

□ 1230

STANDING UP FOR THE
VOICELESS

(Mrs. MILLER of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MILLER of Illinois. Madam Speaker, I proudly signed a discharge petition in order to vote on the Born-Alive Abortion Survivors Protection Act.

Along with my Republican colleagues, we are standing up for the voiceless to end this ongoing tragedy once and for all. We must end infanticide.

Seventy-seven percent of Americans support protections for babies born alive after a failed abortion, but Speaker PELOSI refuses to bring up the Born-Alive Abortion Survivors Protection Act for a vote.

This legislation is long overdue. It is time to stand up to Speaker PELOSI and the radical Democrats' lack of regard for human life and pass the Born-Alive Abortion Survivors Protection Act.

My heart aches in all instances when the dignity of human life is violated. As a Christian, I believe that the image of God in each one of us gives us intrinsic worth that cannot be assaulted.

This bill simply requires an abortionist to give lifesaving treatment to a child who survives a botched abortion rather than let them die slowly.

COMMUNICATION FROM THE
CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 21, 2021.

Hon. NANCY PELOSI,
Speaker, House of Representatives,
Washington, DC.

DEAR MADAM SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on April 21, 2021, at 11:51 a.m.:

Appointments:
United States-China Economic and Security Review Commission.

United States Senate Caucus on International Narcotics Control.

With best wishes, I am,
Sincerely,

CHERYL L. JOHNSON,
Clerk.

NATIONAL ORIGIN-BASED ANTI-
DISCRIMINATION FOR NON-
IMMIGRANTS ACT

Mr. NADLER. Madam Speaker, pursuant to House Resolution 330, I call up the bill (H.R. 1333) to transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 330, the amendment in the nature of a substitute recommended by the Committee on the Judiciary, printed in the bill, is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1333

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Origin-Based Antidiscrimination for Non-immigrants Act" or the "NO BAN Act".

SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.

Section 202(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

(1) by striking "Except as specifically provided in paragraph (2) and in sections 101(a)(27), 201(b)(2)(A)(i), and 203, no" and inserting "No";

(2) by inserting "or a nonimmigrant visa, admission or other entry into the United States, or the approval or revocation of any immigration benefit" after "immigrant visa";

(3) by inserting "religion," after "sex,"; and

(4) by inserting before the period at the end the following: "except as specifically provided in paragraph (2), in sections 101(a)(27), 201(b)(2)(A)(i), and 203, if otherwise expressly required by statute, or if a statutorily authorized benefit takes into consideration such factors".

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

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

"(f) AUTHORITY TO SUSPEND OR RESTRICT THE ENTRY OF A CLASS OF ALIENS.—

"(1) IN GENERAL.—Subject to paragraph (2), if the Secretary of State, in consultation with the Secretary of Homeland Security, determines, based on specific and credible facts, that the entry of any aliens or any class of aliens into the United States would undermine the security or public safety of the United States or the preservation of human rights, democratic processes or institutions, or international stability, the President may temporarily—

"(A) suspend the entry of such aliens or class of aliens as immigrants or nonimmigrants; or

"(B) impose any restrictions on the entry of such aliens that the President deems appropriate.

"(2) LIMITATIONS.—In carrying out paragraph (1), the President, the Secretary of State, and the Secretary of Homeland Security shall—

"(A) only issue a suspension or restriction when required to address specific acts implicating a compelling government interest in a factor identified in paragraph (1);

"(B) narrowly tailor the suspension or restriction, using the least restrictive means, to achieve such compelling government interest;

"(C) specify the duration of the suspension or restriction;

"(D) consider waivers to any class-based restriction or suspension and apply a rebuttable presumption in favor of granting family-based and humanitarian waivers; and

"(E) comply with all provisions of this Act.

"(3) CONGRESSIONAL NOTIFICATION.—

"(A) IN GENERAL.—Prior to the President exercising the authority under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall consult Congress and provide Congress with specific evidence supporting the need for the suspension or restriction and its proposed duration.

"(B) BRIEFING AND REPORT.—Not later than 48 hours after the President exercises the authority under paragraph (1), the Secretary of State and the Secretary of Homeland Security shall provide a briefing and submit a written report to Congress that describes—

"(i) the action taken pursuant to paragraph (1) and the specified objective of such action;

"(ii) the estimated number of individuals who will be impacted by such action;

"(iii) the constitutional and legislative authority under which such action took place; and

"(iv) the circumstances necessitating such action, including how such action complies with paragraph (2), as well as any intelligence informing such actions.

"(C) TERMINATION.—If the briefing and report described in subparagraph (B) are not provided to Congress during the 48 hours that begin when the President exercises the authority under paragraph (1), the suspension or restriction shall immediately terminate absent intervening congressional action.

"(D) CONGRESSIONAL COMMITTEES.—The term 'Congress', as used in this paragraph, refers to the Select Committee on Intelligence of the Senate, the Committee on Foreign Relations of the Senate, the Committee on the Judiciary of the Senate, the Committee on Homeland Security and Governmental Affairs of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Foreign Affairs of the House of Representatives, the Committee on the Judiciary of the House of Representatives, and the Committee on Homeland Security of the House of Representatives.

"(4) PUBLICATION.—The Secretary of State and the Secretary of Homeland Security shall publicly announce and publish an unclassified version of the report described in paragraph (3)(B) in the Federal Register.

"(5) JUDICIAL REVIEW.—

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

"(B) CLASS ACTION.—Nothing in this Act may be construed to preclude an action filed pursuant to subparagraph (A) from proceeding as a class action.

"(6) TREATMENT OF COMMERCIAL AIRLINES.—Whenever the Secretary of Homeland Security finds that a commercial airline has failed to comply with regulations of the Secretary of Homeland Security relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Secretary of Homeland Security may suspend the entry of some or all aliens transported to the United States by such airline.

"(7) RULE OF CONSTRUCTION.—Nothing in this section may be construed as authorizing the President, the Secretary of State, or the Secretary of Homeland Security to act in a manner inconsistent with the policy decisions expressed in the immigration laws."

SEC. 4. VISA APPLICANTS REPORT.

(a) INITIAL REPORTS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of State, in coordination with the Secretary of Homeland Security and the heads of other relevant Federal agencies, shall submit a report to the congressional committees referred to in section 212(f)(3)(D) of the Immigration and Nationality Act, as amended by section 3 of this Act, that describes the implementation of Presidential Proclamations 9645, 9822, and 9983 and Executive Orders 13769, 13780, and 13815, during the effective period of each such proclamation and order.

(2) PRESIDENTIAL PROCLAMATION 9645 AND 9983.—In addition to the content described in

paragraph (1), the report submitted with respect to Presidential Proclamation 9645, issued on September 24, 2017, and Presidential Proclamation 9983, issued on January 31, 2020, shall include, for each country listed in such proclamation—

(A) the total number of individuals who applied for a visa during the time period the proclamation was in effect, disaggregated by country and visa category;

(B) the total number of visa applicants described in subparagraph (A) who were approved, disaggregated by country and visa category;

(C) the total number of visa applicants described in subparagraph (A) who were refused, disaggregated by country and visa category, and the reasons they were refused;

(D) the total number of visa applicants described in subparagraph (A) whose applications remain pending, disaggregated by country and visa category;

(E) the total number of visa applicants described in subparagraph (A) who were granted a waiver, disaggregated by country and visa category;

(F) the total number of visa applicants described in subparagraph (A) who were denied a waiver, disaggregated by country and visa category, and the reasons such waiver requests were denied;

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

(H) the complete reports that were submitted to the President every 180 days in accordance with section 4 of Presidential Proclamation 9645 in its original form, and as amended by Presidential Proclamation 9983.

(b) **ADDITIONAL REPORTS.**—Not later than 30 days after the date on which the President exercises the authority under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), as amended by section 3 of this Act, and every 30 days thereafter, the Secretary of State, in coordination with the Secretary of Homeland Security and heads of other relevant Federal agencies, shall submit a report to the congressional committees referred to in paragraph (3)(D) of such section 212(f) that identifies, with respect to countries affected by a suspension or restriction, the information described in subparagraphs (A) through (G) of subsection (a)(2) of this section and the specific evidence supporting the need for the continued exercise of presidential authority under such section 212(f), including the information described in paragraph (3)(B) of such section 212(f). If the report described in this subsection is not provided to such congressional committees in the time specified, the suspension or restriction shall immediately terminate absent intervening congressional action. A final report with such information shall be prepared and submitted to such congressional committees not later than 30 days after the suspension or restriction is lifted.

(c) **FORM; AVAILABILITY.**—The reports required under subsections (a) and (b) shall be made publicly available online in unclassified form.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees.

The gentleman from New York (Mr. NADLER) and the gentleman from Ohio (Mr. JORDAN) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. NADLER. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to

revise and extend their remarks and insert extraneous material on H.R. 1333.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, H.R. 1333, the National Origin-Based Antidiscrimination for Nonimmigrants Act, or NO BAN Act, is an important step toward reining in executive overreach and preserving the power of Congress to establish our Nation's immigration laws.

Section 212(f) of the Immigration and Nationality Act, the INA, authorizes the President to suspend the entry of noncitizens when the President finds that their entry would be detrimental to U.S. interests.

From 1952, when this provision was enacted, until January 2017, Presidents of both parties invoked section 212(f) to exclude only narrow groups of individuals, such as human rights violators, North Korean officials, and individuals seeking to overthrow governments, for reasons that would clearly serve the national interest.

But former President Trump abused this authority, twisting it in ways that were never intended. He first used it to deliver on his campaign promise to ban Muslims from the United States, an immoral and disastrous policy that traumatized children and families and made us no safer, while weakening our standing in the world.

The former President then used this section to rewrite immigration laws with which he disagreed. For example, the INA expressly provides asylum eligibility to any individual who arrives in the United States “whether or not at a designated port of arrival.” However, President Trump invoked section 212(f) to deny asylum to persons who cross the southern border between ports of entry, in direct conflict with the statute. Fortunately, the judiciary agreed that this was unlawful and stopped the policy from taking effect.

H.R. 1333 will prevent such executive overreach by amending section 212(f) to ensure it is used in a manner consistent with its intended purpose and historical norms.

Although President Biden has repealed the egregious orders of the Trump era, including the Muslim ban, we must pass the NO BAN Act to ensure that this authority is never abused again. In advancing this legislation today, we uphold our Nation's founding ideals and reaffirm our commitment to the rule of law.

This should not be a partisan issue. Members on both sides of the aisle should agree that no President, Republican or Democratic, should be permitted to usurp the powers of the legislative branch enshrined in the Constitution. The separation of powers is fundamental to our democratic Republic, and it must be protected.

I would like to thank my friend and colleague, Representative JUDY CHU,

for her leadership and her steadfast commitment to this issue. Her efforts led to the introduction of the NO BAN Act, and I urge all of my colleagues to support this important legislation.

I reserve the balance of my time.

Mr. JORDAN. Madam Speaker, I yield 3½ minutes to the gentleman from California (Mr. MCCLINTOCK), the ranking member of the Immigration and Citizenship Subcommittee.

Mr. MCCLINTOCK. Madam Speaker, this bill presents a very simple question: Should we all but strip the President of his authority to restrict travel from countries that pose a danger to the United States?

Ronald Reagan and George Bush used this authority to protect our country. So, too, did Barack Obama and even Joe Biden as recently as January 25.

President Trump invoked this authority against countries that were hotbeds of international terrorism and that were not cooperating with the United States in providing basic information about travelers coming from these countries. Now, the left calls it a Muslim ban. What nonsense. The President's orders affected only a tiny fraction of Muslim-majority countries and a sizable number of non-Muslim countries. The Supreme Court cited this obvious truth when it fully upheld the President's actions. In fact, when a rogue government changed its policy and cooperated with us, the restrictions were lifted.

Without this authority, the President would have been powerless to take simple, prudent precautions against terrorists and criminals from entering the United States.

The President's ability to protect against threats, negotiate security protocols, and, when necessary, retaliate against discriminatory actions by other countries depends on his having this power at his immediate disposal.

This bill, instead, forbids the President from taking action until he can show that it is the weakest possible measure at his disposal. It requires him to get his own Secretary of State's permission, which is a constitutional absurdity, and it gives anyone who claims any harm the standing to block an order in Federal district court.

So, I ask, in this world that is becoming increasingly threatening and unstable, does this bill make us more safe or less safe? The answer should be self-evident to anyone who is not completely besotted with the woke insanity of the radical left.

Mr. NADLER. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. CHU), the author of this legislation.

Ms. CHU. Madam Speaker, I rise today in strong support of my legislation, the NO BAN Act.

The Muslim ban was always wrong, needless, and cruel. Today, we can make sure it never happens again.

First, this policy was wrong. America does not ban people because of their religion, and the Supreme Court acknowledged this. When they upheld the

third iteration of Trump's Muslim ban, the Court insisted that, in order to prove this wasn't just a religious ban, the Trump administration would have to issue waivers to allow those we know not to be a threat to travel here. But that waiver process was a sham, with almost all requests ignored, proving the purpose of the ban was to keep Muslims out of the country, just as Donald Trump always said it was.

Second, the policy was needless. As the Supreme Court's waiver requirement recognized, America has the best and strongest vetting system in the world. Many of those stopped by the Muslim ban had been vetted by U.S. officials many times over many years. I have met with many of them myself. These are people who are trying to escape dangerous situations or who simply wanted a chance at a better life. They turned to the U.S., as countless others have done over the generations. But instead of opportunity, they were met with bigotry, sometimes just days before they were supposed to arrive here.

Which is why, thirdly, this ban was about cruelty. Afraid to leave America out of fear they wouldn't be able to return, or unable to visit here at all, families were intentionally isolated from each other, missing weddings, funerals, births, and graduations.

This past year has shown us what the impact of missing such milestones feels like. To do it deliberately is inexcusable.

Thousands of families were separated by this policy simply because of a lie that Muslims are dangerous, a lie that encouraged bigotry and xenophobia, even as hate crimes are on the rise.

Fortunately, President Biden understood the harm of this policy and rescinded the Muslim bans on his first day in office. But we must make sure no President is ever able to ban people from coming to the U.S. simply because of their religion, which is why I am so pleased that we are voting to pass the NO BAN Act today.

While preserving a President's ability to respond to national emergencies like pandemics, this bill amends the Immigration and Nationality Act to require that any future travel ban is based on credible facts and actual threats. The bill also requires the President to work in consultation with the Departments of State and Homeland Security to provide evidence of why a ban is needed in the first place.

I am so grateful to Chairman NADLER, as well as my House and Senate cosponsors, for their support, and I urge my colleagues to vote "yes."

Mr. JORDAN. Madam Speaker, I yield 2½ minutes to the gentleman from Arizona (Mr. BIGGS).

Mr. BIGGS. Madam Speaker, if this bill passes, the President may only act if the Secretary of State allows him to act, and that is backward. The Secretary of State should not be authorized in statute to tell the President, the Secretary of State's boss, that the

President may act. It is antithetical to the executive powers as set forth in the United States Constitution.

Let me say that again. H.R. 1333 gives the authority to initiate a suspension of entry not to the President but to the Secretary of State in consultation with the Secretary of Homeland Security.

But it is the President, in whom all executive power vests, who should determine whether to suspend entry and not just in consultation with or the permission of the State and Homeland Security Departments.

While we are discussing this, we have a crisis on our border, a crisis created by this President. For months, he refused to acknowledge the crisis. When he accidentally slipped and said it was a crisis, we were later told he didn't really mean it was a crisis.

Well, here is the deal. You are housing illegal aliens in hotels. That is the kind of crisis this has become. The situation is so bad that the Biden administration has reopened and expanded facilities to house illegal aliens who have surged across the border.

President Biden inherited a secure border and policies that were working and, instead, has created an inhumane border crisis.

If he wants to solve the crisis, he needs to finish construction of the wall; reinstate the migrant protection protocols; reinstate the asylum cooperative agreements with Honduras, Guatemala, and El Salvador; and remove the other incentives to come, like \$1,400 from the COVID package that was just recently passed.

He can bring it under control, but the best way to bring it under control is to move immigration judges to the southern border to deal with asylum cases that are occurring today, not the backlog. Those people are already in here. Deal with those cases today.

Getting back to this bill, it is representative of an executive branch that is willing to give over and cede Presidential authority to Cabinet members instead of the President himself. This bill should not be passed. It should not even be considered.

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Mr. NADLER. Madam Speaker, I yield 2½ minutes to the gentleman from Rhode Island (Mr. CICILLINE).

Mr. CICILLINE. Madam Speaker, I rise in strong support of H.R. 1333, the NO BAN Act.

This legislation would prevent future abuses of power committed by the previous administration through its xenophobic Muslim ban, a despicable policy which undermined one of our Nation's founding principles, freedom of religion.

My home State of Rhode Island was established by Roger Williams on the principle of religious liberty and separation of church and state, and his leadership inspired the Framers of our Constitution to incorporate these principles into our founding documents.

This legislation will help to preserve that principle.

From the very beginning, former President Trump was clear about exactly what his policy was, an explicit attempt to keep out as many people from Muslim-majority countries as possible, regardless of whether they were seeking refuge or asylum. It was never designed to make us safer. It was simply a way to spark fear and hatred among our citizens.

On his first day in office, thankfully, President Biden rescinded this policy.

Yet the impact of the Muslim ban remains. After 4 years of having this policy in place, the time it takes to reimplement normal immigration and travel policies brings delays in otherwise routine procedures, such as obtaining visas, thus delaying the reunion of families.

Thankfully, however, with the Muslim ban rescinded, those families can take comfort in knowing they are a step closer to once again being with their loved ones.

Despite this, it remains necessary to pass this NO BAN Act. Without making the necessary reforms to prevent the abuses of power of the previous administration, they could simply be put back in place by a future President.

The NO BAN Act makes it unequivocally clear that we stand by the American ideal of freedom of religion. It will provide the necessary limitations on the President's ability to use overly broad terms to inappropriately and indiscriminately target and label entire groups of racial, ethnic, or religious minorities because of who they choose to worship.

We must not tolerate discriminatory actions that undermine our core values and threaten our Nation's health and safety.

Madam Speaker, I urge my colleagues to support passage of the NO BAN Act. I thank the chairman of the committee for his leadership, and I thank Congresswoman JUDY CHU for her extraordinary leadership in this regard.

Mr. JORDAN. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. MCCARTHY), the distinguished Republican leader.

Mr. MCCARTHY. Madam Speaker, at the heart of Democrats' border security policies is the assumption that America can assume an unlimited number of illegal immigrants without considering its impact on jobs, communities, security, and, in today's world, health.

This assumption defies all historical evidence. More importantly, it defies the evidence right before our very eyes.

Madam Speaker, in the last month alone, Border Patrol apprehended the largest surge of migrants in 20 years, 172,000 individuals in one single month. By September, we are on track to encounter 2 million illegal immigrants. Now, that is about twice the size of the population of Delaware, President Biden's home State.

The surge was directly caused by the actions of the Biden administration. On day one, President Biden issued five executive orders that reversed the commonsense immigration policies that were working.

Then his administration sent mixed signals to migrants that now is not the time to come, but promising not to deport children and many families.

Now, as Monday's order demonstrates, the White House is more concerned with policing Border Patrol's language than it is protecting our border.

I am very glad that President Biden finally admitted that there is a crisis at the border, but what we really need is for him to admit that his policies and rhetoric caused the crisis to begin with.

The results of this crisis are as predictable as they are disastrous, for both migrants and American citizens. Just this past weekend, the Biden administration was forced to shut down a Houston migrant center for children because of unbearable conditions. Hundreds of unaccompanied minors had to be shuttled somewhere else.

I know everybody in this body understands that that is heartbreaking. It is also a public health risk. That is because the Biden administration is releasing migrants into American cities without negative COVID tests, without court dates, and without a way to track where they will go. Already, that number is up to 15,000.

Now, Madam Speaker, that doesn't come from me. I saw it on the news today from a Democratic colleague who put this number out and said it was disastrous.

But the border crisis isn't just a humanitarian and public health crisis. It is also a national security crisis. Last month, I shared some alarming news. When I was down on the border, I was speaking to the Border Patrol agents, and they informed me that individuals on the terrorist watch list were caught trying to enter our country.

Madam Speaker, I know how much you care about protecting this country from terrorism. I thought everybody on your side of the aisle would care just as much. Unfortunately, Congressman GALLEGO accused me of lying. Congresswoman ESCOBAR said I was trying to fuel division, Madam Speaker.

But the Customs and Border Protection agency confirmed that four suspected terrorists had been caught. Since then, more suspected terrorists have been caught at different times and different places, from Yemen, but not on the same day; two different individuals.

Now, I am sure, maybe because of the challenges with COVID and the distance we must keep, that I have not received the apology of being accused of being a liar on a national security issue, but I assume that will come shortly.

The security problem also includes a flow of drugs. When I was on that same

border in El Paso, talking to some of those same agents, they told me they have never seen the amount of fentanyl that has come across the border in the last month. Americans are dying because the cartels are exploiting the Biden border crisis to make a profit. Fentanyl overdoses are surging across the country.

Now, in my home State, Madam Speaker, the Speaker's hometown of San Francisco saw more fentanyl-related deaths last year than COVID-related deaths, according to The Wall Street Journal.

Madam Speaker, it is hard to imagine anything more shortsighted than doubling down on Biden's failed border policies. But, incredibly, as I sit on this floor, the House Democrats want to respond to this humanitarian, public health, and national security crisis by passing recycled legislation from the last Congress.

I know, Madam Speaker, the Speaker doesn't want us to work in committees and wants to do it from afar, but I still think we could have new ideas to a bigger problem created by a new administration.

They want to strip future Presidents of their authority to keep Americans safe. That is what the NO BAN Act does.

They also want to grant foreign nationals access to lawyers. But foreign nationals have never been entitled to this privilege before, and it will cost taxpayers \$825 million over the next 5 years. That may not sound like much if you just want to throw trillions out there, but that is hardworking taxpayers' money. It is a lot of money.

But are Democrats working to repair the crisis its radical policies caused? No.

Are they working to stop the mass flow of illegal migration? No.

Are they working to secure our borders? No.

Vice President Harris has refused to visit the border for 28 days.

By contrast, more than one-third of the House Republicans have been to the border and seen the crisis for themselves. There have even been some bipartisan trips, Madam Speaker. And I was very excited to hear that, in the bipartisan trip, questions were asked.

My understanding was the very first question one of our Democrat colleagues asked was: Is it really true we are catching terrorists?

And the shock on their face when the border agent said: Yes, from the terrorist watch list, we have caught them.

What is really concerning to me, if you read The Washington Post, is the thousands of people who come across per day who are not caught.

How many terrorists are in that group? How much fentanyl are those people carrying?

What we learned has led directly to the action we have taken here in Congress.

Two weeks ago, Dr. MILLER-MEEKS introduced a bill to require a negative

COVID-19 test before any illegal immigrant is released from custody.

Madam Speaker, I was shocked that your side of the aisle blocked it.

Last week, Representative CARTER and Representative PETER MEIJER offered a motion to combat the trafficking of fentanyl analogues, which are 100 times deadlier than regular fentanyl.

Democrats blocked it, even though 137 of them voted for the same motion last year.

Can you imagine that, Madam Speaker? 137 on your side of the aisle voted just last year for that amendment. I guess things have changed.

Madam Speaker, Congress needs to do the right thing here. We should not be wasting our time on recycled legislation that weakens our national security. We simply need to return to commonsense border security policies that work.

We need to finish the wall and deploy technology to the border.

We need to fully reinstate the "remain in Mexico" policy and maintain the robustly implemented Title 42 authority.

We need to require a negative COVID test before releasing migrants. I think that would be common sense. Most Americans have to have that.

We need to send a clear message: Do not come to the United States illegally.

Madam Speaker, if we want to fix the crisis, we need to fix its root cause. But that root cause isn't only in Guatemala, El Salvador, or Honduras; it is right here in Washington, D.C.

You see, Madam Speaker, before the crisis hit, there wasn't legislation that was passed. It was just on day one with executive orders. So all they have to do is do the exact same thing they did, take the pen and bring them back. Let's bring common sense back to solutions.

Madam Speaker, why don't we bring new ideas to committees? Why don't we have Members show up for work? And why don't we have committees actually work instead of just picking old ideas when they have created a new problem that will only expand it further?

Mr. NADLER. Madam Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON LEE).

Ms. JACKSON LEE. Madam Speaker, I thank the chairman for his leadership, and I thank Congresswoman JUDY CHU for her leadership.

Madam Speaker, I rise with great enthusiasm for the National Origin-Based Antidiscrimination for Nonimmigrants Act, and that is the NO BAN Act.

I proclaim a breath of fresh air, and that was the election of 2020 and the inauguration of President Joe Biden and Vice President KAMALA HARRIS, who made it very clear what our position is as it relates to those who come to this country.

First of all, they did not turn a blind eye to the Statue of Liberty, which acknowledges the fact that we are a refuge for those who are fleeing persecution. They also understood that we are not a country that discriminates against individuals simply because of their religion. That is what the NO BAN Act represented. It had nothing to do with terrorism.

I wonder why President Trump never said anything about domestic terrorists? Why didn't they have a structure to ban them, the very terrorists that jumped this Capitol on January 6th?

I am reminded of a little 15-year-old on the day that the ban was issued. When I was flying in from Washington, I went straight over to the international terminal because my staff had called me and others had called me. This little boy, innocent, with legal documents, a tourist visa, coming to visit his family, innocently indicated who he was. And, of course, by law, those CBP officers had to detain him.

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Do you know what was worse? He was not able to see anyone at that time, but more importantly, he wound up in Chicago.

And so I rise to support the NO BAN Act, and I indicate that there is a policy. The border is closed. The Vice President will be working on a broader plan for dealing with the border. The shelter in Houston was a temporary shelter. It was an emergency shelter. It was rightly closed when other beds were found. 130 of those children were reunited with their families. This bill is important.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. NADLER. Madam Speaker, I yield an additional 15 seconds to the gentlewoman from Texas.

Ms. JACKSON LEE. Madam Speaker, I am delighted that this bill includes an important provision of mine offered last year during the committee markup, which requires the administration to report to Congress on the impacts, positive, negative, and unintended of any action by the President pursuant to executive orders.

We know that banning Nigeria was the wrong thing to do, and I support the NO BAN Act.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from Florida (Mr. STEUBE).

Mr. STEUBE. Madam Speaker, this is a dangerous piece of legislation that comes at a time when our national security and our public health are being threatened by a dire crisis at our southern border.

Only Democrats would bring a bill to the floor during a surge at our southern border that would make it easier for terrorists to enter our country. As someone who served in the war on terror and served in Operation Iraqi Freedom, the last thing we should be doing as a Nation is making it easier for terrorists in Iran, Iraq, Syria, and other

terrorist-harboring nations to travel to the United States.

Despite the harrowing statistics we see coming from the southern border with record-setting numbers of illegal crossings and unaccompanied minors, my colleagues on the left continue to ignore and downplay the actual facts, while terrorists and COVID-positive illegal immigrants are granted unprecedented access to our country.

The Biden administration has driven illegal crossings up to historic highs by encouraging more illegal immigration and loosening restrictions to give criminals a free pass. These policy reversals, and now this legislation, will be directly responsible for what will go down in history as our biggest failure of border security in our lifetime.

Now, rather than addressing the hundreds of thousands of illegal border crossings this year, my colleagues on the other side of the aisle are still spending their time trying to attack the successful policies from the Trump administration that actually drove our border numbers down and kept Americans safe.

Rather than attacking the Trump administration at the expense of the American people, my colleagues on the left should instead think about spending their time trying to reinstate some of his policies that were proven effective, like continuing border wall construction or ending chain migration.

Even more hypocritical, while telling American citizens to stay home from work, school and to refrain from normal life due to a global pandemic, legislation like this keeps sending the message to illegal aliens, even those from dangerous countries, that the United States is open for them to flood our borders and be taken care of by our taxpayers.

At a time when there is a border crisis, a global pandemic, and emerging national security threats, we should not be handicapping any current or future President from exercising their executive authority to keep our country safe.

In fact, the Obama-Biden administration used this authority 19 times during their administration. The only reason why my colleagues are pushing this is because of their hatred for President Trump and his actions to restrict entry from certain countries that protected our national security.

Mr. NADLER. Madam Speaker, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), the distinguished chairperson of the Immigration and Citizenship Subcommittee.

Ms. LOFGREN. Madam Speaker, this is an important step towards the enactment of the NO BAN Act, which would prevent overreach in a President's authority to suspend the entry of noncitizens into the United States under section 212(f) of the Immigration and Nationality Act.

As a candidate for President, Donald Trump promised to ban "all Muslims" from entering the U.S., and he sug-

gested without any evidence that it would somehow make our country safer.

Immediately after his election and swearing in, he tried to deliver on that promise by using section 212(f), claiming the admission of individuals from seven Muslim-majority countries would be detrimental to the U.S. interests.

In court, the Trump administration claimed the ban was necessary to keep our country safe from terrorists. And yet, a bipartisan coalition of former national security officials strongly rebuked those claims.

In addition to this ban, President Trump also relied on section 212(f) to circumvent clear statutory requirements related to asylum. Section 208 of the Immigration and Nationality Act specifically allows individuals to apply for asylum "whether or not they arrive at a designated port of arrival."

The law could not be clearer. But apparently unhappy with it, the President invoked section 212(f) to categorically deny asylum to those who cross the border between ports of entry rather than seeking to amend the law by working with Congress.

This was an attempt to rewrite our Nation's immigration laws in direct violation of the constitutional separation of powers. The power to write the law is ours, not the President's.

Fortunately, this ban has now been reversed by President Biden, but this bill is still important. It is important to take action to prevent any future President from trying to usurp the legislative power of the Congress.

I thank Representative CHU for her persistence in pursuing this bill, and I think it is important to note that the President, if this bill passes, retains ample authority to act in the national interests of the United States to protect our security.

The bill allows the President to suspend the entry of individuals or class of individuals if he determines that they would undermine the security of the United States.

To be clear, under the current bill, if the President determines there is a national security issue related to a particular country that is so significant that it could only be addressed by suspending the admission of all nationals of that country, the President could still do so.

It is important that we also address the issue of children at the border. This bill isn't about children at the border.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. NADLER. Madam Speaker, I yield an additional 15 seconds to the gentlewoman from California.

Ms. LOFGREN. Madam Speaker, we can do more than one thing at once. We need to make sure that the law is adhered to by the President. We also need to deal with the issue of unaccompanied children at the border and deal with the crisis in Central America that is causing it.

Mr. JORDAN. Madam Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. BISHOP).

Mr. BISHOP of North Carolina. Madam Speaker, 172,331 border patrol apprehensions in March, a 233 percent increase in fentanyl seized, the worst crisis in 15 years, but more than that, no peak in sight.

President Biden and the Democratic majority bury their heads in the sand. They have put the United States Government, charged with enforcing the border, in the service of Mexican drug cartels and their criminal enterprises. I have been there. I have heard from the CBP.

And Democrats choose this moment to advance this bill to hobble the authority of the President of the United States to protect the Nation by excluding foreign nationals he or she might identify as posing a danger. Think North Korea.

In fact, they strip the President and transfer to the secretary of state and Homeland Security the President's longstanding authority to protect the Nation in this way.

And in case you would have concluded otherwise by the rhetoric, this is not limited to a religious criteria for entry.

I offered an amendment in the Judiciary Committee to defer the effectiveness of this unwise legislation—to understate—until the current crisis can be brought under control by restoring the Trump administration's successful remain in Mexico policy. But Democrats rejected that and refused to consider it on the floor.

Customs and Border Protection advised us on our trip the week before last that they told the administration revoking the remain in Mexico policy would cause a disaster. But they did it anyway.

And here they have doubled down. Just the latest evidence that today's crisis is intentional. There is no intention to control it. There is an intention, yes, there is a plan, but the plan is to build out the capacity for bringing people illegally into the United States. This is a crisis. They serve not the people of America. You can't have a country if you don't have a voice.

Mr. NADLER. Madam Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. JEFFRIES).

Mr. JEFFRIES. Madam Speaker, I thank the distinguished chair for his yielding and for his leadership.

The foundational model of this country is *e pluribus unum*, out of many, one. It doesn't say out of many Europeans, one. It doesn't say out of many Anglo-Saxons, one. It doesn't say out of many Confederate sympathizers, one. It doesn't say out of many Christians, one. It certainly doesn't say out of many nations, except Muslim countries, one.

E pluribus unum. Out of many, one. That is what makes America a great country. And no matter what

xenophobic behavior is coming out of the halls of power in this country, we are not going to let anyone take that away from us; not now, not ever.

Vote "yes" on the NO BAN Act so we can continue our country's long, necessary, and majestic march toward a more perfect Union.

Mr. JORDAN. Madam Speaker, I yield 3½ minutes to the gentleman from Kentucky (Mr. MASSIE).

Mr. MASSIE. Madam Speaker, wow, the rhetoric is hot today. Bigotry, xenophobia, Muslim ban, racism, discrimination. This is what is coming from the left side of the aisle.

They say that Biden rescinded Trump's Muslim ban—that he has rescinded the Muslim ban. I want to ask them: Which Muslim ban are they talking about? Which one are they talking about? Are they talking about the one they voted for?

By the way, I think it is inappropriate to call it a "Muslim ban." But let's use their language. Are they talking about the bill that 165 of them voted for, including the chairman of this committee, the author of this bill, and the chairwoman of the subcommittee?

Are they talking about the bill that they all voted for in 2015 that Obama signed into law called the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015? I don't think Trump was President in 2015. Obama signed this bill.

What did it do? It named four countries, not seven. We will get to the seven later. It named four countries to ban.

What were those four countries? By the way, the ACLU was not happy about this when Obama and the Democrats on the other side of the aisle did it. Iraq, Syria, Iran, and Sudan.

And now the Democrats are complaining that the President has too much power to protect this country, and they want to take some of this back, but they gave Obama the power to add three more countries. What were the three he added? Libya, Somalia, and Yemen in 2016. Interesting.

So where does that bring us to? It gets us to seven countries. Did they overlap or are they maybe five of the same countries? It is the seven exact same countries that the Democrats voted for that everybody over on the other side of the aisle who is hurling these claims of xenophobia voted for. Those same seven countries are now in and on the website at the State Department that Joe Biden runs.

Now, what does this do? Again, I want to be clear. It is not a total ban. But, by the way, Trump's wasn't either. It was a temporary suspension. But what they have done, and what Joe Biden perpetuates on these same seven countries—this is not a Muslim ban, but he is doing it to the same seven countries, perpetuating the Terrorist Travel Prevention Act of 2015, he is saying you can't get a visa waiver if you are from one of those seven countries.

Now which is worse? I mean, you can say, okay, it is not racist to just make it harder to travel, if we do it for 5 years or do it forever, that is not racist or xenophobic. But if you do it for six months, like Trump proposed, 180 days, well, now that is racist right there.

This is so ridiculous. I can't even believe they have the audacity to pretend they didn't vote in 2015 to add these seven countries.

Let's just get back to protecting this country. Let's not use these bills and these provisions to say that one side is racist, or one side is xenophobic, or you are a bunch of bigots. President Obama was not xenophobic when he put these seven countries on his list, because they were the seven countries that the Democrats on the other side of the aisle chose. They are the seven countries that Obama chose.

I say, let's protect this country and get back to working together.

[From the State Department website]

VISA WAIVER PROGRAM IMPROVEMENT AND TERRORIST TRAVEL PREVENTION ACT OF 2015

Under the Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, travelers in the following categories must obtain a visa prior to traveling to the United States as they are no longer eligible to travel under the Visa Waiver Program (VWP):

Nationals of VWP countries who have traveled to or been present in Democratic People's Republic of Korea, Iran, Iraq, Libya, Somalia, Sudan, Syria, or Yemen on or after March 1, 2011 (with limited exceptions for travel for diplomatic or military purposes in the service of a VWP country).

Nationals of VWP countries who are also nationals of Democratic People's Republic of Korea, Iran, Iraq, Sudan, or Syria.

These individuals can apply for visas using regular appointment processes at a U.S. Embassy or Consulate. For those who require a visa for urgent travel to the United States, U.S. Embassies and Consulates stand ready to handle applications on an expedited basis.

If an individual who is exempt from the Act because of his or her diplomatic or military presence in one of the seven countries has his or her ESTA denied, he or she may go to the CSP website, or contact the CSP information center. The traveler may also apply for a nonimmigrant visa at a U.S. Embassy or Consulate.

U.S. Customs and Border Protection strongly recommends that any traveler to the United States check his or her ESTA status prior to making any travel reservations or travelling to the United States. More information is available on the Department of Homeland Security (DHS) website.

□ 1315

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Washington (Ms. JAYAPAL).

Ms. JAYAPAL. Madam Speaker, I rise in strong support of the NO BAN Act, and I thank Congresswoman CHU for her leadership.

Yes, let's get back to protecting America. That is what we want to do.

Madam Speaker, Anahita is an asylee from Iran. The last time she spoke to her father, he told her that, when she returned home, he would sit with her on the terrace and talk politics. That

never happened. Due to Trump's Muslim ban, Anahita could not get travel documents to see her dad before he died or to mourn with her family.

Madam Speaker, for 4 years, families remained separated. That is not the America we want to protect.

American businesses and universities couldn't recruit top candidates, and our Nation's doors were closed to people seeking refuge.

President Biden rescinded the bans, but we must pass the NO BAN Act to prohibit any future President from issuing discriminatory bans.

Now, that day, I was in my first month here in Congress, when the Muslim ban was passed. I rushed to the airport, along with our chairman and many other Members of Congress. We worked with attorneys to file the national lawsuits that called for an emergency petition that blocked the President's order from taking effect.

We were also able, at Seattle-Tacoma International Airport, to go onto the tarmac and stop a plane from taking off because of an emergency habeas from a judge there that allowed us to get two people back in who should have been here in the first place.

Madam Speaker, just imagine the hearts and souls of people whose lives were thrown into chaos, thinking that they were going to land in the United States with valid travel documents and then were turned away by a President who issued a Muslim ban. The reason we need this bill is to make sure that that can never happen again.

Madam Speaker, yes, we want to protect America's values. We believe that the way to do that is to pass the NO BAN Act.

Mr. JORDAN. Madam Speaker, I yield 3 minutes to the gentleman from Texas (Mr. ROY).

Mr. ROY. Madam Speaker, I thank the gentleman from Ohio for yielding.

Madam Speaker, I would note, for all of our friends and fellow citizens who are watching at home on C-SPAN, that you are seeing something go across your screen that says, "Prohibiting Religious-Based Travel Restrictions."

Well, to C-SPAN, I say: Be better. Don't take the talking points from my Democrat colleagues about what we are actually debating here on the floor of the House because it is not that.

What we are talking about is a power grab by Democrats who, for some reason, want to continue to perpetuate the lie that there was ever a Muslim ban. It is literally not true. It is absolutely not true. No matter how many times they say it, it doesn't make it more true.

For example, the gentlewoman referred to litigation. Let's look at what the United States Supreme Court said precisely about what President Trump did to try to secure the United States from terrorists. Let's remember what we are talking about. The President of the United States, President Trump, working to secure the United States from terrorists, the Court said: "The

proclamation is expressly premised on legitimate purposes: preventing entry of nationals who cannot be adequately vetted and inducing other nations to improve their practices. The text says nothing about religion. Plaintiffs and the dissent nonetheless emphasize that five of the seven nations currently included in the proclamation have Muslim-majority populations. Yet, that fact alone does not support an inference of religious hostility, given that the policy covers just 8 percent of the world's Muslim population and is limited to countries that were previously designated by Congress or prior administrations as posing national security risks," as my friend from Kentucky just laid out.

Madam Speaker, these are the facts. Do not listen to Democrat talking points being thrown on the screen on your C-Span. Do not listen to repetitions and lies about Muslim bans when it is not true. The facts are completely opposite of that.

Let's also add one more point here. As we talk about this, our borders are wide open. As we talk about this, foreign nationals come in between ports of entry because Border Patrol is distracted, processing immigrants who come here because Democrat policies entice them to be abused by cartels while cartels have operational control of our border, while they create a narco-terrorist state in Mexico, and while they exist in the district that I represent, where children are in cars being driven by American citizen employees of the Cartel del Noreste, being taken to stash houses to be put into the sex trade.

Then, we sit here and listen to this? This is what we are focusing on, taking away the constitutional authority of the President to protect us from terrorists while terrorists are able to come into our southern border between ports of entry because my Democratic colleagues and this administration flat out refuse to do their job to secure the border of the United States?

The SPEAKER pro tempore. Members are reminded to direct their remarks to the Chair and not to a perceived viewing audience.

Mr. NADLER. Madam Speaker, may I inquire how much time is remaining.

The SPEAKER pro tempore. The gentleman from New York has 13 minutes remaining. The gentleman from Ohio has 14 minutes remaining.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentleman from California (Mr. CORREA).

Mr. CORREA. Madam Speaker, when the President first announced his Muslim ban, I immediately went to LAX. I went because constituents were telling me that they couldn't get their relatives into the U.S. Individuals who were traveling to the U.S. that had been approved by the U.S. State Department could not enter the U.S. I saw people who thought they were here for a regular, routine visit approved by the U.S. Government denied—denied on a whim.

This bill is simply about making sure that no future President—Obama or Trump—will ever be able to deny entry into the U.S. based on religion or race. That is what the bill is. It is not about any specific President. It is about doing the right thing in America.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. BURCHETT).

Mr. BURCHETT. Madam Speaker, I thank Ranking Member JORDAN for yielding.

Madam Speaker, right now, we have an immigration disaster at the southern border of the Biden administration's own creation. Instead of putting a stop to this madness, my colleagues across the aisle are encouraging this open borders agenda by bringing the NO BAN Act to the floor today.

The NO BAN Act limits the President's ability to make executive decisions about who should be allowed to enter our country. This would dangerously weaken the President's executive authority on important issues related to national security.

To put this reckless idea into perspective, Customs and Border Patrol agents recently caught two Yemeni terrorists at the southern border. Thank God, law enforcement caught these terrorists, but this is exactly why executive authority on immigration issues needs to remain in place.

Madam Speaker, a responsible President would notice what is going on at the southern border and use his authority to step in for the sake of national security. It is naive to believe there aren't bad actors who want to hurt Americans actively trying to exploit this ongoing crisis.

President Biden needs to use his executive authority to solve the immigration and national security crisis his administration has created. If he is not physically or mentally capable of doing this, he should step down.

Mr. NADLER. Madam Speaker, I yield 1 minute to the gentlewoman from California (Ms. PELOSI), the distinguished Speaker of the House.

Ms. PELOSI. Madam Speaker, I thank the distinguished chairman for yielding and for his leadership. What a busy time in the Committee on the Judiciary, bringing two bills to the floor today, with all the work that went into them under Chairman NADLER's leadership.

Madam Speaker, here we are, under the gaze of our patriarch, George Washington, right there in this Chamber.

Madam Speaker, 230 years ago, our patriarch, George Washington, who watches over us in this Chamber, famously wrote to the Hebrew Congregation of Newport, Rhode Island. In that letter, he made a promise that would be our Nation's guide for centuries to come.

He wrote: All possess "liberty of conscience. . . . It is now no more that toleration is spoken of, as if it was by the indulgence of one class of people that another enjoyed the exercise of their inherent natural rights."

He went on to say: “For happily the Government of the United States, which gives to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens.”

Today, by passing the NO BAN Act, the House is upholding that fundamental promise—“to bigotry no sanction”—by taking action to ensure that no President or administration can ever again abuse its authority by waging discrimination on the basis of religion.

Madam Speaker, thank you to Chair JUDY CHU of CAPAC, our sponsor of this legislation and a national champion in combating discrimination and xenophobia, who has helped lead the Congress’ response to recent anti-AAPI attacks.

The NO BAN Act strengthens the Immigration and Nationality Act to prohibit discrimination on the basis of religion, and it restores the separation of powers by limiting overly broad executive action to issue future religious bans, which are fundamentally un-American.

As Justice Sotomayor wrote, echoing President Washington, in her dissent in the shameful *Trump v. Hawaii* Supreme Court case upholding the last administration’s Muslim ban: “The United States of America is a Nation built upon the promise of religious liberty. Our Founders honored that core promise by embedding the principle of religious neutrality in the First Amendment. The Court’s decision today” to uphold the Muslim ban “fails to safeguard that fundamental principle.”

Madam Speaker, I want to mention that when this happened 4 years ago, and the President came and did his Muslim ban legislation, we had a hearing. It wasn’t an official hearing because we weren’t in the majority, and the majority wasn’t interested in having it, but we had a hearing on it.

What we saw in that hearing were leaders of the security community saying that if this stays in place, it is going to hurt our national security because we will not be able to keep promises that we made to those who helped us in Afghanistan and Iraq. We won’t be able to because many of them are Muslim.

Madam Speaker, a thousand diplomats from the State Department—and this is highly unusual—signed on in opposition to what this did to us diplomatically in the world. Our rank-and-file men and women spoke directly to the problem that this would create, the danger it created, in people trusting our word when we asked them to help us and that we would help keep them safe.

Madam Speaker, you have heard me quote, and PRAMILA has heard me quote, again and again in that same hearing because many of the people who come here for asylum and refugee status because of religious persecution

where they are from, the National Association of Evangelicals testified the following: “The United States’ refugee resettlement program is the crown jewel of American humanitarianism.” They were speaking in terms of religious refugees.

Again, we cannot allow any President to abuse the power of his or her office in this regard.

Madam Speaker, if I may, I would like to also address another piece of legislation, and I thank the chairman for bringing it to the floor, the Access to Counsel Act, protecting the civil liberties of those who face prolonged detention as they seek legal entry into the United States. Some of them are little children.

This is a commonsense step to close a serious and dangerous gap in our immigration law that too often prevents the vulnerable from accessing not only legal counsel but also medical attention or contact with their families.

□ 1330

I am always proud to salute Representative PRAMILA JAYAPAL, the sponsor of the Access to Counsel Act and a champion for the dignity and rights of all newcomers to our Nation—in fact, everyone in our Nation; and I thank her for her efforts.

Passage of these bills, the NO BAN Act and the Access to Counsel Act, should not be controversial. Over 400 immigrants’ rights bills organizations, faith-based organizations, business groups, and civil rights organizations support the NO BAN Act, and many more support the Access to Counsel Act.

These bills are about honoring our Nation’s promise that, as President Washington said, we will give “to bigotry no sanction; to persecution no assistance.”

Madam Speaker, I urge a strong vote for both of these bills honoring the vision of our Founders, and the aspirations of so many people in our country.

Mr. JORDAN. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. ARRINGTON).

Mr. ARRINGTON. Madam Speaker, I am from the great State of Texas, and there is nothing great about the crisis at our border. It is unprecedented. It is unmitigated. It is ever-escalating. It is absolutely, absolutely self-inflicted and avoidable.

Because of the actions of our Commander in Chief, whose first job is to protect the American people, and the irresponsible and reckless unilateral actions, we have got chaos at our southern border. The American people are suffering for it. The poor, vulnerable people being abused by the cartels are suffering for it. Endless lists of tragedies because of what is happening and what is coming out of the White House.

The answer, the solution in the midst of this crisis and disaster like we have never seen from my Democrat colleagues is to offer legislation to grant

mass amnesty and citizenship; more green lights, more incentives, more welcome mats to continue to violate our sovereignty and to break our laws; not to be detained and deported, but to be released and rewarded, cut in line in front of millions of people. They don’t get a free lawyer paid for by the taxpayers.

I can’t believe this is happening in our great country. I can’t believe my Democrat colleagues are pouring gasoline and inflaming the situation with more of the NO BAN Act, tying the President’s hands to do his job, to prevent high-risk folks from coming to the U.S., giving legal counsel, giving navigators and people who can help aid and abet the exploitation of our laws.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. JORDAN. Madam Speaker, I yield an additional 1 minute to the gentleman from Texas.

Mr. ARRINGTON. Madam Speaker, it makes no sense at all. In fact, Madam Speaker, it is insulting.

We care about people. This country does more for the immigrant than any in the world. We welcome those who want to make America their home, those God-fearing, freedom-loving families. But they have to respect our sovereignty. They have to respect the safety and security of the American people. They have to respect our laws.

And I am waiting for the Democrats to respect the laws of this land. On this issue, I am waiting. But this is spitting in the face of these families and communities that are terrified. Ranchers are terrified to leave their families in their homes.

And this is the answer? This is what you got?

Shameful. It is shameful. I am embarrassed.

Yes, I encourage my colleagues to vote “no” on the NO BAN Act.

God bless America.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. BEYER).

Mr. BEYER. Madam Speaker, I would like to begin just by correcting the understanding, I think, from the gentleman from Kentucky, who tried to align President Obama’s temporary suspension of the Visa Waiver Program in foreign and southern countries with Donald Trump’s complete suspension of visas.

As one of the two U.S. Ambassadors to serve in this Chamber at the moment, I presided over 4 years of consular affairs. And the Visa Waiver Program is when you are allowed to get into a country without the deep background checks, without going through Homeland Security.

This is not what Donald Trump did. He suspended visas completely.

By the way, this is not about the southern border. I don’t believe there is a single Muslim country south of the Rio Grande in the Western Hemisphere.

Six years ago, then-Presidential candidate Donald Trump argued for a complete and total Muslim ban. Remember,

he didn't specify specific countries; he said no Muslims.

I quickly produced a bill, the Freedom of Religion Act, to prohibit discrimination in our immigration system on the basis of religious belief, and I rushed to Dulles Airport after the inauguration as the ban was implemented, and many were stuck in limbo. I never expected that such an openly bigoted policy would be so intentionally executed, especially knowing the economic and reputational effects.

Billions of people around the world were stunned by this destruction of the American ideal as a beacon of freedom.

My bill then became part of JUDY CHU's very thoughtful NO BAN Act, and I am proud to champion it. As reckless and thoughtless and cruel as the Muslim ban is, this bill is the opposite. It is a thoughtful way to ensure that a future President cannot simply use racism or religions discrimination as a basis for keeping individuals from entering the United States.

We cannot erase the dark stain on our country's history left by Donald Trump's Muslim ban, but we can prevent it from happening again.

Mr. JORDAN. Madam Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. WENSTRUP).

Mr. WENSTRUP. Madam Speaker, there is an ongoing crisis at the border. President Biden himself had admitted it. Despite his political staff's best efforts to avoid acknowledging the truth, he has admitted it.

I have served as a doctor in private practice for more than 26 years. I have served on our Board of Health in Cincinnati. I have served in a combat support hospital in Iraq, where we provided outstanding care to thousands of detainees. I have seen quite a few crisis situations in my life.

Two weeks ago, I led a group of healthcare experts and national security experts to the border. What we saw was a very difficult situation. It is a humanitarian crisis. It is a national security crisis. But it is also a national health security crisis.

Our group visited HHS' Donna Processing Center, which, per COVID guidelines, is supposed to house 250 individuals. That day, it had 3,500. Earlier that week, it housed 5,000.

The sites we visited had seen cases of lice; scabies; meningitis; chicken pox; flu of unknown origin; and, of course, COVID-19. What really stuck out was that we are only testing symptomatic individuals for COVID-19.

We have learned through this pandemic to know better, to know that this is not an effective way to stop COVID from spreading among the camp or fueling surges across our Nation.

Worse, we are releasing people into our Nation without ever having tested them for COVID. You don't have to be a doctor to know that is dangerous.

That is why I offer this motion to recommit today and delay this legislation until every migrant released by Customs and Border Patrol produces a

negative COVID test before boarding a U.S. domestic flight.

If international travelers are required to show proof of a negative COVID-19 test before they can come into the United States from a foreign country, why are we making an exception for this surge of migrants?

American citizens are banned from the U.S. without a COVID test, but not non-U.S. citizens?

That is bizarre.

We risk all the progress we have made in this country to contain this virus by allowing this vulnerability to go unaddressed.

Madam Speaker, if we adopt the motion to recommit, we will instruct the Committee on the Judiciary to consider my amendment to H.R. 1333 to require that migrants released by Customs and Border Patrol show proof of a negative COVID test before they are allowed to board a plane.

Madam Speaker, I ask unanimous consent to include in the RECORD the text of the amendment immediately prior to the vote on the motion to recommit.

The SPEAKER pro tempore (Ms. TLAB). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Madam Speaker, I thank the gentleman for yielding.

I just want to express my incredible gratitude, first of all, to Congresswoman JUDY CHU for her tireless leadership on this issue, and to the Muslim community in my district for their tireless work and advocacy on this issue.

I remember the day well when President Trump issued this Muslim ban right at the beginning of his administration. And I remember running out to the airport immediately, to the international terminal. And shortly after I got there, there ended up being literally thousands of people who had gathered, at the shame on the United States of America. The people who came that day all had some documentation. They had visas. At first, even people with green cards were being held and oppressed.

Who are we? Who are we as the United States of America?

And I know that, finally, President Biden has said: No Muslim ban.

But we want to make it the law of the land so no other President can do such a thing that, based on religion, people would be banned from the United States of America.

I want to tell you, I take this personally as a Jew, myself. You know, I am a first-generation American. Neither of my parents was born in this country. They were able to emigrate to the United States.

But I also remember the story of our history as Jews, when the St. Louis, a boat that came to protect people from

annihilation, was turned away from the American shores; was told to go back to where it came from; and many of those people then perished in the Holocaust.

Who are we?

This bill is about who we are, and I urge a "yes" vote.

Mr. JORDAN. Madam Speaker, I reserve the balance of my time.

Mr. NADLER. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Michigan (Mrs. DINGELL).

Mrs. DINGELL. Madam Speaker, I rise today in strong support of H.R. 1333, the NO BAN Act.

This legislation prohibits discrimination based on religion and limits the executive branch's ability to issue future travel bans.

I stand here today during Arab American Heritage Month, a time to celebrate the diversity of our country and remind ourselves that our country is stronger for it.

My district is home to the largest Arab-American population in the United States. Arab Americans are an integral part of Michigan's identity and have made enormous contributions to our society. Many of my constituents fled war and violence to seek a safer life;—have done it legally—and many of their families still experience this suffering every day.

The former President's Muslim ban kept these families separated. It inspired fear. It perpetuated hate. And as the Speaker so eloquently stated, national security experts have made it clear that it has made us less safe, not more safe.

I believe that every one of us in this Chamber loves our country, and that it is a priority for all of us to keep this Nation safe.

□ 1345

I would argue that the actions by the previous administration did not. The President called for a total ban on all Muslims entering this country. We must work together against terrorism, both foreign and domestic. We need to worry about what we witnessed in our own Chamber on January 6.

This bill will not allow people to be targeted because of their religion again. We must work together to restore the faith and trust of the international communities targeted by the previous administration.

Madam Speaker, I urge people to support this legislation.

Mr. JORDAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, there is a crisis at the border, I mean, the President even said so. There is chaos at the border. The crisis and the chaos have been created by policies of this administration.

We were down at the border 2 weeks ago. Every single Border Patrol agent we talked to said the crisis has been created by policy changes made by the Biden administration; specifically, three changes.

They announced to the world that they weren't going to deport anyone. Moratorium on deportation. They announced to the world they weren't going to finish the wall. And, most importantly, they got rid of the remain in Mexico policy.

And what do we have?

In March, we had the highest number of illegal immigrants coming into our Nation since they have been keeping records. So it is definitely a crisis, definitely chaos.

And what do the Democrats do? What do the Democrats do?

Last month, they passed two bills that give amnesty to millions of illegal immigrants. You can't make this stuff up. And then, today, they are going to pass a piece of legislation that takes power away from the Commander in Chief, takes power away from the individual who was on the ballot and elected, and gives it to the unelected secretary of state and Secretary of Homeland Security.

I mean, you would think, if they were going to take power away from the President, they would at least give it to the Vice President. After all, she is the one who has been put in charge of this thing. They don't even do that. They don't even do that.

The answer is real simple. What we should be focused on is reinstating the policies that worked. In fact, again, when we were down there 2 weeks ago—by the way, we invited the Democrats to go with us, and they said no. When we were down there 2 weeks ago, every Border Patrol agent said: Reinstating the policies that were working and we don't have the problem, we don't have the crisis.

But, no, we couldn't do something that common sense. We couldn't do something that simple, that basic. They, instead, come with this legislation.

Reinstate the policies that work. Don't take power away from the individual who was elected by the American people, the Commander in Chief. Don't implement crazy policies. Do the things that work. But, no, that is not what we are going to do.

And then after this bill is done, they are going to say, oh, by the way, bring in the lawyers. Give access to counsel to people coming into our country.

It makes absolutely no sense.

One of the speakers earlier said: Out of many, one.

That is so true about this country.

But is it too much to ask to have the many who come into this country do it legally?

And have policies in place that make sense. Is that too much to ask?

I think most taxpayers, most Americans, think that makes good, common sense.

This bill does not. I hope we vote it down. I hope we go back to the policies that work.

Madam Speaker, I yield back the balance of my time.

Mr. NADLER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me say that I agree with some of what I heard from the Republicans. They said there is a lot of nonsense spoken on the floor today. Indeed, there was. Everything they have said about this bill is nonsense. They have said there is no Muslim ban. Everybody knows there was a Muslim ban. The President said he was going to impose a Muslim ban, and then he did.

When NYDIA VELÁZQUEZ and I went to Kennedy airport, when JAN SCHAKOWSKY went to the airport in Chicago, when other people went to the airport, what did we find?

We found Muslims being kept out of the country. People with perfectly valid visas, perfectly valid green cards, people whose relatives were waiting for them here because they had perfectly valid entry certificates, were being kept out of the country, and they couldn't even speak to their lawyers.

That is the next bill we will be considering on the floor in a few minutes.

That is what we found. And that has been in effect for a long time. It is un-American. It is unconstitutional. It is against the ethics of this country.

As the Speaker said—I think it was the Speaker who said it—the motto of the country is *E Pluribus Unum*; from many, one.

This situation, this Muslim ban, denies that. This says *E Pluribus*—I don't know the Latin from a few, not from all.

Madam Speaker, we must pass this bill. More than 400 organizations and industry leaders support this bill. They include Muslim Advocates, the ACLU, Airbnb, Asian Americans Advancing Justice, the Hebrew Immigrant Aid Society.

Yes, the Hebrew Immigrant Aid Society. Why? Because the Hebrew Immigrant Aid Society remembers its futile efforts when Jews were turned away from this country to go back to the Holocaust; when the St. Louis was turned back to go back to the Holocaust; when the State Department deliberately wouldn't even use the quota. The quota was 150,000, and they kept it down to 6,000 because of the anti-Semitism of some officials in the State Department. And the Hebrew Immigrant Aid Society—which was formed to aid Jewish immigrants, but has long since broadened its mission to aid immigrants from any country—knows what happens and doesn't want to see it happen again. That is why they are supporting this bill.

Other organizations and industry leaders that support this bill include the Service Employees International Union, because so many of their members were born abroad; the National Immigration Law Center, MoveOn, and United We Dream.

Members on both sides of the aisle should agree that no President, Republican or Democrat, should be permitted to usurp the powers of the legislative branch enshrined in the Constitution. The separation of power is fundamental

to our democratic Republic and must be protected.

For all these reasons, that is why passage of H.R. 1333 is so vital. I urge my colleagues to vote in support of this bill.

Madam Speaker, I yield back the balance of my time.

Ms. GARCIA of Texas. Madam Speaker, I rise in strong support of the NO BAN Act. In 2017, when the Trump administration implemented the first travel ban, nearly a thousand college students around Texas were forced to make a choice. Either stay in the United States to earn a world-class education or visit their family abroad and risk being blocked from returning to their studies. This is a choice that aspiring students should never be forced to make. Evidently, these travel bans were not in place because of national security. These bans were used as a tool to discriminate against the Muslim population. Texas is home to one of the largest and fastest growing Muslim populations in the country, and these bans separated families across many of our districts. I applaud the Biden-Harris Administration for revoking these discriminatory bans. But, now is the time for Congress to deliver to the American people by ensuring that no future administration works to discriminate against vulnerable communities. I urge a yes vote.

Ms. JOHNSON of Texas. Madam Speaker, I rise today in strong support of H.R. 1333, the No Ban Act. This legislation would ensure that no president, Republican or Democrat, would carry the unilateral authority to restrict refugees, asylum seekers, immigrants, and their families from entering the United States based on their nationality or religion.

A little more than four years ago, I remember watching in horror as the Trump Administration first instituted the Muslim Ban—barring entrance for immigrants at airports throughout the country. But I found solace, and inspiration, in the thousands of demonstrations at the same airports, including at Dallas-Fort Worth International back home in North Texas. It was at this moment that Americans saw, for the first time, the severe damage that the Trump Administration would cause by targeting immigrants, refugees, and other underserved and vulnerable populations.

This legislation is a direct result of those demonstrations, and of the spirit and advocacy of people who believe that the success and well-being of our country are built upon the contributions of immigrants. It doesn't just prevent an executive overreach; it sends a message to the rest of the world that the United States is once again a beacon of freedom and hope. This bill reaffirms the belief that immigrants, refugees, and asylum seekers should be welcome here—free from discrimination. And no matter the nativist rhetoric spewing from a few on the other side of the aisle, we are, and will always be, a country of immigrants.

Madam Speaker, I urge my colleagues to support the swift passage of this bill and ask the Senate to take up this important legislation in a timely manner.

Ms. JACKSON LEE. Madam Speaker, as a senior member of the Committee on the Judiciary and a cosponsor, I rise in strong and enthusiastic support of H.R. 1333, the "National Origin-Based Anti-Discrimination For Non-Immigrants Act, or No BAN Act, which stops executive overreach by preventing the abuse of

the system pioneered by the 45th President with his several abuses of the authority to restrict the entry of non-citizens into the United States under section 212(f) of the Immigration and Nationality Act (INA).

Thankfully, it is unnecessary for Congress to repeal by legislation the several section 212(f)-based executive actions of the 45th President's, including his original Muslim ban, because were rescinded by his successor, President Joseph Biden, in the initial days of the new Administration.

Madam Speaker, I support this legislation because the NO BAN Act amends section 212(f) of the INA to place checks and balances on the President's authority to temporarily suspend or restrict the entry of aliens or classes of aliens into the United States, when it is determined that such individuals "would undermine the security or public safety of the United States or the preservation of human rights, democratic processes or institutions, or international stability."

Specifically, the bill requires the President to find and document that any suspension or restriction:

- (1) is based on specific and credible facts;
- (2) is narrowly tailored;
- (3) specifies a duration; and
- (4) includes waivers.

The NO BAN Act expands the INA's non-discrimination provision to prohibit discrimination based on religion and extends the prohibition on discrimination beyond the issuance of immigrant visas to include the issuance of nonimmigrant visas, entry and admission into the United States, and the approval or revocation of any immigration benefit.

Madam Speaker, I am pleased that the NO BAN Act includes an important provision offered last year during the committee markup of this legislation, which requires the Administration to report to Congress on the impacts—positive, negative, and unintended—of any action taken by the President pursuant to executive orders he has or will issue pursuant to section 212(f) of the INA.

I strongly support this legislation, and President Biden's rescission of his predecessor executive order which added the countries of Belarus, Myanmar, Eritrea, Kyrgyzstan, Nigeria, Sudan and Tanzania to the President's new and offensive Muslim Ban.

Madam Speaker, as a co-chair of the Congressional Nigerian Caucus, it is important to convey to our colleagues that the United States cannot afford to hamper diplomatic relations with Nigeria due to its importance in the region.

Nigeria is the largest economy and most populous country in Africa with an estimated population of more than 190 million, which is expected to grow to 400 million by 2050 and become the third most populous country in the world after China and India.

The United States is the largest foreign investor in Nigeria, with U.S. foreign direct investment concentrated largely in the petroleum and mining and wholesale trade sectors.

At \$2.2 billion in 2017, Nigeria is the second largest U.S. export destination in Sub-Saharan Africa and the United States and Nigeria have a bilateral trade and investment framework agreement.

In 2017, the two-way trade in goods between the United States and Nigeria totaled over \$9 billion.

Due to many of the residents of these countries practicing Islam, the 45th President's ex-

ecutive order was appropriately nicknamed the "Muslim Ban", and only exemplified his xenophobic and prejudiced mindset that the American people renounced as unacceptable in the 2020 presidential election.

Tanzania is also an important partner of the United States, and through numerous presidential initiatives, the United States has provided development and other assistance to Tanzania for capacity building to address health and education issues, encourage democratic governance promote broad-based economic growth, and advance regional and domestic security to sustain progress.

Although Sudan has had some internal issues during the last decade, the U.S. was a major donor in the March 1989 "Operation Lifeline Sudan," which delivered 100,000 metric tons of food into both government and rebel held areas of the Sudan, thus, averting widespread starvation.

The United States established diplomatic relations with Eritrea in 1993, following its independence and separation from Ethiopia.

The United States supported Eritrea's independence and through a concerted, mutual effort that began in late 2017 and continues today, there are vast improvements to the bilateral relationship.

U.S. interests in Eritrea include supporting efforts for greater integration of Eritrea with the rest of the Horn of Africa, encouraging Eritrea to contribute to regional stability and partner on shared peace and security goals, urging progress toward a democratic political culture, addressing human rights issues and promoting economic reform and prosperity.

A comprehensive and coordinated strategy needs to be developed in coordination with the United States Congress to ensure that each country affected by this law may peacefully have its residents enter the United States and complete visa and asylum applications.

We live in a nation of laws, but we also live in a nation that seeks to establish and maintain diplomatic ties to these important African nations and imposing a discriminatory and arbitrary ban would adversely affect foreign relations with a critical continent for decades to come.

Madam Speaker, in light of the crisis presented by current COVID-19 pandemic, the NO BAN Act contains a provision to ensure that the President can use section 212(f) to protect the United States from the spread of communicable diseases, including COVID-19, by suspending the entry of a class of individuals if the President determines their entry would undermine the public safety of the United States.

However, to remove any perceived ambiguity and avoid the propensity of this president to abuse delegated authority, the legislation includes language to clarify that the term "public safety" "includes efforts necessary to contain a communicable disease of public health significance."

Madam Speaker, the NO BAN Act is supported by a bipartisan coalition of the nation's leading immigrants' rights organizations, faith-based organizations, and civil rights organizations, including the following:

American Civil Liberties Union, Church World Service, U.S. Conference of Catholic Bishops, Muslim Advocates Immigration Hub, Asian Americans Advancing Justice Association, Americans United for Separation of Church and State, Bend the Arc, Center for

American Progress, The Public Affairs Alliance of Iranian Americans, Interfaith Immigration Coalition, Human Rights Campaign, Franciscan Action Network, HIAS, Jewish and Muslims and Allies Acting Together, Religious Action Center of Reform Judaism, National Council of Jewish Women, National Iranian American Organization Action, National Immigration Law Center, International Refugee Assistance Project, Friends Committee on National Legislation, Engage Action, Airbnb.

I urge all Members to vote for H.R. 1333 and send a powerful message that this House stands firmly behind America's well-earned and long-established reputation of being the most welcoming Nation on earth.

The SPEAKER pro tempore. Pursuant to House Resolution 330, the previous question is ordered on the bill, as amended.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT

Mr. WENSTRUP. Madam Speaker, I have a motion to recommit at the desk.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Wenstrup moves to recommit the bill H.R. 1333 to the Committee on the Judiciary.

The material previously referred to by Mr. WENSTRUP is as follows:

At the end of the bill, add the following:

SEC. 5. EFFECTIVE DATE.

(a) IN GENERAL.—This Act, and the amendments made by this Act, shall not take effect until the date on which every alien described in subsection (b) is required to produce to the Transportation Security Administration proof of a negative Coronavirus (COVID-19) test completed not earlier than 24 hours before the alien attempts to board a domestic flight in the United States.

(b) ALIENS DESCRIBED.—An alien is described in this subsection if the alien—

(1) is inadmissible to the United States under section 212(a) of the Immigration and Nationality Act (8 U.S.C. 1182(a));

(2) was encountered by U.S. Customs and Border Protection on or after January 20, 2021;

(3) was released by U.S. Customs and Border Protection after such encounter; and

(4) is traveling by plane to a final destination in the United States.

(c) REPORT.—Notwithstanding section 4(a)(1), and in accordance with subsection (a), the report required under section 4(a)(1) shall not be required to be submitted until the date that is 90 days after the effective date under subsection (a).

The SPEAKER pro tempore. Pursuant to clause 2(b) of rule XIX, the previous question is ordered on the motion to recommit.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the yeas appeared to have it.

Mr. WENSTRUP. Madam Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. Pursuant to section 3(s) of House Resolution 8, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this motion are postponed.

ACCESS TO COUNSEL ACT OF 2021

Mr. NADLER. Madam Speaker, pursuant to House Resolution 330, I call up the bill (H.R. 1573) 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, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 330, the amendment in the nature of a substitute, recommended by the Committee on the Judiciary, printed in the bill, is adopted and the bill, as amended, is considered read.

The text of the bill, as amended, is as follows:

H.R. 1573

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Access to Counsel Act of 2021".

SEC. 2. ACCESS TO COUNSEL AND OTHER ASSISTANCE AT PORTS OF ENTRY AND DURING DEFERRED INSPECTION.

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

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

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

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

“(A) provide the covered individual a meaningful opportunity to consult (including consultation via telephone) with counsel and an interested party not later than one hour after the secondary inspection process commences and as necessary throughout the remainder of the inspection process, including, as applicable, during deferred inspection;

“(B) allow counsel and an interested party to advocate on behalf of the covered individual, including by providing to the examining immigration officer information, documentation, and other evidence in support of the covered individual; and

“(C) to the greatest extent practicable, accommodate a request by the covered individual for counsel or an interested party to appear in-person at the secondary or deferred inspection site.

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

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary of Homeland Security may not accept a Form I-407 Record of Abandonment of Lawful Permanent Resident Status (or a successor form) from a lawful permanent resident subject to secondary or deferred inspection without first providing such lawful permanent resident a meaningful opportunity to seek advice from counsel.

“(B) EXCEPTION.—The Secretary of Homeland Security may accept Form I-407 Record of Abandonment of Lawful Permanent Resident Status (or a successor form) from a lawful permanent resident subject to secondary or deferred inspection if such lawful permanent resident know-

ingly, intelligently, and voluntarily waives, in writing, the opportunity to seek advice from counsel.

“(4) DEFINITIONS.—In this section:

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

“(i) an attorney who is a member in good standing of the bar of any State, the District of Columbia, or a territory or a possession of the United States and is not under an order suspending, enjoining, restraining, disbaring, or otherwise restricting the attorney in the practice of law; or

“(ii) an individual accredited by the Attorney General, acting as a representative of an organization recognized by the Executive Office for Immigration Review, to represent a covered individual in immigration matters.

“(B) COVERED INDIVIDUAL.—The term ‘covered individual’ means an individual subject to secondary or deferred inspection who is—

“(i) a national of the United States;

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

“(iii) an alien seeking admission as an immigrant in possession of a valid unexpired immigrant visa;

“(iv) an alien seeking admission as a non-immigrant in possession of a valid unexpired nonimmigrant visa;

“(v) a refugee;

“(vi) a returning asylee; or

“(vii) an alien who has been approved for parole under section 212(d)(5)(A), including an alien who is returning to the United States in possession of a valid advance parole document.

“(C) INTERESTED PARTY.—The term ‘interested party’ means—

“(i) a relative of the covered individual;

“(ii) in the case of a covered individual to whom an immigrant or a nonimmigrant visa has been issued, the petitioner or sponsor thereof (including an agent of such petitioner or sponsor); or

“(iii) a person, organization, or entity in the United States with a bona fide connection to the covered individual.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of the enactment of this Act.

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

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

(2) section 292 of the Immigration and Nationality Act (8 U.S.C. 1362); or

(3) any other provision of law, including any final court order securing such rights, as in effect on the day before the date of the enactment of 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.”.

The SPEAKER pro tempore. The bill, as amended, shall be debatable for 1 hour, equally divided and controlled by the chair and ranking minority member of the Committee on the Judiciary or their respective designees.

The gentleman from New York (Mr. NADLER) and the gentlemen from Ohio (Mr. JORDAN) each will control 30 minutes.

The Chair recognizes the gentleman from New York.

GENERAL LEAVE

Mr. NADLER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1573.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. NADLER. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, H.R. 1573, the Access to Counsel Act of 2021, is an important bill that will ensure that individuals who seek to lawfully enter the United States can contact a family member or an adviser if they are held for an extended period at a port of entry.

Last September, the Judiciary Committee and the Foreign Affairs Committee held a hearing to explore President Trump's Muslim ban and the chaos that unfolded at airports across the country when it was first announced.

I can personally attest to that chaos, based on my experience at JFK Airport immediately after the ban was implemented. Refugees, individuals with valid visas, and even lawful permanent residents were detained for hours and were prevented from speaking with attorneys. Some even had their phones taken away and were unable to call their family.

Although the issue grabbed the headlines then, it is, unfortunately, a problem that occurs daily. Due to the complexity of U.S. immigration law and the fact-intensive nature of questions regarding admissibility, it is not uncommon for some people to spend hours undergoing inspection by U.S. Customs and Border Protection, or CBP.

During this time, individuals are often prevented from communicating with those on the outside. And if the individual is lucky enough to have a lawyer, CBP will often refuse to speak to them, even if they can provide critical information or correct the legal error. Moreover, serious consequences can result from being refused admission.

Some have argued that this bill will require CBP to expend significant resources, but I believe they fundamentally misunderstand the substance of the bill. To be clear, H.R. 1573 does not provide a right to counsel, nor does it impose any obligation on the Federal Government to build any additional space to accommodate counsel or hire new staff, nor to pay for counsel.

The bill simply ensures that no one who presents themselves at a port of entry with valid travel documents is completely cut off from the world during the inspection process. It allows those seeking admission, including U.S. citizens, to communicate with counsel and other parties if they are subjected to secondary inspection that lasts longer than 1 hour. The bill specifically contemplates that this could be accomplished telephonically.

It is absurd to claim that providing these individuals with the opportunity to call their families or an attorney and potentially receive their assistance during the inspection process will consume significant CBP resources.