

117TH CONGRESS
1ST SESSION

H. R. 5618

To amend the Immigration and Nationality Act to establish humanitarian processing centers for asylum seekers along the southern border of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 19, 2021

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

A BILL

To amend the Immigration and Nationality Act to establish humanitarian processing centers for asylum seekers along the southern border of the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Reimagining Asylum
5 Processing Act of 2021”.

1 **SEC. 2. HUMANITARIAN PROCESSING CENTERS FOR ASY-**
2 **LUM SEEKERS.**

3 The Immigration and Nationality Act (8 U.S.C. 1101
4 et seq.) is amended—

5 (1) in section 235(b)(1)—

6 (A) in subparagraph (A)(ii), by adding at
7 the end the following: “In the case of a covered
8 asylum seeker (as such term is defined in sec-
9 tion 235B), the officer shall transfer the alien
10 to a humanitarian processing center in accord-
11 ance with section 235B not later than 12 hours
12 after the covered asylum seeker is in the cus-
13 tody of U.S. Customs and Border Protection.”;

14 (B) in subparagraph (B)—

15 (i) in clause (i), by inserting after “a
16 port of entry” the following: “, at a hu-
17 manitarian processing center (in the case
18 of a covered asylum seeker (as such term
19 is defined in section 235B)),”;

20 (ii) in clause (ii), by striking “the
21 alien shall be detained for further consider-
22 ation of the application for asylum.” and
23 inserting “the officer shall release the alien
24 on their own recognizance or with a refer-
25 ral to a nonprofit case management serv-
26 ice, or impose the least restrictive alter-

1 native to detention if the Secretary deter-
2 mines that the alien poses a security
3 threat.”;

4 (iii) in clause (iii)—

5 (I) in subclause (III)—

6 (aa) by inserting after “an
7 opportunity for the alien to be
8 heard” the following: “, including
9 by being questioned by counsel
10 for the alien,”; and

11 (bb) by adding at the end
12 the following: “If the alien is rep-
13 resented by counsel or seeks rep-
14 resentation by counsel and re-
15 quests the appearance such coun-
16 sel for purposes of the review
17 under this clause, the hearing
18 shall be rescheduled so that coun-
19 sel can appear.”; and

20 (II) by striking subclause (IV);

21 (III) by adding at the end the
22 following:

23 “(IV) REQUESTS FOR RECONSID-
24 ERATION.—An alien may request re-
25 consideration of an asylum officer’s

1 determination under subclause (I),
2 and removal shall be stayed until the
3 request has been fully considered. If
4 the request for reconsideration is not
5 granted, a written, detailed reasoning
6 for the denial shall be provided.

7 “(V) INTERVIEWS NOT CON-
8 DUCTED IN CBP CUSTODY.—Inter-
9 views of aliens conducted under this
10 subparagraph may not be conducted
11 of a covered asylum seeker (as such
12 term is defined in section 235B) in
13 the custody of U.S. Customs and Bor-
14 der Protection or the agents thereof.

15 “(VI) LIMITATION ON CONSIDER-
16 ATION OF CERTAIN FACTORS.—Inter-
17 views conducted under this subpara-
18 graph shall be limited to whether the
19 alien has a credible fear of persecution
20 and to the factors described in clause
21 (vii). In making such determination,
22 the asylum officer may not consider
23 any of the bars to asylum described in
24 section 208(b)(2).”; and

1 (IV) by adding at the end the fol-
2 lowing:

3 “(vi) LIMITATION ON USE OF INFOR-
4 MATION OBTAINED DURING INTERVIEW.—
5 Information obtained during an interview
6 conducted under this subparagraph may
7 not be disclosed or used for the purpose of
8 immigration enforcement.

9 “(vii) CONSIDERATION OF ELIGI-
10 BILITY FOR ADDITIONAL FORMS OF RE-
11 LIEF.—In conducting an interview under
12 this subparagraph, the asylum officer shall
13 consider, in addition to whether the alien
14 has a credible fear of persecution, whether
15 the alien may be prima facie eligible for
16 any other form of relief from removal, in-
17 cluding—

18 “(I) withholding of removal
19 under section 241(b)(3) or any cause
20 or claim under the United Nations
21 Convention Against Torture and
22 Other Forms of Cruel, Inhuman, or
23 Degrading Treatment or Punishment;

24 “(II) status under subparagraph
25 (T) or (U) of section 101(a)(15);

1 “(III) special immigrant juvenile
2 status;

3 “(IV) family reunification pursu-
4 ant to an approved I–130 petition;

5 “(V) any other basis for relief
6 from removal under the immigration
7 laws.”;

8 (C) in subparagraph (E)—

9 (i) in the matter preceding clause (i),
10 by inserting after “means an immigration
11 officer” the following: “employed in the
12 Refugee, Asylum and International Oper-
13 ations Directorate of U.S. Citizenship and
14 Immigration Services”;

15 (ii) in clause (i), by striking “and” at
16 the end;

17 (iii) by redesignating clause (ii) as
18 clause (iii);

19 (iv) by inserting after clause (i) the
20 following:

21 “(ii) has had professional training in
22 eligibility criteria for the forms of relief de-
23 scribed in subparagraph (B)(vii), and”;
24 and

1 (v) in clause (iii), as so redesignated,
2 by striking “the condition described in
3 clause (i) and has had substantial experi-
4 ence adjudicating asylum applications” and
5 inserting “the conditions described in
6 clauses (i) and (ii) and has had substantial
7 experience adjudicating asylum applica-
8 tions and determining prima facie eligi-
9 bility for the forms of relief described sub-
10 paragraph (B)(vii)”;

11 (2) by inserting after section 235A the fol-
12 lowing:

13 **“SEC. 235B. HUMANITARIAN PROCESSING CENTERS FOR**
14 **ASYLUM SEEKERS.**

15 “(a) ESTABLISHMENT OF HUMANITARIAN PROC-
16 ESSING CENTERS.—Not later than one year after the date
17 of enactment of this section, the Secretary of Homeland
18 Security shall establish 5 humanitarian processing centers
19 along the southern border of the United States, at which
20 a covered asylum seeker shall—

21 “(1) be interviewed by an asylum officer to de-
22 termine whether the alien has a credible fear of per-
23 secution;

24 “(2) receive legal orientation and case-manage-
25 ment referral services; and

1 “(3) receive a medical and mental health
2 screening.

3 “(b) COVERED ASYLUM SEEKER.—In the section, the
4 term ‘covered asylum seeker’ means an alien who—

5 “(1) arrives at the southern border of the
6 United States (whether or not at a designated port
7 of arrival and including an alien who is brought to
8 the United States after having been interdicted in
9 international or United States waters);

10 “(2) is 18 years of age or older and does not
11 arrive at the souther border of the United States as
12 part of a family unit with minor children; and

13 “(3) indicates either an intention to apply for
14 asylum under section 208 or a fear of persecution.

15 “(c) APPLICABLE TIME PERIODS.—

16 “(1) MANDATORY REST PERIOD.—An asylum
17 officer may not conduct an interview of a covered
18 asylum seeker to determine whether the alien has a
19 credible fear of persecution until at least 72 hours
20 after the alien arrives at the humanitarian proc-
21 essing center.

22 “(2) NOTICE TO COUNSEL.—Not later than 48
23 hours after a covered asylum seeker arrives at a hu-
24 manitarian processing center, the asylum officer
25 shall notify by email any counsel for the alien who

1 filed a notice of entry of appearance, using the email
2 address that is on such notice of entry of appear-
3 ance, of the impending interview to determine
4 whether the alien has a credible fear of persecution.

5 “(3) LIMITATION ON DETENTION AT HUMANI-
6 TARIAN PROCESSING CENTER.—A covered asylum
7 seeker shall be detained at a humanitarian proc-
8 essing center, for not longer than 15 days, pending
9 an interview by an asylum officer to determine
10 whether the alien has a credible fear of persecution.

11 In the case that an asylum officer has not conducted
12 an interview of a covered asylum seeker to determine
13 whether the alien has a credible fear of persecution
14 prior to the expiration of the 15-day period after the
15 alien arrives at the humanitarian processing center,
16 the alien shall be released from the humanitarian
17 processing center and given a notice to appear under
18 section 239 for the purpose of such interview.

19 “(d) NOTICE TO APPEAR.—If the asylum officer de-
20 termines that the covered asylum seeker has a credible
21 fear of persecution, the covered asylum seeker shall be re-
22 leased from the humanitarian processing center not later
23 than 24 hours after such determination is made, and given
24 a notice to appear under section 239 at the immigration
25 court that is closest in proximity to the city in which the

1 alien intends to relocate. Prior to releasing an alien under
2 this subsection, the asylum officer shall provide advanced
3 notice to, and shall coordinate with, nonprofit shelters in
4 or closest to the jurisdiction in which the alien intends
5 to relocate. An alien may only be released under this sub-
6 section between normal business hours, unless the asylum
7 officer made special accommodations for the release of the
8 alien outside of those hours.

9 “(e) REPATRIATION.—If the asylum officer deter-
10 mines that the covered asylum seeker does not have a
11 credible fear of persecution, the alien shall be removed in
12 accordance with section 235(b)(1)(B)(iii). The asylum of-
13 ficer shall provide the covered asylum seeker with specific
14 findings and a written decision supporting their decision,
15 as well as information on pursuing a reconsideration or
16 judicial review of the asylum officer’s negative determina-
17 tion, in a language that the covered individual can under-
18 stand.

19 “(f) ENSURING ACCESS TO INTERPRETERS.—Prior
20 to conducting an interview of a covered asylum seeker to
21 determine whether the alien has a credible fear of persecu-
22 tion, an asylum officer shall ascertain from the alien the
23 alien’s primary language, and shall make an interpreter
24 available to the alien for such interview and for prepara-
25 tion for such interview. In the case that an interpreter

1 in the alien’s primary language is not available prior to
2 the expiration of the 15-day period described in subsection
3 (c)(3), the alien shall be released and given a notice to
4 appear in accordance with such subsection.

5 “(g) SERVICES.—The Secretary shall provide to cov-
6 ered asylum seekers at humanitarian processing centers
7 the following:

8 “(1) Orientation about the asylum seeking proc-
9 ess.

10 “(2) Legal counsel and other materials to pre-
11 pare for the interview described in subsection (a).

12 “(3) Referrals to community-based case man-
13 agement services.

14 “(4) Interpreters.

15 “(5) Medical and mental health screening.

16 “(h) STAFF.—Each humanitarian processing center
17 shall be staffed and operated by U.S. Citizenship and Im-
18 migration Services personnel and Office of Refugee Reset-
19 tlement personnel. Immigration and Customs Enforce-
20 ment and Customs and Border Protection agents shall not
21 staff the center, except that Customs and Border per-
22 sonnel may be present for limited administrative and data
23 entry purposes.

24 “(i) ADDITIONAL SERVICE PROVIDERS.—The Sec-
25 retary shall enter into contracts with nonprofit legal serv-

1 ice providers, medical providers, and other nongovern-
2 mental organizations and community-based services to
3 provide services to covered asylum seekers at humani-
4 tarian processing centers, who shall have access to such
5 services at no cost.

6 “(j) GRANTS FOR LEGAL SERVICE PROVIDERS.—

7 “(1) AUTHORIZATION.—The Secretary of
8 Homeland Security is authorized to make grants to
9 legal service providers to provide legal counsel to
10 covered asylum seekers at humanitarian processing
11 centers.

12 “(2) ELIGIBILITY.—In order to be eligible for a
13 grant under this section a legal service provider shall
14 have demonstrated experience—

15 “(A) communicating with clients in Span-
16 ish, English, and such other languages as the
17 Secretary determines appropriate; and

18 “(B) providing legal counsel to asylum
19 seekers.

20 “(3) APPLICATION.—The chief executive of a
21 legal service provider seeking a grant under this sec-
22 tion shall submit to the Secretary an application at
23 such time, in such manner, and containing such in-
24 formation as the Secretary may reasonably require.

1 “(4) AUTHORIZATION OF APPROPRIATIONS.—

2 There is authorized to be appropriated such sums as
3 may be necessary to carry out this section.

4 “(k) EXTERNAL HUMAN RIGHTS MONITORING.—The
5 Secretary shall ensure that appropriate nongovernmental
6 organizations that have expertise in monitoring immigra-
7 tion detention facilities for human rights abuses, and other
8 appropriate nongovernmental organizations, are provided
9 with regular and unannounced access to humanitarian
10 processing centers.”;

11 (3) in section 241(a)(5)—

12 (A) by striking “If the Attorney General”
13 and inserting “(A) IN GENERAL—Except as
14 provided in subparagraphs (B) and (C), the
15 Secretary of Homeland Security”;

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

17 “(B) INTENTION TO APPLY FOR ASY-
18 LUM.—The Secretary shall not reinstate a prior
19 order of removal if an alien indicates either an
20 intention to apply for asylum under section 208
21 or a fear of persecution

22 “(C) REQUIREMENT TO VACATE CERTAIN
23 REINSTATED ORDERS OF REMOVAL.—If an
24 alien with a prior order of removal that has
25 been reinstated by the Secretary is determined

1 to have a credible fear of persecution, or to be
2 prima facie eligible for a form of relief de-
3 scribed in section 235(b)(1)(B)(vii), the Sec-
4 retary shall vacate the reinstated order of re-
5 moval and issue a notice to appear for removal
6 proceedings under section 240.”; and

7 (4) in section 242, by repealing subsection (e).

8 **SEC. 3. STUDY ON EXPANSION OF MODEL.**

9 (a) IN GENERAL.—The Secretary of Homeland Secu-
10 rity shall conduct a study on the effect of this Act, and
11 the amendments made by this Act, on migration by cov-
12 ered asylum seekers (as such term is defined in section
13 235B of the Immigration and Nationality Act, as amended
14 by this Act) and make recommendations with respect to
15 expanding the humanitarian processing centers model to
16 other noncitizens entering the United States.

17 (b) NONCITIZEN DEFINED.—In this section, the term
18 “noncitizen” has the meaning given the term “alien” in
19 section 101 of the Immigration and Nationality Act (8
20 U.S.C. 1101).

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