

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.

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## 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

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## 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).”;

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-

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

3 “(III) information analyzing the  
4 presence, activity, or movement of ter-  
5 rorist organizations (as defined in sec-  
6 tion 212(a)(3)(B)(vi) of the Immigra-  
7 tion and Nationality Act (8 U.S.C.  
8 1182(a)(3)(B)(vi))) within or through  
9 such country;

10 “(IV) information analyzing Se-  
11 curity Advisory Opinions issued by the  
12 Security Advisory Opinion Unit re-  
13 garding nationals of a country in  
14 which any of the diplomatic and con-  
15 sular posts referred to in clause (i)  
16 are located;

17 “(V) information analyzing the  
18 adequacy of the border and immigra-  
19 tion controls of such country; and

20 “(VI) any other criteria the Sec-  
21 retary determines appropriate.

22 “(iv) VISA SECURITY PRESENCE.—

23 “(I) IN GENERAL.—The visa se-  
24 curity presence required under clause  
25 (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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