be a major change to the immigration preference system, one that requires an act of Congress."

But advocates of rights for gay people said a Congress that passed the 1996 Defense of Marriage Act, legislation that withholds Federal benefits from the partners of gay men and women, is unlikely to change immigration law to help couples like Mr. Yahya and Mr. McCoy.

Representative Bob Barr, a conservative Republican from Georgia, agreed that such legislation would stand little chance.

"It never ceases to amaze me the off-the-wall things people come up with," he said. "How would immigration officials distinguish between life partners and sex partners? How would they even know who is homosexual and who isn't? There would be so much room for abuse."

For many couples, staying together requires a combination of luck, guile and, sometimes, a willingness to break the law.

Foreigners with special skills may qualify for work permits, but such visas are hard to get and last only six years. Some remain here on tourist visas, which allow them to come and go but are issued with the expectation that the visa holder will live in his or her home country and visit the United States occasionally. And so every few months, as a way of pretending that they do not actually live here, such people leave the country, hoping that a border agent will not turn them back on their return.

For a handful, there is asylum, but that option is available only to those who can prove that returning to their home country would expose them to some form of persecution.

There is also the "green card marriage," a fake union to someone of the opposite sex. Such an arrangement is a felony, however, with penalties of imprisonment, fines and a lifetime ban on re-entering the country.

Many who are desperate simply ignore the laws and remain here illegally when their proper documents expire.

And for many, moving to the partner's country, even if the American is willing to give up family and career, is impossible in the face of similar or even more severe immigration restrictions.

When all else fails, there is Canada, one of 10 countries that grant immigration rights to same-sex partners. A growing number of gay Americans are moving there, though many say they do so bitterly.

Bruce MacDonald, 48, a medical social worker in Seattle, has applied to the Canadian Government for immigrant status. If granted, he will have the right to bring in his partner, a Thai national who has been repeatedly denied a visitor's visa by the United States. So far the process has taken two years and cost Mr. MacDonald \$4,000 in legal fees.

"Imagine being forced by your government to leave behind family and friends because your relationship has no value," Mr. MacDonald said. "It's wrenching."

Sitting in the fluorescent glare of an Immigration Court waiting room in Newark last month,

Christiana Pacheco and Alexandra Sousa anxiously held hands while a Federal immigration judge decided their future. With a ticket to Lisbon in her pocket, Ms. Sousa was prepared for the worst.

For the last eight years, the two women have shared a modest ranch house in a Philadelphia suburb, where they have been raising Katie, Ms. Pacheco's 8-year-old daughter from her former marriage.

Born in Portugal, Ms. Sousa, 29, came to the United States with her family as a teen-ager. When her parents returned home several years ago, she was already involved with Ms. Pacheco and decided to stay, even though she was not here legally. "At that point, I had a family of my own," she said.

When the new immigration laws were passed three years ago, Ms. Sousa, a software designer, decided to deal with her undocumented status. On the advice of a lawyer, she filed an asylum claim, citing anti-gay persecution at home. She now realizes it was a mistake.

Isn't There Some State?

During a hearing last year, Judge Nicole Y. K. Kim found no grounds for asylum and suggested the women find another way to preserve their family. "Isn't there some state where you two can get married?" the judge asked. No, there is not, and even if there were, the 1996 Federal law denies gay couples any benefits of marriage under immigration rules.

On this February morning, Judge Kim was deciding whether Ms. Sousa should be deported immediately -- which would have meant being barred from re-entry for up to 10 years -- or allowed to leave and preserve her right to return someday. The judge granted her 120 days to leave, the maximum, and wished her good luck.

"I feel like I'm dying," Ms. Sousa said as the couple and their lawyers left the courtroom. The most harrowing thing, she said, was having to break the news to the child she had raised since infancy. "She won't understand that I don't have the proper papers, that I have to go far away," she said.

Representative Jerrold L. Nadler said he hoped to introduce legislation that would give same-sex partners immigration rights. But Mr. Nadler, a Democrat from New York, said he was not optimistic that such a bill would pass.

"In a Republican Congress, the chances are zero to none," he said. "Anything you do to help gay people deal with real-life problems they see as an affirmation of the gay life style."

The Lesbian and Gay Immigration Rights Task Force, which has about 7,000 members and seven branches nationwide, has started a lobbying campaign to change the law, but its leaders acknowledge that it might be years before the changes gain favor in Congress. It has been only a decade, they point out, since Congress repealed a law that barred gay men and women from entering the United States at all.

Despite the insecurity of holding a temporary student visa, Michel Buffet, a 29-year-old French national, bought a house this month in Montclair, N.J., with his American partner, Robert Mogel, a vice president of a medical supply company. The couple, who have been together for nine years, are also planning to adopt a child.

As he comes to the end of his doctoral program in organizational psychology at Columbia University, Mr. Buffet hopes to secure a work visa by persuading officials that he has skills that are needed in this country -- the only way he can stay here legally.

"I don't think either of us will ever feel relaxed," Mr. Buffet said, "until I have that paper in my hand."

Although he has no clear strategy for bringing him back, Kent McCoy still keeps Samer Yahya's voice on his answering machine's outgoing message. The two communicate several times a day by E-mail, and though Trinity College continues to hold Mr. Yahya's scholarship, Mr. McCoy says

he is starting to lose hope.

At the moment, moving to Canada looks like the only viable option, but Mr. McCoy cringes at the thought of giving up his architectural practice, his friends and his home.

"I'm the third generation in Hartford," he said. "I have an elderly mother to look after. My whole life is here."

He mentioned a friend who recently met a woman during a vacation in Russia. After a brief romance, they were married, and six weeks later, she was living in the United States.

"I'm not asking for special rights," he said. "All I want is to be treated like everyone else."



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