

114TH CONGRESS  
1ST SESSION

# H. R. 4089

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.

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## IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2015

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

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## 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) **COMPROLLER 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 2011 through 2015 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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