

FOR THE RELIEF OF SUCHADA KWONG

JUNE 9, 1999.—Referred to the Private Calendar and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,  
submitted the following

R E P O R T

[To accompany H.R. 322]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 322) for the relief of Suchada Kwong, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. PERMANENT RESIDENT STATUS FOR SUCHADA KWONG.**

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act, Suchada Kwong shall be eligible for issuance of

an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Suchada Kwong enters the United States before the filing deadline specified in subsection (c), she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Suchada Kwong, the Secretary of State shall instruct the proper officer to reduce by 1, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, the total number of immigrant visas that are made available to natives of the country of the alien's birth under section 202(e) of such Act.

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Suchada Kwong shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

#### PURPOSE AND SUMMARY

This bill would make the claimant eligible for adjustment of her status to that of a permanent resident.

#### BACKGROUND AND NEED FOR THE LEGISLATION

Jimmy Kwong, a United States born citizen, and Suchada Vasanaarchasakul, a citizen of Thailand, met through mutual friends in 1993. They married on September 23, 1995. Mr. Kwong filed an immediate relative petition for Mrs. Kwong at that time. However, because Mrs. Kwong's TB skin test had a positive reaction, the petition and adjustment application had to be postponed so that she could have further tests. At that point, Mrs. Kwong was pregnant, and was advised to wait until after the baby was born to have the required chest x-ray. On March 27, 1996, they were informed that their interview for approval of the petition for conditional permanent residence for Mrs. Kwong was scheduled for August 15, 1996. In May 1996, Mrs. Kwong gave birth to their son, Ryan Kwong. Her chest x-ray determined that she did not have TB. Tragically, less than 3 weeks after the birth of his son, Mr. Kwong was killed in a car accident on June 14, 1996.

I.N.A. regulations concerning the untimely death of a sponsoring spouse allow for a waiver of the 2-year marriage requirement only if the individual's petition for conditional permanent residence had been approved prior to the death. The interview for approval of Mrs. Kwong's petition for conditional permanent residence was scheduled for August 15, 1996, however, Mr. Kwong was killed on June 14, 1996. Had the interview occurred 2 months earlier, Mrs. Kwong would have been eligible for that waiver. Although the occurrence of death prior to 2 years of marriage is rare, the waiver is routinely given for humanitarian reasons in a case of this type if the petition for conditional permanent residence has been approved.

By all accounts this was a legitimate marriage, and it is through no fault of her own that Mrs. Kwong has not met the marriage requirements of the I.N.A.

This case mirrors Private Law 105-7, legislation enacted on behalf of Jasmin Salehi. In that case, Mrs. Salehi and the deceased were married 9 months before he was killed in a robbery. However, in the case of Mrs. Kwong, there is the additional factor of an American citizen child to consider.

The bill was amended in subcommittee to include standard private immigration bill provisions that were omitted from the bill as introduced.

#### HEARINGS

The Committee's Subcommittee on Immigration and Claims held no hearings on H.R. 322.

#### COMMITTEE CONSIDERATION

On March 4, 1999, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 322 with an amendment by voice vote, a quorum being present.

On May 19, 1999, the Committee on the Judiciary met in open session and ordered reported favorably the bill H.R. 322 as amended by voice vote, a quorum being present.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of Rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 3(c)(4) of Rule XIII of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 322, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
 CONGRESSIONAL BUDGET OFFICE,  
 Washington, DC, May 24, 1999.

Hon. HENRY J. HYDE, *Chairman,*  
*Committee on the Judiciary,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 322, a bill for the relief of Suchada Kwong.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DAN L. CRIPPEN, *Director.*

*H.R. 322.—A bill for the relief of Suchada Kwong.*

H.R. 322 would make Suchada Kwong eligible for permanent U.S. residence. CBO estimates that enacting this legislation would have no significant impact on the Federal budget. H.R. 322 could have a very small effect on fees collected by the Immigration and Naturalization Service, which are classified as direct spending, so pay-as-you-go procedures would apply.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226-2860. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article 1, Section 1, Clause 8 of the Constitution.

#### AGENCY VIEWS

The comments of the Immigration and Naturalization Service on H.R. 322 are as follows:

U.S. DEPARTMENT OF JUSTICE,  
 IMMIGRATION AND NATURALIZATION SERVICE,  
 Washington, DC, April 15, 1999.

Hon. LAMAR SMITH, *Chairman,*  
*Subcommittee on Immigration and Claims,*  
*House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: This is in response to your request for a report regarding H.R. 322 for the relief of Suchada Kwong. Attached is a memorandum of information concerning the beneficiary.

This bill would grant the beneficiary eligible for issuance of an immigrant visa or adjustment status to permanent residence upon filing for an application.

Absent enactment of the bill, the beneficiary appears to be ineligible for permanent residence in the United States.

We hope that the information provided is useful. If we may be of assistance in the future, please let us know.

Sincerely,

ALLEN ERENBAUM,  
*Congressional Relations.*

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND  
NATURALIZATION SERVICE FILES RE: S. 1961

The beneficiary Suchada Kwong (nee: Vasanaarchasakul), a native of Thailand, was born April 05, 1967 in Bangkok, Thailand. Mrs. Kwong resides alone with her only child Ryan Stephen Kwong who is a United States citizen. Mrs. Kwong has been unemployed since arriving in the United States on June 06, 1995. She is also the sole beneficiary of this Private Bill.

Mrs. Kwong receives a Social Security benefit of \$931 per month. She also receives \$743.74 per month from a Delta Airlines Death benefit. Her son also receives a Social Security benefit of \$931 per month.

Mrs. Kwong was inspected and admitted into the United States on June 06, 1995 at Portland, Oregon as a visitor. On September 23, 1995 the beneficiary married United States citizen Jimmy Lee Kwong. An I-130, petition for alien relative and an I-485, application to register permanent residence or adjust status were completed on March 27, 1996. A permanent residence interview was scheduled between INS and the couple for August 15, 1996. On June 14, 1996 Jimmy Lee Kwong was killed in an automobile accident. The petitions filed by the Kwongs had not been adjudicated nor approved.

Mrs. Kwong has not departed the United States since her arrival in June 1995. There is no immigration benefit available to her in relation to her education and work experience. Title 8 Code of Federal Regulations, part 205.1(a)(3) does not provide any relief until the petition has been adjudicated and approved. There had been no action taken on the petition of the beneficiary at the time of her husband's death. Section 204 provides for the self petitioning by the spouses of deceased United States citizens. However, that provision requires that the beneficiary and the U.S. Citizen spouse be married for two (2) years before the petition may be approved.

Responses to national agency checks were negative.

