

107<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 1311

To amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture.

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## IN THE SENATE OF THE UNITED STATES

AUGUST 2, 2001

Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. KENNEDY, Ms. COLLINS, Mr. DURBIN, Mr. JEFFORDS, and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend the Immigration and Nationality Act to reaffirm the United States historic commitment to protecting refugees who are fleeing persecution or torture.

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; REFERENCES IN ACT.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Refugee Protection Act of 2001”.

6 (b) **REFERENCES IN ACT.**—Except as specifically  
7 provided in this Act, whenever in this Act an amendment  
8 or repeal is expressed as an amendment to or repeal of  
9 a provision, the reference shall be deemed to be made to

1 that provision in the Immigration and Nationality Act (8  
2 U.S.C. 1101 et seq.).

3 **SEC. 2. CONGRESSIONAL FINDINGS AND PURPOSES.**

4 (a) FINDINGS.—Congress makes the following find-  
5 ings:

6 (1) The very foundation of the Republic was  
7 laid by people who came to America to escape perse-  
8 cution, including many who fled persecution on the  
9 basis of their faith.

10 (2) Protecting people from persecution is a  
11 cherished goal and a guiding principle of the United  
12 States.

13 (3) The United States has a history of gen-  
14 erosity to persons fleeing persecution, a history that  
15 has served as an inspiring example to other coun-  
16 tries developing refugee policy, even though only a  
17 tiny fraction of the world's oppressed actually seek  
18 refuge on United States shores.

19 (4) Conversely, when the United States has re-  
20 stricted protection for refugees, other countries have  
21 followed that lead.

22 (5) United States law fails to ensure that a per-  
23 son fleeing persecution who arrives in the United  
24 States has a fair and adequate opportunity to  
25 present a claim for protection.

1 (b) PURPOSES.—The purposes of this Act are—

2 (1) to reduce the likelihood that a bona fide ref-  
 3 ugee will be returned to persecution in the refugee’s  
 4 country of nationality, or country of last habitual  
 5 residence, by United States authorities because of  
 6 expedited removal procedures or lack of fairness in  
 7 the United States asylum system; and

8 (2) to provide alternatives to detention and im-  
 9 prove detention conditions for asylum seekers.

10 **TITLE I—PROTECTION OF**  
 11 **ASYLUM SEEKERS**

12 **SEC. 101. SAFEGUARDS AGAINST ERRONEOUS EXCLUSION**  
 13 **OF ASYLUM SEEKERS.**

14 (a) LIMITATION OF SUMMARY INSPECTION PROCE-  
 15 DURES TO IMMIGRATION EMERGENCIES.—Section  
 16 235(b)(1) (8 U.S.C. 1225(b)(1)) is amended—

17 (1) by redesignating subparagraphs (A) through  
 18 (F) as subparagraphs (B) through (G), respectively;  
 19 and

20 (2) by inserting after the caption for paragraph  
 21 (1) the following new subparagraph:

22 “(A) EMERGENCY MIGRATION SITUA-  
 23 TIONS.—

24 “(i) SCOPE OF PARAGRAPH.—The au-  
 25 thority in this paragraph shall apply to

1 those instances in which the Attorney Gen-  
2 eral determines that the numbers or cir-  
3 cumstances of aliens en route to or arriv-  
4 ing in the United States, by land, sea, or  
5 air present an extraordinary migration sit-  
6 uation, and only to those aliens arriving  
7 from the foreign state or states giving rise  
8 to an extraordinary migration situation.

9 “(ii) EXTRAORDINARY MIGRATION  
10 SITUATION DEFINED.—As used in this  
11 subparagraph, the term ‘extraordinary mi-  
12 gration situation’ means the arrival or im-  
13 minent arrival in the United States or its  
14 territorial waters of aliens who by their  
15 numbers or circumstances substantially ex-  
16 ceed the capacity for inspection and exam-  
17 ination of those aliens, where there are ex-  
18 traordinary and temporary conditions in  
19 the foreign state of which those aliens are  
20 nationals.

21 “(iii) DETERMINATIONS BY THE AT-  
22 TORNEY GENERAL.—The determination of  
23 whether there exists an extraordinary mi-  
24 gration situation is in the sole and exclu-  
25 sive discretion of the Attorney General.

1                   “(iv) EFFECTIVE PERIOD OF DETER-  
2                   MINATIONS.—A determination made under  
3                   this subparagraph shall be effective for a  
4                   period not to exceed 90 days, unless, with-  
5                   in that 90-day period (or extension there-  
6                   of), the Attorney General determines, after  
7                   consultation with the Committees on the  
8                   Judiciary of the Senate and the House of  
9                   Representatives, that an extraordinary mi-  
10                  gration situation continues to warrant  
11                  those procedures remaining in effect for an  
12                  additional 90-day period.”.

13               (b) REFORM OF SUMMARY INSPECTION PROCEDURES  
14 TO DECREASE THE LIKELIHOOD OF ERROR.—Section  
15 235(b)(1)(B) (as redesignated by subsection (a)) is  
16 amended to read as follows:

17                   “(B) SCREENING.—

18                   “(i) IN GENERAL.—If an immigration  
19                   officer determines that an alien (other  
20                   than an alien described in subparagraph  
21                   (G)) who is arriving in the United States  
22                   is inadmissible under section 212(a)(6)(C)  
23                   or 212(a)(7) because the alien has no doc-  
24                   uments or has documents that are invalid  
25                   on their face, the officer shall permit the

1 alien to withdraw the application for ad-  
2 mission under subsection (a)(4), or order  
3 the alien removed from the United States,  
4 unless the alien indicates an intention to  
5 apply for asylum under section 208 or a  
6 fear of returning to his country of nation-  
7 ality or country of last habitual residence.  
8 Prior to withdrawal of an application for  
9 admission or issuance of a removal order,  
10 the alien shall be informed in writing and  
11 in a language the alien understands of the  
12 consequences of withdrawal or issuance of  
13 a removal order, the availability of review  
14 of a removal order, and that the alien shall  
15 have access to counsel at no expense to the  
16 Government in connection with such re-  
17 view, as provided by clause (iii).

18 “(ii) CLAIMS FOR ASYLUM.—If an im-  
19 migration officer determines that an alien  
20 (other than an alien described in subpara-  
21 graph (G)) arriving in the United States is  
22 inadmissible under clause (i) and the alien  
23 indicates an intention to apply for asylum  
24 under section 208 or a fear of returning to  
25 his country of nationality or country of last

1           habitual residence, the officer shall refer  
2           the alien for an interview by an asylum of-  
3           ficer under subparagraph (C).

4           “(iii) REVIEW OF REMOVAL OR-  
5           DERS.—

6                   “(I) IN GENERAL.—The Attorney  
7                   General shall provide by regulation for  
8                   de novo review by an immigration  
9                   judge of an order issued under clause  
10                  (i) unless the alien waives that review.

11                  “(II) PROCEDURES.—The review  
12                  shall include an opportunity for the  
13                  alien to be heard and questioned by  
14                  the immigration judge in person and  
15                  to be represented at the review by a  
16                  person or persons of the alien’s choos-  
17                  ing at no expense to the Government.  
18                  The alien shall be advised of these  
19                  procedures and provided the list of  
20                  persons prepared under section  
21                  239(b)(2). Review shall be concluded  
22                  as expeditiously as possible.

23                  “(III) DETERMINATIONS OF IN-  
24                  ADMISSIBILITY.—If the immigration  
25                  judge determines that the alien is in-

1           admissible under section 212(a)(6)(C)  
2           or 212(a)(7) because the alien has no  
3           documents or has documents that are  
4           invalid on their face, the immigration  
5           judge shall permit the alien to with-  
6           draw the application for admission  
7           under subsection (a)(4), or order the  
8           alien removed from the United States,  
9           unless the alien indicates an intention  
10          to apply for asylum under section 208  
11          or a fear of returning to his country  
12          of nationality or country of last habit-  
13          ual residence.

14                   “(IV) REFERRAL TO ASYLUM OF-  
15                   FICERS.—If the alien indicates an in-  
16                   tention to apply for asylum under sec-  
17                   tion 208 or a fear of returning to his  
18                   country of nationality or country of  
19                   last habitual residence, the immigra-  
20                   tion judge shall refer the alien for an  
21                   interview by an asylum officer under  
22                   subparagraph (C).

23                   “(V)       OTHER       DETERMINA-  
24                   TIONS.—If the immigration judge de-  
25                   termines that the alien is not inadmis-



1                   sible under section 212(a)(6)(C) or  
2                   212(a)(7), the immigration judge shall  
3                   order the alien admitted or shall refer  
4                   the alien for a removal hearing under  
5                   section 240.”.

6           (c) EXCEPTIONS TO SUMMARY INSPECTION PROCE-  
7 DURES.—Section 235(b)(1)(G) (as redesignated by sub-  
8 section (a)) is amended to read as follows:

9                   “(G) EXCEPTIONS.—Subparagraph (B)  
10 shall not apply to—

11                   “(i) an alien who is a native or citizen  
12                   of a country in the Western Hemisphere  
13                   with whose government the United States  
14                   does not have full diplomatic relations and  
15                   who arrives by aircraft at a port of entry;  
16                   or

17                   “(ii) an alien who is a child unaccom-  
18                   panied by a parent or guardian.”.

19           (d) REFORM OF CREDIBLE FEAR REVIEW PROCE-  
20 DURES TO DECREASE THE LIKELIHOOD OF ERROR.—  
21 Section 235(b)(1)(C)(iii) (as redesignated by subsection  
22 (a)) is amended—

23                   (1) in the caption of clause (iii), by striking  
24                   “WITHOUT FURTHER REVIEW”;

1 (2) in subclause (I), by striking “without fur-  
2 ther hearing or review”; and

3 (3) by amending subparagraph (III) to read as  
4 follows:

5 “(III) REVIEW OF DETERMINA-  
6 TIONS.—The Attorney General shall  
7 provide by regulation for prompt re-  
8 view by an immigration judge of a de-  
9 termination under subclause (I) that  
10 the alien does not have a credible fear  
11 of persecution. The review shall in-  
12 clude an opportunity for the alien to  
13 be heard and questioned by the immi-  
14 gration judge in person and to be rep-  
15 resented at the review at no expense  
16 to the Government. Review shall be  
17 concluded as expeditiously as possible,  
18 and to the maximum extent prac-  
19 ticable, within 7 days after the date of  
20 determination under subclause (I).”.

21 (e) ENHANCED AVAILABILITY OF JUDICIAL REVIEW  
22 AS A SAFEGUARD AGAINST ERRONEOUS EXCLUSION OF  
23 ASYLUM SEEKERS.—Section 242 (8 U.S.C. 1252) is  
24 amended—

25 (1) in subsection (a)—

1 (A) by striking the parenthetical in para-  
2 graph (1); and

3 (B) in paragraph (2) by—

4 (i) by striking subparagraph (A); and

5 (ii) by redesignating subparagraphs

6 (B) and (C) as subparagraphs (A) and

7 (B), respectively;

8 (2) in subsection (b)(4)(D) by striking “mani-  
9 festly contrary to the law and” and inserting “con-  
10 trary to the law or”; and

11 (3) by striking subsection (e).

12 (f) CONFORMING AMENDMENTS.—

13 (1) CONDUCT OF INTERVIEWS BY ASYLUM OF-  
14 FICERS.—Section 235(b)(1)(C)(i) (as redesignated  
15 by subsection (a)) is amended by striking “subpara-  
16 graph (A)(ii)” and inserting “subparagraph (B) (ii)  
17 or (iii)”.

18 (2) LIMITATIONS ON ADMINISTRATIVE RE-  
19 VIEW.—Section 235(b)(1)(D) (as redesignated by  
20 subsection (a)) is amended—

21 (A) by striking “subparagraph

22 (B)(iii)(III)” and inserting “subparagraph

23 (C)(iii)(III)”;

1 (B) by striking “subparagraph (A)(i) or  
2 (B)(iii)(I)” and inserting “subparagraph  
3 (B)(iii) or (C)(iii)(I)”; and

4 (C) by striking “subparagraph (A)(i)” and  
5 inserting “subparagraph (B)(iii)”.

6 (3) APPLICATION TO STOWAWAYS.—Section  
7 235(a)(2) (8 U.S.C. 1225(a)(2)) is amended—

8 (A) by inserting before the period at the  
9 end of the first sentence the following: “, except  
10 that the alien shall be informed of the avail-  
11 ability of review of the order under subsection  
12 (b)(1)(C)(iii);

13 (B) in the second sentence, by striking  
14 “persecution” and inserting “returning to his  
15 country of nationality or country of last habit-  
16 ual residence”; and

17 (C) by striking “subsection (b)(1)(B)”  
18 each place it appears and inserting “subsection  
19 (b)(1)(C)”.

20 **SEC. 102. ELIMINATION OF ARBITRARY TIME LIMITS ON**  
21 **ASYLUM APPLICATIONS.**

22 Section 208(a)(2) (8 U.S.C. 1158(a)(2)) is  
23 amended—

24 (1) by striking subparagraph (B);

1 (2) in subparagraph (C), by striking “(D)” and  
 2 inserting “(C)”;

3 (3) in subparagraph (D), by striking “subpara-  
 4 graphs (B) and (C),” and inserting “subparagraph  
 5 (B),”; and

6 (4) by redesignating subparagraphs (C) and  
 7 (D) as subparagraphs (B) and (C), respectively.

8 **SEC. 103. ELIMINATION OF NUMERICAL LIMITATION ON AD-**  
 9 **JUSTMENT OF ASYLEES.**

10 Section 209(b) (8 U.S.C. 1159(b)) is amended by  
 11 striking “Not more than” and all that follows through  
 12 “who” and inserting the following: “The Attorney General  
 13 may, in the discretion of the Attorney General, adjust to  
 14 the status of an alien lawfully admitted for permanent res-  
 15 idence the status of any alien granted asylum who”.

16 **SEC. 104. ELIMINATION OF ANNUAL ALLOCATION FOR CER-**  
 17 **TAIN CATEGORY OF REFUGEES.**

18 Section 207(a) (8 U.S.C. 1157(a)) is amended by  
 19 striking paragraph (5).

20 **TITLE II—DETENTION**

21 **SEC. 201. ALTERNATIVES TO DETENTION OF ASYLUM SEEK-**  
 22 **ERS.**

23 (a) ATTORNEY GENERAL’S DISCRETION TO DETAIN  
 24 ASYLUM SEEKERS.—

1           (1) Section 235(b)(1)(C) (as redesignated in  
2 section 101(a)) is amended—

3           (A) in clause (ii), by striking “shall” and  
4 inserting “may, in the Attorney General’s dis-  
5 cretion,”;

6           (B) in clause (iii)(IV), by striking “shall”  
7 and inserting “may, in the Attorney General’s  
8 discretion,”;

9           (C) in the heading of clause (iii)(IV), by  
10 striking “MANDATORY DETENTION” and insert-  
11 ing “DETENTION”; and

12           (D) by adding at the end the following:

13           “(vi) PAROLE OF CERTAIN ALIENS.—

14           It is the policy of the United States to pa-  
15 role asylum seekers who have established a  
16 credible fear of persecution, as defined in  
17 clause (v).”.

18           (2) The Attorney General shall promulgate reg-  
19 ulations establishing criteria for the parole of asylum  
20 seekers.

21           (b) COVERED PERSONS.—References in this section  
22 to alternatives to detention shall apply only with respect  
23 to asylum seekers.

1           (c) DEVELOPMENT OF ALTERNATIVES TO DETEN-  
2 TION.—The Attorney General shall promulgate regula-  
3 tions that—

4           (1) authorize and promote the utilization of al-  
5 ternatives to detention of asylum seekers; and

6           (2) establish the conditions for detention of asy-  
7 lum seekers that ensure a safe and humane environ-  
8 ment.

9           (d) REGULATIONS REGARDING ALTERNATIVES TO  
10 DETENTION.—The regulations developed under sub-  
11 section (c)(1) shall at a minimum take into account the  
12 following:

13           (1) SPECIFIC ALTERNATIVES.—Specific alter-  
14 natives to detention, including—

15                   (A) unsupervised parole from detention;

16                   (B) for individuals not otherwise qualified  
17 for parole under subparagraph (A), supervised  
18 parole to private nonprofit voluntary agencies;

19                   (C) for individuals not otherwise qualified  
20 for parole under subparagraph (A) or (B), non-  
21 secure shelter care or group homes supervised  
22 by private nonprofit voluntary agencies; and

23                   (D) noninstitutional settings for minors,  
24 such as foster care or group homes operated by  
25 private nonprofit voluntary agencies.

1 (e) PROGRAMS AUTHORIZED.—

2 (1) IN GENERAL.—Subject to the availability of  
3 appropriations, the Attorney General shall enter into  
4 contracts with nongovernmental agencies for the  
5 purpose of developing, implementing, or expanding  
6 alternatives to detention programs.

7 (2) USE OF FUNDS.—A nongovernmental agen-  
8 cy that receives a contract under this subsection  
9 shall use amounts provided under the contract to de-  
10 velop, implement, or expand alternatives to detention  
11 programs.

12 (3) PROGRAM REQUIREMENTS.—A nongovern-  
13 mental agency that enters into a contract under this  
14 subsection shall develop, implement, or expand a  
15 program that may include the following:

16 (A) Development of a screening procedure  
17 through which the nongovernmental agency, in  
18 conjunction with the Immigration and Natu-  
19 ralization Service, selects appropriate can-  
20 didates for participation in the alternative to  
21 detention program.

22 (B) Coordination of housing for program  
23 participants.

24 (C) Coordination of necessary services for  
25 program participants, including legal, social,



1 medical, mental health, educational and voca-  
2 tional training, job placement, and English as a  
3 Second Language courses.

4 (D) Assistance with the integration of par-  
5 ticipants into the community by helping partici-  
6 pants make contacts in their ethnic and reli-  
7 gious communities.

8 (E) Facilitation of compliance by partici-  
9 pants with Immigration and Naturalization  
10 Service and court proceedings.

11 (f) REGULATIONS REGARDING CONDITIONS FOR DE-  
12 TENTION.—The regulations developed under subsection  
13 (c)(2) shall at a minimum include the following:

14 (1) ACCESS TO LEGAL SERVICES.—

15 (A) LISTS OF LEGAL SERVICE PRO-  
16 VIDERS.—Procedures for providing to all Immi-  
17 gration and Naturalization Service detainees  
18 promptly upon their arrival at the facility an  
19 updated and accurate list of free or low-cost im-  
20 migration legal service providers that are lo-  
21 cated in the area of the detention facility.

22 (B) GROUP LEGAL ORIENTATION PRESEN-  
23 TATIONS.—

1 (i) IN GENERAL.—Procedures to allow  
2 for regularly scheduled, group legal ori-  
3 entation presentations.

4 (ii) DEFINITION.—In this subpara-  
5 graph, the term “group legal orientation  
6 presentations” means live presentations,  
7 supplemented by video presentations and  
8 individual evaluations, by private non-  
9 governmental organizations, given to Immig-  
10 ration and Naturalization Service detain-  
11 ees for the purpose of informing the de-  
12 tainees about United States immigration  
13 law and procedures and enabling detainees  
14 to determine their eligibility for relief.

15 (iii) ESTABLISHMENT OF A NATIONAL  
16 LEGAL ORIENTATION SUPPORT AND TRAIN-  
17 ING CENTER.—The Attorney General shall  
18 establish a National Legal Orientation  
19 Support and Training Center (referred to  
20 in this subsection as the Center) the pur-  
21 pose of which shall be to ensure quality  
22 and consistent implementation of legal ori-  
23 entation programs nationwide.

24 (iv) DUTIES.—The Center shall be re-  
25 sponsible for—

1 (I) offering training to nonprofit  
2 agencies that will offer group legal  
3 orientation programs;

4 (II) consulting with nonprofit  
5 agencies that offer group legal ori-  
6 entation programs regarding program  
7 development and substantive legal  
8 issues; and

9 (III) developing standards for the  
10 legal orientation programs.

11 (C) PROGRAMS AUTHORIZED.—A program  
12 that shall make grants to nongovernmental  
13 agencies for the purpose of developing, imple-  
14 menting, or expanding legal orientation pro-  
15 grams available to all Immigration and Natu-  
16 ralization Service detainees at the facilities in  
17 which such programs are offered.

18 (D) VISITS.—Procedures that permit Im-  
19 migration and Naturalization Service detainees  
20 to have adequate access to contact visits from  
21 the following individuals:

22 (i) Legal service providers, including  
23 attorneys, paralegals, law graduates, law  
24 students, and representatives accredited by  
25 the Board of Immigration Appeals.

1 (ii) Consultants, as authorized under  
2 section 235(b) of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1225(b)), before  
4 and during interviews in which determina-  
5 tions of credible fear of persecution are  
6 made.

7 (iii) Individuals assisting in the provi-  
8 sion of legal representation and docu-  
9 mentation in support of the asylum seek-  
10 ers' cases, including interpreters, medical  
11 personnel, mental health providers, social  
12 welfare workers, expert and fact witnesses,  
13 and others.

14 (E) NOTIFICATION REQUIREMENT.—Pro-  
15 cedures to provide adequate and prompt notice  
16 to Immigration and Naturalization Service de-  
17 tainees of their available release options and the  
18 procedures to request those options provided in  
19 the language of the detainee.

20 (F) LOCATION OF FACILITIES.—A pre-  
21 sumption in favor of locating detention facilities  
22 near sources of free or low-cost legal represen-  
23 tation with expertise in asylum and immigration  
24 law to ensure that such services are readily ac-  
25 cessible.

1 (G) UPDATED LEGAL RESOURCES.—Access  
2 to an updated law library.

3 (H) NOTIFICATION OF TRANSFERS.—Pro-  
4 cedures requiring the prompt notification of the  
5 legal representative of an Immigration and Nat-  
6 uralization Service detainee before the detainee  
7 is transferred to another detention facility.

8 (I) ACCESS TO TELEPHONES.—Procedures  
9 permitting Immigration and Naturalization  
10 Service detainees reasonable, equitable, and suf-  
11 ficient access to telephones, and the ability to  
12 make direct, free calls to legal representatives,  
13 the immigration courts, the Board of Immigra-  
14 tion Appeals, Federal and State courts, other  
15 government offices, and consular officials.

16 (2) RELIGIOUS AND CULTURAL PROVISIONS.—

17 (A) ACCESS TO RELIGIOUS SERVICES.—  
18 Full and equitable access to religious services,  
19 religious materials, opportunity for religious  
20 group study, and religious counseling appro-  
21 priate to Immigration and Naturalization Serv-  
22 ice detainees' religious beliefs and practices.

23 (B) CHAPLAINS.—The assignment of a  
24 chaplain to each detention facility. The chaplain  
25 shall be responsible for managing the religious

1 activities, including providing pastoral care and  
2 counseling to detainees, and for facilitating ac-  
3 cess to pastoral care and counseling from exter-  
4 nal clergy or religious service providers, rep-  
5 resenting the faiths of the Immigration and  
6 Naturalization Service detainees detained at the  
7 facility.

8 (C) DIETARY NEEDS.—Procedures to en-  
9 sure that Immigration and Naturalization Serv-  
10 ice detainees’ religious, medical, and cultural di-  
11 etary needs are met.

12 (D) QUALIFICATIONS OF STAFF.—Proce-  
13 dures to ensure that detention facility staff  
14 members are trained to recognize and address  
15 cultural and gender issues relevant to male, fe-  
16 male, and child Immigration and Naturalization  
17 Service detainees.

18 (E) ACCESS TO DETENTION FACILITIES BY  
19 NONGOVERNMENTAL ORGANIZATIONS.—Reason-  
20 able access to a detention facility shall be pro-  
21 vided to nongovernmental organizations for pur-  
22 poses including—

23 (i) observing the conditions of deten-  
24 tion outlined in this title;

1 (ii) engaging in teaching and training  
2 programs for the Immigration and  
3 Naturalization Service detainees detained  
4 at the facility; and

5 (iii) providing legal or religious serv-  
6 ices to the Immigration and Naturalization  
7 Service detainees.

8 **SEC. 202. DETENTION OF ASYLUM SEEKERS.**

9 (a) REQUIREMENT.—If found ineligible for parole or  
10 placement in an alternative to detention under the pre-  
11 vious section, asylum seekers shall be detained only in Im-  
12 migration and Naturalization Service service processing  
13 centers or in facilities contracted by the Immigration and  
14 Naturalization Service solely to house immigration detain-  
15 ees, unless the asylum seeker agrees to placement at an-  
16 other facility.

17 (b) DETERMINATION BY ASYLUM OFFICERS.—

18 (1) IN GENERAL.—Asylum officers shall deter-  
19 mine whether to parole an asylum seeker or place an  
20 asylum seeker in an appropriate alternative to deten-  
21 tion.

22 (2) TIMING OF DETERMINATION.—A determina-  
23 tion made under paragraph (1) shall be made within  
24 1 week of a request for parole made by an asylum  
25 seeker.

1           (3) RENEWAL OF REQUEST.—If a request for  
2 parole is denied, an asylum seeker may renew the re-  
3 quest if the asylum seeker has new or additional  
4 supporting information.

5           (4) TRAINING OF ASYLUM OFFICERS.—Asylum  
6 officers shall be trained in the appropriate use of  
7 and referral to detention alternatives.

8           (5) LIMITATION ON AUTHORITY TO DETAIN.—  
9 No asylum seeker may be detained if an asylum offi-  
10 cer or immigration judge has determined that parole  
11 is appropriate.

12          (c) REVIEW OF DETENTION.—In each case in which  
13 a request for release from detention by an asylum seeker  
14 is denied, or in which no determination to parole or place  
15 an asylum seeker in an appropriate alternative to deten-  
16 tion is made within one week of an asylum seeker's request  
17 for parole, an immigration judge shall—

18           (1) examine the parole request, and any evi-  
19 dence in a hearing that includes all evidence pro-  
20 vided in support of that request and determine with-  
21 in 10 days whether the individual should be paroled;  
22 and

23           (2) provide in writing to the detained asylum  
24 seeker, and to the asylum seeker's legal representa-



1       tive, the reason for any denial of release from deten-  
2       tion.

### 3                   **TITLE III—GENERAL** 4                   **PROVISIONS**

#### 5 **SEC. 301. DEFINITIONS.**

6       In this Act:

7               (1) **ASYLUM OFFICER.**—The term “asylum offi-  
8       cer” has the meaning given the term in section  
9       235(b)(1)(F) (as redesignated by section 101(a)) of  
10      the Immigration and Nationality Act (8 U.S.C.  
11      1225(b)(1)(F)).

12              (2) **ASYLUM SEEKER.**—

13               (A) **IN GENERAL.**—The term “asylum  
14      seeker” means—

15                      (i) any applicant for asylum under  
16                      section 208 of the Immigration and Na-  
17                      tionality Act (8 U.S.C. 1158);

18                      (ii) any alien who indicates an inten-  
19                      tion to apply for asylum under that sec-  
20                      tion;

21                      (iii) any applicant for withholding of  
22                      removal, pursuant either to section 1231 of  
23                      title 8, United States Code; or

1 (iv) an applicant who indicates an in-  
2 tention to apply for relief pursuant to the  
3 Convention Against Torture.

4 (B) LIMITATION.—The term “asylum seek-  
5 er” includes an individual who is pursuing ap-  
6 peals through Federal court, but does not in-  
7 clude an individual with respect to whom a final  
8 order denying asylum has been entered.

9 (3) IMMIGRATION JUDGE.—The term “immigra-  
10 tion judge” has the meaning given the term in sec-  
11 tion 101(b)(4) of the Immigration and Nationality  
12 Act (8 U.S.C. 1101(b)(4)).

13 (4) DETENTION FACILITY.—The term “deten-  
14 tion facility” means a Federal facility that meets the  
15 requirements of section 202(a) in which an asylum  
16 seeker is detained for more than 24 hours, or any  
17 other facility in which those detention services are  
18 provided to the Federal Government by contract,  
19 and does not include detention at any port of entry  
20 in the United States.

21 **SEC. 302. AUTHORIZATION OF APPROPRIATIONS.**

22 There are authorized to be appropriated to the De-  
23 partment of Justice such sums as may be necessary to  
24 carry out this Act.

1 **SEC. 303. EFFECTIVE DATE.**

2       This Act, and the amendments made by this Act,  
3 shall take effect 90 days after the date of enactment of  
4 this Act.

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