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(Original Signature of Member)

116TH CONGRESS  
1ST SESSION

# H. R.

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

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## IN THE HOUSE OF REPRESENTATIVES

Mr. LOWENTHAL introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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# A BILL

To defer removal of certain nationals of Vietnam for a 24-  
month period, 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 “Honor Our Commit-  
5 ment Act of 2020”.

6 **SEC. 2. FINDINGS.**

7 Congress finds as follows:

8 (1) 1) From April – September 1975, the  
9 United States conducted Operation New Arrival to

1 relocate 130,000 Vietnamese refugees to the United  
2 States following the end of the Vietnam War.

3 (2) During this time, more than 50,000 Viet-  
4 nameese refugees were processed through Camp Pen-  
5 dleton for Southern California.

6 (3) In the 4 decades since refugees fled Viet-  
7 nam, Vietnamese Americans have weaved their sto-  
8 ries into the American fabric.

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

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

17 (6) Immigrant communities face significant  
18 problems assimilating as a result of the trauma of  
19 war. A 2018 study published by Rashmi Gangamma  
20 and Daran Shipman in the Journal of Marital and  
21 Family Therapy noted that “the traumatic nature of  
22 (immigrant’s) forced displacement flight, and reset-  
23 tlement can increase vulnerability to mental dis-  
24 tress.” First generation immigrants are especially  
25 vulnerable to gang violence within communities in

1       which their parents cannot guide with cultural or po-  
2       litical comfortability.

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

7           (8) According to Section 2, Article 2 of the  
8       2008 Vietnam-U.S. MOU, “Vietnamese citizens are  
9       not subject to return to Vietnam under this Agree-  
10      ment if they arrived in the United States before July  
11      12, 1995, the date on which diplomatic relations  
12      were re-established between the U.S. Government  
13      and the Vietnamese Government. The U.S. Govern-  
14      ment and the Vietnamese Government maintain  
15      their respective legal positions relative to Vietnamese  
16      citizens who departed Vietnam for the United States  
17      prior to that date”.

18          (9) The United States under President George  
19      Bush and President Barack Obama recognized the  
20      2008 Vietnam-U.S. MOU’s protection for pre-1995  
21      refugees from deportation.

22          (10) In 2019, President Trump’s Administra-  
23      tion began to renegotiate the 2008 Vietnam-U.S.  
24      MOU to expand the categories of immigrants it  
25      could deport, including permanent residents who

1        have committed certain minor crimes and others who  
2        came to the United States as children after the Viet-  
3        nam War.

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

17            (12) In August 2018, U.S. District Judge  
18        Cormac Carney ruled that the plaintiffs in the class  
19        action presented a plausible claim that the govern-  
20        ment is now not abiding by a “longstanding practice  
21        of not removing pre-1995 Vietnamese immigrants  
22        and by the 2008 diplomatic agreement.”

1 **SEC. 3. DEFERRAL OF REMOVAL FOR NATIONALS OF VIET-**  
2 **NAM WITH REMOVAL ORDERS.**

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

7 (1) is a national of Vietnam;

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

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

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

15 (1) the Secretary of Homeland Security deter-  
16 mines that the alien's removal is necessary based  
17 upon credible facts that the alien is directly respon-  
18 sible for specific and significant harm to the security  
19 of the United States; or

20 (2) the alien is subject to extradition.

21 (c) EMPLOYMENT AUTHORIZATION.—Upon applica-  
22 tion to the Secretary of Homeland Security, an alien  
23 whose removal is deferred pursuant to this Act—

24 (1) shall be authorized to engage in employ-  
25 ment during the 24-month period described in sub-  
26 section (a); and

1           (2) shall be issued an employment authorization  
2 document that remains valid during such period.

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

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

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

9   **SEC. 4. NOTICE FOR CERTAIN ALIENS WITH REMOVAL OR-**  
10                                   **DERS TO VIETNAM.**

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

15           (1) is a national of Vietnam; and

16           (2) has a final order of removal.

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

23   **SEC. 5. PROHIBITION ON DETENTION.**

24           The Secretary of Homeland Security may not detain  
25 an alien whose removal is deferred pursuant to this Act

1 on the basis of the alien's immigration status in the  
2 United States or as a result of a motion filed by the alien  
3 to reopen a proceeding under section 240 of the Immigra-  
4 tion and Nationality Act (8 U.S.C. 1229a).

5 **SEC. 6. JUDICIAL REVIEW.**

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

11 (b) RULE OF CONSTRUCTION.—Nothing in this Act  
12 may be construed to preclude an action filed pursuant to  
13 subsection (a) from proceeding as a class action (as such  
14 term is defined in section 1711 of title 28, United States  
15 Code).