

AMENDMENT TO RULES COMMITTEE PRINT 118-
10
OFFERED BY MS. ROSS OF NORTH CAROLINA

Add at the end of title XVIII the following:

1 **SEC. ____ . AGE-OUT PROTECTIONS AND PRIORITY DATE**

2 **RETENTION.**

3 (a) AGE-OUT PROTECTIONS.—

4 (1) IN GENERAL.—The Immigration and Na-
5 tionality Act (8 U.S.C. 1101 et seq.) is amended—

6 (A) in section 101(b) (8 U.S.C. 1101(b)),
7 by adding at the end the following:

8 “(6) DETERMINATION OF CHILD STATUS.—A
9 determination as to whether an alien is a child shall
10 be made as follows:

11 “(A) IN GENERAL.—For purposes of a pe-
12 tition under section 204 and any subsequent
13 application for an immigrant visa or adjustment
14 of status, such determination shall be made
15 using the age of the alien on the earlier of—

16 “(i) the date on which the petition is
17 filed with the Secretary of Homeland Secu-
18 rity; or

1 “(ii) the date on which an application
2 for a labor certification under section
3 212(a)(5)(A)(i) is filed with the Secretary
4 of Labor.

5 “(B) CERTAIN DEPENDENTS OF NON-
6 IMMIGRANTS.—With respect to an alien who,
7 for an aggregate period of 8 years before at-
8 taining the age of 21, was in the status of a de-
9 pendent child of a nonimmigrant pursuant to a
10 lawful admission as an alien eligible to be em-
11 ployed in the United States (other than a non-
12 immigrant described in subparagraph (A), (G),
13 (N), or (S) of section 101(a)(15)), notwith-
14 standing clause (i), the determination of the
15 alien’s age shall be based on the date on which
16 such initial nonimmigrant employment-based
17 petition or application was filed by the alien’s
18 nonimmigrant parent.

19 “(C) FAILURE TO ACQUIRE STATUS AS
20 ALIEN LAWFULLY ADMITTED FOR PERMANENT
21 RESIDENCE.—With respect to an alien who has
22 not sought to acquire status as an alien lawfully
23 admitted for permanent residence during the 2
24 years beginning on the date on which an immi-
25 grant visa becomes available to such alien, the

1 alien's age shall be determined based on the
2 alien's biological age, unless the failure to seek
3 to acquire such status was due to extraordinary
4 circumstances.”; and

5 (B) in section 201(f) (8 U.S.C. 1151)—

6 (i) by striking the subsection heading
7 and all that follows through “TERMI-
8 NATION DATE.—” in paragraph (3) and
9 inserting “RULE FOR DETERMINING
10 WHETHER CERTAIN ALIENS ARE IMME-
11 DIATE RELATIVES.—”; and

12 (ii) by striking paragraph (4).

13 (2) EFFECTIVE DATE.—

14 (A) IN GENERAL.—The amendments made
15 by this subsection shall be effective as if in-
16 cluded in the Child Status Protection Act (Pub-
17 lic Law 107–208; 116 Stat. 927).

18 (B) MOTION TO REOPEN OR RECON-
19 sider.—

20 (i) IN GENERAL.—A motion to reopen
21 or reconsider the denial of a petition or ap-
22 plication described in the amendment made
23 by paragraph (1)(A) may be granted if—

24 (I) such petition or application
25 would have been approved if the

1 amendment described in such para-
2 graph had been in effect at the time
3 of adjudication of the petition or ap-
4 plication;

5 (II) the individual seeking relief
6 pursuant to such motion was in the
7 United States at the time the under-
8 lying petition or application was filed;
9 and

10 (III) such motion is filed with the
11 Secretary of Homeland Security or
12 the Attorney General not later than
13 the date that is 2 years after the date
14 of the enactment of this Act.

15 (ii) EXEMPTION FROM NUMERICAL
16 LIMITATIONS.—Notwithstanding any other
17 provision of law, an alien shall be exempt
18 from the numerical limitations in sections
19 201, 202, and 203 of the Immigration and
20 Nationality Act (8 U.S.C. 1151, 1152, and
21 1153) if—

22 (I) the alien was granted relief
23 pursuant to a motion to reopen or re-
24 consider under clause (i); or

25 (II) in lieu of such relief—

1 (aa) the alien has an ap-
2 proved immigrant petition;

3 (bb) the alien qualifies as a
4 child under section 101(b)(6)(B);
5 and

6 (cc) the parent of the alien
7 has been lawfully admitted for
8 permanent residence.

9 (b) NONIMMIGRANT DEPENDENT CHILDREN.—Sec-
10 tion 214 of the Immigration and Nationality Act (8 U.S.C.
11 1184) is amended by adding at the end the following:

12 “(s) DERIVATIVE BENEFICIARIES.—

13 “(1) IN GENERAL.—Except as described in
14 paragraph (2), the determination as to whether an
15 alien who is the derivative beneficiary of a properly
16 filed pending or approved immigrant petition under
17 section 204 is eligible to be a dependent child shall
18 be based on whether the alien is determined to be
19 a child under section 101(b)(6).

20 “(2) LONG-TERM DEPENDENTS.—If otherwise
21 eligible, an alien who is determined to be a child
22 pursuant to section 101(b)(6)(B) may change status
23 to, or extend status as, a dependent child of a non-
24 immigrant with an approved employment-based peti-
25 tion under this section or an approved application

1 under section 101(a)(15)(E), notwithstanding such
2 alien's marital status.

3 “(3) EMPLOYMENT AUTHORIZATION.—An alien
4 admitted to the United States as a dependent child
5 of a nonimmigrant who is described in this section
6 is authorized to engage in employment in the United
7 States incident to status.”.

8 (c) PRIORITY DATE RETENTION.—Section 203(h) of
9 the Immigration and Nationality Act (8 U.S.C. 1153(h))
10 is amended—

11 (1) by striking the subsection heading and in-
12 serting “RETENTION OF PRIORITY DATES”;

13 (2) by striking paragraphs (1) through (4);

14 (3) by redesignating paragraph (5) as para-
15 graph (3); and

16 (4) by inserting before paragraph (3) the fol-
17 lowing:

18 “(1) IN GENERAL.—The priority date for an in-
19 dividual shall be the date on which a petition under
20 section 204 is filed with the Secretary of Homeland
21 Security or the Secretary of State, as applicable, un-
22 less such petition was preceded by the filing of a
23 labor certification with the Secretary of Labor, in
24 which case the date on which the labor certification
25 is filed shall be the priority date.

1 “(2) APPLICABILITY.—The principal beneficiary
2 and all derivative beneficiaries shall retain the pri-
3 ority date associated with the earliest of any ap-
4 proved petition or labor certification, and such pri-
5 ority date shall be applicable to any subsequently ap-
6 proved petition.”.

