

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:

1           (1) Section 212(a)(4)(A) of the Immigration  
2           and Nationality Act (8 U.S.C. 1182(a)(4)(A)) estab-  
3           lishes that an alien who, in the opinion of the con-  
4           sular officer or the Director of U.S. Citizenship and  
5           Immigration Services, is likely at any time to be-  
6           come a public charge is inadmissible.

7           (2) In section 212(a)(4)(B) of such Act, Con-  
8           gress laid out specific factors to be considered in de-  
9           termining whether an alien is likely to become a  
10          public charge, including the alien's age, health, fam-  
11          ily status, assets, resources, financial status, edu-  
12          cation, and skills, and any affidavit of support exe-  
13          cuted by a sponsor of such alien in accordance with  
14          section 213A(a)(1) of such Act (8 U.S.C.  
15          1183a(a)(1)).

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 ly to receive 1 or more public benefits for  
2 more than 12 months, in the aggregate,  
3 during any 36-month period after the date  
4 on which—

5 “(I) the alien is admitted to the  
6 United States; or

7 “(II) the alien’s status is ad-  
8 justed under this title.

9 “(ii) PUBLIC BENEFITS.—The term  
10 ‘public benefits’ means any Federal, State,  
11 local, or tribal cash assistance for income  
12 maintenance, supplemental nutrition as-  
13 sistance, housing assistance, non-emer-  
14 gency medical assistance, or other similar  
15 benefits, including all monetizable and non-  
16 monetizable benefits (as defined in the pro-  
17 posed rule entitled ‘Inadmissibility on Pub-  
18 lic Charge Grounds,’ (83 Fed. Reg.  
19 51114), including benefits received from—

20 “(I) supplemental security in-  
21 come authorized under title XVI of  
22 the Social Security Act (42 U.S.C.  
23 1381 et seq.);

24 “(II) temporary assistance for  
25 needy families authorized under part

1 A of title IV of such Act (42 U.S.C.  
2 601 et seq.);

3 “(III) any Federal, State, local,  
4 or tribal cash benefit program for in-  
5 come maintenance;

6 “(IV) the supplemental nutrition  
7 assistance program authorized under  
8 the Food and Nutrition Act of 2008  
9 (7 U.S.C. 2011 et seq.);

10 “(V) the housing choice voucher  
11 program and project-based rental as-  
12 sistance (including moderate rehabili-  
13 tation) authorized under section 8 of  
14 the United States Housing Act of  
15 1937 (42 U.S.C. 1437f);

16 “(VI) public housing funds au-  
17 thorized under section 9 of such Act  
18 (42 U.S.C. 1437g);

19 “(VII) the Medicaid program au-  
20 thorized under title XIX of the Social  
21 Security Act (42 U.S.C. 1396 et seq.),  
22 excluding emergency medical assist-  
23 ance, benefits provided to individuals  
24 who are younger than 21 years of age,

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-

1                   stitute 2 months of benefits for purposes of  
2                   this clause.

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

5                   “(i) IN GENERAL.—Not later than  
6                   180 days after the date of enactment of  
7                   the Public Charge Clarification Act of  
8                   2026, the Secretary of Homeland Security,  
9                   acting through the Director of U.S. Citi-  
10                  zenship and Immigration Services, shall  
11                  publish in the Federal Register a com-  
12                  prehensive list of all public benefits that  
13                  may render an alien a public charge or  
14                  likely to become a public charge.

15                  “(ii) UPDATES.—The Secretary  
16                  shall—

17                         “(I) update the list described in  
18                         clause (i) whenever necessary to in-  
19                         clude any new programs or benefits  
20                         created after the publication of such  
21                         list; and

22                         “(II) publish notice of such up-  
23                         dates in the Federal Register.

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.

5 “(iii) RULEMAKING.—The Secretary  
6 of Homeland Security, in consultation with  
7 the Director of U.S. Citizenship and Immi-  
8 gration Services, shall promulgate regula-  
9 tions for the administration, forfeiture, and  
10 cancellation of public charge bonds re-  
11 quired under this subparagraph.”.

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).”.

23 (b) OTHER LAWS.—Any reference in any Federal law  
24 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.