

103^D CONGRESS
1ST SESSION

H. R. 782

To amend the Immigration and Nationality Act to permit the spouses of citizens and permanent resident aliens to file classification petitions for immediate relative and second preference family status and to permit the use of credible evidence in spousal waiver applications for removal of conditional permanent residence.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1993

Mr. MAZZOLI introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to permit the spouses of citizens and permanent resident aliens to file classification petitions for immediate relative and second preference family status and to permit the use of credible evidence in spousal waiver applications for removal of conditional permanent residence.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ALIEN SPOUSE PETITIONING RIGHTS FOR IM-**
2 **MEDIATE RELATIVE OR SECOND PREF-**
3 **ERENCE STATUS.**

4 (a) IN GENERAL.—Section 204(a)(1) of the Immi-
5 gration and Nationality Act (8 U.S.C. 1154(a)(1)) is
6 amended—

7 (1) in subparagraph (A)—

8 (A) by inserting “(i)” after “(A)”,

9 (B) by redesignating the second sentence
10 as clause (ii), and

11 (C) by adding at the end the following new
12 clause:

13 “(iii) An alien who is the spouse of a citizen of the
14 United States, who is eligible to be classified as an imme-
15 diate relative under section 201(b)(2)(A)(i), and who has
16 resided in the United States with the alien’s spouse may
17 file a petition with the Attorney General under this sub-
18 paragraph for classification of the alien (and children of
19 the alien) under such section if the alien demonstrates to
20 the Attorney General that—

21 “(I) the alien is residing in the United States,
22 the marriage between the alien and the spouse was
23 entered into in good faith by the alien, and during
24 the marriage the alien has been battered by or has
25 been the subject of extreme cruelty perpetrated by
26 the alien’s spouse, or

1 “(II) the alien is residing in the United States
2 with the alien’s spouse, the alien has been married
3 to and residing with the spouse for a period of not
4 less than 3 years, and the alien’s spouse has failed
5 to file a petition under clause (i) on behalf of the
6 alien.”; and

7 (2) in subparagraph (B)—

8 (A) by inserting “(i)” after “(B)”, and

9 (B) by adding at the end the following new
10 clause:

11 “(ii) An alien who is the spouse of an alien lawfully
12 admitted for permanent residence, who is eligible for clas-
13 sification under section 203(a)(2)(A), and who has resided
14 in the United States with the alien’s legal permanent resi-
15 dent spouse may file a petition with the Attorney General
16 under this subparagraph for classification of the alien
17 (and children of the alien) under such section if the alien
18 demonstrates to the Attorney General that the conditions
19 described in subclause (I) or (II) of subparagraph (A)(iii)
20 are met with respect to the alien.”.

21 (b) CONFORMING AMENDMENTS.—(1) Section
22 204(a)(2) of such Act (8 U.S.C. 1154(a)(2)) is amended—

23 (A) in subparagraph (A), by striking “filed by
24 an alien who” and inserting “for the classification of
25 the spouse of an alien if the alien,”, and

1 (B) in subparagraph (B), by striking “by an
2 alien whose prior marriage” and inserting “for the
3 classification of the spouse of an alien if the prior
4 marriage of the alien”.

5 (2) Section 201(b)(2)(A)(i) of such Act (8 U.S.C.
6 1151(b)(2)(A)(i)) is amended by striking “204(a)(1)(A)”
7 and inserting “204(a)(1)(A)(ii)”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall take effect January 1, 1994.

10 **SEC. 2. USE OF CREDIBLE EVIDENCE IN SPOUSAL WAIVER**
11 **APPLICATIONS.**

12 (a) IN GENERAL.—Section 216(c)(4) of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1186a(c)(4)) is amend-
14 ed by inserting after the second sentence the following:
15 “In acting on applications under this paragraph, the At-
16 torney General shall consider any credible evidence sub-
17 mitted in support of the application (whether or not the
18 evidence is supported by an evaluation of a licensed mental
19 health professional). The determination of what evidence
20 is credible and the weight to be given that evidence shall
21 be within the sole discretion of the Attorney General”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to applications made be-
25 fore, on, or after such date.

