

118TH CONGRESS
1ST SESSION

H. R. 5838

To improve immigration adjudicatory capacity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 2023

Mr. TONY GONZALES of Texas (for himself and Mr. CISCOMANI) 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 improve immigration adjudicatory capacity, 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 “Strengthening Authori-
5 ties For Expedited Removal Act” or the “SAFER Act”.

6 **SEC. 2. CREDIBLE FEAR INTERVIEWS.**

7 Section 235(b)(1)(B)(v) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
9 striking “there is a significant possibility” and all that fol-

1 lows, and inserting “, taking into account the credibility
2 of the statements made by the alien in support of the
3 alien’s claim, as determined pursuant to section
4 208(b)(1)(B)(iii), and such other facts as are known to
5 the officer, the alien more likely than not could establish
6 eligibility for asylum under section 208, and it is more
7 likely than not that the statements made by, and on behalf
8 of, the alien in support of the alien’s claim are true.”.

9 **SEC. 3. IMMIGRATION COURT DOCKETING PRIORITIES**
10 **DURING IRREGULAR MIGRATION INFLUX**
11 **EVENTS.**

12 (a) **IN GENERAL.**—The Attorney General shall, to the
13 greatest extent practicable, prioritize docketing and proc-
14 essing of removal cases under section 240 of the Immigra-
15 tion and Nationality Act (8 U.S.C. 1229a) for aliens who
16 are apprehended on entering the United States in connec-
17 tion with an irregular migration influx event.

18 (b) **IRREGULAR MIGRATION INFLUX EVENTS.**—The
19 Attorney General, in consultation with the Secretary, shall
20 establish criteria for determining when an irregular migra-
21 tion influx event commences and ends for purposes of car-
22 rying out the docketing priorities under subsection (a).

23 (c) **ACCESS TO LEGAL COUNSEL.**—The Attorney
24 General shall ensure that any master calendar or merits
25 hearing in a removal case prioritized under subsection (a)

1 is scheduled on a date and at a time that permits the alien
2 a fair and reasonable opportunity to consult with and re-
3 tain counsel prior to such hearing, consistent with section
4 292 of the Immigration and Nationality Act (8 U.S.C.
5 1362).

6 (d) REPORT TO CONGRESS.—Not later 90 days after
7 the date of enactment of this Act, the Attorney General
8 shall submit to the appropriate committees of Congress
9 a report that includes—

10 (1) the number of aliens who were apprehended
11 after entering the United States in connection with
12 an irregular migration influx event identified in ac-
13 cordance with subsection (b) and placed in removal
14 proceedings under section 240 of the Immigration
15 and Nationality Act (8 U.S.C. 1229a), organized by
16 the fiscal year in which the apprehension occurred
17 and stating the number of single adults, unaccom-
18 panied alien children, and aliens that are appre-
19 hended as part of a family unit;

20 (2) the number of aliens identified under para-
21 graph (1) who appeared at master calendar hear-
22 ings, including—

23 (A) the number and percentage rep-
24 resented by counsel at such hearings; and

1 (B) the average number of days between
2 apprehension and such hearings;

3 (3) the number of in absentia orders of removal
4 issued to aliens identified under paragraph (1) at
5 master calendar hearings, including the number of
6 such aliens represented by counsel;

7 (4) the number of aliens identified under para-
8 graph (1) who appeared at final merits hearings, in-
9 cluding the number and percentage represented by
10 counsel at such hearings, and the average number of
11 days between apprehension and such hearings; and

12 (5) the number of in absentia orders of removal
13 issued to aliens identified under paragraph (1) at
14 final merits hearings, including the number of such
15 aliens represented by counsel.

16 **SEC. 4. NEGOTIATIONS BY SECRETARY OF STATE TO**
17 **DISINCENTIVIZE UNLAWFUL IMMIGRATION.**

18 (a) **AUTHORIZATION TO NEGOTIATE.**—The Secretary
19 of State shall seek to negotiate agreements, accords, and
20 memoranda of understanding between the United States,
21 Mexico, Honduras, El Salvador, Guatemala, and other
22 countries in the Western Hemisphere with respect to co-
23 operation and burden sharing required for effective re-
24 gional immigration enforcement, detention, and repatri-

1 ation of foreign nationals seeking to enter the United
2 States unlawfully.

3 (b) DHS ENFORCEMENT.—The Secretary of Home-
4 land Security shall prioritize the expeditious execution,
5 within the legal jurisdiction of the Department of Home-
6 land Security, of any agreements reached under subsection
7 (a).

8 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
9 authorized to be appropriated such sums as may be nec-
10 essary to carry out subsection (b).

11 **SEC. 5. APPROPRIATIONS FOR EXECUTIVE OFFICE OF IM-**
12 **MIGRATION REVIEW ADJUDICATORY CAPAC-**
13 **ITY.**

14 (a) IN GENERAL.—Subject to the availability of ap-
15 propriations, the Attorney General shall expeditiously im-
16 prove adjudicatory capacity at the Executive Office for
17 Immigration Review and hire not less than 150 additional
18 immigration judges and support staff to increase adjudica-
19 tions.

20 (b) REPORT.—Not later than 180 days after the date
21 of enactment of this Act, the Attorney General shall sub-
22 mit to the appropriate congressional committees a report
23 on the status of hiring additional judges and support staff
24 as required under subsection (a).

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated such sums as may be nec-
3 essary to carry out this section.

4 (d) DEFINITION.—In this section, the term “appro-
5 priate congressional committees” means—

6 (1) the Committee on Homeland Security of the
7 House of Representatives;

8 (2) the Committee on Homeland Security and
9 Governmental Affairs of the Senate; the Committee
10 on the Judiciary of the House of Representatives;
11 and

12 (3) the Committee on the Judiciary of the Sen-
13 ate.

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