

Immigration revision affects special cases

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WASHINGTON — Amid criticism that the new immigration law divides families, the Immigration and Naturalization Service on Wednesday unveiled guidelines that would permit aliens who are ineligible for legal residency to remain in the country if "special humanitarian factors are present."

INS Commissioner Alan Nelson said that ineligible sick or handicapped aliens whose spouses are eligible for legal residency under the amnesty provisions of the new law are most likely to get special consideration. He said that such humani-

tarian cases would be reviewed individually by district directors and then by top INS officials in Washington.

The guidelines, spelled out at a congressional hearing Wednesday, also would waive deportation of virtually all children under 18 years old whose parents have achieved legal status. Under this rule, previously announced by the INS, both parents must become legal residents, unless the child resides in a single-parent household.

But Nelson, who testified before the House immigration subcommittee, failed to answer the concerns of

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Please see IMMIGRATION on Page 24A. some lawmakers and outside critics. Several subcommittee members said that the guidelines were vague and restrictive and would do little to deter family breakups.

"He goes all over the place when you ask him a question," Rep. John Bryant, D-Dallas, a subcommittee member, said outside the hearing room. "And I think the point is, if they have authority to allow children to stay, then they obviously have authority to allow the spouse to stay."

"I think there is an overriding interest here in family unity that ought to be respected," Bryant said. He added that deporting children and spouses is not "consistent with what the American people want their immigration service to be doing when the husband or one of the adults is legally here."

Subcommittee Chairman Romano Mazzoli, D-Ky., said that the INS' rigid position regarding children and spouses provides "a very difficult circumstance for young families . . . to deal with."

That prompted Nelson to raise his voice to interrupt Mazzoli.

"Don't put us in the position of breaking families," Nelson said, "because we're following the law, we're following the procedure."

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We're going to be sure that there's fairness between the legal immigrant who waits in line and the legalized alien. That's the whole point."

The law, which offers legal status to thousands of immigrants who have been in the United States illegally since before Jan. 1, 1982, allows the U.S. attorney general or his designee to indefinitely defer deportation of anyone for humanitarian reasons. In declining to broadly extend this provision to spouses of eligible immigrants, Nelson pointed to language in the Senate report specifying that "it is the intent of the (Senate Judiciary) Committee that the families of legalized aliens will obtain no special petitioning" to win legal status.

"They will be required to 'wait in line' in the same manner as immediate family members of other new resident aliens," the Senate language states.

House members who believe the INS has more discretion than it has exercised expressed concern that

even with amnesty for ineligible minors, Nelson appeared to hedge a little. Nelson said that the INS was trying to be as categorical as possible but that "there could be individual situations," such as children involved in serious criminal activity, where deportation should not be waived.

But Rep. Charles E. Schumer, D-N.Y., said: "I suggest you reconsider and let all children stay."

Schumer and Rep. Howard Berman, D-Calif., pressed Nelson for more details and examples of ineligible spouses who would be granted special amnesty. Berman asked Nelson to explain the rationale for excluding spouses if nearly all children were being granted amnesty.

Nelson referred to congressional intent of the immigration law and added that there is "clearly no basis, we don't think legally, morally or practically, to blanket" amnesty for spouses.

Immigrant advocacy groups criticized the INS guidelines and said

their narrow scope will foster greater congressional support for legislation that would allow ineligible family members, including spouses, to remain in the United States without having to demonstrate compelling humanitarian needs.

"The policy announced today is so niggardly that it almost does nothing," said Gilbert Paul Carrasco of the U.S. Catholic Conference in Washington, D.C.

"It affects very few people, and I sensed that the committee members were very upset. The main problem is going to be ineligible spouses."

Rick Swartz, president of the National Immigration, Refugee and Citizenship Forum, predicted the guidelines would "create greater fear among the undocumented than there was before day."

Vanna Slaughter of Catholic Charities in Dallas said 20 percent of the amnesty applicants her group has assisted have family unity problems.

"It's really disappointing, and I think it will put fear in the people who were holding out hope as we were counseling and interviewing them," Ms. Slaughter said.

Staff writer Gilbert Bailon contributed to this report.