AMENDMENT NO.______  Calendar No.______

Purpose: To increase public safety by denying registered provisional immigrant status to any alien who has been convicted of the crime of domestic violence, child abuse, assault with bodily injury, violation of a protective order, or drunk driving, by reducing the number of misdemeanors that would make an applicant ineligible for such status, and by eliminating the Secretary of Homeland Security’s authority to waive the application of such provision.

IN THE

AMENDMENT NO. 1688

By Coburn

To: S. 744

Ref:

AMENDMENT intended to be proposed by Mr. COBURN

Viz:

1 At the appropriate place, insert the following:

2 SEC. ____ GROUNDS FOR INELIGIBILITY FOR REGISTERED PROVISIONAL IMMIGRANT STATUS.

3 Section 245B(b) of the Immigration and Nationality Act, as added by section 2101, is further amended by striking paragraph (3) and inserting the following:

4 “(3) GROUNDS FOR INELIGIBILITY.—
“(A) IN GENERAL.—Except as provided in subparagraph (B), an alien is ineligible for registered provisional immigrant status if the Secretary determines that the alien—

“(i) has a conviction for—

“(I) an offense classified as a felony in the convicting jurisdiction (other than a State or local offense for which an essential element was the alien’s immigration status, or a violation of this Act);

“(II) an aggravated felony (as defined in section 101(a)(43) at the time of the conviction);

“(III) an offense (unless the applicant demonstrates, by clear and convincing evidence, that he or she is innocent of the offense, that he or she is the victim of such offense, or that no offense occurred), which is classified as a misdemeanor in the convicting jurisdiction, and which involved—

“(aa) domestic violence or child abuse and neglect (as such
terms are defined in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a));

"(bb) assault resulting in bodily injury or the violation of a protection order (as such terms are defined in section 2266 of title 18, United States Code); or

"(ce) driving while intoxicated (as defined in section 164 of title 23, United States Code);

"(IV) 2 or more misdemeanor offenses (other than minor traffic offenses or State or local offenses for which an essential element was the alien's immigration status or violations of this Act);

"(V) any offense under foreign law, except for a purely political offense, which, if the offense had been committed in the United States, would render the alien inadmissible under section 212(a) (excluding the paragraphs set forth in clause (ii)) or
removable under section 237(a), except as provided in paragraph (3) of section 237(a); or

“(VI) unlawful voting (as defined in section 237(a)(6));

“(ii) is inadmissible under section 212(a), except that in determining an alien’s inadmissibility—

“(I) paragraphs (4), (5), (7), and (9)(B) of section 212(a) shall not apply;

“(II) subparagraphs (A), (C), (D), (F), and (G) of section 212(a)(6) and paragraphs (9)(C) and (10)(B) of section 212(a) shall not apply unless based on the act of unlawfully entering the United States after the date of the enactment of the Border Security, Economic Opportunity, and Immigration Modernization Act; and

“(III) paragraphs (6)(B) and (9)(A) of section 212(a) shall not apply unless the relevant conduct began on or after the date on which the alien files an application for reg-
istered provisional immigrant status under this section;

"(iii) is an alien who the Secretary knows or has reasonable grounds to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in section 212(a)(3)(B)(iv)); or

"(iv) was, on April 16, 2013—

"(I) an alien lawfully admitted for permanent residence;

"(II) an alien admitted as a refugee under section 207 or granted asylum under section 208; or

"(III) an alien who, according to the records of the Secretary or the Secretary of State, is lawfully present in the United States in any non-immigrant status (other than an alien considered to be a nonimmigrant solely due to the application of section 244(f)(4) or the amendment made by section 702 of the Consolidated Natural Resources Act of 2008 (Public Law 110–229)), notwithstanding any
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unauthorized employment or other
violation of nonimmigrant status.

“(B) WAIVER.—

“(i) IN GENERAL.—The Secretary
may waive the application of any provision
of section 212(a) that is not listed in
clause (ii) on behalf of an alien for human-
itarian purposes, to ensure family unity, or
if such a waiver is otherwise in the public
interest. Any discretionary authority to
waive grounds of inadmissibility under sec-
tion 212(a) conferred under any other pro-
vision of this Act shall apply equally to
aliens seeking registered provisional status
under this section.

“(ii) EXCEPTIONS.—The discretionary
authority under clause (i) may not be used
to waive—

“(I) subparagraph (B), (C),
(D)(ii), (E), (G), (H), or (I) of section
212(a)(2);

“(II) section 212(a)(3);

“(III) subparagraph (A), (C),
(D), or (E) of section 212(a)(10); or
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"(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

"(C) CONVICTION EXPLAINED.—For purposes of this paragraph, the term ‘conviction’ does not include a judgment that has been expunged, set aside, or the equivalent.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph may be construed to require the Secretary to commence removal proceedings against an alien."