

108TH CONGRESS
1ST SESSION

S. 1455

To regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 25 (legislative day, JULY 21), 2003

Ms. CANTWELL introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To regulate international marriage broker activity in the United States, to provide for certain protections for individuals who utilize the services of international marriage brokers, 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 “International Marriage
5 Broker Regulation Act of 2003”.

1 **SEC. 2. LIMIT ON CONCURRENT PETITIONS FOR FIANCÉ(E)**
 2 **VISAS.**

3 Section 214(d) of the Immigration and Nationality
 4 Act (8 U.S.C. 1184(d)) is amended—

5 (1) by inserting “(1)” before “A visa”; and

6 (2) by adding at the end the following:

7 “(2) A United States citizen or a legal permanent
 8 resident may not file more than 1 application for a visa
 9 under section 101(a)(15)(K)(i) in any 1-year period.”.

10 **SEC. 3. INTERNATIONAL MARRIAGE BROKERS.**

11 Section 652 of the Omnibus Consolidated Appropria-
 12 tions Act, 1997 (8 U.S.C. 1375), is amended to read as
 13 follows:

14 **“SEC. 652. INTERNATIONAL MARRIAGE BROKERS.**

15 **“(a) FINDINGS.—**Congress finds the following:

16 “(1) There is a substantial international mar-
 17 riage broker business worldwide. A 1999 study by
 18 the Immigration and Naturalization Service esti-
 19 mated that in 1999 there were at least 200 such
 20 companies operating in the United States, and that
 21 as many as 4,000 to 6,000 persons in the United
 22 States, almost all male, find foreign spouses through
 23 for-profit international marriage brokers each year.

24 “(2) Aliens seeking to enter the United States
 25 to marry citizens of the United States currently lack
 26 the ability to access and fully verify personal history

1 information about their prospective American
2 spouses.

3 “(3) Persons applying for fiancé(e) visas to
4 enter the United States are required to undergo a
5 criminal background information investigation prior
6 to the issuance of a visa. However, no corresponding
7 requirement exists to inform those seeking fiancé(e)
8 visas of any history of violence by the prospective
9 United States spouse.

10 “(4) Many individuals entering the United
11 States on fiancé(e) visas for the purpose of marrying
12 a person in the United States are unaware of United
13 States laws regarding domestic violence, including
14 protections for immigrant victims of domestic vio-
15 lence, prohibitions on involuntary servitude, protec-
16 tions from automatic deportation, and the role of po-
17 lice and the courts in providing assistance to victims
18 of domestic violence.

19 “(b) DEFINITIONS.—In this section:

20 “(1) CLIENT.—The term ‘client’ means a
21 United States citizen or legal permanent resident
22 who makes a payment or incurs a debt in order to
23 utilize the services of an international marriage
24 broker.

1 “(2) CRIME OF VIOLENCE.—The term ‘crime of
2 violence’ has the same meaning given the term in
3 section 16 of title 18, United States Code.

4 “(3) DOMESTIC VIOLENCE.—The term ‘domes-
5 tic violence’ means any crime of violence, or other
6 act forming the basis for past or outstanding protec-
7 tive orders, restraining orders, no-contact orders,
8 convictions, arrests, or police reports, committed
9 against a person by—

10 “(A) a current or former spouse of the
11 person;

12 “(B) an individual with whom the person
13 shares a child in common;

14 “(C) an individual who is cohabiting with
15 or has cohabited with the person;

16 “(D) an individual similarly situated to a
17 spouse of the person under the domestic or
18 family violence laws of the jurisdiction where
19 the offense occurs; or

20 “(E) any other individual if the person is
21 protected from that individual’s acts under the
22 domestic or family violence laws of the United
23 States or any State, Indian tribal government,
24 or unit of local government.

1 “(4) FOREIGN NATIONAL CLIENT.—The term
2 ‘foreign national client’ means a non-resident alien
3 who utilizes the services of an international marriage
4 broker.

5 “(5) INTERNATIONAL MARRIAGE BROKER.—

6 “(A) IN GENERAL.—The term ‘inter-
7 national marriage broker’ means a corporation,
8 partnership, business, individual, or other legal
9 entity, whether or not organized under any law
10 of the United States, that charges fees for pro-
11 viding dating, matrimonial, social referrals, or
12 matching services between United States citi-
13 zens or legal permanent residents and non-
14 resident aliens by providing information that
15 would permit individuals to contact each other,
16 including—

17 “(i) providing the name, telephone
18 number, address, electronic mail address,
19 or voicemail of an individual; or

20 “(ii) providing an opportunity for an
21 in-person meeting.

22 “(B) EXCEPTIONS.—Such term does not
23 include—

24 “(i) a traditional matchmaking orga-
25 nization of a religious nature that operates

1 on a nonprofit basis and otherwise oper-
2 ates in compliance with the laws of the
3 countries in which it operates including the
4 laws of the United States; or

5 “(ii) an entity that provides dating
6 services between United States citizens or
7 legal permanent residents and aliens, but
8 not as its principal business, and charges
9 comparable rates to all clients regardless of
10 the gender or country of residence of the
11 client.

12 “(6) PERSONAL CONTACT INFORMATION.—

13 “(A) IN GENERAL.—The term ‘personal
14 contact information’ means information that
15 would permit an individual to contact another
16 individual, including—

17 “(i) the name, address, phone num-
18 ber, electronic mail address, or voice mes-
19 sage mailbox of that individual; and

20 “(ii) the provision of an opportunity
21 for an in-person meeting.

22 “(B) EXCEPTION.—Such term does not in-
23 clude a photograph or general information
24 about the background or interests of a person.

1 “(c) OBLIGATIONS OF INTERNATIONAL MARRIAGE
2 BROKER WITH RESPECT TO INFORMED CONSENT.—An
3 international marriage broker shall not provide any per-
4 sonal contact information about any foreign national cli-
5 ent, not including photographs, to any person unless and
6 until the international marriage broker has—

7 “(1) provided the foreign national client with
8 information in his or her native language that ex-
9 plains the rights of victims of domestic violence in
10 the United States, including the right to petition for
11 residence independent of, and without the knowl-
12 edge, consent, or cooperation of, the spouse; and

13 “(2) received from the foreign national client a
14 signed consent to the release of such personal con-
15 tact information.

16 “(d) MANDATORY COLLECTION OF INFORMATION.—

17 “(1) IN GENERAL.—Each international mar-
18 riage broker shall require each client to provide the
19 information listed in paragraph (2), in writing and
20 signed by the client (including by electronic writing
21 and electronic signature), to the international mar-
22 riage broker prior to referring any personal contact
23 information about any foreign national client to the
24 client.

1 “(2) INFORMATION.—The information required
2 to be provided in accordance with paragraph (1) is
3 as follows:

4 “(A) Any arrest, charge, or conviction
5 record for homicide, rape, assault, sexual as-
6 sault, kidnap, or child abuse or neglect.

7 “(B) Any court ordered restriction on
8 physical contact with another person, including
9 any temporary or permanent restraining order
10 or civil protection order.

11 “(C) Marital history, including if the per-
12 son is currently married, if the person has pre-
13 viously been married and how many times, how
14 previous marriages were terminated and the
15 date of termination, and if the person has pre-
16 viously sponsored an alien to whom the person
17 has been engaged or married.

18 “(D) The ages of any and all children
19 under the age of 18.

20 “(E) All States in which the client has re-
21 sided since the age of 18.

22 “(e) ADDITIONAL OBLIGATIONS OF THE INTER-
23 NATIONAL MARRIAGE BROKER.—An international mar-
24 riage broker shall not provide any personal contact infor-

1 mation about any foreign national client to any client, un-
 2 less and until—

3 “(1) the client has been informed that the client
 4 will be subject to a criminal background check
 5 should they petition for a visa under clause (i) or
 6 (iii) of section 101(a)(15)(K) of the Immigration
 7 and Nationality Act (8 U.S.C. 1101(a)(15)(K)); and

8 “(2) the foreign national client has been pro-
 9 vided a copy of the information required under sub-
 10 section (d) regarding that client.

11 “(f) CIVIL PENALTY.—

12 “(1) VIOLATION.—An international marriage
 13 broker that the Secretary of Homeland Security de-
 14 termines has violated any provision of this section or
 15 section 7 of the International Marriage Broker Reg-
 16 ulation Act of 2003 shall be subject, in addition to
 17 any other penalties that may be prescribed by law,
 18 to a civil penalty of not more than \$20,000 for each
 19 such violation.

20 “(2) PROCEDURES FOR IMPOSITION OF PEN-
 21 ALTY.—A penalty imposed under paragraph (1) may
 22 be imposed only after notice and an opportunity for
 23 an agency hearing on the record in accordance with
 24 sections 554 through 557 of title 5, United States
 25 Code.

1 “(g) CRIMINAL PENALTY.—An international mar-
 2 riage broker that, within the special maritime and terri-
 3 torial jurisdiction of the United States, violates any provi-
 4 sion of this section or section 7 of the International Mar-
 5 riage Broker Regulation Act of 2003 shall be fined in ac-
 6 cordance with title 18, United States Code, or imprisoned
 7 for not less than 1 year and not more than 5 years, or
 8 both.

9 “(h) ENFORCEMENT.—In any case in which the at-
 10 torney general of a State has reason to believe that an
 11 interest of the residents of that State has been, or is
 12 threatened to be, adversely affected by a violation of this
 13 section, the State, as *parens patriae*, may bring a civil ac-
 14 tion on behalf of the residents of the State in a district
 15 court of the United States of appropriate jurisdiction to—

16 “(1) enjoin that practice;

17 “(2) enforce compliance with this section; or

18 “(3) obtain damages.

19 “(i) STUDY AND REPORT.—

20 “(1) STUDY.—Not later than 2 years after the
 21 date of enactment of the International Marriage
 22 Broker Regulation Act of 2003, the Attorney Gen-
 23 eral, in consultation with the Director of the Bureau
 24 of Citizenship and Immigration Services within the

1 Department of Homeland Security, shall conduct a
2 study—

3 “(A) regarding the number of international
4 marriage brokers doing business in the United
5 States and the number of marriages resulting
6 from the services provided, and the extent of
7 compliance with this section and section 7 of
8 the International Marriage Broker Regulation
9 Act of 2003;

10 “(B) that assesses information gathered
11 under this section and section 7 of the Inter-
12 national Marriage Broker Regulation Act of
13 2003 from clients and petitioners by inter-
14 national marriage brokers and the Bureau of
15 Citizenship and Immigration Services;

16 “(C) that examines, based on the informa-
17 tion gathered, the extent to which persons with
18 a history of violence are using the services of
19 international marriage brokers and the extent
20 to which such persons are providing accurate
21 information to international marriage brokers
22 in accordance with this section and section 7 of
23 the International Marriage Broker Regulation
24 Act of 2003; and

1 “(D) that assesses the accuracy of the
2 criminal background check at identifying past
3 instances of domestic violence.

4 “(2) REPORT.—Not later than 3 years after the
5 date of enactment of the International Marriage
6 Broker Regulation Act of 2003, the Secretary of
7 Homeland Security shall submit a report to the
8 Committees on the Judiciary of the Senate and the
9 House of Representatives setting forth the results of
10 the study conducted pursuant to paragraph (1).”.

11 **SEC. 4. CRIMINAL BACKGROUND CHECK.**

12 Section 214(d) of the Immigration and Nationality
13 Act (8 U.S.C. 1184(d)), as amended by section 2, is fur-
14 ther amended by adding at the end the following:

15 “(3) A petitioner for a visa under clause (i) or (iii)
16 of section 101(a)(15)(K) shall undergo a national criminal
17 background check conducted using the national criminal
18 history background check system and State criminal his-
19 tory repositories of all States in which the applicant has
20 resided prior to the petition being approved by the Sec-
21 retary of Homeland Security, and the results of the back-
22 ground check shall be included in the petition forwarded
23 to the consular office under that section.”.

1 **SEC. 5. CHANGES IN CONSULAR PROCESSING OF FIANCÉ(E)**
2 **VISA APPLICATIONS.**

3 (a) IN GENERAL.—During the consular interview for
4 purposes of the issuance of a visa under clause (i) or (iii)
5 of section 101(a)(15)(K) of the Immigration and Nation-
6 ality Act (8 U.S.C. 1101(a)(15)(K)), a consular officer
7 shall disclose to the alien applicant information in writing
8 in the native language of the alien concerning—

9 (1) the illegality of domestic violence in the
10 United States and the availability of resources for
11 victims of domestic violence (including aliens), in-
12 cluding protective orders, crisis hotlines, free legal
13 advice, and shelters;

14 (2) the requirement that international marriage
15 brokers provide foreign national clients with re-
16 sponses of clients to questions regarding the client's
17 domestic violence history and marital history, but
18 that such information may not be accurate;

19 (3) the right of an alien who is or whose chil-
20 dren are subjected to domestic violence or extreme
21 cruelty by a United States citizen spouse or legal
22 permanent resident spouse, to self-petition for legal
23 permanent immigration status under the Violence
24 Against Women Act independently of, and without
25 the knowledge, consent, or cooperation of, such

1 United States citizen spouse or legal permanent resi-
2 dent spouse; and

3 (4) any information regarding the petitioner
4 that—

5 (A) was provided to the Bureau of Citizen-
6 ship and Immigration Services within the De-
7 partment of Homeland Security pursuant to
8 section 7; and

9 (B) is contained in the background check
10 conducted in accordance with section 214(d)(3)
11 of the Immigration and Nationality Act, as
12 added by section 4, relating to any conviction or
13 civil order for a crime of violence, act of domes-
14 tic violence, or child abuse or neglect.

15 (b) DEFINITIONS.—In this section, the terms “cli-
16 ent”, “domestic violence”, “foreign national client”, and
17 “international marriage brokers” have the same meaning
18 given such terms in section 652 of the Omnibus Consoli-
19 dated Appropriations Act, 1997 (8 U.S.C. 1375).

20 **SEC. 6. INTERAGENCY TASK FORCE TO MONITOR AND COM-**
21 **BAT TRAFFICKING.**

22 Section 105 of the Victims of Trafficking and Vio-
23 lence Protection Act of 2000 (22 U.S.C. 7103) is amend-
24 ed—

1 (1) in subsection (d)(2), by inserting “and the
 2 role of international marriage brokers (as defined in
 3 section 652 of the Omnibus Consolidated Appropria-
 4 tions Act, 1997 (8 U.S.C. 1375))” after “public cor-
 5 ruption”; and

6 (2) by adding at the end the following:

7 “(f) MEETINGS.—The Task Force shall meet not less
 8 than 2 times in a calendar year.”.

9 **SEC. 7. BUREAU OF CITIZENSHIP AND IMMIGRATION SERV-**
 10 **ICES.**

11 The Bureau of Citizenship and Immigration Services
 12 within the Department of Homeland Security shall require
 13 that information described in section 652(c) of the Omni-
 14 bus Consolidated Appropriations Act, 1997 (8 U.S.C.
 15 1375(c)), as amended by section 3, be provided to the Bu-
 16 reau of Citizenship and Immigration Services by a client
 17 (as defined in section 652 of the Omnibus Consolidated
 18 Appropriations Act, 1997 (8 U.S.C.1375)) in writing and
 19 signed under penalty of perjury as part of any visa petition
 20 under section 214(d) of the Immigration and Nationality
 21 Act (8 U.S.C. 1184(d)).

22 **SEC. 8. GOOD FAITH MARRIAGES.**

23 The fact that an alien who is in the United States
 24 on a visa under clause (i) or (iii) of section 101(a)(15)(K)
 25 of the Immigration and Nationality Act (8 U.S.C.

1 1101(a)(15)(K)) is aware of the criminal background of
2 a client (as defined in section 652 of the Omnibus Consoli-
3 dated Appropriations Act, 1997 (8 U.S.C. 1375)) cannot
4 be used as evidence that the marriage was not entered
5 into in good faith.

6 **SEC. 9. TECHNICAL AND CONFORMING AMENDMENTS.**

7 Section 214(d) of the Immigration and Nationality
8 Act (8 U.S.C. 1184(d)) is amended by striking “Attorney
9 General” each place that term appears and inserting “Sec-
10 retary of Homeland Security”.

11 **SEC. 10. PREEMPTION.**

12 Nothing in this Act, or the amendments made by this
13 Act, shall preempt any State law that provides additional
14 protection for aliens who are utilizing the services of an
15 international marriage broker (as defined in section 652
16 of the Omnibus Consolidated Appropriations Act, 1997 (8
17 U.S.C. 1375)).

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