

118TH CONGRESS
1ST SESSION

H. R. 666

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 31, 2023

Ms. JAYAPAL (for herself, Mr. AUCHINCLOSS, Ms. BARRAGÁN, Mr. BLUMENAUER, Ms. BONAMICI, Mr. CARSON, Mr. CASTEN, Ms. CHU, Mr. CICILLINE, Ms. CLARKE of New York, Ms. CROCKETT, Mr. DAVIS of Illinois, Mr. ESPAILLAT, Mr. GALLEGRO, Ms. GARCIA of Texas, Mr. GARCÍA of Illinois, Mr. GRIJALVA, Ms. JACKSON LEE, Ms. JACOBS, Mr. JOHNSON of Georgia, Mr. KHANNA, Mr. KILMER, Mr. KRISHNAMOORTHY, Ms. LEE of California, Ms. LEGER FERNANDEZ, Ms. LOFGREN, Mr. MCGOVERN, Ms. MOORE of Wisconsin, Mr. NADLER, Mrs. NAPOLITANO, Ms. NORTON, Mr. QUIGLEY, Mr. RASKIN, Ms. SCANLON, Ms. SCHAKOWSKY, Mr. SCHIFF, Mr. SMITH of Washington, Mr. SWALWELL, Ms. TLAIB, Mrs. TORRES of California, Mr. VARGAS, Ms. WASSERMAN SCHULTZ, and Mrs. WATSON COLEMAN) introduced the following bill; which was referred to the Committee on the Judiciary

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.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Access to Counsel
3 Act”.

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

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

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

14 “(1) IN GENERAL.—The Secretary of Homeland
15 Security shall ensure that a covered individual has
16 a meaningful opportunity to consult with counsel
17 and an interested party during the inspection proc-
18 ess.

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

21 “(A) provide the covered individual a
22 meaningful opportunity to consult (including
23 consultation via telephone) with counsel and an
24 interested party not later than one hour after
25 the secondary inspection process commences
26 and as necessary throughout the remainder of

1 the inspection process, including, as applicable,
2 during deferred inspection;

3 “(B) allow counsel and an interested party
4 to advocate on behalf of the covered individual,
5 including by providing to the examining immi-
6 gration officer information, documentation, and
7 other evidence in support of the covered indi-
8 vidual; and

9 “(C) to the greatest extent practicable, ac-
10 commodate a request by the covered individual
11 for counsel or an interested party to appear in-
12 person at the secondary or deferred inspection
13 site.

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

16 “(A) IN GENERAL.—Except as provided in
17 subparagraph (B), the Secretary of Homeland
18 Security may not accept a Form I-407 Record
19 of Abandonment of Lawful Permanent Resident
20 Status (or a successor form) from a lawful per-
21 manent resident subject to secondary or de-
22 ferred inspection without first providing such
23 lawful permanent resident a meaningful oppor-
24 tunity to seek advice from counsel.

1 “(B) EXCEPTION.—The Secretary of
2 Homeland Security may accept Form I-407
3 Record of Abandonment of Lawful Permanent
4 Resident Status (or a successor form) from a
5 lawful permanent resident subject to secondary
6 or deferred inspection if such lawful permanent
7 resident knowingly, intelligently, and voluntarily
8 waives, in writing, the opportunity to seek ad-
9 vice from counsel.

10 “(4) DEFINITIONS.—In this section:

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

13 “(i) an attorney who is a member in
14 good standing of the bar of any State, the
15 District of Columbia, or a territory or a
16 possession of the United States and is not
17 under an order suspending, enjoining, re-
18 straining, disbarring, or otherwise restrict-
19 ing the attorney in the practice of law; or

20 “(ii) an individual accredited by the
21 Attorney General, acting as a representa-
22 tive of an organization recognized by the
23 Executive Office for Immigration Review,
24 to represent a covered individual in immi-
25 gration matters.

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

4 “(i) a national of the United States;

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

8 “(iii) an alien seeking admission as an
9 immigrant in possession of a valid unex-
10 pired immigrant visa;

11 “(iv) an alien seeking admission as a
12 nonimmigrant in possession of a valid un-
13 expired nonimmigrant visa;

14 “(v) a refugee;

15 “(vi) a returning asylee; or

16 “(vii) an alien who has been approved
17 for parole under section 212(d)(5)(A), in-
18 cluding an alien who is returning to the
19 United States in possession of a valid ad-
20 vance parole document.

21 “(C) INTERESTED PARTY.—The term ‘in-
22 terested party’ means—

23 “(i) a relative of the covered indi-
24 vidual;

1 “(ii) in the case of a covered indi-
2 vidual to whom an immigrant or a non-
3 immigrant visa has been issued, the peti-
4 tioner or sponsor thereof (including an
5 agent of such petitioner or sponsor); or

6 “(iii) a person, organization, or entity
7 in the United States with a bona fide con-
8 nection to the covered individual.”.

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

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

16 (1) section 240(b)(4)(A) (8 U.S.C.
17 1229a(b)(4)(A));

18 (2) section 292 of the Immigration and Nation-
19 ality Act (8 U.S.C. 1362); or

20 (3) any other provision of law, including any
21 final court order securing such rights,

22 as in effect on the day before the date of the enactment
23 of this Act.

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