

111TH CONGRESS
2D SESSION

H. R. 5208

To require the Secretary of Homeland Security to strengthen student visa background checks and improve the monitoring of foreign students in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 5, 2010

Mr. BILIRAKIS (for himself, Mr. CARNEY, Mr. BILBRAY, and Mrs. MYRICK) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To require the Secretary of Homeland Security to strengthen student visa background checks and improve the monitoring of foreign students in the United States, 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 “Student Visa Security
5 Improvement Act”.

1 **SEC. 2. ENHANCED STUDENT VISA BACKGROUND CHECKS.**

2 (a) IN GENERAL.—Section 428(e) of the Homeland
3 Security Act of 2002 (6 U.S.C. 236(e)) is amended by
4 adding at the end the following:

5 “(9) STUDENT VISAS.—In administering the
6 program under this subsection, the Secretary, not
7 later than 180 days after the date of the enactment
8 of the Student Visa Security Improvement Act—

9 “(A) shall prescribe regulations to require
10 employees assigned under paragraph (1) to con-
11 duct in-person interviews of all applicants rec-
12 ommended by Department of State personnel
13 for visas under subparagraph (F), (J), or (M)
14 of section 101(a)(15) of the Immigration and
15 Nationality Act (8 U.S.C. 1101(a)(15)) prior to
16 final adjudication, with special emphasis on de-
17 termining whether applicants are inadmissible
18 under section 212(a)(3)(B) of such Act (8
19 U.S.C. 1182(a)(3)(B)) (relating to terrorist ac-
20 tivities);

21 “(B) shall ensure that employees assigned
22 under paragraph (1) conduct on-site reviews of
23 applications and supporting documentation for
24 visas under subparagraph (F), (J), or (M) of
25 section 101(a)(15) of the Immigration and Na-
26 tionality Act (8 U.S.C. 1101(a)(15)) that they

1 deem appropriate prior to final adjudication;
2 and

3 “(C) shall update, in consultation with the
4 Secretary of State, the memorandum of under-
5 standing between the Department of Homeland
6 Security and the Department of State regard-
7 ing implementation of this section to clarify the
8 roles and responsibilities of employees assigned
9 under paragraph (1) specifically with regard to
10 the duties prescribed by this paragraph.”.

11 **SEC. 3. STUDENT AND EXCHANGE VISITOR PROGRAM.**

12 (a) IN GENERAL.—Section 442 of the Homeland Se-
13 curity Act of 2002 (6 U.S.C. 252) is amended—

14 (1) in subsection (a)—

15 (A) by redesignating paragraph (5) as
16 paragraph (10); and

17 (B) by inserting after paragraph (4) the
18 following:

19 “(5) STUDENT AND EXCHANGE VISITOR PRO-
20 GRAM.—In administering the program under para-
21 graph (4), the Secretary shall, not later than one
22 year after the date of the enactment of the Student
23 Visa Security Improvement Act—

24 “(A) prescribe regulations to require an in-
25 stitution or exchange visitor program sponsor

1 participating in the Student and Exchange Vis-
2 itor Program to ensure that each covered stu-
3 dent or exchange visitor enrolled at the institu-
4 tion or attending the exchange visitor pro-
5 gram—

6 “(i) is an active participant in the
7 program for which the covered student or
8 exchange visitor was issued a visa to enter
9 the United States;

10 “(ii) is not unobserved for any pe-
11 riod—

12 “(I) exceeding 30 days during
13 any academic term or program in
14 which the covered student or exchange
15 visitor is enrolled; or

16 “(II) exceeding 60 days during
17 any period not described in subclause
18 (I); and

19 “(iii) is reported to the Department if
20 within 10 days—

21 “(I) transferring to another insti-
22 tution or program;

23 “(II) changing academic majors;
24 or

1 “(III) any other changes to infor-
2 mation required to be maintained in
3 the system described in paragraph
4 (4); and

5 “(B) notwithstanding subparagraph (A),
6 require each covered student or exchange visitor
7 to be observed at least once every 60 days.

8 “(6) ENHANCED ACCESS.—The Secretary shall
9 provide access to the Student and Exchange Visitor
10 Information System (hereinafter in this subsection
11 referred to as the ‘SEVIS’), or other equivalent or
12 successor program or system, to appropriate employ-
13 ees of an institution or exchange visitor program
14 sponsor participating in the Student and Exchange
15 Visitor Program if—

16 “(A) at least two authorized users are
17 identified at each participating institution or
18 exchange visitor sponsor;

19 “(B) at least one additional authorized
20 user is identified at each such institution or
21 sponsor for every 200 covered students or ex-
22 change visitors enrolled at the institution or
23 sponsor; and

24 “(C) each authorized user is certified by
25 the Secretary as having completed an appro-

1 appropriate training course provided by the Depart-
2 ment for the program or system.

3 “(7) PROGRAM SUPPORT.—The Secretary shall
4 provide appropriate technical support options to fa-
5 cilitate use of the program or system described in
6 paragraph (4) by authorized users.

7 “(8) UPGRADES TO SEVIS OR EQUIVALENT
8 DATA.—The Secretary shall update the program or
9 system described in paragraph (4) to incorporate
10 new data fields that include—

11 “(A) verification that a covered student’s
12 performance meets the minimum academic
13 standards of the institution in which such stu-
14 dent is enrolled; and

15 “(B) timely entry of any information re-
16 quired by paragraph (5) regarding covered stu-
17 dents and exchange visitors enrolled at institu-
18 tions or exchange program sponsors.

19 “(9) SAVINGS CLAUSE.—Nothing in this section
20 shall prohibit the Secretary or any institution or ex-
21 change program sponsor participating in the Stu-
22 dent Exchange Visitor Program from requiring more
23 frequent observations of covered students or ex-
24 change visitors.”; and

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

1 “(d) DEFINITIONS.—For purposes of this section:

2 “(1) The term ‘covered student’ means a stu-
3 dent who is a nonimmigrant pursuant to subpara-
4 graph (F), (J), or (M) of section 101(a)(15) of the
5 Immigration and Nationality Act (8 U.S.C.
6 1101(a)(15)).

7 “(2) The term ‘observed’ means positively iden-
8 tified by physical or electronic means.

9 “(3) The term ‘authorized user’ means an indi-
10 vidual nominated by an institution participating in
11 the Student and Exchange Visitor Program and con-
12 firmed by the Secretary as not appearing on any ter-
13 rorist watch list.”.

14 (b) COMPTROLLER GENERAL REVIEW.—The Comp-
15 troller General shall conduct a review of the fees for the
16 Student and Exchange Visitor Program of the Depart-
17 ment of Homeland Security. The Comptroller General
18 shall include in such review data from fiscal years 2007
19 through 2010 and shall consider fees collected by the De-
20 partment and all expenses associated with the review,
21 issuance, maintenance, data collection, and enforcement
22 functions of the Student and Exchange Visitor Program.

23 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

24 There are authorized to be appropriated such sums
25 as may be necessary to carry out sections 2 and 3 of this

1 Act, and the amendments made by such sections, for fiscal
2 year 2011.

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