

Bill Nelson
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AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide for the processing of visa applications and adjustment of status for certain aliens whose qualifying relative died while their application was pending.

IN THE SENATE OF THE UNITED STATES—110th Cong., 1st Sess.

S. 1348

AMENDMENT No. 1381

By *Nelson (FL)* id for

To: _____

1 *S 1348* and
5

Page(s)

GPO: 2006 30-772 (Mac)

AMENDMENT intended to be proposed by Mr. NELSON of Florida

Viz:

1 At the appropriate place, insert the following:

2 **SEC. ____ . RELIEF FOR WIDOWS AND ORPHANS.**

3 (a) TRANSITION PERIOD.—

4 (1) IN GENERAL.—In applying section
5 201(b)(2)(B) of the Immigration and Nationality
6 Act, as amended by this Act, to an alien whose cit-
7 izen relative died before the date of the enactment
8 of this Act, the alien relative may file a petition
9 under section 204(a)(1)(A)(ii) of such Act not later

1 than 2 years after the date of the enactment of this
2 Act.

3 (2) PAROLE; ADJUSTMENT OF STATUS.—If the
4 alien was excluded, deported, removed, or departed
5 voluntarily before the date of the enactment of this
6 Act based solely upon the alien’s lack of classifica-
7 tion as an immediate relative due to the citizen rel-
8 ative’s death—

9 (A) such alien may be paroled into the
10 United States pursuant to section 212(d)(5);
11 and

12 (B) notwithstanding section 212(a)(9) of
13 such Act, such alien’s application for adjust-
14 ment of status shall be considered by the Sec-
15 retary.

16 (b) ADJUSTMENT OF STATUS.—Section 245 (8
17 U.S.C. 1255) is amended by adding at the end the fol-
18 lowing:

19 “(n) APPLICATIONS FOR ADJUSTMENT OF STATUS
20 BY SURVIVING SPOUSE AND CHILDREN.—

21 “(1) IN GENERAL.—Any alien described in
22 paragraph (2) who applied for adjustment of status
23 before the death of the qualifying relative, may have
24 such application adjudicated as if such death had
25 not occurred.

1 “(2) ALIEN DESCRIBED.—An alien described in
2 this paragraph is an alien who—

3 “(A) is an immediate relative (as described
4 in section 201(b)(2)(A));

5 “(B) is a family-sponsored immigrant (as
6 described in subsections (a) and (d) of sub-
7 section 203); or

8 “(C) is a derivative beneficiary of an em-
9 ployment-based immigrant under section
10 203(b).”.

11 (c) TRANSITION PERIOD.—

12 (1) IN GENERAL.—Notwithstanding a denial of
13 an application for adjustment of status, such appli-
14 cation may be renewed by an alien whose qualifying
15 relative died before the date of the enactment of this
16 Act if a motion to reopen is filed, without a fee, not
17 later than 2 years after the date of the enactment
18 of this Act.

19 (2) PAROLE; ADJUSTMENT OF STATUS.—If the
20 alien was excluded, deported, removed, or departed
21 voluntarily before the date of the enactment of this
22 Act—

23 (A) such alien may be paroled into the
24 United States pursuant to section 212(d)(5) of

1 the Immigration and Nationality Act (8 U.S.C.
2 1182(d)(5)); and

3 (B) notwithstanding section 212(a)(9) of
4 such Act, such alien's application for adjust-
5 ment of status shall be considered by the Sec-
6 retary.

7 (d) PROCESSING OF IMMIGRANT VISAS BY THE DE-
8 PARTMENT OF STATE .—Section 204(b) (8 U.S.C.
9 1154(b)) is amended—

10 (1) by inserting “(1)” before “After an inves-
11 tigation”; and

12 (2) by adding at the end the following:

13 “(2) Any alien described in paragraph (3) whose
14 qualifying relative died prior to completion of immigrant
15 visa processing may have an immigrant visa application
16 adjudicated as if such death had not occurred, and any
17 immigrant visa issued before the death of the qualifying
18 relative shall remain valid.

19 “(3) An alien described in this paragraph is an alien
20 who—

21 “(A) is an immediate relative (as described in
22 section 201(b)(2)(A));

23 “(B) is a family-sponsored immigrant (as de-
24 scribed in subsections (a) and (d) of section 203); or

1 “(C) is a derivative beneficiary of an employ-
2 ment-based immigrant under section 203(b).”.

3 (e) NATURALIZATION.—Section 319(a) (8 U.S.C.
4 1429(a)) is amended by inserting “or, if the spouse is de-
5 ceased, was the spouse of a citizen of the United States
6 at the time of such death,” after “citizen of the United
7 States,”.