



An Overview of Pending Asylum and Refugee Legislation in the US Congress

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Executive Summary

There has been no significant legislation related to the asylum process enacted in Congress in nearly a decade. In 1996, the Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA) became law, rolling back protections for asylum seekers by including a one-year deadline for filing asylum applications, subjecting asylum seekers to “expedited removal” procedures, and expanding the detention of asylum seekers. In 2005, Congress enacted the REAL ID Act, which created additional legal barriers to asylum, including new requirements for proving an asylum claim.

During the past several sessions of Congress, bills have been introduced that would make significant changes to the country’s asylum laws and refugee admissions program. This paper provides an overview of the pending legislation and the changes proposed. This overview is instructive in understanding 1) which members of Congress have demonstrated interest and leadership in refugee and asylum issues; 2) which refugee and asylum reform issues have been of most interest to members of Congress in recent years; 3) the different approaches to refugee and asylum issues by members of Congress who have shown leadership on these issues; and 4) which provisions have been enacted, which have gained traction, and which remain pending without significant movement through the legislative process.

While it is difficult to imagine in the current partisan climate how any asylum or refugee legislation could be enacted into law, some legislative provisions have been reintroduced over a number of sessions of Congress and some have a history of bipartisan support. Legislation focused on a group of particular interest or concern to members of Congress could gain traction. A more comprehensive legislative approach framed by the need generally to improve the system could be less effective, particularly in the context of the years-long stalemate on comprehensive immigration reform.

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While legislation is unlikely to pass in the near future, it remains important for members of Congress who believe in the importance a fair, effective, and humane asylum system and refugee resettlement program, to introduce and build support for asylum and refugee legislation. Provisions in bills that have already been introduced, like those in S. 744, are more likely to be included in legislation that is moving through Congress. In addition, these bills demonstrate the continued interest of members of Congress in asylum and refugee issues and the need for reform. They also provide an important tool for advocates for education and outreach to Congress and the public.

Introduction

There has been no significant legislation related to the asylum process enacted in Congress in nearly a decade. In 1996, the *Illegal Immigration Reform and Immigration Responsibility Act* (IIRIRA) became law, rolling back protections for asylum seekers by including a one-year deadline for filing asylum applications, subjecting asylum seekers to “expedited removal” procedures,² and expanding the detention of asylum seekers.³ In 2005, Congress enacted the REAL ID Act, which created additional legal barriers to asylum, including new requirements for proving an asylum claim.⁴

In recent years, legislation has been enacted to: increase admissions of Iraqi and Afghan refugees who helped US efforts during the conflicts in those countries;⁵ give the Administration more authority to exempt refugees, asylees, and asylum seekers from the broad terrorism-related grounds of inadmissibility;⁶ and facilitate the processing of religious minorities from Iran and the former Soviet Union.⁷ However, comprehensive legislation related to the US refugee resettlement program has not been enacted since the

2 “Expedited removal” refers to the summary deportation by US immigration officials, without a hearing or review by an immigration judge, of non-citizens who are apprehended at a port of entry or within 100 miles of the border, have been in the country for less than 14 days and do not possess proper travel documents. If the individual expresses a fear of persecution or intention to apply for asylum, the individual must have the opportunity to demonstrate to an asylum officer that they have a “credible fear” of persecution. Immigration and Nationality Act § 235(b)(1)(A).

3 Illegal Immigration Reform and Immigrant Responsibility Act of 1996 § 604, Pub. L. No. 104-208, 110 Stat. 3009 (1996) (codified as amended at 8 U.S.C. § 1158 (2012)).

4 REAL ID Act of 2005, Pub.L. 109–13, 119 Stat. 302 (2005).

5 National Defense Authorization Act for Fiscal Year 2014, H.R.3304 ENR (P.L. 113-66), § 1218, amending §§ 1241-45 of P.L. 110-181 (extending Special Immigrant Visa program for Iraqis, allowing representation at interviews), § 1219 amending §§602 of P.L. 111-8 (allowing representation, improving review process); National Defense Authorization Act for Fiscal Year 2006, Pub. L. No. 109-163, § 1059 (visas for Iraqi and Afghan translators and their dependents); National Defense Authorization Act for Fiscal Year 2008, Pub. L. No. 110-181, § 1244 (visas for Iraqis who had been US government employees, contractors, or subcontractors and their dependents).

6 Consolidated Appropriations Act of 2008, H.R. 2764, 110th Cong. § 691, Div. J (2008).

7 Foreign Operations, Export Financing, and Related Programs Appropriations Act for Fiscal Year 1990, P.L. No. 101-167, Title V, § 599D, 103 Stat. 1195 (1989), 8 U.S.C. § 1157 Note (2000). This provision has renewed each year since enactment, and currently is scheduled to expire on September 30, 2014.

*Refugee Act of 1980.*⁸

During the past several sessions of Congress, bills have been introduced that would make significant changes to the country's asylum laws and refugee admissions program. This paper provides an overview of the pending legislation and the changes proposed. This overview is instructive in understanding 1) which members of Congress have demonstrated interest and leadership in refugee and asylum issues; 2) which refugee and asylum reform issues have been of most interest to members of Congress in recent years; 3) the different approaches to refugee and asylum issues by members of Congress who have shown leadership on these issues; and 4) which provisions have been enacted, which have gained traction, and which remain pending without significant movement through the legislative process.

Pending Refugee and Asylum Bills

S. 744: The Border Security, Economic Opportunity, and Immigration Modernization Act

In June 2013, the United States Senate passed a comprehensive immigration reform bill that contained a number of refugee and asylum-related provisions,⁹ including many which refugee and asylum advocates had prioritized.¹⁰ The refugee and asylum provisions of the Senate bill were collectively named the “Frank R. Lautenberg Asylum and Refugee Reform Act” shortly after the Senator died and before the bill passed the Senate. Similar comprehensive immigration reform legislation was introduced in the House of Representatives as part of H.R. 15, co-sponsored by 199 members of the House, which contains identical provisions to S. 744 relating to refugees and asylum seekers.¹¹ H.R. 15 has not passed the House.

Prior to the introduction of S. 744 in April 2013, the refugee and asylum provisions of the Senate bill were intensely negotiated during the bill's drafting period by the “Gang of 8” Senators.¹² However, they were not the subject of much attention outside of the Gang of 8's deliberations until the Boston Marathon bombings on April 15, 2013, allegedly committed by the children of asylees, focused Congressional attention on the provisions. A hearing on the bill on April 23, 2013 focused on its refugee and asylum provisions,¹³

8 Refugee Act of 1980, Pub. L. No. 96-212, § 201, 94 Stat. 102 (1980) (codified at 8 U.S.C. § 1101(a)(42) (B)).

9 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §§3401-3412 (2013).

10 Some of these priorities are outlined in “Refugee Council USA Policy Framework: Recommendations and Actions for the Obama Administration and the 113th Congress,” (March 2013), www.rcusa.org/uploads/pdfs/RCUSA_2013_FINAL.pdf.

11 Border Security, Economic Opportunity, and Immigration Modernization Act, H.R. 15; Refugee Act of 1980, Pub. L. No. 96-212, at §§3401-3412.

12 The “Gang of 8” senators were Michael Bennet (D-CO), Richard J. Durbin (D-IL), Jeff Flake (R-AZ), Lindsey Graham (R-SC), John McCain (R-AZ), Robert Menendez (D-NJ), Marco Rubio (R-FL), and Charles Schumer (D-NY).

13 Hearing on “The Border Security, Economic Opportunity, and Immigration Modernization Act, S.744,” <http://www.judiciary.senate.gov/meetings/the-border-security-economic-opportunity-and-immigration-modernization-act-s744>.

and there was extensive discussion about them during the Judiciary Committee mark-up of the bill. As a result, some asylum-related provisions were added to the bill during the mark-up, although none dramatically changed the bill. Amendments to repeal the asylum and refugee provisions, most of which Senator Grassley (R-IA) introduced, were defeated during the mark-up.¹⁴

S. 645: The Refugee Protection Act

Senator Leahy (D-VT) introduced S. 645, the *Refugee Protection Act*, in March 2013, “to amend the Immigration and Nationality Act to reaffirm the United States’ historic commitment to protecting refugees who are fleeing persecution or torture.”¹⁵ Senator Leahy had introduced similar legislation in the 111th and 112th sessions of Congress. Also in March 2013, Representative Zoe Lofgren (D-CA), the ranking minority member of the House Judiciary Committee Subcommittee on Immigration and Border Security, introduced H.R. 1365, the companion bill to S. 645.¹⁶ The two bills are identical.

The Refugee Protection Act contains a number of provisions that were later included in the Senate immigration bill, S. 744.¹⁷

H.R. 651: The Strengthening Refugee Resettlement Act

Representative Keith Ellison (D-MN) introduced H.R. 651 in February 2013 “to modify provisions of law relating to refugee resettlement, and for other purposes.”¹⁸ The bill is co-sponsored by Representative James Moran (D-VA) and Representative Janice Schakowsky (D-IL). The bill focuses on issues relating to refugee resettlement. In a press release on H.R. 651, Representative Ellison stated that the goals of the bill are “to increase coordination and provide much-needed resources for new Americans fleeing war, persecution, or natural disaster.”¹⁹ The bill authorizes funding to establish a case management system to assist resettled refugees in gaining access to services.²⁰

14 United States Committee on the Judiciary. *Comprehensive Immigration Reform*, <http://www.judiciary.senate.gov/legislation/immigration>.

15 Cosponsors are Richard Blumenthal (D-CT), Mazie Hirono (D-HI), and Carl Levin (D-MI). Prior versions of the bill were introduced as S. 1202 in the 112th Congress (identical), and S. 3113 in the 111th Congress (similar, but not identical). Senator Leahy has introduced a number of versions of the Refugee Protection Act since 1999.

16 Representative Lofgren introduced H.R. 2185 in the 112th Congress, which was similar but not identical to H.R. 1365.

17 The Refugee Protection Act of 2013, S. 645, 113th Cong. §201(a), §3, §17, §20, §8 (2013).

18 Representative Ellison introduced an identical bill, H.R. 6460, in the 112th Congress.

19 “Ellison Reintroduces Strengthening Refugee Resettlement Act as Part of Immigration Reform Effort,” *Keith Ellison, Representing Minnesota’s 5th District*, (Feb. 14, 2013), <http://ellison.house.gov/media-center/press-releases/ellison-reintroduces-strengthening-refugee-resettlement-act-as-part-of>.

20 The Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., information on funding located in §7(b).

H.R. 1784 and S. 883: Domestic Refugee Resettlement Reform and Modernization Act of 2013

Representative Gary Peters (D-MI), introduced H.R. 1784 along with 12 Democrat co-sponsors and two Republican co-sponsors, in April 2013.²¹ Senator Debbie Stabenow (D-MI) introduced an identical companion bill, S. 883, in the Senate in May 2013.²² The Senate bill has no co-sponsors.

The goal of the bill is “to reform and modernize domestic refugee resettlement programs.” Unlike the Strengthening Refugee Resettlement Act, the bill does not authorize expenditures to implement its provisions, although it notes that “additional resources and better data could strengthen refugee services and better respond to the needs of highly vulnerable refugees.”²³

H.R. 2278: The Strengthen and Fortify Enforcement Act (the SAFE Act)

The SAFE Act was introduced in June 2013 “to amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States.” Judiciary Committee Chair Bob Goodlatte (R-VA) and Immigration Subcommittee Chair Trey Gowdy (R-SC) co-sponsored the bill, along with 18 other Republican members of Congress.²⁴ The bill was reported out of the Judiciary Committee on a party line vote after a contentious mark-up.²⁵ House leadership indicated in June that it was considering including the SAFE Act in a group of bills as part of a “step-by-step” approach to immigration reform, which would allow House bills addressing different aspects of the immigration system to be voted on separately (Immigration Policy Center 2013).

In a statement on record submitted for the mark-up of the SAFE Act, a coalition of faith and refugee rights groups expressed concern about provisions of the bill relating to refugees and asylum seekers.²⁶ The statement said that the SAFE Act would negatively

21 Co-sponsors are Representatives Stivers (R-OH), Conyers (D-MI), Chu (D-CA), Ellison (D-MN), Grijalva (D-AZ), Hastings (D-FL), Honda (D-CA), Huizenga (R-MI), Johnson (D-GA), Levin (D-MI), McGovern (D-MA), Moran (D-VA), Polis (D-CO), and Schiff (D-CA). Representative Peters introduced the identical H.R. 1475 in the 112th Congress.

22 Domestic Refugee Resettlement Reform and Modernization Act of 2013, 113th Cong. §883, (2013).

23 The Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong. (2013).

24 Strengthen and Fortify Enforcement Act (SAFE Act), H.R. 2278, 113th Cong. (2013). Co-sponsors are Representatives Smith (R-TX), Forbes (R-VA), Blackburn (R-TN), Bishop (R-UT), Coble (R-NC), Poe (R-TX), Westmoreland (R-GA), Chaffetz (R-UT), Sensenbrenner (R-WI), Bachman (R-MN), Collins (R-GA), Woodall (R-GA), Mulvaney (R-SC), Franks (R-AZ), Pearce (R-NM), DeSantis (R-FL), Chabot (R-OH), and Labrador (R-ID).

25 Transcript of Mark-up, SAFE Act, H.R. 2278, 113th Cong. (2013). http://judiciary.house.gov/_files/hearings/Markups%202013/mark_06182013/061813%20Markup%20Transcript%20HR2278.pdf

26 Statement of Church World Service, The Episcopal Church, HIAS, Human Rights First, Jubilee Campaign USA, Lutheran Immigration and Refugee Service, National Association of Evangelicals, Organization for Refuge, Asylum, and Migration, Southern Baptist Ethics and Religious Liberty Commission, US Committee for Refugees and Immigrants, US Conference of Catholic Bishops, Women’s Refugee Commission and, World Relief Submitted to the Committee on the Judiciary of the U.S. House of Representatives Hearing on June 13, 2013, <http://democrats.judiciary.house.gov/sites/democrats.judiciary.house.gov/files/documents/Evangel130613.pdf>.

impact refugees, asylum seekers, and stateless persons by expanding the terrorism-related inadmissibility grounds (TRIG) of the Immigration and Nationality Act. The purpose of the TRIG provisions is to bar individuals who have engaged in terrorism-related activity from admission to the US.²⁷ While intended to address legitimate security concerns, the TRIG provisions are extremely broad and have resulted in the exclusion of thousands of *bona fide* refugees and asylum seekers from protection (Hughes 2009). The statement also noted that the SAFE Act would expand the US immigration detention system which already confines many survivors of torture and others seeking protection in the United States.

The SAFE Act would “bar from a finding of good moral character and naturalization” anyone who is described as a “terrorist” in the Immigration and Nationality Act.²⁸ This would permanently bar from naturalization any refugee or asylee who is subject to the TRIG bars to admission, possibly including those who obtain exemptions from the TRIG bars from the Department of Homeland Security (DHS).²⁹ The bill would also require DHS to complete background and security checks before granting any immigration benefit, including employment authorization. This could have serious consequences for asylum applicants whose security and background checks are delayed, as well as for individuals subject to the TRIG bars whose cases have been “on hold” for as many as 10 years while the Administration develops an exemption process.³⁰

Senate-Passed Legislative Provisions

The following provisions were agreed to by the bipartisan Senate Gang of 8, survived the bill’s mark-up, and were included in S. 744 when it passed the Senate. Some of these provisions are also contained in the Refugee Protection Act and other pending bills not passed by the House or Senate.

The One-Year Filing Deadline for Asylum Applications

Since 1996, the law has required that asylum seekers apply for asylum within one year of arrival in the United States.³¹ According to studies, this requirement prevents individuals with legitimate claims of persecution from gaining asylum protection if their applications were delayed due to fear, lack of information, or other circumstances beyond their control (Schrag et al. 2010; Acer et al. 2010). In addition, the filing deadline has significantly lengthened the adjudication of asylum cases and diverts scarce immigration court time and resources from considering the merits of asylum claims.³²

S. 744 would repeal the one-year filing deadline for asylum applications.³³ The bill also would allow individuals whose asylum claims were denied because of the one-year filing deadline to reopen their cases within two years of the date of enactment of the legislation

27 Immigration and Nationality Act, § 212(a)(3)(B).

28 SAFE Act, H.R. 2278, 113th Cong. § 202 (2013).

29 SAFE Act, H.R. 2278, 113th Cong. §§202-203 (2013).

30 SAFE Act, H.R. 2278, 113th Cong. §206 (2013); see also Hughes 2013.

31 Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat.3009§ 604 (1996) (codified as amended at 8 U.S.C. § 1158 (2012)).

32 Ibid.

33 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3401 (2013).

if they meet certain eligibility requirements.³⁴

The Refugee Protection Act would also repeal the filing deadline,³⁵ as would the “Comprehensive Immigration Reform for America’s Security and Prosperity Act of 2013,” or “CIR ASAP Act,” a Democrat-sponsored immigration reform bill pending in the House of Representatives.³⁶

The Refugee Protection Act also exempt children from reinstatement of removal, a process that allows immigration judges to order the removal without any opportunity for relief of an individual who has illegally reentered the United States after having been previously ordered removed.³⁷

Refugee and Asylee Family Reunification

S. 744 would eliminate barriers to family reunification by expanding the categories of family members who qualify for derivative asylee and refugee status to include the children of a refugee or asylee’s spouse or children.³⁸ This section fixes the “derivative of a derivative” problem that affects a small number of people but creates serious hardship for those whom it affects. For example, if the refugee seeking asylum had a teenage daughter who has a child, the teenage daughter’s child could not join her mother and grandmother in the United States under current law. The Refugee Protection Act also contains this provision.³⁹

Refugees and asylees also benefit from other sections of S. 744 that apply more broadly to immigrants, including a provision that would allow an asylee or refugee’s spouse or child to immigrate to the US after the principal asylee or refugee’s death.⁴⁰

S. 744 does not include a provision included in the Refugee Protection Act that would allow children in the care of a refugee approved for resettlement to the United States to be resettled with that refugee if it is in the best interest of the child.⁴¹ S. 744 also does not include provisions in the Refugee Protection Act that would eliminate a two-year deadline for refugees and asylees to file family reunification petitions for their spouses and minor children or that would require DHS to adjudicate family reunification applications filed by refugees and asylees in the US for their family members abroad in 90 days.⁴²

34 Ibid.

35 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 112th Cong. §3 (2013).

36 Comprehensive Immigration Reform for America’s Security and Prosperity Act of 2013, H.R. 3163, 113th Cong. §186 (2013), also repeals the deadline. The “CIR ASAP Act” was first introduced in 2009 during the 111th Congress. The current bill has 37 Democratic co-sponsors.

37 Immigration and Nationality Act, §241(b)(2)(A)(i), The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §15 (2013).

38 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3402 (2013).

39 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. § 20 (2013).

40 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3402 (2013). This provision is also included in the CIR ASAP Act of 2013, S. 305, H.R. 3163, 113th Cong. (2013),

41 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §20 (2013).

42 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §20, (2013).

Designation of Groups of Humanitarian Concern for Refugee Processing

S. 744 would allow the President, in consultation with the Secretary of State and DHS, to designate certain groups “whose resettlement in the United States is justified by humanitarian concerns or is otherwise in the national interest” as meeting the requirements for refugee status.⁴³ A similar provision is included in the Refugee Protection Act.⁴⁴ S. 744 would also extend for a year after enactment the Lautenberg Amendment, which allows certain religious minorities from Iran and the Former Soviet Union to be admitted as refugees under expedited procedures, and would authorize the President to extend the provision thereafter.

This provision, if enacted, would help the United States to process more efficiently some groups of refugees for resettlement. Allowing the Administration to determine that certain categories of refugees have been persecuted before a resettlement program begins would permit DHS interviewers to focus on admissibility and security issues during the refugee interview, rather than on re-establishing whether each individual member of a group meets the refugee definition.

Granting Authority to Asylum Officers to Conduct Asylum Hearings and Grant Asylum after a Finding of Credible Fear

Since 1996, asylum officers have been required to refer asylum seekers identified at or near a US border who demonstrate a credible fear of persecution to immigration courts, rather than adjudicating the cases themselves (as they do in affirmative asylum cases).⁴⁵ This significantly lengthens the asylum process, wastes scarce government resources, exposes asylum-seekers to additional trauma, and, in some cases, prolonged detention.

S. 744 would allow an asylum officer to grant asylum to an applicant who demonstrates a credible fear of persecution at or near a US border, after conducting a non-adversarial asylum interview and seeking supervisory review.⁴⁶ The Refugee Protection Act also includes this provision.⁴⁷

Legal Status for Stateless Individuals

“Stateless” individuals are those who lost their nationality when their country of origin ceased to exist, were arbitrarily stripped of their nationality, or have been without a nationality since birth because of unclear nationality laws or laws that discriminate based on gender or ethnicity. Many stateless individuals in the United States have no legal status. Because they have no citizenship anywhere, stateless persons with removal orders can remain in detention for prolonged periods of time and have no legal status when released.

43 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3403 (2013).

44 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 112th Cong. §18 (2013).

45 Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 104th Cong. §604 (1996) (enacted) (codified as amended at 8 U.S.C. § 1158 (2012)).

46 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3404 (2013).

47 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §8 (2013).

Without a path to permanent legal status in the United States, many stateless individuals cannot work, travel, or reunite with family members.

S. 744 would provide new protections for stateless persons in the United States, including authorizing the Secretary of Homeland Security or the Attorney General to grant conditional lawful status (leading to lawful permanent residence after one year) to certain groups of designated stateless persons.⁴⁸ The Refugee Protection Act also contains these provisions.⁴⁹

Improved Overseas Refugee Processing

Refugee applicants who are denied resettlement by DHS have no meaningful opportunity to challenge the negative decision, in large part because refugees are not given enough information to reveal the basis for the rejection. Denied refugee applicants are sent only a form letter with a list of checkboxes citing the general reasons that the applicant was denied (one of which is “Other”). As a result, it is extremely difficult for a refugee to prepare a Request for Review (RFR) of the denial (there is no appeal process for refugee denials) or clear up any misunderstandings or miscommunications that may have occurred during the refugee interview.

S. 744 would allow an attorney or accredited representative, at no expense to the government, to represent an applicant for refugee status at the refugee interview. The bill would also require that denials of refugee applications be issued in writing with a detailed explanation of the reason for the denial.⁵⁰ At the end of 2013, Congress enacted the *National Defense Authorization Act of 2014*, which included these provisions, but limited them to certain refugee applicants, and Iraqi and Afghan Special Immigrant Visa applicants.⁵¹

Security Checks

Before entering the US, refugee resettlement applicants must pass a series of security and health screenings. While efficient and effective security screenings are a critical element of the refugee resettlement program, the security clearance process can take years, during which time a refugee may remain at risk of persecution. Because the numerous required checks, interviews, and screenings are only valid for certain defined time periods, by the time later checks are concluded, the first checks have expired and must be redone. The refugee resettlement process has become for many a loop of clearances that will never be completed.

S. 744 contains a provision offered by Senator Feinstein (D-CA)⁵² and adopted during the mark-up that prohibits an individual from being admitted as a refugee or asylee until the person’s identity has been checked against all appropriate databases to determine

48 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, §3405 (2013).

49 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §17 (2013).

50 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3408 (2013).

51 National Defense Authorization Act for FY 2014, H.R.3304 ENR (P.L. 113-66), § 1218 amending §§ 1241-45 of P.L. 110-181, § 1219; amending §§602 of P.L. 111-8.

52 S.744,113th Cong. (2013). [http://www.judiciary.senate.gov/imo/media/doc/Feinstein4-\(MDM13398\).pdf](http://www.judiciary.senate.gov/imo/media/doc/Feinstein4-(MDM13398).pdf)

any national security, law enforcement, or other grounds under which the alien may be inadmissible or ineligible to apply for refugee or asylee status.⁵³ The provision codifies existing security checks.

The Strengthening Refugee Resettlement Act would direct the Secretary of Homeland Security to work with the heads of other relevant federal agencies to conduct a review of refugee processing with the goal of streamlining processing, consistent with maintaining security.⁵⁴

Termination of Refugee Status for Return to Home Country

S. 744 includes a provision offered by Senator Graham (R-SC)⁵⁵ and adopted during the mark-up that would terminate the refugee or asylee status of an individual who “without good cause” returns to his or her country of nationality (or country of last residence, for those who are stateless).⁵⁶ The provision does not apply to Cubans eligible for legal permanent residence under the *Cuban Adjustment Act of 1966*. There are already provisions in current law that permit DHS to revoke refugee and asylum status from individuals who return.⁵⁷

Employment Authorization for Asylum Seekers

Since 1996, asylum seekers have been subject to a 180-day waiting period to apply for work authorization.⁵⁸ DHS and the Department of Justice have determined that the “clock” that counts this 180-day period stops if there is any delay in the adjudication process that is requested or caused by the asylum seeker.⁵⁹ There have been numerous problems with the implementation of this provision, known as the “asylum clock,” including “a lack of transparency in the management of the clock; a lack of clarity and comprehensiveness of the government’s clock policy; misinterpretation of the regulations governing the clock; improper implementation of the government’s clock policy; and problems associated with the Executive Office for Immigration Review’s case completion goals” (Saucedo and Rodriguez 2010). When an Immigration Judge erroneously stops the clock, asylum seekers must wait longer than 180 days before they are eligible to obtain work authorization, and some may have to wait indefinitely.

During the S. 744 mark-up, the Judiciary Committee adopted a provision offered by Senator Coons (D-DE) that requires that an asylee be granted employment authorization 180 days after filing his or her asylum application.⁶⁰ This would minimize the impact of the clock by

53 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3409 (2013).

54 Strengthening Refugee Resettlement Act, H.R. 651, 113th Congress, §2 (2013).

55 S. 744, 113th Cong. (2013). [http://www.judiciary.senate.gov/imo/media/doc/Graham1-\(DAV13389\).pdf](http://www.judiciary.senate.gov/imo/media/doc/Graham1-(DAV13389).pdf).

56 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3411 (2013).

57 Immigration and Nationality Act, §§207(c)(4) and 208(c)(2) (1952) (enacted).

58 Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Pub. L. No. 104-208, 110 Stat. 3009 104th Cong. (1996) (codified as amended at 8 U.S.C. § 1158(d)(2) (2012)).

59 8 C.F.R. § 208.7(a)(2); 8 C.F.R. § 1208.7(a)(2) (2009).

60 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3412 (2013).

allowing all asylum applicants to receive work authorization if their asylum application has been pending for 180 days.

Iraqi and Afghan Special Immigrants

S. 744 contains provisions to extend the Iraqi and Afghan Special Immigrant Visa (SIV) programs and increase access to the programs by allowing applicants to be represented by counsel at no expense to the government at visa interviews and improving transparency and access to review of denied cases.⁶¹ A version of these provisions was enacted into law in the *National Defense Authorization Act for Fiscal Year 2014*.⁶² Congress extended the Iraqi SIV program through September 30, 2014, when the Afghan SIV program will also expire without additional Congressional action.

Tibetan Refugees

S. 744 makes 5,000 immigrant visas available to individuals who were born in Tibet and have been continuously residing in India or Nepal prior to enactment of the legislation.⁶³ Senator Feinstein (D-CA) offered the provision during the mark-up of S. 744 and it was adopted by the Judiciary Committee. Representative Sensenbrenner (R-WI) introduced similar legislation in the House.⁶⁴ This legislation has been introduced during the past several sessions of Congress.⁶⁵ The measure is largely a show of Congressional support for Tibetan refugees in Nepal and elsewhere who have not been resettled in large numbers for reasons involving China's resistance to having displaced Tibetans recognized as refugees.

Legislative Provisions Included in Pending Legislation, Not Passed by the House or Senate

The Terrorism Related Inadmissibility Grounds (TRIG)

In 2001, Congress enacted the USA Patriot Act, which expanded the terrorism-related grounds of inadmissibility ("TRIG" bars to admission). The goal of the legislation was to prevent individuals who have engaged in acts of terrorism from being granted admission to the United States. However, due to the extremely broad definition of "terrorist activity" in the law and the expansive legal interpretations adopted by the Bush and Obama Administrations, victims of oppression seeking refugee protection have been mislabeled as supporters of "terrorist organizations" or participants in "terrorist activity." As a result,

61 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. § 2318-2319 (2013).

62 National Defense Authorization Act for Fiscal Year 2014, H.R.3304 ENR (P.L. 113-66), § 1218, amending §§ 1241-45 of P.L. 110-181 (extending Special Immigrant Visa program for Iraqis, allowing representation at interviews), § 1219 amending §§602 of P.L. 111-8 (allowing representation, improving review process).

63 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong. §3410 (2013). [http://www.judiciary.senate.gov/imo/media/doc/Feinstein3-\(MDM13397\).pdf](http://www.judiciary.senate.gov/imo/media/doc/Feinstein3-(MDM13397).pdf) .

64 Tibetan Refugee Assistance Act of 2013, H.R. 2080, 113th Cong. (2013), makes 3,000 visas available.

65 Introduced in the 111th Congress as H.R. 1340; see also 110th as H.R. 6536.

thousands of refugees who do not pose a threat to the US have had their requests for refugee or asylum protection or other status delayed or denied (Hughes 2009).

Early efforts to address the problems created by the TRIG bars were bipartisan. In 2006, Representative Pitts (R-PA) and 21 cosponsors evenly split between the parties introduced a bill “to amend the Immigration and Nationality Act to protect vulnerable refugees and asylum seekers.”⁶⁶ However, when a bipartisan amendment to remedy some aspects of the TRIG problem was offered to the Senate Comprehensive Immigration Reform bill in 2006, it was tabled by a large bipartisan vote.⁶⁷

In 2007, Congress enacted a provision sponsored by Senator Kyl (R-AZ) and Senator Leahy (D-VT) to expand executive authority to issue exemptions for individuals unjustly excluded from immigration benefits because of the broad TRIG bars.⁶⁸ However, bipartisanship on this issue seems to have significantly diminished after this provision was enacted, as there has been no bipartisan legislative action since.

From 2007 to 2014, the Administration used the discretionary authority granted by Congress in 2007 to exempt certain individuals and groups from the TRIG bars.⁶⁹ These exemption announcements were printed in the Federal Register or in policy guidance from DHS. Typically, a few members of Congress would issue statements in support, and no one would issue objections. However, House Judiciary Committee Chair Robert Goodlatte (R-VA) publicly criticized an Obama Administration announcement in March 2014⁷⁰ that authorized new exemptions for individuals who provided “insignificant” or “incidental” support to non-designated terrorist groups (Preston 2014).

The Refugee Protection Act would revise the definition of “terrorist activity” for purposes of inadmissibility, define “material support” as support that is significant and directly relevant to terrorist activity, and expressly exclude activity committed under duress from the terrorism definition.⁷¹ The Refugee Protection Act is the only pending legislation that would directly amend the TRIG provisions in existing law.

The SAFE Act would bar from a finding of good moral character and naturalization anyone who is subject to the TRIG bars, possibly including refugees and asylees who obtain exemptions from the bars from DHS.⁷²

66 To amend the Immigration and Nationality Act to Protect Vulnerable Aefugees and Asylum Seekers, H.R. 5918, 109th Cong. (2006).

67 See Senate Amendment 4177 to S.2611 (109th Congress), tabled by a vote of 79-19 on May 23, 2006. For debate, text of amendment, and vote tally, see Congressional Record page S4938-52 (May 23, 2006).

68 Consolidated Appropriations Act of 2008, H.R. 2764, 110th Cong. § 691, Div. J (2008).

69 “Terrorism Related Inadmissibility Ground Exemptions,” <http://www.uscis.gov/laws/terrorism-related-inadmissability-grounds/terrorism-related-inadmissibility-grounds-exemption>

70 “Exercise of Authority Under Section 212(d)(3)(B)(i) of the Immigration and Nationality Act,” (A Notice by the Homeland Security Department and the State Department), Federal Register (Feb. 5, 2014), <https://www.federalregister.gov/articles/2014/02/05/2014-02357/exercise-of-authority-under-section-212d3bi-of-the-immigration-and-nationality-act> .

71 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Congress, §4 (2013).

72 SAFE Act, H.R. 2278, 113th Congress, §§202 - 203 (2013).

“Particular Social Group” and REAL ID Act Requirements

To qualify for asylum, an applicant must show he or she was persecuted or fears persecution “on account of” one of the five grounds enumerated in the Immigration and Nationality Act.⁷³ It can be difficult for some asylum applicants asserting persecution based on their “membership in a particular social group” to show that the harm they suffered was “on account of” their membership in that group. Refugees fleeing gender-based violence in particular can face difficulty proving persecution because their persecutors may not articulate the reasons for inflicting harm, and evidence can be difficult to obtain (Acer and Magner 2013).

The Refugee Protection Act would define “any group whose members share a characteristic that is either immutable or fundamental to identity, conscience, or the exercise of the person’s human rights such that the person should not be required to change it” as a particular social group.⁷⁴ It would also amend the REAL ID Act by no longer requiring asylum applicants to show “one central reason” for their persecution and amending its provisions relating to credibility and corroboration.⁷⁵ These provisions, enacted in 2005, increased the burden of proof for asylum applicants, making it more difficult for them to demonstrate that they were persecuted or have a well-founded fear of persecution.

Changes to Detention and Removal

The Refugee Protection Act proposes significant changes to detention procedures for asylum seekers. These include: making detention discretionary for arriving asylum seekers;⁷⁶ requiring the Secretary of Homeland Security to establish an alternatives to detention program to increase the use of supervised forms of release and reduce the detention of asylum seekers;⁷⁷ improving the conditions of detention;⁷⁸ and requiring DHS to provide notice of immigration charges to the immigrant and the immigration court closest to the place of apprehension within 48 hours of detention.⁷⁹ The bill would also establish procedures to ensure the accuracy of statements taken by DHS in the course of expedited removal proceedings.⁸⁰

The Refugee Protection Act would authorize (but not require) the Attorney General to appoint counsel to represent an individual in removal proceedings.⁸¹ The bill would also establish a brief stay of removal for immigrants ordered removed. It would prohibit an individual from being removed during the 30-day window for filing for review of a removal order with an appellate court.⁸²

73 Immigration and Nationality Act, §208.

74 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §5 (2013).

75 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Congress §5 (2013).

76 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §8 (2013).

77 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §9 (2013); S. 744, 113th Cong. §3715 (2013), also includes a provision direction DHS to develop secure alternatives to detention.

78 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §10 (2013).

79 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §11 (2013).

80 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §12 (2013).

81 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §6 (2013).

82 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §7 (2013).

Interdiction at Sea

The US intercepts and returns Haitians who flee by boat without offering them meaningful access to an asylum interview. Under current policy, Haitians are given access to an asylum screening only if they physically or verbally resist return by the US Coast Guard, a procedure known as the “shout test.” The “shout test” is ineffective as a screening tool and does not meet international legal standards. The US uses more thorough screening mechanisms for Cuban migrants at sea that include informing them of the ability to raise persecution concerns with a US officer (UNHCR 2013).

The Refugee Protection Act would require an asylum interview for any migrant intercepted at sea who has expressed a fear of return. It would also require DHS to establish a uniform asylum screening procedure that provides the interdicted individual a meaningful opportunity to express a fear of return through a translator and provides that person information about their ability to inform US officers about a fear of return. The Refugee Protection Act would also require that asylees be given the opportunity to seek protection in a country where he or she has family or other ties or, absent such ties, to be resettled in the United States.⁸³

Admitting Refugees in Legal Permanent Resident Status

Current law requires refugees to wait one year after arriving in the United States before they can apply to adjust their status to become a lawful permanent resident (LPR), but also mandates that refugees adjust their status within one year of arrival. Advocates have argued that admitting refugees as LPRs would fix this legal impossibility. Admitting refugees as LPRs would increase efficiency and significantly reduce costs by eliminating the additional step of adjudicating petitions for adjustment of status from refugees. Whereas adjustment of status is a process that is paid for by applicants for other immigration benefits, refugee adjustment applications require no fee.

The Strengthening Refugee Resettlement Act would permit refugees and their spouses and children to be admitted to the United States as lawful permanent residents, and allow asylum seekers to apply for lawful permanent resident status immediately after being granted asylum status. It also would allow the spouse and children of asylum seekers to be admitted to the United States with lawful permanent resident status.⁸⁴

While this provision was not included in S. 744 or the 2013 version of the Refugee Protection Act, the version of the Refugee Protection Act that was introduced in the 111th Congress did contain the provision.⁸⁵

Although the 2013 version of the Refugee Protection Act would not allow refugees to arrive in the United States with LPR status, the bill repeals a statutory provision that requires a refugee to “return or be returned to the custody of the Department of Homeland Security” one year after admission to be considered for adjustment of status.⁸⁶ The Refugee Protection Act replaces this requirement with a provision that makes refugees eligible for adjustment

83 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113TH Cong. §24 (2013).

84 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §4 (2013).

85 Refugee Protection Act, S. 3113, 111th Cong. (2010).

86 Immigration and Nationality Act, §209(a) (1952).

one year after admission (rather than being required to adjust status), and permits refugees to file their applications for adjustment of status three months before becoming eligible, making it more likely that a refugee can adjust status close to one year after admission.⁸⁷

Indonesian Asylum Seekers

The Indonesian Family Refugee Protection Act authorizes a qualifying Indonesian citizen whose asylum claim was denied solely upon a failure to meet the one-year filing deadline to file a motion to reopen such claim.⁸⁸ The bill is an effort to assist a group of Indonesian Christians who came to the United States in the late 1990s on tourist visas but did not file their asylum claims before the one-year filing deadline.

Liberians in Temporary Protected Status/ Deferred Enforced Departure

Several thousand Liberian refugees have been in temporary protected status (TPS) or deferred enforced departure (DED) status since 1991. TPS and DED are administrative remedies that allow non-citizens to legally remain in the United States for a period of time if their country has been affected by war, natural disaster, or other emergency making it unsafe for them to return. The group fled Liberia during the country's late 1980s civil war, during which at least 150,000 people died and more than half the population fled the country or became internally displaced.

Senator Reed (D-RI) has led efforts for many years to provide permanent legal status to this group of Liberians. The *Liberian Refugee Immigration Fairness Act of 2013* would allow Liberians present in the United States since January 2013, as well as their spouses and unmarried children, to apply for permanent resident status.⁸⁹

Refugee Resettlement

The President, in consultation with Congress, decides how many refugees the United States will resettle each year. For fiscal year 2014, President Obama recommended that the United States resettle 76,000 refugees. Historically, refugee admissions have been as high as 207,000 in 1980 and as low as 27,000 in 2002 (when admissions plummeted after the September 11 attacks). The typical range for refugee admissions has been between 60,000 to 90,000 per year.⁹⁰

The State Department's Bureau of Population, Refugees, and Migration (PRM), the Department of Health and Human Services' Office of Refugee Resettlement (ORR), and the Department of Homeland Security's US Citizenship and Immigration Services (USCIS) are

87 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong. §29 (2013).

88 Indonesian Family Refugee Protection Act, H.R. 665, 113th Cong. (2013); S. 295, S. 4. Introduced in the 112th Congress as HR. 3590 and S.3339.

89 Liberian Refugee Immigration Fairness Act of 2013, S. 527, 113th Cong. (2013). Introduced in the House as H.R. 1087.

90 "Refugee Admissions," *Department of State*, <http://www.state.gov/j/prm/ra/index.htm>.

the leading government agencies involved in the US refugee resettlement program. PRM coordinates the US Refugee Program and is responsible for recommending to the President the overall number of refugees to be admitted each year, subject to available funding and the needs of refugees worldwide. ORR is responsible for services to refugees after the initial resettlement period. USCIS is responsible for screening all refugees to determine if they qualify for admission to the United States and do not present a security risk.⁹¹

S. 744 does not contain provisions relating to the US Refugee Admissions Program. However, several bills pending in Congress address longstanding problems of the program, which Congress has not amended in any significant way since the *Refugee Act of 1980* was enacted nearly 35 years ago.

Funding: PRM manages the “Reception and Placement” or “R&P” program for arriving refugees through funding agreements with the nine non-profit agencies. The R&P program is intended to welcome arriving refugees, provide the essential services they need during their first 90 days in the United States (including housing, clothing, food, and referrals to medical and social services), and provide a link to longer-term services funded by ORR. In January 2010, PRM announced the doubling of the R&P grant, from \$900 to \$1,800 dollars per refugee. This amount was increased to \$1,875 dollars for FY 2013. At least \$1,125 dollars is allocated directly to the refugee to pay for housing, household goods, food, and other immediate material needs for the first month, and up to \$750 dollars is used by the affiliate agency to pay staff and other agency expenses incurred in providing services to the refugees.⁹² Prior to 2010, the per capita level had not kept pace with inflation or cost of living. The Refugee Protection Act and the Strengthening Refugee Resettlement Act would require the per capita amount to be adjusted each year for inflation and the cost of living, and make other changes that would help agencies to maintain capacity if a lower than anticipated number of refugees is admitted in a fiscal year.⁹³

ORR provides funding to help refugees during the eight months following their arrival in the United States. The current ORR funding formula was devised in 1980, when unlike today there was no way to project future arrivals accurately and projections for future arrivals could only be made based on past years’ admissions numbers. The Domestic Refugee Resettlement Reform and Modernization Act states that “ORR funding formulas are retroactive in nature, using refugee admission data from up to three prior years, so that large increases in refugee admissions are not adequately reflected in the amount of resources provided by ORR.” The Refugee Protection Act, the Strengthening Refugee Resettlement Act, and the Domestic Refugee Resettlement Reform and Modernization Act would all adjust the formula for providing refugee funding to states and allow ORR to consider both past and projected refugee arrivals to determine funding levels to reimburse states for services provided to refugees. This provision was also included in prior versions of the Strengthening Refugee Resettlement Act and the Domestic Refugee Resettlement Reform and Modernization Act.⁹⁴

91 “Refugee Admissions,” *Department of State*, <http://www.state.gov/j/prm/ra/index.htm>

92 “The Reception and Placement Program,” *Department of State*, <http://www.state.gov/j/prm/ra/receptionplacement/index.htm>.

93 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., §23 (2013); see also H.R. 651, 113th Cong., § 5 (2013).

94 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., §27 (2013); see also the Strengthening

The Strengthening Refugee Resettlement Act would establish a “Domestic Emergency Refugee Resettlement Fund” to meet unanticipated resettlement needs.⁹⁵ This type of fund has been under serious discussion by the Administration in recent months as the number of “unaccompanied alien children” (UACs)—unauthorized immigrant children who arrive in the United States without their parents and are transferred to the custody of ORR after apprehension by DHS—has climbed and funding for ORR services, even with an increased appropriation, is likely to fall short. The President’s fiscal year 2015 budget includes a proposal for the creation of a contingency fund for providing resources to serve UACs in the future.⁹⁶

Studies, Reports, and Data: At its inception, the US refugee resettlement program provided up to three years of support to refugees to promote integration. Since the mid-1990s, however, eligibility periods for support have been reduced and early self-sufficiency has become the chief priority of the program. The State Department notes that “the US refugee resettlement program has found that people learn English and begin to function comfortably much faster if they start work soon after arrival,”⁹⁷ and the *Refugee Act of 1980* includes an emphasis on early employment. A 2013 Government Accountability Office (GAO) report on refugee resettlement stated that the federal government evaluates refugee resettlement programs based on early employment and self-sufficiency and not long-term integration (GAO 2012).

The Refugee Protection Act and the Domestic Refugee Resettlement Reform and Modernization Act direct the GAO to conduct a study of ORR’s domestic refugee resettlement program, including how the ORR defines self-sufficiency, the effectiveness of the resettlement program in helping refugees achieve self-sufficiency, and the amount of resources needed to address the unmet needs of refugees.⁹⁸ It also directs the GAO to recommend statutory changes to improve the US resettlement program.

The Refugee Protection Act and the Domestic Refugee Resettlement Reform and Modernization Act would also direct ORR to collect, analyze, and share data on refugees who arrive in the United States with serious mental and physical conditions needing treatment, refugee housing needs and homelessness, and refugee employment and self-sufficiency.⁹⁹

Secondary Migration: “Secondary migration” refers to refugees who move out of the communities in which they are resettled to secondary locations. Because the secondary locations had not planned for the refugees’ arrival, they may be unprepared to serve them. The Refugee Protection Act and the Domestic Refugee Resettlement Reform and Modernization Act would direct the Assistant Secretary of Health and Human Services

Refugee Resettlement Act, H.R. 6460, 112th Cong., the Domestic Refugee Resettlement Reform and Modernization Act, H.R. 1475 112th Cong. (2013).

⁹⁵ Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §11 (2013).

⁹⁶ *Department of Health and Human Services*, <http://www.whitehouse.gov/sites/default/files/omb/budget/fy2015/assets/hhs.pdf>.

⁹⁷ “Refugee Admissions”, Department of State, <http://www.state.gov/j/prm/ra/index.htm>

⁹⁸ The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., § 26 (2013); Domestic Refugee Resettlement Reform and Modernization Act of 2013, H.R. 1784, 113th Cong., §4 (2013).

⁹⁹ The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., § 28 (2013); H.R. 1784, S. 883, 113th Cong., § 7 (2013).

for Refugee and Asylee Resettlement (HHS) to report to Congress regarding states experiencing secondary migration, its impact, the availability of social services in those states, and the needs of the secondary migrants. The two bills would also require HHS to provide assistance to refugees who are secondary migrants.¹⁰⁰

Coordination of the US Refugee Resettlement Program: The US refugee resettlement program involves the work of many agencies, including DHS, HHS, the State Department, as well as various security agencies, but no one agency is responsible for coordinating all aspects of the program to ensure joint planning, information sharing, and problem solving. The Strengthening Refugee Resettlement Act expresses the sense of the Congress that the President should appoint a White House Coordinator on Refugee Protection.¹⁰¹ The Domestic Refugee Resettlement Reform and Modernization Act aims to address some of the coordination problems by elevating the ORR director position to Assistant Secretary of Health and Human Services for Refugee and Asylee Resettlement, appointed by the President and reporting directly to the Secretary.¹⁰²

Strengthening Refugee Assistance Programs: Under current law, refugees are eligible for up to three years of cash and medical assistance, job placement, and social services. However, ORR provides cash and medical services for only eight months. The Strengthening Refugee Resettlement Act would require ORR to provide services for one year, subject to the availability of funds, and to provide services to the elderly, sick, and those with “extraordinary” challenges to integration for three years.¹⁰³ The bill would increase cash assistance to refugees¹⁰⁴ and provide grants to non-profit agencies to help refugees become integrated in their communities by providing naturalization services, employment training and professional recertification.¹⁰⁵ The Strengthening Refugee Resettlement Act would also expand eligibility for the refugee matching grant program, a federal-private refugee assistance program.¹⁰⁶

Refugee Eligibility for Social Security Income (SSI) Benefits: Social Security Income (SSI) provides elderly, blind, and disabled persons a monthly stipend. Prior to 1996, SSI was available to refugees without any time limitation as long as they remained impoverished and disabled or elderly. However, the *Personal Responsibility and Work Opportunity Reconciliation Act of 1996* mandated that refugees naturalize within seven years of arriving in the United States to maintain eligibility for SSI.¹⁰⁷ Some elderly refugees, particularly those who do not have high levels of literacy in their native language, face difficulty learning English in order to qualify for citizenship.

The Refugee Protection Act would extend the eligibility for SSI assistance to asylees,

100 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., § 27; H.R. 1784, S. 883, 113th Cong., §6.

101 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §6 (2013).

102 Domestic Refugee Resettlement Reform and Modernization Act of 2013, H.R. 1784, S. 883, 113th Cong., §5 (2013).

103 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §7 (2013).

104 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §8 (2013).

105 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §9 (2013).

106 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §10 (2013).

107 Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104–193, 110 Stat. 2105 (1996).

refugees and trafficking victims to 10 years.¹⁰⁸ The Strengthening Refugee Resettlement Act would make asylees, refugees and other humanitarian migrants eligible for benefits indefinitely.¹⁰⁹

S. 744 would not extend SSI benefits for refugees, but would amend the requirements for naturalization to exempt from the English language and civics requirements individuals who cannot meet the requirements because of a physical or mental disability, as well as those who are over 65 years old and have lived in the United States for at least five years after being lawfully admitted for permanent residence. The bill would also exempt additional applicants over the age of 55 from the English language requirements by lowering the time in LPR status required to obtain an exemption.¹¹⁰

English Language and Work Orientation for Approved Refugees: The Strengthening Refugee Resettlement Act directs the Secretary of State to establish English language and work orientation programs for refugees approved for resettlement prior to their departure for the United States. This would expand an existing State Department pilot program that provides English-as-a-Second Language classes for some refugees in Kenya, Thailand, and Nepal. As noted by the State Department, “By introducing the study of English overseas, these classes are intended to provide basic English competency and promote continued language learning after arrival in the United States.”¹¹¹

Conclusion

Advocates for refugees in Congress historically have worked together on a bipartisan basis.¹¹² In 2003, Ileana Ros-Lehtinen (R-FL), Christopher Smith (R-NJ), John Conyers, Jr. (D-MI) and Zoe Lofgren (D-CA) formed the Bipartisan Congressional Refugee Caucus (USCCB 2003). The purpose of the caucus was “to lift up those refugee issues requiring congressional attention— including Iraqi and Afghan refugees, re-figuring the resettlement numbers for the United States, the effects on refugees of the worsening economy, protection of Darfur refugees, and the need for increased protection of refugees, especially women and girls” (Disciples Home Missions 2009). The bipartisan caucus also served to give greater visibility to refugees, internally displaced persons, and asylum seekers around the world and to mobilize support within the House of Representatives for refugee resettlement and overseas protection and assistance (ibid.). In a March 2003 “Dear Colleague” letter to their fellow representatives, the co-chairs stated that the caucus “will be dedicated to affirming the United States’ leadership and commitment to the protection, humanitarian needs, and compassionate treatment of refugees and persons in refugee-like situations throughout the world” (USCCB 2003).

The Bipartisan Congressional Refugee Caucus was formally renewed through the 111th

108 The Refugee Protection Act of 2013, S. 645, H.R. 1365, 113th Cong., §30 (2013).

109 Strengthening Refugee Resettlement Act, H.R. 651, 113th Cong., §12 (2013).

110 Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744, 113th Cong., §2551 (2013).

111 “Proposed Refugee Admissions For Fiscal Year, 2014 Repot To The Congress,” *U.S. Department of State*, <http://www.state.gov/documents/organization/219137.pdf>.

112 See Refugee Act of 1980, S.643, 96th Cong. (1979); Refugee Protection Act, S. 1311, 107th Cong. (2001); H.R. 4074, 107th Cong. (2001).

Congress, which ended in 2010, but was not renewed after that (*That's My Congress!* 2011). During the 113th Congress, the approach to asylum and refugee issues in the House of Representatives has been partisan. The bills offered by House Democrats (the Refugee Protection Act, the Strengthening Refugee Resettlement Act, and the Domestic Refugee Resettlement Reform and Modernization Act) and the bill offered by House Republicans (the SAFE Act) have no provisions in common and only the Domestic Refugee Resettlement Reform and Modernization Act has bipartisan support.

While it is difficult to imagine in this partisan climate how any of these provisions could be enacted into law, some of the provisions have been reintroduced over a number of sessions of Congress and have a history of bipartisan support. Legislation focused on a group of particular interest or concern to members of Congress could gain some traction. The Iraqi and Afghan Special Immigrant Visa legislation, the Lautenberg Amendment for Iranian and Former Soviet Union religious minorities, and the Kyl-Leahy TRIG provision, were of interest to members of Congress because they resolved problems faced by particularly compelling groups in need of protection. Legislation framed by how it could help a particular population could be an effective approach and a good tool for education and outreach efforts in Congress. A more comprehensive legislative approach framed by the need generally to improve the system could be less effective, particularly in the context of the years-long stalemate on comprehensive immigration reform.

While legislation is unlikely in the near future, it remains important for members of Congress who believe in a fair, effective, and humane asylum system and refugee resettlement program, to introduce and build support for asylum and refugee legislation. Provisions in bills that have already been introduced, like those in S. 744, are more likely to be included in legislation that is moving through Congress. In addition, these bills demonstrate the continued interest of members of Congress in these issues and the need for reform, and they provide an important tool for advocates for education and outreach to Congress and the public.

Provisions of Pending Asylum and Refugee Legislation in the US Congress

Legislative Provisions	Bill Name and Number (113 th Congress)				
	S. 744/ H.R. 15 (Border Security, Economic Opportunity, and Immigration Modernization Act)	S. 645/ H.R. 1365 (Refugee Protection Act)	H.R. 651 (Strengthening Refugee Resettlement Act)	H.R. 1784/ S. 883 (Domestic Refugee Resettlement Reform and Modernization Act)	H.R. 2278 (SAFE Act)
Repeal One Year Asylum Filing Deadline	§3401	§3			
Refugee and Asylee Family Reunification	§3402	§20			
Designation of Groups of Humanitarian Concern	§3403	§18			
Asylum Officer Grant after Credible Fear	§3404	§8			
Legal Status for Stateless Individuals	§3405	§17			
T and U Visas	§§ 3406-3407				
Overseas Refugee Processing	§3408				
Security Checks	§3409				
Tibetan Refugees	§3410				
Termination of Asylee or Refugee Status	§3411				
Asylum Clock	§3412				
Iraqi and Afghan Special Immigrant Visas	§§ 2318-2319				
TRIG Bars		§4			§§201-207
Particular Social Group/ REAL ID		§5			
Detention & Removal		§§ 6-11			Title III
Expedited Removal		§§ 12-13			§319
Refugee Admissions Process		§§ 21-23	§§ 2-3		
Protection of Individuals Interdicted at Sea		§24			
Refugee Resettlement Program		§§ 25-29	§§ 5-11	§§ 1-9	
SSI Benefits for Refugees		§ 30	§ 12		
Admission of Refugees and Asylees as LPRs			§ 4		

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