

113TH CONGRESS
1ST SESSION

H. R. 640

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

FEBRUARY 13, 2013

Mr. BILIRAKIS 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 re-
11 view the applications 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)), and
16 conduct in-person interviews where appropriate,
17 prior to final adjudication, with special empha-
18 sis on determining whether applicants are inad-
19 missible under section 212(a)(3)(B) of such Act
20 (8 U.S.C. 1182(a)(3)(B)) (relating to terrorist
21 activities);

22 “(B) shall ensure that employees assigned
23 under paragraph (1) conduct on-site reviews of
24 any applications and supporting documentation
25 for visas under subparagraph (F), (J), or (M)
26 of section 101(a)(15) of the Immigration and

1 Nationality Act (8 U.S.C. 1101(a)(15)) that
2 they deem appropriate prior to final adjudica-
3 tion; and

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

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

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

15 (1) in subsection (a)—

16 (A) by redesignating paragraph (5) as
17 paragraph (11); and

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

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

1 “(A) prescribe regulations to require an in-
2 stitution or exchange visitor program sponsor
3 participating in the Student and Exchange Vis-
4 itor Program to ensure that each covered stu-
5 dent or exchange visitor enrolled at the institu-
6 tion or attending the exchange visitor pro-
7 gram—

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

12 “(ii) is not unobserved for any pe-
13 riod—

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

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

21 “(iii) is reported to the Department
22 within 10 days of—

23 “(I) transferring to another insti-
24 tution or program;

1 “(II) changing academic majors;

2 or

3 “(III) any other changes to infor-
4 mation required to be maintained in
5 the system described in paragraph
6 (4);

7 “(B) notwithstanding subparagraph (A),
8 require each covered student or exchange visitor
9 to be observed at least once every 60 days; and

10 “(C) prescribe regulations defining what
11 constitutes the commencement of participation
12 of a covered student in a designated exchange
13 visitor program (as defined in section 641(h) of
14 the Illegal Immigration Reform and Immigrant
15 Responsibility Act of 1996 (8 U.S.C. 1372(h))).

16 “(6) ENHANCED ACCESS.—The Secretary shall
17 provide access to the Student and Exchange Visitor
18 Information System (hereinafter in this subsection
19 referred to as the ‘SEVIS’), or other equivalent or
20 successor program or system, to appropriate employ-
21 ees of an institution or exchange visitor program
22 sponsor participating in the Student and Exchange
23 Visitor Program if—

1 “(A) at least two authorized users are
2 identified at each participating institution or
3 exchange visitor sponsor;

4 “(B) at least one additional authorized
5 user is identified at each such institution or
6 sponsor for every 200 covered students or ex-
7 change visitors enrolled at the institution or
8 sponsor; and

9 “(C) each authorized user is certified by
10 the Secretary as having completed an appro-
11 priate training course provided by the Depart-
12 ment for the program or system.

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

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

21 “(A) verification that a covered student’s
22 performance meets the minimum academic
23 standards of the institution in which such stu-
24 dent is enrolled; and

1 “(B) timely entry of any information re-
2 quired by paragraph (5) regarding covered stu-
3 dents and exchange visitors enrolled at institu-
4 tions or exchange program sponsors.

5 “(9) SAVINGS CLAUSE.—Nothing in this section
6 shall prohibit the Secretary or any institution or ex-
7 change program sponsor participating in the Stu-
8 dent Exchange Visitor Program from requiring more
9 frequent observations of covered students or ex-
10 change visitors.

11 “(10) DECERTIFICATION.—The Secretary is au-
12 thorized, without notice, to decertify any approved
13 institution or exchange visitor program sponsor if
14 such institution or exchange visitor program sponsor
15 is engaged in egregious criminal activities or is a
16 threat to national security.”; and

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

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

19 “(1) The term ‘covered student’ means a stu-
20 dent who is a nonimmigrant pursuant to subpara-
21 graph (F), (J), or (M) of section 101(a)(15) of the
22 Immigration and Nationality Act (8 U.S.C.
23 1101(a)(15)).

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

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

6 (b) **COMPTROLLER GENERAL REVIEW.**—The Comp-
7 troller General of the United States shall conduct a review
8 of the fees for the Student and Exchange Visitor Program
9 of the Department of Homeland Security. The Comp-
10 troller General shall include in such review data from fis-
11 cal years 2009 through 2013 and shall consider fees col-
12 lected by the Department and all expenses associated with
13 the review, issuance, maintenance, data collection, and en-
14 forcement functions of the Student and Exchange Visitor
15 Program.

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