

116TH CONGRESS
2D SESSION

S. 4110

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

JUNE 30, 2020

Mr. RUBIO (for himself, Mr. MENENDEZ, Mr. YOUNG, Mr. CARDIN, and Mr. MERKLEY) 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”.

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

8 (a) IN GENERAL.—The Secretary of State, in con-
9 sultation with the Secretary of Homeland Security, shall

1 designate as Priority 2 refugees of special humanitarian
2 concern the following categories of aliens:

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

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

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

20 (b) PROCESSING OF HONG KONG REFUGEES.—The
21 processing of individuals described in subsection (a) for
22 classification as refugees may occur in Hong Kong or in
23 a third country.

24 (c) ELIGIBILITY FOR ADMISSION AS REFUGEES.—An
25 alien may not be denied the opportunity to apply for ad-

1 mission as a refugee under this section primarily because
2 such alien—

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

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

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

14 (e) EXCLUSION FROM NUMERICAL LIMITATIONS.—
15 Aliens provided refugee status under this section shall not
16 be counted against any numerical limitation under section
17 201, 202, 203, or 207 of the Immigration and Nationality
18 Act (8 U.S.C. 1151, 1152, 1153, or 1157).

19 (f) REPORTING REQUIREMENTS.—

20 (1) IN GENERAL.—Not later than 180 days
21 after the date of the enactment of this Act, and
22 every 90 days thereafter, the Secretary of State and
23 the Secretary of Homeland Security shall submit a
24 report on the matters described in paragraph (2)
25 to—

1 (A) the Committee on the Judiciary and
2 the Committee on Foreign Relations of the Sen-
3 ate; and

4 (B) the Committee on the Judiciary and
5 the Committee on Foreign Affairs of the House
6 of Representatives.

7 (2) MATTERS TO BE INCLUDED.—Each report
8 required by paragraph (1) shall include—

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

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

13 (i) employment verification;

14 (ii) a prescreening interview with a re-
15 settlement support center;

16 (iii) an interview with U.S. Citizen-
17 ship and Immigration Services; and

18 (iv) the completion of security checks;

19 and

20 (C) the number of denials of applications
21 for refugee status, disaggregated by the reason
22 for each such denial.

23 (3) FORM.—Each report required by paragraph
24 (1) shall be submitted in unclassified form, but may
25 include a classified annex.

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

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

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

13 (a) IN GENERAL.—The presumption under the first
14 sentence of section 214(b) (8 U.S.C. 1184(b)) that every
15 alien is an immigrant until the alien establishes that the
16 alien is entitled to nonimmigrant status shall not apply
17 to an alien described in subsection (b).

18 (b) ALIEN DESCRIBED.—

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

21 (A) on June 30, 2020, is a resident of the
22 Hong Kong Special Administrative Region;

23 (B) is seeking entry to the United States
24 to apply for asylum under section 208 of the

1 Immigration and Nationality Act (8 U.S.C.
2 1158); and

3 (C)(i) had a leadership role in civil society
4 organizations supportive of the protests in 2019
5 and 2020 relating to the Hong Kong extra-
6 dition bill and the encroachment on the auton-
7 omy of Hong Kong by the People's Republic of
8 China;

9 (ii) had an organizing role for such pro-
10 tests;

11 (iii) acted as a first aid responder for such
12 protests;

13 (iv) suffered harm while covering such pro-
14 tests as a journalist;

15 (v) provided paid or pro-bono legal services
16 to 1 or more individuals arrested for partici-
17 pating in such protests; or

18 (vi) during the period beginning on June
19 9, 2019, and ending on June 30, 2020, was for-
20 mally charged, detained, or convicted for his or
21 her participation in such protests.

22 (2) EXCLUSION.—An alien described in this
23 paragraph does not include any alien who is a citizen
24 of a country other than the People's Republic of
25 China.

1 **SEC. 4. REFUGEE AND ASYLUM DETERMINATIONS UNDER**
2 **THE IMMIGRATION AND NATIONALITY ACT.**

3 (a) PERSECUTION ON ACCOUNT OF POLITICAL OPIN-
4 ION.—

5 (1) IN GENERAL.—For purposes of refugee de-
6 terminations under this Act in accordance with sec-
7 tion 207 of the Immigration and Nationality Act (8
8 U.S.C. 1157), an individual whose citizenship, na-
9 tionality, or residency is revoked for having sub-
10 mitted to any United States Government agency a
11 nonfrivolous application for refugee status, asylum,
12 or any other immigration benefit under the immigra-
13 tion laws (as defined in section 101(a) of that Act
14 (8 U.S.C. 1101(a)) shall be considered to have suf-
15 fered persecution on account of political opinion.

16 (2) NATIONALS OF THE PEOPLE'S REPUBLIC OF
17 CHINA.—For purposes of refugee determinations
18 under this Act in accordance with section 207 of the
19 Immigration and Nationality Act (8 U.S.C. 1157), a
20 national of the People's Republic of China whose
21 residency in the Hong Kong Special Administrative
22 region, or any other area within the jurisdiction of
23 the People's Republic of China, as determined by the
24 Secretary of State, is revoked for having submitted
25 to any United States Government agency a nonfrivo-
26 lous application for refugee status, asylum, or any

1 other immigration benefit under the immigration
2 laws shall be considered to have suffered persecution
3 on account of political opinion.

4 (b) CHANGED CIRCUMSTANCES.—For purposes of
5 asylum determinations under this Act in accordance with
6 section 208 of the Immigration and Nationality Act (8
7 U.S.C. 1158), the revocation of the citizenship, nation-
8 ality, or residency of an individual for having submitted
9 to any United States Government agency a nonfrivolous
10 application for refugee status, asylum, or any other immi-
11 gration benefit under the immigration laws shall be con-
12 sidered to be a changed circumstance under subsection
13 (a)(2)(D) of that section.

14 **SEC. 5. STATEMENT OF POLICY ON ENCOURAGING ALLIES**
15 **AND PARTNERS TO MAKE SIMILAR ACCOM-**
16 **MODATIONS.**

17 It is the policy of the United States to encourage al-
18 lies and partners of the United States to make accom-
19 modations similar to the accommodations made in this Act
20 for residents of the Hong Kong Special Administrative Re-
21 gion who are fleeing oppression by the Government of the
22 People's Republic of China.

1 **SEC. 6. TERMINATION.**

2 This Act, and the amendments made by this Act,
3 shall cease to have effect on the date that is 5 years after
4 the date of the enactment of this Act.

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