To amend the Immigration and Nationality Act to authorize lawful permanent resident status for certain college graduates who entered the United States as children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Ms. Ross introduced the following bill; which was referred to the Committee on ____________________

A BILL

To amend the Immigration and Nationality Act to authorize lawful permanent resident status for certain college graduates who entered the United States as children, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “America’s Cultivation of Hope and Inclusion for Long-Term Dependents Raised and Educated Natively Act of 2021” or the “America’s CHILDREN Act of 2021”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 2. PERMANENT RESIDENT STATUS FOR CERTAIN COLLEGE GRADUATES WHO ENTERED THE UNITED STATES AS CHILDREN.

(a) REQUIREMENTS.—Section 201(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(1)) is amended by adding at the end the following:

“(F) Alien who—

“(i) is not inadmissible under section 212(a) or deportable under section 237(a);

“(ii) was admitted to the United States as a dependent child of a non-immigrant admitted pursuant to an approved employer petition under section 214 or as a dependent child of a nonimmigrant with status under section 101(a)(15)(E), and was lawfully present in the United States pursuant to such status for an aggregate period of not less than 4 years;

“(iii) had at the time of the application been lawfully present in the United States for an aggregate period of not less than 10 years; and

“(iv) has graduated from an institution of higher education (as defined in section 102(a) of the Higher Education Act of
1965 (20 U.S.C. 1002(a))) in the United States.”.

(b) PETITION.—Section 204(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)) is amended by adding at the end the following:

“(M) Any alien entitled to classification under section 201(b)(1)(F) may file a petition with the Secretary of Homeland Security for such classification.”.

SEC. 3. AGE-OUT PROTECTIONS.

(a) AGE-OUT PROTECTIONS FOR IMMIGRANTS.—

(1) IN GENERAL.—Section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)) is amended by adding at the end the following—

“(6) A determination of whether an alien is a child shall be made as follows:

“(A) For purposes of a petition under section 204 and a subsequent application for an immigrant visa or adjustment of status, such determination shall be made using the age of the alien on the date on which the petition is filed with the Secretary of Homeland Security or the date on which an application for a labor certification under section 212(a)(5)(A)(i) is
filed with the Secretary of Labor, whichever is earlier.

“(B) For purposes of a petition under section 214(d) and a subsequent application for adjustment of status under section 245(d), such determination shall be made using the age of the alien on the date on which the petition is filed with the Secretary of Homeland Security.

“(C) In the case of a petition under section 204 filed for an alien’s classification as a married son or daughter of a United States citizen under section 203(a)(2), if the petition is later converted, due to the legal termination of the alien’s marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a United States citizen under section 203(a)(1), the determination of the alien’s age shall be made using the age of the alien on the date of the termination of the marriage.”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by striking subsection (f).

(3) EFFECTIVE DATE.—
(A) IN GENERAL.—The amendments made by this section shall be effective as if included in the Child Status Protection Act (Public Law 107–208).

(B) MOTION TO REOPEN OR RECONSIDER.—A motion to reopen or reconsider the denial of a petition or application described in the amendments made by paragraph (1), that would have been approved if the amendments described in such paragraph had been in effect at the time of adjudication of the petition or application may be granted if such motion is filed with the Secretary of Homeland Security or the Attorney General not later than the date that is 2 years after the date of the enactment of this Act.

(b) AGE-OUT PROTECTIONS FOR NONIMMIGRANTS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) as amended by this Act, is further amended by adding at the end the following:

“(t) An alien who entered the United States as a dependent child of a nonimmigrant admitted pursuant to an approved employer petition under this section or with status under section 101(a)(15)(E), and who is the principal or derivative beneficiary of a properly filed pending or ap-
proved petition under section 204 shall be entitled to retain derivative nonimmigrant status notwithstanding any time or age limitations until the petition is denied or the alien receives the status of alien lawfully admitted to permanent residence.”.

(c) EMPLOYMENT AUTHORIZATION.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end the following:

“(s) The Secretary of Homeland Security shall authorize an alien who entered the United States as a dependent child of a nonimmigrant admitted pursuant to an approved employer petition under this section or with status under section 101(a)(15)(E), and who is the derivative beneficiary of a properly filed pending or approved petition under section 204, to engage in employment in the United States, and shall provide such alien with an ‘employment authorized’ endorsement or other appropriate work permit.”.

SEC. 4. PRIORITY DATE RETENTION.

Section 203(h) of the Immigration and Nationality Act (8 U.S.C. 1153(h)) is amended to read as follows:

“(h) RETENTION OF PRIORITY DATES.—The priority date for an individual shall be the date that a petition under section 204 is filed with the Secretary of Homeland Security (or the Secretary of State, if applicable), unless
Such petition was preceded by the filing of a labor certification with the Secretary of Labor, in which case that date shall constitute the priority date. The principal beneficiary and all derivative beneficiaries shall retain the priority date associated with the earliest of any approved petition or labor certification and such priority date shall be applicable to any subsequently approved petition.”.