

117TH CONGRESS
1ST SESSION

H. R. 1573

To clarify the rights of all persons who are held or detained at a port of entry or at any detention facility overseen by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

IN THE HOUSE OF REPRESENTATIVES

MARCH 3, 2021

Ms. JAYAPAL introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To clarify the rights of all persons who are held or detained at a port of entry or at any detention facility overseen by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

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 “Access to Counsel Act
5 of 2021”.

1 **SEC. 2. ACCESS TO COUNSEL AND OTHER ASSISTANCE AT**
2 **PORTS OF ENTRY AND DEFERRED INSPEC-**
3 **TION.**

4 (a) ACCESS TO COUNSEL AND OTHER ASSISTANCE
5 DURING INSPECTION.—Section 235 of the Immigration
6 and Nationality Act (8 U.S.C. 1225) is amended by add-
7 ing at the end the following:

8 “(e) ACCESS TO COUNSEL AND OTHER ASSISTANCE
9 DURING INSPECTION.—

10 “(1) IN GENERAL.—The Secretary of Homeland
11 Security shall ensure that a covered individual has
12 a meaningful opportunity to consult with counsel
13 and an interested party during the inspection proc-
14 ess.

15 “(2) SCOPE OF ASSISTANCE.—The Secretary of
16 Homeland Security shall—

17 “(A) provide the covered individual a
18 meaningful opportunity to consult (including
19 consultation via telephone) with counsel and an
20 interested party not later than one hour after
21 the secondary inspection process commences
22 and as necessary throughout the inspection
23 process, including, as applicable, during de-
24 ferred inspection;

25 “(B) allow counsel and an interested party
26 to advocate on behalf of the covered individual,

1 including by providing to the examining immi-
2 gration officer information, documentation, and
3 other evidence in support of the covered indi-
4 vidual; and

5 “(C) to the greatest extent practicable, ac-
6 commodate a request by the covered individual
7 for counsel or an interested party to appear in-
8 person at the secondary or deferred inspection
9 site.

10 “(3) SPECIAL RULE FOR LAWFUL PERMANENT
11 RESIDENTS.—

12 “(A) IN GENERAL.—The Secretary of
13 Homeland Security may not accept Form I-407
14 Record of Abandonment of Lawful Permanent
15 Resident Status (or a successor form) from a
16 lawful permanent resident subject to secondary
17 or deferred inspection without providing such
18 lawful permanent resident a meaningful oppor-
19 tunity to seek advice from counsel prior to the
20 submission of the form.

21 “(B) EXCEPTION.—The Secretary of
22 Homeland Security may accept Form I-407
23 Record of Abandonment of Lawful Permanent
24 Resident Status (or a successor form) from a
25 lawful permanent resident subject to secondary

1 or deferred inspection if such lawful permanent
2 resident knowingly, intelligently, and voluntarily
3 waives, in writing, the opportunity to seek ad-
4 vice from counsel.

5 “(4) DEFINITIONS.—In this section:

6 “(A) COUNSEL.—The term ‘counsel’
7 means—

8 “(i) any attorney who is a member in
9 good standing of the bar of any State, the
10 District of Columbia, or a territory or a
11 possession of the United States and is not
12 under an order suspending, enjoining, re-
13 straining, disbarring, or otherwise restrict-
14 ing the attorney in the practice of law; or

15 “(ii) an individual accredited by the
16 Attorney General, acting as a representa-
17 tive of an organization recognized by the
18 Executive Office for Immigration Review,
19 to represent a covered individual in immi-
20 gration matters.

21 “(B) COVERED INDIVIDUAL.—The term
22 ‘covered individual’ means an individual subject
23 to secondary or deferred inspection who is—

24 “(i) a national of the United States;

1 “(ii) an immigrant, lawfully admitted
2 for permanent residence, who is returning
3 from a temporary visit abroad;

4 “(iii) an alien seeking admission as an
5 immigrant in possession of a valid unex-
6 pired immigrant visa;

7 “(iv) an alien seeking admission as a
8 non-immigrant in possession of a valid un-
9 expired non-immigrant visa;

10 “(v) a refugee;

11 “(vi) a returning asylee; or

12 “(vii) an alien who has been approved
13 for parole under section 212(d)(5)(A), in-
14 cluding an alien who is returning to the
15 United States in possession of a valid ad-
16 vance parole document.

17 “(C) INTERESTED PARTY.—The term ‘in-
18 terested party’ means—

19 “(i) a relative of the covered indi-
20 vidual;

21 “(ii) in the case of a covered indi-
22 vidual to whom an immigrant or non-immi-
23 grant visa has been issued, the petitioner
24 or sponsor thereof (including an agent of
25 such petitioner or sponsor); or

1 “(iii) a person, organization, or entity
2 in the United States with a bona fide con-
3 nection to the covered individual.”.

4 (b) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall take effect 180 days after the date
6 of the enactment of this Act.

7 (c) SAVINGS PROVISION.—Nothing in this Act, or in
8 any amendment made by this Act, may be construed to
9 limit a right to counsel or any right to appointed counsel
10 under—

11 (1) section 240(b)(4)(A) (8 U.S.C.
12 1229a(b)(4)(A)),

13 (2) section 292 of the Immigration and Nation-
14 ality Act (8 U.S.C. 1362), or

15 (3) any other provision of law, including any
16 final court order securing such rights,

17 as in effect on the day before the date of the enactment
18 of this Act.

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