

119TH CONGRESS
2D SESSION

S. 3602

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

JANUARY 8 (legislative day, JANUARY 7), 2026

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

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
20 from—

21 “(I) supplemental security in-
22 come authorized under title XVI of
23 the Social Security Act (42 U.S.C.
24 1381 et seq.);

1 “(II) temporary assistance for
2 needy families authorized under part
3 A of title IV of such Act (42 U.S.C.
4 601 et seq.);

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

8 “(IV) the supplemental nutrition
9 assistance program authorized under
10 the Food and Nutrition Act of 2008
11 (7 U.S.C. 2011 et seq.);

12 “(V) the housing choice voucher
13 program and project-based rental as-
14 sistance (including moderate rehabili-
15 tation) authorized under section 8 of
16 the United States Housing Act of
17 1937 (42 U.S.C. 1437f);

18 “(VI) public housing funds au-
19 thorized under section 9 of such Act
20 (42 U.S.C. 1437g);

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

1 who are younger than 21 years of age,
2 and benefits provided to pregnant
3 women;

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

13 “(IX) any other Federal, State,
14 local, or tribal program providing
15 monetizable or non-monetizable bene-
16 fits, including programs established
17 after the date of the enactment of the
18 Public Charge Clarification Act of
19 2026.

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

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