

116TH CONGRESS  
1ST SESSION

# S. 2219

To clarify the rights of all persons who are held or detained at a port of entry or at any detention facility overseen by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

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## IN THE SENATE OF THE UNITED STATES

JULY 23, 2019

Ms. HARRIS (for herself, Mr. BLUMENTHAL, Ms. WARREN, Mrs. GILLIBRAND, Mr. MARKEY, and Mr. MERKLEY) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To clarify the rights of all persons who are held or detained at a port of entry or at any detention facility overseen by U.S. Customs and Border Protection or U.S. Immigration and Customs Enforcement.

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. CLARIFICATION OF RIGHT TO COUNSEL.**

4       (a) RIGHT TO COUNSEL IN IMMIGRATION PRO-  
5       CEEDINGS.—

6               (1) Subparagraph (A) of section 240(b)(4) of  
7       the Immigration and Nationality Act (8 U.S.C.  
8       1229a(b)(4)) is amended to read as follows:

1           “(A) the alien shall have the privilege of  
2           being represented by counsel of the alien’s  
3           choosing who is authorized to practice in such  
4           proceedings,”.

5           (2) Section 292 of the Immigration and Nation-  
6           ality Act (8 U.S.C. 1362) is amended to read as fol-  
7           lows:

8           **“SEC. 292. RIGHT TO COUNSEL.**

9           “(a) IN GENERAL.—In any removal, exclusion, or de-  
10          portation proceeding or inspection under section 235(a),  
11          235(b), 236, 238, 240, or 241, the person subject to such  
12          proceeding shall be entitled to representation by such au-  
13          thorized counsel as the person may choose.

14          “(b) REDRESS OPTIONS.—If counsel cannot person-  
15          ally meet with a person subject to holding, detention, or  
16          inspection at a port of entry, U.S. Customs and Border  
17          Protection or U.S. Immigration and Customs Enforce-  
18          ment, as appropriate, shall provide redress options  
19          through which counsel may communicate remotely with  
20          the held or detained person during the first hour and  
21          thereafter of such holding or detention, regardless of the  
22          day or time when such holding or detention began.

23          “(c) RECORD OF ABANDONMENT OF LAWFUL PER-  
24          MANENT RESIDENT STATUS OR WITHDRAWAL OF APPLI-  
25          CATION FOR ADMISSION.—A person held or detained at

1 a port of entry may not submit a valid Record of Abandon-  
2 ment of Lawful Permanent Resident Status or Withdrawal  
3 of Application for Admission if such person has been de-  
4 nied access to counsel in accordance with this section.

5 “(d) DEFINITIONS.—In this section:

6 “(1) INSPECTION.—The term ‘inspection’ does  
7 not include primary inspection (as defined in the  
8 policies of the Department of Homeland Security).

9 “(2) PERSON.—The term ‘person’ has the  
10 meaning given the term in section 101(b)(3).”.

11 (b) RIGHT TO COUNSEL OR REPRESENTATION.—Sec-  
12 tion 555(b) of title 5, United States Code, is amended by  
13 adding at the end the following: “The right to be accom-  
14 panied, represented, and advised by counsel or other quali-  
15 fied representative under this subsection shall extend to  
16 any person subject to a proceeding, examination, holding,  
17 or detention described in section 292 of the Immigration  
18 and Nationality Act (8 U.S.C. 1362).”.

19 (c) SAVINGS PROVISION.—Nothing in this section, or  
20 in any amendment made by this section, may be construed  
21 to limit any preexisting right to counsel under section 292  
22 of the Immigration and Nationality Act (8 U.S.C. 1362),  
23 as in effect on the day before the date of the enactment  
24 of this Act, or under any other law.

1 **SEC. 2. TREATMENT OF INDIVIDUALS HELD OR DETAINED**  
2 **AT PORTS OF ENTRY OR AT ANY CBP OR ICE**  
3 **DETENTION FACILITY.**

4 (a) **IN GENERAL.**—The holding or detention of indi-  
5 viduals at a port of entry or at any holding or detention  
6 facility overseen by U.S. Customs and Border Protection  
7 or U.S. Immigration and Customs Enforcement—

8 (1) shall be limited to the briefest term and the  
9 least restrictive conditions practicable and consistent  
10 with the rationale for such holding or detention; and

11 (2) shall include access to food, water, and rest-  
12 room facilities.

13 (b) **SAVINGS PROVISION.**—Nothing in this section  
14 may be construed to limit agencies from complying with  
15 other legal authorities, policies, or standards with respect  
16 to treatment of individuals held or detained at ports of  
17 entry or at any holding or detention facility overseen by  
18 U.S. Customs and Border Protection or U.S. Immigration  
19 and Customs Enforcement.

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