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# **EQUALITY & RELIGIOUS FREEDOM ACT PROPOSAL**

## **INTRODUCTORY NOTE**

This draft omnibus LGBT equality bill is intended to serve as a starting point for discussion about what full LGBT equality might look like from a legislative perspective.

An underlying assumption in crafting this bill was that amending existing civil rights laws was preferable to creating separate, stand-alone legislation to protect LGBT people. Although historically there has been some reluctance to amend existing civil rights laws to add new protected categories, with an apparent preference to create separate, stand alone laws, it may be time to rethink this inefficient and sometimes unequal strategy. Amending existing civil rights laws has many advantages including the already existing body of case law interpreting the meaning, intent and application of the statute (i.e., Title VII is to be broadly construed to effectuate the remedial purpose of the statute) and ensuring protections are applied equally to each protected class. Additionally, amending an existing law to add new categories is more cost and time effective – especially for government enforcement agencies and the courts who would be forced to issue new regulations and judicial interpretations (especially to the extent the new laws are separate and provide fewer protections or greater exemptions). This approach is consistent with President Obama’s call for more efficient and cost effective government.

This draft is written in the general form of a statute, but additional proofing, resolution of technical drafting/formatting issues, and much discussion, is still needed. If such an omnibus bill were to be introduced, it would also need a thorough, well thought out “Purpose” section and appropriate legislative findings of fact.

# **EQUALITY & RELIGIOUS FREEDOM ACT PROPOSAL**

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# **EQUALITY & RELIGIOUS FREEDOM ACT PROPOSAL**

## **SUMMARY OF PROPOSED CHANGES TO EXISTING LEGISLATION**

- Expanding the Civil Rights Act of 1964, the Civil Service Reform Act of 1978, and the Government Employee Rights Act of 1991 to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination in employment.
- Amending the Family and Medical Leave Act of 1993 to clarify the definitions of “parent”, “son or daughter” and “spouse.”
- Amending the Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) to add “sexual orientation” and “gender identity” as prohibited basis for discrimination in the sale or rental of housing, real-estate related transactions, and the provision of brokerage services.
- Amending Title II of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited basis for discrimination or segregation in places of public accommodation.
- Amending §2000b of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited basis’ for denial of equal use of public facilities.
- Amending the Equal Credit Opportunity Act of 1974 to add “sexual orientation” and “gender identity” as prohibited basis for discrimination in any aspect of a credit transaction.
- Amending Title VI of the Civil Rights Act of 1964 to add “sexual orientation” and “gender identity” as prohibited basis for discrimination in federally funded programs or activities and adding an exemption for religious organizations.
- Amending The Elementary and Secondary Education Act of 1965, as amended, to include the categories “sexual orientation” and “gender identity” in the Civil Rights section. Amending the Americans with Disabilities Act to repeal discriminatory provisions.
- Amending the “Defense of Marriage Act” to remove provisions that discriminate based on sex or sexual orientation and providing an exemption for clergy and religious organizations.
- Expanding the 1969 hate crimes statute, Title 18, Chapter 13, to include crimes motivated by a victim's actual or perceived gender, sexual orientation, gender identity, or disability.

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- Repealing the Armed Forces' "Don't Ask Don't Tell" policy and replacing it with a policy of nondiscrimination based on sexual orientation and gender identity; and
- Amending the Immigration and Nationality Act to grant permanent partners immigration rights consistent with those of spouses.

# **EQUALITY & RELIGIOUS FREEDOM ACT PROPOSAL**

## **SHORT TITLE.**

This Act may be cited as the 'Equality and Religious Freedom Act'.

## **PURPOSE.**

The purpose of this Act is realize the American ideal of equal protection under the law by amending existing civil rights legislation to include protections based on sexual orientation and gender identity while simultaneously protecting and preserving religious freedom for all.

## **A. EQUAL EMPLOYMENT OPPORTUNITY.**

Sec. 1. **Title VII of the Civil Rights Act of 1964**, as amended, 42 U.S.C. §2000e, is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination in employment.

a. The following definitions shall be added at the end of §2000e:

(o) The term “sexual orientation” means homosexuality, heterosexuality, or bisexuality.

(p) The term “gender identity” means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

b. Sections 2000e-2(a)-(d), §2000e-2(h), §2000e-2(j), §2000e-2(l), §2000e-2(m), §2000e-3(b), 2000e(g)(2)(A), §2000e-16(a), and §2000e-16(c), are amended so that in every instance where the phrase “race, color, religion, sex, or national origin” appears, it shall be replaced with the phrase, “race, color, religion, sex, national origin, sexual orientation, or gender identity”.

c. Construction

(1) Dress and Grooming Standards- Nothing in this Act shall prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law, provided that the employer permits any employee who has undergone gender transition prior to the time of employment, and any employee who has notified the employer that the employee has undergone or is undergoing gender transition after the time of employment, to adhere to the same dress or grooming standards for the gender to which the employee has transitioned or is transitioning.

(2) Certain Shared Facilities.

Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

Sec. 2. **The Civil Service Reform Act of 1978**, as amended, 5 U.S.C. §2302, is amended to clarify that discrimination based on “sexual orientation” and “gender identity” are prohibited basis’ for discrimination in federal employment.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Sections 2302(b)(1)(A) and 2302(d)(1) are amended to replace the phrase “race, color, religion, sex, or national origin” with “race, color, religion, sex, national origin, sexual orientation, or gender identity”.

c. Certain Shared Facilities. Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

Sec. 3. **The Government Employee Rights Act of 1991**, 42 U.S.C. §2000e-16a et seq., is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination for certain government employees, with respect to their public employment.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 2000e-16a(b) The phrase “race, color, religion, sex, national origin, age, or disability” is replaced with “race, color, religion, sex, national origin, age, disability, sexual orientation, or gender identity”.

c. Certain Shared Facilities. Nothing in this Act shall be construed to establish an unlawful employment practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided

that the employer provides reasonable access to adequate facilities that are not inconsistent with the employee's gender identity as established with the employer at the time of employment or upon notification to the employer that the employee has undergone or is undergoing gender transition, whichever is later.

Sec. 4. The **Family and Medical Leave Act of 1993**, as amended, 29 U.S.C. §2611, is amended to clarify the following definitions:

(7) Parent - The term “parent” means the biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter. For purposes of this statute, the term “in loco parentis” includes but is not limited to an individual who is a defacto or psychological parent of the child.

(12) Son or daughter - The term “son or daughter” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, a child registered as a “dependent” or similar classification under the employer’s domestic partnership policy, or a child designated by an employee and his or her domestic partner as a “dependent” or similar classification pursuant to a municipal, state or federal domestic partnership registry, who is—

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

(13) Spouse - The term “spouse” means a husband or wife, as the case may be. For purposes of this statute, the term “spouse” includes a person designated a domestic partner under the employer’s domestic partnership policy, an employee’s civil union partner, a spouse from a domestic or foreign marriage, and a domestic partner registered pursuant to a municipal, state or federal law.

## **B. FAIR HOUSING.**

Sec. 1. The **Fair Housing Act**, as amended, 42 U.S.C. §3601 et seq., is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination in the sale or rental of housing, real-estate related transactions, and the provision of brokerage services.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

- b. Sections 3604(a)-(b) are amended to replace the phrase “race, color, religion, sex, familial status, or national origin” with “race, color, religion, sex, familial status, national origin, sexual orientation, or gender identity”.
- c. Sections 3604(c)-(e), 3605(a), and 3606 are amended to replace the phrase “race, color, religion, sex, handicap, familial status, or national origin” with “race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity”.
- d. Section 3605(c) is amended to replace the phrase “race, color, religion, national origin, sex, handicap, or familial status” with “race, color, religion, sex, handicap, familial status, national origin, sexual orientation, or gender identity”.
- e. Section 3608(e)(6) is amended to replace the phrase “race, color, religion, sex, national origin, age, handicap” with “race, color, religion, sex, national origin, age, handicap, sexual orientation, gender identity”.

### **C. PLACES OF PUBLIC ACCOMMODATION.**

Sec. 1. **Title II of the Civil Rights Act of 1964**, as amended, 42 U.S.C. §2000a et seq., is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination or segregation in places of public accommodation.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Sections 2000a(a) and 2000a-1 are amended to replace the phrase “race, color, religion or national origin” with “race, color, religion, national origin, sexual orientation, or gender identity”.

c. **Certain Shared Facilities.**

Nothing in this Act shall be construed to establish an unlawful practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the proprietor provides reasonable access to adequate facilities that are not inconsistent with the individual's gender identity as established with the proprietor at the time of the relationship first began or upon notification to the proprietor that the individual has undergone or is undergoing gender transition, whichever is later.

#### **D. USE OF PUBLIC FACILITIES.**

Sec. 1. **42 U.S.C. §2000b**, is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for denial of equal use of public facilities.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 2000b(a) is amended to replace the phrase “race, color, religion or national origin” with “race, color, religion, national origin, sexual orientation, or gender identity”.

c. **Certain Shared Facilities.** Nothing in this Act shall be construed to establish an unlawful practice based on actual or perceived gender identity due to the denial of access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, provided that the proprietor provides reasonable access to adequate facilities that are not inconsistent with the individual's gender identity as established with the proprietor at the time of the relationship first began or upon notification to the proprietor that the individual has undergone or is undergoing gender transition, whichever is later.

#### **E. EQUAL CREDIT OPPORTUNITY.**

Sec. 1. The **Equal Credit Opportunity Act of 1974**, 15 U.S.C. §1691 et seq., is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for discrimination in any aspect of a credit transaction.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 1691(a)(1) is amended to replace the phrase “race, color, religion, national origin, sex or marital status, or age” with “race, color, religion, national origin, sex or marital status, sexual orientation, gender identity, or age”.

#### **F. FEDERALLY FUNDED PROGRAMS OR ACTIVITIES.**

Sec. 1. Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000d, is amended to add “sexual orientation” and “gender identity” as prohibited basis’ for exclusion from participation in, denial of the benefits of, or being subjected to discrimination under any program or activity receiving Federal financial assistance.

a. The terms “sexual orientation” and “gender identity” are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

b. Section 2000d is amended to replace the phrase “race, color, or national origin” with “race, color, national origin, sexual orientation, or gender identity”.

Sec. 2. Exemption for Religious Organizations. The provisions of this Section related to “sexual orientation” and “gender identity” shall not apply to a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

## **G. EDUCATION.**

Sec. 1. The Elementary and Secondary Education Act, as amended, 42 U.S.C. §6301 et seq., is amended to add the phrase “sexual orientation, gender identity” following the phrase “national origin,” in Section 9534 (a), and the new terms are defined as in Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e.

## **H. DISABILITY.**

Sec. 1. The **Americans with Disabilities Act of 1990**, as amended, 42 U.S.C. §§12101 et seq., and the Rehabilitation Act of 1973, as amended, 42 U.S.C. §706 are amended to repeal discriminatory provisions.

a. 42 U.S.C. §12208 is repealed.

b. 42 U.S.C. §12211(b)(1) is amended to delete the word “transsexualism,” and the phrase “gender identity disorders not resulting from physical impairments,” from the definition of “Certain conditions” excluded from coverage under the Act.

c. 29 U.S.C. §706(8)(F)(i) is amended to delete to delete the word “transsexualism,” and the phrase “gender identity disorders not resulting from physical impairments,” from the list excluded from protection an ‘individual with a disability’ for purposes of Section 501, 503 and 504 of the Rehabilitation Act.

## **I. MARRIAGE EQUALITY AND RELIGIOUS FREEDOM.**

Sec. 1. The “Defense of Marriage Act,” codified at 1 U.S.C. §7 and 28 U.S.C. §1738C, is repealed.

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Sec. 2. A new Section is created to promote legal equality in the civil marriage laws and to protect the religious freedom of clergy and religious societies authorized to solemnize civil marriages, to read as follows.

a. In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the following definitions apply:

(1) The word “marriage” means only a legal union between two people as spouses.

(2) The word “spouse” refers to either member of a legal union authorized by any State as a marriage, civil union, or domestic partnership. A spouse may also be referred to as a husband or a wife.

b. No member of the clergy of any religious organization or society authorized to solemnize a marriage under any State law shall be required to solemnize any marriage it chooses not to solemnize for any reason, nor shall they be required to permit any couple to solemnize a legal union in or on the grounds of its place of worship when doing so would not be consistent with the religious tenets of such religious organization or society.

#### **J. HATE CRIMES.**

Text of the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act would be inserted here. See Appendix 2 for the entire text.

#### **K. ARMED FORCES.**

Text of the Military Readiness Enhancement Act of 2007, with revisions to include protections based on gender identity or expression, would be inserted here. See Appendix 3 for the entire text of the MREA of 2007 with edits to include gender identity.

#### **L. IMMIGRATION - UNITING AMERICAN FAMILIES.**

Text of the Uniting American Families Act of 2007 would be inserted here. See Appendix 4 for the entire text.

**APPENDIX 1**

**EXISTING CIVIL RIGHTS COMPARISON CHART**

SUBJECT	EXISTING LAW	CATEGORIES PROTECTED	CATEGORIES PROTECTED BY PARALLEL LAWS	MISSING CATEGORIES
<b>PRIVATE EMPLOYMENT</b> (also applies to state and local governments)	<b>Title VII of Civil Rights Act</b> , 42 USC §2000e	<b>Race, Color, Religion, Sex, National Origin, Pregnancy*</b> (*via 1978 Pregnancy Discrimination ACT)	<b>Disability, Age, National Origin, Citizenship Status</b> Disability: Rehabilitation Act of 1973, Americans with Disabilities Act of 1990; Age: Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq.; National Origin and citizenship: Immigration & Nationality Act.	<b>Sexual Orientation, Gender Identity, Marital Status</b>
<b>FEDERAL EMPLOYMENT</b>	<b>Civil Service Reform Act of 1978 (CSRA); Congressional Accountability Act of 1995</b> (applies Title VII, ADA, Rehabilitation Act and ADEA to the legislative branch); and <b>Government Employee Rights Act of 1991</b>	<b>Race, Color, National Origin, Religion, Sex, Age, Disability, Marital Status, Political Affiliation.</b> *The CSRA has also been interpreted to include <b>Sexual Orientation</b>	N/A	<b>Sexual Orientation, Gender Identity, Pregnancy</b>
<b>HOUSING</b> Applies to public and private housing, sale or rental of housing, real-estate related transactions, and the provision of brokerage services	<b>Fair Housing Act</b> , 42 U.S.C. §§ 3601 et seq.	<b>Race, Color, Religion, Sex, Familial Status, National Origin, Handicap.</b> Includes Age and Religious exemptions	<b>Disability, Age*</b> Americans with Disabilities Act; Age Discrimination Act of 1975 *Age Discrimination Act applies to federally funded programs or activities	<b>Sexual Orientation, Gender Identity, Marital Status</b>
<b>PUBLIC ACCOMMODATIONS</b>	<b>Title II of Civil Rights Act</b> , 42 USC §2000a	<b>Race, Color, Religion, National Origin</b>	<b>Disability</b> Americans with Disabilities Act;	<b>Sexual Orientation, Gender Identity, Marital Status, Sex</b>
<b>USE OF PUBLIC FACILITIES</b>	<b>Title III of Civil Rights Act</b> , 42 USC §2000b	<b>Race, Color, Religion, National Origin</b>	N/A	<b>Sexual Orientation, Gender identity, Sex</b>

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<b>CREDIT</b>	<b>Equal Credit Opportunity Act, 15 USC §§ 1691 et seq.</b>	<b>Race, Color, Religion, National Origin, Sex, Marital Status, Age, Source of Income</b>	N/A	<b>Sexual Orientation, Gender Identity</b>
<b>DISCRIMINATION IN FEDERALLY FUNDED PROGRAMS</b>	<b>Title VI of the Civil Rights Act, 42 USC §2000d</b>	<b>Race, Color, National Origin</b>	<b>Sex, Age, Disability</b> Title IX of the Education Amendments of 1972; Age Discrimination Act of 1975; Rehabilitation Act of 1973.	<b>Sexual Orientation, Gender Identity</b>

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## **APPENDIX 2**

### **MATTHEW SHEPARD LOCAL LAW ENFORCEMENT HATE CRIMES PREVENTION ACT**

(a) Short Title- This section may be cited as the `Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act of [YEAR]'.

(b) Findings- Congress makes the following findings:

(1) The incidence of violence motivated by the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim poses a serious national problem.

(2) Such violence disrupts the tranquility and safety of communities and is deeply divisive.

(3) State and local authorities are now and will continue to be responsible for prosecuting the overwhelming majority of violent crimes in the United States, including violent crimes motivated by bias. These authorities can carry out their responsibilities more effectively with greater Federal assistance.

(4) Existing Federal law is inadequate to address this problem.

(5) A prominent characteristic of a violent crime motivated by bias is that it devastates not just the actual victim and the family and friends of the victim, but frequently savages the community sharing the traits that caused the victim to be selected.

(6) Such violence substantially affects interstate commerce in many ways, including the following:

(A) The movement of members of targeted groups is impeded, and members of such groups are forced to move across State lines to escape the incidence or risk of such violence.

(B) Members of targeted groups are prevented from purchasing goods and services, obtaining or sustaining employment, or participating in other commercial activity.

(C) Perpetrators cross State lines to commit such violence.

(D) Channels, facilities, and instrumentalities of interstate commerce are used to facilitate the commission of such violence.

(E) Such violence is committed using articles that have traveled in interstate commerce.

(7) For generations, the institutions of slavery and involuntary servitude were defined by the race, color, and ancestry of those held in bondage. Slavery and involuntary servitude were enforced, both prior to and after the adoption of the 13th amendment to the Constitution of the United States, through widespread public and private violence directed at persons because of their race, color, or ancestry, or perceived race, color, or ancestry. Accordingly, eliminating racially motivated violence is an important means of eliminating, to the extent possible, the badges, incidents, and relics of slavery and involuntary servitude.

(8) Both at the time when the 13th, 14th, and 15th amendments to the Constitution of the United States were adopted, and continuing to date, members of certain religious and national origin groups were and are perceived to be distinct 'races'. Thus, in order to eliminate, to the extent possible, the badges, incidents, and relics of slavery, it is necessary to prohibit assaults on the basis of real or perceived religions or national origins, at least to the extent such religions or national origins were regarded as races at the time of the adoption of the 13th, 14th, and 15th amendments to the Constitution of the United States.

(9) Federal jurisdiction over certain violent crimes motivated by bias enables Federal, State, and local authorities to work together as partners in the investigation and prosecution of such crimes.

(10) The problem of crimes motivated by bias is sufficiently serious, widespread, and interstate in nature as to warrant Federal assistance to States, local jurisdictions, and Indian tribes.

(c) Definition of Hate Crime- In this section--

(1) the term 'crime of violence' has the meaning given that term in section 16, title 18, United States Code;

(2) the term 'hate crime' has the meaning given such term in section 280003(a) of the Violent Crime Control and Law Enforcement Act of 1994 (28 U.S.C. 994 note); and

(3) the term 'local' means a county, city, town, township, parish, village, or other general purpose political subdivision of a State.

(d) Support for Criminal Investigations and Prosecutions by State, Local, and Tribal Law Enforcement Officials-

(1) ASSISTANCE OTHER THAN FINANCIAL ASSISTANCE-

(A) IN GENERAL- At the request of State, local, or Tribal law enforcement agency, the Attorney General may provide technical, forensic, prosecutorial, or any other form of assistance in the criminal investigation or prosecution of any crime that--

(i) constitutes a crime of violence;

(ii) constitutes a felony under the State, local, or Tribal laws; and

(iii) is motivated by prejudice based on the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of the victim, or is a violation of the State, local, or Tribal hate crime laws.

(B) PRIORITY- In providing assistance under subparagraph (A), the Attorney General shall give priority to crimes committed by offenders who have committed crimes in more than one State and to rural jurisdictions that have difficulty covering the extraordinary expenses relating to the investigation or prosecution of the crime.

(2) GRANTS-

(A) IN GENERAL- The Attorney General may award grants to State, local, and Indian law enforcement agencies for extraordinary expenses associated with the investigation and prosecution of hate crimes.

(B) OFFICE OF JUSTICE PROGRAMS- In implementing the grant program under this paragraph, the Office of Justice Programs shall work closely with grantees to ensure that the concerns and needs of all affected parties, including community groups and schools, colleges, and universities, are addressed through the local infrastructure developed under the grants.

(C) APPLICATION-

(i) IN GENERAL- Each State, local, and Indian law enforcement agency that desires a grant under this paragraph shall submit an application to the Attorney General at such time, in such manner, and accompanied by or

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containing such information as the Attorney General shall reasonably require.

(ii) DATE FOR SUBMISSION- Applications submitted pursuant to clause (i) shall be submitted during the 60-day period beginning on a date that the Attorney General shall prescribe.

(iii) REQUIREMENTS- A State, local, and Indian law enforcement agency applying for a grant under this paragraph shall--

(I) describe the extraordinary purposes for which the grant is needed;

(II) certify that the State, local government, or Indian tribe lacks the resources necessary to investigate or prosecute the hate crime;

(III) demonstrate that, in developing a plan to implement the grant, the State, local, and Indian law enforcement agency has consulted and coordinated with nonprofit, nongovernmental victim services programs that have experience in providing services to victims of hate crimes; and

(IV) certify that any Federal funds received under this paragraph will be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this paragraph.

(D) DEADLINE- An application for a grant under this paragraph shall be approved or denied by the Attorney General not later than 30 business days after the date on which the Attorney General receives the application.

(E) GRANT AMOUNT- A grant under this paragraph shall not exceed \$100,000 for any single jurisdiction in any 1-year period.

(F) REPORT- Not later than December 31, 2008, the Attorney General shall submit to Congress a report describing the applications submitted for grants under this paragraph, the award of such grants, and the purposes for which the grant amounts were expended.

(G) AUTHORIZATION OF APPROPRIATIONS- There is authorized to be appropriated to carry out this paragraph \$5,000,000 for each of fiscal years 2008 and 2009.

(e) Grant Program-

(1) AUTHORITY TO AWARD GRANTS- The Office of Justice Programs of the Department of Justice may award grants, in accordance with such regulations as the Attorney General may prescribe, to State, local, or Tribal programs designed to combat hate crimes committed by juveniles, including programs to train local law enforcement officers in identifying, investigating, prosecuting, and preventing hate crimes.

(2) AUTHORIZATION OF APPROPRIATIONS- There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

(f) Authorization for Additional Personnel To Assist State, Local, and Tribal Law Enforcement- There are authorized to be appropriated to the Department of the Treasury and the Department of Justice, including the Community Relations Service, for fiscal years 2008, 2009, and 2010 such sums as are necessary to increase the number of personnel to prevent and respond to alleged violations of section 249 of title 18, United States Code, as added by this section.

(g) Prohibition of Certain Hate Crime Acts-

(1) IN GENERAL- Chapter 13 of title 18, United States Code, is amended by adding at the end the following:

***Sec. 249. Hate crime acts***

***(a) In General-***

***(1) OFFENSES INVOLVING ACTUAL OR PERCEIVED RACE, COLOR, RELIGION, OR NATIONAL ORIGIN-*** Whoever, whether or not acting under color of law, willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived race, color, religion, or national origin of any person--

***(A)*** shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

***(B)*** shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if--

***(i)*** death results from the offense; or

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`(ii) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

`(2) OFFENSES INVOLVING ACTUAL OR PERCEIVED RELIGION, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, GENDER IDENTITY, OR DISABILITY-

`(A) IN GENERAL- Whoever, whether or not acting under color of law, in any circumstance described in subparagraph (B), willfully causes bodily injury to any person or, through the use of fire, a firearm, or an explosive or incendiary device, attempts to cause bodily injury to any person, because of the actual or perceived religion, national origin, gender, sexual orientation, gender identity or disability of any person--

`(i) shall be imprisoned not more than 10 years, fined in accordance with this title, or both; and

`(ii) shall be imprisoned for any term of years or for life, fined in accordance with this title, or both, if--

`(I) death results from the offense; or

`(II) the offense includes kidnaping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill.

`(B) CIRCUMSTANCES DESCRIBED- For purposes of subparagraph (A), the circumstances described in this subparagraph are that--

`(i) the conduct described in subparagraph (A) occurs during the course of, or as the result of, the travel of the defendant or the victim--

`(I) across a State line or national border; or

`(II) using a channel, facility, or instrumentality of interstate or foreign commerce;

`(ii) the defendant uses a channel, facility, or instrumentality of interstate or foreign commerce in connection with the conduct described in subparagraph (A);

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`(iii) in connection with the conduct described in subparagraph (A), the defendant employs a firearm, explosive or incendiary device, or other weapon that has traveled in interstate or foreign commerce; or

`(iv) the conduct described in subparagraph (A)--

`(I) interferes with commercial or other economic activity in which the victim is engaged at the time of the conduct; or

`(II) otherwise affects interstate or foreign commerce.

`(b) Certification Requirement- No prosecution of any offense described in this subsection may be undertaken by the United States, except under the certification in writing of the Attorney General, the Deputy Attorney General, the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General that--

`(1) such certifying individual has reasonable cause to believe that the actual or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or disability of any person was a motivating factor underlying the alleged conduct of the defendant; and

`(2) such certifying individual has consulted with State or local law enforcement officials regarding the prosecution and determined that--

`(A) the State does not have jurisdiction or does not intend to exercise jurisdiction;

`(B) the State has requested that the Federal Government assume jurisdiction;

`(C) the State does not object to the Federal Government assuming jurisdiction; or

`(D) the verdict or sentence obtained pursuant to State charges left demonstratively unvindicated the Federal interest in eradicating bias-motivated violence.

`(c) Definitions- In this section--

`(1) the term `explosive or incendiary device' has the meaning given such term in section 232 of this title;

`(2) the term `firearm' has the meaning given such term in section 921(a) of this title; and

`(3) the term `gender identity' for the purposes of this chapter means actual or perceived gender-related characteristics.

`(d) Rule of Evidence- In a prosecution for an offense under this section, evidence of expression or associations of the defendant may not be introduced as substantive evidence at trial, unless the evidence specifically relates to that offense. However, nothing in this section affects the rules of evidence governing impeachment of a witness.'

(2) TECHNICAL AND CONFORMING AMENDMENT- The analysis for chapter 13 of title 18, United States Code, is amended by adding at the end the following:

`249. Hate crime acts.'

(h) Statistics-

(1) IN GENERAL- Subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting `gender and gender identity,' after `race,'

(2) DATA- Subsection (b)(5) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note) is amended by inserting `, including data about crimes committed by, and crimes directed against, juveniles' after `data acquired under this section'.

(i) Severability- If any provision of this section, an amendment made by this section, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this section, the amendments made by this section, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

### APPENDIX 3

#### MILITARY READINESS ENHANCEMENT ACT OF 2007

Title 10, United States Code, is amended to enhance the readiness of the Armed Forces by replacing the current policy concerning homosexuality in the Armed Forces, referred to as 'Don't Ask, Don't Tell', with a policy of nondiscrimination on the basis of sexual orientation and gender identity.

Sec. 1. Repeal of Policy- Section 654 of title 10, United States Code, and Subsections (b), (c), and (d) of section 571 of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 654 note) are hereby repealed.

Sec. 2. Establishment of Policy- (1) Chapter 37 of title 10, United States Code, is amended by adding at the end the following new section:

**'Sec. 656. Policy of nondiscrimination based on sexual orientation or gender identity**

`(a) Policy- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may not discriminate on the basis of sexual orientation or gender identity against any member of the armed forces or against any person seeking to become a member of the armed forces.

`(b) Discrimination on Basis of Sexual Orientation or Gender Identity- For purposes of this section, discrimination on the basis of sexual orientation or gender identity is--

`(1) in the case of a member of the armed forces, the taking of any personnel or administrative action (including any action relating to promotion, demotion, evaluation, selection for an award, selection for a duty assignment, transfer, or separation) in whole or in part on the basis of sexual orientation or gender identity; and

`(2) in the case of a person seeking to become a member of the armed forces, denial of accession into the armed forces in whole or in part on the basis of sexual orientation or gender identity.

`(c) Personnel and Administrative Policies and Action- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, may not establish, implement, or apply any personnel or administrative policy, or take any personnel or administrative action (including any policy or action relating to promotions, demotions, evaluations, selections for awards, selections for duty assignments, transfers, or separations) in whole or in part on the basis of sexual orientation or gender identity.

`(d) Rules and Policies Regarding Conduct- Nothing in this section prohibits the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from prescribing or enforcing regulations governing the conduct of members of the armed forces if the regulations are

designed and applied without regard to sexual orientation or gender identity, except as indicated in subsection (e) below.

(e) Construction

(1) Dress and Grooming Standards- Nothing in this Act shall prohibit the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from requiring a member of the armed services to adhere to reasonable gender specific regulations governing dress or grooming standards not prohibited by other provisions of Federal law, the Uniform Code of Military Justice or applicable regulations or policies, provided that any member of the armed services who has undergone gender transition prior to the time of enlistment, and any member who has notified his or her commanding officer that the member has undergone or is undergoing gender transition after the time of enlistment, whichever is later, is permitted to adhere to the same dress or grooming standards for the gender to which the member has transitioned or is transitioning.

(2) Certain Shared Facilities- Nothing in this Section shall be construed to prohibit the Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, from denying access to shared shower or dressing facilities in which being seen fully unclothed is unavoidable, based on the actual or perceived gender identity of a member of the armed services, provided that the Secretary provides reasonable access to adequate facilities that are not inconsistent with the member's gender identity as established at the time of enlistment or upon notification to the member's commanding officer that the member has undergone or is undergoing gender transition, whichever is later.

(f) Re-Accession of Otherwise Qualified Persons Permitted- Any person separated from the armed forces for homosexuality, bisexuality, or homosexual conduct in accordance with laws and regulations in effect before the date of the enactment of this section, if otherwise qualified for re-accession into the armed forces, shall not be prohibited from re-accession into the armed forces on the sole basis of such separation.

(g) Sexual Orientation- In this section, the term 'sexual orientation' means homosexuality, heterosexuality, or bisexuality.

(h) Gender Identity- In this section, the term 'gender identity' means the gender-related identity, appearance, or mannerisms or other gender-related characteristics of an individual, with or without regard to the individual's designated sex at birth.

(2) The table of sections at the beginning of such chapter is amended--

(A) by striking the item relating to section 654; and

(B) by adding at the end the following new item:

'656. Policy of nondiscrimination based on sexual orientation or gender identity in the armed forces.'

(b) Conforming Amendments- Title 10, United States Code, is amended as follows:

(1) Section 481 is amended--

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- (A) In subsection (a)(2), by inserting ` , including sexual orientation or gender identity discrimination,' after `discrimination' in subparagraphs (C) and (D); and
  - (B) in subsection (c), by inserting `and sexual orientation-based or gender identity-based' after `gender-based' both places it appears.
- (2) Section 983(a)(1) is amended by striking `(in accordance with section 654 of this title and other applicable Federal laws)'.  
(3) Section 1034(i)(3) is amended by inserting `sexual orientation or gender identity,' after `sex.'.

Sec. 3. No Private Cause of Action for Damages. Nothing in this Section, or the amendments made by this Section, shall be construed to create a private cause of action for damages.

Sec4. Regulations. (a) In General- Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall revise Department of Defense regulations, and shall issue such new regulations as may be necessary, to implement section 656 of title 10, United States Code, as added by section 4(a). The Secretary of Defense shall further direct the Secretary of each military department to revise regulations of that military department in accordance with section 656 of title 10, United States Code, as added by section 4(a), not later than 180 days after the date of the enactment of this Act. Such revisions shall include the following:

- (1) Revision of all equal opportunity and human relations regulations, directives, and instructions to add sexual orientation and gender identity nondiscrimination to the Department of Defense Equal Opportunity policy and to related human relations training programs.
  - (2) Revision of Department of Defense and military department personnel regulations to eliminate procedures for involuntary discharges based on sexual orientation.
  - (3) Revision of Department of Defense and military department regulations governing victims' advocacy programs to include sexual orientation and gender identity discrimination among the forms of discrimination for which members of the Armed Forces and their families may seek assistance.
- (b) Regulation of Conduct- The Secretary of Defense, and the Secretary of Homeland Security with respect to the Coast Guard when it is not operating as a service in the Navy, shall ensure that regulations governing the personal conduct of members of the Armed Forces shall be written and enforced without regard to sexual orientation or gender identity.
- (c) Definition- In this section, the terms `sexual orientation' and `gender identity' have the meaning given those terms in section 656(g) and 656(h) of title 10, United States Code, as added by section 4(a).

**APPENDIX 4**

**UNITING AMERICAN FAMILIES ACT<sup>1</sup>**

**SECTION 1. AMENDMENTS TO IMMIGRATION AND NATIONALITY ACT; TABLE OF CONTENTS.**

(a) Amendments to Immigration and Nationality Act- Except as otherwise specifically provided whenever in this Act, an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act.

(b) Table of Contents- The table of contents of this Act Section is as follows:

Sec. 1. Amendments to Immigration and Nationality Act; table of contents.

Sec. 2. Definitions of permanent partner and permanent partnership.

Sec. 3. Worldwide level of immigration.

Sec. 4. Numerical limitations on individual foreign states.

Sec. 5. Allocation of immigrant visas.

Sec. 6. Procedure for granting immigrant status.

Sec. 7. Annual admission of refugees and admission of emergency situation refugees.

Sec. 8. Asylum.

Sec. 9. Adjustment of status of refugees.

Sec. 10. Inadmissible aliens.

Sec. 11. Nonimmigrant status for permanent partners awaiting the availability of an immigrant visa.

Sec. 12. Conditional permanent resident status for certain alien spouses, permanent partners, and sons and daughters.

Sec. 13. Conditional permanent resident status for certain alien entrepreneurs, spouses, permanent partners, and children.

Sec. 14. Deportable aliens.

Sec. 15. Removal proceedings.

Sec. 16. Cancellation of removal; adjustment of status.

Sec. 17. Adjustment of status of nonimmigrant to that of person admitted for permanent residence.

Sec. 18. Application of criminal penalties to for misrepresentation and concealment of facts regarding permanent partnerships.

Sec. 19. Requirements as to residence, good moral character, attachment to the principles of the constitution.

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<sup>1</sup> Consistency edits made in Section 1.

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Sec. 20. Application of family unity provisions to permanent partners of certain LIFE Act beneficiaries.

Sec. 21. Application to Cuban Adjustment Act.

## **SEC. 2. DEFINITIONS OF PERMANENT PARTNER AND PERMANENT PARTNERSHIP.**

Section 101(a) (8 U.S.C. 1101(a)) is amended--

(1) in paragraph (15)(K)(ii), by inserting 'or permanent partnership' after 'marriage'; and

(2) by adding at the end the following:

'(52) The term 'permanent partner' means an individual 18 years of age or older who--

'(A) is in a committed, intimate relationship with another individual 18 years of age or older in which both parties intend a lifelong commitment;

'(B) is financially interdependent with that other individual;

'(C) is not married to or in a permanent partnership with anyone other than that other individual;

'(D) is unable to contract with that other individual a marriage cognizable under this Act; and

'(E) is not a first, second, or third degree blood relation of that other individual.

'(53) The term 'permanent partnership' means the relationship that exists between two permanent partners.'

## **SEC. 3. WORLDWIDE LEVEL OF IMMIGRATION.**

Section 201(b)(2)(A)(i) (8 U.S.C. 1151(b)(2)(A)(i)) is amended--

(1) by inserting 'permanent partners,' after 'spouses,';

(2) by inserting 'or permanent partner' after 'spouse' each place it appears;

(3) by inserting '(or, in the case of a permanent partnership, whose permanent partnership was not terminated)' after 'was not legally separated from the citizen'; and

(4) by striking 'remarries.' and inserting 'remarries or enters a permanent partnership with another person.'

## **SEC. 4. NUMERICAL LIMITATIONS ON INDIVIDUAL FOREIGN STATES.**

(a) Per Country Levels- Section 202(a)(4) (8 U.S.C. 1152(a)(4)) is amended--

(1) in the heading, by inserting ', PERMANENT PARTNERS,' after 'SPOUSES';

(2) in the heading of subparagraph (A), by inserting ', PERMANENT PARTNERS,' after 'Spouses'; and

(3) in the heading of subparagraph (C), by striking 'AND DAUGHTERS' inserting 'WITHOUT PERMANENT PARTNERS AND UNMARRIED DAUGHTERS WITHOUT PERMANENT PARTNERS'.

- (b) Rules for Chargeability- Section 202(b)(2) (8 U.S.C. 1152(b)(2)) is amended--
  - (1) by inserting 'or permanent partner' after 'spouse' each place it appears; and
  - (2) by inserting 'or permanent partners' after 'husband and wife'.

## **SEC. 5. ALLOCATION OF IMMIGRANT VISAS.**

- (a) Preference Allocation for Family Members of Permanent Resident Aliens- Section 203(a)(2) (8 U.S.C. 1153(a)(2)) is amended--
  - (1) in the heading--
    - (A) by striking 'AND' after 'SPOUSES' and inserting ', PERMANENT PARTNERS,'; and
    - (B) by inserting 'WITHOUT PERMANENT PARTNERS' after 'SONS' and after 'DAUGHTERS';
  - (2) in subparagraph (A), by inserting ', permanent partners,' after 'spouses'; and
  - (3) in subparagraph (B), by inserting 'without permanent partners' after 'sons' and after 'daughters'.
- (b) Preference Allocation for Sons and Daughters of Citizens- Section 203(a)(3) (8 U.S.C. 1153(a)(3)) is amended--
  - (1) in the heading, by inserting 'AND DAUGHTERS AND SONS WITH PERMANENT PARTNERS' after 'DAUGHTERS'; and
  - (2) by inserting ', or daughters or sons with permanent partners,' after 'daughters'.
- (c) Employment Creation- Section 203(b)(5)(A)(ii) (8 U.S.C. 1153(b)(5)(A)(ii)) is amended by inserting 'permanent partner,' after 'spouse,'.
- (d) Treatment of Family Members- Section 203(d) (8 U.S.C. 1153(d)) is amended by inserting ', permanent partner,' after 'spouse' each place it appears.

## **SEC. 6. PROCEDURE FOR GRANTING IMMIGRANT STATUS.**

- (a) Classification Petitions- Section 204(a)(1) (8 U.S.C. 1154(a)(1)) is amended--
  - (1) in subparagraph (A)(ii), by inserting 'or permanent partner' after 'spouse';
  - (2) in subparagraph (A)(iii)--
    - (A) by inserting 'or permanent partner' after 'spouse' each place it appears; and
    - (B) in subclause (I), by inserting 'or permanent partnership' after 'marriage' each place it appears;
  - (3) in subparagraph (A)(v)(I), by inserting 'permanent partner,' after 'is the spouse,';
  - (4) in subparagraph (A)(vi)--
    - (A) by inserting 'or termination of the permanent partnership' after 'divorce'; and
    - (B) by inserting ', permanent partner,' after 'spouse'; and
  - (5) in subparagraph (B)--
    - (A) by inserting 'or permanent partner' after 'spouse' each place it appears;

(B) by inserting or permanent partnership after `marriage' in clause (ii)(I)(aa) and the first place it appears in clause (ii)(I)(bb); and  
(C) in clause (ii)(II)(aa)(CC)(bbb), by inserting `(or the termination of the permanent partnership)' after `termination of the marriage'.

- (b) Immigration Fraud Prevention- Section 204(c) (8 U.S.C. 1154(c)) is amended--  
(1) by inserting `or permanent partner' after `spouse' each place it appears; and  
(2) by inserting `or permanent partnership' after `marriage' each place it appears.

## **SEC. 7. ANNUAL ADMISSION OF REFUGEES AND ADMISSION OF EMERGENCY SITUATION REFUGEES.**

Section 207(c) (8 U.S.C. 1157(c)) is amended--

- (1) in paragraph (2)--  
(A) by inserting `or permanent partner' after `spouse' each place it appears; and  
(B) by inserting `or permanent partner's' after `spouse's'; and  
(2) in paragraph (4), by inserting `or permanent partner' after `spouse'.

## **SEC. 8. ASYLUM.**

Section 208(b)(3) (8 U.S.C. 1158(b)(3)) is amended--

- (1) in the heading, by inserting `OR PERMANENT PARTNER' after `SPOUSE'; and  
(2) in the text, by inserting `or permanent partner' after `spouse'.

## **SEC. 9. ADJUSTMENT OF STATUS OF REFUGEES.**

Section 209(b)(3) (8 U.S.C. 1159(b)(3)) is amended by inserting `or permanent partner' after `spouse'.

## **SEC. 10. INADMISSIBLE ALIENS.**

(a) Classes of Aliens Ineligible for Visas or Admission- Section 212(a) (8 U.S.C. 1182(a)) is amended--

- (1) in paragraph (3)(D)(iv), by inserting `permanent partner,' after `spouse,';  
(2) in paragraph (4)(C)(i)(I), by inserting `, permanent partner,' after `spouse';  
(3) in paragraph (6)(E)(ii), by inserting `permanent partner,' after `spouse,'; and  
(4) in paragraph (9)(B)(v), by inserting `, permanent partner,' after `spouse'.

(b) Waivers- Section 212(d) (8 U.S.C. 1182(d)) is amended--

- (1) in paragraph (11), by inserting `permanent partner,' after `spouse,'; and  
(2) in paragraph (12), by inserting `, permanent partner,' after `spouse'.

(c) Waivers of Inadmissibility on Health-Related Grounds- Section 212(g)(1)(A) (8 U.S.C. 1182(g)(1)(A)) is amended by inserting `or permanent partner' after `spouse'.

(d) Waivers of Inadmissibility on Criminal and Related Grounds- Section 212(h)(1)(B) (8 U.S.C. 1182(h)(1)(B)) is amended by inserting `permanent partner,' after `spouse,'.

(e) Waiver of Inadmissibility for Misrepresentation- Section 212(i)(1) (8 U.S.C. 1182(i)(1)) is amended by inserting `permanent partner,' after `spouse,'.

**SEC. 11. NONIMMIGRANT STATUS FOR PERMANENT PARTNERS AWAITING THE AVAILABILITY OF AN IMMIGRANT VISA.**

Section 214(r) (8 U.S.C. 1184(r)) is amended--

- (1) in paragraph (1), by inserting 'or permanent partner' after 'spouse'; and
- (2) by inserting 'or permanent partnership' after 'marriage' each place it appears.

**SEC. 12. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN SPOUSES, PERMANENT PARTNERS, AND SONS AND DAUGHTERS.**

(a) Section Heading-

(1) IN GENERAL- The heading for section 216 (8 U.S.C. 1186a) is amended by inserting 'AND PERMANENT PARTNERS' after 'SPOUSES'.

(2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216 to read as follows:

'Sec. 216. Conditional permanent resident status for certain alien spouses and permanent partners and sons and daughters.'

(b) In General- Section 216(a) (8 U.S.C. 1186a(a)) is amended--

- (1) in paragraph (1), by inserting 'or permanent partner' after 'spouse';
- (2) in paragraph (2)(A), by inserting 'or permanent partner' after 'spouse';
- (3) in paragraph (2)(B), by inserting 'permanent partner,' after 'spouse,'; and
- (4) in paragraph (2)(C), by inserting 'permanent partner,' after 'spouse,'.

(c) Termination of Status if Finding That Qualifying Marriage Improper- Section 216 (b) of such Act (8 U.S.C. 1186a(b)) is amended--

- (1) in the heading, by inserting 'or Permanent Partnership' after 'Marriage';
- (2) in paragraph (1)(A), by inserting 'or permanent partnership' after 'marriage'; and
- (3) in paragraph (1)(A)(ii)--
  - (A) by inserting 'or has ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after 'terminated,'; and
  - (B) by inserting 'or permanent partner' after 'spouse'.

(d) Requirements of Timely Petition and Interview for Removal of Condition- Section 216(c) (8 U.S.C. 1186a(c)) is amended--

- (1) in paragraphs (1), (2)(A)(ii), (3)(A)(ii), (3)(C), (4)(B), and (4)(C), by inserting 'or permanent partner' after 'spouse' each place it appears; and
- (2) in paragraph (3)(A), in the matter following clause (ii), and in paragraph (3)(D), (4)(B), and (4)(C), by inserting 'or permanent partnership' after 'marriage' each place it appears.

(e) Contents of Petition- Section 216(d)(1) of such Act (8 U.S.C. 1186a(d)(1)) is amended--

- (1) in the heading of subparagraph (A), by inserting 'OR PERMANENT PARTNERSHIP' after 'MARRIAGE';

- (2) in subparagraph (A)(i), by inserting `or permanent partnership' after `marriage';
  - (3) in subparagraph (A)(i)(I), by inserting before the comma at the end `, or is a permanent partnership recognized under this Act';
  - (4) in subparagraph (A)(i)(II)--
    - (A) by inserting `or has not ceased to satisfy the criteria for being considered a permanent partnership under this Act,' after `terminated,';
    - and
    - (B) by inserting `or permanent partner' after `spouse';
  - (5) in subparagraph (A)(ii), by inserting `or permanent partner' after `spouse';
  - and
  - (6) in subparagraph (B)(i)--
    - (A) by inserting `or permanent partnership' after `marriage'; and
    - (B) by inserting `or permanent partner' after `spouse'.
- (e) Definitions- Section 216(g) (8 U.S.C. 1186a(g)) is amended--
- (1) in paragraph (1)--
    - (A) by inserting `or permanent partner' after `spouse' each place it appears; and
    - (B) by inserting `or permanent partnership' after `marriage' each place it appears;
  - (2) in paragraph (2), by inserting `or permanent partnership' after `marriage';
  - (3) in paragraph (3), by inserting `or permanent partnership' after `marriage';
  - and
  - (4) in paragraph (4)--
    - (A) by inserting `or permanent partner' after `spouse' each place it appears; and
    - (B) by inserting `or permanent partnership' after `marriage'.

### **SEC. 13. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, PERMANENT PARTNERS, AND CHILDREN.**

- (a) Section Heading--
  - (1) IN GENERAL- The heading for section 216A (8 U.S.C. 1186b) is amended by inserting `OR PERMANENT PARTNERS' after `SPOUSES'.
  - (2) CLERICAL AMENDMENT- The table of contents is amended by amending the item relating to section 216A to read as follows:  
`Sec. 216. Conditional permanent resident status for certain alien entrepreneurs, spouses or permanent partners, and children.'.
- (b) In General- Section 216A(a) (8 U.S.C. 1186b(a)) is amended, in paragraphs (1), (2)(A), (2)(B), and (2)(C), by inserting `or permanent partner' after `spouse' each place it appears.
- (c) Termination of Status if Finding That Qualifying Entrepreneurship Improper- Section 216A(b)(1) (8 U.S.C. 1186b(b)(1)) is amended by inserting `or permanent partner' after `spouse' in the matter following subparagraph (C).

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(d) Requirements of Timely Petition and Interview for Removal of Condition- Section 216A(c) (8 U.S.C. 1186b(c)) is amended, in paragraphs (1), (2)(A)(ii), and (3)(C), by inserting `or permanent partner' after `spouse'.

(e) Definitions- Section 216A(f)(2) (8 U.S.C. 1186b(f)(2)) is amended by inserting `or permanent partner' after `spouse' each place it appears.

#### **SEC. 14. DEPORTABLE ALIENS.**

Section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) is amended--

(1) in paragraph (1)(D)(i), by inserting `or permanent partners' after `spouses' each place it appears;

(2) in paragraphs (1)(E)(ii), (1)(E)(iii), and (1)(H)(i)(I), by inserting `or permanent partner' after `spouse';

(3) by adding at the end of paragraph (1) the following new subparagraph:

`(I) PERMANENT PARTNERSHIP FRAUD- An alien shall be considered to be deportable as having procured a visa or other documentation by fraud (within the meaning of section 212(a)(6)(C)(i)) and to be in the United States in violation of this Act (within the meaning of subparagraph (B)) if--

`(i) the alien obtains any admission to the United States with an immigrant visa or other documentation procured on the basis of a permanent partnership entered into less than 2 years prior to such admission and which, within 2 years subsequent to such admission, is terminated because the criteria for permanent partnership are no longer fulfilled, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that such permanent partnership was not contracted for the purpose of evading any provisions of the immigration laws; or

`(ii) it appears to the satisfaction of the Secretary of Homeland Security that the alien has failed or refused to fulfill the alien's permanent partnership which in the opinion of the Secretary of Homeland Security was made for the purpose of procuring the alien's admission as an immigrant.'; and

(4) in paragraphs (2)(E)(i) and (3)(C)(ii), by inserting `or permanent partner' after `spouse' each place it appears.

#### **SEC. 15. REMOVAL PROCEEDINGS.**

Section 240 (8 U.S.C. 1229a) is amended--

(1) in the heading of subsection (c)(7)(C)(iv), by inserting `PERMANENT PARTNERS,' after `SPOUSES,'; and

(2) in subsection (e)(1), by inserting `or permanent partner' after `spouse'.

#### **SEC. 16. CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS.**

Section 240A(b) (8 U.S.C. 1229b(b)) is amended--

(1) in paragraph (1)(D), by inserting `or permanent partner' after `spouse';

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- (2) in the heading for paragraph (2), by inserting `, PERMANENT PARTNER,' after `SPOUSE'; and
- (3) in paragraph (2)(A), by inserting `, permanent partner,' after `spouse' each place it appears.

**SEC. 17. ADJUSTMENT OF STATUS OF NONIMMIGRANT TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE.**

- (a) Prohibition on Adjustment of Status- Section 245(d) (8 U.S.C. 1255(d)) is amended by inserting `or permanent partnership' after `marriage'.
- (b) Avoiding Immigration Fraud- Section 245(e) (8 U.S.C. 1255(e)) is amended--
  - (1) in paragraph (1), by inserting `or permanent partnership' after `marriage'; and
  - (2) by adding at the end the following new paragraph:
    - `(4) Paragraph (1) and section 204(g) shall not apply with respect to a permanent partnership if the alien establishes by clear and convincing evidence to the satisfaction of the Secretary of Homeland Security that the permanent partnership was entered into in good faith and in accordance with section 101(a)(52) and the permanent partnership was not entered into for the purpose of procuring the alien's admission as an immigrant and no fee or other consideration was given (other than a fee or other consideration to an attorney for assistance in preparation of a lawful petition) for the filing of a petition under section 204(a) or 214(d) with respect to the alien permanent partner.