

119TH CONGRESS
2D SESSION

S.

To amend the Immigration and Nationality Act to clarify the definitions of “public charge” and “likely at any time to become a public charge,” to establish requirements for affidavits of support and public charge bonds, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. MARSHALL (for himself and Mr. SCOTT of Florida) introduced the following bill; which was read twice and referred to the Committee on

A BILL

To amend the Immigration and Nationality Act to clarify the definitions of “public charge” and “likely at any time to become a public charge,” to establish requirements for affidavits of support and public charge bonds, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Public Charge Clari-
5 fication Act of 2026”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

16 (3) These statutory factors have not been faith-
17 fully applied in the intended totality of the cir-
18 cumstances analysis by executive agencies, which has
19 resulted in inconsistent and overly permissive inter-
20 pretations that undermine congressional intent to
21 ensure self-sufficiency among new immigrants.

22 (4) The proposed rule entitled “Inadmissibility
23 on Public Charge Grounds” (83 Fed. Reg. 51114),
24 which was published in the Federal Register by U.S.
25 Citizenship and Immigration Services on October 10,

1 2018, provided a clear framework for identifying
2 public benefits that render an alien a public charge,
3 including both monetizable and non-monetizable ben-
4 efits.

5 (5) To protect American taxpayers and promote
6 immigrant self-sufficiency, it is necessary to codify
7 and expand upon this framework, ensuring that all
8 current and future government benefits are consid-
9 ered in public charge determinations.

10 **SEC. 3. DEFINITION OF PUBLIC CHARGE.**

11 Section 212(a)(4) of the Immigration and Nationality
12 Act (8 U.S.C. 1182(a)(4)) is amended to read as follows:

13 “(4) PUBLIC CHARGE.—

14 “(A) IN GENERAL.—Any alien who, in the
15 opinion of the consular officer at the time of
16 application for a visa, or in the opinion of the
17 Attorney General at the time of application for
18 admission or adjustment of status, is likely at
19 any time to become a public charge is inadmis-
20 sible.

21 “(B) DEFINITIONS.—In this paragraph:

22 “(i) LIKELY AT ANY TIME TO BECOME
23 A PUBLIC CHARGE.—The term ‘likely at
24 any time to become a public charge’, with
25 respect to an alien, means the alien is like-

1 and benefits provided to pregnant
2 women;

3 “(VIII) premium and cost-shar-
4 ing subsidies authorized under section
5 36B of the Internal Revenue Code of
6 1986 (relating to refundable credit for
7 coverage under a qualified health
8 plan) or section 1402 of the Patient
9 Protection and Affordable Care Act
10 (14 U.S.C. 18071; relating to reduced
11 cost sharing); and

12 “(IX) any other Federal, State,
13 local, or tribal program providing
14 monetizable or non-monetizable bene-
15 fits, including programs established
16 after the date of the enactment of the
17 Public Charge Clarification Act of
18 2026.

19 “(iii) PUBLIC CHARGE.—The term
20 ‘public charge’ means an alien who receives
21 1 or more public benefits for more than 12
22 months, in the aggregate, within any 36-
23 month period. The receipt of 2 benefits in
24 a single month shall be deemed to con-

3 “(C) PUBLICATION OF LIST OF BENE-
4 FITS.—

24 “(D) FACTORS TO BE CONSIDERED.—

1 “(i) IN GENERAL.—In determining
2 whether an alien is inadmissible under this
3 paragraph, the consular officer or the Di-
4 rector of U.S. Citizenship and Immigration
5 Services shall consider, in the totality of
6 the circumstances, the alien’s—

7 “(I) age;
8 “(II) health;
9 “(III) family status;
10 “(IV) assets, resources, and fi-
11 nancial status;

12 “(V) education and skills;
13 “(VI) prospective immigration
14 status and expected period of admis-
15 sion; and

16 “(VII) any affidavit of support
17 executed by a sponsor in accordance
18 with section 213A(a)(1).

19 “(ii) DETERMINATION.—No single
20 factor listed under clause (i) shall be dis-
21 positive. The determination of inadmis-
22 sibility shall be based on a holistic assess-
23 ment of the alien’s likelihood of becoming
24 a public charge.

1 “(E) EXEMPTIONS.—This paragraph shall
2 not apply to—

3 “(i) refugees admitted under section
4 207;

5 “(ii) asylees granted asylum under
6 section 208; or

7 “(iii) aliens serving in the Armed
8 Forces of the United States and the de-
9 pendents of such aliens.

10 “(F) WAIVERS.—No waiver of inadmis-
11 sibility under this paragraph shall be granted to
12 any alien, other than the aliens exempted under
13 subparagraph (F), unless such waiver is specifi-
14 cally authorized by an Act of Congress.

15 “(G) AFFIDAVITS OF SUPPORT.—An affi-
16 davit of support submitted by the sponsor of an
17 alien in accordance with section 213A—

18 “(i) shall be accompanied by docu-
19 mentary evidence demonstrating the spon-
20 sor’s ability to financially support the alien
21 and all members of the sponsor’s house-
22 hold, including proof of income, assets, and
23 resources sufficient to maintain the house-
24 hold at an annual income equal to at least

1 125 percent of the Federal poverty line;
2 and

3 “(ii) may be considered as a factor in
4 the totality of the circumstances under
5 subparagraph (D), but shall not be suffi-
6 cient to overcome a finding that an alien is
7 likely to become a public charge.

8 “(H) PUBLIC CHARGE BONDS.—

9 “(i) REQUIREMENT.—The consular
10 officer or the Director of U.S. Citizenship
11 and Immigration Services shall require the
12 posting of a public charge bond as a condi-
13 tion of an alien’s admission or adjustment
14 of status if the alien is likely at any time
15 to become a public charge, but other fac-
16 tors warrant conditional approval.

17 “(ii) AMOUNT; FORFEITURE.—Each
18 public charge bond required under clause
19 (i) shall be—

20 “(I) in an amount equal to not
21 less than \$10,000;

22 “(II) payable to the United
23 States; and

24 “(III) forfeited if the alien for
25 whom it is posted becomes a public

1 charge during the 10- year period im-
2 mediately following the alien's admis-
3 sion to the United States or adjust-
4 ment of status.

12 SEC. 4. CONFORMING AMENDMENTS.

13 (a) IMMIGRATION AND NATIONALITY ACT.—Section
14 213A of the Immigration and Nationality Act (8 U.S.C.
15 1183a) is amended—

16 (1) by redesignating subsections (h) and (i) as
17 subsections (g) and (h), respectively; and

18 (2) by adding at the end the following:

19 “(i) REQUIREMENTS FOR PUBLIC CHARGE DETER-
20 MINATIONS.—Affidavits of support under this section shall
21 comply with the requirements set forth in section
22 212(a)(4)(G).”.

(b) OTHER LAWS.—Any reference in any Federal law or regulation to “public charge” or “likely to become a

1 public charge" shall be construed in accordance with the
2 amendments made by section 3.

3 **SEC. 5. EFFECTIVE DATE.**

4 The amendments made by this Act shall—

5 (1) take effect on the date that is 180 days
6 after the date of the enactment of this Act; and

7 (2) apply to all applications for visas, admis-
8 sion, or adjustment of status pending on, or filed
9 after, such effective date.