

116TH CONGRESS
1ST SESSION

S. 742

To protect children through eliminating visa loopholes.

IN THE SENATE OF THE UNITED STATES

MARCH 12, 2019

Mr. JOHNSON (for himself, Ms. ERNST, and Mr. COTTON) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To protect children through eliminating visa loopholes.

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 “Protecting Children
5 Through Eliminating Visa Loopholes Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that—

8 (1) the laws of the United States and the poli-
9 cies of the Department of State aim to prevent and
10 reduce the risks of child marriages, sex trafficking,
11 and sexual abuse occurring throughout the world;

1 (2) major loopholes in Federal law have allowed
2 thousands of minors to be subjected to child mar-
3 riages;

4 (3) under the Immigration and Nationality Act
5 (8 U.S.C. 1101 et seq.)—

6 (A) a United States citizen child may peti-
7 tion for an immigrant visa for a spouse or
8 fiancé living in another country; and

9 (B) a United States citizen adult may peti-
10 tion for an immigrant visa for a minor spouse
11 or fiancé living abroad;

12 (4) the United States Government has advo-
13 cated for preventing and reducing the occurrence of
14 child marriages throughout the world;

15 (5) Congress passed the Violence Against
16 Women Reauthorization Act of 2013 (Public Law
17 113–4), which requires the Secretary of State to es-
18 tablish and implement a multiyear strategy—

19 (A) to “prevent child marriages”; and

20 (B) to “promote the empowerment of girls
21 at risk of child marriage in developing coun-
22 tries”;

23 (6) acknowledges that although the Federal
24 Government is limited in its ability to address child
25 marriage within individual States, establishing a

1 minimum age of 18 years for marriage-based and
2 fiancé-based immigrant visa petitions is an imme-
3 diate and viable solution for preventing child mar-
4 riage through exploitation of the United States im-
5 migration system;

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

10 (8) recognizes that under the current immigra-
11 tion legal framework, individuals may exploit visa
12 marriage and fiancé petitions for nefarious purposes,
13 including—

14 (A) coercing forced marriages; and

15 (B) the trafficking and abuse of children;

16 and

17 (9) acknowledges that between 2007 and
18 2017—

19 (A) loopholes in the United States immi-
20 gration laws resulted in the approval by U.S.
21 Citizenship and Immigration Services of 8,868
22 petitions involving minors for spousal or fiancé
23 entry into the United States; and

24 (B) girls were the younger party in 95 per-
25 cent of such petitions.

1 **SEC. 3. PROTECTING CHILDREN THROUGH ELIMINATING**
 2 **VISA LOOPHOLES.**

3 (a) DEFINITIONS.—Section 101(a) of the Immigra-
 4 tion and Nationality Act (8 U.S.C. 1101(a)) is amended—

5 (1) in paragraph (15)(K)—

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

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

13 (2) in paragraph (35), by adding at the end the
 14 following: “Such terms do not include any individual
 15 who is younger than 18 years of age or who is mar-
 16 ried to an individual who is younger than 18 years
 17 of age.”.

18 (b) EFFECTIVE DATE.—

19 (1) K NONIMMIGRANTS.—The amendments
 20 made by subsection (a)(1)—

21 (A) shall take effect on the date of the en-
 22 actment of this Act; and

23 (B) shall apply to any petition or applica-
 24 tion seeking nonimmigrant status for any alien
 25 under section 101(a)(15)(K) of the Immigration
 26 and Nationality Act (8 U.S.C. 1101(a)(15)(K))

1 that is pending before any agency, officer, or
2 employee of the United States on or after such
3 date of enactment.

4 (2) SPOUSE; WIFE; HUSBAND.—The amend-
5 ment made by subsection (a)(2)—

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

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

12 (C) shall apply to any petition or applica-
13 tion for any status or benefit under the immi-
14 gration laws (as defined in section 101(a)(17)
15 of the Immigration and Nationality Act (8
16 U.S.C. 1101(a)(17))) that is filed or otherwise
17 submitted on or after such date of enactment,
18 except for a petition under section 216 of such
19 Act (8 U.S.C. 1186a) to remove the conditional
20 basis of lawful permanent residence based upon
21 a grant of conditional lawful permanent resi-
22 dent status before such date of enactment.

23 (c) RULE OF CONSTRUCTION.—The amendment
24 made by subsection (a)(2)—

1 (1) shall apply to the immigration laws (as de-
2 fined in section 101(a)(17) of the Immigration and
3 Nationality Act (8 U.S.C. 1101(a)(17)));

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

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

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