the Immigration and Nationality Act'', which has been translated as referring to section 237(a)(5) of the Immigration and Nationality Act to reflect the probable intent of Congress and the renumbering of section 241 as 237 by Pub. L. 104–208, div. C, title III, § 305(a)(2), Sept. 30, 1996, 110 Stat. 3009–598. Pub. L. 104–208, § 305(a)(3), enacted a new section 241 of the Immigration and Nationality Act which is classified to section 1231 of this title, but subsec. (a)(5) of that section does not relate to deportation on public charge grounds.

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Immigration and Nationality Act which comprises this chapter.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1372. 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,,[1] 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,,[1] 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[2]

[1] So in original.

[2] So in original. The word ''and'' probably should not appear.

(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 reenroll).

(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) of this section 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,,[1] the continued approval of the institution under subparagraph (F) or (M) of section 1101(a)(15) of this title; 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 1101(a)(15) of this title.

(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) of this section 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 1101(a)(15) of this title.

(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 1356(m) of this title.

(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 1101(a)(15) of this title (other than a nonimmigrant under section 1101(a)(15)(J) of this title 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) of this section, the fee imposed on any individual may not exceed $100, except that, in the case of an alien admitted under section 1101(a)(15)(J) of this title as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $40, except that, in the case of an alien admitted under section 1101(a)(15)(J) of this title as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $35.[3] 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 1356(m) of this title) and shall remain available until expended

[3] So in original. See 2000 amendment notes below.

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) of this section.

(5) Proof of payment

The alien shall present proof of payment of the fee before the granting of—

(A) a visa under section 1202 of this title or, in the case of an alien who is exempt from the visa requirement described in section 1182(d)(4) of this title, admission to the United States; or

(B) change of nonimmigrant classification under section 1258 of this title to a classification described in paragraph (3).

(6) Implementation

The provisions of section 553 of title 5 (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) of this section, 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 program

(1) Expansion of program

Not later than 12 months after the submission of the report required by subsection (f) of this section, 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) of this section 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 1101(a)(15) of this title.

(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 1101(a)(15)(J) of this title; 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 1101(a)(15) of this title.

(Pub. L. 104–208, div. C, title VI, § 641, Sept. 30, 1996, 110 Stat. 3009–704; Pub. L. 106–396, title IV, §§ 404–406, Oct. 30, 2000, 114 Stat. 1649, 1650; Pub. L. 106–553, § 1(a)(2) [title I, § 110], Dec. 21, 2000, 114 Stat. 2762, 2762A–68; Pub. L. 107–56, title IV, § 416(c), Oct. 26, 2001, 115 Stat. 354; Pub. L. 107–173, title V, § 501(a), May 14, 2002, 116 Stat. 560.)

REFERENCES IN TEXT

The Family Educational Rights and Privacy Act of 1974, referred to in subsec. (c)(2), is section 513 of Pub. L. 93–380, title V, Aug. 21, 1974, 88 Stat. 571, which enacted section 1232g of Title 20, Education, and provisions set out as notes under sections 1221 and 1232g of Title 20. For complete classification of this Act to the Code, see Short Title of 1974 Amendment note set out under section 1221 of Title 20 and Tables.

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Immigration and Nationality Act which comprises this chapter.

AMENDMENTS

2002—Subsec. (a)(3), (4). Pub. L. 107–173, § 501(a)(1), added pars. (3) and (4).

Subsec. (c)(1)(E) to (H). Pub. L. 107–173, § 501(a)(2), added subpars. (E) to (H).

Subsec. (c)(5). Pub. L. 107–173, § 501(a)(3), added par. (5).

2001—Subsec. (a)(1). Pub. L. 107–56, § 416(c)(1), inserted '', other approved educational institutions,'' after ''higher education'' in introductory provisions.

Subsec. (c)(1)(C), (D). Pub. L. 107–56, § 416(c)(2), inserted '', or other approved educational institution,'' after ''higher education''.

Subsec. (c)(4)(A). Pub. L. 107–56, § 416(c)(1), inserted '', other approved educational institutions,'' after ''higher education''.

Subsec. (d)(1). Pub. L. 107–56, § 416(c)(1), inserted '', other approved educational institutions,'' after ''higher education'' in introductory provisions.

Subsec. (d)(1)(A). Pub. L. 107–56, § 416(c)(2), inserted '', or other approved educational institution,'' after ''higher education''.

Subsec. (d)(2). Pub. L. 107–56, § 416(c)(3), inserted '', other approved educational institution,'' after ''higher education''.

Subsec. (e)(1), (2). Pub. L. 107–56, § 416(c)(3), which directed insertion of '', other approved educational institution,'' after ''higher education'' in pars. (1) and (2), could not be executed because the words ''higher education'' did not appear. See 2000 Amendment notes below.

Subsec. (h)(3). Pub. L. 107–56, § 416(c)(4), added par. (3).

2000—Subsec. (d)(1). Pub. L. 106–396, § 406(2), inserted ''institutions of higher education or exchange visitor programs'' after ''by'' in introductory provisions.

Subsec. (e)(1). Pub. L. 106–396, § 404(1), in introductory provisions, substituted ''the Attorney General'' for ''an approved institution of higher education and a des-

ignated exchange visitor program'' and ''a time prior to the alien being classified under subparagraph (F), (J), or (M) of section 1101(a)(15) of this title.'' for ''the time—

''(A) when the alien first registers with the institution or program after entering the United States; or

''(B) in a case where a registration under subparagraph (A) does not exist, when the alien first commences activities in the United States with the institution or program.''

Subsec. (e)(2). Pub. L. 106–396, § 404(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''An approved institution of higher education and a designated exchange visitor program shall remit the fees collected under paragraph (1) to the Attorney General pursuant to a schedule established by the Attorney General.''

Subsec. (e)(3). Pub. L. 106–396, § 404(3), substituted ''alien who seeks'' for ''alien who has'' and ''who seeks to come'' for ''who has come''.

Subsec. (e)(4)(A). Pub. L. 106–553 inserted before period at end of second sentence '', except that, in the case of an alien admitted under section 1101(a)(15)(J) of this title as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $35'' without reference to amendment made by Pub. L. 106–396, § 404(4)(A). See below.

Pub. L. 106–396, § 404(4)(A), inserted before period at end of second sentence '', except that, in the case of an alien admitted under section 1101(a)(15)(J) of this title as an au pair, camp counselor, or participant in a summer work travel program, the fee shall not exceed $40''. See amendment note above.

Subsec. (e)(4)(B). Pub. L. 106–396, § 404(4)(B), inserted at end ''Such expenses include, but are not necessarily limited to, those incurred by the Secretary of State in connection with the program under subsection (a) of this section.''

Subsec. (e)(5), (6). Pub. L. 106–396, § 404(5), added pars. (5) and (6).

Subsec. (g)(1). Pub. L. 106–396, § 405, amended heading and text of par. (1) generally. Prior to amendment, text read as follows:

''(A) IN GENERAL.—Not later than 6 months after the submission of the report required by subsection (f) of this section, 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.

''(B) DEADLINE.—Such expansion shall be completed not later than 1 year after the date of the submission of the report referred to in subsection (f) of this section.''

Subsec. (h)(2)(A). Pub. L. 106–396, § 406(1), substituted ''Secretary of State'' for ''Director of the United States Information Agency''.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

FOREIGN STUDENT MONITORING PROGRAM

Pub. L. 107–56, title IV, § 416(a), (b), Oct. 26, 2001, 115 Stat. 354, provided that:

''(a) FULL IMPLEMENTATION AND EXPANSION OF FOREIGN STUDENT VISA MONITORING PROGRAM REQUIRED.—The Attorney General, in consultation with the Secretary of State, shall fully implement and expand the program established by section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)).

''(b) INTEGRATION WITH PORT OF ENTRY INFORMATION.—For each alien with respect to whom information is collected under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), the Attorney General, in consultation with the Secretary of State, shall include information on the date of entry and port of entry.''

§ 1373. Communication between government agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

(Pub. L. 104–208, div. C, title VI, § 642, Sept. 30, 1996, 110 Stat. 3009–707.)

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and also as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of the Immigration and Nationality Act which comprises this chapter.

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

§ 1374. Information regarding female genital mutilation

(a) Provision of information regarding female genital mutilation

The Immigration and Naturalization Service (in cooperation with the Department of State) shall make available for all aliens who are issued immigrant or nonimmigrant visas, prior to or at the time of entry into the United States, the following information:

(1) Information on the severe harm to physical and psychological health caused by female