

116TH CONGRESS
1ST SESSION

H. R. 1738

To protect children through eliminating visa loopholes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. SENSENBRENNER introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect children through eliminating visa loopholes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Children
5 Through Eliminating Visa Loopholes Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the laws of the United States and the poli-
9 cies of the Department of State aim to prevent and

1 reduce the risks of child marriages, sex trafficking,
2 and sexual abuse occurring throughout the world;

3 (2) major loopholes in Federal law have allowed
4 thousands of minors to be subjected to child mar-
5 riages;

6 (3) under the Immigration and Nationality Act
7 (8 U.S.C. 1101 et seq.)—

8 (A) a United States citizen child may peti-
9 tion for an immigrant visa for a spouse or
10 fiancé living in another country; and

11 (B) a United States citizen adult may peti-
12 tion for an immigrant visa for a minor spouse
13 or fiancé living abroad;

14 (4) the United States Government has advo-
15 cated for preventing and reducing the occurrence of
16 child marriages throughout the world;

17 (5) Congress passed the Violence Against
18 Women Reauthorization Act of 2013 (Public Law
19 113–4), which requires the Secretary of State to es-
20 tablish and implement a multiyear strategy—

21 (A) to “prevent child marriages”; and

22 (B) to “promote the empowerment of girls
23 at risk of child marriage in developing coun-
24 tries”;

1 (6) acknowledges that although the Federal
2 Government is limited in its ability to address child
3 marriage within individual States, establishing a
4 minimum age of 18 years for marriage-based and
5 fiancé-based immigrant visa petitions is an imme-
6 diate and viable solution for preventing child mar-
7 riage through exploitation of the United States im-
8 migration system;

9 (7) affirms that child well being is a foremost
10 priority and consideration when imposing strict age
11 requirements for visa spousal and fiancé petitions
12 within the United States immigration system;

13 (8) recognizes that under the current immigra-
14 tion legal framework, individuals may exploit visa
15 marriage and fiancé petitions for nefarious purposes,
16 including—

17 (A) coercing forced marriages; and

18 (B) the trafficking and abuse of children;

19 and

20 (9) acknowledges that between 2007 and
21 2017—

22 (A) loopholes in the United States immi-
23 gration laws resulted in the approval by U.S.
24 Citizenship and Immigration Services of 8,868

1 petitions involving minors for spousal or fiancé
2 entry into the United States; and

3 (B) girls were the younger party in 95 per-
4 cent of such petitions.

5 **SEC. 3. PROTECTING CHILDREN THROUGH ELIMINATING**
6 **VISA LOOPHOLES.**

7 (a) DEFINITIONS.—Section 101(a) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

9 (1) in paragraph (15)(K)—

10 (A) in the matter preceding clause (i), by
11 striking “(p) of section 214, an alien” and in-
12 sserting “(r) of section 214, an alien who is at
13 least 18 years of age”; and

14 (B) by inserting “who is at least 18 years
15 of age” after “a citizen of the United States”
16 each time such term appears; and

17 (2) in paragraph (35), by adding at the end the
18 following: “Such terms do not include any individual
19 who is younger than 18 years of age or who is mar-
20 ried to an individual who is younger than 18 years
21 of age.”.

22 (b) EFFECTIVE DATE.—

23 (1) K NONIMMIGRANTS.—The amendments
24 made by subsection (a)(1)—

1 (A) shall take effect on the date of the en-
2 actment of this Act; and

3 (B) shall apply to any petition or applica-
4 tion seeking nonimmigrant status for any alien
5 under section 101(a)(15)(K) of the Immigration
6 and Nationality Act (8 U.S.C. 1101(a)(15)(K))
7 that is pending before any agency, officer, or
8 employee of the United States on or after such
9 date of enactment.

10 (2) SPOUSE; WIFE; HUSBAND.—The amend-
11 ment made by subsection (a)(2)—

12 (A) subject to subparagraphs (B) and (C),
13 shall take effect on the date of the enactment
14 of this Act;

15 (B) subject to subparagraph (C), shall
16 apply to marriages entered into before, on, or
17 after such date of enactment; and

18 (C) shall apply to any petition or applica-
19 tion for any status or benefit under the immi-
20 gration laws (as defined in section 101(a)(17)
21 of the Immigration and Nationality Act (8
22 U.S.C. 1101(a)(17)) that is filed or otherwise
23 submitted on or after such date of enactment,
24 except for a petition under section 216 of such
25 Act (8 U.S.C. 1186a) to remove the conditional

1 basis of lawful permanent residence based upon
2 a grant of conditional lawful permanent resi-
3 dent status before such date of enactment.

4 (c) RULE OF CONSTRUCTION.—The amendment
5 made by subsection (a)(2)—

6 (1) shall apply to the immigration laws (as de-
7 fined in section 101(a)(17) of the Immigration and
8 Nationality Act (8 U.S.C. 1101(a)(17));

9 (2) may not be construed to affect or modify
10 any reference to, or legal effect of, any marriage
11 under any provision of the immigration laws using
12 a term not defined by such amendment, including
13 whether any person is married or has been born in
14 wedlock or legitimated for purposes of determining
15 whether such person is a child or is a married or un-
16 married son or daughter; and

17 (3) may not be construed to limit or modify the
18 eligibility of any VAWA self-petitioner (as defined in
19 section 101(a)(51) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1101(a)(51)) for any available
21 relief under the immigration laws.

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