

118TH CONGRESS  
1ST SESSION

# S. 348

To require asylum officers at United States embassies and consulates to conduct credible fear screenings before aliens seeking asylum may be permitted to enter the United States to apply for asylum, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 9, 2023

Mrs. BRITT (for herself, Mr. BARRASSO, Mr. CASSIDY, Mr. COTTON, Mr. CRAPO, Mrs. HYDE-SMITH, Mr. MULLIN, Mr. RISCH, Mr. ROUNDS, Mr. THUNE, Mr. TILLIS, and Mr. BOOZMAN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To require asylum officers at United States embassies and consulates to conduct credible fear screenings before aliens seeking asylum may be permitted to enter the United States to apply for asylum, 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 “Asylum Abuse Reduc-  
5 tion Act”.

1 **SEC. 2. ASYLUM INTERVIEWS.**

2 (a) **BORDER CROSSINGS.**—Notwithstanding section  
3 235(b)(1) of the Immigration and Nationality Act (8  
4 U.S.C. 1225(b)(1)), if an alien who is seeking asylum in  
5 the United States attempts to enter the United States  
6 from Canada or Mexico at a land port of entry without  
7 a valid visa or other appropriate entry document, the im-  
8 migration officer who is inspecting the alien—

9 (1) may not admit or parole the alien into the  
10 United States; and

11 (2) shall advise the alien to schedule an asylum  
12 hearing with the most convenient United States em-  
13 bassy or consulate in Canada or Mexico.

14 (b) **CREDIBLE FEAR SCREENINGS.**—An alien de-  
15 scribed in subsection (a) may only be permitted to enter  
16 the United States to apply for asylum if an asylum officer  
17 stationed at a United States embassy or consulate—

18 (1) has conducted an in-person or telephonic  
19 interview with the alien; and

20 (2) as a result of such interview, has concluded  
21 that the alien—

22 (A)(i) has been persecuted in the alien's  
23 country of nationality on account of the alien's  
24 race, religion, nationality, membership in a par-  
25 ticular social group, or political opinion;

1           (ii) has a credible fear of persecution (as  
2           defined in section 235(b)(1)(B) of the Immigra-  
3           tion and Nationality Act (8 U.S.C.  
4           1225(b)(1)(B))) if the alien returned to such  
5           country; or

6           (iii) would be subject to torture by a gov-  
7           ernment or public official acting under the color  
8           of law if the alien returned to his or her coun-  
9           try of nationality; and

10           (B) is otherwise eligible for asylum under  
11           section 208(a) of that Act (8 U.S.C. 1158(a)).

12 **SEC. 3. ASYLUM INELIGIBILITY.**

13           Section 208(a)(2) of the Immigration and Nationality  
14           Act (8 U.S.C. 1158(a)(2)) is amended by adding at the  
15           end the following:

16                   “(F) TRANSIT THROUGH THIRD COUN-  
17                   TRY.—

18                           “(i) IN GENERAL.—Except as pro-  
19                           vided in clause (ii), paragraph (1) shall not  
20                           apply to any alien who, on or after the  
21                           date of the enactment of this subpara-  
22                           graph, enters, attempts to enter, or arrives  
23                           in the United States through the Southern  
24                           land border after transiting through, on  
25                           the way to the United States, one or more

1 countries other than the country of citizen-  
2 ship, nationality, or last lawful habitual  
3 residence of the alien.

4 “(ii) EXCEPTIONS.—Clause (i) shall  
5 not apply if—

6 “(I)(aa) the alien demonstrates  
7 that he or she applied for protection  
8 from persecution or torture in one or  
9 more countries (other than the coun-  
10 try of citizenship, nationality, or last  
11 lawful habitual residence of the alien)  
12 through which the alien transited on  
13 the way to the United States; and

14 “(bb) the alien received a final  
15 judgment denying the alien protection  
16 in such country;

17 “(II) the alien demonstrates that  
18 he or she is or has been subject to a  
19 severe form of trafficking in persons;  
20 or

21 “(III) the one or more countries  
22 through which the alien transited on  
23 the way to the United States were  
24 not, at the time of the transit, parties  
25 to—

1           “(aa) the Convention Relat-  
2           ing to the Status of Refugees,  
3           done at Geneva July 28, 1951  
4           (as made applicable by the Pro-  
5           tocol Relating to the Status of  
6           Refugees, done at New York  
7           January 31, 1967 (19 UST  
8           6223)); or

9           “(bb) the Convention  
10           against Torture and Other Cruel,  
11           Inhuman or Degrading Treat-  
12           ment or Punishment, done at  
13           New York December 10, 1984.

14           “(G) INTERNAL RELOCATION.—Paragraph  
15           (1) shall not apply to an alien interviewed by an  
16           asylum officer under section 2(b) of the Asylum  
17           Abuse Reduction Act if the asylum officer  
18           makes a determination that the alien may avoid  
19           purported persecution or torture in the alien’s  
20           country of nationality by relocating to another  
21           part of such country.”.

22 **SEC. 4. CRIMINAL BENCH WARRANTS.**

23           (a) ISSUANCE.—Each Federal judicial district shall  
24           appoint at least 1 magistrate or district court judge who,  
25           upon a showing of probable cause, shall issue a warrant

1 of arrest for a violation of section 243(a)(1) of the Immi-  
2 gration and Nationality Act (8 U.S.C. 1253(a)(1)).

3 (b) PROBABLE CAUSE.—An order of removal issued  
4 under any provision of the Immigration and Nationality  
5 Act (8 U.S.C. 1101 et seq.) that has been in existence  
6 90 days or more shall constitute prima facie evidence of  
7 probable cause to issue a warrant under subsection (a).

8 **SEC. 5. INAPPLICABILITY OF FLORES SETTLEMENT AGREE-**  
9 **MENT TO ALIENS SUBJECT TO DETENTION.**

10 The stipulated settlement agreement filed in the  
11 United States District Court for the Central District of  
12 California on January 17, 1997 (CV 85–4544–RJK)  
13 (commonly known as the “Flores settlement agreement”),  
14 shall not apply to the detention and custody of aliens sub-  
15 ject to detention in the United States under the Immigra-  
16 tion and Nationality Act (8 U.S.C. 1101 et seq.).

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