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113TH CONGRESS
2D SESSION

H. R. 5197

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 HOUSE OF REPRESENTATIVES

JULY 24, 2014

Ms. FRANKEL of Florida (for herself, Mr. DEUTCH, and Mr. HIMES) introduced the following bill; which was referred to the Committee on the Judiciary

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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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Transparency in Reporting to Protect American Workers and Prevent Human Trafficking Act''.

SEC. 2. DATA REPORTING ON NONIMMIGRANT EMPLOYEES.

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

"(8)(A)(i)(I) The Secretary of Homeland Security annually shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and timely upload to a public website a report (along with the corresponding raw data set) with respect to each of the subparagraphs of sections 101(a)(15) and 214(e) that permit employment in the United States under any circumstances, including cultural exchange, training, or business activities which result in receiving any form of compensation, including a stipend, from any source.

"(II) Each report under subclause (I) shall contain the following data regarding any nonimmigrant visa or any grant of nonimmigrant status:

"(aa) The number of aliens who were granted such a visa or status.

"(bb) The number of aliens who had such visas or statuses that were expired, revoked, or otherwise terminated during each month of the preceding fiscal year.

"(cc) Information on the countries of origin of (including local region or state if available), age, gender, and occupations of, educational levels attained by, and compensation paid to aliens issued such visa or status.

"(dd) The names and addresses of employers and the number of aliens authorized per category and subclass to work for each employer, including the country of origin, age, and gender of each alien authorized to work for each employer, the alien's primary work location, and secondary work location if one exists.

"(III) Each report under subclause (I) shall contain the following data regarding any nonimmigrant visa category or status (including extensions and transfers to another visa category or subclass, or request to switch to another employer) that requires approval from the Secretary of Homeland Security through a Petition for Nonimmigrant Worker, Form I–129 (or any successor form):

"(aa) The number of petitions filed.

"(bb) The number of petitions approved and the number of workers (by occupation) included in such approved petitions.

"(cc) The number of petitions denied and the number of workers (by occupation) requested in such denied petitions.

"(dd) The Standard Occupational Classification (SOC) code for each occupation in each approved petition.

"(ee) The number of petitions withdrawn.

"(ff) The number of petitions awaiting final action.

"(ii) The Secretary of Homeland Security annually shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and timely upload to a public website a report (along with the corresponding raw data set) that contains the following:

"(I) A list of all employers who petition for visas under section 101(a)(15)(H)(i)(b).

"(II) The number of such petitions filed and approved for each such employer.

"(III) The Standard Occupational Classifications (SOC) for the approved positions.

"(IV) The number of nonimmigrants for whom each such employer files for adjustment to permanent resident status.

"(V) A list of all employers who are H–1B-dependent employers (as defined in section 212(n)(3)(A)).

"(VI) A list of all employers for whom more than 30 percent of their United States workforce are nonimmigrants described in subparagraph (H)(i)(b) or (L) of section 101(a)(15).

"(VII) A list of all employers for whom more than 50 percent of their United States workforce are

nonimmigrants described in subparagraph (H)(i)(b) or (L) of section 101(a)(15).

"(VIII) A gender breakdown by occupation and by country of origin for the nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(IX) A list of all employers who conduct outplacement of nonimmigrants described in section 101(a)(15)(H)(i)(b).

"(X) The number of nonimmigrants described in section 101(a)(15)(H)(i)(b) categorized by their highest level of education and major or primary field of study, and whether such education was obtained in the United States or in a foreign country.

"(iii) The Secretary of Homeland Security annually shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate and timely upload to a public website a report (along with the corresponding raw data set) that contains the following:

"(I) A list of all employers who have filed petitions with the Secretary of Homeland Security for nonimmigrants under section 101(a)(15)(L).

"(II) The number of such petitions filed and approved for each such employer, whether each petition was processed by the Department of Homeland

Security or the Department of State as a blanket petition under paragraph (2)(A).

"(III) The Standard Occupational Classifications (SOC) code for each occupation in each approved positions.

"(IV) The amount of compensation paid to each beneficiary.

"(V) The number of nonimmigrants described in section 101(a)(15)(L) for whom each such employer files for adjustment to permanent resident status.

"(VI) A list of all employers for whom more than 30 percent of their United States workforce are nonimmigrants described in subparagraph (H)(i)(b) or (L) of section 101(a)(15).

"(VII) A list of all employers for whom more than 50 percent of their United States workforce are nonimmigrants described in subparagraph (H)(i)(b) or (L) of section 101(a)(15).

"(VIII)(aa) A list of all employers who have been authorized to file blanket petitions under paragraph (2)(A), including those who were identified by aliens applying for a visa under section 101(a)(15)(L) as the employer seeking to employ such aliens; and

"(bb) the number of such visa applications approved pursuant to each blanket petition.

"(IX) A gender breakdown by occupation and by country of origin for the nonimmigrants described in section 101(a)(15)(L).

"(X) list of all employers who conduct outplacement of nonimmigrants described in section 101(a)(15)(L).

"(XI) The number of nonimmigrants described in section 101(a)(15)(L) categorized by their highest level of education and major or primary field of study, and whether such education was obtained in the United States or in a foreign country.

"(XII) The number of petitions which have been authorized as blanket petitions under paragraph (2)(A).

"(iv) Reporting required by this subparagraph includes information gathered on petitions for nonimmigrant status or in any other manner, including consular processing, and computer systems managed by the Secretary of Homeland Security for tracking students and exchange visitors.

"(v) The information included in the reports under this subparagraph shall be disaggregated by non-

immigrant visa type and each subclass, if applicable as set forth in subparagraph (C).

"(vi) The annual reports required under this subparagraph shall be submitted not later than 3 months after the end of each fiscal year and shall contain data pertaining to the requested categories from the immediately preceding fiscal year.

"(B)(i) The Secretary of Homeland Security shall maintain an accurate count of the number of aliens subject to numerical limitations, if any, of the visa issued or nonimmigrant status provided, including under subsection (g)(1).

"(ii) The Secretary of Homeland Security shall notify, on a quarterly basis, the Committees on the Judiciary of the House of Representatives and the Senate of the numbers of aliens who during the preceding 3-month period were issued visas or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b).

"(iii) The Secretary of Homeland Security shall notify, on a semiannual basis, the Committees on the Judiciary of the House of Representatives and the Senate of the number of aliens who during the preceding 1-year period were issued visas or otherwise provided nonimmigrant status under all annually capped visas enumerated in sec-

tion 101(a)(15) or who had such a visa or such status revoked or otherwise terminated.

"(iv) Each notification under clause (i), and each submission under clause (ii), shall include the number of aliens who were issued visas or otherwise provided nonimmigrant status pursuant to petitions filed by institutions or organizations described in section 212(p)(1).

"(C) The Secretary of Homeland Security shall collect and report the required data described in subparagraphs (A) and (B) for nonimmigrant visas issued, or nonimmigrant status granted, under any subparagraph of section 101(a)(15) and disaggregate the data accordingly with respect to any particular subclass, or employment-authorized exchange or training program authorized under each subclass or otherwise specified in regulations or Federal agency guidance or directives, including—

"(i) with respect to section 101(a)(15)(J), the specific program provisions enumerated in subpart B of part 62 of title 22, Code of Federal Regulations;

"(ii) with respect to section 101(a)(15)(B), the specific categories of business visitor activity enumerated in notes 9–11 of section 41.31 of volume 9, U.S. Department of State Foreign Affairs Manual; and

"(iii) with respect to section 101(a)(15)(F), all persons granted employment authorization pursuant to the provisions enumerated in section 214.2(f)(10) of title 8, Code of Federal Regulations.

"(D) If the Secretary of Homeland Security determines that information maintained by either the Secretary of State or the Secretary of Labor is required to make a submission described in this paragraph, for example if any of the required information is gathered during consular processing or during the labor certification process, the Secretaries of State and Labor shall provide such information to the Secretary of Homeland Security upon request.

"(E) The Secretaries of Homeland Security, State, and Labor shall take such steps as are necessary to revise any applications, petition forms, and databases used for nonimmigrant visas or status under each subparagraph and corresponding subcategory or subclass of section 101(a)(15) which permit an alien beneficiary to work in the United States under any circumstances, including training or business activities which result in receiving any form of compensation, including a stipend, from any source, so as to ensure that sufficient information is col-

1 lected to report the data as required under this para-
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