To defer removal of certain nationals of Vietnam for a 24-month period, and for other purposes.

SECTION 1.短标题

本法案可能被称为“2020年履行承诺法案”。

SEC. 2.发现

国会发现如下：
(1) 从1975年4月至9月，美国进行了新到达行动，目的是通过向越南派遣军事力量，为越南难民提供临时避难。这是一项旨在为越南难民提供安全的举措，他们因战争而逃离家园。

United States conducted Operation New Arrival to

May 8, 2020 (4:44 p.m.)
relocate 130,000 Vietnamese refugees to the United States following the end of the Vietnam War.

(2) During this time, more than 50,000 Vietnamese refugees were processed through Camp Pendleton for Southern California.

(3) In the 4 decades since refugees fled Vietnam, Vietnamese Americans have weaved their stories into the American fabric.

(4) The biggest concentration of Vietnamese American is in Orange County, California, followed by San Jose (California), Houston (Texas), Seattle (Washington), Northern Virginia, and New Orleans (Louisiana).

(5) According to the 2010 census, Vietnamese is the 6th most commonly spoken language in the United States.

(6) Immigrant communities face significant problems assimilating as a result of the trauma of war. A 2018 study published by Rashmi Gangamma and Daran Shipman in the Journal of Marital and Family Therapy noted that “the traumatic nature of (immigrant’s) forced displacement flight, and resettlement can increase vulnerability to mental distress.” First generation immigrants are especially vulnerable to gang violence within communities in
which their parents cannot guide with cultural or po-
itical comfortability.

(7) In 2008, the United States and Vietnam
signed a bilateral repatriation agreement, hereafter
known as the 2008 Vietnam-U.S. Memorandum of
Understanding (MOU).

(8) According to Section 2, Article 2 of the
2008 Vietnam-U.S. MOU, “Vietnamese citizens are
not subject to return to Vietnam under this Agree-
ment if they arrived in the United States before July
12, 1995, the date on which diplomatic relations
were re-established between the U.S. Government
and the Vietnamese Government. The U.S. Govern-
ment and the Vietnamese Government maintain
their respective legal positions relative to Vietnamese
citizens who departed Vietnam for the United States
prior to that date”.

(9) The United States under President George
Bush and President Barack Obama recognized the
2008 Vietnam-U.S. MOU’s protection for pre-1995
refugees from deportation.

(10) In 2019, President Trump’s Administra-
tion began to renegotiate the 2008 Vietnam-U.S.
MOU to expand the categories of immigrants it
could deport, including permanent residents who
have committed certain minor crimes and others who
came to the United States as children after the Viet-
man War.

(11) In February 2018, Asian Americans Ad-
vancing Justice’s Asian Law Caucus in San Fran-
cisco, Los Angeles, and Atlanta filed a class action
lawsuit in the name of Orange County resident
Hoang Trinh and six other refugees who all came to
the U.S. before the 1995 date and became legal per-
manent residents. Due to criminal convictions, they
all lost their green cards, making them subject to
deporation. Under the 2008 Vietnam-U.S. MOU,
they should be protected from deportation. The refu-
gees were held in prolonged detention in violation of
a 2001 U.S. Supreme Court decision restricting
overlong detention.

(12) In August 2018, U.S. District Judge
Cormac Carney ruled that the plaintiffs in the class
action presented a plausible claim that the govern-
ment is now not abiding by a “longstanding practice
of not removing pre-1995 Vietnamese immigrants
and by the 2008 diplomatic agreement.”
SEC. 3. DEFERRAL OF REMOVAL FOR NATIONALS OF VIETNAM WITH REMOVAL ORDERS.

(a) DEFERRAL OF REMOVAL.—Except as provided in subsection (b), an alien may not be removed for the 24-month period beginning on the date of enactment of this Act if the alien—

(1) is a national of Vietnam;

(2) has been ordered removed to Vietnam at any time before the date of enactment of this Act; and

(3) resided in the United States on or before July 12, 1995.

(b) DEFERRAL NOT APPLICABLE TO CERTAIN ALIENS.—Subsection (a) shall not apply to an alien if—

(1) the Secretary of Homeland Security determines that the alien’s removal is necessary based upon credible facts that the alien is directly responsible for specific and significant harm to the security of the United States; or

(2) the alien is subject to extradition.

(c) EMPLOYMENT AUTHORIZATION.—Upon application to the Secretary of Homeland Security, an alien whose removal is deferred pursuant to this Act—

(1) shall be authorized to engage in employment during the 24-month period described in subsection (a); and
(2) shall be issued an employment authorization document that remains valid during such period.

(d) IMPLEMENTATION.—The Secretary of Homeland Security shall take the necessary steps to implement—

(1) the deferral of removal authorized under this section; and

(2) the authorization of employment described in subsection (c).

SEC. 4. NOTICE FOR CERTAIN ALIENS WITH REMOVAL ORDERS TO VIETNAM.

(a) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide notice of the provisions of this Act to each alien who—

(1) is a national of Vietnam; and

(2) has a final order of removal.

(b) CONTENTS OF NOTICE.—The notice required under subsection (a) shall include clear instructions explaining the requirements for an alien to file a motion to reopen a proceeding under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) based on changed country conditions.

SEC. 5. PROHIBITION ON DETENTION.

The Secretary of Homeland Security may not detain an alien whose removal is deferred pursuant to this Act
on the basis of the alien’s immigration status in the United States or as a result of a motion filed by the alien to reopen a proceeding under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a).

SEC. 6. JUDICIAL REVIEW.

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

(b) Rule of Construction.—Nothing in this Act may be construed to preclude an action filed pursuant to subsection (a) from proceeding as a class action (as such term is defined in section 1711 of title 28, United States Code).