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2D SESSION

S. 3409

To modify the conditions and terms of all foreign military training programs operated within the United States by the Department of Defense and the Department of State.

IN THE SENATE OF THE UNITED STATES

MARCH 5, 2020

Mr. SCOTT of Florida (for himself and Ms. ERNST) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To modify the conditions and terms of all foreign military training programs operated within the United States by the Department of Defense and the Department of State.

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 “Secure United States
5 Bases Act”.

6 **SEC. 2. NEW VISA CATEGORY.**

7 Section 101(a)(15) of the Immigration and Nation-
8 ality Act (8 U.S.C. 1101(a)(15)) is amended—

1 (1) in subparagraph (T)(ii)(III), by striking the
2 period at the end and inserting a semicolon;

3 (2) in subparagraph (U)(iii), by striking “or”
4 at the end;

5 (3) in subparagraph (V)(ii)(II), by striking the
6 period at the end and inserting “; or”; and

7 (4) by adding at the end the following:

8 “(W) subject to section 214(s), an alien who
9 has been accepted into a United States Government
10 military training program in the United States.”.

11 **SEC. 3. APPLICATION, VETTING, AND MONITORING RE-**
12 **QUIREMENTS FOR MILITARY TRAINING NON-**
13 **IMMIGRANTS.**

14 (a) IN GENERAL.—Section 214 of the Immigration
15 and Nationality Act (8 U.S.C. 1184) is amended by add-
16 ing at the end the following:

17 “(s) MILITARY TRAINING VISA.—

18 “(1) IN GENERAL.—A nonimmigrant visa may
19 only be issued to an alien described in section
20 101(a)(15)(W) in accordance with this subsection.

21 “(2) APPLICATION REQUIREMENTS AND VET-
22 TING PROCEDURES.—

23 “(A) IN GENERAL.—Not later than 60
24 days before an alien described in section
25 101(a)(15)(W) intends to travel to the United

1 States to commence a military training program
2 operated by the Department of Defense or the
3 Department of State, including the Inter-
4 national Military Education and Training Pro-
5 gram, the alien shall—

6 “(i) submit an application to the
7 United States embassy or United States
8 consulate in his or her country of nation-
9 ality that includes—

10 “(I) an official endorsement let-
11 ter that has been signed by the Intel-
12 ligence Chief of the government of
13 such country; and

14 “(II) his or her permanent phys-
15 ical address in such country;

16 “(ii) have his or her fingerprints and
17 other appropriate biometric information
18 collected and recorded by an authorized
19 United States official or designee;

20 “(iii) participate in an in-person inter-
21 view at a United States embassy or con-
22 sulate; and

23 “(iv) successfully pass a background
24 check that includes—

1 “(I) a search of all available
2 United States and international ter-
3 rorist screening databases;

4 “(II) a review of the foreign na-
5 tional’s social media accounts to iden-
6 tify any connections to persons or
7 groups that are hostile to or have
8 threatened the United States; and

9 “(III) a review of the foreign na-
10 tional’s family members and any
11 known associates to identify any con-
12 nections to persons or groups that are
13 hostile to or have threatened the
14 United States, including the social
15 media accounts of such family mem-
16 bers and associates.

17 “(B) VETTING OVERSIGHT.—

18 “(i) IN GENERAL.—The vetting proce-
19 dures described in subparagraph (A) shall
20 be overseen by representatives of the Di-
21 rector of National Intelligence, in consulta-
22 tion with appropriate representatives of the
23 Department of Defense, the Department of
24 State, the Department of Homeland Secu-
25 rity, and the Department of Justice.

1 “(ii) FINAL DECISION.—The Director
2 of National Intelligence shall make the
3 final decision whether to authorize an ap-
4 plicant who has completed the vetting pro-
5 cedures described in subparagraph (A) to
6 participate in a military training program
7 referred to in such subparagraph. No offi-
8 cial of the department responsible for im-
9 plementing the training program is author-
10 ized to make this decision. A final decision
11 may not rely solely upon the endorsement
12 of the alien’s government.

13 “(3) VISA ISSUANCE; TERMS.—

14 “(A) IN GENERAL.—A visa may not be
15 issued under this subsection until after the Di-
16 rector of National Intelligence has made the
17 final vetting decision in accordance with para-
18 graph (2)(B)(ii).

19 “(B) RENEWAL.—Each visa issued under
20 this subsection shall be valid for a period of up
21 to 1 year, but may be renewed by submitting a
22 written certification from the Director of Na-
23 tional Intelligence that the alien remains eligi-
24 ble and qualified, pursuant to the consider-
25 ations guiding the final decision provided for in

1 paragraph (2)(B)(ii), to complete the military
2 training program to which he or she was ac-
3 cepted.

4 “(C) TERMS.—An alien to whom a visa is
5 issued under this subsection—

6 “(i) shall be prohibited from pos-
7 sessing, acquiring, or using firearms except
8 to the extent that such use is required to
9 participate in the alien’s military training
10 program;

11 “(ii) shall have his or her personally
12 identifying information included in the Na-
13 tional Instant Criminal Background Check
14 System to enforce the prohibition described
15 in clause (i);

16 “(iii) shall be subject to continuous
17 monitoring of—

18 “(I) his or her social media activ-
19 ity, personal associations, and travel;
20 and

21 “(II) to the fullest degree pos-
22 sible, the social media of his or her
23 family members and any known close
24 associates;

“(iv) shall be subject to, and shall comply with the authority of, the Commander of the United States military installation at which he or she is stationed for training, who shall be responsible for the continual monitoring and control of the alien; and

“(v) shall remain in good standing in the military training program to which he or she was accepted, as determined by attendance, participation, and the performance metrics specific to such program.

“(4) REIMBURSEMENT FOR VETTING AND MONITORING COSTS.—Costs incurred by the United States Government that are directly associated with the vetting procedures required under paragraph (2) or the monitoring required under paragraph (3)(C) shall be reimbursed by the government of the country of which the alien being vetted or monitored is a national. The tuition payments charged by the Department of Defense or the Department of State to foreign countries for the education and training of their nationals may be appropriately adjusted to account for such costs.”.

(b) TRANSITION PERIOD.—

1 (1) IN GENERAL.—The admissions require-
2 ments described in section 214(s) of the Immigra-
3 tion and Nationality Act, as added by subsection (a),
4 including the requirement for military training visas
5 and the continuous monitoring of the visa holder’s
6 social media, personal associations, and travel, shall
7 be applied retroactively for all foreign military stu-
8 dents participating in a military training program in
9 the United States as of the date of the enactment
10 of this Act. All of the vetting procedures described
11 in section 214(s)(2) of such Act shall be completed
12 not later than 120 days after the date of the enact-
13 ment of this Act.

14 (2) EXCEPTION.—The retroactive admissions
15 requirements referred to in paragraph (1) shall not
16 apply to—

17 (A) aliens who are nationals of any country
18 that is a member of the North Atlantic Treaty
19 Organization;

20 (B) aliens who are nationals of Israel; or

21 (C) aliens who are receiving military train-
22 ing outside of the United States.

1 **SEC. 4. DIFFERENTIATING MILITARY TRAINING PROGRAMS**
2 **BASED ON TYPOLOGY OF RISK.**

3 (a) IN GENERAL.—In determining who should be ac-
4 cepted in military training programs operated in the
5 United States by the Department of Defense, the Sec-
6 retary of Defense, in consultation with the Secretary of
7 State, shall develop a method for classifying the relative
8 risk, by country, of accepting foreign military personnel
9 into such programs. The risk level of an applicant's coun-
10 try of nationality shall be considered by the Secretary
11 when making such determinations.

12 (b) POSITIVE RISK FACTORS.—In classifying coun-
13 tries based on relative risks under subsection (a), an appli-
14 cant shall be more likely to be accepted into a military
15 training program in the United States if the country of
16 his or her nationality—

17 (1) has a formal military alliance with the
18 United States; or

19 (2) has a long history of close cooperation with
20 the United States Armed Forces that—

21 (A) has created strong relationships of
22 trust; and

23 (B) has demonstrated its ability to vet
24 their own applicants for military training pro-
25 grams in the United States.

1 (c) NEGATIVE RISK FACTORS.—In classifying coun-
 2 tries based on relative risks under subsection (a), an appli-
 3 cant shall be less likely to be accepted into a military
 4 training program in the United States if—

5 (1) the country of his or her nationality—

6 (A) has not closely cooperated with the
 7 United States Armed Forces; or

8 (B) has not demonstrated its ability to vet
 9 their own applicants for military training pro-
 10 grams in the United States procedures; or

11 (2) hosting applicants from the country of his
 12 or her nationality has a high potential to put Amer-
 13 ican communities and military families at risk.

14 (d) ALTERNATIVE MILITARY TRAINING PRO-
 15 GRAMS.—If the Secretary of Defense determines, in ac-
 16 cordance with this section, that applicants from specified
 17 countries present too high of a risk for acceptance into
 18 a military training program in the United States and
 19 issued a military training visa under section 214(s) of the
 20 Immigration and Nationality Act, as added by section
 21 3(a), the Secretary of State shall provide, to the fullest
 22 extent possible, an equivalent military training program
 23 for such applicants in the country of the applicant’s na-
 24 tionality or in a third country—

1 (1) to provide such applicants with military
2 training, consistent with United States national in-
3 terests; and

4 (2) to build camaraderie between such appli-
5 cants and members of the United States Armed
6 Forces.

7 **SEC. 5. REPORTING REQUIREMENT.**

8 Not later than 2 years after the date of the enact-
9 ment of this Act, the Secretary of Defense shall provide
10 Congress with a briefing, report, or update regarding the
11 impact and effects of this Act, which shall address—

12 (1) the positive or negative effects on the Inter-
13 national Military Education and Training Program;

14 (2) any positive or negative impacts on the
15 training of foreign military students in line with na-
16 tional security priorities;

17 (3) the effectiveness of the vetting procedures
18 implemented in preventing harm to United States
19 military personnel or communities;

20 (4) how any of the negative impacts referred to
21 in paragraphs (1) and (2) have been mitigated; and

22 (5) a proposed plan to mitigate any ongoing
23 negative impacts to the vetting and training of for-
24 eign military students.

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