



Asylum Seeker Work Authorization Act of 2023: Bill Summary

Senator Susan Collins (R-Maine) introduced the Asylum Seeker Work Authorization Act of 2023 ([S. 255](#)), co-sponsored by Sens. Kyrsten Sinema (I-Arizona) and Angus King (I-Maine), on February 2, 2023. The bill would shorten the current waiting period for an Employment Authorization Document (EAD), otherwise known as a work permit, for asylum seekers from 180 days to 30 days provided that the asylum seekers entered the U.S. through an official port of entry (POE). In addition, the bill would codify a two-year renewal schedule for asylum based EADs.

Rep. Chellie Pingree (D-Maine) introduced a similar bill in the House, titled the Asylum Seeker Work Authorization Act of 2023 ([H.R. 1325](#)), on March 1, 2023, with [nine co-sponsors](#). The bill would also shorten the 180-day waiting period for asylum-based work permits down to 30 days. This bill differs from the Senate version in that it does not require asylum seekers to enter the U.S. through POEs. The House bill also amends the EAD renewal schedule, requiring that work permits remain active until the asylum claim is decided, including any appeals.

Background

Work Permits for Asylum Seekers

The U.S. Asylum process allows individuals, specifically those with a well-founded fear of persecution including victims of serious human rights violation in their home countries, to seek legal protection at the U.S. border, both at ports of entry and between ports of entry, or in the interior. Those who obtain asylum are offered certain protections in the U.S. such as work authorizations and other federal benefits, along with a path to lawful permanent residence (LPR) and eventually, citizenship.

Asylum seekers are those individuals who have left their country and are not yet legally recognized as asylees/refugees until their claim is decided. However, the asylum system is currently heavily backlogged. It takes an [average](#) of four years for a case to be adjudicated. During this time, asylum seekers are protected from deportation but otherwise lack status or access to most federal benefits. According to Title 8 of the United States Code, which governs immigration law, asylum seekers may receive authorization to work as soon as 180 days following the filing of an asylum application.

This lengthy waiting period is in place due to concerns that the rapid provision of work could encourage misuse of the asylum system by those without credible claims. However, there are [significant protections](#) already in place to guard against potential asylum fraud, including the use of background checks, forensic examination of identity documents, and established government departments and personnel whose role it is to investigate and identify fraudulent or “frivolous” applications.

What Would the Asylum Seeker Work Authorization Act of 2023 Do?

<i>Senate Bill (S. 255)</i>	<i>House Bill (H.B. 1325)</i>
<p>Amends 8 U.S.C. § 1158(d)(2)</p> <ul style="list-style-type: none"> • Adds an additional provision, titled “Expedited Employment Eligibility”, as an <i>exception</i> to the 180-day waiting period following an asylum application, allowing eligible applicants to receive their work permits within 30 days of their application • This new provision is applicable for asylum seekers that are: <ul style="list-style-type: none"> ○ (1) physically present in the United States since the date of the enactment of the Asylum Seeker Work Authorization Act of 2023; or, ○ (2) for those individuals who entered the United States at an official designated port of entry • The Expedited Employment Eligibility will apply provided that: <ul style="list-style-type: none"> ○ (1) the applicant is not in immigration detention; ○ (2) the application has not been deemed “frivolous;” ○ (3) their identities have been verified and nothing in federal databases indicate they are inadmissible from the United States • Codifies a two-year renewal schedule 	<p>Amends 8 U.S.C. § 1158(d)(2)</p> <ul style="list-style-type: none"> • The bill would add two additional provisions titled “Application” and “Term.” These new provisions would work in tandem with the existing requirement that approval for asylum-based work authorizations depend on a finding that: <ul style="list-style-type: none"> ○ (1) the application is not frivolous, and ○ (2) the applicant is not currently in immigration detention • The new “Application” provision would allow asylum seekers to receive work permits following a 30-day waiting period after submitting their asylum application, if they entered at official ports of entry or between them • The new “Term” provision allows for asylum-based work permits to remain active until the asylum claim is adjudicated, including all appeals

Main Differences between the Senate and House Version of the Asylum Seeker Work Authorization Act

Senate Bill

The Senate Bill creates a separate pathway for work authorization based on where an asylum seeker will enter the United States. Those individuals who enter at an official POE are eligible for an expedited work authorization process of 30 days, whereas those who enter between POEs are subject to the typical 180-day waiting period. In contrast, the House bill would shorten the current waiting period regardless of how or where applicants enter the U.S.

This legislation comes as a response to an increase in the number of asylum seekers coming to the U.S. Some asylum seekers are coming to the state of [Maine](#), as well as other States and communities, where local businesses continue to face [labor shortages](#). The bill's function is two-fold: it helps asylum seekers support themselves and their families sooner by working, while also relieving pressure on local communities and non-governmental organizations who receive asylum seekers. In addition, by encouraging applicants to enter through official POEs, the bill intends to help create a more orderly asylum application [process](#).

Sen. Collins described the bill as a “[win-win](#)” solution, where asylum seekers are enabled to fill the lack of employees in the workforce—providing a boon to the economy, while also being able to support themselves. The current lengthy work authorization process arbitrarily bars asylum seekers from getting jobs and filling gaps in employment, limits potential economic growth, and prevents asylum seekers from obtaining a sense of self-sufficiency in their new homes. The prolonged work authorization process also encourages desperate measures such as working without authorization to secure basic necessities.

House Bill

The House Bill removes the usual two-year renewal period for asylum-based work permits allowing the authorization to last the duration of the pending asylum claim.

Similarly motivated by the workforce shortages in Maine, Rep. Pingree's bill comes as a more [expansive effort](#) to address gaps in employment for noncitizens. Compared to the Senate version, the House bill contains no requirement to enter through official POEs to be eligible for the shortened waiting period. A key component of this bill would eliminate the usual two-year renewal schedule for asylum-based work authorizations, where asylum seekers would no longer need to renew their work permits as their claims are being processed. This change is intended to reduce USCIS processing backlogs as well as prevent layoffs from work while awaiting an EAD renewal. Consequently, asylum seekers would be able to stay connected to their jobs, while businesses and employers are able to retain their workforce.

How Would the Asylum Seeker Work Authorization Act Impact the U.S. Asylum System?

- **The Asylum Seeker Work Authorization helps the American Economy.** The bill would enable eager and ready-to-work asylum seekers to contribute their much-needed skills to the workforce, allowing them to contribute to their communities, help build and maintain local businesses, as well as give them the means to become self-sufficient more quickly. The change would lessen the burden on the budgets of communities hosting asylum seekers by permitting such individuals to obtain

employment. The bill would provide a common-sense solution to a [depleted workforce](#), benefit the economy, while also supporting asylum seekers in securing economic independence.

- **The Asylum Seeker Work Authorization Act addresses the ongoing issues of the asylum application process.** Current law leaves asylum seekers, who want to work, in limbo for a minimum of 180 days, roughly six months. Given current USCIS backlogs and processing delays, asylum seekers are more likely to wait [eight months](#) to a year without work authorization. This lengthy waiting period results in asylum seekers being left to rely on general assistance and the available services of their hosting communities.
 - **Sen. Collins’s** bill requires asylum seekers to use official POEs to be eligible for an expedited work permit, claiming that the resulting outcome streamlines the asylum application process, encourages asylum seekers to enter at POEs, and lends itself to a more orderly process.
 - **Rep. Pingree’s** bill contains no language about where those seeking asylum should cross the border but rather includes a provision that eliminates the two-year work permit renewal schedule—keeping work permits active for the entire length of time it takes to adjudicate an asylum application. By removing the need to repeatedly renew work authorizations, this bill would free up USCIS resources in order to tackle existing backlogs.
 - *In either version of the bill*, allowing asylum seekers to apply for work authorization sooner represents a long overdue change that offers some relief to those seeking asylum and to businesses. Adjusting the waiting period integrates asylum seekers into the fabric of society, allows them to contribute to their communities, and helps businesses that are struggling to find workers.
- **The Asylum Seeker Work Authorization Act supports our country’s values.** Adjusting the wait period for asylum seekers addresses the lack of access to regular employment which often exposes asylum seekers to [exploitation](#) and additional trauma, as many are left with no choice but to work “under the table.” Limiting the ability of asylum seekers to work holds them back from starting a new life, blocks them from the dignity afforded through work, and diverts states and businesses from ready and able workers during a time when many more workers are needed. Reducing the waiting period reflects a commitment to protect our asylum seekers from further harm, encourages self-sufficiency through early employment, and accelerates their integration into their local communities. While the Federal government has provided aid to communities dealing with an upswing in asylum seekers, expediting the waiting period would provide a better solution as asylum seekers would be able to join the workforce—effectively [improving](#) the economy and encouraging self-sufficiency.

The National Immigration Forum would like to thank Javeria Ijaz, Policy and Advocacy Intern, for developing this bill summary.