

118TH CONGRESS
1ST SESSION

S. 2656

To require aliens seeking admission to the United States as nonimmigrants to pay a bond or cash payment and to impose penalties on such aliens who fail to timely depart the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27, 2023

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

A BILL

To require aliens seeking admission to the United States as nonimmigrants to pay a bond or cash payment and to impose penalties on such aliens who fail to timely depart 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 “Timely Departure
5 Act”.

6 **SEC. 2. VISA OVERSTAY BONDS AND PENALTIES.**

7 (a) DEFINITIONS.—In this Act:

1 (1) IN GENERAL.—A term used in this section
 2 that is used in the immigration laws shall have the
 3 meaning given such term in the immigration laws.

4 (2) IMMIGRATION LAWS.—The term “immigra-
 5 tion laws” has the meaning given such term under
 6 section 101(a) of the Immigration and Nationality
 7 Act (8 U.S.C. 1101(a)).

8 (b) NONIMMIGRANT BONDS.—

9 (1) ADMISSION CONTINGENT ON POSTING OF
 10 BOND.—

11 (A) IN GENERAL.—Except as provided in
 12 subparagraph (B), an alien seeking admission
 13 to the United States as a nonimmigrant shall
 14 pay a bond or cash payment in an amount not
 15 less than \$5,000 and not more than \$15,000 to
 16 help ensure that the alien departs the United
 17 States before the date on which his or her pe-
 18 riod of stay authorized by the Secretary of
 19 Homeland Security in connection with such sta-
 20 tus expires.

21 (B) NONAPPLICABILITY TO CERTAIN
 22 ALIENS.—Subparagraph (A) shall not apply to
 23 any alien who—

24 (i) is present in the United States
 25 pursuant to a nonimmigrant visa issued

1 under subparagraph (A), (C), (G), (P)(i),
2 (T), or (U) of section 101(a)(15) of the
3 Immigration and Nationality Act (8 U.S.C.
4 1101(a)(15)); or

5 (ii) is a national of a program country
6 for purposes of the visa waiver program
7 under section 217 of the Immigration and
8 Nationality Act (8 U.S.C. 1187).

9 (2) AUTOMATIC AND NONAPPEALABLE FOR-
10 FEITURE.—

11 (A) IN GENERAL.—In the case of a non-
12 immigrant who has paid a bond or cash pay-
13 ment under paragraph (1) who fails to depart
14 the United States before midnight (Pacific
15 Time) on the date on which his or her author-
16 ized period of stay expires, such bond or cash
17 payment shall be forfeited without the oppor-
18 tunity for appeal or review.

19 (B) OFFSETTING ACCOUNT.—A forfeited
20 bond or cash payment under this paragraph
21 shall be deposited in an offsetting account
22 under the jurisdiction of the Secretary of
23 Homeland Security, to be known as the “Immi-
24 gration Detention and Enforcement Account”,
25 and the amounts deposited into such account

1 shall be used solely for purposes of funding
2 alien detention facilities and international
3 transportation for aliens ordered removed from
4 the United States.

5 (3) REMOVAL AND IMMIGRATION PENALTY.—

6 An alien whose bond or cash payment is forfeited
7 under paragraph (2) shall be—

8 (A) promptly removed from the United
9 States; and

10 (B) for a period not less than 4 years and
11 not more than 12 years beginning on the date
12 of such forfeiture, ineligible for any lawful im-
13 migration status or adjustment of status under
14 the immigration laws.

15 (c) LIMITATION ON ASYLUM AND WITHHOLDING OF
16 REMOVAL CLAIMS.—

17 (1) IN GENERAL.—An alien present in the
18 United States pursuant to admission as a non-
19 immigrant who intends to seek asylum or with-
20 holding of removal in the United States shall submit
21 an application for asylum or withholding of removal
22 before midnight (Pacific Time) on the date on which
23 his or her authorized period of stay in connection
24 with nonimmigrant status expires.

1 (2) CONSEQUENCE OF FAILURE TO TIMELY DE-
2 PART.—An alien described in paragraph (1) who
3 fails to depart the United States before midnight
4 (Pacific Time) on the date on which his or her au-
5 thorized period of stay expires and who has not sub-
6 mitted an application for asylum or withholding of
7 removal shall be ineligible to submit such an applica-
8 tion after such date.

9 (d) REGULATIONS.—

10 (1) IN GENERAL.—In implementing this sec-
11 tion, the Secretary of Homeland Security may only
12 issue regulations or policy guidance with respect
13 to—

14 (A) the collection and retention of bonds
15 and cash payments;

16 (B) the notification of the Attorney Gen-
17 eral with respect to the failure of an alien to
18 timely depart the United States before midnight
19 (Pacific Time) on the date on which his or her
20 authorized period of stay in connection with
21 nonimmigrant status expires; and

22 (C) the prevention of the circumvention of
23 the requirement to pay a bond or cash payment
24 under subsection (b)(1).

1 (2) PROHIBITION.—The Secretary of Homeland
2 Security shall not waive or nullify any requirement
3 of this section, whether by rulemaking, order, or
4 other action.

5 (e) EFFECTIVE DATE.—This section shall take effect
6 on the date that is 30 days after the date of the enactment
7 of this Act.

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