

115TH CONGRESS
2D SESSION

H. R. 7068

To close loopholes in the immigration laws that serve as incentives to aliens to attempt to enter the United States unlawfully, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 16, 2018

Mr. GOODLATTE introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, 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

A BILL

To close loopholes in the immigration laws that serve as incentives to aliens to attempt to enter the United States unlawfully, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “End Catch and Release Act”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—UNACCOMPANIED ALIEN CHILDREN

- Sec. 101. Repatriation of unaccompanied alien children.
- Sec. 102. Clarification of standards for family detention.
- Sec. 103. Special immigrant juvenile status for immigrants unable to reunite with either parent.

TITLE II—ASYLUM REFORM

- Sec. 201. Credible fear interviews.
- Sec. 202. Jurisdiction of asylum applications.
- Sec. 203. Recording expedited removal and credible fear interviews.
- Sec. 204. Safe third country.
- Sec. 205. Renunciation of asylum status pursuant to return to home country.
- Sec. 206. Notice concerning frivolous asylum applications.
- Sec. 207. Anti-fraud investigative work product.
- Sec. 208. Penalties for asylum fraud.
- Sec. 209. Statute of limitations for asylum fraud.
- Sec. 210. Technical amendments.

1 **TITLE I—UNACCOMPANIED**
2 **ALIEN CHILDREN**
3 **SEC. 101. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
4 **DREN.**

5 (a) IN GENERAL.—Section 235 of the William Wil-
6 berforce Trafficking Victims Protection Reauthorization
7 Act of 2008 (8 U.S.C. 1232) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (2)—

10 (i) by amending the heading to read
11 as follows: “RULES FOR UNACCOMPANIED
12 ALIEN CHILDREN.—”;

13 (ii) in subparagraph (A)—

14 (I) in the matter preceding clause
15 (i), by striking “who is a national or
16 habitual resident of a country that is
17 contiguous with the United States”;

1 (II) in clause (i), by inserting
2 “and” at the end;

3 (III) in clause (ii), by striking “;
4 and” and inserting a period; and

5 (IV) by striking clause (iii);
6 (iii) in subparagraph (B)—

7 (I) in the matter preceding clause
8 (i), by striking “(8 U.S.C. 1101 et
9 seq.) may—” and inserting “(8
10 U.S.C. 1101 et seq.)—”;

11 (II) in clause (i), by inserting be-
12 fore “permit such child to withdraw”
13 the following: “may”; and

14 (III) in clause (ii), by inserting
15 before “return such child” the fol-
16 lowing: “shall”; and
17 (iv) in subparagraph (C)—

18 (I) by amending the heading to
19 read as follows: “AGREEMENTS WITH
20 FOREIGN COUNTRIES.—”; and

21 (II) in the matter preceding
22 clause (i), by striking “The Secretary
23 of State shall negotiate agreements
24 between the United States and coun-
25 tries contiguous to the United States”

1 and inserting “The Secretary of State
2 may negotiate agreements between the
3 United States and any foreign country
4 that the Secretary determines appro-
5 priate”;

6 (B) by redesignating paragraphs (3)
7 through (5) as paragraphs (4) through (6), re-
8 spectively, and inserting after paragraph (2) the
9 following:

10 “(3) SPECIAL RULES FOR INTERVIEWING UNAC-
11 COMPANIED ALIEN CHILDREN.—An unaccompanied
12 alien child shall be interviewed by a dedicated U.S.
13 Citizenship and Immigration Services immigration
14 officer with specialized training in interviewing child
15 trafficking victims. Such officer shall be in plain
16 clothes and shall not carry a weapon. The interview
17 shall occur in a private room.”; and

18 (C) in paragraph (6)(D) (as so redesign-
19 nated)—

20 (i) in the matter preceding clause (i),
21 by striking “, except for an unaccompanied
22 alien child from a contiguous country sub-
23 ject to exceptions under subsection (a)(2),”
24 and inserting “who does not meet the cri-
25 teria listed in paragraph (2)(A)”;

1 (ii) in clause (i), by inserting before
2 the semicolon at the end the following: “,
3 which shall include a hearing before an im-
4 migration judge not later than 14 days
5 after being screened under paragraph (4)”;

6 (2) in subsection (b)—

7 (A) in paragraph (2)—

8 (i) in subparagraph (A), by inserting
9 before the semicolon the following: “be-
10 lieved not to meet the criteria listed in sub-
11 section (a)(2)(A)”;

12 (ii) in subparagraph (B), by inserting
13 before the period the following: “and does
14 not meet the criteria listed in subsection
15 (a)(2)(A)”;

16 (B) in paragraph (3), by striking “an un-
17 accompanied alien child in custody shall” and
18 all that follows, and inserting the following: “an
19 unaccompanied alien child in custody—

20 “(A) in the case of a child who does not
21 meet the criteria listed in subsection (a)(2)(A),
22 shall transfer the custody of such child to the
23 Secretary of Health and Human Services not
24 later than 30 days after determining that such

1 child is an unaccompanied alien child who does
2 not meet such criteria; or

3 “(B) in the case of child who meets the
4 criteria listed in subsection (a)(2)(A), may
5 transfer the custody of such child to the Sec-
6 retary of Health and Human Services after de-
7 termining that such child is an unaccompanied
8 alien child who meets such criteria.”; and

9 (3) in subsection (c)—

10 (A) in paragraph (3), by inserting at the
11 end the following:

12 “(D) INFORMATION ABOUT INDIVIDUALS
13 WITH WHOM CHILDREN ARE PLACED.—

14 “(i) INFORMATION TO BE PROVIDED
15 TO HOMELAND SECURITY.—Before placing
16 a child with an individual, the Secretary of
17 Health and Human Services shall provide
18 to the Secretary of Homeland Security, re-
19 garding the individual with whom the child
20 will be placed, the following information:

21 “(I) The name of the individual.

22 “(II) The social security number
23 of the individual, if available.

24 “(III) The date of birth of the in-
25 dividual.

1 “(IV) The location of the individ-
2 ual’s residence where the child will be
3 placed.

4 “(V) The immigration status of
5 the individual, if known.

6 “(VI) Contact information for
7 the individual.

8 “(ii) SPECIAL RULE.—In the case of a
9 child who was apprehended on or after the
10 effective date of this clause, and before the
11 date of the enactment of this subpara-
12 graph, who the Secretary of Health and
13 Human Services placed with an individual,
14 the Secretary shall provide the information
15 listed in clause (i) to the Secretary of
16 Homeland Security not later than 90 days
17 after such date of enactment.”; and

18 (B) in paragraph (5)—

19 (i) by inserting after “to the greatest
20 extent practicable” the following: “(at no
21 expense to the Government)”; and

22 (ii) by striking “have counsel to rep-
23 resent them” and inserting “have access to
24 counsel to represent them”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any unaccompanied alien child
3 apprehended on or after the date of enactment.

4 **SEC. 102. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
5 **TENTION.**

6 (a) IN GENERAL.—Section 235 of the William Wil-
7 berforce Trafficking Victims Protection Reauthorization
8 Act of 2008 (8 U.S.C. 1232) is amended by adding at
9 the end the following:

10 “(j) CONSTRUCTION.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, judicial determination, consent de-
13 cree, or settlement agreement, the detention of any
14 alien child who is not an unaccompanied alien child
15 shall be governed by sections 217, 235, 236, and
16 241 of the Immigration and Nationality Act (8
17 U.S.C. 1187, 1225, 1226, and 1231). There exists
18 no presumption that an alien child who is not an un-
19 accompanied alien child should not be detained, and
20 all such determinations shall be in the discretion of
21 the Secretary of Homeland Security.

22 “(2) RELEASE OF MINORS OTHER THAN UNAC-
23 COMPANIED ALIENS.—In no circumstances shall an
24 alien minor who is not an unaccompanied alien child

1 be released by the Secretary of Homeland Security
2 other than to a parent or legal guardian.

3 “(3) FAMILY DETENTION.—The Secretary of
4 Homeland Security shall—

5 “(A) maintain the care and custody of an
6 alien, during the period during which the
7 charges described in clause (i) are pending,
8 who—

9 “(i) is charged only with a mis-
10 demeanor offense under section 275(a) of
11 the Immigration and Nationality Act (8
12 U.S.C. 1325(a)); and

13 “(ii) entered the United States with
14 the alien’s child who has not attained 18
15 years of age; and

16 “(B) detain the alien with the alien’s
17 child.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act and shall apply to all actions that occur
21 before, on, or after the date of the enactment of this Act.

22 (c) PREEMPTION OF STATE LICENSING REQUIRE-
23 MENTS.—Notwithstanding any other provision of law, ju-
24 dicial determination, consent decree, or settlement agree-
25 ment, no State may require that an immigration detention

1 facility used to detain children who have not attained 18
 2 years of age, or families consisting of one or more of such
 3 children and the parents or legal guardians of such chil-
 4 dren, that is located in that State, be licensed by the State
 5 or any political subdivision thereof.

6 **SEC. 103. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
 7 **MIGRANTS UNABLE TO REUNITE WITH EI-**
 8 **THER PARENT.**

9 Section 101(a)(27)(J)(i) of the Immigration and Na-
 10 tionality Act (8 U.S.C. 1101(a)(27)(J)(i)) is amended by
 11 striking “1 or both of the immigrant’s parents” and in-
 12 serting “either of the immigrant’s parents”.

13 **TITLE II—ASYLUM REFORM**

14 **SEC. 201. CREDIBLE FEAR INTERVIEWS.**

15 Section 235(b)(1)(B)(v) of the Immigration and Na-
 16 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
 17 striking “claim” and all that follows, and inserting “claim,
 18 as determined pursuant to section 208(b)(1)(B)(iii), and
 19 such other facts as are known to the officer, that the alien
 20 could establish eligibility for asylum under section 208,
 21 and it is more probable than not that the statements made
 22 by, and on behalf of, the alien in support of the alien’s
 23 claim are true.”.

1 **SEC. 202. JURISDICTION OF ASYLUM APPLICATIONS.**

2 Section 208(b)(3) of the Immigration and Nationality
3 Act (8 U.S.C. 1158) is amended by striking subparagraph
4 (C).

5 **SEC. 203. RECORDING EXPEDITED REMOVAL AND CRED-**
6 **IBLE FEAR INTERVIEWS.**

7 (a) IN GENERAL.—The Secretary of Homeland Secu-
8 rity shall establish quality assurance procedures and take
9 steps to effectively ensure that questions by employees of
10 the Department of Homeland Security exercising expe-
11 dited removal authority under section 235(b) of the Immi-
12 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
13 in a uniform manner, to the extent possible, and that both
14 these questions and the answers provided in response to
15 them are recorded in a uniform fashion.

16 (b) FACTORS RELATING TO SWORN STATEMENTS.—
17 Where practicable, any sworn or signed written statement
18 taken of an alien as part of the record of a proceeding
19 under section 235(b)(1)(A) of the Immigration and Na-
20 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
21 panied by a recording of the interview which served as the
22 basis for that sworn statement.

23 (c) INTERPRETERS.—The Secretary shall ensure that
24 a competent interpreter, not affiliated with the govern-
25 ment of the country from which the alien may claim asy-

1 lum, is used when the interviewing officer does not speak
2 a language understood by the alien.

3 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
4 There shall be an audio or audio visual recording of inter-
5 views of aliens subject to expedited removal. The recording
6 shall be included in the record of proceeding and shall be
7 considered as evidence in any further proceedings involv-
8 ing the alien.

9 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
10 section shall be construed to create any right, benefit,
11 trust, or responsibility, whether substantive or procedural,
12 enforceable in law or equity by a party against the United
13 States, its departments, agencies, instrumentalities, enti-
14 ties, officers, employees, or agents, or any person, nor does
15 this section create any right of review in any administra-
16 tive, judicial, or other proceeding.

17 **SEC. 204. SAFE THIRD COUNTRY.**

18 Section 208(a)(2)(A) of the Immigration and Nation-
19 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

20 (1) by striking “Attorney General” each place
21 it appears and inserting “Secretary of Homeland Se-
22 curity”; and

23 (2) by striking “removed, pursuant to a bilat-
24 eral or multilateral agreement, to” and inserting
25 “removed to”.

1 **SEC. 205. RENUNCIATION OF ASYLUM STATUS PURSUANT**
2 **TO RETURN TO HOME COUNTRY.**

3 (a) IN GENERAL.—Section 208(c) of the Immigration
4 and Nationality Act (8 U.S.C. 1158(c)) is amended by
5 adding at the end the following new paragraph:

6 “(4) RENUNCIATION OF STATUS PURSUANT TO
7 RETURN TO HOME COUNTRY.—

8 “(A) IN GENERAL.—Except as provided in
9 subparagraph (B), any alien who is granted
10 asylum status under this Act, who, absent
11 changed country conditions, subsequently re-
12 turns to the country of such alien’s nationality
13 or, in the case of an alien having no nationality,
14 returns to any country in which such alien last
15 habitually resided, and who applied for such
16 status because of persecution or a well-founded
17 fear of persecution in that country on account
18 of race, religion, nationality, membership in a
19 particular social group, or political opinion,
20 shall have his or her status terminated.

21 “(B) WAIVER.—The Secretary has discre-
22 tion to waive subparagraph (A) if it is estab-
23 lished to the satisfaction of the Secretary that
24 the alien had a compelling reason for the re-
25 turn. The waiver may be sought prior to depar-
26 ture from the United States or upon return.”.

1 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1158(c)(3)) is amended by inserting after “paragraph
4 (2)” the following: “or (4)”.

5 **SEC. 206. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
6 **PLICATIONS.**

7 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
9 amended—

10 (1) in the matter preceding subparagraph (A),
11 by inserting “the Secretary of Homeland Security
12 or” before “the Attorney General”;

13 (2) in subparagraph (A), by striking “and of
14 the consequences, under paragraph (6), of knowingly
15 filing a frivolous application for asylum; and” and
16 inserting a semicolon;

17 (3) in subparagraph (B), by striking the period
18 and inserting “; and”; and

19 (4) by adding at the end the following:

20 “(C) ensure that a written warning ap-
21 pears on the asylum application advising the
22 alien of the consequences of filing a frivolous
23 application and serving as notice to the alien of
24 the consequence of filing a frivolous applica-
25 tion.”.

1 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
2 of the Immigration and Nationality Act (8 U.S.C.
3 1158(d)(6)) is amended by striking “If the” and all that
4 follows and inserting:

5 “(A) If the Secretary of Homeland Secu-
6 rity or the Attorney General determines that an
7 alien has knowingly made a frivolous applica-
8 tion for asylum and the alien has received the
9 notice under paragraph (4)(C), the alien shall
10 be permanently ineligible for any benefits under
11 this chapter, effective as the date of the final
12 determination of such an application.

13 “(B) An application is frivolous if the Sec-
14 retary of Homeland Security or the Attorney
15 General determines, consistent with subpara-
16 graph (C), that—

17 “(i) it is so insufficient in substance
18 that it is clear that the applicant know-
19 ingly filed the application solely or in part
20 to delay removal from the United States,
21 to seek employment authorization as an
22 applicant for asylum pursuant to regula-
23 tions issued pursuant to paragraph (2), or
24 to seek issuance of a Notice to Appeal in

1 order to pursue Cancellation of Removal
2 under section 240A(b); or

3 “(ii) any of the material elements are
4 knowingly fabricated.

5 “(C) In determining that an application is
6 frivolous, the Secretary or the Attorney Gen-
7 eral, must be satisfied that the applicant, dur-
8 ing the course of the proceedings, has had suffi-
9 cient opportunity to clarify any discrepancies or
10 implausible aspects of the claim.

11 “(D) For purposes of this section, a find-
12 ing that an alien filed a frivolous asylum appli-
13 cation shall not preclude the alien from seeking
14 withholding of removal under section 241(b)(3)
15 or protection pursuant to the Convention
16 Against Torture.”.

17 **SEC. 207. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

18 (a) ASYLUM CREDIBILITY DETERMINATIONS.—Sec-
19 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
20 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
21 after “all relevant factors” the following: “, including
22 statements made to, and investigative reports prepared by,
23 immigration authorities and other government officials”.

24 (b) RELIEF FOR REMOVAL CREDIBILITY DETER-
25 MINATIONS.—Section 240(c)(4)(C) of the Immigration

1 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
2 by inserting after “all relevant factors” the following: “,
3 including statements made to, and investigative reports
4 prepared by, immigration authorities and other govern-
5 ment officials”.

6 **SEC. 208. PENALTIES FOR ASYLUM FRAUD.**

7 Section 1001 of title 18 is amended by inserting at
8 the end of the paragraph—

9 “(d) Whoever, in any matter before the Secretary of
10 Homeland Security or the Attorney General pertaining to
11 asylum under section 208 of the Immigration and Nation-
12 ality Act or withholding of removal under section
13 241(b)(3) of such Act, knowingly and willfully—

14 “(1) makes any materially false, fictitious, or
15 fraudulent statement or representation; or

16 “(2) makes or uses any false writings or docu-
17 ment knowing the same to contain any materially
18 false, fictitious, or fraudulent statement or entry,
19 shall be fined under this title or imprisoned not more than
20 10 years, or both.”.

21 **SEC. 209. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

22 Section 3291 of title 18 is amended—

23 (1) by striking “1544,” and inserting “1544,
24 and section 1546,”; and

1 (2) by striking “offense.” and inserting “of-
2 fense or within 10 years after the fraud is discov-
3 ered.”.

4 **SEC. 210. TECHNICAL AMENDMENTS.**

5 Section 208 of the Immigration and Nationality Act
6 (8 U.S.C. 1158) is amended—

7 (1) in subsection (a)—

8 (A) in paragraph (2)(D), by inserting
9 “Secretary of Homeland Security or the” before
10 “Attorney General”; and

11 (B) in paragraph (3), by inserting “Sec-
12 retary of Homeland Security or the” before
13 “Attorney General”;

14 (2) in subsection (b)(2), by inserting “Secretary
15 of Homeland Security or the” before “Attorney Gen-
16 eral” each place such term appears;

17 (3) in subsection (c)—

18 (A) in paragraph (1), by striking “Attor-
19 ney General” each place such term appears and
20 inserting “Secretary of Homeland Security”;

21 (B) in paragraph (2), in the matter pre-
22 ceding subparagraph (A), by inserting “Sec-
23 retary of Homeland Security or the” before
24 “Attorney General”; and

1 (C) in paragraph (3), by inserting “Sec-
2 retary of Homeland Security or the” before
3 “Attorney General”; and
4 (4) in subsection (d)—

5 (A) in paragraph (1), by inserting “Sec-
6 retary of Homeland Security or the” before
7 “Attorney General” each place such term ap-
8 pears;

9 (B) in paragraph (2), by striking “Attor-
10 ney General” and inserting “Secretary of
11 Homeland Security”; and

12 (C) in paragraph (5)—

13 (i) in subparagraph (A), by striking
14 “Attorney General” and inserting “Sec-
15 retary of Homeland Security”; and

16 (ii) in subparagraph (B), by inserting
17 “Secretary of Homeland Security or the”
18 before “Attorney General”.

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