

117TH CONGRESS
1ST SESSION

S. 863

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.

IN THE SENATE OF THE UNITED STATES

MARCH 18, 2021

Mr. INHOFE (for himself, Mr. ROUNDS, Mrs. BLACKBURN, Mr. THUNE, and Mr. TILLIS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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;

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

(iii) would be subject to torture by a government or public official acting under the color of law if the alien returned to his or her country of nationality; and

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

SEC. 3. ASYLUM INELIGIBILITY.

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

“(F) TRANSIT THROUGH THIRD COUNTRY.—

“(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any alien who, on or after the date of the enactment of this subparagraph, enters, attempts to enter, or arrives in the United States through the Southern land border after transiting through, on 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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