

118TH CONGRESS
1ST SESSION

H. R. 5248

To halt removal of certain nationals of Cambodia, Laos, and Vietnam, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

AUGUST 22, 2023

Ms. CHU (for herself, Ms. PRESSLEY, Ms. JAYAPAL, Ms. LOFGREN, Mr. GOMEZ, Mr. TORRES of New York, Ms. LEE of California, Ms. SCANLON, and Ms. MENG) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To halt removal of certain nationals of Cambodia, Laos,
and Vietnam, and for other purposes.

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 “Southeast Asian De-
5 portation Relief Act of 2023”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) Millions of Southeast Asian Americans live
9 in the United States, including 2,182,735 Viet-

1 nameese Americans, 338,637 Cambodian Americans,
2 254,304 Laotian Americans, and 326,843 Hmong
3 Americans, according to the 2019 American Com-
4 munity Survey. Many of these communities arrived
5 as refugees beginning over 40 years ago from Cam-
6 bodia, Laos, and Vietnam in the aftermath of the
7 wars in Southeast Asia (more commonly known as
8 the “Vietnam War”).

9 (2) The United States intervened in Cambodia,
10 Laos, and Vietnam between 1954 and 1975, to pre-
11 vent the spread of communism in Southeast Asia
12 through direct military interventions and covert and
13 clandestine operations.

14 (3) South Vietnam allied with the United
15 States in opposition to the expansion of North Viet-
16 nam until the Fall of Saigon on April 30, 1975. As
17 a result of this service, many Vietnamese Americans
18 to this day still suffer lasting trauma from the war,
19 including post-traumatic stress disorder and expo-
20 sure to Agent Orange. The Central Intelligence
21 Agency (CIA) and various agencies enlisted over
22 30,000 soldiers from Hmong, Lao, and Laotian eth-
23 nic groups in Laos as allies to aid United States
24 forces in Southeast Asia, waging a 13-year covert
25 operation called the “Secret War” against the

1 Pathet Lao, Viet Cong, and Northern Vietnamese
2 Army.

3 (4) The United States heavily bombed Laos,
4 making it the most heavily bombed country in the
5 world, with over 580,000 bombing missions between
6 1964 and 1973. Today, an estimated 80,000,000
7 bombs remain unexploded, with 20,000 people who
8 have been injured or killed since the bombings
9 stopped.

10 (5) Between 1969 to 1973, the United States
11 dropped 540,000 tons of bombs into Cambodia
12 against Viet Cong forces, destabilizing the country's
13 already fragile government. This mass bombing of
14 Cambodia's countryside helped to fuel the rise of the
15 Khmer Rouge, which subsequently carried out the
16 destruction of Cambodian society and the genocide
17 of an estimated 2,000,000 Cambodians.

18 (6) Over 3,000,000 individuals were displaced
19 by war, conflict, and genocide from Vietnam, Cam-
20 bodia, and Laos. Between 1975 to 2008, the United
21 States Government resettled over 1,200,000 South-
22 east Asian refugees in this country, as part of the
23 largest refugee resettlement effort in the history of
24 the United States. Southeast Asian refugees in-
25 cluded survivors of the war in Vietnam and Laos,

1 the genocide in Cambodia, Hmong soldiers and their
2 families who received refugee status in exchange for
3 their service in the Secret War, and other ethnic mi-
4 nority groups persecuted in the aftermath of the
5 war.

6 (7) Many Southeast Asian refugees face signifi-
7 cant physical and mental health issues, such as post-
8 traumatic stress disorder and depression, stemming
9 from their experiences escaping war, genocide, tor-
10 ture, and mass starvation. Additionally, many
11 Southeast Asian refugees were resettled in commu-
12 nities that were heavily disinvested and lacked long-
13 term resettlement support, causing many Southeast
14 Asians to also suffer from systemic poverty, dis-
15 crimination, and linguistic barriers.

16 (8) Immigrant communities face significant
17 challenges assimilating as a result of the trauma of
18 war. A 2018 study published by Rashmi Gangamma
19 and Daran Shipman in the *Journal of Marital and*
20 *Family Therapy* noted that “the traumatic nature of
21 (immigrant’s) forced displacement flight, and reset-
22 tlement can increase vulnerability to mental dis-
23 tress”. First generation immigrants are especially
24 vulnerable to gang violence within communities in

1 which their parents cannot guide them with cultural
2 or political familiarity.

3 (9) Key policies during the 1990s including the
4 period’s “War on Drugs”, passage of the Violent
5 Crime Control and Law Enforcement Act, expansion
6 of the carceral system, and over-policing of low-in-
7 come communities of color entangled a significant
8 number of Southeast Asian Americans, especially
9 Southeast Asian youth, within the criminal justice
10 system. During this period, Southeast Asian youth
11 were incarcerated at twice the rate of White youth
12 for similar offenses.

13 (10) Additional immigration policies during the
14 1990s reinforced this emerging prison to deportation
15 pipeline. The Illegal Immigration Reform and Immig-
16 grant Responsibility Act of 1996 (IIRIRA) and the
17 Antiterrorism and Effective Death Penalty Act
18 (AEDPA) expanded the category of crimes that
19 could lead to deportation and limited due process
20 protections for noncitizens. IIRIRA also applied
21 these changes retroactively without proper consider-
22 ation of an individual’s lived circumstances.

23 (11) Approximately 15,000 long-term residents
24 of Southeast Asian descent, many of whom initially
25 arrived as child refugees, live in the United States

1 with a final order of removal. These individuals
2 often do not speak the native language of that coun-
3 try, lack familial connections there, and are at risk
4 of being targeted for human rights abuses as a re-
5 sult of historic support for United States anti-com-
6 munist policies.

7 (12) The United States accepted thousands of
8 Vietnamese refugees through the Orderly Departure
9 Program, Humanitarian Resettlement program, and
10 McCain Amendment through 2009, including sur-
11 vivors of re-education centers, former employees of
12 the United States Government and United States
13 companies or organizations, and immediate family
14 members.

15 (13) In 2002, the United States and Cambodia
16 signed a bilateral repatriation agreement, hereafter
17 known as the 2002 U.S.-Cambodia Repatriation
18 Agreement. Deportations of Cambodian Americans
19 to Cambodia increased by 366 percent the following
20 year. Over 1,000 Cambodian Americans have been
21 deported to Cambodia since then.

22 (14) In 2008, the United States and Vietnam
23 signed a bilateral repatriation agreement, hereafter
24 known as the 2008 U.S.-Vietnam Memorandum of
25 Understanding (MOU). According to section 2, arti-

1 cle 2 of the 2008 Vietnam-U.S. MOU, “Vietnamese
2 citizens are not subject to return to Vietnam under
3 this Agreement if they arrived in the United States
4 before July 12, 1995, the date on which diplomatic
5 relations were re-established between the U.S. Gov-
6 ernment and the Vietnamese Government”. Presi-
7 dent George W. Bush and President Barack Obama
8 both recognized the 2008 United States-Vietnam
9 MOU’s removal protections for pre-1995 refugees.

10 (15) In 2020, President Trump’s administra-
11 tion entered into a new memorandum of under-
12 standing with Vietnam, expanding the categories of
13 immigrants it could deport to include pre-95 Viet-
14 nameese refugees who were previously protected from
15 removal by the 2008 MOU.

16 **SEC. 3. LIMITATION ON THE DETENTION AND REMOVAL OF**
17 **NATIONALS OF CAMBODIA, LAOS, AND VIET-**
18 **NAM.**

19 (a) **LIMITATION ON DETENTION AND REMOVAL.**—An
20 alien who is subject to a final order or removal may not
21 be detained or removed from the United States on or after
22 the date of enactment of this Act if the alien—

23 (1) is a national of Cambodia, Laos, or Viet-
24 nam;

1 (2) entered the United States on or before Jan-
2 uary 1, 2008; and

3 (3) has continuously resided in the United
4 States since such entry.

5 (b) EMPLOYMENT AUTHORIZATION.—The Secretary
6 of Homeland Security shall authorize an alien described
7 in subsection (a) to permanently engage in employment
8 in the United States and provide such alien with an “em-
9 ployment authorized” endorsement or other appropriate
10 work permit, which shall be valid for a period of 5 years,
11 and may be renewed any number of times.

12 (c) LIMITATION ON PERIODIC IDENTIFICATION.—
13 Upon application to the Secretary of Homeland Security,
14 an alien described in subsection (a) who is subject to an
15 order of supervision under section 241(a)(3) of the Immi-
16 gration and Nationality Act (8 U.S.C. 1231(a)(3)) shall
17 not be required to appear in person before an immigration
18 officer for periodic identification pursuant to such order
19 of supervision. The Secretary shall, in lieu of such periodic
20 identification, require such an alien to appear virtually be-
21 fore an immigration officer not more frequently than once
22 every 5 years.

1 **SEC. 4. RECONSIDERING AND REOPENING IMMIGRATION**
2 **CASES.**

3 (a) IN GENERAL.—Notwithstanding any other provi-
4 sion of law, the Attorney General—

5 (1) shall grant a motion to reconsider or reopen
6 proceedings pursuant to paragraph (6) or (7) of sec-
7 tion 240(c) of the Immigration and Nationality Act
8 (8 U.S.C. 1229a(c)) with respect to any alien who—

9 (A) on or after April 24, 1996 but before
10 the date of enactment of this Act—

11 (i) was ordered removed, deported, or
12 excluded; or

13 (ii) departed the United States pursu-
14 ant to a grant of voluntary departure
15 under section 240B of the Immigration
16 and Nationality Act (8 U.S.C. 1229c) (re-
17 gardless of whether or not the alien was
18 ordered removed, deported, or excluded);
19 and

20 (B) is a national of Cambodia, Laos, or
21 Vietnam; and

22 (C) demonstrates that the alien would not
23 have been subject to detention or removal pur-
24 suant to this Act if this Act had been in effect
25 on the date on which such order was issued or
26 the voluntary departure took place (except that

1 the requirement under section 3(a)(3) shall not
2 apply);

3 (2) shall terminate any removal proceedings re-
4 opened under paragraph (1) with prejudice and va-
5 cate any order of removal entered before the date of
6 enactment of this Act; and

7 (3) shall deem an alien who makes the dem-
8 onstration under paragraph (1)(C) as not having
9 been removed, deported, excluded, or departed, and
10 as not having failed to depart under a voluntary de-
11 parture order, for all purposes under the Immigra-
12 tion and Nationality Act (8 U.S.C. 1101 et seq.).

13 (b) PREVIOUSLY FILED APPLICATION; PREVIOUS
14 MOTIONS TO REOPEN OR RECONSIDER.—The Attorney
15 General may not reject or deny a motion to reconsider or
16 reopen under subsection (a) because—

17 (1) the alien did not include a copy of any pre-
18 viously filed application for relief; or

19 (2) the alien had previously filed a motion to
20 reopen or reconsider.

21 (c) DEADLINE.—The deadline described in para-
22 graphs (6)(B) and (7)(C)(i) of section 240(c) of the Immi-
23 grations and Nationality Act (8 U.S.C. 1229a(c)) shall not
24 apply to a motion to reopen or reconsider under this sec-
25 tion.

1 (d) TRANSPORTATION.—The Secretary of Homeland
2 Security, in coordination with the Secretary of State, shall
3 provide transportation and travel documents for aliens eli-
4 gible for reopening or reconsideration of their proceedings
5 under this section, at Government expense, to return to
6 the United States for further immigration proceedings and
7 shall admit or parole the alien into the United States.

8 (e) PHYSICAL PRESENCE REQUIREMENT.—For the
9 purpose of applications filed subsequent to reopening
10 under this section pursuant to section 240A of the Immi-
11 gration and Nationality Act (8 U.S.C. 1229b), or any
12 other application for relief under the immigration laws (as
13 defined in section 101(a)(17) of the Immigration and Na-
14 tionality Act (8 U.S.C. 1101(a)(17))), removal, deporta-
15 tion, exclusion, or voluntary departure shall not be consid-
16 ered to toll any physical presence requirement.

17 (f) JUDICIAL REVIEW.—Notwithstanding any other
18 provision of the Immigration and National Act (8 U.S.C.
19 1101 et seq.), any denial of a motion to reopen or recon-
20 sider submitted pursuant to this section is subject to de
21 novo judicial review in a Federal district court having ju-
22 risdiction over the applicant’s residence or, in the case of
23 an applicant who was removed from the United States,
24 the last known residential address of the applicant in the
25 United States.

1 **SEC. 5. NOTICE FOR CERTAIN NATIONALS OF CAMBODIA,**
2 **LAOS, AND VIETNAM WITH REMOVAL OR-**
3 **DERS.**

4 (a) **IN GENERAL.**—Not later than 60 days after the
5 date of enactment of this Act, the Secretary of Homeland
6 Security shall—

7 (1) provide notice of the provisions of this Act
8 to each alien described in section 3(a); and

9 (2) to the extent practicable, provide notice of
10 the provisions of this Act to each alien described in
11 section 4(a).

12 (b) **CONTENTS OF NOTICE.**—The notice described in
13 subsection (a) shall include information explaining the re-
14 quirements and instructions for filing a motion to recon-
15 sider and reopen removal proceedings under section
16 240(c)(6) and (7) of the Immigration and Nationality Act
17 (8 U.S.C. 1229a(c)) and under section 4 of this Act.

18 **SEC. 6. JUDICIAL REVIEW.**

19 (a) **REVIEW.**—Notwithstanding any other provision
20 of law, an individual or entity who has been harmed by
21 a violation of this Act may file an action in an appropriate
22 district court of the United States to seek declaratory or
23 injunctive relief.

24 (b) **RULE OF CONSTRUCTION.**—Nothing in this Act
25 may be construed to preclude an action filed pursuant to
26 subsection (a) from proceeding as a class action (as such

1 term is defined in section 1711 of title 28, United States
2 Code).

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