

Union Calendar No. 8

117TH CONGRESS
1ST SESSION

H. R. 1573

[Report No. 117–21]

To clarify the rights of all persons who are held or detained at a port of entry or at any detention facility overseen by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2021

Ms. JAYAPAL introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 16, 2021

Additional sponsors: Ms. CHU, Ms. CLARKE of New York, Mr. DEUTCH, Mr. GARCÍA of Illinois, Ms. GARCIA of Texas, Mr. JOHNSON of Georgia, Ms. LEE of California, Ms. LOFGREN, Mr. LOWENTHAL, Ms. NORTON, Mr. RUSH, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SMITH of Washington, Mr. ESPAILLAT, Mr. GRIJALVA, Mr. KHANNA, Mr. KILMER, Mr. MCGOVERN, Mr. NADLER, Ms. PRESSLEY, Mr. RASKIN, Ms. SCANLON, Mr. SWALWELL, Ms. WASSERMAN SCHULTZ, Mrs. WATSON COLEMAN, Ms. BARRAGÁN, Mr. BLUMENAUER, Ms. BONAMICI, Mr. CARSON, Mr. GALLEG0, Mr. CORREA, Ms. DEGETTE, Ms. JACOBS of California, Mr. JONES, Ms. LEGER FERNANDEZ, Mrs. NAPOLITANO, Ms. NEWMAN, Ms. ROYBAL-ALLARD, Mrs. TORRES of California, Mr. TORRES of New York, Mr. VARGAS, Mr. CASTEN, Mr. CICILLINE, Mr. DANNY K. DAVIS of Illinois, Ms. JACKSON LEE, Mr. LIEU, Mr. NEGUSE, and Mr. QUIGLEY

APRIL 16, 2021

Reported with amendments, committed to the Committee of the Whole House
on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on March 3, 2021]

A BILL

To clarify the rights of all persons who are held or detained
at a port of entry or at any detention facility overseen
by U.S. Customs and Border Protection or U.S. Immig-
ration and Customs Enforcement.

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 “Access to Counsel Act*
5 *of 2021”.*

6 **SEC. 2. ACCESS TO COUNSEL AND OTHER ASSISTANCE AT**
7 **PORTS OF ENTRY AND DURING DEFERRED IN-**
8 **SPECTION.**

9 (a) *ACCESS TO COUNSEL AND OTHER ASSISTANCE*
10 *DURING INSPECTION.*—*Section 235 of the Immigration and*
11 *Nationality Act (8 U.S.C. 1225) is amended by adding at*
12 *the end the following:*

13 *“(e) ACCESS TO COUNSEL AND OTHER ASSISTANCE*
14 *DURING INSPECTION AT PORTS OF ENTRY AND DURING*
15 *DEFERRED INSPECTION.*—

16 *“(1) IN GENERAL.—The Secretary of Homeland*
17 *Security shall ensure that a covered individual has a*
18 *meaningful opportunity to consult with counsel and*
19 *an interested party during the inspection process.*

20 *“(2) SCOPE OF ASSISTANCE.—The Secretary of*
21 *Homeland Security shall—*

22 *“(A) provide the covered individual a*
23 *meaningful opportunity to consult (including*
24 *consultation via telephone) with counsel and an*
25 *interested party not later than one hour after the*

1 *secondary inspection process commences and as*
2 *necessary throughout the remainder of the in-*
3 *spection process, including, as applicable, during*
4 *deferred inspection;*

5 “(B) *allow counsel and an interested party*
6 *to advocate on behalf of the covered individual,*
7 *including by providing to the examining immi-*
8 *gration officer information, documentation, and*
9 *other evidence in support of the covered indi-*
10 *vidual; and*

11 “(C) *to the greatest extent practicable, ac-*
12 *commodate a request by the covered individual*
13 *for counsel or an interested party to appear in-*
14 *person at the secondary or deferred inspection*
15 *site.*

16 “(3) *SPECIAL RULE FOR LAWFUL PERMANENT*
17 *RESIDENTS.—*

18 “(A) *IN GENERAL.—Except as provided in*
19 *subparagraph (B), the Secretary of Homeland*
20 *Security may not accept a Form I-407 Record of*
21 *Abandonment of Lawful Permanent Resident*
22 *Status (or a successor form) from a lawful per-*
23 *manent resident subject to secondary or deferred*
24 *inspection without first providing such lawful*

1 *permanent resident a meaningful opportunity to*
2 *seek advice from counsel.*

3 “(B) *EXCEPTION.*—*The Secretary of Home-*
4 *land Security may accept Form I-407 Record of*
5 *Abandonment of Lawful Permanent Resident*
6 *Status (or a successor form) from a lawful per-*
7 *manent resident subject to secondary or deferred*
8 *inspection if such lawful permanent resident*
9 *knowingly, intelligently, and voluntarily waives,*
10 *in writing, the opportunity to seek advice from*
11 *counsel.*

12 “(4) *DEFINITIONS.*—*In this section:*

13 “(A) *COUNSEL.*—*The term ‘counsel’*
14 *means—*

15 “(i) *an attorney who is a member in*
16 *good standing of the bar of any State, the*
17 *District of Columbia, or a territory or a*
18 *possession of the United States and is not*
19 *under an order suspending, enjoining, re-*
20 *straining, disbarring, or otherwise restrict-*
21 *ing the attorney in the practice of law; or*

22 “(ii) *an individual accredited by the*
23 *Attorney General, acting as a representative*
24 *of an organization recognized by the Execu-*
25 *tive Office for Immigration Review, to rep-*

1 *resent a covered individual in immigration*
2 *matters.*

3 “(B) *COVERED INDIVIDUAL.*—*The term ‘cov-*
4 *ered individual’ means an individual subject to*
5 *secondary or deferred inspection who is—*

6 “(i) *a national of the United States;*

7 “(ii) *an immigrant, lawfully admitted*
8 *for permanent residence, who is returning*
9 *from a temporary visit abroad;*

10 “(iii) *an alien seeking admission as an*
11 *immigrant in possession of a valid unex-*
12 *pired immigrant visa;*

13 “(iv) *an alien seeking admission as a*
14 *nonimmigrant in possession of a valid un-*
15 *expired nonimmigrant visa;*

16 “(v) *a refugee;*

17 “(vi) *a returning asylee; or*

18 “(vii) *an alien who has been approved*
19 *for parole under section 212(d)(5)(A), in-*
20 *cluding an alien who is returning to the*
21 *United States in possession of a valid ad-*
22 *vance parole document.*

23 “(C) *INTERESTED PARTY.*—*The term ‘inter-*
24 *ested party’ means—*

1 “(i) a relative of the covered indi-
2 vidual;

3 “(ii) in the case of a covered indi-
4 vidual to whom an immigrant or a non-
5 immigrant visa has been issued, the peti-
6 tioner or sponsor thereof (including an
7 agent of such petitioner or sponsor); or

8 “(iii) a person, organization, or entity
9 in the United States with a bona fide con-
10 nection to the covered individual.”

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
12 section (a) shall take effect 180 days after the date of the
13 enactment of this Act.

14 (c) *SAVINGS PROVISION.*—Nothing in this Act, or in
15 any amendment made by this Act, may be construed to
16 limit a right to counsel or any right to appointed counsel
17 under—

18 (1) section 240(b)(4)(A) (8 U.S.C.
19 1229a(b)(4)(A));

20 (2) section 292 of the Immigration and Nation-
21 ality Act (8 U.S.C. 1362); or

22 (3) any other provision of law, including any
23 final court order securing such rights,

24 as in effect on the day before the date of the enactment of
25 this Act.

Amend the title so as to read: “A bill to clarify the rights of certain persons who are held or detained at a port of entry or at any facility overseen by U.S. Customs and Border Protection.”.

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