To designate residents of the Hong Kong Special Administrative Region as Priority 2 refugees of special humanitarian concern, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. RUBIO (for himself, Mr. MENENDEZ, Mr. YOUNG, and Mr. CARDIN) introduced the following bill; which was read twice and referred to the Committee on ______

A BILL

To designate residents of the Hong Kong Special Administrative Region as Priority 2 refugees of special humanitarian concern, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hong Kong Safe Harbor Act”.

SEC. 2. DESIGNATION OF CERTAIN RESIDENTS OF HONG KONG AS PRIORITY 2 REFUGEES.

(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall
designate as Priority 2 refugees of special humanitarian concern the following categories of aliens:

(1) Individuals who are residents of the Hong Kong Special Administrative Region who suffered persecution, or have a well-founded fear of persecution, on account of their peaceful expression of political opinions or peaceful participation in political activities or associations.

(2) Individuals who have been formally charged, detained, or convicted on account of their peaceful actions as described in section 206(b)(2) the United States-Hong Kong Policy Act of 1992 (22 U.S.C. 5726).

(3) The spouses, children, and parents (as such terms are defined in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)) of individuals described in paragraph (1) or (2), except such parents who are citizens of a country other than the People’s Republic of China.

(b) PROCESSING OF HONG KONG REFUGEES.—The processing of individuals described in subsection (a) for classification as refugees may occur in Hong Kong or in a third country.

(c) ELIGIBILITY FOR ADMISSION AS REFUGEES.—An alien may not be denied the opportunity to apply for ad-
mission as a refugee under this section primarily because such alien—

(1) qualifies as an immediate relative of a citizen of the United States; or

(2) is eligible for admission to the United States under any other immigrant classification.

(d) F ACILITATION OF ADMISSIONS.—An applicant for admission to the United States from the Hong Kong Special Administrative Region may not be denied primarily on the basis of a politically motivated arrest, detention, or other adverse government action taken against such applicant as a result of the participation by such applicant in protest activities.

(e) E XCLUSION FROM NUMERICAL LIMITATIONS.—Aliens provided refugee status under this section shall not be counted against any numerical limitation under section 201, 202, 203, or 207 of the Immigration and Nationality Act (8 U.S.C. 1151, 1152, 1153, or 1157).

(f) REPORTING REQUIREMENTS.—

(1) I N GENERAL.—Not later than 180 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of State and the Secretary of Homeland Security shall submit a report on the matters described in paragraph (2) to—
(A) the Committee on the Judiciary and
the Committee on Foreign Relations of the Sen-
ate; and

(B) the Committee on the Judiciary and
the Committee on Foreign Affairs of the House
of Representatives.

(2) MATTERS TO BE INCLUDED.—Each report
required by paragraph (1) shall include—

(A) the total number of applications that
are pending at the end of the reporting period;

(B) the average wait-times for all appli-
cants who are currently pending—

(i) employment verification;

(ii) a prescreening interview with a re-
settlement support center;

(iii) an interview with U.S. Citizen-
ship and Immigration Services; and

(iv) the completion of security checks;

and

(C) the number of denials of applications
for refugee status, disaggregated by the reason
for each such denial.

(3) FORM.—Each report required by paragraph
(1) shall be submitted in unclassified form, but may
include a classified annex.
(4) PUBLIC REPORTS.—The Secretary of State shall make each report submitted under this subsection available to the public on the internet website of the Department of State.

(g) SATISFACTION OF OTHER REQUIREMENTS.—Aliens granted status under this section as Priority 2 refugees of special humanitarian concern under the refugee resettlement priority system shall be considered to satisfy the requirements under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) for admission to the United States.

SEC. 3. WAIVER OF IMMIGRANT STATUS PRESUMPTION.

(a) IN GENERAL.—The presumption under the first sentence of section 214(b) (8 U.S.C. 1184(b)) that every alien is an immigrant until the alien establishes that the alien is entitled to nonimmigrant status shall not apply to an alien described in subsection (b).

(b) ALIEN DESCRIBED.—

(1) IN GENERAL.—An alien described in this paragraph is an alien who—

(A) on June 30, 2020, is a resident of the Hong Kong Special Administrative Region;

(B) is seeking entry to the United States to apply for asylum under section 208 of the
Immigration and Nationality Act (8 U.S.C. 1158); and

(C)(i) had a leadership role in civil society organizations supportive of the protests in 2019 and 2020 relating to the Hong Kong extradition bill and the encroachment on the autonomy of Hong Kong by the People’s Republic of China;

(ii) had an organizing role for such protests;

(iii) acted as a first aid responder for such protests;

(iv) suffered harm while covering such protests as a journalist;

(v) provided paid or pro-bono legal services to 1 or more individuals arrested for participating in such protests; or

(vi) during the period beginning on June 9, 2019, and ending on June 30, 2020, was formally charged, detained, or convicted for his or her participation in such protests.

(2) EXCLUSION.—An alien described in this paragraph does not include any alien who is a citizen of a country other than the People’s Republic of China.
SEC. 4. REFUGEE AND ASYLUM DETERMINATIONS UNDER
THE IMMIGRATION AND NATIONALITY ACT.

(a) Persecution on Account of Political Opinion.—

(1) In general.—For purposes of refugee determinations under this Act in accordance with section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), an individual whose citizenship, nationality, or residency is revoked for having submitted to any United States Government agency a nonfrivolous application for refugee status, asylum, or any other immigration benefit under the immigration laws (as defined in section 101(a) of that Act (8 U.S.C. 1101(a))) shall be considered to have suffered persecution on account of political opinion.

(2) Nationals of the People’s Republic of China.—For purposes of refugee determinations under this Act in accordance with section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), a national of the People’s Republic of China whose residency in the Hong Kong Special Administrative region, or any other area within the jurisdiction of the People’s Republic of China, as determined by the Secretary of State, is revoked for having submitted to any United States Government agency a nonfrivolous application for refugee status, asylum, or any
other immigration benefit under the immigration laws shall be considered to have suffered persecution on account of political opinion.

(b) CHANGED CIRCUMSTANCES.—For purposes of asylum determinations under this Act in accordance with section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), the revocation of the citizenship, nationality, or residency of an individual for having submitted to any United States Government agency a nonfrivolous application for refugee status, asylum, or any other immigration benefit under the immigration laws shall be considered to be a changed circumstance under subsection (a)(2)(D) of that section.

SEC. 5. STATEMENT OF POLICY ON ENCOURAGING ALLIES AND PARTNERS TO MAKE SIMILAR ACCOMMODATIONS.

It is the policy of the United States to encourage allies and partners of the United States to make accommodations similar to the accommodations made in this Act for residents of the Hong Kong Special Administrative Region who are fleeing oppression by the Government of the People’s Republic of China.
SEC. 6. TERMINATION.

This Act, and the amendments made by this Act, shall cease to have effect on the date that is 5 years after the date of the enactment of this Act.