



Summary of H.R. 4731

Refugee Program Integrity Restoration Act of 2016

March 2016

H.R. 4731, introduced by Congressman Raul Labrador (R-ID), would restore Congressional authority over refugee admissions. Among other things, the bill establishes an annual cap of 60,000 refugee admissions and prevents DHS from unilaterally waiving most grounds of inadmissibility when determining eligibility for refugee status.

The House Judiciary Committee marked up (amended) the bill on March 16 and passed the revised version out of committee.

Revoking the President's Unilateral Authority in Refugee Admissions and Setting 60,000 Annual Cap

Section 2 of the bill amends INA Section 207(a) to establish an annual cap of 60,000 refugee admissions. This section limits the President's role in the refugee admissions process to simply "recommend[ing]" to Congress for the "revision" of the cap. Additionally, this section revokes the President's unilateral authority to admit unlimited refugees in the event of an "emergency" refugee crisis. Instead, the President may "recommend" to Congress the number of refugees to be admitted on an emergency designation. (p. 2) Finally, Section 6 of the bill creates INA Section 207(g) authorizing the DHS Secretary to conduct recurrent background checks on admitted refugees until they adjust their status to legal permanent resident (green card holder). (p. 5)

Why These Provisions are Necessary

Currently, INA Section 207 allows the President to unilaterally set the number of refugee admissions per year with the only requirements being that the determination is made before the start of the fiscal year and that he receives "appropriate consultation." The President's

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emergency designation authority is even broader, allowing him to admit an unlimited number of refugees when “an unforeseen emergency refugee situation exists.”

Tightening the Definition of Refugee

Section 13 of the bill amends INA Section 101(a)(42) to reiterate that a person fleeing their country from fear of generalized violence does not qualify for refugee status. (p. 10)

Establishing Mandatory Revocation of Refugee Status Under Certain Circumstances

Section 3 of the bill replaces the DHS Secretary’s discretionary authority by mandating the termination of refugee status if the Secretary determines the alien “was not in fact a refugee” within the INA definition. This section adds a provision requiring the revocation of refugee status of any refugees who return to the country they fled from without a change in country conditions. Additionally, this section requires the DHS Secretary to submit to the Senate and House Judiciary Committees an annual report on the number of refugee terminations. (pp. 2-4)

Establishing Priority Processing for Refugees Fleeing Persecution Based on Religion

Section 4 of the bill adds a provision that refugee applications from countries on the “Country of Particular Concern” list—as determined by the Commission on International Religious Freedoms—receive “priority consideration” if their claim is based on religious persecution because the applicant practices a “minority religion” in the country. (p. 4)

Limiting Grounds of Inadmissibility Waivers

Section 5 revises INA Section 207(c)(3) to only allow the DHS Secretary to waive health-related grounds of inadmissibility (INA Section 212(a)(1)) when considering refugee eligibility. (p. 5)

Why This Section is Necessary

Currently, under INA Section 207(c)(3) the following grounds of inadmissibility are not applicable when considering refugee eligibility: public charge (INA 212(a)(4)); alien workers without labor certification (INA 212(a)(5)); and immigrants who do not possess proper documents (INA 212(a)(7)(A)). Additionally, nearly all other grounds of inadmissibility of waivable by the DHS Secretary except for drug trafficking (INA 212(a)(2)(C)) and national security threats (INA 212(a)(3)(A)-(C), (E))

Improving the Process on Adjustment of Refugee Status

Section 7 of the bill amends INA Section 209(a) to increase the amount of time a refugee must be physically present in the U.S. before they can adjust to Lawful Permanent Resident (LPR) status from one year to three years. (p. 5)

Section 8(a) revises INA Section 209(c) to only allow the DHS Secretary to waive health-related grounds of inadmissibility (INA Section 212(a)(1)) when considering a refugee’s eligibility to

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adjust to LPR status. Section 8(b) adds INA Section 209(d) to prohibit a refugee from adjusting to LPR status if the alien is deportable under INA Section 237, except that public charge does not apply. This section adds INA Section 209(e) to require an in-person interview of a refugee intending to adjust to LPR status. The alien must establish by “clear and convincing evidence” that he/she continues to meet the statutory definition of a refugee. Lastly, this section adds INA Section 209(f) to require the reexamination for admission of all refugees whose adjustment to LPR status was denied. The reexamination occurs every five years provided the alien retains refugee status during that time. (pp. 5-7)

Empowering States in the Refugee Resettlement Process

Section 9, as amended by the House Judiciary Committee, adds INA Section 412(g) empowering States to deny the resettlement of refugees for:

- Any State in which the Governor, State legislature, or voters “(through ballot initiative, referendum, or other plebiscite activity)” have formally disapproved resettlement;
- Any State in which the Director of the Office of Refugee Resettlement fails to notify the appropriate State agency at least 21 days before the intended resettlement of a refugee in that State;
- Any State in which the Governor certifies to the Director of the Office of Refugee Resettlement that the Director has failed to adequately assure the Governor that the alien does not present a security risk to the State; or
- Any locality where the chief executive or local legislature has formally disapproved resettlement in the locality. (p. 7)

Protecting Against Fraud

Section 10 requires the Fraud Detection and National Security Directorate of U.S. Citizenship and Immigration Services (USCIS), within 540 days of enactment, to (1) complete a study on refugee processing, identifying the most common ways fraud occurs and recommendations for preventing fraud; and (2) submit the report to the Senate and House Judiciary Committees. (pp. 7-8)

Section 11 requires the DHS Secretary to establish a program for detecting the use of fraudulent documents in refugee applications within two years of enactment. (p. 8)

Section 12 requires the DHS Secretary to digitally record each refugee admission interview and randomly audit at least 20 percent of them prior to approving/denying the application. This section also includes an accountability provision for translators: the DHS Secretary shall bar any translator from serving as an immigration interpreter if the Secretary determines there was an error in translating an interview. Additionally, no action will be taken on the application until the applicant is re-interviewed. (pp. 9-10)

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Enhancing National Security Screening

Section 14 of the bill requires the DHS Secretary to ensure, prior to admitting into the U.S., that the alien does not pose a national security threat. The Secretary's background check shall include a review of the alien's "open source interactions on and posting of material to the Internet (including social media services)." (p. 11)

GAO Report

Section 15 of the bill requires the Government Accountability Office to submit a report to Congress, within 18 months after enactment, on the following:

- Security of the U.S. Refugee Admissions Program including how the government conducts background checks; how the government determines an applicant is eligible for admission as a refugee; and the number of individuals admitted as refugees and subsequently convicted of a terrorism-related offense since FY 2006;
- Federal taxpayer benefits refugees are eligible for "as well as what is known about their participation in these programs." (pp. 11-12)

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