

116TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

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IN THE SENATE OF THE UNITED STATES

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Mr. COONS introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

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## **A BILL**

To transfer and limit Executive Branch authority to suspend or restrict the entry of a class of aliens.

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 TITLES.**

4 This Act may be cited as the “National Origin-Based  
5 Antidiscrimination for Nonimmigrants Act” or the “NO  
6 BAN Act”.

7 **SEC. 2. EXPANSION OF NONDISCRIMINATION PROVISION.**

8 Section 202(a)(1)(A) of the Immigration and Nation-  
9 ality Act (8 U.S.C. 1152(a)(1)(A)) is amended—

1 (1) by inserting “or a nonimmigrant visa, entry  
2 into the United States, or the approval or revocation  
3 of any immigration benefit” after “immigrant visa”;

4 (2) by inserting “religion,” after “sex,”; and

5 (3) by inserting “, except if expressly required  
6 by statute, or if a statutorily authorized benefit  
7 takes into consideration such factors” before the pe-  
8 riod at the end.

9 **SEC. 3. TRANSFER AND LIMITATIONS ON AUTHORITY TO**  
10 **SUSPEND OR RESTRICT THE ENTRY OF A**  
11 **CLASS OF ALIENS.**

12 Section 212(f) of the Immigration and Nationality  
13 Act (8 U.S.C. 1182(f)) is amended—

14 (1) in the subsection heading, by striking “BY  
15 PRESIDENT”; and

16 (2) by striking “Whenever the President” and  
17 all that follows through “appropriate.” and inserting  
18 the following:

19 “(1) IN GENERAL.—Subject to paragraph (2),  
20 if the Secretary of State, after consultation with the  
21 Secretary of Homeland Security, determines, based  
22 on credible facts, that the entry of any aliens or of  
23 any class of aliens into the United States should be  
24 suspended or restricted to address specific acts that  
25 undermine the security or public safety of the

1 United States; human rights; democratic processes  
2 or institutions; or international stability, the Presi-  
3 dent may temporarily—

4 “(A) suspend the entry of any aliens or  
5 any class of aliens as immigrants or non-  
6 immigrants; or

7 “(B) impose any restrictions on the entry  
8 of aliens that the President considers to be ap-  
9 propriate.

10 “(2) LIMITATIONS.—In carrying out paragraph  
11 (1), the President, the Secretary of State, and the  
12 Secretary of Homeland Security—

13 “(A) shall provide specific evidence sup-  
14 porting the determination;

15 “(B) shall comply with all provisions of  
16 this Act, including section 202(a)(1)(A);

17 “(C) shall narrowly tailor the suspension  
18 or restriction to meet a compelling govern-  
19 mental interest;

20 “(D) shall specify the duration of the sus-  
21 pension or restriction and set forth evidence  
22 justifying such duration;

23 “(E) shall use the least restrictive means  
24 possible to achieve the specified governmental  
25 interest; and

1           “(F) shall consider waivers to any class-  
2           based restriction or suspension and apply a re-  
3           buttable presumption in favor of granting fam-  
4           ily-based and humanitarian waivers.

5           “(3) CONSULTATION.—The President, the Sec-  
6           retary of State, and the Secretary of Homeland Se-  
7           curity shall consult with Congress before exercising  
8           the authority under paragraph (1).

9           “(4) CONGRESSIONAL NOTIFICATION.—Not  
10          later than 48 hours after the President exercises the  
11          authority under paragraph (1), the Secretary of  
12          State and the Secretary of Homeland Security shall  
13          provide a briefing and submit a written report to the  
14          Committee on Foreign Relations of the Senate, the  
15          Committee on the Judiciary of the Senate, the Com-  
16          mittee on Homeland Security and Governmental Af-  
17          fairs of the Senate, the Committee on Foreign Af-  
18          fairs of the House of Representatives, the Com-  
19          mittee on the Judiciary of the House of Representa-  
20          tives, and the Committee on Homeland Security of  
21          the House of Representatives that describes—

22                 “(A) the actions taken pursuant to para-  
23                 graph (1) and the number of individuals to  
24                 which such actions apply;

1           “(B) the constitutional and legislative au-  
2           thority under which such actions took place;  
3           and

4           “(C) the circumstances necessitating the  
5           actions taken pursuant to paragraph (1), in-  
6           cluding how such actions comply with the limi-  
7           tations described in paragraph (2).

8           “(5) PERIODIC REPORTING.—If the briefing re-  
9           quired under paragraph (4) is not provided by the  
10          Secretary of State and the Secretary of Homeland  
11          Security within 48 hours after exercising the author-  
12          ity under paragraph (1), and updated every 30 days  
13          thereafter, such emergency suspension or action  
14          shall immediately terminate absent intervening con-  
15          gressional action.

16          “(6) PUBLICATION.—The Secretary of State  
17          and the Secretary of Homeland Security shall pub-  
18          licly announce and publish in the Federal Register—

19                 “(A) the nature of the actions taken pur-  
20                 suant to paragraph (1);

21                 “(B) the estimated number of individuals  
22                 impacted by such actions;

23                 “(C) the specified objective of each such  
24                 action; and

1           “(D) the circumstances necessitating such  
2 actions.

3           “(7) JUDICIAL REVIEW.—

4           “(A) IN GENERAL.—Notwithstanding any  
5 other provision of law, an individual or entity  
6 who is present in the United States and has  
7 been harmed by a violation of this subsection  
8 may file an action in an appropriate district  
9 court of the United States to seek declaratory  
10 or injunctive relief.

11           “(B) CLASS ACTION.—Nothing in this Act  
12 may be construed to preclude an action filed  
13 pursuant to subparagraph (A) from proceeding  
14 as a class action.

15           “(8)”.

16 **SEC. 4. TERMINATION OF CERTAIN EXECUTIVE ACTIONS.**

17           (a) TERMINATION.—Presidential Proclamations 9645  
18 and 9822 and Executive Orders 13769, 13780, and 13815  
19 shall be void beginning on the date of the enactment of  
20 this Act.

21           (b) EFFECT.—All actions made pursuant to any proc-  
22 lamation or executive order terminated under subsection  
23 (a) shall cease on the date of the enactment of this Act.

1 **SEC. 5. VISA APPLICANTS REPORT.**

2 (a) INITIAL REPORTS.—Not later than 90 days after  
3 the date of the enactment of this Act, the Secretary of  
4 State, in coordination with the relevant heads of other  
5 Federal agencies, shall submit a report to the appropriate  
6 congressional committees that describes the implementa-  
7 tion of each of the presidential proclamations and execu-  
8 tive orders referred to in section 4. The report submitted  
9 with respect to Presidential Proclamation 9645 (“Presi-  
10 dential Proclamation Enhancing Vetting Capabilities and  
11 Processes for Detecting Attempted Entry Into the United  
12 States by Terrorists or Other Public-Safety Threats”),  
13 issued on September 24, 2017, should include, for each  
14 country listed in Presidential Proclamation 9645 or in any  
15 subsequent amendment to such proclamation—

16 (1) the total number of new visa applicants,  
17 disaggregated by country and visa category;

18 (2) the total number of visa applicants ap-  
19 proved, disaggregated by country and visa category;

20 (3) the total number of visa applicants rejected,  
21 disaggregated by country and visa category, and the  
22 reasons they were rejected;

23 (4) the total number of pending visa applicants,  
24 disaggregated by country and visa category;

1           (5) the total number of visa applicants granted  
2           a waiver, disaggregated by country and visa cat-  
3           egory;

4           (6) the total number of visa applicants denied  
5           a waiver under such section, disaggregated by coun-  
6           try and visa category, and the reasons such waiver  
7           requests were denied;

8           (7) the total number of refugees admitted,  
9           disaggregated by country; and

10          (8) the complete reports that have been sub-  
11          mitted to the President every 180 days in accord-  
12          ance with section 4 of Presidential Proclamation  
13          9645.

14          (b) ADDITIONAL REPORTS.—Not later than 30 days  
15          after the President exercises authority under section  
16          212(f) of the Immigration and Nationality Act, as amend-  
17          ed by section 3, and every 30 days thereafter, the Sec-  
18          retary of State, in coordination with the heads of other  
19          relevant Federal agencies, shall submit a report to the ap-  
20          propriate congressional committees that identifies, with  
21          respect to visa applications affected by a suspension or  
22          restriction authorized under such subsection, the informa-  
23          tion described in paragraphs (1) through (7) of subsection  
24          (a).

- 1           (c) FORM; AVAILABILITY.—The reports required  
2 under subsections (a) and (b)—
- 3           (1) shall be submitted in unclassified form; and  
4           (2) shall be made publicly available online.