

Union Calendar No. 7

117TH CONGRESS
1ST SESSION

H. R. 1333

[Report No. 117–20, Part I]

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2021

Ms. CHU (for herself, Mr. NADLER, Ms. LOFGREN, Ms. OMAR, Ms. TLAIB, Mr. CARSON, Mr. BEYER, Mrs. DEMINGS, Mr. MEEKS, Mrs. CAROLYN B. MALONEY of New York, Mr. ESPAILLAT, Ms. MCCOLLUM, Mr. MCGOVERN, Ms. SCHAKOWSKY, Mr. GALLEGO, Mr. JOHNSON of Georgia, Ms. DEGETTE, Mr. FOSTER, Ms. STEVENS, Mr. EVANS, Mr. CASTRO of Texas, Ms. CLARKE of New York, Ms. VELÁZQUEZ, Mr. SHERMAN, Mr. COOPER, Ms. JAYAPAL, Mr. BLUMENAUER, Ms. SCANLON, Mr. QUIGLEY, Ms. MOORE of Wisconsin, Mr. GRIJALVA, Mr. RUSH, Ms. BONAMICI, Ms. MENG, Mrs. WATSON COLEMAN, Mr. MALINOWSKI, Mr. McEACHIN, Mr. CONNOLLY, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. BARRAGÁN, Mrs. NAPOLITANO, Ms. ESCOBAR, Mr. LIEU, Ms. PRESSLEY, Ms. LEE of California, Mr. COHEN, Mrs. DINGELL, Mr. VARGAS, Mr. KEATING, Mr. LOWENTHAL, Mr. GOMEZ, Mr. CARBAJAL, Mr. LANGEVIN, Mr. WELCH, Mr. CORREA, Mr. RASKIN, Ms. NORTON, Mr. SIRES, Mr. PALONE, Mr. GARCÍA of Illinois, Mr. HASTINGS, Mr. TONKO, Ms. PINGREE, Mrs. TRAHAN, Ms. TITUS, Mr. SMITH of Washington, Mrs. BEATTY, Mr. CLEAVER, Mr. SUOZZI, Mr. PASCRELL, Mr. KILDEE, Mr. KRISHNAMOORTHY, Mr. NEGUSE, Mr. DESAULNIER, Ms. SPANBERGER, Mrs. LAWRENCE, Ms. ROSS, Ms. KELLY of Illinois, Mr. STANTON, Mr. GREEN of Texas, Mr. TAKANO, Mrs. TORRES of California, Ms. ESHOO, Mr. PRICE of North Carolina, Mrs. HAYES, Ms. SCHRIER, Mr. DANNY K. DAVIS of Illinois, Mr. POCAN, Mrs. MCBATH, Mr. KIM of New Jersey, Ms. SPEIER, Ms. BUSH, Ms. GARCIA of Texas, Mr. BERA, Ms. DEAN, Mr. SWALWELL, Ms. SEWELL, Ms. STRICKLAND, Mr. JONES, Ms. WILLIAMS of Georgia, Mr. KHANNA, Mr. LEVIN of California, Mr. AGUILAR, Ms. BASS, Mr. MCNERNEY, Mr. PAYNE, Mr. TORRES of New York, Ms. MATSUI, Mr. PANETTA, Mr. TRONE, Ms. OCASIO-CORTEZ, Mr. BROWN, Mrs. KIRKPATRICK, Mr. HUFFMAN, Mr. COSTA, Ms. DELBENE, Mr.

CÁRDENAS, Mr. RUIZ, Mr. HIMES, Mr. GARAMENDI, Ms. KAPTUR, Mr. SARBANES, Mr. CICILLINE, Mr. VEASEY, Mr. MORELLE, Mr. SEAN PATRICK MALONEY of New York, Mr. SCHIFF, Ms. HOULAHAN, Ms. CLARK of Massachusetts, Mr. DEUTCH, Mr. BUTTERFIELD, Ms. WILD, Miss RICE of New York, Mrs. LURIA, and Mr. THOMPSON of California) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Homeland Security, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

APRIL 16, 2021

Additional sponsors: Ms. NEWMAN, Mr. RYAN, Ms. SHERRILL, Mr. SOTO, Mr. LARSEN of Washington, Ms. DELAURO, Mr. LEVIN of Michigan, Mr. THOMPSON of Mississippi, Mrs. MURPHY of Florida, Ms. MANNING, Ms. LOIS FRANKEL of Florida, Mr. PETERS, Mr. ALLRED, Mrs. FLETCHER, Mr. GOTTHEIMER, Mr. PHILLIPS, Ms. ROYBAL-ALLARD, Ms. UNDERWOOD, Ms. WATERS, Mr. SABLAN, Mr. KILMER, Ms. JACKSON LEE, Mr. CASTEN, Mr. SCHNEIDER, and Mr. CARTWRIGHT

APRIL 16, 2021

Reported from the Committee on the Judiciary with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

APRIL 16, 2021

Committees on Foreign Affairs, Homeland Security, and Intelligence (Permanent Select) discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on February 25, 2021]

A BILL

To transfer and limit Executive Branch authority to suspend
or restrict the entry of a class of aliens.

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.**

4 *This Act may be cited as the “National Origin-Based*
5 *Antidiscrimination for Nonimmigrants Act” or the “NO*
6 *BAN Act”.*

7 **SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

8 *Section 202(a)(1)(A) of the Immigration and Nation-*
9 *ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—*

10 *(1) by striking “Except as specifically provided*
11 *in paragraph (2) and in sections 101(a)(27),*
12 *201(b)(2)(A)(i), and 203, no” and inserting “No”;*

13 *(2) by inserting “or a nonimmigrant visa, ad-*
14 *mission or other entry into the United States, or the*
15 *approval or revocation of any immigration benefit”*
16 *after “immigrant visa”;*

17 *(3) by inserting “religion,” after “sex,”; and*

18 *(4) by inserting before the period at the end the*
19 *following: “, except as specifically provided in para-*
20 *graph (2), in sections 101(a)(27), 201(b)(2)(A)(i),*
21 *and 203, if otherwise expressly required by statute, or*
22 *if a statutorily authorized benefit takes into consider-*
23 *ation such factors”.*

1 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
2 **SUSPEND OR RESTRICT THE ENTRY OF A**
3 **CLASS OF ALIENS.**

4 *Section 212(f) of the Immigration and Nationality Act*
5 *(8 U.S.C. 1182(f)) is amended to read as follows:*

6 “(f) *AUTHORITY TO SUSPEND OR RESTRICT THE*
7 *ENTRY OF A CLASS OF ALIENS.—*

8 “(1) *IN GENERAL.—Subject to paragraph (2), if*
9 *the Secretary of State, in consultation with the Sec-*
10 *retary of Homeland Security, determines, based on*
11 *specific and credible facts, that the entry of any*
12 *aliens or any class of aliens into the United States*
13 *would undermine the security or public safety of the*
14 *United States or the preservation of human rights,*
15 *democratic processes or institutions, or international*
16 *stability, the President may temporarily—*

17 “(A) *suspend the entry of such aliens or*
18 *class of aliens as immigrants or nonimmigrants;*
19 *or*

20 “(B) *impose any restrictions on the entry of*
21 *such aliens that the President deems appro-*
22 *priate.*

23 “(2) *LIMITATIONS.—In carrying out paragraph*
24 *(1), the President, the Secretary of State, and the Sec-*
25 *retary of Homeland Security shall—*

1 “(A) *only issue a suspension or restriction*
2 *when required to address specific acts impli-*
3 *cating a compelling government interest in a*
4 *factor identified in paragraph (1);*

5 “(B) *narrowly tailor the suspension or re-*
6 *striction, using the least restrictive means, to*
7 *achieve such compelling government interest;*

8 “(C) *specify the duration of the suspension*
9 *or restriction;*

10 “(D) *consider waivers to any class-based re-*
11 *striction or suspension and apply a rebuttable*
12 *presumption in favor of granting family-based*
13 *and humanitarian waivers; and*

14 “(E) *comply with all provisions of this Act.*

15 “(3) *CONGRESSIONAL NOTIFICATION.—*

16 “(A) *IN GENERAL.—Prior to the President*
17 *exercising the authority under paragraph (1),*
18 *the Secretary of State and the Secretary of*
19 *Homeland Security shall consult Congress and*
20 *provide Congress with specific evidence sup-*
21 *porting the need for the suspension or restriction*
22 *and its proposed duration.*

23 “(B) *BRIEFING AND REPORT.—Not later*
24 *than 48 hours after the President exercises the*
25 *authority under paragraph (1), the Secretary of*

1 *State and the Secretary of Homeland Security*
2 *shall provide a briefing and submit a written re-*
3 *port to Congress that describes—*

4 “(i) *the action taken pursuant to para-*
5 *graph (1) and the specified objective of such*
6 *action;*

7 “(ii) *the estimated number of individ-*
8 *uals who will be impacted by such action;*

9 “(iii) *the constitutional and legislative*
10 *authority under which such action took*
11 *place; and*

12 “(iv) *the circumstances necessitating*
13 *such action, including how such action com-*
14 *plies with paragraph (2), as well as any in-*
15 *telligence informing such actions.*

16 “(C) *TERMINATION.—If the briefing and re-*
17 *port described in subparagraph (B) are not pro-*
18 *vided to Congress during the 48 hours that begin*
19 *when the President exercises the authority under*
20 *paragraph (1), the suspension or restriction shall*
21 *immediately terminate absent intervening con-*
22 *gressional action.*

23 “(D) *CONGRESSIONAL COMMITTEES.—The*
24 *term ‘Congress’, as used in this paragraph, refers*
25 *to the Select Committee on Intelligence of the*

1 *Senate, the Committee on Foreign Relations of*
2 *the Senate, the Committee on the Judiciary of*
3 *the Senate, the Committee on Homeland Secu-*
4 *rity and Governmental Affairs of the Senate, the*
5 *Permanent Select Committee on Intelligence of*
6 *the House of Representatives, the Committee on*
7 *Foreign Affairs of the House of Representatives,*
8 *the Committee on the Judiciary of the House of*
9 *Representatives, and the Committee on Home-*
10 *land Security of the House of Representatives.*

11 “(4) *PUBLICATION.*—*The Secretary of State and*
12 *the Secretary of Homeland Security shall publicly an-*
13 *nounce and publish an unclassified version of the re-*
14 *port described in paragraph (3)(B) in the Federal*
15 *Register.*

16 “(5) *JUDICIAL REVIEW.*—

17 “(A) *IN GENERAL.*—*Notwithstanding any*
18 *other provision of law, an individual or entity*
19 *who is present in the United States and has been*
20 *harmed by a violation of this subsection may file*
21 *an action in an appropriate district court of the*
22 *United States to seek declaratory or injunctive*
23 *relief.*

24 “(B) *CLASS ACTION.*—*Nothing in this Act*
25 *may be construed to preclude an action filed*

1 *pursuant to subparagraph (A) from proceeding*
2 *as a class action.*

3 “(6) *TREATMENT OF COMMERCIAL AIRLINES.*—
4 *Whenever the Secretary of Homeland Security finds*
5 *that a commercial airline has failed to comply with*
6 *regulations of the Secretary of Homeland Security re-*
7 *lating to requirements of airlines for the detection of*
8 *fraudulent documents used by passengers traveling to*
9 *the United States (including the training of personnel*
10 *in such detection), the Secretary of Homeland Secu-*
11 *rity may suspend the entry of some or all aliens*
12 *transported to the United States by such airline.*

13 “(7) *RULE OF CONSTRUCTION.*—*Nothing in this*
14 *section may be construed as authorizing the Presi-*
15 *dent, the Secretary of State, or the Secretary of*
16 *Homeland Security to act in a manner inconsistent*
17 *with the policy decisions expressed in the immigra-*
18 *tion laws.”.*

19 **SEC. 4. VISA APPLICANTS REPORT.**

20 *(a) INITIAL REPORTS.*—

21 “(1) *IN GENERAL.*—*Not later than 90 days after*
22 *the date of the enactment of this Act, the Secretary of*
23 *State, in coordination with the Secretary of Home-*
24 *land Security and the heads of other relevant Federal*
25 *agencies, shall submit a report to the congressional*

1 *committees referred to in section 212(f)(3)(D) of the*
2 *Immigration and Nationality Act, as amended by sec-*
3 *tion 3 of this Act, that describes the implementation*
4 *of Presidential Proclamations 9645, 9822, and 9983*
5 *and Executive Orders 13769, 13780, and 13815, dur-*
6 *ing the effective period of each such proclamation and*
7 *order.*

8 (2) *PRESIDENTIAL PROCLAMATION 9645 AND*
9 *9983.—In addition to the content described in para-*
10 *graph (1), the report submitted with respect to Presi-*
11 *dential Proclamation 9645, issued on September 24,*
12 *2017, and Presidential Proclamation 9983, issued on*
13 *January 31, 2020, shall include, for each country list-*
14 *ed in such proclamation—*

15 (A) *the total number of individuals who ap-*
16 *plied for a visa during the time period the proc-*
17 *lamation was in effect, disaggregated by country*
18 *and visa category;*

19 (B) *the total number of visa applicants de-*
20 *scribed in subparagraph (A) who were approved,*
21 *disaggregated by country and visa category;*

22 (C) *the total number of visa applicants de-*
23 *scribed in subparagraph (A) who were refused,*
24 *disaggregated by country and visa category, and*
25 *the reasons they were refused;*

1 (D) the total number of visa applicants de-
2 scribed in subparagraph (A) whose applications
3 remain pending, disaggregated by country and
4 visa category;

5 (E) the total number of visa applicants de-
6 scribed in subparagraph (A) who were granted a
7 waiver, disaggregated by country and visa cat-
8 egory;

9 (F) the total number of visa applicants de-
10 scribed in subparagraph (A) who were denied a
11 waiver, disaggregated by country and visa cat-
12 egory, and the reasons such waiver requests were
13 denied;

14 (G) the total number of refugees admitted,
15 disaggregated by country; and

16 (H) the complete reports that were sub-
17 mitted to the President every 180 days in ac-
18 cordance with section 4 of Presidential Procla-
19 mation 9645 in its original form, and as amend-
20 ed by Presidential Proclamation 9983.

21 (b) *ADDITIONAL REPORTS.*—Not later than 30 days
22 after the date on which the President exercises the authority
23 under section 212(f) of the Immigration and Nationality
24 Act (8 U.S.C. 1182(f)), as amended by section 3 of this Act,
25 and every 30 days thereafter, the Secretary of State, in co-

1 *ordination with the Secretary of Homeland Security and*
2 *heads of other relevant Federal agencies, shall submit a re-*
3 *port to the congressional committees referred to in para-*
4 *graph (3)(D) of such section 212(f) that identifies, with re-*
5 *spect to countries affected by a suspension or restriction,*
6 *the information described in subparagraphs (A) through*
7 *(G) of subsection (a)(2) of this section and the specific evi-*
8 *dence supporting the need for the continued exercise of pres-*
9 *idential authority under such section 212(f), including the*
10 *information described in paragraph (3)(B) of such section*
11 *212(f). If the report described in this subsection is not pro-*
12 *vided to such congressional committees in the time specified,*
13 *the suspension or restriction shall immediately terminate*
14 *absent intervening congressional action. A final report with*
15 *such information shall be prepared and submitted to such*
16 *congressional committees not later than 30 days after the*
17 *suspension or restriction is lifted.*

18 (c) *FORM; AVAILABILITY.—The reports required under*
19 *subsections (a) and (b) shall be made publicly available on-*
20 *line in unclassified form.*

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