

115TH CONGRESS
2D SESSION

S. 2293

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 11, 2018

Mr. BLUMENTHAL (for himself and Mr. CRUZ) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend section 214(c)(8) of the Immigration and Nationality Act to modify the data reporting requirements relating to nonimmigrant employees, 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 Transparency
5 Anti-Trafficking Act of 2018”.

6 **SEC. 2. ANNUAL REPORT TO CONGRESS ON NON-**
7 **IMMIGRANT VISAS.**

8 Section 214(c)(8) of the Immigration and Nationality
9 Act (8 U.S.C. 1184(c)(8)) is amended to read as follows:

1 “(8)(A) Not later than 6 months after the end of each
2 fiscal year, the Secretary of Homeland Security shall sub-
3 mit a report to the Committee on the Judiciary of the Sen-
4 ate and the Committee on the Judiciary of the House of
5 Representatives that includes, with respect to the report-
6 ing period—

7 “(i) the number of citizens of countries with a
8 Compact of Free Association with the United States
9 who—

10 “(I) are authorized by such Compact to re-
11 side permanently in the United States as non-
12 immigrants; and

13 “(II) were admitted to the United States;

14 “(ii) the ports of entry at which the individuals
15 described in clause (i) were admitted; and

16 “(iii) with respect to each nonimmigrant visa
17 classification under the immigration laws that au-
18 thorizes employment (except for visas issued for the
19 purpose of victim or witness protection), to the ex-
20 tent such data is collected by any government enti-
21 ty—

22 “(I) with respect to each such non-
23 immigrant visa classification and subclassifica-
24 tion that authorizes employment, as applica-
25 ble—

1 “(aa) the number of visas that were
2 issued and the number of persons granted
3 status under such classification or program
4 for nonimmigrants that authorizes employ-
5 ment;

6 “(bb) the number of visas that ex-
7 pired, were revoked, or were otherwise ter-
8 minated, respectively;

9 “(cc) the number of petitions that
10 were filed;

11 “(dd) the number of petitions that
12 were approved;

13 “(ee) the number of petitions that
14 were rejected, denied, or withdrawn, re-
15 spectively;

16 “(ff) the number of petitions awaiting
17 final action;

18 “(gg) the number of blanket petitions
19 filed under paragraph (2)(A);

20 “(hh) the number of such blanket pe-
21 titions that were approved;

22 “(ii) the number of such blanket peti-
23 tions that were rejected, denied, or with-
24 drawn, respectively;

1 “(jj) the number of such blanket peti-
2 tions awaiting final action;

3 “(kk) the number of visa applications
4 and beneficiaries that were approved pur-
5 suant to each blanket petition;

6 “(ll) the number of extensions of stay
7 that were requested;

8 “(mm) the number of extensions of
9 stay requests that were approved;

10 “(nn) the number of extensions of
11 stay requests that were rejected, denied, or
12 withdrawn, respectively;

13 “(oo) the number of extensions of stay
14 requests awaiting final action;

15 “(pp) the number of extensions of
16 stay requests that were filed for the pur-
17 pose of switching employers or adding a
18 new, concurrent employer;

19 “(qq) the percentage of non-
20 immigrants who are—

21 “(AA) younger than 20 years of
22 age;

23 “(BB) older than 20 years of age
24 and younger than 25 years of age;

1 “(CC) older than 25 years of age
2 and younger than 30 years of age;

3 “(DD) older than 30 years of age
4 and younger than 35 years of age;

5 “(EE) older than 35 years of age
6 and younger than 40 years of age;

7 “(FF) older than 40 years of age
8 and younger than 45 years of age;

9 “(GG) older than 45 years of age
10 and younger than 50 years of age;

11 “(HH) older than 50 years of
12 age and younger than 55 years of age;

13 “(II) older than 55 years of age
14 and younger than 60 years of age;

15 “(JJ) older than 60 years of age
16 and younger than 65 years of age; or

17 “(KK) older than 65 years of
18 age, respectively;

19 “(rr) the percentage of non-
20 immigrants in each sex;

21 “(ss) the 10 countries of which the
22 most such nonimmigrants are nationals;

23 “(tt) for each of the 5 occupations in
24 which the most nonimmigrants in each visa

1 classification or subclassification are em-
2 ployed—

3 “(AA) the 5 employers that em-
4 ploy the most nonimmigrants;

5 “(BB) the 2 countries of which
6 the most nonimmigrants are nation-
7 als;

8 “(CC) the percentage of non-
9 immigrants who are in each of the age
10 categories set forth in item (qq);

11 “(DD) the percentage of the non-
12 immigrants in each sex;

13 “(EE) the percentage of non-
14 immigrants at each major education
15 level in each nonimmigrant visa classi-
16 fication, subclassification, status, or
17 program for nonimmigrants that au-
18 thorizes employment;

19 “(FF) the average compensation
20 paid to the nonimmigrants; and

21 “(GG) the source of the data de-
22 scribed in subitems (AA) through
23 (FF);

1 “(uu) for each of the 5 employers that
2 employ the most nonimmigrants in the visa
3 classification or subclassification—

4 “(AA) the number of such non-
5 immigrants who are nationals of each
6 country;

7 “(BB) the number of such non-
8 immigrants who are in each of the age
9 categories set forth in item (qq); and

10 “(CC) the number of such non-
11 immigrants in each sex; and

12 “(vv) the number of petitions denied,
13 disaggregated by age, sex, and country of
14 nationality;

15 “(II) with respect to each employment-
16 based petition and request for extension of work
17 authorization that was filed—

18 “(aa) the number of nonimmigrants
19 sought;

20 “(bb) each beneficiary’s country of or-
21 igin and local region or state;

22 “(cc) a description of the occupation
23 in which the beneficiary will be employed;

24 “(dd) the standard occupational clas-
25 sification code for each occupation;

1 “(ee) the primary work location and
2 secondary work location, if applicable;

3 “(ff) the name and address of the em-
4 ployer and, if the employer is a household
5 employer of the nonimmigrant, the State
6 and zip code of the employer’s primary res-
7 idence, and, if the employer has 3 or more
8 employees, the nationality of the employer;

9 “(gg) whether more than 50 percent
10 of the employer’s total United States work-
11 force are nonimmigrants;

12 “(hh) whether between 30 and 50 per-
13 cent of the employer’s total United States
14 workforce are nonimmigrants;

15 “(ii) whether the employer conducts
16 outplacement of nonimmigrants;

17 “(jj) whether the employer was au-
18 thorized to file blanket petitions under
19 paragraph (2)(A);

20 “(kk) whether the petition is such a
21 blanket petition;

22 “(ll) the name and last known domes-
23 tic and foreign business address of any
24 labor recruiter, agent, or other third party

1 intermediary involved in identifying work-
2 ers to be petition beneficiaries; and

3 “(mm) the visa classification and sub-
4 classification;

5 “(III) with respect to each nonimmigrant
6 authorized to work in the United States—

7 “(aa) the visa classification and sub-
8 classification;

9 “(bb) the labor certification form
10 number, if a temporary labor certification
11 application was filed with the Department
12 of Labor;

13 “(cc) the date on which the temporary
14 labor certification application was filed;

15 “(dd) the date on which the tem-
16 porary labor certification application was
17 approved, withdrawn, or rejected;

18 “(ee) the date on which a petition was
19 filed;

20 “(ff) the date on which such petition
21 was approved, withdrawn, or rejected;

22 “(gg) the date on which an extension
23 was filed;

24 “(hh) the date on which such exten-
25 sion was approved, withdrawn, or rejected;

1 “(ii) the nonimmigrant’s country of
2 origin and local region or state;

3 “(jj) the nonimmigrant’s age category,
4 as set forth in subclause (I)(qq);

5 “(kk) the nonimmigrant’s sex;

6 “(ll) the occupation (including the
7 standard occupational classification) in
8 which the nonimmigrant will be employed;

9 “(mm) the amount of compensation to
10 be paid to the nonimmigrant;

11 “(nn) the highest level of education
12 attained by the nonimmigrant;

13 “(oo) with respect to F-1 non-
14 immigrant students engaged in optional
15 practical training—

16 “(AA) the nonimmigrant’s major
17 or primary field of study; and

18 “(BB) the institution from which
19 the nonimmigrant obtained his or her
20 education;

21 “(pp)(AA) the primary work location
22 of the nonimmigrant;

23 “(BB) the secondary work location of
24 the nonimmigrant, if applicable;

1 “(CC) if the employer is a household
2 employer of the nonimmigrant, the State
3 and zip code of the employer’s primary res-
4 idence; and

5 “(DD) if the employer has 3 or more
6 employees, the nationality of the employer;

7 “(qq)(AA) the name and address of
8 the nonimmigrant’s employer;

9 “(BB) if the employer is a household
10 employer of the nonimmigrant, the State
11 and zip code of the employer’s primary res-
12 idence; and

13 “(CC) if the employer has 3 or more
14 employees, the nationality of the employer;

15 “(rr) the name and last known domes-
16 tic and foreign business address of a third
17 party intermediary;

18 “(ss) if the nonimmigrant had a per-
19 manent status petition filed on his or her
20 behalf, the name of the person or entity
21 that filed the petition and the date on
22 which such petition was filed; and

23 “(tt) the source of the data described
24 in items (aa) through (ss);

1 “(IV) the 10 occupations in which the larg-
2 est number of nonimmigrants are employed in
3 the United States; and

4 “(V) with respect to each of the States, for
5 each of the 5 nonimmigrant visa classifications
6 and subclassifications in which the most non-
7 immigrants were issued visas or granted a sta-
8 tus that authorizes employment—

9 “(aa) the total number of non-
10 immigrants;

11 “(bb) the number of such non-
12 immigrants who are nationals of each
13 country;

14 “(cc) the percentage of such non-
15 immigrants in each of the age categories
16 set forth in subclause (I)(qq); and

17 “(dd) the number of such non-
18 immigrants in each sex.

19 “(B) At the time the Secretary of Homeland Security
20 submits each annual report under subparagraph (A), the
21 Secretary shall post, to a public website—

22 “(i) the information set forth in such subpara-
23 graph; and

24 “(ii) the corresponding raw data set and a
25 searchable database.

1 “(C) The Secretary of Homeland Security shall en-
2 sure that the information posted on a public website under
3 subparagraph (B) does not include information that, alone
4 or in combination, would allow a reasonable person who
5 does not have personal knowledge of the relevant cir-
6 cumstances, to identify a specific person with reasonable
7 certainty.

8 “(D) Any government official who uses information
9 described in subparagraph (A) shall take reasonable steps
10 to ensure that such use does not enable such information
11 to be manipulated—

12 “(i) to identify an individual nonimmigrant to
13 whom the information relates; or

14 “(ii) to disaggregate such information into its
15 component parts.

16 “(E) In this paragraph:

17 “(i) The term ‘employment’—

18 “(I) means employment in the United
19 States; and

20 “(II) includes cultural exchange, training,
21 or business activities in which the non-
22 immigrant receives any form of compensation,
23 including a stipend, from any source, whether
24 paid in the United States or in the non-

1 immigrant’s country of origin and whether or
2 not authorized.

3 “(ii) The term ‘nonimmigrant visa classifica-
4 tion, status, or subclassification’ means any pro-
5 gram, level, category, subcategory, or other type of
6 grouping that—

7 “(I) is part of a nonimmigrant visa classi-
8 fication or status—

9 “(aa) described in section 101(a)(15)
10 or 214(e); or

11 “(bb) otherwise established under the
12 immigration laws; and

13 “(II) may be specifically created, delin-
14 eated, or defined in—

15 “(aa) any Federal statute, regulation,
16 agency guidance, directive, memo, or any
17 other source material, including the Code
18 of Federal Regulations, the Foreign Af-
19 fairs Manual, Department of State cables
20 (classified or unclassified); or

21 “(bb) any official form, application, or
22 petition used by the Secretary of Home-
23 land Security, the Secretary of State, or
24 the Secretary of Labor.

25 “(iii) The term ‘third party intermediary’—

1 “(I) means any natural person, corpora-
2 tion, company, firm, partnership, joint stock
3 company or association, or other organization
4 or entity, including municipal corporations, that
5 recruits, solicits, or engages in related activities
6 with respect to an individual who resides out-
7 side of the United States in furtherance of em-
8 ployment in the United States, including when
9 such activity occurs outside of the United
10 States; and

11 “(II) includes recruiters, subrecruiters,
12 placement agencies, staffing agencies, labor
13 contractors, and sponsor organizations des-
14 ignated by the Secretary of State, including for-
15 profit and not-for-profit sponsor entities.”.

16 **SEC. 3. AUTHORITY TO MODIFY FORMS.**

17 The Secretary of Homeland Security, the Secretary
18 of State, and the Secretary of Labor are authorized to
19 take such steps as may be necessary to revise any applica-
20 tion, petition, form, or database used to regulate the
21 issuance of visas to nonimmigrants or to grant non-
22 immigrant status in order to comply with the reporting
23 requirements set forth in section 214(c)(8) of the Immi-
24 gration and Nationality Act, as amended by section 2.

1 **SEC. 4. INFORMATION SHARING.**

2 The Secretary of State and the Secretary of Labor
3 shall—

4 (1) annually submit to the Secretary of Home-
5 land Security, in a timely manner, any information
6 collected or maintained by the Department of State
7 or the Department of Labor that is required to be
8 included in the annual report under section
9 214(c)(8) of the Immigration and Nationality Act,
10 as amended by section 2; and

11 (2) provide any other related information to the
12 Secretary of Homeland Security, upon request, that
13 may be necessary to carry out the Secretary of
14 Homeland Security's responsibilities under this Act
15 and the amendment made by section 2.

16 **SEC. 5. PROGRESSIVE IMPLEMENTATION.**

17 (a) INITIAL REPORT.—Not later than 1 year after
18 the date of the enactment of this Act, the Secretary of
19 Homeland Security shall submit the first report required
20 under section 214(c)(8) of the Immigration and Nation-
21 ality Act, as amended by section 2, based on the informa-
22 tion that is available from the Department of Homeland
23 Security, the Department of Labor, and the Department
24 of State as of the date of the enactment of this Act.

25 (b) FULL REPORT.—Not later than 3 years after the
26 date of the enactment of this Act, the Secretary of Home-

1 land Security shall submit the report required under such
2 section 214(c)(8), which shall include all of the informa-
3 tion and data listed in subparagraph (A) of such section,
4 as amended by section 2.

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