

117TH CONGRESS
1ST SESSION

H. R. 5319

To amend the Immigration and Nationality Act to provide for certain fee waivers, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2021

Mrs. TORRES of California (for herself, Ms. MENG, Mr. TAKANO, Ms. NORTON, Ms. CHU, Mr. JONES, Mr. GRIJALVA, Ms. VELÁZQUEZ, Mr. CÁRDENAS, Mr. MCGOVERN, Mrs. CAROLYN B. MALONEY of New York, Ms. OCASIO-CORTEZ, Mr. GOMEZ, Mr. SOTO, Mr. ESPAILLAT, Mr. VARGAS, and Mr. GARCÍA of Illinois) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to provide for certain fee waivers, 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 “Reduce Financial Bar-
5 riers to Immigration and Citizenship Act of 2021”.

1 **SEC. 2. LIMITATION ON USE OF FEES.**

2 (a) IN GENERAL.—Section 286 of the Immigration
3 and Nationality Act (8 U.S.C. 1356) is amended by strik-
4 ing subsection (m) and inserting the following:

5 “(1) IN GENERAL.—Notwithstanding any other
6 provisions of law, all adjudication fees shall be de-
7 posited as offsetting receipts into a separate account
8 entitled ‘Immigration Examinations Fee Account’ in
9 the Treasury of the United States, whether collected
10 directly by the Attorney General, Secretary of
11 Homeland Security: *Provided, however,* That all fees
12 received by the Attorney General from applicants re-
13 siding in the Virgin Islands of the United States,
14 and in Guam, under this subsection shall be paid
15 over to the treasury of the Virgin Islands and to the
16 treasury of Guam.”.

17 (b) LIMITATION ON TRANSFER OF FEES.—Section
18 286(n) of the Immigration and Nationality Act (8 U.S.C.
19 19 1356(n)) is amended by striking the period at the end
20 and inserting: “. *Provided, however,* That funds within the
21 ‘Immigration Examinations Fee Account’ shall be used by
22 the U.S. Citizenship and Immigration Services, or a suc-
23 cessor agency to which its duties are transferred, to solely
24 to fund the adjudication and administration of immigra-
25 tion benefits and naturalization.”.

1 **SEC. 3. REQUIRED FEE WAIVERS FOR CERTAIN APPLICA-**
2 **TIONS AND PETITIONS.**

3 (a) IN GENERAL.—Section 286 of the Immigration
4 and Nationality Act (8 U.S.C. 1356) is amended by add-
5 ing at the end of subsection (m) the following:

6 “(3) FEES.—That fees for providing adjudica-
7 tion and naturalization services described in para-
8 graph (2) may be set at a level that will ensure re-
9 covery of the costs of providing all such services, in-
10 cluding the costs of similar services provided without
11 charge to applicants described in paragraphs (4) and
12 (5). Such fees may also be set at a level that will
13 recover any additional costs associated with the ad-
14 ministration of the fees collected.

15 “(4) PROHIBITIONS.—The Secretary of Home-
16 land Security may not impose a fee with respect to
17 the filing of the following immigration application or
18 petitions (and any associated applications, petitions,
19 information collections or appeals)—

20 “(A) an application for asylum and related
21 relief;

22 “(B) an application or petition filed for
23 refugee status;

24 “(C) a petition for status as a special im-
25 migrant juvenile and any subsequent applica-
26 tions filed by a special immigrant juvenile;

1 “(D) a petition for U non-immigrant sta-
2 tus under section 101(a)(15)(U)(ii)(I), and re-
3 lated applications, including advance parole,
4 employment authorization, derivative petitions
5 adjustment of status, and waivers;

6 “(E) a self-petition filed by a spouse, child
7 or parent of an abusive U.S. citizen under
8 VAWA, and applications filed by those with ap-
9 proved self petitions under VAWA;

10 “(F) an application for T non-immigrant
11 status under section 101(a)(15)(T);

12 “(G) a petition for a special immigrant
13 visa for an individual who is an Afghan or Iraqi
14 national and was or is employed by or on behalf
15 of the United States Government;

16 “(H) an application for a fee waiver pursu-
17 ant to paragraph (5) of this section; and

18 “(I) any other petition or application the
19 Secretary determines to be in the public inter-
20 est.

21 “(5) FREE WAIVER BASED ON AN INABILITY TO
22 PAY.—

23 “(A) IN GENERAL.—The Secretary of
24 Homeland Security shall waive fees with respect
25 to the filing of an immigration application or

petition (and any associated application, petition, information collection and appeal) for an alien who demonstrates to the satisfaction of the Secretary that such alien—

“(i) is the recipient of a means-tested benefit where the Federal, State, or local agency administering such public benefit considers the income and resources of the individual in granting such benefit;

“(ii) has an income is no greater than 250 percent of the Federal poverty guidelines; or

“(iii) faces extraordinary financial hardship that prevents them from paying the filing fee.

“(B) CORRECTIVE FILING.—If the Secretary finds that an applicant is ineligible for a fee waiver under this subparagraph, the Secretary shall notify applicants of the basis for such ineligibility, and allow applicants 90 days from the date on which the Secretary provides such notice to submit additional evidence of eligibility. Such applicant shall retain the original filing date of the application or petition associated with the fee waiver.

“(C) EXCEPTIONS.—This section shall not apply to petitions seeking classification under section 203(b)(1)(A)–(C), (b)(2)(A)–(C), (b)(3)(A)–(C), and (b)(5)(A)–(D) of this Act or petitions filed by employers pursuant to section 214(C) of this Act.

“(D) FEDERAL POVERTY GUIDELINES.—The term ‘Federal poverty guidelines’ has the meaning given such term by the Director of the Office of Management and Budget, as revised annually by the Secretary of Health and Human Services in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

“(E) PUBLIC CHARGE.—

“(i) FINDING OF PUBLIC CHARGE.—Receipt of an application for a fee waiver under this section shall not be considered in a public charge determination pursuant to section 212(a)(4) or section 237(a)(5).

“(ii) SPONSORS.—Receipt of or application for a fee waiver by the sponsor of an immigration petition shall not be considered as a factor in consideration of an affidavit of support filed by the sponsor.”.

1 (b) BACKLOG REDUCTION.—There is authorized to
2 be appropriated \$500,000,000 to U.S. Citizenship and Im-
3 migration Services in order to streamline processing of ap-
4 plications or petitions granted a fee waiver.

5 **SEC. 4. STUDY AND REPORTS ON FEE INCREASES.**

6 (a) REPORT TO CONGRESS.—Not later than 60 days
7 prior to a notice of proposed rulemaking with respect to
8 an increase in fees for an application for an immigration
9 petition or benefit, the Secretary of Homeland Security
10 shall submit a report to Congress including—

11 (1) evidence that U.S. Citizenship and Immi-
12 gration Services has engaged in cost-cutting meas-
13 ures prior to an increase in such fees;

14 (2) evidence that the decision to increase fees
15 shall not negatively affect the economic and social
16 benefits of immigration; and

17 (3) the balance of the Immigration Examina-
18 tions Fee account under section 286(m) of the Im-
19 migration and Nationality Act (8 U.S.C. 1356(m)),
20 any restrictions on the expenditure of funds therein,
21 projections of future incoming revenue, and the in-
22 formation and methods used to produce each of
23 these calculations.

24 (b) GAO STUDY AND REPORT.—Not later than 180
25 days after the date of the enactment of this Act, the

1 Comptroller General of the United States shall carry out
2 a study to analyze U.S. Citizenship and Immigration Serv-
3 ices expenditures and the use of fees collected for each
4 immigration petition or benefit to determine if such fees
5 are used efficiently and submit a report on such study.

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