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Private Immigration Legislation

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Summary

Private immigration bills warrant careful consideration with regard to precedent since they are a special form of relief allowing the circumvention of the public laws concerning immigration and nationality in uniquely meritorious cases. This report will give an overview of the congressional subcommittee procedure and precedents concerning private immigration bills. This report will not cover parliamentary procedural issues for private bills, which are covered by CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

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Private Immigration Legislation

Authority and Purpose

Congressional authority over immigration is not explicit in the U.S. Constitution, but generally is considered to derive from several constitutional clauses. The U.S. Supreme Court has noted that, "The Constitution grants Congress the power to 'establish an uniform Rule of Naturalization.' Art. I., § 8, cl. 4. Drawing upon this power, upon its plenary authority with respect to foreign relations and international commerce, and upon the inherent power of a sovereign to close its borders, Congress has developed a complex scheme governing admission to our Nation and status within our borders."[1] Further, the Fourteenth Amendment defines citizens as "[a]ll persons born or naturalized in the United States and subject to the jurisdiction thereof." Amend. XIV, § 1, cl. 1. Although some legal scholars have argued that the phrase "uniform Rule of Naturalization" precludes Congress from enacting legislation granting relief to a specific individual,[2] the courts have interpreted the phrase as simply requiring geographic uniformity throughout the States, meaning that Congress cannot enact legislation applying different rules to different States.[3] The constitutional basis for private immigration bills generally is found in the First Amendment prohibition against Congressional enactments abridging the right of the People "to petition the Government for a redress of grievances" (Amend. I, cl. 3.) and in the power of Congress to pay the debts of the United States (Art. I, § 8, cl. 1).[4]

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[1] *Plyler v. Doe*, 457 U.S. 202, 225 (1982). Under Art. I, § 8, cl.3 of the U.S. Constitution, Congress has the authority to "regulate Commerce with foreign Nations and among the several States, and with the Indian Tribes," which has been the basis for U.S. Supreme Court decisions that state laws regulating the migration of persons between states and from foreign countries into states are unconstitutional. In addition to this clause, the Federal Government's authority over foreign relations emanates from the congressional power to declare war under Art. I, § 8, cl. 11, and the executive power to conclude treaties and appoint U.S. ambassadors with the advice and consent of the Senate under Art. II, § 2, cl. 2, and to receive foreign ambassadors under Art. II, § 3, cl. 1. *See* Charles Gordon, Stanley Mailman, & Stephen Yale-Loehr, IMMIGRATION LAW AND PROCEDURE § 9.02 (2005), discussing U.S. Supreme Court cases and basis for the federal immigration power, citing, *inter alia*, the *Passenger Cases (Smith v. Turner)*, 48 U.S. 283 (1849) (commerce clause), *Chy Lung v. Freeman*, 92 U.S. 275 (1876) (foreign relations powers), and the *Chinese Exclusion Case (Chae Chan Ping v. United States)*, 130 U.S. 581, 603-4 (1889) (inherent control over borders).

[2] Michael T. Hertz, *Limits to the Naturalization Power*, 64 Geo. L. J. 1007, 1009-17, 1025-27 (1976).

[3] See *Kharaiti Ram Samras v. United States*, 125 F.2d 879 (9th Cir. 1942).

[4] Bernadette Maguire, IMMIGRATION: PUBLIC LEGISLATION AND PRIVATE BILLS 2 and accompanying note 11 (1997). Maguire notes that the courts have interpreted the term

(continued...)

Regardless of academic concerns about the clarity of authority for private immigration legislation, clearly, Congress has a long history of such enactments.[5]

When the public laws relating to immigration operate to prevent someone from entering or remaining in the United States or obtaining some other benefit such as citizenship, private immigration bills provide for exceptions for named individuals or small groups of individuals whose circumstances merit special consideration. Private bills are intended to be a last resort for relief after all administrative and judicial remedies are exhausted.[6] Aside from the individual relief granted, the number and type of private bills introduced and of private laws enacted often revealed flaws in the public laws which led to amendments to resolve such problems.[7] Conversely, expansion of immigration restrictions and elimination of relief in the public immigration laws may lead to an increase in private bills.[8] Overall, 7321 private immigration laws have been enacted since the first such law was enacted in 1839.[9]

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[4] (...continued)
"debts" to include moral or honorary debts and distinguishes the ability to petition the Government from the authority to actually grant a petition through the enactment of a private law.

[5] Maguire, *supra* note 4, at 69-226.

[6] Subcomm. on Immigration, Border Security, and Claims of the U.S. House of Representatives Comm. on the Judiciary, *Rules of Procedure and Statement of Policy for Private Immigration Bills*, Rule 3, 108th Cong. (2003, the rules are unchanged for the 109th Congress) (hereinafter House Subcomm. Rules), and Subcomm. on Immigration, Border Security and Citizenship of the Senate Comm. on the Judiciary, Rules of Procedure for introducing a private relief bill (immigration), Rule 3 (as reprinted in S. Prt. 108-58, U.S. Senate Comm. on the Judiciary, Legislative and Executive Calendar (Final Edition), 108th Cong. (2005) (hereinafter Senate Subcomm. Rules).

[7] IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[1]; Maguire, *supra* note 4, at 87 (noting the drop in bills seeking to bypass quota restrictions after the repeal of the quota system in place from 1921-1965).

[8] IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[1]. After enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (enacted as Division C of the Omnibus Consolidated Appropriations Act, 1997, P.L. 104-208, § 203(a), 110 Stat. 3009, 3009-565), the number of private laws enacted increased from 2 in the 104th Congress to 9 in the 105th Congress and 18 in the 106th Congress. However, in the wake of 9-11 and concerns about strengthening enforcement of immigration laws, the number of private laws enacted dropped to 3 in the 107th Congress and 4 in the 108th Congress.

[9] Maguire, *supra* note 4, at 3, 87. Maguire counts 7266 private laws enacted during the first 100 Congresses; CRS has counted 55 private immigration laws enacted from the 101st Congress through the 109th Congress as of the date of this report.

General Procedure and Precedents

Subcommittee Procedure

Although the first private immigration laws enacted were related to naturalization, naturalization waivers constitute the lowest percentage of private laws because of the serious ramifications of conferring citizenship and its rights and obligations and of the United States' undertaking the protection of its new citizens.[10] The majority of private immigration bills confer lawful permanent resident (LPR) status by waiving a general law provision which prevents the granting or maintenance of such status, whether that provision concerns grounds of inadmissibility or deportation, numerical allocation limits, definitions of eligible immigrant categories, etc.

Stays and Administrative Review. As noted above, under the rules of both the Senate Subcommittee on Immigration, Border Security and Citizenship and the House Subcommittee on Immigration, Border Security and Claims, no private bill shall be considered or acted upon by the Subcommittee until all avenues for administrative and judicial relief have been exhausted.[11] If the beneficiary is subject to removal/deportation, the mere introduction of a bill does not stay such removal/deportation.

A stay will generally be authorized by the U.S. Immigration and Customs Enforcement (ICE) in the Department of Homeland Security (DHS) when it receives a request for a report on information concerning a beneficiary's case from either the Senate or House Subcommittee Chairman.[12] However, this stay is granted as a matter of custom and courtesy by the agency to the congressional subcommittee and thus is purely discretionary, not legally mandated.[13] Under the Senate Subcommittee rules, requests for reports on private bills will be made by the Subcommittee Chairman only upon a written request addressed to the Chairman by the author of the bill.[14] The Senate Subcommittee will not request a report or make other communications to defer deportation of beneficiaries who entered the United States as nonimmigrants, stowaways, in transit, deserting crewmen, or without inspection through the land or sea borders. The Subcommittee may make an exemption from this rule where the bill is intended to prevent "unusual hardship" to the beneficiary or to U.S. citizens related to the beneficiary and the author of the bill has submitted complete

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[10] Maguire, *supra* note 4, at 198-99.

[11] Senate Subcomm. Rules, no. 3, and House Subcomm. Rules, no. 3.

[12] Operations Instructions (OI) 107.1(c); Senate Subcomm. Rules, no. 1, and House Subcomm. Rules, no. 5.

[13] Maguire, *supra* note 4, at 24, 253-5; IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[2][a] and [3].

[14] Senate Subcomm. Rules, no. 1.

documentary evidence to the Subcommittee in support of a request to make an exception to the rule.[15]

Under the House Subcommittee rules, the Subcommittee will not intervene in removal/deportation proceedings or request a stay by requesting a report from ICE unless the bill is designed to prevent "extreme hardship" to the beneficiary or a U.S. citizen spouse, parent or child.[16] The distinction between the Senate and House Subcommittee rules is that the Senate Subcommittee will generally request a report upon the request of the author of a bill without an initial consideration of the merits of the case and only requires a showing of hardship for certain disfavored categories, whereas the House Subcommittee will not request a report in any case unless a motion to request a report has been made at a formal meeting of the Subcommittee and a consideration of whether the "extreme hardship" requirement has been met.[17]

When ICE has received a request for a report on a private bill beneficiary and granted a stay of removal/deportation, the date established for removal/deportation or voluntary departure under any final order shall be February 1 of the next odd-numbered year, or in other words, of the first session of the next Congress following the one in which the bill was introduced.[18] However, if the beneficiary's continued presence in the United States would be or becomes contrary to the best interests of the United States, removal/deportation may be carried out after consultation with the author of the private bill and the Judiciary Committee that requested a report.[19] If adverse action is taken on a private bill for which a stay of removal/deportation has been granted, ICE will establish a date by which removal/deportation or voluntary departure must be effected; ICE may extend the deadline at its discretion.

Exactly what constitutes an adverse action or disposition is not defined in the laws, regulations, or Operations Instructions concerning immigration. It appears that such actions would include a decision by the Subcommittees to not recommend a private bill for action by the full Committee; a decision by the full Committee to not report a bill favorably to the entire Chamber; a negative vote by either Chamber; or a veto by the President. Presumably, adverse dispositions may also include a decision at a formal meeting under the House Subcommittee rules to not request a report because the extreme hardship requirement has not been met or a decision in the Subcommittee or full Committee to table a private bill.[20]

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[15] Senate Subcomm. Rules, no. 2.

[16] House Subcomm. Rules, no. 4, 5.

[17] *Id.* and IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[3].

[18] OI 107.1(f)(2)(I).

[19] OI 107.1(f)(2)(ii).

[20] House Subcomm. Rule no. 9 provides that the Subcommittee shall take no further action on a private bill that has been tabled by the full Judiciary Committee. The House Subcomm. Rules Statement of Policy further provides that the Subcommittee is reluctant to reconsider bills tabled by the full Committee in *previous* Congresses absent new evidence or information not available at the time of initial consideration. Senate Subcomm. Rule no. 6 provides that bills previously tabled shall not be reconsidered unless new evidence is

(continued...)

If no adverse action or final positive action has been taken on a bill by the end of a Congress, the February 1 deadline affords the author of a private bill time to reintroduce a bill in the following Congress; ICE may extend the deadline at its discretion.[21] ICE notifies the beneficiary if a bill has had an adverse disposition or is not reintroduced and informs them of the new date set for execution of any outstanding order of removal/deportation or deadline for any voluntary departure granted.[22]

A complete report on the beneficiary of a private bill is transmitted by ICE to the requesting Subcommittee.[23] If classified or confidential information exists with regard to the beneficiary that ICE is not authorized to transmit, ICE will refer the Subcommittee to the pertinent agency for further information.[24] After the submission of a report, if further material information is received or any material action is taken concerning a beneficiary which may affect congressional consideration of a private bill, a supplementary report shall be submitted to the Committee or Subcommittee.[25] ICE may advise the Committee or Subcommittee informally if the new information concerns the granting of administrative relief or is particularly adverse. If a private bill for which a report was made is reintroduced in the following Congress in the same chamber whose Subcommittee requested the report, any additional material developed from a review of the file and any new background checks or interviews shall be in transmitted to the Subcommittee in a supplemental letter.[26] If the previous report was made to a different chamber in the immediately preceding Congress or to the same chamber in a previous Congress not immediately preceding the one in which the bill has been reintroduced, a new full report shall be submitted to the requesting Subcommittee. If adverse action was taken on a private bill at any time and a new bill is subsequently introduced for the same purpose for the same beneficiary in either chamber, ICE will not honor a request for a report concerning the new bill unless the adverse action on the previous similar bill is reconsidered and ICE is notified of such reconsideration.[27]

If a private bill beneficiary holds a nonimmigrant visa status, the introduction of a private immigration bill to confer permanent resident status raises a presumption of termination of such status, which will be handled as described below.[28] Any pending removal/deportation proceedings are conducted to a final determination; any

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[20] (...continued)
introduced showing a material change of facts known to the Committee.

[21] OI 107.1(f)(2)(iii).

[22] OI 107.1(f)(2)(v).

[23] *See* the Special Agent's Field Manual, Ch. 23: Private Bill Investigations, for detailed information on the conduct and content of private bill investigations and reports.

[24] *Id.*

[25] OI 107.1(g).

[26] OI 107.1(f)(1).

[27] OI 107.1(c).

[28] 8 C.F.R. § 214.1(d); OI 107.1(e).

resulting order of removal/deportation may be stayed according to procedural practice described above. If such proceedings are not already pending and the beneficiary had a lawful B (visitor), C (transit), D (crewmen), or H (temporary worker) visa status when the private bill was introduced, ICE will notify the beneficiary of the termination of nonimmigrant status due to the private bill introduction and request a response from the beneficiary within 30 days from receipt of notice about whether he/she desires to have status adjusted through the private bill. If the beneficiary does not desire adjustment by the private bill, nonimmigrant status will likely be restored.[29] If a report has been requested, ICE shall submit the report with an explanation of why the beneficiary does not desire adjustment through the private bill. If adjustment through the private bill is desired, removal/deportation proceedings shall be initiated and conducted to a final determination.

If removal/deportation proceedings have not been initiated and the beneficiary had a lawful A (foreign government official) or G (representative to an international organization) visa status when the bill was introduced, he/she shall be considered to have voluntary departure for the remaining period of such status. Upon the expiration of this period, if the beneficiary has not departed, removal/deportation proceedings shall be initiated and conducted to a final determination.

If the beneficiary had lawful E (treaty trader/investor), F (academic/language student), I (media), J (exchange visitor), or M (vocational student) visa status, removal/deportation proceedings shall not be initiated, however, any request for an extension of the visa period shall be denied unless the presumption of termination of nonimmigrant status is overcome. Instead, voluntary departure shall be granted in increments of one year if the beneficiary otherwise maintains visa status. Removal or deportation proceedings shall not be initiated in any case involving appealing humanitarian factors.

If a private bill is enacted, ICE and relevant offices of the State Department shall take appropriate action in accordance with the terms of the private law and ICE shall not subsequently institute removal/deportation proceedings against the beneficiary on grounds based solely on information developed and contained in the Judiciary Committees' reports on the legislation.[30]

For further information on parliamentary procedure re private bills, *see* CRS Report 98-628, *Private Bills: Procedure in the House*, by Richard S. Beth.

Precedents

House Subcommittee Rules. Aside from the hardship factor, the most important factor considered by the Subcommittees is whether a private immigration bill falls within the precedents for past private laws. Although the Senate

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[29] *See also* IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[3] and accompanying footnote 68 (a beneficiary of a private bill who claims it was introduced without his knowledge and consent will be restored to lawful nonimmigrant status if the bill is formally withdrawn).

[30] OI 107.1(h).

Subcommittee rules do not explicitly address precedents, the House Subcommittee rules expressly provide that, "It is the policy of the Subcommittee generally to act favorably on only those private bills that meet certain precedents" and that it will only review "those cases that are of such an extraordinary nature that an exception to the law is needed."[31]

The House Subcommittee rules provide that certain types of bills shall be subject to a point of order unless two-thirds of the Subcommittee votes to consider the bill, including those that do not comply with the rules, those that waive the two-year foreign residence requirement for doctors with a J-visa adjusting to LPR status, and those waiving any law regarding naturalization.

The House Subcommittee rules include a Statement of Policy concerning certain types of bills, the criteria for reviewing them, and the favorable precedential conditions for those categories. The categories include:

- waivers of existing requirements for adopted children — favored if the child is young and there has been a longstanding parent-child relationship;
- waivers permitting non-immigrant doctors and nurses to adjust status — disfavored;
- waiver of criminal grounds for deportation requires testimony and affidavits regarding rehabilitation and good conduct subsequent to the conviction to determine whether the bill is in the best interests of the community;
- waivers permitting persons who entered the United States for advanced medical treatment to remain permanently (typically for conditions requiring monitoring or continuous treatment) — disfavored generally and requires an advisory opinion from international health organizations regarding the availability of adequate medical treatment in the beneficiary's home country;
- waivers permitting persons with deferred action or parole status to adjust to LPR status — disfavored;
- waivers of health exclusion grounds will require the posting of a bond — disfavored;
- waivers of exclusion for those seeking LPR status to avoid military conscription in their home country — disfavored;
- waivers of exclusion for visa fraud — disfavored;
- expedited naturalization for athletes seeking to compete as U.S. citizens, waivers of naturalization requirements, restoration of citizenship to those who have previously renounced U.S. citizenship, and posthumous citizenship are all disfavored generally and the authors of such bills must provide evidence that they would be in the national interest, not merely the personal interest of the beneficiary.

Historic Trends. Historically, the majority of private immigration laws have granted lawful permanent resident (LPR) status to persons who needed expedited

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[31] House Subcomm. Rules, at 3.

status under the quota system which existed from 1921 until 1965 or waivers from certain requirements of the immigration family or employment/occupational preference system,[32] such as those for foreign orphans adopted or in the process of being adopted by U.S. citizen parents but who did not meet the requirements under the law[33] and to war brides and children of U.S. citizen servicemen and displaced persons/refugees after World War II prior to public legislation addressing gaps in the law.[34] The other major category concerning conferral of LPR status was the waiver of certain grounds of exclusion/inadmissibility.[35]

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[32] Maguire, *supra* note 4, at 73-83. According to Maguire, 65% of the private laws enacted during the first 100 Congresses related to quota/preference relief (at 87-88). These included conferral of immediate relative (non-quota) status (35% of the quota/preference-related laws); waiving racial ineligibility for a visa, particularly the exclusion for certain Asians under the Quota Act of 1924 (43 Stat. 153) (8% of the quota/preference-related laws); bypassing oversubscribed quotas or inadequate family or employment priority systems by establishing a preference for the beneficiary (7% of the quota/preference-related laws); fiancees of U.S. citizens before public law provided visa status and waivers of exclusion or inadmissibility on health or criminal grounds for such fiancees (3% of the quota/preference-related laws); and miscellaneous reasons of medical care, military service, national interest, refugees (before public laws were enacted), family unification, bypassing of particularly low country quotas (46% of quota/preference-related laws). *See also* IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[2][c].

[33] Maguire, *supra* note 4, at 92, 96-98. For example, the age limit for foreign adopted children at one time was 14 years old, as opposed to 16 years old today; this caused hardship particularly after World War II, when many U.S. citizens sought to bring over orphaned relatives, including older children, where there were no other surviving relatives abroad.

[34] Maguire, *supra* note 4, at 90-91.

[35] Maguire, *supra* note 4, at 139, 148-50. Overall, 25% of the private immigration laws enacted in the first 100 Congresses waived various exclusion/inadmissibility laws. Maguire identifies several categories of such laws — waivers of criminal grounds for close relatives of U.S. citizens or LPRs, the vast majority involving crimes of moral turpitude, the remainder involving fraud, drugs, and smuggling (53% of exclusion/inadmissibility-related laws); waivers of health grounds of mental retardation or tuberculosis (41% of exclusion/inadmissibility-related laws); and miscellaneous waivers for draft evasion, Communist Party membership, illiteracy, etc. (5% of exclusion/inadmissibility-related laws).

A minority of private immigration laws provided for citizenship.[36] Generally, it appears that most of these laws did not grant citizenship outright, but instead they waived the application of certain requirements, which would either have barred the naturalization of a certain individual or would have presented a hardship to the individual by prolonging the naturalization process, such as residence requirements. Cases where it appears citizenship may have been granted outright generally involved either (1) women who had lost their citizenship through marriage to a foreigner and a move abroad under now obsolete laws and who sought to regain their citizenship upon being widowed or divorced and moving back to the United States; (2) children born abroad to U.S. citizens who had moved back to and resided in the United States, who mistakenly believed they were U.S. citizens, and subsequently discovered that they were not citizens, in some cases after years in the United States, including military service;[37] or (3) persons who, while born U.S. citizens, had lost citizenship because of retention requirements under now-obsolete laws and sought to regain citizenship.[38]

In the 1970s, a series of corruption scandals such as Abscam, involving payoffs for the sponsorship of private immigration laws, culminated in the expulsion of one Member of the House of Representatives and led to a decline in private immigration laws, which were perceived as tainted in general by the scandals. In the past decade, the trend reached a low point with only 2 private immigration laws enacted in the 104th Congress. The late 1990s, after the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), saw a brief increase in the number of private laws, with a decline in the wake of 9/11. Four private immigration laws were enacted in the 108th Congress; none have yet been enacted in the 109th Congress, although 72 private immigration bills have been introduced as of the date of this report.

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[36] Maguire, *supra* note 4, at 192. Overall, 10% of the private immigration laws enacted in the first 100 Congresses related to citizenship and naturalization. The peak was 152 in the 90th Congress (1967-68), of which 140 were waivers of residence requirements, and 107 in the 89th Congress (1965-66), of which 88 were waivers of the residence requirements, primarily for Cuban nationals seeking expedited naturalization because of citizenship requirements to practice certain professions; these constituted 33% of the citizenship-related laws enacted during the first 100 Congresses (at 197, 219-220). The Cuban Adjustment Act of 1966, effectively granting permanent resident status to Cuban nationals, eliminated the need for private enactment of waivers for many Cuban nationals, and there was a corresponding decline in the numbers of private immigration laws in subsequent Congresses. Maguire identifies several categories of citizenship-related private laws — waiver of residence requirements for naturalization (52%of citizenship-related laws); waiver of the inability to confer citizenship upon children or derive citizenship through parents because of insufficient residence periods (43%of citizenship-related laws); waiver of loss of citizenship because of voluntary acts (13% of citizenship-related laws); restoration of citizenship lost for failure to satisfy of retention requirements (13%of citizenship-related laws); and miscellaneous waivers of naturalization laws including civics and English knowledge requirements and ineligibility of Communist party members and draft dodgers (5% of citizenship-related laws) (at 193-4). *See also* IMMIGRATION LAW AND PROCEDURE, *supra* note 1, § 74.09[2][c].

[37] Maguire, *supra* note 4, at 195-196, 199-200.

[38] Maguire, *supra* note 4, at 195-6.

Recent Practice. During the past decade, beneficiaries of private immigration laws are persons who generally were unable to receive permanent resident status through no fault of their own.[39] Despite the efforts of relatives petitioning for them, errors or delays on the part of the agencies responsible for processing petitions rendered the beneficiaries ineligible for an immigrant visa or adjustment to permanent resident status. The two most common circumstances that can be generalized into categories appear to be errors or delays that result (1) in an orphan adoptee aging out before the adoption and the immigrant petition or permanent resident adjustment can be completed and (2) in a conditional permanent resident petition for an alien spouse not being approved before the untimely death of a U.S. citizen spouse.

In the orphan adoption cases, a frequent circumstance appears to be the efforts of U.S. citizens to adopt older children whose deceased parents or guardians were friends or extended family of the petitioners. Historically, the precedents regarding juveniles generally concern the natural or adopted children of U.S. citizen parents who for various reasons fell in the gaps in the public law and thus needed special dispensation to emigrate immediately to rejoin the U.S. citizen parent(s) or legal guardian(s).[40] The justification for such expeditious treatment would be family reunification, one of the fundamental policies behind U.S. immigration and nationality laws. In certain cases, beneficiaries came to the United States as very young children but reached adulthood without obtaining LPR status because of the errors or deaths of their parents or guardians. Often, minor siblings dependent on the beneficiary are either U.S. citizens or are still eligible for administrative or judicial relief and family unification again is a factor in granting private law relief.

The faultless actions of the beneficiary and the bureaucratic delays combined with other hardships or sympathy resulting from the death of an immediate relative who was a U.S. citizen or LPR seem to be the most common factors. Generally, the relative had a pending petition for an immigrant visa/adjustment of status for the beneficiary of the private bill, but the petition expired due to the death of the petitioning relative. Typically, the beneficiary had no other avenue for immigration or adjustment of status, has strong ties to other family members in the United States and no remaining familial ties to his/her native country. Despite having other close relatives in the United States, those relatives may be minor U.S. citizen children who are not yet old enough to petition for the beneficiary, or may be relatives who do not have a degree of relation close enough to petition for the beneficiary, such as the parents of a deceased spouse. In certain cases, special circumstances raise a case out of the ordinary, such as the death, arising out of a hate crime in the wake of the 9/11 attacks, of a person petitioning for family members or the death of a foreign national employed abroad by the U.S. Government whose dedication to his job could have cost his family the opportunity to emigrate to the United States.

Certain cases appear to have had unique circumstances of particular national foreign-policy interest. These include the high-profile human rights activist Wei Jingsheng. His case is particularly notable because he had a pending employment-

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[39] *See* **Appendix: Private Laws, 1995-2005**.

[40] *See supra* note 32.

based immigration petition and was a visiting university scholar at the time the private law was enacted, so he had not exhausted other avenues for permanent lawful resident status pursuant to Subcommittee rules. Thus, enactment of the private law appears to have been an act of support for the activist and the human rights and democracy movements he represented more than relief for someone with no other recourse. Other laws benefitted Persian Gulf War evacuees with U.S. ties, persons technically ineligible for Nazi reparations, and a Swiss bank employee who exposed an attempt to unlawfully destroy the bank-account records of Holocaust victims.

The House and Senate Subcommittee rules both favor cases of extreme or unusual hardship, which would appear to be the operative factor in cases generally disfavored according to the House Subcommittee rules discussed above. The Senate Subcommittee rules require the author of a private bill to set forth the equities of a case and why other remedies are not available in a written statement to the Subcommittee. As noted above, the Senate Subcommittee rules do not discuss specific precedents; it would appear that these rules provide greater latitude in permitting the equities of a particular case to overcome any negative precedent

Honorary Citizenship Distinguished. A private law to grant citizenship should not be confused with honorary citizenship. Honorary citizenship is a rare and extraordinary honor granted to foreigners who have rendered great service. Only a handful of individuals have received this honor, including Mother Teresa, renowned for her charitable works on behalf of the destitute; Raoul Wallenberg, the Swedish diplomat who saved the lives of thousands of Jews during World War II; Winston Churchill, Prime Minister of the United Kingdom during World War II; and William Penn, the founder of Pennsylvania, and Hannah Callowhill Penn, his wife. Honorary citizenship "is a symbolic gesture. It does not grant any additional legal rights in the United States or in international law. It also does not impose additional duties or responsibilities, in the United States or internationally, on the honoree."[41] It "does not give the recipient any voting privileges. This has been a concern in the past. It is crystal clear from the legislative history of the Churchill, Wallenberg, and Penn bills that conferral of honorary citizenship is purely a symbolic gesture. It is recognition of their outstanding commitment to their fellow man and to America."[42] Then-Representative Pat Schroeder noted that Mother Teresa would not automatically have the right to reside in the United States even with the honorary citizenship unless she met the usual immigration requirements.[43] Honorary citizenship is normally granted through a joint resolution enacted as a *public law*,[44] not a private law, since it is a public honor granted by the United States to a meritorious individual, not private relief waiving the application of the public immigration and nationality laws for an individual. For further information on honorary citizenship laws, *see* CRS Report RS21471, *Recipients of Honorary U.S. Citizenship*, by Barbara Salazar Torreon.

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[41] H.Rept. 104-796, 1-2 (1996).

[42] 146 Cong. Rec. H10452 (daily ed. Sept. 17, 1996) (statement of Rep. Flanagan).

[43] 146 Cong. Rec. H10453. (daily ed. Sept. 17, 1996).

[44] *E.g.*, P.L. 104-218, 110 Stat. 3021 (1996) (granting honorary citizenship to Mother Teresa).

Appendix: Private Laws, 104th-109th Congresses

104th Congress

Private Law No. 104-3
H.R. 1031
Title: Private Bill; For the relief of Oscar Salas-Velazquez.
Sponsor: Rep Ramstad, Jim [R-MN-3] (introduced 2/23/1995)
Cosponsors: (none)
Committees: House Judiciary
H.Rept.: 104-810
Latest Major Action: Enacted 10/09/1996.

Serious Family Medical Conditions. Oscar Salas-Velazquez had been deported to Mexico because of a prior fraudulent marriage to obtain lawful permanent resident (LPR) status in the 1980s. There was a genuine health risk for his second wife, a U.S. citizen, and possibly one of their children were they to join or even visit Mr. Salas-Velazquez in Mexico, as well as the financial and emotional hardship normally suffered in such cases. The wife and child suffered from Reiter's syndrome, a severe, disabling, incurable arthritic disease triggered by intestinal infection with certain organisms which are widespread in the food and water supplies of Mexico. The House Report noted:

> It is not the Committee's intent in any way that this legislation serve as a precedent for other private legislation to waiver the exclusion standard for marriage fraud. Rather, this legislation acknowledges the previously set precedent in private legislation that separation due to medical circumstances is viewed by the Congress as satisfying the standard of extreme hardship to an American citizen. Because of almost certain development of Reiter's syndrome, Mrs. Salas-Velazquez, and possibly one of her children, cannot even visit Mexico to maintain a familial relationship.

Private Law No. 104-4
H.R. 1087
Title: Private Bill; For the relief of Nguyen Quy An and Nguyen Ngoc Kim Quy.
Sponsor: Rep Lofgren, Zoe [D-CA-16] (introduced 2/28/1995)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 104-811
Latest Major Action: Enacted 10/19/1996.

South Vietnamese Disabled War Veteran Ineligible for Special Entry Program. Major Nguyen Quy An was a 52-year old South Vietnamese national living in the United States on humanitarian parole. He was a South Vietnamese helicopter pilot in Vietnam. During the war he saved the lives of four American airmen. Later on in the war, the Major sustained injuries which resulted in the amputation of both of his arms. As a result of his inability to perform work tasks, in a 're- education' camp, the North Vietnamese expelled him from the camp after nine weeks. An entry program was set up by the United States to help Vietnamese immigrate to this country who were severely punished for siding with the United States during the war. One of the

requirements of that program was that the individual had to have been placed in a re-education camp for a period of one year. Because the Major was kicked out of the camp after only nine weeks, he did not meet the requirement for entry through that program. If Major An had not lost his arms, he would have stayed in the camp for the time required to qualify for entry through the program set up for South Vietnamese allies.

The legislation originally included Major An's daughter, who was also here on humanitarian parole. Because Major An could file a petition for his daughter, an amendment was adopted at the subcommittee to remove the daughter from the legislation. The version of the legislation reported by the Subcommittee allowed Major An to file for permanent residence. An amendment was offered and accepted at full Committee to allow Major An to forego the permanent residence period and file for naturalization.

105th Congress

Private Law No. 105-1
S. 768
Title: Private Bill; A bill for the relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili.
Sponsor: Sen D'Amato, Alfonse [R-NY] (introduced 5/20/1997) Cosponsors: 8
Committees: Senate Judiciary; House Judiciary
H.Rept. 105-129
Latest Major Action: Enacted 7/29/1997.

Permanent Residency Granted to Whistle-blower re Holocaust-era Bank Records. The beneficiary was a security guard in a Swiss bank who discovered that Holocaust-era bank records possibly pertaining to assets of Holocaust victims were unlawfully being destroyed. Upon saving and turning records over to the Swiss authorities, the beneficiary was fired from his job and blacklisted from obtaining other employment. He and his family were harassed and received death threats. They fled to the United States, entering as visitors for pleasure under the Visa Waiver Program. No immigration relief or benefit was immediately available to them. The Immigration and Naturalization Service (I.N.S.) reported that the beneficiary likely was ineligible for asylum since he probably could not claim that the Swiss authorities were unable or unwilling to protect him from persecution or that he was being persecuted for one of the statutorily recognized grounds for asylum.

Private Law No. 105-3
H.R. 2731
Title: Private Bill; For the relief of Roy Desmond Moser.
Sponsor: Rep Delahunt, William D. [D-MA-10] (introduced 10/24/1997)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 105-361
Latest Major Action: Enacted 11/21/1997.

Technical Ineligibility for Nazi Reparations. This law was one of two uniquely intended to make the beneficiary eligible for reparations for Nazi persecution under a 1995 agreement between the United States and Germany rather than enabling him to receive any actual immigration benefit. The beneficiary emigrated from Canada as a child and served in the U.S. military during World War II before he completed naturalization. During the war he was among a group of American prisoners of war who were transferred to the Buchenwald concentration camp. After surviving the brutal conditions there and returning home after the war, the beneficiary became a naturalized U.S. citizen. Upon applying for reparations pursuant to the agreement, he was informed that he was ineligible because he was not a U.S. national at the time of persecution, one of only two such persons. The private law deemed him to have been a naturalized U.S. citizen retroactive to the date he entered the U.S. military.

Private Law No. 105-4
H.R. 2732
Title: Private Bill; For the relief of John Andre Chalot.
Sponsor: Rep Delahunt, William D. [D-MA-10] (introduced 10/24/1997)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 105-360
Latest Major Action: Enacted 11/21/1997.

Technical Ineligibility for Nazi Reparations. This private law benefitted the other individual determined to be ineligible for reparations for Nazi persecution because he was not a U.S. citizen at the time of persecution. The beneficiary emigrated to the United States from France as a child, but did not complete naturalization before enlisting in the military. He entered the Canadian military because he was too young to enlist in the U.S. military and later transferred to the U.S. Army Air Corps. As a prisoner of war, the beneficiary was transferred to the Buchenwald concentration camp. After the war, he became a naturalized U.S. citizen, but his claim for reparations under the agreement was rejected for the reasons noted above. The private law deemed him to have been a naturalized U.S. citizen retroactive to the date he entered the U.S. military.

Private Law No. 105-5
H.R. 378
Title: Private Bill; For the relief of Heraclio Tolley.
Sponsor: Rep Hunter, Duncan [R-CA-52] (introduced 1/7/1997)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 105-125
Latest Major Action: Enacted 11/10/1998.

Adoption Final after 16th Birthday. According to the House Report, Heraclio and his brother, Florencio, became orphans when their mother died and their father abandoned them at the ages of 2 and 4 respectively, leaving them to be raised by their maternal grandparents in Mexico. Several years later, when their uncle visited, he learned that the boys were living with little or no supervision, so he brought them back to the United States with him and took over full responsibility and care for the boys. The uncle, who worked for the adopting family, was killed in an auto accident

a year later. At that time, the Tolleys contacted an adoption attorney and instructed him to start proceedings for guardianship so that they could become legally responsible for the boys as well as enroll them in school. However, because they began guardianship proceedings prior to adoption proceedings, the completion of the adoption process was delayed until four months after Heraclio's 16 birthday. Immigration law requires that in order for an adopted child to qualify for permanent residence status as a 'child' of an American citizen, the child must have been adopted by the age of 16. The petition for adoption was filed prior to Heraclio Tolley's sixteenth birthday. If the Tolleys had begun adoption proceedings before the guardianship proceedings, the adoption would have been finalized before he turned 16.

Private Law No. 105-6
H.R. 379
Title: Private Bill; For the relief of Larry Errol Pieterse.
Sponsor: Rep Linder, John [R-GA-11] (introduced 1/7/1997)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 105-644
Latest Major Action: Enacted 11/10/1998.

Waiver of Deportation — Victim of Being Framed for a Drug Conviction and Sole Financial Support for a U.S. Citizen Spouse with a Chronic Illness. During a bitter marital break-up ultimately resulting in divorce, the beneficiary's first wife planted drugs in his home and called police. Due to financial difficulties, rather than complete trial proceedings, the beneficiary agreed to a plea bargain for a misdemeanor drug conviction. Subsequent changes in the immigration laws rendered him deportable. Subsequent attempts at relief failed, thus a private bill was the only remaining avenue for relief. The Subcommittee on Immigration and Claims consulted with the parole investigator for the Governor of Florida and the I.N.S. agent in charge of the case and also received the confidential case analysis of the Florida Parole and Probation Commission's Office of Executive Clemency. Investigations by all three sources were exhaustive. All found that the ex-wife clearly planted the drugs, and that Mr. Pieterse was guilty of no crime whatsoever. The beneficiary was the sole provider for his second wife, a U.S. citizen who suffered from a chronic illness, and assisted financially in the care of her children from a previous marriage. In addition to waivers of deportation and inadmissibility upon reentry as a returning resident after future departures from the United States, the law stipulated that the offense at issue in this case could not be used as evidence of bad moral character, so it would not render the beneficiary ineligible for naturalization.

Private Law No. 105-7
H.R. 1794
Title: Private Bill; For the relief of Mai Hoa "Jasmine" Salehi.
Sponsor: Rep Sherman, Brad [D-CA-24] (introduced 6/4/1997)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 105-689
Latest Major Action: Enacted 11/10/1998.

Death of the U.S. Citizen Spouse During Pendency of Conditional Permanent Resident Petition. The beneficiary and her husband filed a petition for her adjustment to conditional permanent resident status, but due to a 14-month backlog for applications in Los Angeles, where the beneficiary lived, her interview was scheduled 14 months after the filing. In the meantime, her husband was killed during an armed robbery of the restaurant of which he was a co-owner. Under immigration laws and regulations, the beneficiary was ineligible for waivers for which she would have qualified if her petition had already been approved. The House Report noted:

> By all accounts this was a legitimate marriage, and it is through no fault of her own that Mrs. Salehi has not met the marriage requirements of the [Immigration and Nationality Act (INA)]. . . . [INA] regulations concerning the untimely death of a sponsoring spouse allow for a waiver of the two year marriage requirement only if the individual's petition for conditional permanent residence has been approved prior to the death. If there had not been a 14-month backlog on petition approvals in Los Angeles, Mrs. Salehi would have been eligible for that waiver. Although the occurrence of death prior to two years of marriage is rare, the waiver is routinely given for humanitarian reasons in a case of this type if the petition for conditional permanent residence has been approved.

Private Law No. 105-8
H.R. 1834
Title: Private Bill; For the relief of Mercedes Del Carmen Quiroz Martinez Cruz.
Sponsor: Rep Bateman, Herbert H. [R-VA-1] (introduced 6/7/1997)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 105-690
Latest Major Action: Enacted 11/10/1998.

Death of the U.S. Citizen Spouse During Pendency of Conditional Permanent Resident Petition. The I.N.S. lost the petition for conditional permanent resident status filed by beneficiary's spouse; the beneficiary had a copy of the petition and a copy of its receipt from the office where the petition was filed. Subsequently, the couple had a son who was a U.S. citizen at birth. The beneficiary's husband died of a heart attack a little over a year after the petition was filed. At the time, the couple had been married about a month less than the two years which would have permitted the beneficiary to file as the widow of a U.S. citizen; her petition as the widow of a U.S. citizen was denied. If the agency had not lost her husband's original petition on her behalf, it likely would have been approved in a timely manner before her husband's death. The beneficiary would then have been eligible for a waiver of the two-year marriage requirement to remove the conditions from her permanent resident status. The private law classified her as an immediate relative, thus able to petition as a widow notwithstanding the length of her marriage, and permitted her to adjust her status.

Private Law No. 105-9
H.R. 1949
Title: Private Bill; For the relief of Nuratu Olarewaju Abeke Kadiri.
Sponsor: Rep Yates, Sidney R. [D-IL-9] (introduced 6/17/1997)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary

H.Rept. 105-524
Latest Major Action: Enacted 11/10/1998.

Alien Abandoned While a Minor by Parent Who, Unbeknownst to Her, Never Completed Her Adjustment to Permanent Resident Status. The beneficiary was brought to the United States as a minor child by her parents who subsequently separated and left their children with cousins who raised the children as their guardians. The mother's whereabouts were apparently unknown; the father returned permanently to their home country after filing for and receiving temporary resident status for his children under amnesty of the Immigration Reform and Control Act of 1986. He never completed the adjustment of status for his children to permanent residents. Neither the children nor their guardians realized this. By the time this was discovered, the deadline had passed for completing the amnesty process by filing for adjustment to permanent resident status. Although the beneficiary (still a minor at the time) immediately filed a petition upon discovering that she did not have permanent status, the petition was denied as not timely filed. Her only known family all resided in the United States where she had resided since she was a young child; she had no other ties.

Private Law No. 105-10
H.R. 2744
Title: Private Bill; For the relief of Chong Ho Kwak.
Sponsor: Rep Gekas, George W. [R-PA-17] (introduced 10/24/1997)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 105-645
Latest Major Action: Enacted 11/10/1998.

Waiver of Naturalization Oath for Incapacitated, Approved Applicant. The beneficiary was approved for naturalization and scheduled to take the oath of allegiance on June 14, 1996. On February 4, 1996, the beneficiary was shot in the head during the armed robbery of a grocery store he owned. Although in a stabilized semi-comatose state, he has never regained consciousness since the shooting. At the time this private law was enacted, immigration law prohibited the naturalization of anyone who was unable to take and understand the oath. The House Report noted, "It is clear Mr. Kwak intended to naturalize, that it was in no way his fault that he did not complete that process, and that this is a unique situation." Subsequent to this legislation, the INA was amended in 2000 to permit the waiving of the oath for a person who is unable to understand or communicate an understanding of the oath due to a physical or developmental disability or mental impairment.

106th Congress

Private Law No. 106-3
H.R. 322
Title: Private Bill; For the relief of Suchada Kwong.
Sponsor: Rep Rogan, James E. [R-CA-27] (introduced 1/6/1999)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary

H.Rept. 106-178
Latest Major Action: Enacted 12/3/1999.

Death of the U.S. Citizen Spouse During Pendency of Conditional Permanent Resident Petition. Through no fault of the beneficiary and her deceased spouse, their petition for her conditional permanent resident status was not approved prior to his death in a car accident. Due to the beneficiary's pregnancy, she was unable to undergo chest x-rays to determine definitively whether she had tuberculosis, which would have rendered her inadmissible until she was cured. Her husband died shortly after she gave birth to their U.S. citizen child and had chest x-rays showing she did not have tuberculosis, but before their interview and approval of their petition. Immigration regulations only permit approval of a widow's self-petition where the couple has been married at least two years and a waiver of the two-year requirement is given only where the approval had already been granted at the time of the spouse's death. Therefore, the private law was necessary to enable the beneficiary to be granted permanent resident status. The House Report noted the recent precedent of Private Law 105-7 and the additional factor of a U.S. citizen child.

Private Law No. 106-4
S. 452
Title: Private Bill; A bill for the relief of Belinda McGregor.
Sponsor: Sen Hatch, Orrin G. [R-UT] (introduced 2/24/1999)Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-364
Latest Major Action: Enacted 5/15/2000.

I.N.S. Error re Diversity Program. This private law deemed Belinda McGregor and any child of hers to have been selected for diversity visas under the FY2000 diversity visa program to correct errors by the I.N.S. that resulted in her not receiving a diversity visa. Due to I.N.S. mistakes arising out of confusion about her Austrian/British dual nationality and eligibility for a diversity visa and a simultaneous application by her husband, an Irish national, Belinda McGregor was not informed that she had been selected for a diversity visa until it was too late for her to send in additional documents to apply for one. The I.N.S. does not have the authority to correct such errors, therefore a private law was necessary.

Private Law No. 106-7
S. 302
Title: Private Bill; A bill for the relief of Kerantha Poole-Christian.
Sponsor: Sen Torricelli, Robert G. [D-NJ] (introduced 1/25/1999)
Cosponsors: (none)
Committees: Senate Health, Education, Labor, and Pensions; Senate Judiciary; House Judiciary
H.Rept. 106-906
Latest Major Action: Enacted 10/13/2000.

Adoption Final after 16th Birthday. The beneficiary's mother had been working and residing in the United States with the beneficiary. Leaving the beneficiary with friends in the United States, she returned to Jamaica to be interviewed for an immigrant visa but was denied. She and the natural father relinquished parental

rights and authorized the friends to proceed with the adoption of the beneficiary before she was 16 years old; during the process, the natural mother passed away. The House Report noted:

> In order for an adoptee to lawfully immigrate to the United States, the immigration law requires an adoption to have occurred prior to the age of 16. Because Kerantha's adoption was not completed until her 17th birthday, she would need a private bill in order to gain permanent residence. . . . The precedent concerning adoption cases is well-established. Precedent dictates that in order for favorable consideration of a private bill that allows an adoption to be considered legitimate for immigration purposes, the adoption needs to have been finalized and must have been initiated prior to the child's turning 16. . . . It is clear from the documentation provided that the Christians were actively proceeding with the adoption prior to Kerantha's 16th birthday.

Private Law No. 106-8
H.R. 3646
Title: Private Bill; For the relief of certain Persian Gulf evacuees.
Sponsor: Rep Rahall, Nick J., II [D-WV-3] (introduced 2/10/2000)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 106-580
Latest Major Action: Enacted 11/7/2000.

Persian Gulf War Evacuees with U.S. Ties. This private law provided for the adjustment to LPR status for a group of named individuals who were evacuated from Kuwait during the Persian Gulf War because they were the parents of U.S. citizen children or had secretly protected U.S. citizens during the Iraqi invasion and occupation of Kuwait. A total of 2,227 persons were evacuated, the majority of whom were Palestinian. The group was initially paroled into the United States and later granted deferred enforced departure. Over the years, the majority adjusted status through employer-sponsored visas and other means. Kuwait declined to receive any deportees; although most had been long-time residents, they were not Kuwaiti nationals. Although most could have been deported to Jordan, which grants passports to Palestinians, most had never even been to Jordan. The private law was intended to permanently resolve the situation by enabling permanent resident status for the remaining evacuees who had not otherwise adjusted status and were unable to do so. The legislation was done as a private bill rather than as a public law because, under private bill procedures, a request for information from the I.N.S. would result in a stay of any further action regarding deportation of the evacuees until negative action on the bill.

Private Law No. 106-10
H.R. 848
Title: Private Bill; For the relief of Sepandan Farnia and Farbod Farnia.
Sponsor: Rep Istook, Ernest J., Jr. [R-OK-5] (introduced 2/24/1999)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 106-894
Latest Major Action: Enacted 11/9/2000.

Aliens Brought to U.S. as Children with Only U.S. Family and Ties Remaining. This private law granted permanent residence to two young adult beneficiaries who were brought to the United States as young children by their mother. The mother and her two sons had fled Iran after the execution of the father and being in hiding for one year. Their asylum claims had been denied. In the meantime, the brothers had grown up and their mother had died. The factors favoring relief appear to have been the tragic circumstances and the fact that the two brothers were law-abiding, employed college students raised in the United States by extended family and had no familial, cultural, or linguistic ties to their native country.

Private Law No. 106-11
H.R. 3184
Title: Private Bill; For the relief of Zohreh Farhang Ghahfarokhi.
Sponsor: Rep Waxman, Henry A. [D-CA-29] (introduced 10/28/1999)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 106-893
Latest Major Action: Enacted 11/9/2000.

Former Wife of Lawful Permanent Resident Needed Lawful Status to Remain in the United States with Children. This private law granted permanent residence to the beneficiary to prevent extreme hardship to her two daughters, the younger of whom was a U.S. citizen aged 11 years at the time of the law's enactment, if they were deprived of her support. The beneficiary had been recently divorced from her husband who according to the House Report had used the laws in their home country of Iran to prevent the beneficiary from returning to the United States after a visit there and had removed her name from his application for lawful permanent residency on behalf of himself, his wife, and their non-U.S. citizen elder daughter. Without the private law, the recently divorced beneficiary would have had no way to remain lawfully in the United States for the near future, since her U.S. citizen daughter was too young to file a petition for her mother and her elder daughter would not be eligible to become a citizen for several years.

Private Law No. 106-12
H.R. 3414
Title: Private Bill; For the relief of Luis A. Leon-Molina, Ligia Padron, Juan Leon Padron, Rendy Leon Padron, Manuel Leon Padron, and Luis Leon Padron.
Sponsor: Rep Moran, Jerry [R-KS-1] (introduced 11/16/1999)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 106-892
Latest Major Action: Enacted 11/9/2000.

I.N.S. Error re Diversity Program. This private law deemed the Leon family to have been selected for diversity visas under the FY2001 diversity visa program to correct an error by the I.N.S. Although the beneficiaries had been denied asylum after their arrival from Ecuador, the head of the family was selected for a diversity visa under the program for FY1996. According to the House Report, although the family's applications for adjustment of status were approved and they were slated for the allocation of visas, the final processing of their visas was interrupted by the

shutdown of the Federal Government in December 1995 and their file was misplaced without further action by the time the Diversity Visa Program for that fiscal year had expired.

Private Law No. 106-13
H.R. 5266
Title: Private Bill; For the relief of Saeed Rezai.
Sponsor: Rep Cannon, Chris [R-UT-3] (introduced 9/21/2000)
Cosponsors: (none)
Committees: House Judiciary
H.Rept. 106-905
Latest Major Action: Enacted 11/9/2000.

Chronic Serious Illness of U.S. Citizen Spouse. This private law provided for LPR status for the beneficiary because of the serious illness of his spouse. The I.N.S. had denied a petition by his second wife for adjustment of status for the beneficiary due to marriage fraud concerns with respect to his first marriage. The I.N.S. acknowledged that the second marriage was valid. The House Report noted:

> . . . Ms. Rezai has been diagnosed with multiple sclerosis. Her doctor has indicated that she may rapidly deteriorate as a result of any type of severe stress. . . . The standard for a private immigration bill being appropriate is that the case involves an alien who has an unusual problem that would result in extreme hardship to a United States citizen spouse, parent or child or to the alien beneficiaries themselves. Because of Mrs. Rezai's condition, this case meets that standard.

Private Law No. 106-14
S. 11
Title: Private Bill; A bill for the relief of Wei Jingsheng.
Sponsor: Sen Abraham, Spencer [R-MI] (introduced 1/19/1999)
Cosponsors: 10
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-955
Latest Major Action: Enacted 11/22/2000.

Pro-Democracy Activist. This law provided for LPR status for the beneficiary, an internationally recognized pro-democracy and human rights activist from the People's Republic of China who served 18 years in prison and labor camps there for his pro-democracy political activities until he was released to seek medical treatment in the United States. He was a visiting scholar at Columbia University and had a pending employment-based immigration petition at the time this private legislation was under consideration.

Private Law No. 106-15
S. 150
Title: Private Bill; A bill for the relief of Marina Khalina and her son, Albert Mifakhov.
Sponsor: Sen Wyden, Ron [D-OR] (introduced 1/19/1999)
Cosponsors: (none)

Committees: Senate Judiciary; House Judiciary
H.Rept. 106-956
Latest Major Action: Enacted 11/22/2000.

Chronic, Serious Medical Condition Requiring Ongoing Treatment. This private law provided for LPR status for the beneficiaries, a Russian woman and her son, who had cerebral palsy with spastic diplegia and was undergoing medical treatment in the United States which was unobtainable in Russia. The beneficiaries originally entered the country on visitor visas, which were extended, but deportation proceedings were initiated upon the expiration of all possible extensions and other avenues for relief. The son needed continued medical treatment including additional surgeries until he reached physical maturity between 18 and 21 years of age. The beneficiaries had no other avenue for staying in the United States on a more permanent basis, had successfully assimilated in the United States and had no ties to Russia other than the mother's parents.

Private Law No. 106-16
S. 276
Title: Private Bill; A bill for the relief of Sergio Lozano.
Sponsor: Sen Feinstein, Dianne [D-CA] (introduced 1/21/1999)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-958
Latest Major Action: Enacted 11/22/2000.

Death of Parent Sponsor Before Arrival of Immigrant Children in the United States. This private law provided for LPR status for the oldest of three siblings who arrived in the United States from El Salvador after the death of their mother. The three had been approved for immigrant visas to join their mother, a lawful permanent resident. While she was making final preparations to bring them to the United States, she passed away. The maternal grandmother instructed the children to board an airplane bound for the United States. Upon arrival, the immigration authorities determined that, due to the death of the mother, the immigrant visas of the children were invalid. They were paroled into the United States. The younger siblings became wards of the court, which applied for special immigrant juvenile visas on their behalf. Sergio Lozano, who turned 18 years old shortly after arrival in the United States, could not receive a visa in the manner his siblings had. He has no family in El Salvador and separation from his younger siblings would have been an extreme hardship for them. The private law was his only avenue for relief.

Private Law No. 106-18
S. 869
Title: Private Bill; A bill for the relief of Mina Vahedi Notash.
Sponsor: Sen Feinstein, Dianne [D-CA] (introduced 4/22/1999)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-960
Latest Major Action: Enacted 11/22/2000.

Former Battered Wife Needed Lawful Status to Remain in the United States and Dispute Child Custody. The private law provided for LPR status for the beneficiary, who otherwise would have been unable to remain in the United States to seek custody of her children. The beneficiary was brought to the United States illegally by her ex-husband, who abused her physically and threatened her with deportation. After their two children were born, he told her he would petition for her legal status, but that she had to return to Iran first. When she did so, he divorced her under Iranian law, which meant that she could not dispute the divorce or the custody in Iran. She returned to the United States on a fiancée visa, but her engagement ended when her fiancé learned that she wished to regain custody of her children. The beneficiary had no visitation rights with her children and was concerned that they might be suffering physical abuse. Without the private law, she would have been unable to remain in the United States to dispute custody and might never have seen her children again.

Private Law No. 106-19
S. 1078
Title: Private Bill; A bill for the relief of Mrs. Elizabeth Eka Bassey, Emmanuel O. Paul Bassey, and Mary Idongesit Paul Bassey.
Sponsor: Sen Helms, Jesse [R-NC] (introduced 5/19/1999)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-961
Latest Major Action: Enacted 11/22/2000.

Death of the Primary Visa Recipient (State Department Career Employee) Prior to Family Immigration. Paul Bassey, the husband and father of the beneficiaries, was a Nigerian national who was a career employee of the U.S. State Department. In 1991, he received special immigrant status from the State Department in recognition of his service to the U.S. Government and was later approved for an employment 4th preference visa petition as a result of his special immigrant status. However, that same year, civil war broke out in Zaire and the U.S. Embassy there asked Mr. Bassey to delay his retirement for a year to assist them during this crisis. In 1992, Mr. Bassey passed away before he and his family could emigrate to the United States. His family was informed that they were not eligible to receive special immigrant status on their own, although they all would have been eligible as his accompanying immediate family. At the time of the private law enactment, the widow and one of the children had been paroled into the United States for humanitarian reasons; the other children were in the United States on student visas. The private law enabled them to adjust to LPR status.

Private Law No. 106-20
S. 1513
Title: Private Bill; A bill for the relief of Jacqueline Salinas and her children Gabriela Salinas, Alejandro Salinas, and Omar Salinas.
Sponsor: Sen Thompson, Fred [R-TN] (introduced 8/5/1999)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-962
Latest Major Action: Enacted 11/22/2000.

Serious Medical Condition Requiring Ongoing Treatment. This private law provided LPR status to the beneficiaries, a mother and three of her children, because of the extreme hardship they would otherwise suffer, particularly the child with a serious illness for which treatment could not be obtained in their home country. The child with a rare bone cancer came to the United States with her father from Bolivia. St. Jude's Children's Hospital offered treatment at no cost to the family. The rest of the family joined them in the United States. A car accident resulted in the death of the father, one child, and the permanent paralysis of the mother from the waist down. The mother, who was pregnant at the time of the accident, gave birth to a U.S. citizen child. The Hospital offered complete financial support to enable the family to reside permanently in the United States. The disability of the surviving parent and the need for ongoing cancer treatment for the sick child would have caused the family an extreme hardship if they had had to return to Bolivia. The private law was the only avenue by which they could obtain LPR status and a waiver for the public charge ground for inadmissibility.

Private Law No. 106-21
S. 2000
Title: Private Bill; A bill for the relief of Guy Taylor.
Sponsor: Sen Feinstein, Dianne [D-CA] (introduced 1/24/2000)Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-963
Latest Major Action: Enacted 11/22/2000.

Permanent Residency for a Young Adult Paroled into the United States as a Minor. This private law provided for permanent resident status for a young adult who was the orphaned child born abroad to a U.S. citizen mother and a father of unknown citizenship and raised primarily in the United States, first by his mother and later by his maternal grandmother as guardian. The young man wished to enlist in the U.S. military, but needed to have LPR status to do so. He had been paroled into the United States, but was too old to qualify as a dependent of his grandmother at the time of his mother's death. The private legislation was necessary to enable him to enlist in the military and reside in the United States permanently. It is not clear from the legislative history why the beneficiary was not considered a U.S. citizen-at-birth through his mother.

Private Law No. 106-22
S. 2002
Title: Private Bill; A bill for the relief of Tony Lara.
Sponsor: Sen Feinstein, Dianne [D-CA] (introduced 1/24/2000)Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-964
Latest Major Action: Enacted 11/22/2000.

Permanent Residency for a Young Adult Who Had Been Abandoned as a Minor. This private law provided for LPR status for the beneficiary, who was brought to the United States from El Salvador illegally by his parents when he was a young child. The mother drowned while trying to reenter the United States after being deported; the father was deported after several drug arrests and had no contact with the beneficiary. The beneficiary and his sister were eventually taken in by U.S.

family friends who could only afford to adopt the sister. The beneficiary eventually moved in with the family of his high school wrestling coach; he became a champion wrestler. Although he wished to apply for permanent residency earlier, he was incorrectly advised that he would be deported. While he was a minor, he could have become a ward of the court and become a special juvenile immigrant. He had no ties with El Salvador, maintained ties to his sister, and was supported in his efforts by his wrestling coach and the coach's spouse. The private law was the only avenue by which the beneficiary could lawfully remain permanently in the United States since he was no longer a minor.

Private Law No. 106-23
S. 2019
Title: Private Bill; A bill for the relief of Malia Miller.
Sponsor: Sen Kyl, Jon [R-AZ] (introduced 2/1/2000)Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-965
Latest Major Action: Enacted 11/22/2000.

Death of the U.S. Citizen Spouse During Pendency of Conditional Permanent Resident Petition. Through no fault of the beneficiary she was unable to satisfy the marriage requirements for an alien spouse petition because her U.S. citizen spouse was killed in a helicopter crash abroad before her petition for conditional permanent resident status was approved. The beneficiary had already entered the United States on a visitor visa and given birth to the couple's son. She was granted humanitarian parole to leave the United States to make arrangements concerning her husband's funeral and to reenter the United States. Immigration regulations only permit approval of a widow's self-petition where the couple has been married at least two years and a waiver of the two-year requirement is given only where the approval had already been granted at the time of the spouse's death. Therefore, the private law was necessary to enable the beneficiary to be granted permanent resident status. The House Report noted the recent precedent of Private Law 105-7 and the additional factor of a U.S. citizen child. It also emphasized the hardship that would be suffered by the child if he had to leave the United States and break the bond already established with his paternal grandparents and other family/friends in his community.

Private Law No. 106-24
S. 2289
Title: Private Bill; A bill for the Relief of Jose Guadalupe Tellez Pinales.
Sponsor: Sen Grassley, Chuck [R-IA] (introduced 3/23/2000)Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 106-966
Latest Major Action: Enacted 11/22/2000.

Permanent Residency for a Young Adult Brought to the United States Illegally as a Child. The beneficiary's father had been killed in an accident and his mother was unable to support him in addition to another child. Therefore, he was brought into the United States from Mexico illegally by his great uncle when he was toddler and raised by his great uncle and his first wife, whom he believed to be his parents. The great uncle became a naturalized citizen and erroneously believed that the beneficiary derived citizenship through his naturalization. When the beneficiary was

15 years old, the uncle's second wife discovered that there had been no formal adoption, by which time it was too late to complete a formal adoption before the beneficiary's 16th birthday. The House Report noted:

> Jose wished to join the U.S. Marine Corps, but found that he could not because he has no legal status. It would be an extreme hardship to Jose to be deported to Mexico. He has resided in the U.S. since the age of three, does not speak Spanish, and by all accounts has led an exemplary life. It is through no fault of his own that the adults in his life did not take appropriate actions to provide him legal status in the United States. He has no avenue available to him now to get that status.

107th Congress

Private Law No. 107-1
S. 560
Title: Private Bill; A bill for the relief of Rita Mirembe Revell (a.k.a. Margaret Rita Mirembe).
Sponsor: Sen Hatch, Orrin G. [R-UT] (introduced 3/19/2001)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 107-129
Latest Major Action: Enacted 7/17/2001.

Terminal Illness Made it Impossible to Satisfy the Requirements for an Orphan-adoption Immigrant Petition. Mr. Dennis Revell and Ms. Maureen Reagan would have adopted Rita many years earlier if they had been given the opportunity. Ms. Reagan's terminal illness prohibited her from ever traveling to Uganda to adopt Rita. The only way Mr. Revell and Ms. Reagan could assure that Rita remained a part of their family in the United States was through a private bill. The combination of Uganda's adoption restrictions early in their relationship with Rita and Ms. Reagan's subsequent cancers had made it virtually impossible for Rita to be adopted under the adoption laws of Uganda and in accordance with U.S. immigration law. But for those factors, Rita would have been the adopted daughter of the only two people she had ever known to be her parents. The uniqueness standard and extreme hardship standard for approval of private bills was met through the combined facts of: (1) Ugandan adoption law prohibiting adoption of Rita prior to February 2000; (2) Ms. Reagan's illness being prohibitive of ever completing an adoption; (3) Mr. Revell's and Ms. Reagan's total support of Rita since the age of 3; and (4) the fact Rita had lived with Mr. Revell and Ms. Reagan since the age of 8 and they were the only parents she had ever known.

Private Law No. 107-5
H.R. 2245
Title: Private Bill; For the relief of Anisha Goveas Foti.
Sponsor: Rep Lantos, Tom [D-CA-12] (introduced 6/19/2001)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 107-579
Latest Major Action: Enacted 11/5/2002.

Death of the U.S. Citizen Spouse Who Was a Foreign Service Officer During Pendency of Conditional Permanent Resident Petition. The beneficiary, Mrs. Goveas Foti, was married to a United States citizen, Seth Foti, who perished in an airplane crash while performing official duties for the United States Government. I.N.A. regulations concerning the untimely death of a sponsoring spouse permit a waiver of the two-year marriage requirement only if the individual's petition for conditional permanent residence was approved prior to the death. The interview for approval of Mrs. Foti's petition for conditional permanent residence had not been scheduled before Mr. Foti was killed on August 23, 2000. Had the interview occurred, Mrs. Foti would have been eligible for that waiver. Although the occurrence of death prior to two years of marriage is rare, the waiver is routinely given for humanitarian reasons in a case of this type if the petition for conditional permanent residence has been approved. The House Report noted that, "By all accounts this was a legitimate marriage, and it is through no fault of her own that Mrs. Foti has not met the marriage requirements of the I.N.A. This case mirrors several other private laws enacted in the last few years."

Private Law No. 107-6
H.R. 3758
Title: Private Bill; For the relief of So Hyun Jun.
Sponsor: Rep McCrery, Jim [R-LA-4] (introduced 2/13/2002)Cosponsors: (none)
Committees: House Judiciary
H.Rept. 107-729
Latest Major Action: Enacted 12/2/2002.

Adoption Final after 16th Birthday. According to the House Report, "The precedent concerning adoption cases is well-established. Precedent dictates that in order for favorable consideration of a private bill that allows an adoption to be considered legitimate for immigration purposes, the adoption must have been initiated prior to the child's turning 16 and must be finalized."

108th Congress

Private Law No. 108-1
S. 103
Title: Private Bill; A bill for the relief of Lindita Idrizi Heath.
Sponsor: Sen Nickles, Don [R-OK] (introduced 1/7/2003)
Cosponsors: (none)
Committees: Senate Judiciary; House Judiciary
H.Rept. 108-532
Latest Major Action: Enacted 7/22/2004.

Adoption Final after 16th Birthday. As for Private Law 107-6, private bill precedent dictates that in order to make an adoption legitimate for immigration purposes, the adoption must have been at least initiated prior to the child's turning age 16.

Private Law No. 108-3
H.R. 712
Title: Private Bill; For the relief of Richi James Lesley.
Sponsor: Rep Wicker, Roger F. [R-MS-1] (introduced 2/11/2003)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 108-530
Latest Major Action: Enacted 10/30/2004.

Adjustment of Status for an Orphan Adoptee. The beneficiary was adopted abroad before his 16th birthday (as an infant), but his parents apparently never complied with immigration requirements, perhaps not knowing that they had to apply for an immigrant visa and/or adjustment of status and, later, naturalization. The beneficiary thought he was a citizen until he belatedly discovered otherwise.

Private Law No. 108-4
H.R. 867
Title: Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.
Sponsor: Rep Holt, Rush D. [D-NJ-12] (introduced 2/13/2003)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 108-531
Latest Major Action: Enacted 10/30/2004.

Death of Petitioner from a 9/11-related Hate Crime During the Pendency of a Petition for Adjustment to Permanent Resident Status for Immediate Relatives. On September 15, 2001, in reaction to the events of September 11, an unstable man killed Mr. Hassan. Because Mr. Hassan was the petitioner for the family's adjustment, that petition became invalid upon his death. Therefore, under the I.N.A. and its regulations, his wife and four daughters who lived in suburban New Jersey faced removal from the United States. According to the House Report, "This private bill, on behalf of the family, would not set any bad precedent. Though he did not die at the World Trade Center or the Pentagon, Mr. Hassan was indeed a victim of the events of September 11th. *The Committee is preceding with this bill only because the murder is linked to 9/11*. [emphasis added] It is inappropriate, generally, for Congress to pass private bills to give status to the families of noncitizens because those noncitizens were killed while in the United States." A minority comment was that the public law should be amended to permit family-unification petitions to survive the death of the petitioner through no fault of the beneficiaries.

Private Law No. 108-6
H.R. 530
Title: Private Bill; For the relief of Tanya Andrea Goudeau.
Sponsor: Rep Baker, Richard H. [R-LA-6] (introduced 2/4/2003)
Cosponsors: (none)
Committees: House Judiciary; Senate Judiciary
H.Rept. 108-529
Latest Major Action: Enacted 12/23/2004.

Adoption Final after 16th Birthday. According to private bill precedent, in order to make an adoption legitimate for immigration purposes, the adoption must have been at least initiated prior to the child's turning age 16. The beneficiary satisfied this condition; the adoption process was begun before her 16th birthday, but was not finalized until she had aged out of eligibility for an adopted orphan visa.

Private Immigration Bills Introduced and Enacted, 104th-109th Congresses

Congress	Introduced	Enacted
104th	29	2
105th	63	9
106th	122	18
107th	66	3
108th	98	4
109th	73	0

Source: Legislative Information System of Congress, Congressional Research Servic