

111TH CONGRESS
2D SESSION

S. 3135

To enhance global healthcare cooperation and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 17, 2010

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

A BILL

To enhance global healthcare cooperation 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 “Global Health Care
5 Cooperation Act”.

6 **SEC. 2. GLOBAL HEALTH CARE COOPERATION.**

7 (a) IN GENERAL.—Title III of the Immigration and
8 Nationality Act (8 U.S.C. 1401 et seq.) is amended by
9 inserting after section 317 the following:

1 **“SEC. 317A. TEMPORARY ABSENCE OF ALIENS PROVIDING**
 2 **HEALTH CARE IN DEVELOPING COUNTRIES.**

3 “(a) IN GENERAL.—Notwithstanding any other pro-
 4 vision of this Act, the Secretary of Homeland Security
 5 shall allow an eligible alien and the spouse or child of such
 6 alien to reside in a candidate country during the period
 7 that the eligible alien is working as a physician or other
 8 health care worker in a candidate country. During such
 9 period the eligible alien and such spouse or child shall be
 10 considered—

11 “(1) to be physically present and residing in the
 12 United States for purposes of naturalization under
 13 section 316(a); and

14 “(2) to meet the continuous residency require-
 15 ments under section 316(b).

16 “(b) DEFINITIONS.—In this section:

17 “(1) CANDIDATE COUNTRY.—The term ‘can-
 18 didate country’ means a country that the Secretary
 19 of State determines to be—

20 “(A) eligible for assistance from the Inter-
 21 national Development Association, in which the
 22 per capita income of the country is equal to or
 23 less than the historical ceiling of the Inter-
 24 national Development Association for the appli-
 25 cable fiscal year, as defined by the International
 26 Bank for Reconstruction and Development;

1 “(B) classified as a lower middle income
2 country in the then most recent edition of the
3 World Development Report for Reconstruction
4 and Development published by the International
5 Bank for Reconstruction and Development and
6 having an income greater than the historical
7 ceiling for International Development Associa-
8 tion eligibility for the applicable fiscal year; or

9 “(C) qualified to be a candidate country
10 due to special circumstances, including natural
11 disasters or public health emergencies.

12 “(2) ELIGIBLE ALIEN.—The term ‘eligible
13 alien’ means an alien who—

14 “(A) has been lawfully admitted to the
15 United States for permanent residence; and

16 “(B) is a physician or other healthcare
17 worker.

18 “(c) CONSULTATION.—The Secretary of Homeland
19 Security shall consult with the Secretary of State in car-
20 rying out this section.

21 “(d) PUBLICATION.—The Secretary of State shall
22 publish—

23 “(1) not later than 180 days after the date of
24 the enactment of this section, a list of candidate
25 countries;

1 “(2) an updated version of the list required by
2 paragraph (1) not less often than once each year;
3 and

4 “(3) an amendment to the list required by
5 paragraph (1) at the time any country qualifies as
6 a candidate country due to special circumstances
7 under subsection (b)(1)(C).”.

8 (b) RULEMAKING.—

9 (1) REQUIREMENT.—Not later than 180 days
10 after the date of the enactment of this Act, the Sec-
11 retary of Homeland Security shall promulgate regu-
12 lations to carry out the amendments made by this
13 section.

14 (2) CONTENT.—The regulations promulgated
15 pursuant to paragraph (1) shall—

16 (A) permit an eligible alien (as defined in
17 section 317A of the Immigration and Nation-
18 ality Act, as added by subsection (a)) and the
19 spouse or child of the eligible alien to reside in
20 a foreign country to work as a physician or
21 other healthcare worker as described in sub-
22 section (a) of such section 317A for not less
23 than a 12-month period and not more than a
24 24-month period, and shall permit the Sec-
25 retary to extend such period for an additional

period not to exceed 12 months, if the Secretary determines that such country has a continuing need for such a physician or other healthcare worker;

(B) provide for the issuance of documents by the Secretary to such eligible alien, and such spouse or child, if appropriate, to demonstrate that such eligible alien, and such spouse or child, if appropriate, is authorized to reside in such country under such section 317A; and

(C) provide for an expedited process through which the Secretary shall review applications for such an eligible alien to reside in a foreign country pursuant to subsection (a) of such section 317A if the Secretary of State determines a country is a candidate country pursuant to subsection (b)(1)(C) of such section 317A.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITION.—Section 101(a)(13)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(13)(C)(ii)) is amended by adding “except in the case of an eligible alien, or the spouse or child of such alien, who is authorized to be absent from the United States under section 317A,” at the end.

1 (2) DOCUMENTARY REQUIREMENTS.—Section
 2 211(b) of such Act (8 U.S.C. 1181(b)) is amended
 3 by inserting “, including an eligible alien authorized
 4 to reside in a foreign country under section 317A
 5 and the spouse or child of such eligible alien, if ap-
 6 propriate,” after “101(a)(27)(A),”.

7 (3) INELIGIBLE ALIENS.—Section
 8 212(a)(7)(A)(i)(I) of such Act (8 U.S.C.
 9 1182(a)(7)(A)(i)(I)) is amended by inserting “other
 10 than an eligible alien authorized to reside in a for-
 11 eign country under section 317A and the spouse or
 12 child of such eligible alien, if appropriate,” after
 13 “Act,”.

14 (4) CLERICAL AMENDMENT.—The table of con-
 15 tents of such Act is amended by inserting after the
 16 item relating to section 317 the following:

“Sec. 317A. Temporary absence of aliens providing health care in developing
 countries.”.

17 **SEC. 3. ATTESTATION BY HEALTH CARE WORKERS.**

18 (a) ATTESTATION REQUIREMENT.—Section
 19 212(a)(5) of the Immigration and Nationality Act (8
 20 U.S.C. 1182(a)(5)) is amended by adding at the end the
 21 following:

22 “(E) HEALTH CARE WORKERS WITH
 23 OTHER OBLIGATIONS.—

1 “(i) IN GENERAL.—An alien who
2 seeks to enter the United States for the
3 purpose of performing labor as a physician
4 or other health care worker is inadmissible
5 unless the alien submits to the Secretary of
6 Homeland Security or the Secretary of
7 State, as appropriate, an attestation that
8 the alien is not seeking to enter the United
9 States for such purpose during any period
10 in which the alien has an outstanding obli-
11 gation to the government of the alien’s
12 country of origin or the alien’s country of
13 residence.

14 “(ii) OBLIGATION DEFINED.—In this
15 subparagraph, the term ‘obligation’ means
16 an obligation incurred as part of a valid,
17 voluntary individual agreement in which
18 the alien received financial assistance to
19 defray the costs of education or training to
20 qualify as a physician or other health care
21 worker in consideration for a commitment
22 to work as a physician or other health care
23 worker in the alien’s country of origin or
24 the alien’s country of residence.

1 “(iii) WAIVER.—The Secretary of
2 Homeland Security may waive a finding of
3 inadmissibility under clause (i) if the Sec-
4 retary determines that—

5 “(I) the obligation was incurred
6 by coercion or other improper means;

7 “(II) the alien and the govern-
8 ment of the country to which the alien
9 has an outstanding obligation have
10 reached a valid, voluntary agreement,
11 pursuant to which the alien’s obliga-
12 tion has been deemed satisfied, or the
13 alien has shown to the satisfaction of
14 the Secretary that the alien has been
15 unable to reach such an agreement
16 because of coercion or other improper
17 means; or

18 “(III) the obligation should not
19 be enforced due to other extraordinary
20 circumstances, including undue hard-
21 ship that would be suffered by the
22 alien in the absence of a waiver.”.

23 (b) EFFECTIVE DATE.—The amendment made by
24 subsection (a) shall take effect on the date that is 180
25 days after the date of the enactment of this Act.

1 (c) APPLICATION.—Not later than the effective date
2 described in subsection (b), the Secretary of Homeland Se-
3 curity shall begin to carry out subparagraph (E) of section
4 212(a)(5) of the Immigration and Nationality Act, as
5 added by subsection (a), including the requirement for the
6 attestation and the granting of a waiver described in
7 clause (iii) of such subparagraph (E), regardless of wheth-
8 er regulations to implement such subparagraph have been
9 promulgated.

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