

116TH CONGRESS
1ST SESSION

H. R. 2214

To transfer and limit Executive Branch authority to suspend or restrict
the entry of a class of aliens.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Ms. JUDY CHU of California (for herself, Mr. PALLONE, Ms. ESHOO, Ms. CLARKE of New York, Mr. BLUMENAUER, Ms. STEVENS, Mrs. WATSON COLEMAN, Mrs. NAPOLITANO, Miss RICE of New York, Ms. VELÁZQUEZ, Mr. KILDEE, Mr. DESAULNIER, Ms. DELBENE, Mr. POCAN, Mr. EVANS, Mrs. LAWRENCE, Ms. PRESSLEY, Mr. LEVIN of Michigan, Mr. DAVID SCOTT of Georgia, Mr. GRIJALVA, Mr. BROWN of Maryland, Mr. NADLER, Ms. LOFGREN, Mr. CARSON of Indiana, Mr. BEYER, Ms. OMAR, Mr. KHANNA, Ms. JAYAPAL, Ms. TLAIB, Ms. NORTON, Ms. SCHAKOWSKY, Mr. ROSE of New York, Mr. ESPAILLAT, Mr. GOMEZ, Mrs. DINGELL, Mr. RUSH, Mr. SMITH of Washington, Mr. CÁRDENAS, Ms. SHALALA, Mr. CORREA, Ms. OCASIO-CORTEZ, Ms. LEE of California, Mr. MALINOWSKI, Ms. SPANBERGER, Mr. MCGOVERN, Mr. COHEN, Mr. JOHNSON of Georgia, Mr. RUPPERSBERGER, Ms. MENG, Mr. TONKO, Mrs. TRAHAN, Mr. KENNEDY, Mr. MOULTON, Ms. ADAMS, Mr. CUMMINGS, Mr. CONNOLLY, Ms. ROYBAL-ALLARD, Mr. LEWIS, Mrs. KIRKPATRICK, Mr. SIRES, Ms. SLOTKIN, Mr. GREEN of Texas, Ms. MCCOLLUM, and Mr. DOGGETT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, Homeland Security, and Intelligence (Permanent Select), 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 transfer and limit Executive Branch authority to suspend
or restrict the entry of a class of aliens.

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 TITLES.**

4 This Act may be cited as the “National Origin-Based
 5 Antidiscrimination for Nonimmigrants Act” or the “NO
 6 BAN Act”.

7 **SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

8 Section 202(a)(1)(A) of the Immigration and Nation-
 9 ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

10 (1) by inserting “or a nonimmigrant visa, entry
 11 into the United States, or the approval or revocation
 12 of any immigration benefit” after “immigrant visa”;

13 (2) by inserting “religion,” after “sex,”; and

14 (3) by inserting “, except if expressly required
 15 by statute, or if a statutorily authorized benefit
 16 takes into consideration such factors” before the pe-
 17 riod at the end.

18 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
 19 **SUSPEND OR RESTRICT THE ENTRY OF A**
 20 **CLASS OF ALIENS.**

21 Section 212(f) of the Immigration and Nationality
 22 Act (8 U.S.C. 1182(f)) is amended—

23 (1) in the subsection heading, by striking “BY
 24 PRESIDENT”; and

1 (2) by striking “Whenever the President” and
2 all that follows through “appropriate.” and inserting
3 the following:

4 “(1) IN GENERAL.—Subject to paragraph (2),
5 if the Secretary of State, after consultation with the
6 Secretary of Homeland Security, determines, based
7 on credible facts, that the entry of any aliens or of
8 any class of aliens into the United States should be
9 suspended or restricted to address specific acts that
10 undermine the security or public safety of the
11 United States; human rights; democratic processes
12 or institutions; or international stability, the Presi-
13 dent may temporarily—

14 “(A) suspend the entry of any aliens or
15 any class of aliens as immigrants or non-
16 immigrants; or

17 “(B) impose any restrictions on the entry
18 of aliens that the President considers to be ap-
19 propriate.

20 “(2) LIMITATIONS.—In carrying out paragraph
21 (1), the President, the Secretary of State, and the
22 Secretary of Homeland Security—

23 “(A) shall provide specific evidence sup-
24 porting the determination;

1 “(B) shall comply with all provisions of
2 this Act, including section 202(a)(1)(A);

3 “(C) shall narrowly tailor the suspension
4 or restriction to meet a compelling govern-
5 mental interest;

6 “(D) shall specify the duration of the sus-
7 pension or restriction and set forth evidence
8 justifying such duration;

9 “(E) shall use the least restrictive means
10 possible to achieve the specified governmental
11 interest; and

12 “(F) shall consider waivers to any class-
13 based restriction or suspension and apply a re-
14 buttable presumption in favor of granting fam-
15 ily-based and humanitarian waivers.

16 “(3) CONSULTATION.—The President, the Sec-
17 retary of State, and the Secretary of Homeland Se-
18 curity shall consult with Congress before exercising
19 the authority under paragraph (1).

20 “(4) CONGRESSIONAL NOTIFICATION.—Not
21 later than 48 hours after the President exercises the
22 authority under paragraph (1), the Secretary of
23 State and the Secretary of Homeland Security shall
24 provide a briefing and submit a written report to the
25 Committee on Foreign Relations of the Senate, the

1 Committee on the Judiciary of the Senate, the Com-
2 mittee on Homeland Security and Governmental Af-
3 fairs of the Senate, the Committee on Foreign Af-
4 fairs of the House of Representatives, the Com-
5 mittee on the Judiciary of the House of Representa-
6 tives, and the Committee on Homeland Security of
7 the House of Representatives that describes—

8 “(A) the actions taken pursuant to para-
9 graph (1) and the number of individuals to
10 which such actions apply;

11 “(B) the constitutional and legislative au-
12 thority under which such actions took place;
13 and

14 “(C) the circumstances necessitating the
15 actions taken pursuant to paragraph (1), in-
16 cluding how such actions comply with the limi-
17 tations described in paragraph (2).

18 “(5) PERIODIC REPORTING.—If the briefing re-
19 quired under paragraph (4) is not provided by the
20 Secretary of State and the Secretary of Homeland
21 Security within 48 hours after exercising the author-
22 ity under paragraph (1), and updated every 30 days
23 thereafter, such emergency suspension or action
24 shall immediately terminate absent intervening con-
25 gressional action.

1 “(6) PUBLICATION.—The Secretary of State
2 and the Secretary of Homeland Security shall pub-
3 licly announce and publish in the Federal Register—

4 “(A) the nature of the actions taken pur-
5 suant to paragraph (1);

6 “(B) the estimated number of individuals
7 impacted by such actions;

8 “(C) the specified objective of each such
9 action; and

10 “(D) the circumstances necessitating such
11 actions.

12 “(7) JUDICIAL REVIEW.—

13 “(A) IN GENERAL.—Notwithstanding any
14 other provision of law, an individual or entity
15 who is present in the United States and has
16 been harmed by a violation of this subsection
17 may file an action in an appropriate district
18 court of the United States to seek declaratory
19 or injunctive relief.

20 “(B) CLASS ACTION.—Nothing in this Act
21 may be construed to preclude an action filed
22 pursuant to subparagraph (A) from proceeding
23 as a class action.

24 “(8)”.

1 **SEC. 4. TERMINATION OF CERTAIN EXECUTIVE ACTIONS.**

2 (a) TERMINATION.—Presidential Proclamations 9645
3 and 9822 and Executive Orders 13769, 13780, and 13815
4 shall be void beginning on the date of the enactment of
5 this Act.

6 (b) EFFECT.—All actions made pursuant to any proc-
7 lamation or executive order terminated under subsection
8 (a) shall cease on the date of the enactment of this Act.

9 **SEC. 5. VISA APPLICANTS REPORT.**

10 (a) INITIAL REPORTS.—Not later than 90 days after
11 the date of the enactment of this Act, the Secretary of
12 State, in coordination with the relevant heads of other
13 Federal agencies, shall submit a report to the appropriate
14 congressional committees that describes the implementa-
15 tion of each of the presidential proclamations and execu-
16 tive orders referred to in section 4. The report submitted
17 with respect to Presidential Proclamation 9645 (“Presi-
18 dential Proclamation Enhancing Vetting Capabilities and
19 Processes for Detecting Attempted Entry Into the United
20 States by Terrorists or Other Public-Safety Threats”),
21 issued on September 24, 2017, should include, for each
22 country listed in Presidential Proclamation 9645 or in any
23 subsequent amendment to such proclamation—

24 (1) the total number of new visa applicants,
25 disaggregated by country and visa category;

1 (2) the total number of visa applicants ap-
2 proved, disaggregated by country and visa category;

3 (3) the total number of visa applicants rejected,
4 disaggregated by country and visa category, and the
5 reasons they were rejected;

6 (4) the total number of pending visa applicants,
7 disaggregated by country and visa category;

8 (5) the total number of visa applicants granted
9 a waiver, disaggregated by country and visa cat-
10 egory;

11 (6) the total number of visa applicants denied
12 a waiver under such section, disaggregated by coun-
13 try and visa category, and the reasons such waiver
14 requests were denied;

15 (7) the total number of refugees admitted,
16 disaggregated by country; and

17 (8) the complete reports that have been sub-
18 mitted to the President every 180 days in accord-
19 ance with section 4 of Presidential Proclamation
20 9645.

21 (b) ADDITIONAL REPORTS.—Not later than 30 days
22 after the President exercises authority under section
23 212(f) of the Immigration and Nationality Act, as amend-
24 ed by section 3, and every 30 days thereafter, the Sec-
25 retary of State, in coordination with the heads of other

1 relevant Federal agencies, shall submit a report to the ap-
2 propriate congressional committees that identifies, with
3 respect to visa applications affected by a suspension or
4 restriction authorized under such subsection, the informa-
5 tion described in paragraphs (1) through (7) of subsection
6 (a).

7 (c) FORM; AVAILABILITY.—The reports required
8 under subsections (a) and (b)—

- 9 (1) shall be submitted in unclassified form; and
10 (2) shall be made publicly available online.

○