

111TH CONGRESS
1ST SESSION

H. R. 144

To designate Haiti under section 244 of the Immigration and Nationality Act in order to render nationals of Haiti eligible for temporary protected status under such section.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. HASTINGS of Florida (for himself, Mr. MEEK of Florida, Mr. WEXLER, Ms. CORRINE BROWN of Florida, Mr. RANGEL, Mr. ENGEL, Ms. SCHAKOWSKY, Ms. JACKSON-LEE of Texas, Ms. EDWARDS of Maryland, Ms. NORTON, Mr. DELAHUNT, Mr. GRIJALVA, Ms. WOOLSEY, Mr. HONDA, and Mr. HINCHEY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To designate Haiti under section 244 of the Immigration and Nationality Act in order to render nationals of Haiti eligible for temporary protected status under such section.

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 “Haitian Protection Act
5 of 2009”.

1 **SEC. 2. FINDINGS.**

2 The Congress finds the following:

3 (1) Haiti remains severely devastated by the
4 combined effects of an ongoing food crisis and the
5 aftermath of the natural disasters of 2008, including
6 Tropical Storms Fay and Hanna, and Hurricanes
7 Gustav and Ike.

8 (2) In Haiti, nearly 800 people died as a result
9 of the tropical storms and hurricanes in 2008.

10 (3) The United States Agency for International
11 Development estimates that 35,000–40,000 people
12 remain homeless across the country and over
13 100,000 homes were damaged or destroyed as a re-
14 sult of the storms.

15 (4) When the storms hit, Haiti was already
16 struggling to deal with a food crisis that led to dead-
17 ly riots and the removal of the country's Prime Min-
18 ister.

19 (5) Despite President Préval's popular internal
20 and international support, his nascent democratic
21 government still faces immense political and institu-
22 tional challenges, including a sharp increase in com-
23 mon crime, especially kidnappings which continue to
24 plague the capital and other cities and regions, and
25 the rebuilding of Haiti's police and judicial institu-

1 tions to achieve the fair and prompt tackling of this
2 ongoing political and criminal violence.

3 (6) A July 2008 report by the United Nations
4 Mission to Haiti found that Haitian children remain
5 the target of kidnappings, killings, sexual violence,
6 and child trafficking and have been active partici-
7 pants in recent public protests. It also found that
8 children comprise more than one in three kidnapping
9 victims.

10 (7) As of April 2008, the Department of State
11 maintains a travel warning to United States citizens
12 warning them of the absence of an effective police
13 force in much of Haiti; the potential for looting; the
14 presence of intermittent roadblocks set by armed
15 protestors or by the police; and the increased possi-
16 bility of random violent crime, including kidnapping,
17 carjacking, home invasion, armed robbery and as-
18 sault. The warning states that kidnapping remains
19 a serious threat, with more than 14 American citi-
20 zens kidnapped over the past year in crimes marked
21 by deaths, brutal physical and sexual assault, and
22 shootings.

23 (8) As of April 2008, the Department of State's
24 Travel Warning states that "U.S. Embassy per-
25 sonnel are under an embassy-imposed curfew and

1 must remain in their homes or in U.S. government
2 facilities during the curfew. Some areas are off-lim-
3 its to embassy staff after dark, including downtown
4 Port-au-Prince. The embassy limits (restricts) travel
5 by its staff to some areas outside of Port-au-Prince
6 due to prevailing road and security conditions. This
7 may constrain our ability to provide emergency serv-
8 ices to U.S. citizens outside of Port-au-Prince.”

9 (9) While United States policy advises Ameri-
10 cans that current conditions make it unsafe to travel
11 to Haiti, the same conditions make it dangerous and
12 inappropriate to forcibly repatriate Haitians at this
13 time.

14 (10) Recent devastating environmental disasters
15 from which Haiti has not recovered, continuing vio-
16 lence, and unstable political conditions pose a seri-
17 ous threat at this time to the personal safety of any-
18 one forcibly repatriated to Haiti.

19 (11) The Haitian government’s ability to pro-
20 vide basic governmental services—clean water, edu-
21 cation, passable road and basic healthcare—has been
22 severely compromised by the natural disasters and
23 food crisis in 2008. Repatriating Haitians exposes
24 them to these dangerous conditions, while imposing

1 an additional burden on government resources that
2 are already stretched too thin.

3 (12) Haiti's recent political and civil crises; and
4 the extraordinary and temporary conditions caused
5 by nature, including hurricanes and tropical storms,
6 floods, epidemics, homelessness, death and the bury-
7 ing of Haiti's fourth largest city, Gonaives, easily
8 make Haitian nationals currently in the United
9 States eligible for temporary protected status under
10 subparagraphs (B) and (C) of section 244(b)(1) of
11 the Immigration and Nationality Act ("TPS").

12 (13) Moreover, there is a well-documented his-
13 tory of discrimination against Haitian nationals in
14 the United States immigration process.

15 (14) Temporary protected status grants tem-
16 porary protection from deportation to nationals of a
17 country in which environmental or political events
18 have occurred which make it temporarily unsafe to
19 deport them. TPS has been granted to nationals of
20 many countries including those of Nicaragua and
21 Honduras in 1999 following Hurricane Mitch, and
22 of El Salvador in 2001 following severe earthquakes.

23 (15) TPS would help protect United States bor-
24 ders by preserving remittances sent by potential de-
25 portees. Haitian immigrants in the United States

1 remit about \$1 billion annually to Haiti. These re-
2 mittances vastly outweigh, in dollar value, United
3 States foreign aid to Haiti, and are crucial to Haiti's
4 recovery from the separate and combined effects of
5 years of severe environmental disasters, paralyzing
6 political turmoil, violence, and institutional failure.

7 (16) Granting Haitians TPS would also directly
8 assist Haiti's nascent democracy in its efforts to re-
9 cover from these conditions, stabilize the country's
10 economy, rebuild its political and economic institu-
11 tions, and provide a future of hope for Haiti's peo-
12 ple.

13 (17) On February 7, 2008, Haitian President
14 René Préval wrote to President George W. Bush for-
15 mally requesting TPS, making Haitians currently in
16 the United States eligible for TPS under subpara-
17 graph (B) of section 244(b)(1) of the Immigration
18 and Nationality Act.

19 (18) On October 3, 2008, President Préval re-
20 newed his request for TPS during the closing ad-
21 dress of the Americas Conference, stating that Haiti
22 is no longer able to receive the deported individuals
23 that the United States sends to Haiti on a regular
24 basis.

1 **SEC. 3. DESIGNATION FOR PURPOSES OF GRANTING TEM-**
2 **PORARY PROTECTED STATUS TO HAITIANS.**

3 (a) DESIGNATION.—

4 (1) IN GENERAL.—For purposes of section 244
5 of the Immigration and Nationality Act (8 U.S.C.
6 1254a), Haiti shall be treated as if such country had
7 been designated under subsection (b) of that section,
8 subject to the provisions of this section.

9 (2) PERIOD OF DESIGNATION.—The initial pe-
10 riod of such designation shall begin on the date of
11 enactment of this Act and shall remain in effect for
12 18 months.

13 (b) ALIENS ELIGIBLE.—In applying section 244 of
14 the Immigration and Nationality Act (8 U.S.C. 1254a)
15 pursuant to the designation made under this section, and
16 subject to subsection (c)(3) of such section, an alien who
17 is a national of Haiti is deemed to meet the requirements
18 of subsection (c)(1) of such section only if the alien—

19 (1) is admissible as an immigrant, except as
20 otherwise provided under subsection (c)(2)(A) of
21 such section, and is not ineligible for temporary pro-
22 tected status under subsection (c)(2)(B) of such sec-
23 tion; and

24 (2) registers for temporary protected status in
25 a manner that the Secretary of Homeland Security
26 shall establish.

1 (c) CONSENT TO TRAVEL ABROAD.—The Secretary
2 of Homeland Security shall give the prior consent to travel
3 abroad described in section 244(f)(3) of the Immigration
4 and Nationality Act (8 U.S.C. 1254a(f)(3)) to an alien
5 who is granted temporary protected status pursuant to the
6 designation made under this section, if the alien estab-
7 lishes to the satisfaction of the Secretary of Homeland Se-
8 curity that emergency and extenuating circumstances be-
9 yond the control of the alien require the alien to depart
10 for a brief, temporary trip abroad. An alien returning to
11 the United States in accordance with such an authoriza-
12 tion shall be treated the same as any other returning alien
13 provided temporary protected status under section 244 of
14 the Immigration and Nationality Act (8 U.S.C. 1254a).

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