

116TH CONGRESS
1ST SESSION

S. 1123

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

IN THE SENATE OF THE UNITED STATES

APRIL 10, 2019

Mr. COONS (for himself, Mrs. FEINSTEIN, Mr. VAN HOLLEN, Mr. BLUMENTHAL, Mr. MARKEY, Ms. HARRIS, Mr. DURBIN, Ms. WARREN, Mrs. MURRAY, Mr. LEAHY, Mr. MENENDEZ, Ms. KLOBUCHAR, Mr. BOOKER, Mr. CARDIN, Mr. KAINE, Mr. SCHUMER, Mrs. SHAHEEN, Ms. HIRONO, Ms. STABENOW, Mr. MERKLEY, Mr. BENNET, Mr. SANDERS, Mr. CARPER, Ms. DUCKWORTH, Mr. BROWN, Mrs. GILLIBRAND, Mr. MURPHY, Ms. SMITH, Mr. CASEY, Mr. WHITEHOUSE, Ms. HASSAN, and Mr. PETERS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

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 TITLES.**

4 This Act may be cited as the “National Origin-Based
5 Antidiscrimination for Nonimmigrants Act” or the “NO
6 BAN Act”.

1 **SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

2 Section 202(a)(1)(A) of the Immigration and Nation-
3 ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

4 (1) by inserting “or a nonimmigrant visa, entry
5 into the United States, or the approval or revocation
6 of any immigration benefit” after “immigrant visa”;

7 (2) by inserting “religion,” after “sex,”; and

8 (3) by inserting “, except if expressly required
9 by statute, or if a statutorily authorized benefit
10 takes into consideration such factors” before the pe-
11 riod at the end.

12 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**
13 **SUSPEND OR RESTRICT THE ENTRY OF A**
14 **CLASS OF ALIENS.**

15 Section 212(f) of the Immigration and Nationality
16 Act (8 U.S.C. 1182(f)) is amended—

17 (1) in the subsection heading, by striking “BY
18 PRESIDENT”;

19 (2) by striking “Whenever the President” and
20 all that follows through “appropriate.” and inserting
21 the following:

22 “(1) IN GENERAL.—Subject to paragraph (2),
23 if the Secretary of State, after consultation with the
24 Secretary of Homeland Security, determines, based
25 on credible facts, that the entry of any aliens or of
26 any class of aliens into the United States should be

1 suspended or restricted to address specific acts that
2 undermine the security or public safety of the
3 United States; human rights; democratic processes
4 or institutions; or international stability, the Presi-
5 dent may temporarily—

6 “(A) suspend the entry of any aliens or
7 any class of aliens as immigrants or non-
8 immigrants; or

9 “(B) impose any restrictions on the entry
10 of aliens that the President considers to be ap-
11 propriate.

12 “(2) LIMITATIONS.—In carrying out paragraph
13 (1), the President, the Secretary of State, and the
14 Secretary of Homeland Security—

15 “(A) shall provide specific evidence sup-
16 porting the determination;

17 “(B) shall comply with all provisions of
18 this Act, including section 202(a)(1)(A);

19 “(C) shall narrowly tailor the suspension
20 or restriction to meet a compelling govern-
21 mental interest;

22 “(D) shall specify the duration of the sus-
23 pension or restriction and set forth evidence
24 justifying such duration;

1 “(E) shall use the least restrictive means
2 possible to achieve the specified governmental
3 interest; and

4 “(F) shall consider waivers to any class-
5 based restriction or suspension and apply a re-
6 buttable presumption in favor of granting fam-
7 ily-based and humanitarian waivers.

8 “(3) CONSULTATION.—The President, the Sec-
9 retary of State, and the Secretary of Homeland Se-
10 curity shall consult with Congress before exercising
11 the authority under paragraph (1).

12 “(4) CONGRESSIONAL NOTIFICATION.—Not
13 later than 48 hours after the President exercises the
14 authority under paragraph (1), the Secretary of
15 State and the Secretary of Homeland Security shall
16 provide a briefing and submit a written report to the
17 Committee on Foreign Relations of the Senate, the
18 Committee on the Judiciary of the Senate, the Com-
19 mittee on Homeland Security and Governmental Af-
20 fairs of the Senate, the Committee on Foreign Af-
21 fairs of the House of Representatives, the Com-
22 mittee on the Judiciary of the House of Representa-
23 tives, and the Committee on Homeland Security of
24 the House of Representatives that describes—

1 “(A) the actions taken pursuant to para-
2 graph (1) and the number of individuals to
3 which such actions apply;

4 “(B) the constitutional and legislative au-
5 thority under which such actions took place;
6 and

7 “(C) the circumstances necessitating the
8 actions taken pursuant to paragraph (1), in-
9 cluding how such actions comply with the limi-
10 tations described in paragraph (2).

11 “(5) PERIODIC REPORTING.—If the briefing re-
12 quired under paragraph (4) is not provided by the
13 Secretary of State and the Secretary of Homeland
14 Security within 48 hours after exercising the author-
15 ity under paragraph (1), and updated every 30 days
16 thereafter, such emergency suspension or action
17 shall immediately terminate absent intervening con-
18 gressional action.

19 “(6) PUBLICATION.—The Secretary of State
20 and the Secretary of Homeland Security shall pub-
21 licly announce and publish in the Federal Register—

22 “(A) the nature of the actions taken pur-
23 suant to paragraph (1);

24 “(B) the estimated number of individuals
25 impacted by such actions;

1 “(C) the specified objective of each such
2 action; and

3 “(D) the circumstances necessitating such
4 actions.

5 “(7) JUDICIAL REVIEW.—

6 “(A) IN GENERAL.—Notwithstanding any
7 other provision of law, an individual or entity
8 who is present in the United States and has
9 been harmed by a violation of this subsection
10 may file an action in an appropriate district
11 court of the United States to seek declaratory
12 or injunctive relief.

13 “(B) CLASS ACTION.—Nothing in this Act
14 may be construed to preclude an action filed
15 pursuant to subparagraph (A) from proceeding
16 as a class action.

17 “(8)”.

18 **SEC. 4. TERMINATION OF CERTAIN EXECUTIVE ACTIONS.**

19 (a) TERMINATION.—Presidential Proclamations 9645
20 and 9822 and Executive Orders 13769, 13780, and 13815
21 shall be void beginning on the date of the enactment of
22 this Act.

23 (b) EFFECT.—All actions made pursuant to any pro-
24 clamation or executive order terminated under subsection
25 (a) shall cease on the date of the enactment of this Act.

1 **SEC. 5. VISA APPLICANTS REPORT.**

2 (a) INITIAL REPORTS.—Not later than 90 days after
3 the date of the enactment of this Act, the Secretary of
4 State, in coordination with the relevant heads of other
5 Federal agencies, shall submit a report to the appropriate
6 congressional committees that describes the implementa-
7 tion of each of the presidential proclamations and execu-
8 tive orders referred to in section 4. The report submitted
9 with respect to Presidential Proclamation 9645 (“Presi-
10 dential Proclamation Enhancing Vetting Capabilities and
11 Processes for Detecting Attempted Entry Into the United
12 States by Terrorists or Other Public-Safety Threats”),
13 issued on September 24, 2017, should include, for each
14 country listed in Presidential Proclamation 9645 or in any
15 subsequent amendment to such proclamation—

16 (1) the total number of new visa applicants,
17 disaggregated by country and visa category;

18 (2) the total number of visa applicants ap-
19 proved, disaggregated by country and visa category;

20 (3) the total number of visa applicants rejected,
21 disaggregated by country and visa category, and the
22 reasons they were rejected;

23 (4) the total number of pending visa applicants,
24 disaggregated by country and visa category;

1 (5) the total number of visa applicants granted
2 a waiver, disaggregated by country and visa cat-
3 egory;

4 (6) the total number of visa applicants denied
5 a waiver under such section, disaggregated by coun-
6 try and visa category, and the reasons such waiver
7 requests were denied;

8 (7) the total number of refugees admitted,
9 disaggregated by country; and

10 (8) the complete reports that have been sub-
11 mitted to the President every 180 days in accord-
12 ance with section 4 of Presidential Proclamation
13 9645.

14 (b) ADDITIONAL REPORTS.—Not later than 30 days
15 after the President exercises authority under section
16 212(f) of the Immigration and Nationality Act, as amend-
17 ed by section 3, and every 30 days thereafter, the Sec-
18 retary of State, in coordination with the heads of other
19 relevant Federal agencies, shall submit a report to the ap-
20 propriate congressional committees that identifies, with
21 respect to visa applications affected by a suspension or
22 restriction authorized under such subsection, the informa-
23 tion described in paragraphs (1) through (7) of subsection
24 (a).

1 (c) FORM; AVAILABILITY.—The reports required
2 under subsections (a) and (b)—

3 (1) shall be submitted in unclassified form; and

4 (2) shall be made publicly available online.

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