

118TH CONGRESS  
1ST SESSION

# S. 425

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

FEBRUARY 14, 2023

Mr. GRAHAM introduced the following bill; which was read twice and referred to the Committee on the Judiciary

---

## A BILL

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside 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 “Secure and Protect  
5 Act of 2023”.

1 **SEC. 2. PROTECTION OF MINORS.**

2 (a) PROMOTING FAMILY UNITY.—Section 235 of the  
3 William Wilberforce Trafficking Victims Protection Reau-  
4 thorization Act of 2008 (8 U.S.C. 1232) is amended by  
5 adding at the end the following:

6 “(j) PROMOTING FAMILY UNITY.—

7 “(1) DETENTION OF ALIEN MINORS.—

8 “(A) IN GENERAL.—Notwithstanding any  
9 other provision of law, judicial determination,  
10 consent decree, or settlement agreement, the  
11 Secretary of Homeland Security may detain any  
12 alien minor (other than an unaccompanied alien  
13 child) who is inadmissible to the United States  
14 under section 212(a) of the Immigration and  
15 Nationality Act (8 U.S.C. 1182(a)) or remov-  
16 able from the United States under section  
17 237(a) of that Act (8 U.S.C. 1227(a)) pending  
18 the completion of removal proceedings, regard-  
19 less of whether the alien minor was previously  
20 an unaccompanied alien child.

21 “(B) PRIORITY REMOVAL CASES.—The At-  
22 torney General shall—

23 “(i) prioritize the removal proceedings  
24 of an alien minor, or a family unit that in-  
25 cludes an alien minor, detained under sub-  
26 paragraph (A); and

1           “(ii) set a case completion goal of not  
2           more than 100 days for such proceedings.

3           “(C) DETENTION AND RELEASE DECISIONS.—The decision to detain or release an  
4           alien minor described in subparagraph (A)—

5           “(i) shall be governed solely by sections 212(d)(5), 217, 235, 236, and 241 of  
6           the Immigration and Nationality Act (8  
7           U.S.C. 1182(d)(5), 1187, 1225, 1226, and  
8           1231) and implementing regulations or  
9           policies; and  
10          “(ii) shall not be governed by stand-

11          ards, requirements, restrictions, or procedures contained in a judicial decree or settlement relating to the authority to detain  
12          or release alien minors.  
13          “(2) CONDITIONS OF DETENTION.—

14          “(A) IN GENERAL.—Notwithstanding any  
15          other provision of law, judicial determination,  
16          consent decree, or settlement agreement, the  
17          Secretary of Homeland Security shall determine, in the sole discretion of the Secretary, the  
18          conditions of detention applicable to an alien  
19          minor described in paragraph (1)(A) regardless  
20          regardless  
21          regardless  
22          regardless  
23          regardless  
24          regardless

1 of whether the alien minor was previously an  
2 unaccompanied alien child.

3 “(B) NO JUDICIAL REVIEW.—A determina-  
4 tion under subparagraph (A) shall not be sub-  
5 ject to judicial review.

6 “(3) RULE OF CONSTRUCTION.—Nothing in  
7 this section—

8 “(A) affects the eligibility for bond or pa-  
9 role of an alien; or

10 “(B) limits the authority of a court to hear  
11 a claim arising under the Constitution of the  
12 United States.

13 “(4) PREEMPTION OF STATE LICENSING RE-  
14 QUIREMENTS.—Notwithstanding any other provision  
15 of law, judicial determination, consent decree, or set-  
16 tlement agreement, a State may not require an im-  
17 migration detention facility used to detain families  
18 consisting of one or more children who have not at-  
19 tained 18 years of age and the parents or legal  
20 guardians of such children, that is located in the  
21 State, to be licensed by the State or any political  
22 subdivision thereof.

23 “(5) CONDITIONS OF CUSTODY.—The Secretary  
24 of Homeland Security shall ensure that each—

1           “(A) family residential facility is secure  
2           and safe; and

3           “(B) alien child and accompanying parent  
4           at a family residential facility has—

5                   “(i) suitable living accommodations;

6                   “(ii) access to drinking water and  
7                   food;

8                   “(iii) timely access to medical assist-  
9                   ance, including mental health assistance;  
10                  and

11                  “(iv) access to any other service nec-  
12                  essary for the adequate care of a minor  
13                  child.

14           “(6) AUTHORIZATION OF APPROPRIATIONS.—

15           There are authorized to be appropriated such sums  
16           as may be necessary to carry out this subsection.

17           “(k) APPLICABILITY OF CONSENT DECREES, SET-  
18           TLEMENTS, AND JUDICIAL DETERMINATIONS.—

19                   “(1) FLORES SETTLEMENT AGREEMENT INAP-  
20                   PLICABLE.—Any conduct or activity that was, before  
21                   the date of the enactment of this subsection, subject  
22                   to any restriction or obligation imposed by the stipu-  
23                   lated settlement agreement filed on January 17,  
24                   1997, in the United States District Court for the  
25                   Central District of California in *Flores v. Reno*, CV

1 85–4544–RJK, (commonly known as the ‘Flores set-  
2 tlement agreement’), or imposed by any amendment  
3 of that agreement or judicial determination based on  
4 that agreement—

5 “(A) shall be subject to the restrictions  
6 and obligations under subsection (j) or imposed  
7 under any other provision of this Act; and

8 “(B) shall not be subject to the restrictions  
9 and the obligations imposed by such settlement  
10 agreement or judicial determination.

11 “(2) OTHER SETTLEMENT AGREEMENTS OR  
12 CONSENT DECREES.—In any civil action with respect  
13 to the conditions of detention of alien children, the  
14 court shall not enter or approve a settlement agree-  
15 ment or consent decree unless it complies with the  
16 limitations set forth in subsection (j).”.

17 (b) SAFE AND PROMPT RETURN OF UNACCOM-  
18 PANIED ALIEN CHILDREN.—Section 235(a) of the Wil-  
19 liam Wilberforce Trafficking Victims Protection Reauthor-  
20 ization Act of 2008 (8 U.S.C. 1232(a)) is amended—

21 (1) in paragraph (2)—

22 (A) by amending the paragraph heading to  
23 read as follows: “RULES FOR REPATRIATING  
24 UNACCOMPANIED ALIEN CHILDREN”;

1 (B) in subparagraph (A), in the matter  
2 preceding clause (i), by striking “who is a na-  
3 tional or habitual resident of a country that is  
4 contiguous with the United States shall be  
5 treated in accordance with subparagraph (B)”  
6 and inserting “shall be treated in accordance  
7 with this paragraph or subsection (b), as appli-  
8 cable”;

9 (C) in subparagraph (B)—

10 (i) by redesignating clauses (i) and  
11 (ii) as subclauses (I) and (II), and moving  
12 the subclauses two ems to the right;

13 (ii) in the matter preceding subclause  
14 (I), as so redesignated, by striking “An im-  
15 migration officer” and inserting the fol-  
16 lowing:

17 “(i) IN GENERAL.—An immigration  
18 officer”; and

19 (iii) by adding at the end the fol-  
20 lowing:

21 “(ii) CHILDREN UNABLE TO MAKE  
22 DECISIONS WITH RESPECT TO WITH-  
23 DRAWAL OF APPLICATIONS FOR ADMIS-  
24 SION.—If at the time of initial apprehen-  
25 sion, an immigration officer determines, in

1 the sole and unreviewable discretion of the  
2 immigration officer, that an unaccom-  
3 panied alien child is not able to make an  
4 independent decision with respect to the  
5 withdrawal of his or her application for ad-  
6 mission to the United States, the immigra-  
7 tion officer shall refer the unaccompanied  
8 alien child for removal proceedings under  
9 section 240 of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1229a).

11 “(iii) CHILDREN ABLE TO MAKE DECI-  
12 SIONS WITH RESPECT TO WITHDRAWAL OF  
13 APPLICATIONS FOR ADMISSION.—

14 “(I) IN GENERAL.—Except as  
15 described in subclause (III)(aa), not-  
16 withstanding any other provision of  
17 law that requires removal proceedings  
18 under section 240 of the Immigration  
19 and Nationality Act (8 U.S.C. 1229a),  
20 including subparagraph (D) and sec-  
21 tion 235 of the Immigration and Na-  
22 tionality Act (8 U.S.C. 1225), in the  
23 case of an unaccompanied alien child  
24 who is able to make an independent  
25 decision with respect to the with-



1 drawal of his or her application for  
2 admission to the United States, as de-  
3 termined by an immigration officer at  
4 the time of initial apprehension, and  
5 does not wish to withdraw such appli-  
6 cation, the immigration officer shall—

7 “(aa) make a record of any  
8 finding of inadmissibility or de-  
9 portability, which shall be the  
10 basis of a repatriation order,  
11 which shall be carried out and  
12 the child shall be returned to his  
13 or her country of nationality or  
14 last habitual residence, unless the  
15 child is referred—

16 “(AA) for removal pro-  
17 ceedings pursuant to sub-  
18 clause (III)(aa); or

19 “(BB) to an immigra-  
20 tion judge for a determina-  
21 tion pursuant to subclause  
22 (III)(bb); and

23 “(bb) refer the unaccom-  
24 panied alien child for an inter-  
25 view under subclause (II) to de-

1 termine whether it is more likely  
2 than not that the unaccompanied  
3 alien child—

4 “(AA) will be subjected  
5 to trafficking on return to  
6 his or her country of nation-  
7 ality or last habitual resi-  
8 dence; and

9 “(BB) would be grant-  
10 ed asylum under section 208  
11 of the Immigration and Na-  
12 tionality Act (8 U.S.C.  
13 1158), withholding of re-  
14 moval under section  
15 241(b)(3) of that Act (8  
16 U.S.C. 1231(b)(3)), or pro-  
17 tection under the regulations  
18 issued pursuant to the legis-  
19 lation implementing the  
20 Convention against Torture  
21 and Other Cruel, Inhuman  
22 or Degrading Treatment or  
23 Punishment, done at New  
24 York, December 10, 1984  
25 (referred to in this clause as

1 the ‘Convention Against  
2 Torture’).

3 “(II) INTERVIEW.—

4 “(aa) IN GENERAL.—An  
5 interview under subclause (I)(bb)  
6 shall be conducted by an immi-  
7 gration officer with specialized  
8 training relating to—

9 “(AA) applicable law;

10 “(BB) interviewing  
11 children; and

12 “(CC) child trafficking.

13 “(III) DETERMINATIONS BASED  
14 ON INTERVIEW.—

15 “(aa) REMOVAL PRO-  
16 CEEDINGS.—An unaccompanied  
17 alien child described in subclause  
18 (I) shall be referred for removal  
19 proceedings under section 240 of  
20 the Immigration and Nationality  
21 Act (8 U.S.C. 1229a) if, based  
22 on an interview under item (bb)  
23 of that subclause, the immigra-  
24 tion officer makes a determina-  
25 tion that it is more likely than

1 not that the unaccompanied alien  
2 child will be trafficked on return  
3 to his or her country of nation-  
4 ality or last habitual residence.

5 “(bb) ASYLUM ONLY DETER-  
6 MINATIONS.—

7 “(AA) IN GENERAL.—

8 If, based on an interview  
9 under subclause (I)(bb), the  
10 immigration officer makes a  
11 determination that it is  
12 more likely than not that the  
13 claim of an unaccompanied  
14 alien child for asylum under  
15 section 208 of the Immigra-  
16 tion and Nationality Act (8  
17 U.S.C. 1158), withholding of  
18 removal under section  
19 241(b)(3) of that Act (8  
20 U.S.C. 1231(b)(3)), or pro-  
21 tection under the Convention  
22 Against Torture will be  
23 granted, the unaccompanied  
24 alien child shall be referred  
25 to an immigration judge

1 solely for a determination  
2 with respect to whether the  
3 unaccompanied alien child is  
4 eligible for asylum under  
5 section 208 of that Act (8  
6 U.S.C. 1158), withholding of  
7 removal under section  
8 241(b)(3) of that Act (8  
9 U.S.C. 1231(b)(3)), or pro-  
10 tection under the regulations  
11 issued pursuant to the legis-  
12 lation implementing the  
13 Convention Against Torture  
14 and, if otherwise eligible for  
15 asylum, whether asylum  
16 shall be granted in the exer-  
17 cise of discretion.

18 “(BB) REPATRI-  
19 ATION.—An unaccompanied  
20 alien child referred to an im-  
21 migration judge under  
22 subitem (AA) shall be re-  
23 turned to his or her country  
24 of nationality or last habit-  
25 ual residence if the immigra-

1                   tion judge finds that the un-  
2                   accompanied alien child is  
3                   not entitled to asylum, with-  
4                   holding of removal, or pro-  
5                   tection under the regulations  
6                   issued pursuant to the legis-  
7                   lation implementing the  
8                   Convention Against Torture.

9                   “(IV) DISCRETION OF IMMIGRA-  
10                  TION OFFICER; NO JUDICIAL RE-  
11                  VIEW.—A decision of an immigration  
12                  officer under this clause, and the  
13                  issuance of a repatriation order, shall  
14                  be in the sole, unreviewable discretion  
15                  of the immigration officer.

16                  “(iv) DETENTION DURING PRO-  
17                  CEEDINGS.—

18                  “(I) IN GENERAL.—Except as  
19                  provided in subclauses (II) and (III),  
20                  notwithstanding any other provision of  
21                  law, settlement agreement, or consent  
22                  decree, an unaccompanied alien child  
23                  shall not be released from the custody  
24                  of the Secretary of Homeland Security  
25                  or the Director of the Office of Ref-

1 ugee Resettlement during the pend-  
2 ency of the immigration or removal  
3 proceedings of the unaccompanied  
4 alien child.

5 “(II) RELEASE TO SPONSOR.—

6 “(aa) IN GENERAL.—Except  
7 as provided in item (bb), the Di-  
8 rector of the Office of Refugee  
9 Resettlement may, in the sole,  
10 unreviewable discretion of the Di-  
11 rector, release an unaccompanied  
12 alien child to a sponsor who is a  
13 verified parent or legal guardian  
14 or, in the case of an unaccom-  
15 panied alien child who does not  
16 have a verified parent or legal  
17 guardian in the United States, a  
18 close relative, a distant relative,  
19 or an unrelated adult.

20 “(bb) EXCEPTION.—The Di-  
21 rector of the Office of Refugee  
22 Resettlement shall not under any  
23 circumstance release an unac-  
24 companied alien child to a spon-  
25 sor or a member of the sponsor’s

1 household who has committed an  
2 offense described in section  
3 236(c)(1) of the Immigration and  
4 Nationality Act (8 U.S.C.  
5 1226(c)(1)), is detained while in  
6 removal proceedings under sec-  
7 tion 240 of that Act (8 U.S.C.  
8 1229a), has assisted or facili-  
9 tated the smuggling or traf-  
10 ficking of a child, or would other-  
11 wise pose a threat to the well-  
12 being of the unaccompanied alien  
13 child.

14 “(cc) PROVISION OF INFOR-  
15 MATION TO SECRETARY OF  
16 HOMELAND SECURITY.—The Sec-  
17 retary of Health and Human  
18 Services shall provide to the Sec-  
19 retary of Homeland Security in-  
20 formation relating to the sponsor,  
21 potential sponsor, and each mem-  
22 ber of the household of the spon-  
23 sor or potential sponsor, of each  
24 unaccompanied alien child.



1                   “(III) PROGRAMS FOR UNACCOM-  
2                   PANIED ALIEN CHILDREN WITHOUT  
3                   SPONSORS.—In the case of an unac-  
4                   companied alien child who cannot be  
5                   placed with a sponsor under item  
6                   (aa), the Director of the Office of Ref-  
7                   ugee Resettlement may release the  
8                   child to a program for unaccompanied  
9                   alien minors, such as a program  
10                  under section 412(d) of the Immigra-  
11                  tion and Nationality Act (8 U.S.C.  
12                  1522(d)).”; and

13                  (D) in subparagraph (C)—

14                   (i) by amending the subparagraph  
15                   heading to read as follows: “AGREEMENTS  
16                   WITH FOREIGN COUNTRIES.—”; and

17                   (ii) in the matter preceding clause (i),  
18                   by striking “countries contiguous to the  
19                   United States” and inserting “Canada, El  
20                   Salvador, Guatemala, Honduras, Mexico,  
21                   and any other foreign country the Sec-  
22                   retary considers appropriate”;

23                  (2) by striking paragraph (3);

24                  (3) by redesignating paragraphs (4) and (5) as  
25                  paragraphs (3) and (4), respectively; and

1           (4) in paragraph (4)(D), as so redesignated, by  
2           striking “from a contiguous country”.

3           (c) PROTECTING INTEGRITY OF SPECIAL IMMIGRANT  
4 JUVENILE VISA PROGRAM.—Section 101(a)(27)(J) of the  
5 Immigration and Nationality Act (8 U.S.C.  
6 1101(a)(27)(J)) is amended—

7           (1) in clause (i), by striking “, and whose” and  
8           all that follows through “State law”; and

9           (2) in clause (iii)—

10           (A) in subclause (I), by striking “and” at  
11           the end; and

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

13                   “(III) an alien may not be grant-  
14                   ed special immigrant juvenile status  
15                   under this subparagraph if the juve-  
16                   nile court determines that the alien  
17                   may be returned to the legal custody  
18                   of any parent of the alien; and

19                   “(IV)(aa) in assessing whether  
20                   an alien is entitled to special immi-  
21                   grant juvenile classification under this  
22                   subparagraph, the Secretary of Home-  
23                   land Security may, in the discretion of  
24                   the Secretary, determine whether—

1           “(AA) an order of depend-  
2           ency or custody issued for pur-  
3           poses of clause (i) was issued  
4           during juvenile court abuse and  
5           neglect proceedings for the pur-  
6           pose of providing permanency to  
7           an alien the parents of whom  
8           have been found to be unfit; and

9           “(BB) such order was  
10          issued by a court of appropriate  
11          jurisdiction; and

12          “(bb) notwithstanding any other  
13          provision of law, no court shall have  
14          jurisdiction to review a determination  
15          made by the Secretary of Homeland  
16          Security under this subclause;”.

17          (d) PAROLE REFORM.—

18                 (1) IN GENERAL.—Paragraph (5) of section  
19                 212(d) (8 U.S.C. 1182(d)) is amended to read as  
20                 follows:

21                         “(5) HUMANITARIAN AND SIGNIFICANT PUBLIC  
22                         BENEFIT PAROLE.—

23                                 “(A) IN GENERAL.—Subject to the provi-  
24                                 sions of this paragraph and section 214(f)(2),  
25                                 the Secretary of Homeland Security, in the sole

1 discretion of the Secretary of Homeland Secu-  
2 rity, may, on an individual case-by-case basis  
3 and not according to eligibility criteria describ-  
4 ing an entire class of potential parole recipients,  
5 parole an alien into the United States tempo-  
6 rarily, under such conditions as the Secretary of  
7 Homeland Security may prescribe, only—

8 “(i) for an urgent humanitarian rea-  
9 son (as described under subparagraph  
10 (B)); or

11 “(ii) for a reason deemed strictly for  
12 the significant public benefit (as described  
13 under subparagraph (C)).

14 “(B) HUMANITARIAN PAROLE.—The Sec-  
15 retary of Homeland Security may parole an  
16 alien based on an urgent humanitarian reason  
17 described in this subparagraph only if—

18 “(i) the alien has a medical emergency  
19 and the alien cannot obtain necessary  
20 treatment in the foreign state in which the  
21 alien is residing or the medical emergency  
22 is life-threatening and there is insufficient  
23 time for the alien to be admitted through  
24 the normal visa process;

1           “(ii) the alien is the legal guardian or  
2 otherwise has legal authority to make med-  
3 ical decisions on behalf of an alien de-  
4 scribed in clause (i);

5           “(iii) the alien is needed in the United  
6 States in order to donate an organ or  
7 other tissue for transplant into an imme-  
8 diate family member and there is insuffi-  
9 cient time for the alien to be admitted  
10 through the normal visa process;

11           “(iv) the alien has an immediate fam-  
12 ily member in the United States whose  
13 death is imminent and the alien could not  
14 arrive in the United States in time to see  
15 such family member alive if the alien were  
16 to be admitted through the normal visa  
17 process;

18           “(v) the alien is a lawful applicant for  
19 adjustment of status under section 245; or

20           “(vi) the alien was lawfully granted  
21 status under section 208 or lawfully admit-  
22 ted under section 207.

23           “(C) SIGNIFICANT PUBLIC BENEFIT PA-  
24 ROLE.—The Secretary of Homeland Security  
25 may parole an alien based on a reason deemed

1 strictly for the significant public benefit de-  
2 scribed in this subparagraph only if—

3 “(i) the presence of the alien is nec-  
4 essary in a matter such as a criminal in-  
5 vestigation or prosecution, espionage activ-  
6 ity, or other similar law enforcement or in-  
7 telligence-related activity;

8 “(ii) the presence of the alien is nec-  
9 essary in a civil matter concerning the ter-  
10 mination of parental rights;

11 “(iii) the alien has previously assisted  
12 the United States Government in a matter  
13 described in clause (i) and the life of the  
14 alien would be threatened if the alien were  
15 not permitted to enter the United States;

16 “(iv) in the case of an alien detained  
17 under section 235, it is necessary to re-  
18 lease from detention and grant parole to  
19 the alien due to a safety concern or for the  
20 preservation of life and property, including  
21 in the case of—

22 “(I) lack of adequate bed space  
23 in a detention facility; or

24 “(II) an alien who has a serious  
25 medical condition such that continued

1                   detention would be life-threatening or  
2                   would risk serious bodily injury, dis-  
3                   figurement, or permanent disability;  
4                   or

5                   “(v) in the case of an alien returned  
6                   to a foreign territory contiguous to the  
7                   United States pursuant to section  
8                   235(b)(2)(C), it is necessary to parole the  
9                   alien into the United States for an immi-  
10                  gration proceeding.

11                  “(D) LIMITATION ON THE USE OF PAROLE  
12                  AUTHORITY.—The Secretary of Homeland Se-  
13                  curity may not use the parole authority under  
14                  this paragraph—

15                   “(i) to circumvent immigration policy  
16                   established by law;

17                   “(ii) to admit classes of aliens who do  
18                   not qualify for admission under established  
19                   legal immigration categories; or

20                   “(iii) to supplement established immi-  
21                   gration categories without an Act of Con-  
22                   gress.

23                  “(E) PAROLE NOT AN ADMISSION.—Parole  
24                  of an alien under this paragraph shall not be  
25                  considered an admission of the alien into the

1 United States. When the purposes of the parole  
2 of an alien have been served, or such parole is  
3 revoked, as determined by the Secretary of  
4 Homeland Security, the alien shall immediately  
5 return or be returned to the custody from which  
6 the alien was paroled and the alien shall be con-  
7 sidered for admission to the United States on  
8 the same basis as other similarly situated appli-  
9 cants for admission.

10 “(F) REPORT TO CONGRESS.—Not later  
11 than 90 days after the end of each fiscal year,  
12 the Secretary of Homeland Security shall sub-  
13 mit a report to the Committee on the Judiciary  
14 of the Senate and the Committee on the Judici-  
15 ary of the House of Representatives describing  
16 the number and categories of aliens paroled  
17 into the United States under this paragraph.  
18 Each such report shall contain information and  
19 data concerning the number and categories of  
20 aliens paroled, the duration of parole, and the  
21 current status of aliens paroled during the pre-  
22 ceding fiscal year.”.

23 (2) EFFECTIVE DATE.—The amendment made  
24 by paragraph (1) shall take effect on the first day



1 of the first month beginning more than 60 days  
2 after the date of the enactment of this Act.

3 **SEC. 3. ENDING ABUSE OF ASYLUM SYSTEM.**

4 (a) STANDARDS TO DETER FRAUD AND ADVANCE  
5 MERITORIOUS ASYLUM CLAIMS.—Section 235(b)(1)(B) of  
6 the Immigration and Nationality Act (8 U.S.C.  
7 1225(b)(1)(B)) is amended—

8 (1) by amending clause (v) to read as follows:

9 “(v) CREDIBLE FEAR OF PERSECU-  
10 TION.—

11 “(I) IN GENERAL.—For purposes  
12 of this subparagraph, the term ‘cred-  
13 ible fear of persecution’ means that it  
14 is more likely than not that the alien  
15 would be able to establish eligibility  
16 for asylum under section 208—

17 “(aa) taking into account  
18 such facts as are known to the  
19 officer; and

20 “(bb) only if the officer has  
21 determined, under subsection  
22 (b)(1)(B)(iii) of such section,  
23 that it is more likely than not  
24 that the statements made by the

1 alien or on behalf of the alien are  
2 true.

3 “(II) BARS TO ASYLUM.—An  
4 alien shall not be determined to have  
5 a credible fear of persecution if the  
6 alien is prohibited from applying for  
7 or receiving asylum, including an alien  
8 subject to a limitation or condition  
9 under subsection (a)(2) or (b)(2) (in-  
10 cluding a regulation promulgated  
11 under such subsection) of section  
12 208.”; and

13 (2) by adding at the end the following:

14 “(vi) ELIGIBILITY FOR RELIEF.—

15 “(I) CREDIBLE FEAR REVIEW BY  
16 IMMIGRATION JUDGE.—An alien de-  
17 termined to have a credible fear of  
18 persecution shall be referred to an im-  
19 migration judge for review of such de-  
20 termination, which shall be limited to  
21 a determination whether the alien—

22 “(aa) is eligible for asylum  
23 under section 208, withholding of  
24 removal under section 241(b)(3),  
25 or protection under the Conven-

1 tion against Torture and Other  
2 Cruel, Inhuman or Degrading  
3 Treatment or Punishment, done  
4 at New York, December 10, 1984  
5 (referred to in this clause as the  
6 ‘Convention Against Torture’);  
7 and

8 “(bb) merits a grant of asy-  
9 lum in the exercise of discretion.

10 “(II) ALIENS WITH REASONABLE  
11 FEAR OF PERSECUTION.—

12 “(aa) IN GENERAL.—Except  
13 as provided in item (bb), if an  
14 alien referred under subpara-  
15 graph (A)(ii) is determined to  
16 have a reasonable fear of perse-  
17 cution or torture, the alien shall  
18 be eligible only for consideration  
19 of an application for withholding  
20 of removal under section  
21 241(b)(3) or protection under the  
22 Convention Against Torture.

23 “(bb) EXCEPTION.—An  
24 alien shall not be eligible for con-  
25 sideration of an application for

1 relief under item (aa) if the fail-  
2 ure of the alien to establish a  
3 credible fear of persecution pre-  
4 cludes the alien from eligibility  
5 for such relief.

6 “(cc) LIMITATION.—An  
7 alien whose application for relief  
8 is adjudicated under item (aa)  
9 shall not be eligible for any other  
10 form of relief or protection from  
11 removal.

12 “(vii) INELIGIBILITY FOR REMOVAL  
13 PROCEEDINGS.—An alien referred under  
14 subparagraph (A)(ii) shall not be eligible  
15 for a hearing under section 240.”.

16 (b) APPLICATIONS FOR ASYLUM.—Section 208 of the  
17 Immigration and Nationality Act (8 U.S.C. 1158) is  
18 amended—

19 (1) in subsection (a)—

20 (A) by striking paragraph (1) and insert-  
21 ing the following:

22 “(1) IN GENERAL.—Only an alien who has en-  
23 tered the United States through a designated port of  
24 entry may apply for asylum under this section or  
25 section 235(b), as applicable.”; and

1 (B) in paragraph (2)—

2 (i) in subparagraph (A), by striking “,  
3 pursuant to a bilateral or multilateral  
4 agreement,”; and

5 (ii) in subparagraph (E), by striking  
6 “Subparagraphs (A) and (B)” and insert-  
7 ing “Subparagraph (A)”; and

8 (2) in subsection (b)(3), by striking subpara-  
9 graph (C).

10 (c) AUTHORITY FOR CERTAIN ALIENS TO APPLY FOR  
11 ASYLUM.—Section 208(a)(2) of the Immigration and Na-  
12 tionality Act (8 U.S.C. 1158(a)(2)) is amended by adding  
13 at the end the following:

14 “(F) INELIGIBILITY FOR ASYLUM.—

15 “(i) IN GENERAL.—Notwithstanding  
16 any other provision of law, including para-  
17 graph (1), except as provided in clause (ii),  
18 an alien is ineligible for asylum if the  
19 alien—

20 “(I) has been convicted of a fel-  
21 ony;

22 “(II) is inadmissible under sec-  
23 tion 212(a) (except paragraphs (4),  
24 (5), and (7));

1 “(III) has been previously re-  
2 moved from the United States; or

3 “(IV) is a national or habitual  
4 resident of—

5 “(aa) a country in Central  
6 America that has a refugee appli-  
7 cation and processing center; or

8 “(bb) a country contiguous  
9 to such a country (other than  
10 Mexico).

11 “(ii) EXCEPTION.—Notwithstanding  
12 clause (i), paragraph (1) shall not apply to  
13 any alien who is present in the United  
14 States on the date of the enactment of this  
15 subparagraph.”.

16 **SEC. 4. ESTABLISHMENT OF REFUGEE APPLICATION AND**  
17 **PROCESSING CENTERS.**

18 (a) DEFINITION.—Section 101(a) of the Immigration  
19 and Nationality Act (8 U.S.C. 1101(a)) is amended by  
20 adding at the end the following:

21 “(53) The term ‘refugee application and proc-  
22 essing center’—

23 “(A) means a facility designated under sec-  
24 tion 207(g) by the Secretary of State to accept

1 and process applications for refugee admissions  
2 to the United States; and

3 “(B) may include a United States em-  
4 bassy, consulate, or other diplomatic facility.”.

5 (b) DESIGNATION.—Section 207 of the Immigration  
6 and Nationality Act (8 U.S.C. 1157) is amended by add-  
7 ing at the end the following:

8 “(g) REFUGEE APPLICATION AND PROCESSING CEN-  
9 TERS.—

10 “(1) DESIGNATION.—Not later than 240 days  
11 after the date of the enactment of this subsection,  
12 the Secretary of State, in consultation with the Sec-  
13 retary of Homeland Security, shall designate refugee  
14 application and processing centers outside the  
15 United States.

16 “(2) LOCATIONS.—The Secretary of State shall  
17 establish—

18 “(A) not fewer than 1 refugee application  
19 and processing center in Mexico; and

20 “(B) not fewer than 3 refugee application  
21 and processing centers in Central America at  
22 locations selected by the Secretary of State, in  
23 consultation with the Secretary of Homeland  
24 Security.

1           “(3) DUTIES OF SECRETARY OF STATE.—The  
2           Secretary of State, in coordination with the Sec-  
3           retary of Homeland Security, shall ensure that any  
4           alien who is a national or habitual resident of a  
5           country in which a refugee application and proc-  
6           essing center is located, or a country contiguous to  
7           such a country, may apply for refugee status at a  
8           refugee application and processing center.

9           “(4) ADJUDICATION BY REFUGEE OFFICERS.—  
10          An application for refugee status submitted to a ref-  
11          ugee application and processing center shall be adju-  
12          dicated by a refugee officer.

13          “(5) PRIORITY.—The Secretary of State shall  
14          ensure that refugee application and processing cen-  
15          ters accord priority to applications submitted—

16                 “(A) by aliens who have been referred by  
17                 an authorized nongovernmental organization, as  
18                 determined by the Secretary of State;

19                 “(B) not later than 90 days after the date  
20                 on which such referral is made; and

21                 “(C) in accordance with the requirements  
22                 and procedures established by the Secretary of  
23                 State under this subsection.

24          “(6) APPLICATION FEES.—



1           “(A) IN GENERAL.—The Secretary of  
2           State and the Secretary of Homeland Security  
3           shall charge, collect, and account for fees pre-  
4           scribed by each such Secretary pursuant to sub-  
5           sections (m) and (n) of section 286 and section  
6           9701 of title 31, United States Code, for the  
7           purpose of receiving, docketing, processing, and  
8           adjudicating an application under this sub-  
9           section.

10           “(B) BASIS FOR FEES.—The fees pre-  
11           scribed under subparagraph (A) shall be based  
12           on a consideration of the amount necessary to  
13           deter frivolous applications and the cost for  
14           processing the application, including the imple-  
15           mentation of program integrity and anti-fraud  
16           measures.”.

17           (c) SUNSET.—The amendments made by this section  
18           shall cease to be effective beginning on the date that is  
19           three years and 240 days after the date of the enactment  
20           of this Act.

21           **SEC. 5. REGULATIONS.**

22           Notwithstanding section 553(b) of title 5, United  
23           States Code, not later than 210 days after the date of  
24           the enactment of this Act, the Secretary of Homeland Se-  
25           curity and the Attorney General shall, jointly or sepa-

1 rately, publish in the Federal Register interim final rules  
2 to implement the amendments made by section 3(c) and  
3 section 4.

4 **SEC. 6. HIRING AUTHORITY.**

5 (a) IMMIGRATION JUDGES.—The Attorney General  
6 shall increase—

7 (1) the number of immigration judges by not  
8 fewer than an additional 500 judges, as compared to  
9 the number of immigration judges as of the date of  
10 the enactment of this Act; and

11 (2) the corresponding number of support staff,  
12 as necessary.

13 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT AT-  
14 TORNEYS.—The Director of U.S. Immigration and Cus-  
15 toms Enforcement shall increase the number of attorneys  
16 and staff employed by U.S. Immigration and Customs En-  
17 forcement by the number that is consistent with the work-  
18 load staffing model to support the increase in immigration  
19 judges.

20 (c) AUTHORIZATION OF APPROPRIATIONS.—There  
21 are authorized to be appropriated such sums as may be  
22 necessary for—

23 (1) the hiring of immigration judges, support  
24 staff, and U.S. Immigration and Customs Enforce-  
25 ment attorneys under this section; and

1           (2) the lease, purchase, or construction of facili-  
2           ties or equipment (including video teleconferencing  
3           equipment and equipment for electronic filing of im-  
4           migration cases), and the transfer of federally owned  
5           temporary housing units to serve as facilities, for—

6                   (A) the increased number of immigration  
7                   judges, attorneys, and support staff under this  
8                   section; and

9                   (B) conducting immigration court pro-  
10                  ceedings in close proximity to the locations at  
11                  which aliens are apprehended and detained.

○