

115TH CONGRESS
2D SESSION

H. R. 4974

To amend the Immigration and Nationality Act to render overstaying a visa a criminal offense, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 7, 2018

Mr. SMUCKER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to render overstaying a visa a criminal offense, 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. VISA OVERSTAYS CRIMINALIZED.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act is amended by inserting after section 274D the fol-
6 lowing:

7 **“SEC. 274E. VISA OVERSTAYS.**

8 “(a) IN GENERAL.—Except as provided in subsection
9 (b), any alien who remains in the United States for any
10 period of time after the date on which any visa or status

1 under which the alien is lawfully present has expired
2 shall—

3 “(1) for the first commission of any such of-
4 fense, be fined under title 18, United States Code,
5 or imprisoned no more than 6 months, or both; and

6 “(2) for a subsequent commission of any such
7 offense, be fined under title 18, United States Code,
8 or imprisoned not more than 2 years, or both.

9 “(b) EXCEPTION.—If the Secretary of Homeland Se-
10 curity determines on an individual case-by-case basis that,
11 because of reasons of a medical necessity, public safety,
12 or national security, the alien violated subsection (a), the
13 alien shall not be subject to the penalties under subsection
14 (a).

15 “(c) LIMITATION ON REENTRY.—

16 “(1) FIRST OFFENDERS.—Subject to section
17 222(g)(2), any alien convicted of a violation of sub-
18 section (a)(1)—

19 “(A) may not be admitted to the United
20 States for a period of 5 years, beginning on the
21 date of the conviction; and

22 “(B) may not be granted a visa for a pe-
23 riod of 10 years, beginning on the date of the
24 conviction.

1 “(2) SUBSEQUENT OFFENSES.—Notwithstand-
2 ing section 222(g)(2), any alien convicted of a viola-
3 tion of subsection (a)(2)—

4 “(A) may not be admitted to the United
5 States; and

6 “(B) may not be granted a visa.

7 “(d) DISCLOSURE OF PENALTIES.—In the case of
8 any application or petition by or on behalf of an alien for
9 admission to the United States, the Secretary of State or
10 the Secretary of Homeland Security shall provide the alien
11 with notice of the penalties under this section and section
12 275 on receipt of the application or petition, and again
13 at the time of admission.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
15 of the Immigration and Nationality Act is amended by in-
16 serting after the item relating to section 274D the fol-
17 lowing:

 “274E. Visa overstays.”.

18 **SEC. 2. EFFECT OF VISA REVOCATION.**

19 (a) IN GENERAL.—Section 221(i) of the Immigration
20 and Nationality Act (8 U.S.C. 1201(i)) is amended by in-
21 serting before the final sentence the following: “A revoca-
22 tion under this subsection shall automatically cancel any
23 other valid visa that is in the alien’s possession.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to revocations under sec-
2 tion 221(i) of the Immigration and Nationality Act (8
3 U.S.C. 1201(i)) occurring on or after such date.

4 **SEC. 3. CLARIFICATION OF INTENT REGARDING TAXPAYER-**
5 **PROVIDED COUNSEL.**

6 Section 292 of the Immigration and Nationality Act
7 (8 U.S.C. 1362) is amended—

8 (1) by striking “In any removal proceedings be-
9 fore an immigration judge and in any appeal pro-
10 ceedings before the Attorney General from any such
11 removal proceedings” and inserting “In any removal
12 proceedings before an immigration judge, or any
13 other immigration proceedings before the Attorney
14 General, the Secretary of Homeland Security, or any
15 appeal of such a proceeding”;

16 (2) by striking “(at no expense to the Govern-
17 ment)”;

18 (3) by adding at the end the following “Not-
19 withstanding any other provision of law, in no in-
20 stance shall the Government bear any expense for
21 counsel for any person in proceedings described in
22 this section.”.

1 **SEC. 4. SHARING VISA RECORDS WITH FOREIGN GOVERN-**
2 **MENTS.**

3 Section 222(f) of the Immigration and Nationality
4 Act (8 U.S.C. 1202(f)) is amended—

5 (1) in paragraph (1), by striking the period at
6 the end and inserting a semicolon;

7 (2) by redesignating paragraph (2) as para-
8 graph (3); and

9 (3) by inserting after paragraph (1) the fol-
10 lowing:

11 “(2) the Secretary of State on a case-by-case
12 basis may provide to a foreign government copies of
13 any record of the Department of State and of diplo-
14 matic and consular offices of the United States per-
15 taining to the issuance or refusal of visas or permits
16 to enter the United States, or any information con-
17 tained in those records, if the Secretary determines
18 that it is in the national interests of the United
19 States; and”.

20 **SEC. 5. ACCESS TO NATIONAL CRIME INFORMATION CEN-**
21 **TER FILES FOR VISA ADJUDICATIONS RELAT-**
22 **ING TO DIPLOMATS AND OTHER GOVERN-**
23 **MENT OFFICIALS.**

24 Section 222 of the Immigration and Nationality Act
25 (8 U.S.C. 1202) is amended by adding at the end the fol-
26 lowing:

1 “(i) In the case of an alien described in one of clauses
2 (i) through (iv) of subsection (h)(2)(E) who has applied
3 for a visa, the Attorney General and the Director of the
4 Federal Bureau of Investigation shall provide the Sec-
5 retary of State with access to the criminal history record
6 information contained in files maintained by the National
7 Crime Information Center for the purpose of determining
8 whether the visa should be issued.”.

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