H. R. 1738

To protect children through eliminating visa loopholes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 2019

Mr. SENSENBERN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To protect children through eliminating visa loopholes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Children Through Eliminating Visa Loopholes Act”.

SEC. 2. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) the laws of the United States and the policies of the Department of State aim to prevent and
reduce the risks of child marriages, sex trafficking, and sexual abuse occurring throughout the world;

(2) major loopholes in Federal law have allowed thousands of minors to be subjected to child marriages;

(3) under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.)—

(A) a United States citizen child may petition for an immigrant visa for a spouse or fiancé living in another country; and

(B) a United States citizen adult may petition for an immigrant visa for a minor spouse or fiancé living abroad;

(4) the United States Government has advocated for preventing and reducing the occurrence of child marriages throughout the world;

(5) Congress passed the Violence Against Women Reauthorization Act of 2013 (Public Law 113–4), which requires the Secretary of State to establish and implement a multiyear strategy—

(A) to “prevent child marriages”; and

(B) to “promote the empowerment of girls at risk of child marriage in developing countries”;}
(6) acknowledges that although the Federal Government is limited in its ability to address child marriage within individual States, establishing a minimum age of 18 years for marriage-based and fiancé-based immigrant visa petitions is an immediate and viable solution for preventing child marriage through exploitation of the United States immigration system;

(7) affirms that child well being is a foremost priority and consideration when imposing strict age requirements for visa spousal and fiancé petitions within the United States immigration system;

(8) recognizes that under the current immigration legal framework, individuals may exploit visa marriage and fiancé petitions for nefarious purposes, including—

(A) coercing forced marriages; and

(B) the trafficking and abuse of children;

and

(9) acknowledges that between 2007 and 2017—

(A) loopholes in the United States immigration laws resulted in the approval by U.S. Citizenship and Immigration Services of 8,868
petitions involving minors for spousal or fiancé entry into the United States; and

(B) girls were the younger party in 95 percent of such petitions.

SEC. 3. PROTECTING CHILDREN THROUGH ELIMINATING VISA LOOPHOLES.

(a) DEFINITIONS.—Section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) is amended—

(1) in paragraph (15)(K)—

(A) in the matter preceding clause (i), by striking “(p) of section 214, an alien” and inserting “(r) of section 214, an alien who is at least 18 years of age”; and

(B) by inserting “who is at least 18 years of age” after “a citizen of the United States” each time such term appears; and

(2) in paragraph (35), by adding at the end the following: “Such terms do not include any individual who is younger than 18 years of age or who is married to an individual who is younger than 18 years of age.”.

(b) EFFECTIVE DATE.—

(1) K NONIMMIGRANTS.—The amendments made by subsection (a)(1)—
(A) shall take effect on the date of the enactment of this Act; and

(B) shall apply to any petition or application seeking nonimmigrant status for any alien under section 101(a)(15)(K) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)) that is pending before any agency, officer, or employee of the United States on or after such date of enactment.

(2) Spouse; wife; husband.—The amendment made by subsection (a)(2)—

(A) subject to subparagraphs (B) and (C), shall take effect on the date of the enactment of this Act;

(B) subject to subparagraph (C), shall apply to marriages entered into before, on, or after such date of enactment; and

(C) shall apply to any petition or application for any status or benefit under the immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) that is filed or otherwise submitted on or after such date of enactment, except for a petition under section 216 of such Act (8 U.S.C. 1186a) to remove the conditional
basis of lawful permanent residence based upon
a grant of conditional lawful permanent resi-
dent status before such date of enactment.

(c) Rule of Construction.—The amendment
made by subsection (a)(2)—

(1) shall apply to the immigration laws (as de-

defined in section 101(a)(17) of the Immigration and
Nationality Act (8 U.S.C. 1101(a)(17));

(2) may not be construed to affect or modify
any reference to, or legal effect of, any marriage
under any provision of the immigration laws using
a term not defined by such amendment, including
whether any person is married or has been born in
wedlock or legitimated for purposes of determining
whether such person is a child or is a married or un-
married son or daughter; and

(3) may not be construed to limit or modify the
eligibility of any VAWA self-petitioner (as defined in
section 101(a)(51) of the Immigration and Nation-
ality Act (8 U.S.C. 1101(a)(51)) for any available
relief under the immigration laws.

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