

118TH CONGRESS
1ST SESSION

H. R. 3217

To amend the Immigration and Nationality Act to tighten asylum laws,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 11, 2023

Mr. CARTER of Texas introduced the following bill; which was referred to the
Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to tighten
asylum laws, 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 “Updated Standards
5 for Asylum Act of 2023” or the “USA Act of 2023”.

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 “claim” and all that follows, and inserting “claim,
10 as determined pursuant to section 208(b)(1)(B)(iii), and

1 such other facts as are known to the officer, that the alien
2 could establish eligibility for asylum under section 208,
3 and it is more probable than not that the statements made
4 by, and on behalf of, the alien in support of the alien's
5 claim are true.".

6 **SEC. 3. JURISDICTION OF ASYLUM APPLICATIONS.**

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

10 **SEC. 4. RECORDING EXPEDITED REMOVAL AND CREDIBLE**
11 **FEAR INTERVIEWS.**

12 (a) IN GENERAL.—The Secretary of Homeland Secu-
13 rity shall establish quality assurance procedures and take
14 steps to effectively ensure that questions by employees of
15 the Department of Homeland Security exercising expe-
16 dited removal authority under section 235(b) of the Immi-
17 gration and Nationality Act (8 U.S.C. 1225(b)) are asked
18 in a uniform manner, to the extent possible, and that both
19 these questions and the answers provided in response to
20 them are recorded in a uniform fashion.

21 (b) FACTORS RELATING TO SWORN STATEMENTS.—
22 Where practicable, any sworn or signed written statement
23 taken of an alien as part of the record of a proceeding
24 under section 235(b)(1)(A) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1225(b)(1)(A)) shall be accom-

1 panied by a recording of the interview which served as the
2 basis for that sworn statement.

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

8 (d) RECORDINGS IN IMMIGRATION PROCEEDINGS.—
9 There shall be an audio or audio visual recording of inter-
10 views of aliens subject to expedited removal. The recording
11 shall be included in the record of proceeding and shall be
12 considered as evidence in any further proceedings involv-
13 ing the alien.

14 (e) NO PRIVATE RIGHT OF ACTION.—Nothing in this
15 section shall be construed to create any right, benefit,
16 trust, or responsibility, whether substantive or procedural,
17 enforceable in law or equity by a party against the United
18 States, its departments, agencies, instrumentalities, enti-
19 ties, officers, employees, or agents, or any person, nor does
20 this section create any right of review in any administra-
21 tive, judicial, or other proceeding.

22 **SEC. 5. SAFE THIRD COUNTRY.**

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

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

4 (2) by striking “removed, pursuant to a bilat-
5 eral or multilateral agreement, to” and inserting
6 “removed to”.

7 **SEC. 6. RENUNCIATION OF ASYLUM STATUS PURSUANT TO**
8 **RETURN TO HOME COUNTRY.**

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

12 “(4) RENUNCIATION OF STATUS PURSUANT TO
13 RETURN TO HOME COUNTRY.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), any alien who is granted
16 asylum under this Act, who, absent changed
17 country conditions, subsequently returns to the
18 country of such alien’s nationality or, in the
19 case of an alien having no nationality, returns
20 to any country in which such alien last habit-
21 ually resided, and who applied for such status
22 because of persecution or a well-founded fear of
23 persecution in that country on account of race,
24 religion, nationality, membership in a particular

1 social group, or political opinion, shall have his
2 or her status terminated.

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

9 (b) CONFORMING AMENDMENT.—Section 208(c)(3)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1158(c)(3)) is amended by inserting after “paragraph
12 (2)” the following: “or (4)”.

13 **SEC. 7. NOTICE CONCERNING FRIVOLOUS ASYLUM APPLI-**
14 **CATIONS.**

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

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

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

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

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

4 “(C) ensure that a written warning ap-
5 pears on the asylum application advising the
6 alien of the consequences of filing a frivolous
7 application, which written warning shall serve
8 as notice to the alien of the consequence of fil-
9 ing a frivolous application.”.

10 (b) CONFORMING AMENDMENT.—Section 208(d)(6)
11 of the Immigration and Nationality Act (8 U.S.C.
12 1158(d)(6)) is amended by striking “If the” and all that
13 follows and inserting:

14 “(A) DETERMINATION.—If the Secretary
15 of Homeland Security or the Attorney General
16 determines that an alien has knowingly made a
17 frivolous application for asylum and the alien
18 has received the notice under paragraph (4)(C),
19 the alien shall be permanently ineligible for any
20 benefits under this Act, effective as the date of
21 the final determination of such an application.

22 “(B) CRITERIA.—An application is frivo-
23 lous if the Secretary of Homeland Security or
24 the Attorney General determines, consistent
25 with subparagraph (C), that—

1 “(i) it is so insufficient in substance
2 that it is clear that the applicant know-
3 ingly filed the application solely or in part
4 to delay removal from the United States,
5 to seek employment authorization as an
6 applicant for asylum pursuant to regula-
7 tions issued pursuant to paragraph (2), or
8 to seek issuance of a Notice to Appeal in
9 order to pursue Cancellation of Removal
10 under section 240A(b); or

11 “(ii) any of the material elements of
12 the application are knowingly fabricated.

13 “(C) OPPORTUNITY TO CLARIFY.—The
14 Secretary of the Attorney General may not
15 make a determination under this paragraph
16 that an application is frivolous unless, during
17 the course of the proceedings, the applicant has
18 had sufficient opportunity to clarify any dis-
19 crepancies or implausible aspects of the claim.

20 “(D) AVAILABILITY OF CERTAIN RE-
21 LIEF.—A finding under this paragraph that an
22 alien filed a frivolous asylum application shall
23 not preclude the alien from seeking withholding
24 of removal under section 241(b)(3) or protec-

1 tion pursuant to the Convention Against Tor-
2 ture.”.

3 **SEC. 8. ANTI-FRAUD INVESTIGATIVE WORK PRODUCT.**

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

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

17 **SEC. 9. PENALTIES FOR ASYLUM FRAUD.**

18 Section 1001 of title 18, United States Code, is
19 amended by adding at the end the following:

20 “(d) Whoever, in any matter before the Secretary of
21 Homeland Security or the Attorney General pertaining to
22 an application for asylum or the adjudication of an appli-
23 cation for asylum under section 208 of the Immigration
24 and Nationality Act (8 U.S.C. 1158) or withholding of re-

1 moval under section 241(b)(3) of such Act (8 U.S.C.
2 1231), knowingly and willfully—

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

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

10 **SEC. 10. STATUTE OF LIMITATIONS FOR ASYLUM FRAUD.**

11 Section 3291 of title 18, United States Code, is
12 amended by striking “1544,” and inserting “1544, and
13 section 1546,”.

14 **SEC. 11. TECHNICAL AMENDMENTS.**

15 Section 208 of the Immigration and Nationality Act
16 (8 U.S.C. 1158) is amended—

17 (1) in subsection (a)—

18 (A) in paragraph (2)(D), by inserting
19 “Secretary of Homeland Security or the” before
20 “Attorney General”; and

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

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

4 (3) in subsection (c)—

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

8 (B) in paragraph (2), in the matter pre-
9 ceeding subparagraph (A), by inserting “Sec-
10 retary of Homeland Security or the” before
11 “Attorney General”; and

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

15 (4) in subsection (d)—

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

20 (B) in paragraph (2), by striking “Attor-
21 ney General” and inserting “Secretary of
22 Homeland Security”; and

23 (C) in paragraph (5)—

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

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

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