117TH CONGRESS
1ST SESSION

H. R._____

To require asylum officers at United States embassies and consulates to conduct credible fear screenings before aliens seeking asylum may be permitted to enter the United States to apply for asylum, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. HERN introduced the following bill; which was referred to the Committee on

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A BILL

To require asylum officers at United States embassies and consulates to conduct credible fear screenings before aliens seeking asylum may be permitted to enter the United States to apply for asylum, and for other purposes.

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

2 SECTION 1. SHORT TITLE.

3 This Act may be cited as the "Asylum Abuse Reduction Act".
SEC. 2. ASYLUM INTERVIEWS.

(a) BORDER CROSSINGS.—Notwithstanding section 235(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)), if an alien who is seeking asylum in the United States attempts to enter the United States from Canada or Mexico at a land port of entry without a valid visa or other appropriate entry document, the immigration officer who is inspecting the alien—

(1) may not admit or parole the alien into the United States; and

(2) shall advise the alien to schedule an asylum hearing with the most convenient United States embassy or consulate in Canada or Mexico.

(b) CREDIBLE FEAR SCREENINGS.—An alien described in subsection (a) may only be permitted to enter the United States to apply for asylum if an asylum officer stationed at a United States embassy or consulate—

(1) has conducted an in-person or telephonic interview with the alien; and

(2) as a result of such interview, has concluded that the alien—

(A)(i) has been persecuted in the alien’s country of nationality on account of the alien’s race, religion, nationality, membership in a particular social group, or political opinion;
(ii) has a credible fear of persecution (as defined in section 235(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1225(b)(1)(B)) if the alien returned to such country; or

(iii) would be subject to torture by a government or public official acting under the color of law if the alien returned to his or her country of nationality; and

(B) is otherwise eligible for asylum under section 208(a) of that Act (8 U.S.C. 1158(a)).

SEC. 3. ASYLUM INELIGIBILITY.

Section 208(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1158(a)(2)) is amended by adding at the end the following:

"(F) TRANSIT THROUGH THIRD COUNTRY.—

"(i) IN GENERAL.—Except as provided in clause (ii), paragraph (1) shall not apply to any alien who, on or after the date of the enactment of this subparagraph, enters, attempts to enter, or arrives in the United States through the Southern land border after transiting through, on the way to the United States, one or more
countries other than the country of citizenship, nationality, or last lawful habitual residence of the alien.

"(ii) EXCEPTIONS.—Clause (i) shall not apply if—

"(I)(aa) the alien demonstrates that he or she applied for protection from persecution or torture in one or more countries (other than the country of citizenship, nationality, or last lawful habitual residence of the alien) through which the alien transited on the way to the United States; and

"(bb) the alien received a final judgment denying the alien protection in such country;

"(II) the alien demonstrates that he or she is or has been subject to a severe form of trafficking in persons; or

"(III) the one or more countries through which the alien transited on the way to the United States were not, at the time of the transit, parties to—
“(aa) the Convention Relating to the Status of Refugees, done at Geneva July 28, 1951 (as made applicable by the Protocol Relating to the Status of Refugees, done at New York January 31, 1967 (19 UST 6223); or

“(bb) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, done at New York December 10, 1984.

“(G) INTERNAL RELOCATION.—Paragraph (1) shall not apply to an alien interviewed by an asylum officer under section 2(b) of the Asylum Abuse Reduction Act if the asylum officer makes a determination that the alien may avoid purported persecution or torture in the alien’s country of nationality by relocating to another part of such country.”.

SEC. 4. CRIMINAL BENCH WARRANTS.

(a) ISSUANCE.—Each Federal judicial district shall appoint at least 1 magistrate or district court judge who, upon a showing of probable cause, shall issue a warrant
of arrest for a violation of section 243(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1253(a)(1)).

(b) PROBABLE CAUSE.—An order of removal issued under any provision of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) that has been in existence 90 days or more shall constitute prima facie evidence of probable cause to issue a warrant under subsection (a).

SEC. 5. INAPPLICABILITY OF FLORES SETTLEMENT AGREEMENT TO ALIENS SUBJECT TO DETENTION.

The stipulated settlement agreement filed in the United States District Court for the Central District of California on January 17, 1997 (CV 85-4544-RJK) (commonly known as the “Flores settlement agreement”) shall not apply to the detention and custody of aliens subject to detention in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).