

116TH CONGRESS
1ST SESSION

H. R. 586

To close loopholes in the immigration laws that serve as incentives to aliens to attempt to enter the United States unlawfully, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2019

Mr. COLLINS of Georgia (for himself and Mr. JOHNSON of Louisiana) 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 close loopholes in the immigration laws that serve as incentives to aliens to attempt to enter the United States unlawfully, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fix the Immigration Loopholes Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—UNACCOMPANIED ALIEN CHILDREN

- Sec. 101. Repatriation of unaccompanied alien children.
 Sec. 102. Clarification of standards for family detention.
 Sec. 103. Special immigrant juvenile status for immigrants unable to reunite with either parent.

TITLE II—ASYLUM REFORM

- Sec. 201. Credible fear interviews.
 Sec. 202. Jurisdiction of asylum applications.
 Sec. 203. Recording expedited removal and credible fear interviews.
 Sec. 204. Safe third country.
 Sec. 205. Renunciation of asylum status pursuant to return to home country.
 Sec. 206. Notice concerning frivolous asylum applications.
 Sec. 207. Anti-fraud investigative work product.
 Sec. 208. Penalties for asylum fraud.
 Sec. 209. Statute of limitations for asylum fraud.
 Sec. 210. Technical amendments.

1 **TITLE I—UNACCOMPANIED**
 2 **ALIEN CHILDREN**
 3 **SEC. 101. REPATRIATION OF UNACCOMPANIED ALIEN CHIL-**
 4 **DREN.**

5 (a) IN GENERAL.—Section 235 of the William Wil-
 6 berforce Trafficking Victims Protection Reauthorization
 7 Act of 2008 (8 U.S.C. 1232) is amended—

8 (1) in subsection (a)—

9 (A) in paragraph (2)—

10 (i) by amending the heading to read
 11 as follows: “RULES FOR UNACCOMPANIED
 12 ALIEN CHILDREN.—”;

13 (ii) in subparagraph (A)—

14 (I) in the matter preceding clause
 15 (i), by striking “who is a national or
 16 habitual resident of a country that is
 17 contiguous with the United States”;

1 (II) in clause (i), by inserting
2 “and” at the end;

3 (III) in clause (ii), by striking “;
4 and” and inserting a period; and

5 (IV) by striking clause (iii);
6 (iii) in subparagraph (B)—

7 (I) in the matter preceding clause
8 (i), by striking “(8 U.S.C. 1101 et
9 seq.) may—” and inserting “(8
10 U.S.C. 1101 et seq.)—”;

11 (II) in clause (i), by inserting be-
12 fore “permit such child to withdraw”
13 the following: “may”; and

14 (III) in clause (ii), by inserting
15 before “return such child” the fol-
16 lowing: “shall”; and
17 (iv) in subparagraph (C)—

18 (I) by amending the heading to
19 read as follows: “AGREEMENTS WITH
20 FOREIGN COUNTRIES.—”; and

21 (II) in the matter preceding
22 clause (i), by striking “The Secretary
23 of State shall negotiate agreements
24 between the United States and coun-
25 tries contiguous to the United States”

1 and inserting “The Secretary of State
2 may negotiate agreements between the
3 United States and any foreign country
4 that the Secretary determines appro-
5 priate”;

6 (B) by redesignating paragraphs (3)
7 through (5) as paragraphs (4) through (6), re-
8 spectively, and inserting after paragraph (2) the
9 following:

10 “(3) SPECIAL RULES FOR INTERVIEWING UNAC-
11 COMPANIED ALIEN CHILDREN.—An unaccompanied
12 alien child shall be interviewed by a dedicated U.S.
13 Citizenship and Immigration Services immigration
14 officer with specialized training in interviewing child
15 trafficking victims. Such officer shall be in plain
16 clothes and shall not carry a weapon. The interview
17 shall occur in a private room.”; and

18 (C) in paragraph (6)(D) (as so redesign-
19 ated)—

20 (i) in the matter preceding clause (i),
21 by striking “, except for an unaccompanied
22 alien child from a contiguous country sub-
23 ject to exceptions under subsection (a)(2),”
24 and inserting “who does not meet the cri-
25 teria listed in paragraph (2)(A)”;

1 (ii) in clause (i), by inserting before
2 the semicolon at the end the following: “,
3 which shall include a hearing before an im-
4 migration judge not later than 14 days
5 after being screened under paragraph (4)”;

6 (2) in subsection (b)—

7 (A) in paragraph (2)—

8 (i) in subparagraph (A), by inserting
9 before the semicolon the following: “be-
10 lieved not to meet the criteria listed in sub-
11 section (a)(2)(A)”;

12 (ii) in subparagraph (B), by inserting
13 before the period the following: “and does
14 not meet the criteria listed in subsection
15 (a)(2)(A)”;

16 (B) in paragraph (3), by striking “an un-
17 accompanied alien child in custody shall” and
18 all that follows, and inserting the following: “an
19 unaccompanied alien child in custody—

20 “(A) in the case of a child who does not
21 meet the criteria listed in subsection (a)(2)(A),
22 shall transfer the custody of such child to the
23 Secretary of Health and Human Services not
24 later than 30 days after determining that such

child is an unaccompanied alien child who does not meet such criteria; or

“(B) in the case of child who meets the criteria listed in subsection (a)(2)(A), may transfer the custody of such child to the Secretary of Health and Human Services after determining that such child is an unaccompanied alien child who meets such criteria.”; and

(3) in subsection (c)—

(A) in paragraph (3), by inserting at the end the following:

“(D) INFORMATION ABOUT INDIVIDUALS WITH WHOM CHILDREN ARE PLACED.—

“(i) INFORMATION TO BE PROVIDED TO HOMELAND SECURITY.—Before placing a child with an individual, the Secretary of Health and Human Services shall provide to the Secretary of Homeland Security, regarding the individual with whom the child will be placed, the following information:

“(I) The name of the individual.

“(II) The social security number of the individual, if available.

“(III) The date of birth of the individual.

1 “(IV) The location of the individ-
2 ual’s residence where the child will be
3 placed.

4 “(V) The immigration status of
5 the individual, if known.

6 “(VI) Contact information for
7 the individual.

8 “(ii) SPECIAL RULE.—In the case of a
9 child who was apprehended on or after the
10 effective date of this clause, and before the
11 date of the enactment of this subpara-
12 graph, who the Secretary of Health and
13 Human Services placed with an individual,
14 the Secretary shall provide the information
15 listed in clause (i) to the Secretary of
16 Homeland Security not later than 90 days
17 after such date of enactment.”; and

18 (B) in paragraph (5)—

19 (i) by inserting after “to the greatest
20 extent practicable” the following: “(at no
21 expense to the Government)”; and

22 (ii) by striking “have counsel to rep-
23 resent them” and inserting “have access to
24 counsel to represent them”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to any unaccompanied alien child
3 apprehended on or after the date of enactment.

4 **SEC. 102. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
5 **TENTION.**

6 (a) IN GENERAL.—Section 235 of the William Wil-
7 berforce Trafficking Victims Protection Reauthorization
8 Act of 2008 (8 U.S.C. 1232) is amended by adding at
9 the end the following:

10 “(j) CONSTRUCTION.—

11 “(1) IN GENERAL.—Notwithstanding any other
12 provision of law, judicial determination, consent de-
13 cree, or settlement agreement, the detention of any
14 alien child who is not an unaccompanied alien child
15 shall be governed by sections 217, 235, 236, and
16 241 of the Immigration and Nationality Act (8
17 U.S.C. 1187, 1225, 1226, and 1231). There exists
18 no presumption that an alien child who is not an un-
19 accompanied alien child should not be detained, and
20 all such determinations shall be in the discretion of
21 the Secretary of Homeland Security.

22 “(2) RELEASE OF MINORS OTHER THAN UNAC-
23 COMPANIED ALIENS.—In no circumstances shall an
24 alien minor who is not an unaccompanied alien child

1 be released by the Secretary of Homeland Security
2 other than to a parent or legal guardian.

3 “(3) FAMILY DETENTION.—The Secretary of
4 Homeland Security shall—

5 “(A) maintain the care and custody of an
6 alien, during the period during which the
7 charges described in clause (i) are pending,
8 who—

9 “(i) is charged only with a mis-
10 demeanor offense under section 275(a) of
11 the Immigration and Nationality Act (8
12 U.S.C. 1325(a)); and

13 “(ii) entered the United States with
14 the alien’s child who has not attained 18
15 years of age; and

16 “(B) detain the alien with the alien’s
17 child.”.

18 (b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act and shall apply to all actions that occur
21 before, on, or after the date of the enactment of this Act.

22 (c) PREEMPTION OF STATE LICENSING REQUIRE-
23 MENTS.—Notwithstanding any other provision of law, ju-
24 dicial determination, consent decree, or settlement agree-
25 ment, no State may require that an immigration detention

1 facility used to detain children who have not attained 18
2 years of age, or families consisting of one or more of such
3 children and the parents or legal guardians of such chil-
4 dren, that is located in that State, be licensed by the State
5 or any political subdivision thereof.

6 **SEC. 103. SPECIAL IMMIGRANT JUVENILE STATUS FOR IM-**
7 **MIGRANTS UNABLE TO REUNITE WITH EI-**
8 **THER PARENT.**

9 Section 101(a)(27)(J) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1101(a)(27)(J)) is amended—

11 (1) in clause (i), by striking “, and whose reuni-
12 fication with 1 or both of the immigrant’s parents
13 is not viable due to abuse, neglect, abandonment, or
14 a similar basis found under State law”; and

15 (2) in clause (iii)—

16 (A) by striking “and” at the end of sub-
17 clause (I);

18 (B) by inserting “and” at the end of sub-
19 clause (II); and

20 (C) by adding at the end the following:

21 “(III) an alien may not be grant-
22 ed special immigrant juvenile status
23 under this subparagraph if his or her
24 reunification with any one parent or
25 legal guardian is not precluded by

1 abuse, neglect, abandonment, or any
2 similar cause under State law;”.

3 **TITLE II—ASYLUM REFORM**

4 **SEC. 201. CREDIBLE FEAR INTERVIEWS.**

5 Section 235(b)(1)(B)(v) of the Immigration and Na-
6 tionality Act (8 U.S.C. 1225(b)(1)(B)(v)) is amended by
7 striking “claim” and all that follows, and inserting “claim,
8 as determined pursuant to section 208(b)(1)(B)(iii), and
9 such other facts as are known to the officer, that the alien
10 could establish eligibility for asylum under section 208,
11 and it is more probable than not that the statements made
12 by, and on behalf of, the alien in support of the alien’s
13 claim are true.”.

14 **SEC. 202. JURISDICTION OF ASYLUM APPLICATIONS.**

15 Section 208(b)(3) of the Immigration and Nationality
16 Act (8 U.S.C. 1158) is amended by striking subparagraph
17 (C).

18 **SEC. 203. RECORDING EXPEDITED REMOVAL AND CRED-** 19 **IBLE FEAR INTERVIEWS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity shall establish quality assurance procedures and take
22 steps to effectively ensure that questions by employees of
23 the Department of Homeland Security exercising expe-
24 dited removal authority under section 235(b) of the Immi-
25 gration and Nationality Act (8 U.S.C. 1225(b)) are asked

1 in a uniform manner, to the extent possible, and that both
2 these questions and the answers provided in response to
3 them are recorded in a uniform fashion.

4 (b) FACTORS RELATING TO SWORN STATEMENTS.—

5 Where practicable, any sworn or signed written statement
6 taken of an alien as part of the record of a proceeding
7 under section 235(b)(1)(A) of the Immigration and Na-
8 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-
9 panied by a recording of the interview which served as the
10 basis for that sworn statement.

11 (c) INTERPRETERS.—The Secretary shall ensure that
12 a competent interpreter, not affiliated with the govern-
13 ment of the country from which the alien may claim asy-
14 lum, is used when the interviewing officer does not speak
15 a language understood by the alien.

16 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—

17 There shall be an audio or audio visual recording of inter-
18 views of aliens subject to expedited removal. The recording
19 shall be included in the record of proceeding and shall be
20 considered as evidence in any further proceedings involv-
21 ing the alien.

22 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this

23 section shall be construed to create any right, benefit,
24 trust, or responsibility, whether substantive or procedural,
25 enforceable in law or equity by a party against the United

1 States, its departments, agencies, instrumentalities, enti-
 2 ties, officers, employees, or agents, or any person, nor does
 3 this section create any right of review in any administra-
 4 tive, judicial, or other proceeding.

5 **SEC. 204. SAFE THIRD COUNTRY.**

6 Section 208(a)(2)(A) of the Immigration and Nation-
 7 ality Act (8 U.S.C. 1158(a)(2)(A)) is amended—

8 (1) by striking “Attorney General” each place
 9 it appears and inserting “Secretary of Homeland Se-
 10 curity”; and

11 (2) by striking “removed, pursuant to a bilat-
 12 eral or multilateral agreement, to” and inserting
 13 “removed to”.

14 **SEC. 205. RENUNCIATION OF ASYLUM STATUS PURSUANT**
 15 **TO RETURN TO HOME COUNTRY.**

16 (a) IN GENERAL.—Section 208(c) of the Immigration
 17 and Nationality Act (8 U.S.C. 1158(c)) is amended by
 18 adding at the end the following new paragraph:

19 “(4) RENUNCIATION OF STATUS PURSUANT TO
 20 RETURN TO HOME COUNTRY.—

21 “(A) IN GENERAL.—Except as provided in
 22 subparagraph (B), any alien who is granted
 23 asylum status under this Act, who, absent
 24 changed country conditions, subsequently re-
 25 turns to the country of such alien’s nationality

1 or, in the case of an alien having no nationality,
2 returns to any country in which such alien last
3 habitually resided, and who applied for such
4 status because of persecution or a well-founded
5 fear of persecution in that country on account
6 of race, religion, nationality, membership in a
7 particular social group, or political opinion,
8 shall have his or her status terminated.

9 “(B) WAIVER.—The Secretary has discre-
10 tion to waive subparagraph (A) if it is estab-
11 lished to the satisfaction of the Secretary that
12 the alien had a compelling reason for the re-
13 turn. The waiver may be sought prior to depar-
14 ture from the United States or upon return.”.

15 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1158(c)(3)) is amended by inserting after “paragraph
18 (2)” the following: “or (4)”.

19 **SEC. 206. NOTICE CONCERNING FRIVOLOUS ASYLUM AP-**
20 **PLICATIONS.**

21 (a) IN GENERAL.—Section 208(d)(4) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1158(d)(4)) is
23 amended—

1 (1) in the matter preceding subparagraph (A),
2 by inserting “the Secretary of Homeland Security
3 or” before “the Attorney General”;

4 (2) in subparagraph (A), by striking “and of
5 the consequences, under paragraph (6), of knowingly
6 filing a frivolous application for asylum; and” and
7 inserting a semicolon;

8 (3) in subparagraph (B), by striking the period
9 and inserting “; and”; and

10 (4) by adding at the end the following:

11 “(C) ensure that a written warning ap-
12 pears on the asylum application advising the
13 alien of the consequences of filing a frivolous
14 application and serving as notice to the alien of
15 the consequence of filing a frivolous applica-
16 tion.”.

17 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
18 of the Immigration and Nationality Act (8 U.S.C.
19 1158(d)(6)) is amended by striking “If the” and all that
20 follows and inserting:

21 “(A) If the Secretary of Homeland Secu-
22 rity or the Attorney General determines that an
23 alien has knowingly made a frivolous applica-
24 tion for asylum and the alien has received the
25 notice under paragraph (4)(C), the alien shall

1 be permanently ineligible for any benefits under
2 this chapter, effective as the date of the final
3 determination of such an application.

4 “(B) An application is frivolous if the Sec-
5 retary of Homeland Security or the Attorney
6 General determines, consistent with subpara-
7 graph (C), that—

8 “(i) it is so insufficient in substance
9 that it is clear that the applicant know-
10 ingly filed the application solely or in part
11 to delay removal from the United States,
12 to seek employment authorization as an
13 applicant for asylum pursuant to regula-
14 tions issued pursuant to paragraph (2), or
15 to seek issuance of a Notice to Appear in
16 order to pursue Cancellation of Removal
17 under section 240A(b); or

18 “(ii) any of the material elements are
19 knowingly fabricated.

20 “(C) In determining that an application is
21 frivolous, the Secretary or the Attorney Gen-
22 eral, must be satisfied that the applicant, dur-
23 ing the course of the proceedings, has had suffi-
24 cient opportunity to clarify any discrepancies or
25 implausible aspects of the claim.

1 “(D) For purposes of this section, a find-
 2 ing that an alien filed a frivolous asylum appli-
 3 cation shall not preclude the alien from seeking
 4 withholding of removal under section 241(b)(3)
 5 or protection pursuant to the Convention
 6 Against Torture.”.

7 **SEC. 207. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

8 (a) ASYLUM CREDIBILITY DETERMINATIONS.—Sec-
 9 tion 208(b)(1)(B)(iii) of the Immigration and Nationality
 10 Act (8 U.S.C. 1158(b)(1)(B)(iii)) is amended by inserting
 11 after “all relevant factors” the following: “, including
 12 statements made to, and investigative reports prepared by,
 13 immigration authorities and other government officials”.

14 (b) RELIEF FOR REMOVAL CREDIBILITY DETER-
 15 MINATIONS.—Section 240(c)(4)(C) of the Immigration
 16 and Nationality Act (8 U.S.C. 1229a(c)(4)(C)) is amended
 17 by inserting after “all relevant factors” the following: “,
 18 including statements made to, and investigative reports
 19 prepared by, immigration authorities and other govern-
 20 ment officials”.

21 **SEC. 208. PENALTIES FOR ASYLUM FRAUD.**

22 Section 1001 of title 18, United States Code, is
 23 amended by inserting at the end of the paragraph—

24 “(d) Whoever, in any matter before the Secretary of
 25 Homeland Security or the Attorney General pertaining to

1 asylum under section 208 of the Immigration and Nation-
2 ality Act or withholding of removal under section
3 241(b)(3) of such Act, knowingly and willfully—

4 “(1) makes any materially false, fictitious, or
5 fraudulent statement or representation; or

6 “(2) makes or uses any false writings or docu-
7 ment knowing the same to contain any materially
8 false, fictitious, or fraudulent statement or entry,
9 shall be fined under this title or imprisoned not more than
10 10 years, or both.”.

11 **SEC. 209. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

12 Section 3291 of title 18, United States Code, is
13 amended—

14 (1) by striking “1544,” and inserting “1544,
15 and section 1546,”; and

16 (2) by striking “offense.” and inserting “of-
17 fense or within 10 years after the fraud is discov-
18 ered.”.

19 **SEC. 210. TECHNICAL AMENDMENTS.**

20 Section 208 of the Immigration and Nationality Act
21 (8 U.S.C. 1158) is amended—

22 (1) in subsection (a)—

23 (A) in paragraph (2)(D), by inserting
24 “Secretary of Homeland Security or the” before
25 “Attorney General”; and

1 (B) in paragraph (3), by inserting “Sec-
2 retary of Homeland Security or the” before
3 “Attorney General”;

4 (2) in subsection (b)(2), by inserting “Secretary
5 of Homeland Security or the” before “Attorney Gen-
6 eral” each place such term appears;

7 (3) in subsection (c)—

8 (A) in paragraph (1), by striking “Attor-
9 ney General” each place such term appears and
10 inserting “Secretary of Homeland Security”;

11 (B) in paragraph (2), in the matter pre-
12 ceding subparagraph (A), by inserting “Sec-
13 retary of Homeland Security or the” before
14 “Attorney General”; and

15 (C) in paragraph (3), by inserting “Sec-
16 retary of Homeland Security or the” before
17 “Attorney General”; and

18 (4) in subsection (d)—

19 (A) in paragraph (1), by inserting “Sec-
20 retary of Homeland Security or the” before
21 “Attorney General” each place such term ap-
22 pears;

23 (B) in paragraph (2), by striking “Attor-
24 ney General” and inserting “Secretary of
25 Homeland Security”; and

1 (C) in paragraph (5)—

2 (i) in subparagraph (A), by striking
3 “Attorney General” and inserting “Sec-
4 retary of Homeland Security”; and

5 (ii) in subparagraph (B), by inserting
6 “Secretary of Homeland Security or the”
7 before “Attorney General”.

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