

114TH CONGRESS
2D SESSION

H. R. 5203

To amend the Immigration and Nationality Act to provide for new procedures pertaining to the processing of petitions and applications for immigrant or nonimmigrant visas or for immigration benefits, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 2016

Mr. FORBES (for himself, Mr. GOODLATTE, Mr. GOWDY, Mr. MARINO, and Mr. SENSENBRENNER) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Homeland Security and Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Immigration and Nationality Act to provide for new procedures pertaining to the processing of petitions and applications for immigrant or nonimmigrant visas or for immigration benefits, 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 “Visa Integrity and Se-
5 curity Act of 2016”.

1 **SEC. 2. PETITION AND APPLICATION PROCESSING FOR**
2 **VISAS AND IMMIGRATION BENEFITS.**

3 (a) IN GENERAL.—Chapter 2 of title II of the Immi-
4 gration and Nationality Act (8 U.S.C. 1181 et seq.) is
5 amended by inserting after section 211 the following:

6 **“SEC. 211A. PETITION AND APPLICATION PROCESSING.**

7 “(a) SIGNATURE REQUIREMENT.—

8 “(1) IN GENERAL.—No petition or application
9 filed with the Secretary of Homeland Security or
10 with a consular officer relating to the issuance of a
11 visa or to the admission of an alien to the United
12 States as an immigrant or as a nonimmigrant may
13 be approved unless the petition or application is
14 signed by each party required to sign such petition
15 or application.

16 “(2) APPLICATIONS FOR IMMIGRANT VISAS.—
17 Except as may be otherwise prescribed by regula-
18 tions, each application for an immigrant visa shall
19 be signed by the applicant in the presence of the
20 consular officer, and verified by the oath of the ap-
21 plicant administered by the consular officer.

22 “(b) COMPLETION REQUIREMENT.—No petition or
23 application filed with the Secretary of Homeland Security
24 or with a consular officer relating to the issuance of a visa
25 or to the admission of an alien to the United States as
26 an immigrant or as a nonimmigrant may be approved un-

1 less each applicable portion of the petition or application
2 has been completed.

3 “(c) TRANSLATION REQUIREMENT.—No document
4 submitted in support of a petition or application for a non-
5 immigrant or immigrant visa may be accepted by a con-
6 sular officer if such document contains information in a
7 foreign language, unless such document is accompanied by
8 a full English translation, which the translator has cer-
9 tified as complete and accurate, and by the translator’s
10 certification that he or she is competent to translate from
11 the foreign language into English.

12 “(d) REQUESTS FOR ADDITIONAL INFORMATION.—
13 In an instance where the Secretary of Homeland Security
14 or a consular officer requests any additional information
15 relating to a petition or application filed with the Sec-
16 retary or consular officer relating to the issuance of a visa
17 or to the admission of an alien to the United States as
18 an immigrant or as a nonimmigrant, such petition or ap-
19 plication may not be approved unless all of the additional
20 information requested is provided in complete form and
21 is provided on or before any deadline included in the re-
22 quest.

1 **“SEC. 211B. BACKGROUND CHECKS AND OTHER SCREEN-**
2 **ING REQUIREMENTS.**

3 “(a) COMPREHENSIVE SECURITY AND BACKGROUND
4 CHECK.—Except as otherwise provided in subsection (b),
5 no petition or application filed with the Secretary of
6 Homeland Security or with a consular officer relating to
7 the issuance of a visa to or to the admission of an alien
8 to the United States as an immigrant or as a non-
9 immigrant may be approved unless a background check
10 to determine whether or not the alien is a national security
11 threat and or is otherwise ineligible for such visa or admis-
12 sion is completed for—

13 “(1) the petitioner or applicant; and

14 “(2) each beneficiary or derivative of the peti-
15 tion or application.

16 “(b) SECURITY ADVISORY OPINION REQUIRED.—

17 “(1) IN GENERAL.—In addition to any other
18 limitation under the immigration laws on the
19 issuance of a nonimmigrant or immigrant visa, no
20 such visa may be issued to an alien (other than an
21 alien described in paragraph (2)) until the comple-
22 tion of a security advisory opinion for that alien,
23 if—

24 “(A) that alien is a national of—

25 “(i) Iran, Iraq, Libya, Somalia, Syria,
26 Sudan, or Yemen; or

1 “(ii) any other country, as the Sec-
2 retary of State determines appropriate;

3 “(B) that alien is a national of a country,
4 which on the date of enactment of this section
5 the Secretary of State has designated as a
6 country whose nationals should be subject to a
7 security advisory opinion; or

8 “(C) the consular officer determines a se-
9 curity advisory opinion is appropriate for that
10 alien.

11 “(2) CERTAIN ALIENS EXCEPTED.—An alien
12 described in this paragraph is any alien—

13 “(A) for whom the consular officer deter-
14 mines a security advisory opinion is not appro-
15 priate; and

16 “(B)(i) who has applied for a visa under
17 subparagraph (A) or (G) of section 101(a)(15);

18 “(ii) whose admission is necessary to per-
19 mit the United States to comply with the
20 Agreement regarding the Headquarters of the
21 United Nations, signed at Lake Success June
22 26, 1947, and entered into force November 21,
23 1947, between the United Nations and the
24 United States, or other applicable international
25 obligations; or

1 “(iii) who has applied for a visa which is
2 within the NATO visa category.

3 “(c) REVIEW OF SOCIAL MEDIA ACTIVITY.—The
4 background check under subsection (a) shall include a re-
5 view of the alien’s publicly available interactions on and
6 posting of material to the Internet (including social media
7 services).

8 “(d) DNA TESTING.—No petition or application filed
9 with the Secretary of Homeland Security or with a con-
10 sular officer relating to the issuance of an immigrant visa
11 to an alien or to the admission of an alien to the United
12 States as an immigrant, if the eligibility for the immigra-
13 tion benefit is predicated on the fact that a biological rela-
14 tionship exists between the petitioner or applicant and the
15 beneficiary or derivative, may be approved, unless a ge-
16 netic test is conducted to confirm such biological relation-
17 ship and the results of such test are submitted as part
18 of the petition or application. Any such genetic test shall
19 be conducted at the expense of the petitioner or applicant.

20 “(e) INTERVIEWS.—No petition or application filed
21 with the Secretary of Homeland Security for any benefit
22 under this Act, except for work authorization, by or on
23 behalf of an alien present in the United States may be
24 approved unless the Secretary conducts an in-person inter-
25 view with that alien. The Secretary may waive such re-

1 requirement in the case of any alien who would be 10 years
2 of age or younger at the time of the interview.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 for the Immigration and Nationality Act (8 U.S.C. 1101
5 et seq.) is amended by inserting after the item pertaining
6 to section 211 the following:

“211A. Petition and application processing.

“211B. Background checks and other screening requirements.”.

7 (c) CONFORMING AMENDMENT.—Section 222(e) of
8 the Immigration and Nationality Act (8 U.S.C. 1201(e))
9 is amended by striking the following: “Except as may be
10 otherwise prescribed by regulations, each application for
11 an immigrant visa shall be signed by the applicant in the
12 presence of the consular officer, and verified by the oath
13 of the applicant administered by the consular officer.”.

14 (d) APPLICATION.—The amendments made by this
15 section shall apply with respect to applications and peti-
16 tions filed after the date of the enactment of this Act.

17 **SEC. 3. FRAUD PREVENTION.**

18 (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

19 (1) PLAN FOR IMPLEMENTATION.—Not later
20 than 180 days after the date of enactment of this
21 Act, the Secretary of Homeland Security shall sub-
22 mit to the Committee on the Judiciary of the House
23 of Representatives and the Committee on the Judici-
24 ary of the Senate a plan for the use of advanced

1 analytics software to ensure the proactive detection
2 of fraud in immigration benefits applications and pe-
3 titions and to ensure that any such applicant or peti-
4 tioner does not pose a threat to national security.

5 (2) IMPLEMENTATION OF PLAN.—Not later
6 than 1 year after the date of the submission of the
7 plan under paragraph (1), the Secretary of Home-
8 land Security shall begin implementation of the plan.

9 (b) BENEFITS FRAUD ASSESSMENT.—

10 (1) IN GENERAL.—The Secretary of Homeland
11 Security, acting through the Fraud Detection and
12 Nationality Security Directorate, shall complete a
13 benefit fraud assessment by fiscal year 2021 on each
14 of the following:

15 (A) Petitions by VAWA self-petitioners (as
16 such term is defined in section 101(a)(51) of
17 the Immigration and Nationality Act).

18 (B) Applications or petitions for visas or
19 status under section 101(a)(15)(K) of such Act
20 or under section 201(b)(2) of such Act, in the
21 case of spouses.

22 (C) Applications for visas or status under
23 section 101(a)(27)(J) of such Act.

24 (D) Applications for visas or status under
25 section 101(a)(15)(U) of such Act.

1 (E) Petitions for visas or status under sec-
2 tion 101(a)(27)(C) of such Act.

3 (F) Applications for asylum under section
4 208 of such Act.

5 (G) Applications for adjustment of status
6 under section 209 of such Act.

7 (H) Petitions for visas or status under sec-
8 tion 201(b) of such Act.

9 (2) REPORTING ON FINDINGS.—Not later than
10 30 days after the completion of each benefit fraud
11 assessment under paragraph (1), the Secretary shall
12 submit to the Committee on the Judiciary of the
13 House of Representatives and the Committee on the
14 Judiciary of the Senate such assessment and rec-
15 ommendations on how to reduce the occurrence of
16 instances of fraud identified by the assessment.

17 **SEC. 4. VISA SECURITY PROGRAM.**

18 (a) FUNDING.—

19 (1) IN GENERAL.—Notwithstanding any other
20 provision of law, beginning in fiscal year 2016 and
21 thereafter, the Secretary of State is authorized to
22 charge surcharges in support of visa security that
23 are in addition to the passport and immigrant visa
24 fees in effect on January 1, 2004, and any other
25 fees collected pursuant to the fourth paragraph

1 under the heading “Diplomatic and Consular Pro-
2 grams” in the Department of State and Related
3 Agency Appropriations Act, 2005 (title IV of divi-
4 sion B of Public Law 108–447): *Provided*, that
5 funds collected pursuant to this authority shall be
6 credited to the appropriation for U.S. Immigration
7 and Customs Enforcement for the fiscal year in
8 which the fees were collected, and shall be available
9 until expended for the funding of the Visa Security
10 Program established by the Secretary of Homeland
11 Security under section 428(e) of the Homeland Se-
12 curity Act of 2002 (Public Law 107–296): *Provided*
13 *further*, that such surcharges shall total the amount
14 sufficient annually to cover the Visa Security Pro-
15 gram costs.

16 (2) REPAYMENT OF APPROPRIATED FUNDS.—
17 Twenty percent of the funds collected each fiscal
18 year under the heading “Diplomatic and Consular
19 Programs” in title IV of division B of the Depart-
20 ment of State and Related Agency Appropriations
21 Act, 2005 (Public Law 108–447) shall be deposited
22 into the general fund of the Treasury as repayment
23 of funds appropriated pursuant to subsection (b)(3)
24 until the entire appropriated sum has been repaid.

1 (b) EXPEDITIOUS EXPANSION OF ASSIGNMENT OF
2 HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND
3 CONSULAR POSTS.—

4 (1) IN GENERAL.—Section 428 of the Home-
5 land Security Act of 2002 (6 U.S.C. 236) is amend-
6 ed—

7 (A) in subsection (e)—

8 (i) by amending paragraph (1) to read
9 as follows:

10 “(1) IN GENERAL.—Not later than 4 years
11 after the date of the enactment of the Visa Integrity
12 and Security Act of 2016, the Secretary shall assign
13 employees of the Department to each diplomatic and
14 consular post at which visas are issued, and shall
15 communicate such assignments to the Secretary of
16 State.”; and

17 (ii) by amending paragraph (2)(B) to
18 read as follows:

19 “(B) Review all such applications and sup-
20 porting documentation prior to the adjudication
21 of such an application.”; and

22 (B) by striking subsection (i).

23 (2) EXPEDITED CLEARANCE AND PLACEMENT
24 OF DHS PERSONNEL.—Notwithstanding any other
25 provision of law, and the processes set forth in Na-

1 tional Security Defense Directive 38 (dated June 2,
2 1982) or any successor Directive, not later than one
3 year after the date on which the Secretary of Home-
4 land Security communicates to the Secretary of
5 State the assignment of personnel to a diplomatic or
6 consular post under section 428(e) of the Homeland
7 Security Act of 2002 (6 U.S.C. 236(e)), as amended
8 by this Act, the Chief of Mission of such a post shall
9 ensure that such personnel have been stationed and
10 accommodated at that post and are able to carry out
11 their duties.

12 (3) AUTHORIZATION OF APPROPRIATIONS.—
13 There is authorized to be appropriated \$60,000,000
14 for each of fiscal years 2017 and 2018, which shall
15 be used to expedite the implementation of section
16 428(e) of the Homeland Security Act of 2002 (6
17 U.S.C. 236(e)), as amended by this Act.

18 **SEC. 5. BURDEN OF PROOF.**

19 (a) IN GENERAL.—Section 291 of the Immigration
20 and Nationality Act (8 U.S.C. 1361) is amended—

21 (1) by striking “to the satisfaction of the con-
22 sular officer” and inserting “by clear and convincing
23 evidence”; and

1 (2) by striking “to the satisfaction of the Attor-
2 ney General” and by inserting “by clear and con-
3 vincing evidence”.

4 (b) CONFORMING AMENDMENT.—Section 214(b) of
5 such Act (8 U.S.C. 1184(b)) is amended by striking “es-
6 tablishes to the satisfaction of the consular officer,” and
7 inserting “establishes by clear and convincing evidence to
8 the consular officer,”.

9 (c) APPLICATION.—The amendments made by this
10 section shall apply with respect to applications filed on or
11 after the date of the enactment of this Act.

12 **SEC. 6. GAO REPORT.**

13 (a) IN GENERAL.—Not later than 18 months after
14 the date of the enactment of this Act, the Comptroller
15 General of the United States shall conduct a review and
16 report to Congress on the security of nonimmigrant and
17 immigrant visa application processes. Such a review shall
18 address—

19 (1) how the United States government conducts
20 security screening and background checks for non-
21 immigrant and immigrant visa petitions and applica-
22 tions, including the agencies and partners involved
23 and the systems and databases used; and

24 (2) how the Departments of Homeland Security
25 and State consider the results of such screening and

1 background checks in adjudicating nonimmigrant
2 and immigrant visa petitions and applications.

3 (b) AGENCY COOPERATION.—Each agency involved
4 in the processes for conducting and considering the results
5 of such security screening and background checks shall
6 fully cooperate with, and provide timely access to, the
7 Comptroller General any requests for records and infor-
8 mation.

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