

SA 1469. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 1388 proposed by Mrs. MURRAY (for herself and Mr. SCHUMER) to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. MAXIMUM NUMBER OF PAROLEES.

Section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)) is amended—

(1) by striking “Attorney General” each place it appears and inserting “Secretary of Homeland Security”; and

(2) by adding at the end the following:

“(C) The number of aliens the Secretary of Homeland Security may parole into the United States under this subsection shall not exceed a total of 10,000 during a single fiscal year.”.

SA 1470. Mr. GRAHAM submitted an amendment intended to be proposed to amendment SA 1388 submitted and intended to be proposed by Mrs. MURRAY (for herself and Mr. SCHUMER) to the bill H.R. 815, to amend title 38, United States Code, to make certain improvements relating to the eligibility of veterans to receive reimbursement for emergency treatment furnished through the Veterans Community Care program, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. PROVISIONAL REMOVAL PROCEEDINGS.

(a) IN GENERAL.—Chapter 4 of title II of the Immigration and Nationality Act (8 U.S.C. 1221 et seq.) is amended by inserting after section 235A the following:

“SEC. 235B. PROVISIONAL REMOVAL PROCEEDINGS.

“(a) GENERAL RULES.—

“(1) AUTHORITY.—The Secretary shall have the authority to place individuals, including families, in provisional removal proceedings.

“(2) DETENTION.—Individuals and families subject to provisional removal proceedings shall be detained.

“(3) TIMING.—The provisional removal proceedings described in this section shall conclude, to the maximum extent practicable, not later than 90 days after the date the alien is inspected and determined inadmissible.

“(b) PROCEDURES FOR PROVISIONAL REMOVAL PROCEEDINGS.—

“(1) COMMENCEMENT.—

“(A) IN GENERAL.—Provisional removal proceedings shall commence under this section with respect to an alien immediately after the Secretary properly serves a notice of removal proceedings on the alien.

“(B) 90-DAY TIMEFRAME.—The 90-day period under subsection (a)(3) with respect to an alien shall commence upon an inspection and inadmissibility determination of the alien.

“(2) SERVICE AND NOTICE OF INTERVIEW REQUIREMENTS.—In provisional removal proceedings conducted under this section, the Secretary shall—

“(A) serve notice to the alien or to the alien’s counsel of record;

“(B) ensure that such notice, to the maximum extent practicable, is in the alien’s native language or in a language the alien understands; and

“(C) include in such notice—

“(i) the nature of the proceedings against the alien;

“(ii) the legal authority under which such proceedings will be conducted; and

“(iii) the charges against the alien and the statutory provisions the alien is alleged to have violated;

“(3) PROTECTION DETERMINATION.—

“(A) IN GENERAL.—To the maximum extent practicable, within 90 days after the date on which an alien is referred for proceedings under this section, an asylum officer shall conduct a protection determination of such alien in person or through a technology appropriate for protection determinations.

“(B) PROCEDURES AND EVIDENCE.—The asylum officer may receive into evidence any oral or written statement that is material and relevant to any matter in the protection determination. The testimony of the alien shall be under oath or affirmation administered by the asylum officer.

“(C) INTERPRETERS.—Whenever necessary, the asylum officer shall procure the assistance of an interpreter, to the maximum extent practicable, in the alien’s native language or in a language the alien understands, during any protection determination.

“(D) LOCATION.—Any protection determination authorized under this section shall occur in a location convenient to the detention of the aliens.

“(E) WRITTEN RECORD.—The asylum officer shall prepare a written record of each protection determination, which—

“(i) shall be provided to the alien, or to the alien’s counsel of record, upon a decision; and

“(ii) shall include—

“(I) a summary of the material facts stated by the alien;

“(II) any additional facts relied upon by the asylum officer;

“(III) the asylum officer’s analysis of why, in the light of the facts referred to in subclauses (I) and (II), the alien has or has not established a positive or negative outcome from the protection determination; and

“(IV) a copy of the asylum officer’s interview notes.

“(F) WITHDRAWAL OF APPLICATION, VOLUNTARY DEPARTURE, AND VOLUNTARY REPATRIATION.—

“(i) VOLUNTARY DEPARTURE.—The Secretary may permit an alien to voluntarily depart.

“(ii) WITHDRAWAL OF APPLICATION.—The Secretary may permit an alien, at any time before the protection merits interview, to withdraw his or her application and depart immediately from the United States.

“(G) CONVERSION TO REMOVAL PROCEEDINGS UNDER SECTION 240.—The asylum officer or immigration officer may refer or place an alien into removal proceedings under section 240 by issuing a notice to appear for the purpose of initiating such proceedings if either such officer determines that—

“(i) such proceedings are required in order to permit the alien to seek an immigration benefit for which the alien is legally entitled to apply; and

“(ii) such application requires such alien to be placed in, or referred to proceedings under section 240 that are not available to such alien under this section.

“(H) PROTECTION OF INFORMATION.—

“(i) SENSITIVE OR LAW ENFORCEMENT INFORMATION.—Nothing in this section may be construed to compel any employee of the Department of Homeland Security to disclose any information that is otherwise protected from disclosure by law.

“(ii) PROTECTION OF CERTAIN INFORMATION.—Before providing the record described in subparagraph (E) to the alien or to the alien’s counsel of record, the Director shall protect any information that is prohibited by law from being disclosed.

“(c) PROTECTION DETERMINATION.—

“(1) IDENTITY VERIFICATION.—The Secretary may not conduct the protection determination with respect to an alien until the identity of the alien has been checked against all appropriate records and databases maintained by the Attorney General, the Secretary of State, or the Secretary.

“(2) IN GENERAL.—

“(A) ELIGIBILITY.—Upon the establishing the identity of an alien pursuant to paragraph (1), the asylum officer shall conduct a protection determination in a location selected in accordance with this section.

“(B) OUTCOME.—

“(i) POSITIVE PROTECTION DETERMINATION OUTCOME.—If the protection determination conducted pursuant to subparagraph (A) results in a positive protection determination outcome, the alien shall be referred to protection merits removal proceedings in accordance with the procedures described in paragraph (4).

“(ii) NEGATIVE PROTECTION DETERMINATION OUTCOME.—If such protection determination results in a negative protection determination outcome, the alien shall be subject to the process described in subsection (d).

“(3) RECORD.—

“(A) USE OF RECORD.—In each protection determination, or any review of such determination, the record of the alien’s protection determination required under subsection (b)(3)(E) shall constitute the underlying application for the alien’s application for asylum, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture for purposes of the protection merits interview.

“(B) DATE OF FILING.—The date on which the Secretary issues a notification of a positive protection determination pursuant to paragraph (2)(B)(i) shall be considered, for all purposes, the date of filing and the date of receipt of the alien’s application for asylum, withholding of removal under section 241(b)(3), or protection under the Convention Against Torture, as applicable.

“(4) REFERRAL FOR ASYLUM PROCEEDINGS.—

“(A) IN GENERAL.—If the alien receives a positive protection determination, he or she shall be referred to asylum proceedings under section 240.

“(B) NOTIFICATIONS.—As soon as practicable after a positive protection determination, the Secretary shall—

“(i) issue a written notification to the alien of the outcome of such determination; and

“(ii) include all of the information described in subsection (b)(2).

“(d) NEGATIVE PROTECTION DETERMINATION.—

“(1) IN GENERAL.—If an alien receives a negative protection determination, the asylum officer shall—

“(A) provide such alien with written notification of such determination; and

“(B) subject to paragraph (2), order the alien removed from the United States without hearing or review.

“(2) OPPORTUNITY TO REQUEST RECONSIDERATION OR APPEAL.—The Secretary shall notify any alien described in paragraph (1) immediately after receiving notification of a negative protection determination under this subsection that he or she—

“(A) may request reconsideration of such determination in accordance with paragraph (3); and

“(B) may request administrative review of such protection determination decision in accordance with paragraph (4).

“(3) REQUEST FOR RECONSIDERATION.—

“(A) IN GENERAL.—Any alien with respect to whom a negative protection determination has been made may submit a request for reconsideration to U.S. Citizenship and Immigration Services not later than 5 days after such determination.

“(B) DECISION.—The Director, or designee, in the Director’s unreviewable discretion, may grant or deny a request for reconsideration made pursuant to subparagraph (A), which decision shall not be subject to review.

“(4) ADMINISTRATIVE REVIEW.—

“(A) IN GENERAL.—The administrative review of a protection determination with respect to an alien under this subsection shall be at the discretion of the Secretary.

“(B) EXCEPTION.—An alien referred to in subparagraph (A), or the alien’s counsel of record, may submit such additional evidence or testimony in accordance with such policies and procedures as the Secretary may prescribe.

“(C) REVIEW.—Each review described in subparagraph (A) may be conducted by asylum officers so designated by the Secretary at the discretion of the Secretary.

“(D) STANDARD OF REVIEW.—In accordance with the procedures prescribed by the Secretary, a review of the record of the protection determination carried out pursuant to this section may be undertaken for clear error.

“(E) DETERMINATION.—

“(i) TIMING.—The Secretary shall complete a review under this paragraph, to the maximum extent practicable, not later than 72 hours after receiving a request from an alien pursuant to subparagraph (D).

“(ii) EFFECT OF POSITIVE DETERMINATION.—If, after conducting a review under this paragraph, the Secretary determines that an alien has a positive protection determination, the alien shall be referred for asylum proceedings under section 240.

“(iii) EFFECT OF NEGATIVE DETERMINATION.—If, after conducting a review under this paragraph, the Secretary determines that an alien has a negative protection determination, the alien shall be ordered removed from the United States without additional review.

“(5) JURISDICTIONAL MATTERS.—In any action brought against an alien under section 275(a) or 276, the court shall not have jurisdiction to hear any claim attacking the validity of an order of removal entered under this section.

“(e) SERVICE OF PROTECTION DETERMINATION DECISION.—

“(1) PROTECTION DETERMINATION DECISION.—

“(A) IN GENERAL.—Upon reaching a decision regarding a protection determination, the Secretary shall—

“(i) immediately notify the alien, and the alien’s counsel of record, if applicable, that a determination decision has been made; and

“(ii) schedule the service of the protection determination decision, which shall take place, to the maximum extent practicable, not later than 5 days after such notification.

“(B) SPECIAL RULES.—

“(i) LOCATION.—Each service of a protection determination decision scheduled pursuant to subparagraph (A)(ii) may occur at—

“(I) a U.S. Immigration and Customs Enforcement facility;

“(II) an Immigration Court; or

“(III) any other federally owned or federally leased building that—

“(aa) the Secretary has authorized or entered into a memorandum of agreement to be used for such purpose; and

“(bb) meets the minimum requirements under this subparagraph.

“(ii) MINIMUM REQUIREMENTS.—In conducting each service of a protection determination decision, the Director shall ensure basic notice.

“(2) PROCEDURES FOR SERVICE OF PROTECTION DETERMINATION DECISIONS.—

“(A) WRITTEN DECISION.—The Secretary shall ensure that each alien and the alien’s counsel of record, if applicable, attending a determination decision receives a written decision that includes, at a minimum, the articulated basis for the denial of the protection benefit sought by the alien.

“(B) LANGUAGE ACCESS.—The Secretary shall ensure that each written decision required under subparagraph (A) is delivered to the alien in—

“(i) the alien’s native language, to the maximum extent practicable; or

“(ii) another language the alien understands.

“(C) ACCESS TO COUNSEL.—An alien who has obtained the services of counsel shall be represented by such counsel, at no expense to the Federal Government, at the service of the protection determination. Nothing in this subparagraph may be construed to create a substantive due process right or to unreasonably delay the scheduling of the service of the protection determination.

“(D) ASYLUM OFFICER.—A protection determination decision may only be served by an asylum officer.

“(E) PROTECTIONS FOR ASYLUM OFFICER DECISIONS BASED ON THE MERITS OF THE CASE.—The Secretary may not impose restrictions on an asylum officer’s ability to grant or deny relief sought by an alien in a protection determination or protection merits interview based on a numerical limitation.

“(3) NEGATIVE PROTECTION DETERMINATION.—

“(A) ADVISEMENT OF RIGHTS AND OPPORTUNITIES.—If an alien receives a negative protection determination decision, the asylum officer shall—

“(i) advise the alien if an alternative option of return is available to the alien, including—

“(I) voluntary departure;

“(II) withdrawal of the alien’s application for admission; or

“(III) voluntary repatriation; and

“(ii) provide written or verbal information to the alien regarding the process, procedures, and timelines for appealing such denial, to the maximum extent practicable, in the alien’s native language, or in a language the alien understands.

“(4) PROTECTION FOR CHILDREN.—In the case of a family unit, the Secretary shall ensure that the best interests of the child or children are considered when conducting a protection determination of the child’s family unit.

“(5) FINAL ORDER OF REMOVAL.—If an alien receives a negative protection determination decision, an alien shall be removed in accordance with section 241 upon a final order of removal.

“(f) RULEMAKING.—

“(1) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this section in compliance with the requirements of section 553 of title 5, United States Code.

“(2) INITIAL IMPLEMENTATION.—Until the date that is 180 days after the date of the enactment of this section, the Secretary may issue any interim final rules necessary to implement this section without having to satisfy the requirements of section 553(b)(B) of title 5, United States Code, provided that any such interim final rules shall include a 30-day post promulgation notice and comment period prior to finalization in the Federal Register.

“(3) REQUIREMENT.—All regulations promulgated to implement this section beginning on the date that is 180 days after the date of the enactment of this section, shall be issued pursuant to the requirements set forth in section 553 of title 5, United States Code.

“(g) SAVINGS PROVISIONS.—

“(1) DETENTION.—Nothing in this section may be construed to affect the authority of the Secretary to detain an alien released pursuant to this section if otherwise authorized by law.

“(2) SPECIAL RULE.—For aliens who are natives or citizens of Cuba released pursuant to this section and who are otherwise eligible for adjustment of status under the first section of Public Law 89-732 (8 U.S.C. 1255 note) (commonly known as the ‘Cuban Adjustment Act’), the requirement that an alien has been inspected and admitted or paroled into the United States shall not apply. Aliens who are natives or citizens of Cuba or Haiti and have been released pursuant to section 240 (8 U.S.C. 1229) shall be considered to be individuals described in section 501(e)(1) of the Refugee Education Assistance Act of 1980 (8 U.S.C. 1522 note).

“(3) REVIEW OF PROTECTION DETERMINATIONS.—Except for reviews of constitutional claims, no court shall have jurisdiction to review a protection determination issued by U.S. Citizenship and Immigration Services under this section.

“(4) FINAL REMOVAL ORDERS.—No court shall have jurisdiction to review a final order of removal issued under this section.

“(h) JUDICIAL REVIEW.—Notwithstanding any other provision of this Act, judicial review of any decision or action in this section shall be governed only by the United States District Court for the Northern District of Texas, which shall have sole and original jurisdiction to hear challenges, whether constitutional or otherwise, to the validity of this section or any written policy directive, written policy guideline, written procedure, or the implementation thereof, issued by or under the authority of the Secretary to implement this section.

“(i) DEFINITIONS.—In this section:

“(1) ASYLUM OFFICER.—The term ‘asylum officer’ has the meaning given such term in section 235(b)(1)(E).

“(2) CONVENTION AGAINST TORTURE.—The term ‘Convention Against Torture’ means the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984, including any implementing regulations.

“(3) DIRECTOR.—The term ‘Director’ means the Director of U.S. Citizenship and Immigration Services.

“(4) FINAL ORDER OF REMOVAL.—The term ‘final order of removal’ means an order of removal made by an asylum officer at the conclusion of a protection determination, and any appeal of such order, as applicable.

“(5) PROTECTION DETERMINATION DECISION.—The term ‘protection determination decision’ means the service of a negative or positive protection determination outcome.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Homeland Security.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act (8 U.S.C. 1101 note) is amended by inserting after the item relating to section 235A the following:

“Sec. 235B. Provisional removal proceedings.”.

SA 1471. Mr. HAWLEY (for himself, Mr. LUJÁN, Mr. CRAPO, Mr. SCHMITT, Mr. HEINRICH, and Mr. KELLY) submitted an amendment intended to be