

(l)(1) The Secretary of Homeland Security has discretion, considering the alien's entire immigration and criminal history, the alien's potential to enhance the lives of American citizens, and weighing the positive factors against the negative.

(A) CLASS A WAIVER. The Secretary of Homeland Security has discretion to waive paragraphs (6)(C)(i), (6)(C)(ii), (6)(C)(iii), (9)(A)(i), (9)(B)(i)(I) and/or (9)(B)(i)(II) in its entirety, reduce the period of time in which the alien is inadmissible, require a fine not to exceed \$5,000, or require that the alien serve no more than 200 hours of community service, or any combination of the above, for any immigrant or nonimmigrant. If the immigrant or nonimmigrant meets the standard for eligibility described in clause (i), (ii), (iii) or (iv) of subparagraph (C), the period of time in which the alien is inadmissible will be reduced to zero.

(B) CLASS B WAIVER. The Secretary of Homeland Security has discretion to waive paragraphs (6)(C)(iv), (6)(C)(v) and/or (9)(B)(i)(III) in its entirety, reduce the period of time in which the alien is inadmissible, require a fine not to exceed \$10,000, or require that the alien serve no more than 300 hours of community service, or any combination of the above, for an immigrant who

- (i) is under age 30 on the date the application for a waiver is filed, and has spent at least 8 years in the United States in the aggregate between turning age 5 and turning age 21, and has been a person of good moral character for at least the five year period prior to filing the application for a waiver,
- (ii) is a hired caregiver for one or more US citizen or permanent resident elderly, disabled or children under age 12, if it is established to the satisfaction of the Secretary that the refusal of admission to such immigrant would result in hardship to any citizen or lawfully resident elderly, disabled or children under age 12 for whom the alien provides paid care,
- (iii) is the spouse or son or daughter or parent of a United States citizen age 12 or older or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Secretary of Homeland Security that the refusal of admission to such immigrant alien would result in hardship to the citizen or lawfully resident spouse, son or daughter or parent of such alien, or
- (iv) is a VAWA self-petitioner if it is established if it is established to the satisfaction of the Secretary of Homeland Security that the refusal of admission to such immigrant alien would result in hardship to the alien.

If the immigrant meets the standard for eligibility described in clause (i), (ii), (iii) or (iv) of subparagraph (C), the period of time in which the alien is inadmissible will be reduced to zero.

(C) CLASS C WAIVER. The Secretary of Homeland Security has discretion to waive paragraphs (6)(B), (6)(C)(vi), (6)(C)(vii), (6)(C)(viii), (9)(A)(ii), (9)(B)(i)(IV), (a)(9)(C)(i)(I) and/or (a)(9)(C)(i)(II) in its entirety, reduce the period of time in which the alien is inadmissible, require a fine not to exceed \$10,000, or require that the alien serve no more than 300 hours of community service, or any combination of the above, for an immigrant who

- (i) is under age 30 on the date the application for a waiver is filed, has spent at least 8 years in the United States in the aggregate between turning age 5 and turning age 21, has been a person of good moral character for at least the ten year period prior to filing the application for a waiver, and if it is established to the satisfaction of the Secretary that the refusal of admission to such immigrant would result in extreme hardship to the immigrant,
- (ii) is a hired caregiver for one or more US citizen or permanent resident elderly, disabled or children under age 12, if it is established to the satisfaction of the

- Secretary that the refusal of admission to such immigrant would result in extreme hardship to any citizen or lawfully resident elderly, disabled or children under age 12 for whom the alien provides paid care,
- (v) is the spouse or son or daughter or parent of a United States citizen age 12 or older or of an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Secretary of Homeland Security that the refusal of admission to such immigrant alien would result in extreme hardship to the citizen or lawfully resident spouse, son or daughter or parent of such alien, or
  - (vi) is a VAWA self-petitioner if it is established if it is established to the satisfaction of the Secretary of Homeland Security that the refusal of admission to such immigrant alien would result in extreme hardship to the alien.

(2) COMPLETING COMMUNITY SERVICE AND PAYMENT OF FINES

- (A) FINES. Any fine imposed under subsection (1) on a nonimmigrant other than a nonimmigrant described in section 101(a)(15)(K), is payable prior to admission. Any fine imposed under subsection (1) on an immigrant or a nonimmigrant described in section 101(a)(15)(K) is payable in monthly installments not to extend beyond 36 months of the immigrant's admission, to be arranged with the Secretary of Homeland Security, who may not require monthly installments greater than \$280.
- (B) COMMUNITY SERVICE. Any community service imposed under subsection (1) on a nonimmigrant is only required to perform community service while present in the United States and shall not be required to average more than two hours per week while present until the total number of hours have been performed. The waiver of inadmissibility will be revoked for a nonimmigrant who has fallen at least 10 hours behind of the nonimmigrant's required number of hours of community service. Any community service imposed under subsection (1) on an immigrant is required to average at least two hours per week in any calendar year until the total number of hours have been performed.
- (C) CONDITIONAL PERMANENT RESIDENCE. Notwithstanding any other provision under this Act, an immigrant who is required to pay a fine or perform community service under subsection (1) shall be considered, at the time of obtaining the status of an alien lawfully admitted for permanent residence, to have obtained such status on a conditional basis subject to the provisions of section 216(h).

(3) ADVANCED APPLICATION FOR DETERMINATION OF INADMISSIBILITY AND WAIVER—

- (A) Any alien who is the beneficiary of a pending or approved petition for immigrant visa and who anticipates a finding of inadmissibility if the alien proceeds abroad to apply for an immigrant visa at the consulate may request that the Secretary of Homeland Security make an advanced determination of inadmissibility prior to the alien's departure from the United States. In adjudicating such a request, the Secretary of Homeland Security shall review all potential grounds of inadmissibility.
- (B) If the Secretary of Homeland Security finds that as of the date of the request, the alien is not inadmissible on any other ground other than medical grounds under section 212(a)(1)(A) that are waivable under section 212(g), and any ground that is waivable under this subsection, the alien shall be permitted to apply for any and all waivers described in subsections 212(i) and 212(g) prior to departing the United States.
- (C) While the alien's request under clause (i) or application(s) under clause (ii) are pending adjudication, or an appeal of a decision under clause (i) or (ii) is pending and for up to 90 days following notification of a decision under such parts or decision

on an appeal, the alien is in period of stay authorized by the Secretary of Homeland Security and is eligible to apply for employment authorization. If a waiver is granted in whole or in part, and an immigrant visa is immediately available to the alien or is expected to be available within six months, such period of authorized stay may be extended, either upon request by the alien or spontaneously by the Secretary of Homeland Security, in increments of six months up to the time of the scheduled immigrant visa interview at the consulate. The period of authorized stay is automatically extended while the request for extension is pending if the request for extension is filed prior to the expiration of the authorized stay.

- (D) The Secretary of State shall not make a finding of inadmissibility inconsistent with the finding made by the Secretary of Homeland Security unless a new ground of inadmissibility arises from an intentional, affirmative act by the alien subsequent to the filing of a request for advanced determination of inadmissibility or the alien knowingly provides false information on the request.
- (E) The petition for immigrant visa, request for advanced determination of inadmissibility, application for a waiver, and application for employment authorization may all be filed simultaneously.
- (F) An alien who fails to depart within 30 days of the end of the period of authorized stay described in subparagraph (C) is inadmissible for a period of fifteen years from the alien's next departure from the United States.
- (G) The alien's period of authorized stay under this section shall be immediately terminated if it is determined by the Secretary of Homeland Security that the alien is a significant threat to the public safety and the alien is deportable on one or more grounds. If such a finding is made, the alien shall be placed in removal proceedings not more than 15 days following such a determination. If the Secretary of Homeland Security fails to place the alien in removal proceedings within 15 days or if it is determined by an Immigration Judge that the Secretary of Homeland Security erred in its determination that the alien is a significant threat to the public safety, the alien's authorized stay under subparagraph (C) shall be immediately reinstated.
- (H) If an alien's initial application for employment authorization under this paragraph is not approved or denied within 60 days of filing, the alien is entitled to a temporary employment authorization document and may request such a document either by correspondence or in person at the alien's local CIS office. If the request is made by correspondence, the document must be issued no more than 15 days following the request. If the request is made in person at the alien's local CIS office, the alien must be scheduled for an appointment no later than 15 days following the request for an appointment and must be issued at the time of the appointment.
- (I) After the first employment authorization document is issued, in order to renew employment authorization under this paragraph, the alien must prove that the alien and the alien's spouse and any dependent minor children have obtained health insurance or that the alien, alien's spouse or any dependent minor children have been denied health insurance due to a pre-existing medical condition.

(4) ALLOCATION OF FUNDS RECEIVED THROUGH FINES – No more than 50% of the fines collected under this subsection and subsections (a)(9) and (a)(6) may be used by the Department of Homeland Security. The remainder should be placed in a fund managed by the Department of Health and Human Services to be distributed to the emergency room departments of hospitals to cover the costs of healthcare provided to patients that do not have health insurance or who are unable or unwilling to pay the portion of medical bills not covered by health insurance. The funds will be distributed to emergency rooms proportionally to the number of uninsured patients treated in the emergency room in the prior five calendar years.