

MARCH 5, 2020

RULES COMMITTEE PRINT 116-53
TEXT OF HOUSE AMENDMENT TO THE SENATE
AMENDMENT TO H.R. 2486

[Showing the text of H.R. 5581, Access to Counsel Act of 2020, as reported by the Committee on the Judiciary, with modifications.]

In the matter proposed to be inserted by the amendment of the Senate, strike sections 4, 5, and 6 and insert the following:

1 **TITLE III—ACCESS TO COUNSEL**
2 **ACT OF 2020**

3 **SEC. 301. SHORT TITLE.**

4 This title may be cited as the “Access to Counsel Act
5 of 2020”.

6 **SEC. 302. ACCESS TO COUNSEL AND OTHER ASSISTANCE AT**
7 **PORTS OF ENTRY AND DEFERRED INSPEC-**
8 **TION.**

9 (a) ACCESS TO COUNSEL AND OTHER ASSISTANCE
10 DURING INSPECTION.—Section 235 of the Immigration
11 and Nationality Act (8 U.S.C. 1225) is amended by add-
12 ing at the end the following:

13 “(e) ACCESS TO COUNSEL AND OTHER ASSISTANCE
14 DURING INSPECTION.—

1 “(1) IN GENERAL.—The Secretary of Homeland
2 Security shall ensure that a covered individual has
3 a meaningful opportunity to consult with counsel
4 and an interested party during the inspection pro-
5 cess.

6 “(2) SCOPE OF ASSISTANCE.—The Secretary of
7 Homeland Security shall—

8 “(A) provide the covered individual a
9 meaningful opportunity to consult with counsel
10 and an interested party not later than one hour
11 after the secondary inspection process com-
12 mences and as necessary throughout the inspec-
13 tion process, including, as applicable, during de-
14 ferred inspection;

15 “(B) allow counsel and an interested party
16 to advocate on behalf of the covered individual,
17 including by providing to the examining immi-
18 gration officer information, documentation, and
19 other evidence in support of the covered indi-
20 vidual; and

21 “(C) to the greatest extent practicable, ac-
22 commodate a request by the covered individual
23 for counsel or an interested party to appear in-
24 person at the secondary or deferred inspection
25 site.

1 “(3) SPECIAL RULE FOR LAWFUL PERMANENT
2 RESIDENTS.—

3 “(A) IN GENERAL.—The Secretary of
4 Homeland Security may not accept Form I-407
5 Record of Abandonment of Lawful Permanent
6 Resident Status (or a successor form) from a
7 lawful permanent resident subject to secondary
8 or deferred inspection without providing such
9 lawful permanent resident a reasonable oppor-
10 tunity to seek advice from counsel prior to the
11 submission of the form.

12 “(B) EXCEPTION.—The Secretary of
13 Homeland Security may accept Form I-407
14 Record of Abandonment of Lawful Permanent
15 Resident Status (or a successor form) from a
16 lawful permanent resident subject to secondary
17 or deferred inspection if such lawful permanent
18 resident knowingly, intelligently, and voluntarily
19 waives, in writing, the opportunity to seek ad-
20 vice from counsel.

21 “(4) DEFINITIONS.—In this section:

22 “(A) COUNSEL.—The term ‘counsel’
23 means—

24 “(i) an attorney who is a member in
25 good standing of the bar of any State, the

1 District of Columbia, or a territory or a
2 possession of the United States and is not
3 under an order suspending, enjoining, re-
4 straining, disbarring, or otherwise restrict-
5 ing the attorney in the practice of law; or

6 “(ii) an individual accredited by the
7 Attorney General, acting as a representa-
8 tive of an organization recognized by the
9 Executive Office for Immigration Review,
10 to represent a covered individual in immi-
11 gration matters.

12 “(B) COVERED INDIVIDUAL.—The term
13 ‘covered individual’ means an individual subject
14 to secondary or deferred inspection who is—

15 “(i) a national of the United States;

16 “(ii) an immigrant, lawfully admitted
17 for permanent residence, who is returning
18 from a temporary visit abroad;

19 “(iii) an alien seeking admission as an
20 immigrant in possession of a valid unex-
21 pired immigrant visa;

22 “(iv) an alien seeking admission as a
23 non-immigrant in possession of a valid un-
24 expired non-immigrant visa;

25 “(v) a refugee;

1 “(vi) a returning asylee; or

2 “(vii) an alien who has been approved
3 for parole under section 212(d)(5)(A), in-
4 cluding an alien who is returning to the
5 United States in possession of a valid ad-
6 vance parole document.

7 “(C) INTERESTED PARTY.—The term ‘in-
8 terested party’ means—

9 “(i) a relative of the covered indi-
10 vidual;

11 “(ii) in the case of a covered indi-
12 vidual to whom an immigrant or non-immi-
13 grant visa has been issued, the petitioner
14 or sponsor thereof (including an agent of
15 such petitioner or sponsor); or

16 “(iii) a person, organization, or entity
17 in the United States with a bona fide con-
18 nection to the covered individual.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect 180 days after the date
21 of the enactment of this Act.

22 (c) SAVINGS PROVISION.—Nothing in this title, or in
23 any amendment made by this title, may be construed to
24 limit a right to counsel or any right to appointed counsel
25 under—

1 (1) section 240(b)(4)(A) (8 U.S.C.
2 1229a(b)(4)(A)),
3 (2) section 292 of the Immigration and Nation-
4 ality Act (8 U.S.C. 1362), or
5 (3) any other provision of law, including any
6 final court order securing such rights,
7 as in effect on the day before the date of the enactment
8 of this Act.

