

117TH CONGRESS
1ST SESSION

S. 959

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 24, 2021

Mr. GRAHAM (for himself, Mr. TILLIS, and Mr. BARRASSO) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, 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.**

4 This Act may be cited as the “Secure and Protect
5 Act of 2021”.

1 **SEC. 2. PROTECTION OF MINORS.**

2 (a) PROMOTING FAMILY UNITY.—Section 235 of the
3 William Wilberforce Trafficking Victims Protection Reau-
4 thorization Act of 2008 (8 U.S.C. 1232) is amended by
5 adding at the end the following:

6 “(j) PROMOTING FAMILY UNITY.—

7 “(1) DETENTION OF ALIEN MINORS.—

8 “(A) IN GENERAL.—Notwithstanding any
9 other provision of law, judicial determination,
10 consent decree, or settlement agreement, the
11 Secretary of Homeland Security may detain any
12 alien minor (other than an unaccompanied alien
13 child) who is inadmissible to the United States
14 under section 212(a) of the Immigration and
15 Nationality Act (8 U.S.C. 1182(a)) or remov-
16 able from the United States under section
17 237(a) of that Act (8 U.S.C. 1227(a)) pending
18 the completion of removal proceedings, regard-
19 less of whether the alien minor was previously
20 an unaccompanied alien child.

21 “(B) PRIORITY REMOVAL CASES.—The At-
22 torney General shall—

23 “(i) prioritize the removal proceedings
24 of an alien minor, or a family unit that in-
25 cludes an alien minor, detained under sub-
26 paragraph (A); and

1 “(ii) set a case completion goal of not
2 more than 100 days for such proceedings.

3 “(C) DETENTION AND RELEASE DECISIONS.—The decision to detain or release an
4 alien minor described in subparagraph (A)—
5

6 “(i) shall be governed solely by sec-
7 tions 212(d)(5), 217, 235, 236, and 241 of
8 the Immigration and Nationality Act (8
9 U.S.C. 1182(d)(5), 1187, 1225, 1226, and
10 1231) and implementing regulations or
11 policies; and

12 “(ii) shall not be governed by stand-
13 ards, requirements, restrictions, or proce-
14 dures contained in a judicial decree or set-
15 tlement relating to the authority to detain
16 or release alien minors.

17 “(2) CONDITIONS OF DETENTION.—

18 “(A) IN GENERAL.—Notwithstanding any
19 other provision of law, judicial determination,
20 consent decree, or settlement agreement, the
21 Secretary of Homeland Security shall deter-
22 mine, in the sole discretion of the Secretary, the
23 conditions of detention applicable to an alien
24 minor described in paragraph (1)(A) regardless

1 of whether the alien minor was previously an
2 unaccompanied alien child.

3 “(B) NO JUDICIAL REVIEW.—A determina-
4 tion under subparagraph (A) shall not be sub-
5 ject to judicial review.

6 “(3) RULE OF CONSTRUCTION.—Nothing in
7 this section—

8 “(A) affects the eligibility for bond or pa-
9 role of an alien; or

10 “(B) limits the authority of a court to hear
11 a claim arising under the Constitution of the
12 United States.

13 “(4) PREEMPTION OF STATE LICENSING RE-
14 QUIREMENTS.—Notwithstanding any other provision
15 of law, judicial determination, consent decree, or set-
16 tlement agreement, a State may not require an im-
17 migration detention facility used to detain families
18 consisting of one or more children who have not at-
19 tained 18 years of age and the parents or legal
20 guardians of such children, that is located in the
21 State, to be licensed by the State or any political
22 subdivision thereof.

23 “(5) CONDITIONS OF CUSTODY.—The Secretary
24 of Homeland Security shall ensure that each—

1 “(A) family residential facility is secure
2 and safe; and

3 “(B) alien child and accompanying parent
4 at a family residential facility has—

5 “(i) suitable living accommodations;

6 “(ii) access to drinking water and
7 food;

8 “(iii) timely access to medical assist-
9 ance, including mental health assistance;
10 and

11 “(iv) access to any other service nec-
12 essary for the adequate care of a minor
13 child.

14 “(6) AUTHORIZATION OF APPROPRIATIONS.—

15 There are authorized to be appropriated such sums
16 as may be necessary to carry out this subsection.

17 “(k) APPLICABILITY OF CONSENT DECREES, SET-
18 TLEMENTS, AND JUDICIAL DETERMINATIONS.—

19 “(1) FLORES SETTLEMENT AGREEMENT INAP-
20 PLICABLE.—Any conduct or activity that was, before
21 the date of the enactment of this subsection, subject
22 to any restriction or obligation imposed by the stipu-
23 lated settlement agreement filed on January 17,
24 1997, in the United States District Court for the
25 Central District of California in Flores v. Reno, CV

1 85–4544–RJK, (commonly known as the ‘Flores set-
 2 tlement agreement’), or imposed by any amendment
 3 of that agreement or judicial determination based on
 4 that agreement—

5 “(A) shall be subject to the restrictions
 6 and obligations in subsection (j) or imposed by
 7 the William Wilberforce Trafficking Victims
 8 Protection Reauthorization Act of 2008 (Public
 9 Law 110–457); and

10 “(B) shall not be subject to the restrictions
 11 and the obligations imposed by such settlement
 12 agreement or judicial determination.

13 “(2) OTHER SETTLEMENT AGREEMENTS OR
 14 CONSENT DECREES.—In any civil action with respect
 15 to the conditions of detention of alien children, the
 16 court shall not enter or approve a settlement agree-
 17 ment or consent decree unless it complies with the
 18 limitations set forth in subsection (j).”.

19 (b) SAFE AND PROMPT RETURN OF UNACCOM-
 20 PANIED ALIEN CHILDREN.—Section 235(a) of the Wil-
 21 liam Wilberforce Trafficking Victims Protection Reauthor-
 22 ization Act of 2008 (8 U.S.C. 1232(a)) is amended—

23 (1) in paragraph (2)—

1 (A) by amending the paragraph heading to
 2 read as follows: “RULES FOR REPATRIATING
 3 UNACCOMPANIED ALIEN CHILDREN”;

4 (B) in subparagraph (A), in the matter
 5 preceding clause (i), by striking “who is a na-
 6 tional or habitual resident of a country that is
 7 contiguous with the United States shall be
 8 treated in accordance with subparagraph (B)”
 9 and inserting “shall be treated in accordance
 10 with this paragraph or subsection (b), as appli-
 11 cable”;

12 (C) in subparagraph (B)—

13 (i) by redesignating clauses (i) and
 14 (ii) as subclauses (I) and (II), and moving
 15 the subclauses two ems to the right;

16 (ii) in the matter preceding subclause
 17 (I), as so redesignated, by striking “An im-
 18 migration officer” and inserting the fol-
 19 lowing:

20 “(i) IN GENERAL.—An immigration
 21 officer”; and

22 (iii) by adding at the end the fol-
 23 lowing:

24 “(ii) CHILDREN UNABLE TO MAKE
 25 DECISIONS WITH RESPECT TO WITH-

1 DRAWAL OF APPLICATIONS FOR ADMIS-
2 SION.—If at the time of initial apprehen-
3 sion, an immigration officer determines, in
4 the sole and unreviewable discretion of the
5 immigration officer, that an unaccom-
6 panied alien child is not able to make an
7 independent decision with respect to the
8 withdrawal of his or her application for ad-
9 mission to the United States, the immigra-
10 tion officer shall refer the unaccompanied
11 alien child for removal proceedings under
12 section 240 of the Immigration and Na-
13 tionality Act (8 U.S.C. 1229a).

14 “(iii) CHILDREN ABLE TO MAKE DECI-
15 SIONS WITH RESPECT TO WITHDRAWAL OF
16 APPLICATIONS FOR ADMISSION.—

17 “(I) IN GENERAL.—Except as
18 described in subclause (III)(aa), not-
19 withstanding any other provision of
20 law that requires removal proceedings
21 under section 240 of the Immigration
22 and Nationality Act (8 U.S.C. 1229a),
23 including subparagraph (D) and sec-
24 tion 235 of the Immigration and Na-
25 tionality Act (8 U.S.C. 1225), in the

1 case of an unaccompanied alien child
2 who is able to make an independent
3 decision with respect to the with-
4 drawal of his or her application for
5 admission to the United States, as de-
6 termined by an immigration officer at
7 the time of initial apprehension, and
8 does not wish to withdraw such appli-
9 cation, the immigration officer shall—

10 “(aa) make a record of any
11 finding of inadmissibility or de-
12 portability, which shall be the
13 basis of a repatriation order,
14 which shall be carried out and
15 the child shall be returned to his
16 or her country of nationality or
17 last habitual residence, unless the
18 child is referred—

19 “(AA) for removal pro-
20 ceedings pursuant to sub-
21 clause (III)(aa); or

22 “(BB) to an immigra-
23 tion judge for a determina-
24 tion pursuant to subclause
25 (III)(bb); and

1 “(bb) refer the unaccom-
2 panied alien child for an inter-
3 view under subclause (II) to de-
4 termine whether it is more likely
5 than not that the unaccompanied
6 alien child—

7 “(AA) will be subjected
8 to trafficking on return to
9 his or her country of nation-
10 ality or last habitual resi-
11 dence; and

12 “(BB) would be grant-
13 ed asylum under section 208
14 of the Immigration and Na-
15 tionality Act (8 U.S.C.
16 1158), withholding of re-
17 moval under section
18 241(b)(3) of that Act (8
19 U.S.C. 1231(b)(3)), or pro-
20 tection under the regulations
21 issued pursuant to the legis-
22 lation implementing the
23 Convention Against Torture
24 and Other Cruel, Inhuman
25 or Degrading Treatment or

1 Punishment, done at New
2 York, December 10, 1984
3 (referred to in this clause as
4 the ‘Convention Against
5 Torture’).

6 “(II) INTERVIEW.—

7 “(aa) IN GENERAL.—An
8 interview under subclause (I)(bb)
9 shall be conducted by an immi-
10 gration officer with specialized
11 training relating to—

12 “(AA) applicable law;

13 “(BB) interviewing
14 children; and

15 “(CC) child trafficking.

16 “(III) DETERMINATIONS BASED
17 ON INTERVIEW.—

18 “(aa) REMOVAL PRO-
19 CEEDINGS.—An unaccompanied
20 alien child described in subclause
21 (I) shall be referred for removal
22 proceedings under section 240 of
23 the Immigration and Nationality
24 Act (8 U.S.C. 1229a) if, based
25 on an interview under item (bb)

1 of that subclause, the immigra-
2 tion officer makes a determina-
3 tion that it is more likely than
4 not that the unaccompanied alien
5 child will be trafficked on return
6 to his or her country of nation-
7 ality or last habitual residence.

8 “(bb) ASYLUM ONLY DETER-
9 MINATIONS.—

10 “(AA) IN GENERAL.—

11 If, based on an interview
12 under subclause (I)(bb), the
13 immigration officer makes a
14 determination that it is
15 more likely than not that the
16 claim of an unaccompanied
17 alien child for asylum under
18 section 208 of the Immigra-
19 tion and Nationality Act (8
20 U.S.C. 1158), withholding of
21 removal under section
22 241(b)(3) of that Act (8
23 U.S.C. 1231(b)(3)), or pro-
24 tection under the Convention
25 Against Torture will be

1 granted, the unaccompanied
2 alien child shall be referred
3 to an immigration judge
4 solely for a determination
5 with respect to whether the
6 unaccompanied alien child is
7 eligible for asylum under
8 section 208 of that Act (8
9 U.S.C. 1158), withholding of
10 removal under section
11 241(b)(3) of that Act (8
12 U.S.C. 1231(b)(3)), or pro-
13 tection under the regulations
14 issued pursuant to the legis-
15 lation implementing the
16 Convention Against Torture
17 and, if otherwise eligible for
18 asylum, whether asylum
19 shall be granted in the exer-
20 cise of discretion.

21 “(BB) REPATRI-
22 ATION.—An unaccompanied
23 alien child referred to an im-
24 migration judge under
25 subitem (AA) shall be re-

1 turned to his or her country
 2 of nationality or last habit-
 3 ual residence if the immigra-
 4 tion judge finds that the un-
 5 accompanied alien child is
 6 not entitled to asylum, with-
 7 holding of removal, or pro-
 8 tection under the regulations
 9 issued pursuant to the legis-
 10 lation implementing the
 11 Convention Against Torture.

12 “(IV) DISCRETION OF IMMIGRA-
 13 TION OFFICER; NO JUDICIAL RE-
 14 VIEW.—A decision of an immigration
 15 officer under this clause, and the
 16 issuance of a repatriation order, shall
 17 be in the sole, unreviewable discretion
 18 of the immigration officer.

19 “(iv) DETENTION DURING PRO-
 20 CEEDINGS.—

21 “(I) IN GENERAL.—Except as
 22 provided in subclauses (II) and (III),
 23 notwithstanding any other provision of
 24 law, settlement agreement, or consent
 25 decree, an unaccompanied alien child

1 shall not be released from the custody
2 of the Secretary of Homeland Security
3 or the Director of the Office of Ref-
4 ugee Resettlement during the pend-
5 ency of the immigration or removal
6 proceedings of the unaccompanied
7 alien child.

8 “(II) RELEASE TO SPONSOR.—

9 “(aa) IN GENERAL.—Except
10 as provided in item (bb), the Di-
11 rector of the Office of Refugee
12 Resettlement may, in the sole,
13 unreviewable discretion of the Di-
14 rector, release an unaccompanied
15 alien child to a sponsor who is a
16 verified parent or legal guardian
17 or, in the case of an unaccom-
18 panied alien child who does not
19 have a verified parent or legal
20 guardian in the United States, a
21 close relative, a distant relative,
22 or an unrelated adult.

23 “(bb) EXCEPTION.—The Di-
24 rector of the Office of Refugee
25 Resettlement shall not under any

1 circumstance release an unac-
2 companied alien child to a spon-
3 sor or a member of the sponsor's
4 household who has committed an
5 offense described in section
6 236(c)(1) of the Immigration and
7 Nationality Act (8 U.S.C.
8 1226(c)(1)), is detained while in
9 removal proceedings under sec-
10 tion 240 of such Act (8 U.S.C.
11 1229a), has assisted or facili-
12 tated the smuggling or traf-
13 ficking of a child, or would other-
14 wise pose a threat to the well-
15 being of the unaccompanied alien
16 child.

17 “(cc) PROVISION OF INFOR-
18 MATION TO SECRETARY OF
19 HOMELAND SECURITY.—The Sec-
20 retary of Health and Human
21 Services shall provide to the Sec-
22 retary of Homeland Security in-
23 formation relating to the sponsor,
24 potential sponsor, and each mem-
25 ber of the household of the spon-

sor or potential sponsor, of each
unaccompanied alien child.

“(III) PROGRAMS FOR UNACCOM-
PANIED ALIEN CHILDREN WITHOUT
SPONSORS.—In the case of an unac-
companied alien child who cannot be
placed with a sponsor under item
(aa), the Director of the Office of Ref-
ugee Resettlement may release the
child to a program for unaccompanied
alien minors, such as a program
under section 412(d) of the Immigra-
tion and Nationality Act (8 U.S.C.
1522(d)).”; and

(D) in subparagraph (C)—

(i) by amending the subparagraph
heading to read as follows: “AGREEMENTS
WITH FOREIGN COUNTRIES.—”; and

(ii) in the matter preceding clause (i),
by striking “countries contiguous to the
United States” and inserting “Canada, El
Salvador, Guatemala, Honduras, Mexico,
and any other foreign country the Sec-
retary considers appropriate”;

(2) by striking paragraph (3);

1 (3) by redesignating paragraphs (4) and (5) as
2 paragraphs (3) and (4), respectively; and

3 (4) in paragraph (4)(D), as so redesignated, by
4 striking “from a contiguous country”.

5 (c) PROTECTING INTEGRITY OF SPECIAL IMMIGRANT
6 JUVENILE VISA PROGRAM.—Section 101(a)(27)(J) of the
7 Immigration and Nationality Act (8 U.S.C.
8 1101(a)(27)(J)) is amended—

9 (1) in clause (i), by striking “, and whose” and
10 all that follows through “State law”; and

11 (2) in clause (iii)—

12 (A) in subclause (I), by striking “and” at
13 the end; and

14 (B) by adding at the end the following:

15 “(III) an alien may not be grant-
16 ed special immigrant juvenile status
17 under this subparagraph if the juve-
18 nile court determines that the alien
19 may be returned to the legal custody
20 of any parent of the alien; and

21 “(IV)(aa) in assessing whether
22 an alien is entitled to special immi-
23 grant juvenile classification under this
24 subparagraph, the Secretary of Home-

land Security may, in the discretion of
the Secretary, determine whether—

“(AA) an order of dependency or custody issued for purposes of clause (i) was issued during juvenile court abuse and neglect proceedings for the purpose of providing permanency to an alien the parents of whom have been found to be unfit; and

“(BB) such order was issued by a court of appropriate jurisdiction ; and

“(bb) notwithstanding any other provision of law, no court shall have jurisdiction to review a determination made by the Secretary of Homeland Security under this subclause;”.

(d) PAROLE REFORM.—

(1) IN GENERAL.—Paragraph (5) of section 212(d) (8 U.S.C. 1182(d)) is amended to read as follows:

“(5) HUMANITARIAN AND SIGNIFICANT PUBLIC BENEFIT PAROLE.—

“(A) IN GENERAL.—Subject to the provisions of this paragraph and section 214(f)(2), the Secretary of Homeland Security, in the sole discretion of the Secretary of Homeland Security, may, on an individual case-by-case basis and not according to eligibility criteria describing an entire class of potential parole recipients, parole an alien into the United States temporarily, under such conditions as the Secretary of Homeland Security may prescribe, only—

“(i) for an urgent humanitarian reason (as described under subparagraph (B)); or

“(ii) for a reason deemed strictly for the significant public benefit (as described under subparagraph (C)).

“(B) HUMANITARIAN PAROLE.—The Secretary of Homeland Security may parole an alien based on an urgent humanitarian reason described in this subparagraph only if—

“(i) the alien has a medical emergency and the alien cannot obtain necessary treatment in the foreign state in which the alien is residing or the medical emergency is life-threatening and there is insufficient

1 time for the alien to be admitted through
2 the normal visa process;

3 “(ii) the alien is the legal guardian or
4 otherwise has legal authority to make med-
5 ical decisions on behalf of an alien de-
6 scribed in clause (i);

7 “(iii) the alien is needed in the United
8 States in order to donate an organ or
9 other tissue for transplant into an imme-
10 diate family member and there is insuffi-
11 cient time for the alien to be admitted
12 through the normal visa process;

13 “(iv) the alien has an immediate fam-
14 ily member in the United States whose
15 death is imminent and the alien could not
16 arrive in the United States in time to see
17 such family member alive if the alien were
18 to be admitted through the normal visa
19 process;

20 “(v) the alien is a lawful applicant for
21 adjustment of status under section 245; or

22 “(vi) the alien was lawfully granted
23 status under section 208 or lawfully admit-
24 ted under section 207.

1 “(C) SIGNIFICANT PUBLIC BENEFIT PA-
2 ROLE.—The Secretary of Homeland Security
3 may parole an alien based on a reason deemed
4 strictly for the significant public benefit de-
5 scribed in this subparagraph only if—

6 “(i) the presence of the alien is nec-
7 essary in a matter such as a criminal in-
8 vestigation or prosecution, espionage activ-
9 ity, or other similar law enforcement or in-
10 telligence-related activity;

11 “(ii) the presence of the alien is nec-
12 essary in a civil matter concerning the ter-
13 mination of parental rights;

14 “(iii) the alien has previously assisted
15 the United States Government in a matter
16 described in clause (i) and the life of the
17 alien would be threatened if the alien were
18 not permitted to enter the United States;

19 “(iv) in the case of an alien detained
20 under section 235, it is necessary to re-
21 lease from detention and grant parole to
22 the alien due to a safety concern or for the
23 preservation of life and property, including
24 in the case of—

1 “(I) lack of adequate bed space
2 in a detention facility; or

3 “(II) an alien who has a serious
4 medical condition such that continued
5 detention would be life-threatening or
6 would risk serious bodily injury, dis-
7 figurement, or permanent disability;
8 or

9 “(v) in the case of an alien returned
10 to a foreign territory contiguous to the
11 United States pursuant to section
12 235(b)(2)(C), it is necessary to parole the
13 alien into the United States for an immi-
14 gration proceeding.

15 “(D) LIMITATION ON THE USE OF PAROLE
16 AUTHORITY.—The Secretary of Homeland Se-
17 curity may not use the parole authority under
18 this paragraph—

19 “(i) to circumvent immigration policy
20 established by law;

21 “(ii) to admit classes of aliens who do
22 not qualify for admission under established
23 legal immigration categories; or

1 “(iii) to supplement established immi-
2 gration categories without an Act of Con-
3 gress.

4 “(E) PAROLE NOT AN ADMISSION.—Parole
5 of an alien under this paragraph shall not be
6 considered an admission of the alien into the
7 United States. When the purposes of the parole
8 of an alien have been served, or such parole is
9 revoked, as determined by the Secretary of
10 Homeland Security, the alien shall immediately
11 return or be returned to the custody from which
12 the alien was paroled and the alien shall be con-
13 sidered for admission to the United States on
14 the same basis as other similarly situated appli-
15 cants for admission.

16 “(F) REPORT TO CONGRESS.—Not later
17 than 90 days after the end of each fiscal year,
18 the Secretary of Homeland Security shall sub-
19 mit a report to the Committee on the Judiciary
20 of the Senate and the Committee on the Judici-
21 ary of the House of Representatives describing
22 the number and categories of aliens paroled
23 into the United States under this paragraph.
24 Each such report shall contain information and
25 data concerning the number and categories of

1 aliens paroled, the duration of parole, and the
 2 current status of aliens paroled during the pre-
 3 ceding fiscal year.”.

4 (2) EFFECTIVE DATE.—The amendment made
 5 by paragraph (1) shall take effect on the first day
 6 of the first month beginning more than 60 days
 7 after the date of the enactment of this Act.

8 **SEC. 3. ENDING ABUSE OF ASYLUM SYSTEM.**

9 (a) STANDARDS TO DETER FRAUD AND ADVANCE
 10 MERITORIOUS ASYLUM CLAIMS.—Section 235(b)(1)(B) of
 11 the Immigration and Nationality Act (8 U.S.C.
 12 1225(b)(1)(B)) is amended—

13 (1) by amending clause (v) to read as follows:

14 “(v) CREDIBLE FEAR OF PERSECU-
 15 TION.—

16 “(I) IN GENERAL.—For purposes
 17 of this subparagraph, the term ‘cred-
 18 ible fear of persecution’ means that it
 19 is more likely than not that the alien
 20 would be able to establish eligibility
 21 for asylum under section 208—

22 “(aa) taking into account
 23 such facts as are known to the
 24 officer; and

1 “(bb) only if the officer has
 2 determined, under subsection
 3 (b)(1)(B)(iii) of such section,
 4 that it is more likely than not
 5 that the statements made by the
 6 alien or on behalf of the alien are
 7 true.

8 “(II) BARS TO ASYLUM.—An
 9 alien shall not be determined to have
 10 a credible fear of persecution if the
 11 alien is prohibited from applying for
 12 or receiving asylum, including an alien
 13 subject to a limitation or condition
 14 under subsection (a)(2) or (b)(2) (in-
 15 cluding a regulation promulgated
 16 under such subsection) of section
 17 208.”; and

18 (2) by adding at the end the following:

19 “(vi) ELIGIBILITY FOR RELIEF.—

20 “(I) CREDIBLE FEAR REVIEW BY
 21 IMMIGRATION JUDGE.—An alien de-
 22 termined to have a credible fear of
 23 persecution shall be referred to an im-
 24 migration judge for review of such de-

1 termination, which shall be limited to
2 a determination whether the alien—

3 “(aa) is eligible for asylum
4 under section 208, withholding of
5 removal under section 241(b)(3),
6 or protection under the Conven-
7 tion Against Torture and Other
8 Cruel, Inhuman or Degrading
9 Treatment or Punishment, done
10 at New York, December 10, 1984
11 (referred to in this clause as the
12 ‘Convention Against Torture’);
13 and

14 “(bb) merits a grant of asy-
15 lum in the exercise of discretion.

16 “(II) ALIENS WITH REASONABLE
17 FEAR OF PERSECUTION.—

18 “(aa) IN GENERAL.—Except
19 as provided in item (bb), if an
20 alien referred under subpara-
21 graph (A)(ii) is determined to
22 have a reasonable fear of perse-
23 cution or torture, the alien shall
24 be eligible only for consideration
25 of an application for withholding

1 of removal under section
2 241(b)(3) or protection under the
3 Convention Against Torture.

4 “(bb) EXCEPTION.—An
5 alien shall not be eligible for con-
6 sideration of an application for
7 relief under item (aa) if the fail-
8 ure of the alien to establish a
9 credible fear of persecution pre-
10 cludes the alien from eligibility
11 for such relief.

12 “(cc) LIMITATION.—An
13 alien whose application for relief
14 is adjudicated under item (aa)
15 shall not be eligible for any other
16 form of relief or protection from
17 removal.

18 “(vii) INELIGIBILITY FOR REMOVAL
19 PROCEEDINGS.—An alien referred under
20 subparagraph (A)(ii) shall not be eligible
21 for a hearing under section 240.”.

22 (b) APPLICATIONS FOR ASYLUM.—Section 208 of the
23 Immigration and Nationality Act (8 U.S.C. 1158) is
24 amended—

25 (1) in subsection (a)—

1 (A) by striking paragraph (1) and insert-
 2 ing the following:

3 “(1) IN GENERAL.—Only an alien who has en-
 4 tered the United States through a designated port of
 5 entry may apply for asylum under this section or
 6 section 235(b), as applicable.”; and

7 (B) in paragraph (2)—

8 (i) in subparagraph (A), by striking “,
 9 pursuant to a bilateral or multilateral
 10 agreement,”; and

11 (ii) in subparagraph (E), by striking
 12 “Subparagraphs (A) and (B)” and insert-
 13 ing “Subparagraph (A)”; and

14 (2) in subsection (b)(3), by striking subpara-
 15 graph (C).

16 (c) AUTHORITY FOR CERTAIN ALIENS TO APPLY FOR
 17 ASYLUM.—Section 208(a)(2) of the Immigration and Na-
 18 tionality Act (8 U.S.C. 1158(a)(2)) is amended by adding
 19 at the end the following:

20 “(F) INELIGIBILITY FOR ASYLUM.—

21 “(i) IN GENERAL.—Notwithstanding
 22 any other provision of law, including para-
 23 graph (1), except as provided in clause (ii),
 24 an alien is ineligible for asylum if the
 25 alien—

1 “(I) has been convicted of a fel-
2 ony;

3 “(II) is inadmissible under sec-
4 tion 212(a) (except paragraphs (4),
5 (5), and (7));

6 “(III) has been previously re-
7 moved from the United States; or

8 “(IV) is a national or habitual
9 resident of—

10 “(aa) a country in Central
11 America that has a refugee appli-
12 cation and processing center; or

13 “(bb) a country contiguous
14 to such a country (other than
15 Mexico).

16 “(ii) EXCEPTION.—Notwithstanding
17 clause (i), paragraph (1) shall not apply to
18 any alien who is present in the United
19 States on the date of the enactment of this
20 subparagraph.”.

21 **SEC. 4. ESTABLISHMENT OF REFUGEE APPLICATION AND**
22 **PROCESSING CENTERS.**

23 (a) DEFINITION.—Section 101(a) of the Immigration
24 and Nationality Act (8 U.S.C. 1101(a)) is amended by
25 adding at the end the following:

1 “(53) The term ‘refugee application and proc-
2 essing center’—

3 “(A) means a facility designated under sec-
4 tion 207(g) by the Secretary of State to accept
5 and process applications for refugee admissions
6 to the United States; and

7 “(B) may include a United States em-
8 bassy, consulate, or other diplomatic facility.”.

9 (b) DESIGNATION.—Section 207 of the Immigration
10 and Nationality Act (8 U.S.C. 1157) is amended by add-
11 ing at the end the following:

12 “(g) REFUGEE APPLICATION AND PROCESSING CEN-
13 TERS.—

14 “(1) DESIGNATION.—Not later than 240 days
15 after the date of the enactment of this subsection,
16 the Secretary of State, in consultation with the Sec-
17 retary of Homeland Security, shall designate refugee
18 application and processing centers outside the
19 United States.

20 “(2) LOCATIONS.—The Secretary of State shall
21 establish—

22 “(A) not fewer than 1 refugee application
23 and processing center in Mexico; and

24 “(B) not fewer than 3 refugee application
25 and processing centers in Central America at

1 locations selected by the Secretary of State, in
2 consultation with the Secretary of Homeland
3 Security.

4 “(3) DUTIES OF SECRETARY OF STATE.—The
5 Secretary of State, in coordination with the Sec-
6 retary of Homeland Security, shall ensure that any
7 alien who is a national or habitual resident of a
8 country in which a refugee application and proc-
9 essing center is located, or a country contiguous to
10 such a country, may apply for refugee status at a
11 refugee application and processing center.

12 “(4) ADJUDICATION BY REFUGEE OFFICERS.—
13 An application for refugee status submitted to a ref-
14 ugee application and processing center shall be adju-
15 dicated by a refugee officer.

16 “(5) PRIORITY.—The Secretary of State shall
17 ensure that refugee application and processing cen-
18 ters accord priority to applications submitted—

19 “(A) by aliens who have been referred by
20 an authorized nongovernmental organization, as
21 determined by the Secretary of State;

22 “(B) not later than 90 days after the date
23 on which such referral is made; and

1 “(C) in accordance with the requirements
2 and procedures established by the Secretary of
3 State under this subsection.

4 “(6) APPLICATION FEES.—

5 “(A) IN GENERAL.—The Secretary of
6 State and the Secretary of Homeland Security
7 shall charge, collect, and account for fees pre-
8 scribed by each such Secretary pursuant to sub-
9 sections (m) and (n) of section 286 and section
10 9701 of title 31, United States Code, for the
11 purpose of receiving, docketing, processing, and
12 adjudicating an application under this sub-
13 section.

14 “(B) BASIS FOR FEES.—The fees pre-
15 scribed under subparagraph (A) shall be based
16 on a consideration of the amount necessary to
17 deter frivolous applications and the cost for
18 processing the application, including the imple-
19 mentation of program integrity and anti-fraud
20 measures.”.

21 (c) SUNSET.—The amendments made by this section
22 shall cease to be effective beginning on the date that is
23 three years and 240 days after the date of the enactment
24 of this Act.

1 **SEC. 5. REGULATIONS.**

2 Notwithstanding section 553(b) of title 5, United
3 States Code, not later than 210 days after the date of
4 the enactment of this Act, the Secretary of Homeland Se-
5 curity and the Attorney General shall, jointly or sepa-
6 rately, publish in the Federal Register interim final rules
7 to implement the amendments made by section 3(c) and
8 section 4.

9 **SEC. 6. HIRING AUTHORITY.**

10 (a) **IMMIGRATION JUDGES.**—The Attorney General
11 shall increase—

12 (1) the number of immigration judges by not
13 fewer than an additional 500 judges, as compared to
14 the number of immigration judges as of the date of
15 the enactment of this Act; and

16 (2) the corresponding number of support staff,
17 as necessary.

18 (b) **IMMIGRATION AND CUSTOMS ENFORCEMENT AT-**
19 **TORNEYS.**—The Director of U.S. Immigration and Cus-
20 toms Enforcement shall increase the number of attorneys
21 and staff employed by U.S. Immigration and Customs En-
22 forcement by the number that is consistent with the work-
23 load staffing model to support the increase in immigration
24 judges.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary for—

4 (1) the hiring of immigration judges, support
5 staff, and U.S. Immigration and Customs Enforce-
6 ment attorneys under this section; and

7 (2) the lease, purchase, or construction of facili-
8 ties or equipment (including video teleconferencing
9 equipment and equipment for electronic filing of im-
10 migration cases), and the transfer of federally owned
11 temporary housing units to serve as facilities, for—

12 (A) the increased number of immigration
13 judges, attorneys, and support staff under this
14 section; and

15 (B) conducting immigration court pro-
16 ceedings in close proximity to the locations at
17 which aliens are apprehended and detained.

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