

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.

S. 1494

To amend the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 to protect alien minors and to amend the Immigration and Nationality Act to end abuse of the asylum system and establish refugee application and processing centers outside the United States, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by _____

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Secure and Protect
5 Act of 2019”.

6 **SEC. 2. PROTECTION OF MINORS.**

7 (a) PROMOTING FAMILY UNITY.—Section 235 of the
8 William Wilberforce Trafficking Victims Protection Reau-
9 thorization Act of 2008 (8 U.S.C. 1232) is amended by
10 adding at the end the following:

1 “(j) PROMOTING FAMILY UNITY.—

2 “(1) DETENTION OF ALIEN MINORS.—

3 “(A) IN GENERAL.—Notwithstanding any
4 other provision of law, judicial determination,
5 consent decree, or settlement agreement, the
6 Secretary of Homeland Security may detain any
7 alien minor (other than an unaccompanied alien
8 child) who is inadmissible to the United States
9 under section 212(a) of the Immigration and
10 Nationality Act (8 U.S.C. 1182(a)) or remov-
11 able from the United States under section
12 237(a) of that Act (8 U.S.C. 1227(a)) pending
13 the completion of removal proceedings, regard-
14 less of whether the alien minor was previously
15 an unaccompanied alien child.

16 “(B) PRIORITY REMOVAL CASES.—The At-
17 torney General shall—

18 “(i) prioritize the removal proceedings
19 of an alien minor, or a family unit that in-
20 cludes an alien minor, detained under sub-
21 paragraph (A); and

22 “(ii) set a case completion goal of not
23 more than 100 days for such proceedings.

1 “(C) DETENTION AND RELEASE DECI-
2 SIONS.—The decision to detain or release an
3 alien minor described in subparagraph (A)—

4 “(i) shall be governed solely by sec-
5 tions 212(d)(5), 217, 235, 236, and 241 of
6 the Immigration and Nationality Act (8
7 U.S.C. 1182(d)(5), 1187, 1225, 1226, and
8 1231) and implementing regulations or
9 policies; and

10 “(ii) shall not be governed by stand-
11 ards, requirements, restrictions, or proce-
12 dures contained in a judicial decree or set-
13 tlement relating to the authority to detain
14 or release alien minors.

15 “(2) CONDITIONS OF DETENTION.—

16 “(A) IN GENERAL.—Notwithstanding any
17 other provision of law, judicial determination,
18 consent decree, or settlement agreement, the
19 Secretary of Homeland Security shall deter-
20 mine, in the sole discretion of the Secretary, the
21 conditions of detention applicable to an alien
22 minor described in paragraph (1)(A) regardless
23 of whether the alien minor was previously an
24 unaccompanied alien child.

1 “(B) NO JUDICIAL REVIEW.—A determina-
2 tion under subparagraph (A) shall not be sub-
3 ject to judicial review.

4 “(3) RULE OF CONSTRUCTION.—Nothing in
5 this section—

6 “(A) affects the eligibility for bond or pa-
7 role of an alien; or

8 “(B) limits the authority of a court to hear
9 a claim arising under the Constitution of the
10 United States.

11 “(4) PREEMPTION OF STATE LICENSING RE-
12 QUIREMENTS.—Notwithstanding any other provision
13 of law, judicial determination, consent decree, or set-
14 tlement agreement, a State may not require an im-
15 migration detention facility used to detain families
16 consisting of one or more children who have not at-
17 tained 18 years of age and the parents or legal
18 guardians of such children, that is located in the
19 State, to be licensed by the State or any political
20 subdivision thereof.

21 “(5) CONDITIONS OF CUSTODY.—The Secretary
22 of Homeland Security shall ensure that each—

23 “(A) family residential facility is secure
24 and safe; and

1 “(B) alien child and accompanying parent
2 at a family residential facility has—

3 “(i) suitable living accommodations;

4 “(ii) access to drinking water and
5 food;

6 “(iii) timely access to medical assist-
7 ance, including mental health assistance;
8 and

9 “(iv) access to any other service nec-
10 essary for the adequate care of a minor
11 child.

12 “(6) AUTHORIZATION OF APPROPRIATIONS.—

13 There are authorized to be appropriated such sums
14 as may be necessary to carry out this subsection.

15 “(k) APPLICABILITY OF CONSENT DECREES, SET-
16 TLEMENTS, AND JUDICIAL DETERMINATIONS.—

17 “(1) FLORES SETTLEMENT AGREEMENT INAP-
18 PLICABLE.—Any conduct or activity that was, before
19 the date of the enactment of this subsection, subject
20 to any restriction or obligation imposed by the stipu-
21 lated settlement agreement filed on January 17,
22 1997, in the United States District Court for the
23 Central District of California in Flores v. Reno, CV
24 85–4544–RJK, (commonly known as the ‘Flores set-
25 tlement agreement’), or imposed by any amendment

1 of that agreement or judicial determination based on
2 that agreement—

3 “(A) shall be subject to the restrictions
4 and obligations in subsection (j) or imposed by
5 the William Wilberforce Trafficking Victims
6 Protection Reauthorization Act of 2008 (Public
7 Law 110–457); and

8 “(B) shall not be subject to the restrictions
9 and the obligations imposed by such settlement
10 agreement or judicial determination.

11 “(2) OTHER SETTLEMENT AGREEMENTS OR
12 CONSENT DECREES.—In any civil action with respect
13 to the conditions of detention of alien children, the
14 court shall not enter or approve a settlement agree-
15 ment or consent decree unless it complies with the
16 limitations set forth in subsection (j).”.

17 (b) SAFE AND PROMPT RETURN OF UNACCOM-
18 PANIED ALIEN CHILDREN.—Section 235(a) of the Wil-
19 liam Wilberforce Trafficking Victims Protection Reauthor-
20 ization Act of 2008 (8 U.S.C. 1232(a)) is amended—

21 (1) in paragraph (2)—

22 (A) by amending the paragraph heading to
23 read as follows: “RULES FOR REPATRIATING
24 UNACCOMPANIED ALIEN CHILDREN”;

1 (B) in subparagraph (A), in the matter
2 preceding clause (i), by striking “who is a na-
3 tional or habitual resident of a country that is
4 contiguous with the United States shall be
5 treated in accordance with subparagraph (B)”
6 and inserting “shall be treated in accordance
7 with this paragraph or subsection (b), as appli-
8 cable”;

9 (C) in subparagraph (B)—

10 (i) by redesignating clauses (i) and
11 (ii) as subclauses (I) and (II), and moving
12 the subclauses two ems to the right;

13 (ii) in the matter preceding subclause
14 (I), as so redesignated, by striking “An im-
15 migration officer” and inserting the fol-
16 lowing:

17 “(i) IN GENERAL.—An immigration
18 officer”; and

19 (iii) by adding at the end the fol-
20 lowing:

21 “(ii) CHILDREN UNABLE TO MAKE
22 DECISIONS WITH RESPECT TO WITH-
23 DRAWAL OF APPLICATIONS FOR ADMIS-
24 SION.—If at the time of initial apprehen-
25 sion, an immigration officer determines, in

1 the sole and unreviewable discretion of the
2 immigration officer, that an unaccom-
3 panied alien child is not able to make an
4 independent decision with respect to the
5 withdrawal of his or her application for ad-
6 mission to the United States, the immigra-
7 tion officer shall refer the unaccompanied
8 alien child for removal proceedings under
9 section 240 of the Immigration and Na-
10 tionality Act (8 U.S.C. 1229a).

11 “(iii) CHILDREN ABLE TO MAKE DECI-
12 SIONS WITH RESPECT TO WITHDRAWAL OF
13 APPLICATIONS FOR ADMISSION.—

14 “(I) IN GENERAL.—Except as
15 described in subclause (III)(aa), not-
16 withstanding any other provision of
17 law that requires removal proceedings
18 under section 240 of the Immigration
19 and Nationality Act (8 U.S.C. 1229a),
20 including subparagraph (D) and sec-
21 tion 235 of the Immigration and Na-
22 tionality Act (8 U.S.C. 1225), in the
23 case of an unaccompanied alien child
24 who is able to make an independent
25 decision with respect to the with-

1 drawal of his or her application for
2 admission to the United States, as de-
3 termined by an immigration officer at
4 the time of initial apprehension, and
5 does not wish to withdraw such appli-
6 cation, the immigration officer shall—

7 “(aa) make a record of any
8 finding of inadmissibility or de-
9 portability, which shall be the
10 basis of a repatriation order,
11 which shall be carried out and
12 the child shall be returned to his
13 or her country of nationality or
14 last habitual residence, unless the
15 child is referred—

16 “(AA) for removal pro-
17 ceedings pursuant to sub-
18 clause (III)(aa); or

19 “(BB) to an immigra-
20 tion judge for a determina-
21 tion pursuant to subclause
22 (III)(bb); and

23 “(bb) refer the unaccom-
24 panied alien child for an inter-
25 view under subclause (II) to de-

1 termine whether it is more likely
2 than not that the unaccompanied
3 alien child—

4 “(AA) will be subjected
5 to trafficking on return to
6 his or her country of nation-
7 ality or last habitual resi-
8 dence; and

9 “(BB) would be grant-
10 ed asylum under section 208
11 of the Immigration and Na-
12 tionality Act (8 U.S.C.
13 1158), withholding of re-
14 moval under section
15 241(b)(3) of that Act (8
16 U.S.C. 1231(b)(3)), or pro-
17 tection under the regulations
18 issued pursuant to the legis-
19 lation implementing the
20 Convention Against Torture
21 and Other Cruel, Inhuman
22 or Degrading Treatment or
23 Punishment, done at New
24 York, December 10, 1984
25 (referred to in this clause as

1 the ‘Convention Against
2 Torture’).

3 “(II) INTERVIEW.—

4 “(aa) IN GENERAL.—An
5 interview under subclause (I)(bb)
6 shall be conducted by an immi-
7 gration officer with specialized
8 training relating to—

9 “(AA) applicable law;

10 “(BB) interviewing
11 children; and

12 “(CC) child trafficking.

13 “(III) DETERMINATIONS BASED
14 ON INTERVIEW.—

15 “(aa) REMOVAL PRO-
16 CEEDINGS.—An unaccompanied
17 alien child described in subclause
18 (I) shall be referred for removal
19 proceedings under section 240 of
20 the Immigration and Nationality
21 Act (8 U.S.C. 1229a) if, based
22 on an interview under item (bb)
23 of that subclause, the immigra-
24 tion officer makes a determina-
25 tion that it is more likely than

1 not that the unaccompanied alien
2 child will be trafficked on return
3 to his or her country of nation-
4 ality or last habitual residence.

5 “(bb) ASYLUM ONLY DETER-
6 MINATIONS.—

7 “(AA) IN GENERAL.—

8 If, based on an interview
9 under subclause (I)(bb), the
10 immigration officer makes a
11 determination that it is
12 more likely than not that the
13 claim of an unaccompanied
14 alien child for asylum under
15 section 208 of the Immigra-
16 tion and Nationality Act (8
17 U.S.C. 1158), withholding of
18 removal under section
19 241(b)(3) of that Act (8
20 U.S.C. 1231(b)(3)), or pro-
21 tection under the Convention
22 Against Torture will be
23 granted, the unaccompanied
24 alien child shall be referred
25 to an immigration judge

1 solely for a determination
2 with respect to whether the
3 unaccompanied alien child is
4 eligible for asylum under
5 section 208 of that Act (8
6 U.S.C. 1158), withholding of
7 removal under section
8 241(b)(3) of that Act (8
9 U.S.C. 1231(b)(3)), or pro-
10 tection under the regulations
11 issued pursuant to the legis-
12 lation implementing the
13 Convention Against Torture
14 and, if otherwise eligible for
15 asylum, whether asylum
16 shall be granted in the exer-
17 cise of discretion.

18 “(BB) REPATRI-
19 ATION.—An unaccompanied
20 alien child referred to an im-
21 migration judge under
22 subitem (AA) shall be re-
23 turned to his or her country
24 of nationality or last habit-
25 ual residence if the immigra-

1 tion judge finds that the un-
2 accompanied alien child is
3 not entitled to asylum, with-
4 holding of removal, or pro-
5 tection under the regulations
6 issued pursuant to the legis-
7 lation implementing the
8 Convention Against Torture.

9 “(IV) DISCRETION OF IMMIGRA-
10 TION OFFICER; NO JUDICIAL RE-
11 VIEW.—A decision of an immigration
12 officer under this clause, and the
13 issuance of a repatriation order, shall
14 be in the sole, unreviewable discretion
15 of the immigration officer.

16 “(iv) DETENTION DURING PRO-
17 CEEDINGS.—

18 “(I) IN GENERAL.—Except as
19 provided in subclauses (II) and (III),
20 notwithstanding any other provision of
21 law, settlement agreement, or consent
22 decree, an unaccompanied alien child
23 shall not be released from the custody
24 of the Secretary of Homeland Security
25 or the Director of the Office of Ref-

1 ugee Resettlement during the pend-
2 ency of the immigration or removal
3 proceedings of the unaccompanied
4 alien child.

5 “(II) RELEASE TO SPONSOR.—

6 “(aa) IN GENERAL.—Except
7 as provided in item (bb), the Di-
8 rector of the Office of Refugee
9 Resettlement may, in the sole,
10 unreviewable discretion of the Di-
11 rector, release an unaccompanied
12 alien child to a sponsor who is a
13 verified parent or legal guardian
14 or, in the case of an unaccom-
15 panied alien child who does not
16 have a verified parent or legal
17 guardian in the United States, a
18 close relative, a distant relative,
19 or an unrelated adult.

20 “(bb) EXCEPTION.—The Di-
21 rector of the Office of Refugee
22 Resettlement shall not under any
23 circumstance release an unac-
24 companied alien child to a spon-
25 sor or a member of the sponsor’s

1 household who has committed an
2 offense described in section
3 236(c)(1) of the Immigration and
4 Nationality Act (8 U.S.C.
5 1226(c)(1)), is detained while in
6 removal proceedings under sec-
7 tion 240 of such Act (8 U.S.C.
8 1229a), has assisted or facili-
9 tated the smuggling or traf-
10 ficking of a child, or would other-
11 wise pose a threat to the well-
12 being of the unaccompanied alien
13 child.

14 “(cc) PROVISION OF INFOR-
15 MATION TO SECRETARY OF
16 HOMELAND SECURITY.—The Sec-
17 retary of Health and Human
18 Services shall provide to the Sec-
19 retary of Homeland Security in-
20 formation relating to the sponsor,
21 potential sponsor, and each mem-
22 ber of the household of the spon-
23 sor or potential sponsor, of each
24 unaccompanied alien child.

1 “(III) PROGRAMS FOR UNACCOM-
2 PANIED ALIEN CHILDREN WITHOUT
3 SPONSORS.—In the case of an unac-
4 companied alien child who cannot be
5 placed with a sponsor under item
6 (aa), the Director of the Office of Ref-
7 ugee Resettlement may release the
8 child to a program for unaccompanied
9 alien minors, such as a program
10 under section 412(d) of the Immigra-
11 tion and Nationality Act (8 U.S.C.
12 1522(d)).”; and

13 (D) in subparagraph (C)—

14 (i) by amending the subparagraph
15 heading to read as follows: “AGREEMENTS
16 WITH FOREIGN COUNTRIES.—”; and

17 (ii) in the matter preceding clause (i),
18 by striking “countries contiguous to the
19 United States” and inserting “Canada, El
20 Salvador, Guatemala, Honduras, Mexico,
21 and any other foreign country the Sec-
22 retary considers appropriate”;

23 (2) by striking paragraph (3);

24 (3) by redesignating paragraphs (4) and (5) as
25 paragraphs (3) and (4), respectively; and

1 (4) in paragraph (4)(D), as so redesignated, by
2 striking “from a contiguous country”.

3 (c) PROTECTING INTEGRITY OF SPECIAL IMMIGRANT
4 JUVENILE VISA PROGRAM.—Section 101(a)(27)(J) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1101(a)(27)(J)) is amended—

7 (1) in clause (i), by striking “, and whose” and
8 all that follows through “State law”; and

9 (2) in clause (iii)—

10 (A) in subclause (I), by striking “and” at
11 the end; and

12 (B) by adding at the end the following:

13 “(III) an alien may not be grant-
14 ed special immigrant juvenile status
15 under this subparagraph if the juve-
16 nile court determines that the alien
17 may be returned to the legal custody
18 of any parent of the alien; and

19 “(IV)(aa) in assessing whether
20 an alien is entitled to special immi-
21 grant juvenile classification under this
22 subparagraph, the Secretary of Home-
23 land Security may, in the discretion of
24 the Secretary, determine whether—

1 “(AA) an order of depend-
2 ency or custody issued for pur-
3 poses of clause (i) was issued
4 during juvenile court abuse and
5 neglect proceedings for the pur-
6 pose of providing permanency to
7 an alien the parents of whom
8 have been found to be unfit; and

9 “(BB) such order was
10 issued by a court of appropriate
11 jurisdiction ; and

12 “(bb) notwithstanding any other
13 provision of law, no court shall have
14 jurisdiction to review a determination
15 made by the Secretary of Homeland
16 Security under this subclause;”.

17 (d) PAROLE REFORM.—

18 (1) IN GENERAL.—Paragraph (5) of section
19 212(d) (8 U.S.C. 1182(d)) is amended to read as
20 follows:

21 “(5) HUMANITARIAN AND SIGNIFICANT PUBLIC
22 BENEFIT PAROLE.—

23 “(A) IN GENERAL.—Subject to the provi-
24 sions of this paragraph and section 214(f)(2),
25 the Secretary of Homeland Security, in the sole

1 discretion of the Secretary of Homeland Secu-
2 rity, may, on an individual case-by-case basis
3 and not according to eligibility criteria describ-
4 ing an entire class of potential parole recipients,
5 parole an alien into the United States tempo-
6 rarily, under such conditions as the Secretary of
7 Homeland Security may prescribe, only—

8 “(i) for an urgent humanitarian rea-
9 son (as described under subparagraph
10 (B)); or

11 “(ii) for a reason deemed strictly for
12 the significant public benefit (as described
13 under subparagraph (C)).

14 “(B) HUMANITARIAN PAROLE.—The Sec-
15 retary of Homeland Security may parole an
16 alien based on an urgent humanitarian reason
17 described in this subparagraph only if—

18 “(i) the alien has a medical emergency
19 and the alien cannot obtain necessary
20 treatment in the foreign state in which the
21 alien is residing or the medical emergency
22 is life-threatening and there is insufficient
23 time for the alien to be admitted through
24 the normal visa process;

1 “(ii) the alien is the legal guardian or
2 otherwise has legal authority to make med-
3 ical decisions on behalf of an alien de-
4 scribed in clause (i);

5 “(iii) the alien is needed in the United
6 States in order to donate an organ or
7 other tissue for transplant into an imme-
8 diate family member and there is insuffi-
9 cient time for the alien to be admitted
10 through the normal visa process;

11 “(iv) the alien has an immediate fam-
12 ily member in the United States whose
13 death is imminent and the alien could not
14 arrive in the United States in time to see
15 such family member alive if the alien were
16 to be admitted through the normal visa
17 process;

18 “(v) the alien is a lawful applicant for
19 adjustment of status under section 245; or

20 “(vi) the alien was lawfully granted
21 status under section 208 or lawfully admit-
22 ted under section 207.

23 “(C) SIGNIFICANT PUBLIC BENEFIT PA-
24 ROLE.—The Secretary of Homeland Security
25 may parole an alien based on a reason deemed

1 strictly for the significant public benefit de-
2 scribed in this subparagraph only if—

3 “(i) the presence of the alien is nec-
4 essary in a matter such as a criminal in-
5 vestigation or prosecution, espionage activ-
6 ity, or other similar law enforcement or in-
7 telligence-related activity;

8 “(ii) the presence of the alien is nec-
9 essary in a civil matter concerning the ter-
10 mination of parental rights;

11 “(iii) the alien has previously assisted
12 the United States Government in a matter
13 described in clause (i) and the life of the
14 alien would be threatened if the alien were
15 not permitted to enter the United States;

16 “(iv) in the case of an alien detained
17 under section 235, it is necessary to re-
18 lease from detention and grant parole to
19 the alien due to a safety concern or for the
20 preservation of life and property, including
21 in the case of—

22 “(I) lack of adequate bed space
23 in a detention facility; or

24 “(II) an alien who has a serious
25 medical condition such that continued

1 detention would be life-threatening or
2 would risk serious bodily injury, dis-
3 figurement, or permanent disability;
4 or

5 “(v) in the case of an alien returned
6 to a foreign territory contiguous to the
7 United States pursuant to section
8 235(b)(2)(C), it is necessary to parole the
9 alien into the United States for an immi-
10 gration proceeding.

11 “(D) LIMITATION ON THE USE OF PAROLE
12 AUTHORITY.—The Secretary of Homeland Se-
13 curity may not use the parole authority under
14 this paragraph—

15 “(i) to circumvent immigration policy
16 established by law;

17 “(ii) to admit classes of aliens who do
18 not qualify for admission under established
19 legal immigration categories; or

20 “(iii) to supplement established immi-
21 gration categories without an Act of Con-
22 gress.

23 “(E) PAROLE NOT AN ADMISSION.—Parole
24 of an alien under this paragraph shall not be
25 considered an admission of the alien into the

1 United States. When the purposes of the parole
2 of an alien have been served, or such parole is
3 revoked, as determined by the Secretary of
4 Homeland Security, the alien shall immediately
5 return or be returned to the custody from which
6 the alien was paroled and the alien shall be con-
7 sidered for admission to the United States on
8 the same basis as other similarly situated appli-
9 cants for admission.

10 “(F) REPORT TO CONGRESS.—Not later
11 than 90 days after the end of each fiscal year,
12 the Secretary of Homeland Security shall sub-
13 mit a report to the Committee on the Judiciary
14 of the Senate and the Committee on the Judici-
15 ary of the House of Representatives describing
16 the number and categories of aliens paroled
17 into the United States under this paragraph.
18 Each such report shall contain information and
19 data concerning the number and categories of
20 aliens paroled, the duration of parole, and the
21 current status of aliens paroled during the pre-
22 ceding fiscal year.”.

23 (2) EFFECTIVE DATE.—The amendment made
24 by paragraph (1) shall take effect on the first day

1 of the first month beginning more than 60 days
2 after the date of the enactment of this Act.

3 **SEC. 3. ENDING ABUSE OF ASYLUM SYSTEM.**

4 (a) STANDARDS TO DETER FRAUD AND ADVANCE
5 MERITORIOUS ASYLUM CLAIMS.—Section 235(b)(1)(B) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1225(b)(1)(B)) is amended—

8 (1) by amending clause (v) to read as follows:

9 “(v) CREDIBLE FEAR OF PERSECU-
10 TION.—

11 “(I) IN GENERAL.—For purposes
12 of this subparagraph, the term ‘cred-
13 ible fear of persecution’ means that it
14 is more likely than not that the alien
15 would be able to establish eligibility
16 for asylum under section 208—

17 “(aa) taking into account
18 such facts as are known to the
19 officer; and

20 “(bb) only if the officer has
21 determined, under subsection
22 (b)(1)(B)(iii) of such section,
23 that it is more likely than not
24 that the statements made by the

1 alien or on behalf of the alien are
2 true.

3 “(II) BARS TO ASYLUM.—An
4 alien shall not be determined to have
5 a credible fear of persecution if the
6 alien is prohibited from applying for
7 or receiving asylum, including an alien
8 subject to a limitation or condition
9 under subsection (a)(2) or (b)(2) (in-
10 cluding a regulation promulgated
11 under such subsection) of section
12 208.”; and

13 (2) by adding at the end the following:

14 “(vi) ELIGIBILITY FOR RELIEF.—

15 “(I) CREDIBLE FEAR REVIEW BY
16 IMMIGRATION JUDGE.—An alien de-
17 termined to have a credible fear of
18 persecution shall be referred to an im-
19 migration judge for review of such de-
20 termination, which shall be limited to
21 a determination whether the alien—

22 “(aa) is eligible for asylum
23 under section 208, withholding of
24 removal under section 241(b)(3),
25 or protection under the Conven-

1 tion Against Torture and Other
2 Cruel, Inhuman or Degrading
3 Treatment or Punishment, done
4 at New York, December 10, 1984
5 (referred to in this clause as the
6 ‘Convention Against Torture’);
7 and

8 “(bb) merits a grant of asy-
9 lum in the exercise of discretion.

10 “(II) ALIENS WITH REASONABLE
11 FEAR OF PERSECUTION.—

12 “(aa) IN GENERAL.—Except
13 as provided in item (bb), if an
14 alien referred under subpara-
15 graph (A)(ii) is determined to
16 have a reasonable fear of perse-
17 cution or torture, the alien shall
18 be eligible only for consideration
19 of an application for withholding
20 of removal under section
21 241(b)(3) or protection under the
22 Convention Against Torture.

23 “(bb) EXCEPTION.—An
24 alien shall not be eligible for con-
25 sideration of an application for

1 relief under item (aa) if the fail-
2 ure of the alien to establish a
3 credible fear of persecution pre-
4 cludes the alien from eligibility
5 for such relief.

6 “(cc) LIMITATION.—An
7 alien whose application for relief
8 is adjudicated under item (aa)
9 shall not be eligible for any other
10 form of relief or protection from
11 removal.

12 “(vii) INELIGIBILITY FOR REMOVAL
13 PROCEEDINGS.—An alien referred under
14 subparagraph (A)(ii) shall not be eligible
15 for a hearing under section 240.”.

16 (b) APPLICATIONS FOR ASYLUM.—Section 208 of the
17 Immigration and Nationality Act (8 U.S.C. 1158) is
18 amended—

19 (1) in subsection (a)—

20 (A) by striking paragraph (1) and insert-
21 ing the following:

22 “(1) IN GENERAL.—Only an alien who has en-
23 tered the United States through a designated port of
24 entry may apply for asylum under this section or
25 section 235(b), as applicable.”; and

1 (B) in paragraph (2)—

2 (i) in subparagraph (A), by striking “,
3 pursuant to a bilateral or multilateral
4 agreement,”; and

5 (ii) in subparagraph (E), by striking
6 “Subparagraphs (A) and (B)” and insert-
7 ing “Subparagraph (A)”; and

8 (2) in subsection (b)(3), by striking subpara-
9 graph (C).

10 (c) AUTHORITY FOR CERTAIN ALIENS TO APPLY FOR
11 ASYLUM.—Section 208(a)(2) of the Immigration and Na-
12 tionality Act (8 U.S.C. 1158(a)(2)) is amended by adding
13 at the end the following:

14 “(F) INELIGIBILITY FOR ASYLUM.—

15 “(i) IN GENERAL.—Notwithstanding
16 any other provision of law, including para-
17 graph (1), except as provided in clause (ii),
18 an alien is ineligible for asylum if the
19 alien—

20 “(I) has been convicted of a fel-
21 ony;

22 “(II) is inadmissible under sec-
23 tion 212(a) (except paragraphs (4),
24 (5), and (7));

1 “(III) has been previously re-
2 moved from the United States; or

3 “(IV) is a national or habitual
4 resident of—

5 “(aa) a country in Central
6 America that has a refugee appli-
7 cation and processing center; or

8 “(bb) a country contiguous
9 to such a country (other than
10 Mexico).

11 “(ii) EXCEPTION.—Notwithstanding
12 clause (i), paragraph (1) shall not apply to
13 any alien who is present in the United
14 States on the date of the enactment of this
15 subparagraph.”.

16 **SEC. 4. ESTABLISHMENT OF REFUGEE APPLICATION AND**
17 **PROCESSING CENTERS.**

18 (a) DEFINITION.—Section 101(a) of the Immigration
19 and Nationality Act (8 U.S.C. 1101(a)) is amended by
20 adding at the end the following:

21 “(53) The term ‘refugee application and proc-
22 essing center’—

23 “(A) means a facility designated under sec-
24 tion 207(g) by the Secretary of State to accept

1 and process applications for refugee admissions
2 to the United States; and

3 “(B) may include a United States em-
4 bassy, consulate, or other diplomatic facility.”.

5 (b) DESIGNATION.—Section 207 of the Immigration
6 and Nationality Act (8 U.S.C. 1157) is amended by add-
7 ing at the end the following:

8 “(g) REFUGEE APPLICATION AND PROCESSING CEN-
9 TERS.—

10 “(1) DESIGNATION.—Not later than 240 days
11 after the date of the enactment of this subsection,
12 the Secretary of State, in consultation with the Sec-
13 retary of Homeland Security, shall designate refugee
14 application and processing centers outside the
15 United States.

16 “(2) LOCATIONS.—The Secretary of State shall
17 establish—

18 “(A) 1 refugee application and processing
19 center in Mexico; and

20 “(B) not fewer than 3 refugee application
21 and processing centers in Central America at
22 locations selected by the Secretary of State, in
23 consultation with the Secretary of Homeland
24 Security.

1 “(3) DUTIES OF SECRETARY OF STATE.—The
2 Secretary of State, in coordination with the Sec-
3 retary of Homeland Security, shall ensure that any
4 alien who is a national or habitual resident of a
5 country in which a refugee application and proc-
6 essing center is located, or a country contiguous to
7 such a country, may apply for refugee status at a
8 refugee application and processing center.

9 “(4) ADJUDICATION BY REFUGEE OFFICERS.—
10 An application for refugee status submitted to a ref-
11 ugee application and processing center shall be adju-
12 dicated by a refugee officer.

13 “(5) PRIORITY.—The Secretary of State shall
14 ensure that refugee application and processing cen-
15 ters accord priority to applications submitted—

16 “(A) by aliens who have been referred by
17 an authorized nongovernmental organization, as
18 determined by the Secretary of State;

19 “(B) not later than 90 days after the date
20 on which such referral is made; and

21 “(C) in accordance with the requirements
22 and procedures established by the Secretary of
23 State under this subsection.

24 “(6) NUMBER OF REFERRALS AND GRANTS OF
25 ADMISSION FOR REFUGEES.—The admission to the

1 United States of refugees under this subsection shall
2 be subject to the limitations, including the numerical
3 limitations, under this section.

4 “(7) APPLICATION FEES.—

5 “(A) IN GENERAL.—The Secretary of
6 State and the Secretary of Homeland Security
7 shall charge, collect, and account for fees pre-
8 scribed by each such Secretary pursuant to sub-
9 sections (m) and (n) of section 286 and section
10 9701 of title 31, United States Code, for the
11 purpose of receiving, docketing, processing, and
12 adjudicating an application under this sub-
13 section.

14 “(B) BASIS FOR FEES.—The fees pre-
15 scribed under subparagraph (A) shall be based
16 on a consideration of the amount necessary to
17 deter frivolous applications and the cost for
18 processing the application, including the imple-
19 mentation of program integrity and anti-fraud
20 measures.”.

21 (c) SUNSET.—The amendments made by this section
22 shall cease to be effective beginning on the date that is
23 three years and 240 days after the date of the enactment
24 of this Act.

1 **SEC. 5. REGULATIONS.**

2 Notwithstanding section 553(b) of title 5, United
3 States Code, not later than 210 days after the date of
4 the enactment of this Act, the Secretary of Homeland Se-
5 curity and the Attorney General shall, jointly or sepa-
6 rately, publish in the Federal Register interim final rules
7 to implement the amendments made by section 3(c) and
8 section 4.

9 **SEC. 6. HIRING AUTHORITY.**

10 (a) IMMIGRATION JUDGES.—The Attorney General
11 shall increase—

12 (1) the number of immigration judges by not
13 fewer than an additional 500 judges, as compared to
14 the number of immigration judges as of the date of
15 the enactment of this Act; and

16 (2) the corresponding number of support staff,
17 as necessary.

18 (b) IMMIGRATION AND CUSTOMS ENFORCEMENT AT-
19 TORNEYS.—The Director of U.S. Immigration and Cus-
20 toms Enforcement shall increase the number of attorneys
21 and staff employed by U.S. Immigration and Customs En-
22 forcement by the number that is consistent with the work-
23 load staffing model to support the increase in immigration
24 judges.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary for—

4 (1) the hiring of immigration judges, support
5 staff, and U.S. Immigration and Customs Enforce-
6 ment attorneys under this section; and

7 (2) the lease, purchase, or construction of facili-
8 ties or equipment (including video teleconferencing
9 equipment and equipment for electronic filing of im-
10 migration cases), and the transfer of federally owned
11 temporary housing units to serve as facilities, for—

12 (A) the increased number of immigration
13 judges, attorneys, and support staff under this
14 section; and

15 (B) conducting immigration court pro-
16 ceedings in close proximity to the locations at
17 which aliens are apprehended and detained.