

Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, Sept. 30, 1996, as amended by: Pub.L. 106-396; Pub.L. 106-553; Pub.L. 107-56; and Pub.L. 107-173.

Sec. 641. PROGRAM TO COLLECT INFORMATION RELATING TO
NONIMMIGRANT FOREIGN STUDENTS AND OTHER EXCHANGE PROGRAM
PARTICIPANTS.

(a) IN GENERAL.

(1) PROGRAM. The Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall develop and conduct a program to collect from approved institutions of higher education, other approved educational institutions, and designated exchange visitor programs in the United States the information described in subsection (c) of this section with respect to aliens who

—

- (A) Have the status, or are applying for the status, of nonimmigrants under subparagraph (F), (J), or (M) of section 1101(a)(15) of this title; and
- (B) Are nationals of the countries designated under subsection (b) of this section.

(2) DEADLINE. The program shall commence not later than January 1, 1998.

(3) ALIENS FOR WHOM A VISA IS REQUIRED- The Attorney General, in consultation with the Secretary of State, shall establish an electronic means to monitor and verify—

- (A) The issuance of documentation of acceptance of a foreign student by an approved institution of higher education or other approved educational institution, or of an exchange visitor program participant by a designated exchange visitor program;
- (B) The transmittal of the documentation referred to in subparagraph (A) to the Department of State for use by the Bureau of Consular Affairs;
- (C) The issuance of a visa to a foreign student or an exchange visitor program participant;

- (D) The admission into the United States of the foreign student or exchange visitor program participant;
- (E) The notification to an approved institution of higher education, other approved educational institution, or exchange visitor program sponsor that the foreign student or exchange visitor participant has been admitted into the United States;
- (F) The registration and enrollment of that foreign student in such approved institution of higher education or other approved educational institution, or the participation of that exchange visitor in such designated exchange visitor program, as the case may be; and
- (G) Any other relevant act by the foreign student or exchange visitor program participant, including a changing of school or designated exchange visitor program and any termination of studies or participation in a designated exchange visitor program.

(4) REPORTING REQUIREMENTS- Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien as described in paragraph (3)(A), or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.

(b) COVERED COUNTRIES. The Attorney General, in consultation with the Secretary of State, shall designate countries for purposes of subsection (a)(1)(B) of this section. The Attorney General shall initially designate not less than 5 countries and may designate additional countries at any time while the program is being conducted.

(c) INFORMATION TO BE COLLECTED.

(1) In general. The information for collection under subsection (a) of this section with respect to an alien consists of—

- (A) The identity and current address in the United States of the alien;

- (B) The nonimmigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General;
- (C) In the case of a student at an approved institution of higher education or other approved educational institution, the current academic status of the alien, including whether the alien is maintaining status as a full-time student or, in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of such program;
- (D) In the case of a student at an approved institution of higher education or other approved educational institution, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime; and
- (E) The date of entry and port of entry;
- (F) The date of the alien's enrollment in an approved institution of higher education, other approved educational institution, or designated exchange visitor program in the United States;
- (G) The degree program, if applicable, and field of study; and
- (H) The date of the alien's termination of enrollment and the reason for such termination (including graduation, disciplinary action or other dismissal, and failure to re-enroll).

(2) FERPA. The Family Educational Rights and Privacy Act of 1974 [20 U.S.C. 1232g] shall not apply to aliens described in subsection (a) of this section to the extent that the Attorney General determines necessary to carry out the program under subsection (a) of this section.

(3) ELECTRONIC COLLECTION. The information described in paragraph (1) shall be collected electronically, where practicable.

(4) COMPUTER SOFTWARE.

(A) Collecting institutions. To the extent practicable, the Attorney General shall design the program in a manner that permits approved institutions of higher education, other approved educational institutions, and designated exchange visitor programs to use existing software for the collection, storage, and data processing of information described in paragraph (1).

(B) Attorney General. To the extent practicable, the Attorney General shall use or enhance existing software for the collection, storage, and data processing of information described in paragraph (1).

(5) REPORTING REQUIREMENTS- The Attorney General shall prescribe by regulation reporting requirements by taking into account the curriculum calendar of the approved institution of higher education, other approved educational institution, or exchange visitor program.

(d) PARTICIPATION BY INSTITUTIONS OF HIGHER EDUCATION AND EXCHANGE VISITOR PROGRAMS—

(1) CONDITION. The information described in subsection (c) shall be provided by institutions of higher education, other approved educational institutions, or exchange visitor programs as a condition of—

(A) In the case of an approved institution of higher education or other approved educational institution, the continued approval of the institution under subparagraph (F) or (M) of section 101(a)(15) of the Immigration and Nationality Act; and

(B) In the case of an approved institution of higher education or a designated exchange visitor program, the granting of authority to issue documents to an alien demonstrating the alien's eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15) of such Act.

(2) EFFECT OF FAILURE TO PROVIDE INFORMATION. --If an approved institution of higher education, other approved educational institution, or a designated exchange visitor program fails to provide the specified information, such approvals and such issuance of visas shall be revoked or denied.

(e) FUNDING.

(1) IN GENERAL. Beginning on April 1, 1997, the Attorney General shall impose on, and collect from, each alien described in paragraph (3), with respect to whom the institution or program is required by subsection (a) to collect information, a fee established by the Attorney General under paragraph (4) at a time prior to the alien being classified under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

(2) REMITTANCE. The fees collected under paragraph (1) shall be remitted by the alien pursuant to a schedule established by the Attorney General for immediate deposit and availability as described under section 286(m) of the Immigration and Nationality Act.

(3) ALIENS DESCRIBED. An alien referred to in paragraph (1) is an alien who seeks nonimmigrant status under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act (other than a nonimmigrant under section 101(a)(15)(J) of such Act who seeks to come to the United States as a participant in a program sponsored by the Federal Government).

(4) AMOUNT AND USE OF FEES.

(A) ESTABLISHMENT OF AMOUNT. --The Attorney General shall establish the amount of the fee to be imposed on, and collected from, an alien under paragraph (1). Except as provided in subsection (g)(2), the fee imposed on any individual may not exceed \$100, except that in the case of an alien admitted under section 101(a)(15)(J) of the Immigration and Nationality Act as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed \$35. The amount of the fee shall be based on the Attorney General's estimate of the cost per alien of conducting the information collection program described in this section.

(B) USE. Fees collected under paragraph (1) shall be deposited as offsetting receipts into the Immigration Examinations Fee Account (established under section 286(m) of the Immigration and Nationality Act) and shall remain available until expended for the Attorney General to reimburse any appropriation the amount paid out of which is for expenses in carrying out this section. Such expenses include, but are not necessarily limited to,

those incurred by the Secretary of State in connection with the program under subsection (a).

(5) **PROOF OF PAYMENT.** The alien shall present proof of payment of the fee before the granting of—

(A) A visa under section 222 of the Immigration and Nationality Act, or, in the case of an alien who is exempt from the visa requirement described in section 212(d)(4) of the Immigration and Nationality Act, admission to the United States; or

(B) Change of nonimmigrant classification under section 248 of the Immigration and Nationality Act to a classification described in paragraph (3).

(6) **IMPLEMENTATION.** --The provisions of section 553 of title 5, United States Code (relating to rule-making) shall not apply to the extent the Attorney General determines necessary to ensure the expeditious, initial implementation of this section.

(f) JOINT REPORT. Not later than 4 years after the commencement of the program established under subsection (a), the Attorney General, the Secretary of State, and the Secretary of Education shall jointly submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the operations of the program and the feasibility of expanding the program to cover the nationals of all countries.

(g) WORLDWIDE APPLICABILITY OF THE PROGRAM—

(1) **EXPANSION OF PROGRAM.** --Not later than 12 months after the submission of the report required by subsection (f), the Attorney General, in consultation with the Secretary of State and the Secretary of Education, shall commence expansion of the program to cover the nationals of all countries.

(2) **REVISION OF FEE.** After the program has been expanded, as provided in paragraph (1), the Attorney General may, on a periodic basis, revise the amount of the fee imposed and collected under subsection (e) in order to take into account changes in the cost of carrying out the program.

(h) DEFINITIONS --As used in this section:

(1) APPROVED INSTITUTION OF HIGHER EDUCATION. The term “approved institution of higher education” means a college or university approved by the Attorney General, in consultation with the Secretary of Education, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

(2) DESIGNATED EXCHANGE VISITOR PROGRAM. The term “designated exchange visitor program,” means a program that has been—

(A) Designated by the Secretary of State for purposes of section 101(a)(15)(J) of the Immigration and Nationality Act; and

(B) Selected by the Attorney General for purposes of the program under this section.

(3) OTHER APPROVED EDUCATIONAL INSTITUTION. The term “other approved educational institution” includes any air flight school, language training school, or vocational school, approved by the Attorney General, in consultation with the Secretary of Education and the Secretary of State, under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act.

Citations:

The above text is Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, (div. C, title VI, Sec. 641), Sept. 30, 1996, 110 Stat. 3009-704, 8 U.S.C. 1372, as amended by:

- Sections 404 and 405 of the Visa Waiver Permanent Program Act of 2000, Pub. L. 106-396, (October 30, 2000), 114 Stat. 1637-1649.
- Section 110 of HR 5548, enacted by reference in HR 4292, Pub. L. 106-553 Appendix B, (December 21, 2000), 114 Stat. 2762A-68.
- Section 416 of the USA PATRIOT Act of 2001, Pub. L. 107-56 (**October 26, 2001**), 115 Stat. 354.
- Title 5 of the Enhanced Border Security and Visa Entry Reform Act of 2002, Pub. L. 107-173 (**May 14, 2002**) 116 STAT. 543.