

116TH CONGRESS
2D SESSION

H. R. 5971

To amend the Immigration Services and Infrastructure Improvements Act of 2000 to provide for additional rules regarding processing of immigration applications, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 26, 2020

Mr. CÁRDENAS (for himself and Mr. STIVERS) introduced the following bill;
which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration Services and Infrastructure Improvements Act of 2000 to provide for additional rules regarding processing of immigration applications, 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 “Case Backlog and
5 Transparency Act of 2020”.

1 **SEC. 2. PURPOSES.**

2 Section 202 of the Immigration Services and Infra-
3 structure Improvements Act of 2000 (8 U.S.C. 1571) is
4 amended—

5 (1) in paragraph (1)—

6 (A) by striking “Immigration and Natu-
7 ralization Service” and inserting “Department
8 of Homeland Security”;

9 (B) by striking “current backlog” and in-
10 sserting “backlog”; and

11 (C) by striking “within 1 year after enact-
12 ment of this Act”; and

13 (2) in paragraph (2), by striking “Immigration
14 and Naturalization Service” and inserting “Depart-
15 ment of Homeland Security”.

16 **SEC. 3. DEFINITIONS.**

17 Section 203 of such Act (8 U.S.C. 1572) is amended
18 to read as follows:

19 **“SEC. 203. DEFINITIONS.**

20 “In this title:

21 “(1) **ACTIVE SUSPENSE.**—The term ‘active sus-
22 pense’ means circumstances in which the Depart-
23 ment of Homeland Security cannot adjudicate an
24 immigration benefit application due to factors out-
25 side of the Department’s control, including any cir-
26 cumstance in which a visa number is unavailable, or

1 circumstances in which the government is waiting
2 for a response from the applicant or a third govern-
3 ment agency.

4 “(2) BACKLOG.—The term ‘backlog’ means the
5 existence of a number of immigration benefit appli-
6 cations that are pending before the Department out-
7 side of applicable processing time goals, minus those
8 applications in an active suspense category. The De-
9 partment cannot assign a processing time goal that
10 is longer than a maximum processing timeframe set
11 forth in section 202 of the American Competitive-
12 ness in the Twenty-first Century Act of 2000.
13 ‘Backlog’ may also be referred to as ‘net backlog’.

14 “(3) CASE COMPLETE PER HOUR RATE.—The
15 term ‘case completion per hour rate’ refers to the
16 average amount of adjudicative time, as measured in
17 hours, required to complete processing of a par-
18 ticular category of immigration benefit application.

19 “(4) GROSS BACKLOG.—The term ‘gross back-
20 log’ means the number of immigration benefit appli-
21 cations that are pending before the Department out-
22 side of applicable processing time goals, irrespective
23 of whether the applications are in an active suspense
24 category.

1 “(5) IMMIGRATION BENEFIT APPLICATION.—
2 The term ‘immigration benefit application’ means
3 any application or petition to confer, certify, change,
4 adjust, or extend any status authorized under the
5 Immigration and Nationality Act (8 U.S.C. 1101 et
6 seq.) and any other application or petition for an im-
7 migration benefit.

8 “(6) PROCESSING TIME.—The term ‘processing
9 time’ means the time from the filing of an immigra-
10 tion benefit application until the completed proc-
11 essing of that application.

12 “(7) PROCESSING TIME GOAL.—The term ‘proc-
13 essing time goal’ means the the goal for a processing
14 time established by the Department as an appro-
15 priate processing time for an immigration benefit
16 application form type. The Department cannot as-
17 sign a processing time goal that is longer than a
18 maximum processing timeframe set forth in section
19 202 of the American Competitiveness in the Twenty-
20 first Century Act of 2000.”.

21 **SEC. 4. IMMIGRATION SERVICES AND INFRASTRUCTURE**
22 **IMPROVEMENTS ACCOUNT.**

23 Section 204 of such Act (8 U.S.C. 1573) is amend-
24 ed—

1 (1) in subsection (a), by striking “Attorney
2 General” each place such term appears and inserting
3 “Secretary of Homeland Security”;

4 (2) in subsection (a)(1), by striking “not later
5 than one year after the date of enactment of this
6 Act”;

7 (3) in subsection (a)(2), by striking “ensure
8 that a backlog does not develop after such date” and
9 inserting “prevent the recurrence of the backlog
10 after its elimination”; and

11 (4) in subsection (b)(1)—

12 (A) by striking “Department of Justice”
13 and inserting “Department of Homeland Secu-
14 rity”; and

15 (B) by striking “Attorney General” and in-
16 serting “Secretary of Homeland Security”.

17 **SEC. 5. REPORTS TO CONGRESS.**

18 Section 205 of such Act (8 U.S.C. 1574) is amended
19 to read as follows:

20 **“SEC. 205. REPORTS TO CONGRESS.**

21 “(a) QUARTERLY REPORT.—

22 “(1) IN GENERAL.—Not later than 90 days
23 after each of the first three quarters of each fiscal
24 year, the Secretary shall publish on the Depart-
25 ment’s website and submit to the Committees on the

1 Judiciary, Appropriations, and Oversight and Re-
2 form of the House of Representatives, and to the
3 Committees on the Judiciary, Appropriations, and
4 Homeland Security and Governmental Affairs of the
5 Senate, a report concerning the backlog in immigra-
6 tion benefit applications as of the end of that fiscal
7 quarter.

8 “(2) REPORT ELEMENTS.—The report shall in-
9 clude—

10 “(A) the number of pending immigration
11 benefit applications, the net backlog, and the
12 gross backlog;

13 “(B) a description of the active suspense
14 categories and the number of cases pending in
15 each category; and

16 “(C) the average processing time for each
17 benefit application form type and any change in
18 that time relative to the end of the prior quar-
19 ter.

20 “(b) ANNUAL REPORT.—

21 “(1) IN GENERAL.—Not later than 90 days
22 after the end of each fiscal year the Secretary shall
23 publish on its website and submit to the Committees
24 on the Judiciary, Appropriations, and Oversight and
25 Reform of the House of Representatives, and to the

1 Committees on the Judiciary, Appropriations, and
2 Homeland Security and Governmental Affairs, a re-
3 port concerning the status of—

4 “(A) the Immigration Services and Infra-
5 structure Improvements Account as of the end
6 of the fiscal year, including any unobligated bal-
7 ances of appropriations in the Account; and

8 “(B) the backlog in immigration benefit
9 applications as of the end of the fiscal year.

10 “(2) REPORT ELEMENTS.—The report shall in-
11 clude—

12 “(A) an analysis of factors contributing to
13 the net and gross backlogs, including a detailed
14 assessment of the impacts of Department poli-
15 cies on the net and gross backlogs;

16 “(B) a description of existing and planned
17 processes for qualitatively and quantitatively as-
18 sessing the impacts on the net and gross back-
19 logs of Department policies both prior to and
20 following implementation of those policies;

21 “(C) an assessment of adherence to proc-
22 esses referenced in subparagraph (B);

23 “(D) existing efforts to eliminate the net
24 backlog and minimize the gross backlog;

1 “(E) a detailed plan to eliminate the net
2 backlog, to prevent recurrence of the net back-
3 log after elimination, and to minimize the gross
4 backlog;

5 “(F) a description of existing and planned
6 quality controls for ensuring fair, accurate, and
7 consistent adjudication of immigration benefit
8 applications;

9 “(G) information on Department funding,
10 including—

11 “(i) an assessment of how and to
12 what extent funding, both from fee ac-
13 counts and appropriations, was allocated
14 toward backlog elimination;

15 “(ii) the identification of any transfers
16 of funds between fee accounts and between
17 Department components;

18 “(iii) description of whether immigra-
19 tion-related fees were used consistent with
20 legal requirements regarding such use; and

21 “(iv) an estimate of the amount of ap-
22 propriated funds that would be necessary
23 to eliminate the net backlog;

24 “(H) whether immigration-related ques-
25 tions conveyed by applicants, petitioners, bene-

1 ficiaries, or authorized representatives to the
2 Department (whether conveyed in person, by
3 telephone, or by means of the Internet) were
4 answered effectively and efficiently;

5 “(I)(i) the information referenced under
6 subsection (a)(2) as of the end of the fiscal
7 year;

8 “(ii) a description of any changes to proc-
9 essing time goals made in the two years prior
10 to the annual report and how those changes im-
11 pact calculations of the net and gross backlogs;

12 “(iii) processing time goals for each benefit
13 application form type and the percentage of
14 cases for which the Department completed proc-
15 essing within each goal;

16 “(iv) State-by-State data on the number of
17 naturalization applications, the number of ad-
18 justment of status applications, and the overall
19 number of immigration benefit applications,
20 pending for up to 6 months, 12 months, 18
21 months, 24 months, 36 months, and 48 months
22 or more;

23 “(v) cease completion rates per hour for
24 each benefit application type;

1 “(vi) the number of all immigration benefit
2 applications received, and processed, by the De-
3 partment, both in the aggregate and as
4 disaggregated by benefit application type; and

5 “(vii) the approval and denial rates associ-
6 ated with the processed cases referenced under
7 subclause (iv), disaggregated by immigration
8 benefit application type;

9 “(J) State-by-State data on—

10 “(i) the number of naturalization
11 cases adjudicated in each quarter of each
12 fiscal year;

13 “(ii) the average processing time for
14 naturalization applications;

15 “(iii) estimated processing times adju-
16 dicating newly submitted naturalization ap-
17 plications; and

18 “(iv) the additional resources and
19 process changes needed to eliminate the
20 backlog for naturalization adjudications;
21 and

22 “(K) a status report on all other immigra-
23 tion benefit application form types, including—

1 “(i) applications for adjustments of
2 status to that of an alien lawfully admitted
3 for permanent residence;

4 “(ii) petitions for nonimmigrant visas
5 under section 204;

6 “(iii) petitions filed under section 204
7 to classify aliens as immediate relatives or
8 preference immigrants under section 1153
9 of this title;

10 “(iv) applications for asylum under
11 section 208;

12 “(v) registrations for temporary pro-
13 tected status under section 244;

14 “(vi) applications for employment au-
15 thorization under section 274A; and

16 “(vii) the additional resources and
17 process changes needed to eliminate the
18 backlog for all immigration benefit applica-
19 tion form types under this subparagraph.

20 “(c) BIENNIAL REPORT.—

21 “(1) IN GENERAL.—Not later than one year
22 after the date on which this section is enacted, and
23 every two years thereafter, the Comptroller General
24 of the United States shall publish on its website and
25 submit to the Committees on the Judiciary, Appro-

1 priations, and Oversight and Reform of the House
2 of Representatives, and to the Committees on the
3 Judiciary, Appropriations, and Homeland Security
4 and Governmental Affairs of the Senate, a report
5 concerning the backlog in immigration benefit appli-
6 cations.

7 “(2) REPORT ELEMENTS.—The report shall in-
8 clude—

9 “(A) a description of the status of the net
10 backlog, of the gross backlog, and of the overall
11 number of pending immigration benefit applica-
12 tions;

13 “(B) an assessment of factors contributing
14 to the net and gross backlogs, including an
15 analysis of the impacts of Department policies
16 on the net and gross backlogs and an analysis
17 of the Department’s formal processes for quali-
18 tatively and quantitatively assessing the impacts
19 of its policies on the net and gross backlogs;

20 “(C) an assessment of existing and
21 planned Department efforts to eliminate the net
22 backlog, to prevent recurrence of the net back-
23 log after its elimination, and to minimize the
24 gross backlog;

1 “(D) an assessment of existing and
2 planned Department efforts to ensure fair, ac-
3 curate, and consistent adjudication of immigra-
4 tion benefit applications; and

5 “(E) recommendations for more expedi-
6 tiously processing immigration benefit applica-
7 tions while ensuring fairness, accuracy, and
8 consistency in processing.”.

9 **SEC. 6. IMMIGRATION FUNCTIONS.**

10 (a) IN GENERAL.—Section 478 of the Homeland Se-
11 curity Act of 2002 (6 U.S.C. 298) is amended to read
12 as follows:

13 **“SEC. 478. SENSE OF CONGRESS REGARDING IMMIGRATION**
14 **SERVICES.**

15 “‘It is the sense of Congress that—

16 “(1) the quality and efficiency of immigration
17 services rendered by the Federal Government should
18 be improved after the transfers made by this subtitle
19 take effect;

20 “(2) the Secretary should undertake efforts to
21 guarantee that concerns regarding the quality and
22 efficiency of immigration services are addressed after
23 such effective date; and

24 “(3) the Secretary cannot assign a processing
25 time goal that is longer than a maximum processing

1 timeframe set forth in section 202 of the American
2 Competitiveness in the Twenty-first Century Act of
3 2000”.

4 (b) CLERICAL AMENDMENT.—Section 1(b) of the
5 Homeland Security Act of 2002 (6 U.S.C. 101 note) is
6 amended in the table of contents by striking the item re-
7 lating to section 478 and inserting the following:

“Sec. 478. Sense of Congress regarding immigration services.”.

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