

117TH CONGRESS
1ST SESSION

S. 295

To designate residents of the Hong Kong Special Administrative Region as Priority 2 refugees of special humanitarian concern, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 8, 2021

Mr. RUBIO (for himself, Mr. MENENDEZ, Mr. YOUNG, Mr. CARDIN, Mr. MERKLEY, Mr. CORNYN, Ms. WARREN, Mr. DURBIN, Mr. LANKFORD, Mr. WYDEN, Mr. BLUMENTHAL, and Mr. COONS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To designate residents of the Hong Kong Special Administrative Region as Priority 2 refugees of special humanitarian concern, 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 “Hong Kong Safe Har-
5 bor Act”.

1 **SEC. 2. DESIGNATION OF CERTAIN RESIDENTS OF HONG**
2 **KONG AS PRIORITY 2 REFUGEES.**

3 (a) IN GENERAL.—The Secretary of State, in con-
4 sultation with the Secretary of Homeland Security, shall
5 designate, as Priority 2 refugees of special humanitarian
6 concern, the following categories of aliens:

7 (1) Individuals who are residents of the Hong
8 Kong Special Administrative Region who suffered
9 persecution, or have a well-founded fear of persecu-
10 tion, on account of their peaceful expression of polit-
11 ical opinions or peaceful participation in political ac-
12 tivities or associations.

13 (2) Individuals who have been formally charged,
14 detained, or convicted on account of their peaceful
15 actions as described in section 206(b)(2) of the
16 United States-Hong Kong Policy Act of 1992 (22
17 U.S.C. 5726).

18 (3) The spouses, children, and parents (as such
19 terms are defined in subsections (a) and (b) of sec-
20 tion 101 of the Immigration and Nationality Act (8
21 U.S.C. 1101)) of individuals described in paragraph
22 (1) or (2), except such parents who are citizens of
23 a country other than the People’s Republic of China.

24 (b) PROCESSING OF HONG KONG REFUGEES.—The
25 processing of individuals described in subsection (a) for

1 classification as refugees may occur in Hong Kong or in
2 a third country.

3 (c) ELIGIBILITY FOR ADMISSION AS REFUGEES.—An
4 alien may not be denied the opportunity to apply for ad-
5 mission as a refugee under this section primarily because
6 such alien—

7 (1) qualifies as an immediate relative of a cit-
8 izen of the United States; or

9 (2) is eligible for admission to the United
10 States under any other immigrant classification.

11 (d) FACILITATION OF ADMISSIONS.—An applicant
12 for admission to the United States from the Hong Kong
13 Special Administrative Region may not be denied pri-
14 marily on the basis of a politically motivated arrest, deten-
15 tion, or other adverse government action taken against
16 such applicant as a result of the participation by such ap-
17 plicant in protest activities.

18 (e) EXCLUSION FROM NUMERICAL LIMITATIONS.—
19 Aliens provided refugee status under this section shall not
20 be counted against any numerical limitation under section
21 201, 202, 203, or 207 of the Immigration and Nationality
22 Act (8 U.S.C. 1151, 1152, 1153, and 1157).

23 (f) REPORTING REQUIREMENTS.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and

1 every 90 days thereafter, the Secretary of State and
2 the Secretary of Homeland Security shall submit a
3 report regarding the matters described in paragraph
4 (2) to—

5 (A) the Committee on the Judiciary of the
6 Senate;

7 (B) the Committee on Foreign Relations of
8 the Senate;

9 (C) the Committee on the Judiciary of the
10 House of Representatives; and

11 (D) the Committee on Foreign Affairs of
12 the House of Representatives.

13 (2) MATTERS TO BE INCLUDED.—Each report
14 required under paragraph (1) shall include—

15 (A) the total number of applications that
16 are pending at the end of the reporting period;

17 (B) the average wait-times for all appli-
18 cants who are currently pending—

19 (i) employment verification;

20 (ii) a prescreening interview with a re-
21 settlement support center;

22 (iii) an interview with U.S. Citizen-
23 ship and Immigration Services; or

24 (iv) the completion of security checks;

25 and

1 (C) the number of denials of applications
2 for refugee status, disaggregated by the reason
3 for each such denial.

4 (3) FORM.—Each report required under para-
5 graph (1) shall be submitted in unclassified form,
6 but may include a classified annex.

7 (4) PUBLIC REPORTS.—The Secretary of State
8 shall make each report submitted under this sub-
9 section available to the public on the internet website
10 of the Department of State.

11 (g) SATISFACTION OF OTHER REQUIREMENTS.—
12 Aliens granted status under this section as Priority 2 refu-
13 gees of special humanitarian concern under the refugee
14 resettlement priority system shall be considered to satisfy
15 the requirements under section 207 of the Immigration
16 and Nationality Act (8 U.S.C. 1157) for admission to the
17 United States.

18 **SEC. 3. WAIVER OF IMMIGRANT STATUS PRESUMPTION.**

19 (a) IN GENERAL.—The presumption under the first
20 sentence of section 214(b) of the Immigration and Nation-
21 ality Act (8 U.S.C. 1184(b)) that every alien is an immi-
22 grant until the alien establishes that the alien is entitled
23 to nonimmigrant status shall not apply to an alien de-
24 scribed in subsection (b).

25 (b) ALIEN DESCRIBED.—

1 (1) IN GENERAL.—An alien described in this
2 paragraph is an alien who—

3 (A) is a resident of the Hong Kong Special
4 Administrative Region on February 8, 2021;

5 (B) is seeking entry to the United States
6 to apply for asylum under section 208 of the
7 Immigration and Nationality Act (8 U.S.C.
8 1158); and

9 (C)(i) had a leadership role in civil society
10 organizations supportive of the protests in 2019
11 and 2020 relating to the Hong Kong extra-
12 dition bill and the encroachment on the auton-
13 omy of Hong Kong by the People’s Republic of
14 China;

15 (ii) had an organizing role for such pro-
16 tests;

17 (iii) acted as a first aid responder for such
18 protests;

19 (iv) suffered harm while covering such pro-
20 tests as a journalist;

21 (v) provided paid or pro-bono legal services
22 to 1 or more individuals arrested for partici-
23 pating in such protests; or

24 (vi) during the period beginning on June
25 9, 2019, and ending on February 8, 2021, was

1 formally charged, detained, or convicted for his
2 or her participation in such protests.

3 (2) EXCLUSION.—An alien described in this
4 paragraph does not include any alien who is a citizen
5 of a country other than the People’s Republic of
6 China.

7 **SEC. 4. REFUGEE AND ASYLUM DETERMINATIONS UNDER**
8 **THE IMMIGRATION AND NATIONALITY ACT.**

9 (a) PERSECUTION ON ACCOUNT OF POLITICAL OPIN-
10 ION.—

11 (1) IN GENERAL.—For purposes of refugee de-
12 terminations under section 207 of the Immigration
13 and Nationality Act (8 U.S.C. 1157), an individual
14 whose citizenship, nationality, or residency is re-
15 voked for having submitted to any United States
16 Government agency a nonfrivolous application for
17 refugee status, asylum, or any other immigration
18 benefit under the immigration laws (as defined in
19 section 101(a) of such Act (8 U.S.C. 1101(a))) shall
20 be considered to have suffered persecution on ac-
21 count of political opinion.

22 (2) NATIONALS OF THE PEOPLE’S REPUBLIC OF
23 CHINA.—For purposes of refugee determinations
24 under section 207 of the Immigration and Nation-
25 ality Act (8 U.S.C. 1157), a national of the People’s

1 Republic of China whose residency in the Hong
2 Kong Special Administrative Region, or any other
3 area within the jurisdiction of the People's Republic
4 of China, as determined by the Secretary of State,
5 is revoked for having submitted to any United
6 States Government agency a nonfrivolous application
7 for refugee status, asylum, or any other immigration
8 benefit under the immigration laws shall be consid-
9 ered to have suffered persecution on account of po-
10 litical opinion.

11 (b) CHANGED CIRCUMSTANCES.—For purposes of
12 asylum determinations under section 208 of the Immigra-
13 tion and Nationality Act (8 U.S.C. 1158), the revocation
14 of the citizenship, nationality, or residency of an individual
15 for having submitted to any United States Government
16 agency a nonfrivolous application for refugee status, asy-
17 lum, or any other immigration benefit under the immigra-
18 tion laws shall be considered to be a changed circumstance
19 under subsection (a)(2)(D) of such section.

20 **SEC. 5. STATEMENT OF POLICY ON ENCOURAGING ALLIES**
21 **AND PARTNERS TO MAKE SIMILAR ACCOM-**
22 **MODATIONS.**

23 It is the policy of the United States to encourage al-
24 lies and partners of the United States to make accom-
25 modations similar to the accommodations made under this

1 Act for residents of the Hong Kong Special Administrative
2 Region who are fleeing oppression by the Government of
3 the People's Republic of China.

4 **SEC. 6. TERMINATION.**

5 This Act shall cease to have effect on the date that
6 is 5 years after the date of the enactment of this Act.

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