

116TH CONGRESS
2D SESSION

S. 4874

To improve the U.S. Immigration and Customs Enforcement Homeland Security Investigations' Visa Security Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 26 (legislative day, OCTOBER 19), 2020

Ms. HASSAN (for herself and Mr. JOHNSON) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To improve the U.S. Immigration and Customs Enforcement Homeland Security Investigations' Visa Security Program, 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 “Visa Security Expan-
5 sion Act”.

6 **SEC. 2. VISA SECURITY.**

7 (a) VISA SECURITY PRESENCE AT HIGH-RISK
8 POSTS.—Section 428 of the Homeland Security Act of
9 2002 (6 U.S.C. 236) is amended—

1 (1) by striking subsection (a) and inserting the
2 following:

3 “(a) DEFINITIONS.—In this section:

4 “(1) CONSULAR OFFICER.—The term ‘consular
5 officer’ has the meaning given such term under sec-
6 tion 101(a)(9) of the Immigration and Nationality
7 Act (8 U.S.C. 1101(a)(9)).

8 “(2) RISK-BASED ASSIGNMENT.—The term
9 ‘risk-based assignment’ means the assignment of
10 visa security presence at a diplomatic or consular
11 post based on relative need, according to the site se-
12 lection criteria described in subsection (e)(1)(B)(iii).

13 “(3) VISA SECURITY PRESENCE.—The term
14 ‘visa security presence’ means enhanced security at
15 a diplomatic or consular post using any method de-
16 scribed in subsection (e)(1)(B)(iv).”; and

17 (2) in subsection (e)(1)—

18 (A) by striking “The Secretary” and in-
19 serting the following:

20 “(A) AUTHORIZATION.—The Secretary”;
21 and

22 (B) by adding at the end the following:

23 “(B) RISK-BASED ASSIGNMENTS.—

24 “(i) IN GENERAL.—During the 10-
25 year period beginning on the date of the

1 enactment of the Visa Security Expansion
2 Act, the Secretary shall make annual risk-
3 based assignments to provide visa security
4 presence at not fewer than 2 additional
5 diplomatic and consular posts at which
6 visas are issued.

7 “(ii) LIMITATION.—The total number
8 of embassies or consulates with visa secu-
9 rity presence during the period specified in
10 clause (i) may not exceed 75, unless the
11 Secretary certifies that exceeding this limit
12 is necessary to respond to an imminent na-
13 tional security threat.

14 “(iii) SITE SELECTION CRITERIA.—
15 The criteria for site selection described in
16 this clause are—

17 “(I) the number of nationals of a
18 country in which any of the diplomatic
19 and consular posts referred to in
20 clause (i) are located who were identi-
21 fied during the previous year as a
22 known or suspected terrorist in a
23 United States Government database;

24 “(II) the level of cooperation
25 given by the government of such coun-

try to assist with the counterterrorism efforts of the United States;

“(III) information analyzing the presence, activity, or movement of terrorist organizations (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))) within or through such country;

“(IV) information analyzing Security Advisory Opinions issued by the Security Advisory Opinion Unit regarding nationals of a country in which any of the diplomatic and consular posts referred to in clause (i) are located;

“(V) information analyzing the adequacy of the border and immigration controls of such country; and

“(VI) any other criteria the Secretary determines appropriate.

“(iv) VISA SECURITY PRESENCE.—

“(I) IN GENERAL.—The visa security presence required under clause (i) may be achieved primarily by as-

1 signing trained Department visa secu-
2 rity agents to a selected embassy or
3 consulate, provided that the Depart-
4 ment issues a report to Congress ex-
5 plaining why the placement of visa se-
6 curity agents is the most cost effective
7 means for achieving a visa security
8 presence at the embassy or consulate.

9 “(II) ALTERNATE VISA SECURITY
10 PRESENCE.—If the Secretary is un-
11 able to justify the placement of visa
12 security agents under subclause (I),
13 the visa security presence required
14 under clause (i) may be achieved by
15 assigning a regional visa security
16 agent from the Department who will
17 travel to conduct in-person vetting for
18 high priority applications.”.

19 (b) COUNTERTERRORISM VETTING AND SCREEN-
20 ING.—Section 428(e)(2) of the Homeland Security Act of
21 2002 (6 U.S.C. 236(e)(2)) is amended—

22 (1) by redesignating subparagraph (C) as sub-
23 paragraph (D); and

24 (2) by inserting after subparagraph (B) the fol-
25 lowing:

1 “(C) Screen any such applications against
2 the appropriate criminal, national security, and
3 terrorism databases maintained by the Federal
4 Government.”.

5 (c) TRAINING AND HIRING.—Section 428(e)(6)(A) of
6 the Homeland Security Act of 2002 (6 U.S.C.
7 236(e)(6)(A)) is amended—

8 (1) by striking “The Secretary shall ensure, to
9 the extent possible, that any employees” and insert-
10 ing “The Secretary, acting through the appropriate
11 official, shall provide training to any employees”;
12 and

13 (2) by striking “shall be provided the necessary
14 training”.

15 (d) INTERAGENCY COOPERATION.—

16 (1) SPACE AND RESOURCES.—Upon the selec-
17 tion of a post by the Secretary of Homeland Secu-
18 rity to provide visa security presence (as defined in
19 section 428(a)(3) of the Homeland Security Act of
20 2002, as added by subsection (a)(1)), the Secretary
21 of State shall ensure, to the extent practicable, that
22 visa security units are provided with sufficient space
23 and resources within the post to carry out the func-
24 tions described in section 428(e) of such Act (6
25 U.S.C. 236(e)).

1 (2) REPORT TO CONGRESS.—If the Secretary of
2 State is unable to provide sufficient space and re-
3 sources for a post selected by the Secretary of
4 Homeland Security in accordance with paragraph
5 (1), the Secretary of State shall submit a report to
6 Congress that details the reasons it would be im-
7 practicable to provide such space and resources.

8 **SEC. 3. METRICS.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of the enactment of this Act, the Secretary of Home-
11 land Security shall submit a report to Congress and to
12 the Comptroller General of the United States that outlines
13 the performance measurement process established pursu-
14 ant to subsection (b) by which the Department of Home-
15 land Security shall evaluate the performance of the visa
16 security units.

17 (b) ESTABLISHMENT OF PERFORMANCE MEASURE-
18 MENT PROCESS.—The Secretary of Homeland Security
19 shall establish and continue to use a performance meas-
20 urement process for the Visa Security Program, which
21 shall include—

22 (1) using objective and quantifiable perform-
23 ance metrics and targets;

1 (2) collecting and analyzing data to determine
2 whether targeted levels of performance have been
3 achieved;

4 (3) taking actions to address gaps between de-
5 sired and actual performance; and

6 (4) updating or revising performance metrics,
7 as necessary.

8 (c) GAO REVIEW.—Not later than 120 days after the
9 receipt of the report required under subsection (a), the
10 Comptroller General of the United States shall submit a
11 report to Congress containing the results of its review of
12 the validity and reliability of the performance measure-
13 ment process established by the Department of Homeland
14 Security to evaluate the performance of the visa security
15 units.

16 **SEC. 4. VISA SECURITY FEE.**

17 (a) IN GENERAL.—After submitting the report re-
18 quired under section 3(a), the Secretary of State, in co-
19 ordination with the Secretary of Homeland Security,
20 shall—

21 (1) establish a security fee to be paid with all
22 nonimmigrant visas applications; and

23 (2) use the security fee established pursuant to
24 paragraph (1) to offset the operating costs of—

1 (A) expanding the establishment of visa se-
2 curity presence at additional posts; and

3 (B) at the discretion of the Secretaries, ex-
4 isting visa security units.

5 (b) FEE ADMINISTRATION.—The Secretary of State,
6 in consultation with the Secretary of Homeland Security,
7 shall—

8 (1) charge the fee required under subsection (a)
9 in support of the Immigration and Customs Enforce-
10 ment Visa Security Program;

11 (2) initially deposit such fees into the Consular
12 Border Security Program Account or into another
13 account of the Department of State; and

14 (3) regularly transfer the amounts deposited
15 pursuant to paragraph (2) into the Immigration Ex-
16 aminations Fee Account established under section
17 286(m) of the Immigration and Nationality Act (8
18 U.S.C. 1356(m)).

19 **SEC. 5. ANNUAL REPORT.**

20 (a) IN GENERAL.—Not later than 180 days after the
21 date of the enactment of this Act, and annually thereafter
22 until December 31, 2030, the Secretary of Homeland Se-
23 curity, in coordination with the Secretary of State, shall
24 submit a law enforcement sensitive report to Congress on
25 the security of the nonimmigrant visa screening process

1 for each post at which Department of Homeland Security
2 visa security personnel are not assigned.

3 (b) CONTENTS.—The report submitted pursuant to
4 subsection (a) shall include—

5 (1) the identification by the consular or diplo-
6 matic post of the methods most commonly used by
7 criminals, terrorist, and others to attempt to exploit
8 the nonimmigrant visa process to enter the United
9 States;

10 (2) the process used by the post to interdict
11 criminals, terrorists, and others who would exploit
12 the nonimmigrant visa process to enter the United
13 States;

14 (3) a description of the counterterrorism and
15 counterfraud training provided by the consular and
16 diplomatic post to visa adjudication officers;

17 (4) the number of personnel at the post trained
18 as immigration law enforcement officers who regu-
19 larly conduct in person interviews with visa appli-
20 cants;

21 (5) the annual number of nominations to the
22 terrorism watch list or modifications to terrorism
23 watch list entries made by personnel at the post in
24 charge of nonimmigrant visa adjudications;

1 (6) the number of nonimmigrant visas refused
2 in the past year on the basis of derogatory informa-
3 tion that indicates the applicant is a potential ter-
4 rorist threat; and

5 (7) the steps the post will take to improve non-
6 immigrant visa adjudication and visa screening dur-
7 ing the following 5 years.

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