



HR1 FEES AT USCIS AND EOIR

By Elizabeth Taufa

On July 4, 2025, President Trump signed a reconciliation bill (frequently referred to as the “One Big Beautiful Bill Act,” referred to here as “HR1”). Among other things, the bill sets statutory minimums for additional fees for various forms of relief at U.S. Citizenship and Immigration Services (USCIS) and the Executive Office for Immigration Review (EOIR). Not all fees are affected by HR1, but among the forms of relief targeted are temporary status (TPS, parole), Special Immigrant Juvenile Status (SIJS), and asylum.

WARNING: Available information from the government about these fees is inconsistent, incomplete, and scattered amongst various sources.¹ This makes it difficult to paint an accurate picture of what the changes are and how practitioners and applicants should respond. We will update this resource as more information becomes available.

Both USCIS and EOIR have interpreted the statutory language to allow them to assess the HR1 fees **in addition to** existing fees. The result is massive increases to existing fees and the imposition of fees for applications that previously carried no fees (asylum and SIJS).

Some—but not all—of the HR1 fees took effect at USCIS on August 21, 2025.² However, USCIS also stated that the new fees applied to applications filed after July 22, 2025.³ At this point, USCIS is clear that applications not accompanied by the new fees will be rejected.

At EOIR, the HR1 fees went into effect on July 17, 2025, although at the time of writing there is still no formal mechanism to pay the new asylum fees and courts currently have discretion on how to accept asylum applications without the fees.⁴

¹ Following HR1, USCIS and EOIR have issued guidance on how they will assess at least some of the new HR1 fees: USCIS: DHS, *USCIS Immigration Fees Required by HR-1 Reconciliation Bill*, 90 Fed. Reg. 34511 (Jul. 22, 2025); USCIS, Policy Alert: Reconciliation Bill (H.R.-1) and Submission of Fees, (Aug. 21, 2025) <https://www.uscis.gov/sites/default/files/document/policy-manual-updates/20250821-SubmissionOfFees.pdf>. EOIR: EOIR, Policy Memorandum 25-35, *Statutory Fees Under the One Big Beautiful Bill Act* (Jul. 17, 2025), <https://www.justice.gov/eoir/media/1408356/dl?inline>

² USCIS: DHS, *USCIS Immigration Fees Required by HR-1 Reconciliation Bill*, 90 Fed. Reg. 34511 (Jul. 22, 2025).

³ USCIS, USCIS Updates Fees Based on H.R.1 (July 18, 2025), <https://www.uscis.gov/newsroom/alerts/uscis-updates-fees-based-on-hr-1>

⁴ EOIR, Policy Memorandum 25-35, *Statutory Fees Under the One Big Beautiful Bill Act* (Jul. 17, 2025), <https://www.justice.gov/eoir/media/1408356/dl?inline>.

NOTE: Advocates from across the country report that immigration courts are dealing with this lack of guidance in various ways, leading to chaotic and harmful outcomes. For example, some courts have agreed to “provisionally accept” new I-589s for now, and state that they will issue scheduling orders with deadlines for payment once the EOIR payment system incorporates the new fees. In other courts, some immigration judges are reportedly ordering respondents to pay the fee now or have their asylum application deemed abandoned, seemingly unaware that there is currently no way to actually pay the fee. Practitioners should stay informed of their local court’s practice to ensure that new asylum applications will be accepted and adjudicated.

The fee increases themselves are not the only changes mandated by HR1. There are also changes to the ways the fees are assessed, how agencies will be assessing fees in the future, and fee waiver availability.

I. Stacked Fees

Both agencies are interpreting the language in HR1 to authorize them to stack the HR1 fees on top of the existing agency fees. This means that many fees are even higher than what is listed in the HR1 text, because the agencies are “stacking” new fees on top of the fees already in place before HR1.

However, the agencies are taking different approaches to how they are accepting the new fees. EOIR has opted to simply raise the fees that applicants must pay to include the HR1 fees and the existing agency fees. USCIS has opted to assess the fees separately, meaning that an applicant must pay the agency fee and the HR1 fee separately.

II. No Fee Waivers for HR1 Fees at USCIS

The language in HR1 specifically states that most of the HR1 fees for USCIS are not eligible for fee waivers. However, the statute did not change the availability of fee waivers for existing agency fees. Therefore, while applicants may still request a fee waiver for an agency fee, which could be granted, they will still have to pay the HR1 fee, which cannot be waived. Operationally this creates a convoluted scheme that may result in unwarranted rejections of filings because of confusion in receipting at USCIS lockboxes.

At USCIS, existing fee waiver policy remains in place for the agency fees. Applicants may still file Form I-912, Request for Fee Waiver, with their application but will still be responsible for paying the HR1 statutory fee.

Example: An asylum applicant who is applying to renew work authorization may request a fee waiver for the I-765 agency fee of \$520 for paper filing or \$470 for online filing. However, even if the applicant is granted the fee waiver for the agency fee, the applicant must still pay the \$550 HR1 fee, as that fee is not waivable. If the applicant wishes to seek a fee waiver for the agency fee, their Form I-765 must be accompanied by a Form I-912 seeking to waive the agency fee, *and also* payment of the \$550 HR1 fee by check or money order.

III. Fee Waivers at EOIR

At EOIR, existing fee waiver policy remains in place and applicants to EOIR may request fees in accordance with that policy. However, where a fee is set and not waivable by DHS, EOIR cannot waive the fee. In practice, this will primarily affect certain Forms I-485 and Forms I-601: HR1 does not explicitly prohibit fee waivers on these applications, but DHS regulations state that these fees may only be waived for applicants who are exempt from the public charge ground of inadmissibility.⁵ Accordingly, applicants for family-based adjustment of status will not be able to waive the agency or HR1 fees for these applications, because DHS has stated that these applicants are not eligible for a fee waiver. But an applicant for SIJS-based adjustment of status, who is exempt from the public charge ground, should still be able to request a fee waiver from EOIR.⁶

Following the memo implementing the HR1 fees at EOIR, the agency issued a precedential decision, *Matter of Garcia-Martinez*,⁷ regarding the availability of fee waivers for non-detained adults who have paid an attorney to represent them.⁸ The agency's position is now that if a respondent has paid for representation, there is a presumption that they are not eligible for a fee waiver.

Example: An individual in removal proceedings who is applying for non-LPR cancellation of removal may request a waiver of the combined agency, biometrics, and HR1 fees of \$1630 total. The applicant may file Form EOIR-26A with the immigration judge to request a fee waiver, and if approved, include the court order waiving the fee to USCIS as part of the “fee in” packet for defensive applications. However, if the applicant is represented by private counsel, *Matter of Garcia Martinez* may limit the ability of the applicant to qualify for a fee waiver, regardless of income or assets. In this scenario, Form EOIR-26A should be accompanied by specific evidence showing why the applicant is unable to pay the fees even though they are represented by private counsel.

IV. New Fees

HR1 requires the agencies to assess new fees for asylum applications and petitions for SIJ, applications that were previously free to file.

- **Asylum Filing Fee**—HR1 mandates that a fee of not less than \$100 be assessed for initial asylum applications. There is no waiver for the asylum filing fee. USCIS has stated that it will assess this fee on all new Forms I-589 filed with USCIS on or after July 22, 2025. For asylum applications filed in immigration court, EOIR has yet to adapt its

⁵ See 8 CFR §§106.3(a)(3)(iv)(C)-(D).

⁶ Sections 100013(a) and (b) of HR1 do not contain a provision explicitly prohibiting fee waivers on Forms I-485 and I-601, but they do state that the Attorney general “shall require” payment of a fee. At the time of writing, it appears that EOIR will still allow fee waivers for applicants not subject to public charge inadmissibility. However, if USCIS later interprets this language as prohibiting fee waivers (as it has done for SIJS-based I-360s), these applications may no longer be eligible for a fee waiver even before EOIR.

⁷ 29 I&N Dec. 169 (BIA 2025).

⁸ *Matter of Luis Angel Garcia Martinez*, 29 I&N Dec. 169 (BIA 2025), <https://www.justice.gov/eoir/media/1410586/dl?inline>.

payment system to accommodate asylum fees. At the time of writing, the Pre-Order Filing Instructions for certain defensive applications has also not been updated to account for the new asylum fees.⁹ Accordingly, individual immigration courts are implementing temporary measures to deal with the filing fee until the payment system is updated.¹⁰ Practitioners should check with their local court or AILA liaison to determine the process in place at each court.

- **Annual Asylum Fee**—HR1 further mandates a yearly asylum fee that must be paid on the calendar anniversary each year that the asylum application is pending, called the “annual fee.” There is no fee waiver for the annual fee.
 - USCIS will begin to assess the annual fee on October 1, 2025, for any asylum application filed on or before October 1, 2024, that still remains pending on September 30, 2025 (i.e. applications that have been pending for the entirety of Fiscal Year 2025).¹¹ Moving forward, the annual fee will apply to every applicant whose application has been pending for a year or more. USCIS states that they will send correspondence to applicants to let them know that they have a fee due, how to pay it, and the consequences for not paying.
 - EOIR is interpreting the effective date of this new fee slightly differently than USCIS and has said that it will assess the annual asylum fee to any application that was pending for more than a year as of the effective date of HR1, July 4, 2025. This means that any defensive asylum application filed at EOIR on or before July 7, 2024, is immediately subject to the annual asylum fee, although as stated above, at the time of writing EOIR has not yet updated its payment portal to accept this fee. After July 7, 2025, EOIR will assess the fee to any application that has been pending for a year or more.¹² As with the asylum filing fee, however, EOIR does not currently have a mechanism to accept asylum-related fees, so practitioners should contact the appropriate court to for instructions on how and when the fee will be required.
- **SIJS**—According to USCIS, HR1 mandates a \$250 fee for Form I-360 for SIJS applicants. The language in HR1 does not specifically mandate that there be no fee waiver for this application, but USCIS has decided to prohibit fee waivers for this fee, citing their discretionary ability to set fees and other language in HR1 that states that USCIS “shall” require a fee for this application.
- **Other DHS Fees**—On September 8, 2025, DHS published a Federal Register Notice (FRN)¹³ detailing new immigration enforcement fees for those who are apprehended

⁹ See USCIS, *Instructions for Submitting Certain Applications in Immigration Court and for Providing Biometric and Biographic Information to U.S. Citizenship and Immigration Services*, rev. Dec. 16, 2024, <https://www.uscis.gov/sites/default/files/document/legal-docs/DEFA-pre-order-instructions.pdf>.

¹⁰ See EOIR PM at 3 n.7.

¹¹ 90 Fed. Reg. at 34515.

¹² The ILRC believes that EOIR’s interpretation of the annual asylum fee is impermissibly retroactive, as it would apply to some applications filed before FY25, the first fiscal year in which HR1 applies. For example, an asylum application filed on July 7, 2024 (the example cited in EOIR’s policy memorandum) was filed in FY24, not FY25, so should not be subject to new fees applicable to FY25 and later.

¹³ Dep’t of Homeland Security, *Certain DHS Immigration Enforcement-Related Fees Required by HR-1 Reconciliation Bill*, 90 FR 43223 (Sept. 8, 2025).

between Ports of Entry and for those with *in absentia* removal orders. It is unclear how these fees will be assessed and on whom, but the FRN notes that DHS will individually notify those who are subject to the fee with instructions on how to pay. The FRN also appears to indicate that a person must be apprehended in order for DHS to assess the fee, but it is unclear whether and how the fee will be assessed after an individual applies for an immigration benefit. Finally, DHS notes that these fees are meant to cover DHS's costs, and are not a penalty, which indicates that they will be assessed in addition to any fines for civil immigration violations assessed by DHS.¹⁴

- Inadmissible noncitizen apprehension fee—this \$5000 fee can be assessed on anyone who is apprehended in between ports of entry; essentially it is a fee for those who enter without inspection (EWI) if they are apprehended by DHS.¹⁵ While there is no prohibition on DHS issuing a fee waiver for this fee, it's unlikely that a fee waiver will be made available given the blurring of the line between agency fee and statutory civil penalty.
- *In absentia* orders—this \$5000 fee is to be assessed on anyone who has an *in absentia* order and who is subsequently apprehended by ICE. Prior to the passage of HR1, there was no fee for having an *in absentia* order. However, HR1 imposes the fee for anyone who is arrested and has an *in absentia* order on their record. There is no fee waiver available for this fee, however, there is an exception if the *in absentia* order is rescinded for lack of notice or exceptional circumstances.

NOTE: The FRN and statute are clear that in order for the *in absentia* fee to be assessed, the person must be apprehended by ICE. However, it is less clear at which point the inadmissible noncitizen apprehension fee will be assessed. The plain language of both the statute and FRN state that those “apprehended between ports of entry and determined to be inadmissible are subject to the HR-1 fee.”¹⁶ Additionally, the language does not limit this fine to apply only following apprehensions by ICE, so an apprehension by any DHS agency can trigger the imposition of the fee. It is possible that the fee could be assessed on anyone who entered without inspection who then subsequently applies for a benefit with USCIS and is apprehended, or anyone who is apprehended in the interior of the United States. The FRN does not clarify under which circumstances the fee will be assessed.

V. Inflationary Increases to Fees

Throughout the HR1 statute, it is noted that the fees imposed by the statute are for Fiscal Year 2025 and that starting in Fiscal Year 2026, there may be annual adjustments for inflation to the HR1 fees. Some agencies have already started implementing fee increases based on inflation

¹⁴ See, Dep't of Justice, *Civil Monetary Penalties Inflation Adjustments for 2025*, 90 Fed. Reg. 29445 (July 3, 2025).

¹⁵ Note—there is already a statutory civil fine for entering EWI—\$50 to \$250 per 8 USC § 1325(b).

¹⁶ Dep't of Homeland Security, *Certain DHS Immigration Enforcement-Related Fees Required by HR-1 Reconciliation Bill*, 90 FR 43223, 43224 (Sept. 8, 2025).

in other areas.¹⁷ It should also be noted that the USCIS Fee Rule that was finalized in 2024 specifically allowed for across-the-board fee increases based on inflation.¹⁸

VI. Fees in HR1 that Have Not Yet Been Implemented¹⁹

There are number of fees that have not yet been implemented by the agencies. We are still waiting for guidance on a) what some of those fees will be and b) how the agencies will be implementing them. For example:

- USCIS
 - Immigration Parole Fee—The minimum fee that HR1 sets for an I-131 is \$1000 in addition to the USCIS fee of \$630 for paper filing or \$580 for online filing. This fee has not yet been implemented and there are a number of exceptions listed in the statute. USCIS has stated that more guidance on Form I-131 is forthcoming.
 - Note: USCIS is implementing a \$275 fee for work authorization under category (c)(11) for individuals seeking work authorization pursuant to a new grant of parole (re-parole), per the statutory language of HR1 (in addition to the existing agency fees). Essentially, the agency intends to treat grants of work authorization as the result of an applicant being granted a new period of parole (Part 9, Question 1 on Form I-131) the same way they are treating a request for work permit renewal, even if this is the first time a parolee is requesting an EAD.
- DOS
 - Visa Integrity Fee—this is a Department of State (DOS) fee that DOS has not yet implemented. HR1 sets this fee at \$250 but the agency has the discretion to set it higher. This fee would have to be paid for anyone who receives a nonimmigrant visa including students, workers, tourists, etc., but will also likely have to be paid by survivors filing for U or T nonimmigrant status.

VII. Practice Tips and How to Pay

- Make sure that you are keeping clear and detailed records about any attempts to file applications with HR1 fees—particularly if you are seeking a fee waiver for an agency fee where an HR1 fee is still required. Proof that you attempted to file an application but

¹⁷ Dep't of Justice, *Civil Monetary Penalties Inflation Adjustments for 2025*, 90 Fed. Reg. 29445, 29446 (July 3, 2025).

¹⁸ See 8 CFR § 106.2(d).

¹⁹ U.S. Customs and Border Protection has recently implemented HR1 fees for applications for I-94 (adds \$24 to the existing \$6 fee for a new fee total of \$30), Electronic System for Travel Authorization (ESTA) fees (\$40, replaces the existing fee of \$21), and for Electronic Visa Updates System (EVUS) enrollment (implements a new fee of \$30). See U.S. Customs and Border Protection, CBP Immigration Fees Required by HR-1 for Fiscal Year 2025, 90 FR 42025 (Aug. 28, 2025), https://www.federalregister.gov/documents/2025/08/28/2025-16453/cbp-immigration-fees-required-by-hr-1-for-fiscal-year-2025?utm_campaign=subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov.

that it was rejected improperly due to unclear guidance in the form instructions could be important on appeal.

- Stay informed of any fee adjustments due to inflation. HR1 and the agencies have suggested that fees will likely be increased again starting in FY26, or as soon as October 1, 2025.
- Before filing, check the agency website and ensure that the fees you are including are correct. Best practice would be to take a screenshot with a time stamp of the agency website to ensure that the agency knows which publicly available guidance you were following at the time of filing.
- If you are seeking a fee waiver for agency fees but paying the HR1 fees, make sure the application cover letter and payment method states clearly which fees are included and which you are asking be waived.
- For asylum fees, both new filings and annual fees for pending applications, stay informed of your local court's policy on provisional acceptance. If you are practicing in a court where immigration judges are requiring immediate asylum fee payment, consider filing screen shots of the EOIR payment portal and current Pre-Order Filing Instructions to educate the judge that it is currently impossible to pay the fee.



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