

INTERNATIONAL PATIENT ACT OF 1999

JULY 11, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 2961]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2961) amending the Immigration and Nationality Act to authorize a 3-year pilot program under which the Attorney General may extend the period for voluntary departure in the case of certain nonimmigrant aliens who require medical treatment in the United States and were admitted under the Visa Waiver Pilot Program, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 2961 would create a 3-year pilot program under which the Attorney General may extend the period of voluntary departure in

the case of certain aliens who require medical treatment in the United States and were admitted under the Visa Waiver Pilot Program.

BACKGROUND AND NEED FOR THE LEGISLATION

Aliens who seek to visit the United States temporarily for business or pleasure are admitted to the United States under section 101(a)(15)(B) of the Immigration and Nationality Act. B-1(business) visas are initially valid for up to 1 year and can be extended in increments of not more than 6 months each.¹ B-2 (pleasure) visas are initially valid for up to 1 year (with a minimum validity of 6 months), and can also be extended in increments of not more than 6 months.²

The visa waiver pilot program allows aliens traveling from certain designated countries to come to the United States as temporary visitors for business or pleasure without having to obtain “B” visas. The program authorizes the Attorney General to waive the visa requirement for aliens traveling from countries that have qualified on the basis of requirements set forth in section 217 of the INA. However, a visit cannot exceed 90 days, and no extensions are available.³

The only relief that the Immigration and Naturalization Service can offer an alien admitted under the visa waiver pilot program who has a compelling need to remain in the U.S. for more than 90 days is to authorize the alien to depart voluntarily after a specified period of time pursuant to section 240B of the INA. This section allows the Attorney General to permit an alien who otherwise is no longer authorized to remain in the United States to depart voluntarily at the alien’s own expense in lieu of being placed in removal proceedings or prior to the completion of such proceedings. However, the period of time after which the alien must depart can not exceed 120 days.⁴ Thus, an alien admitted under the visa waiver program who faces an emergency situation can be authorized to remain in the United States only for 120 days beyond the initial 90-day admission.

While the 210-day period provided by the initial 90-day admission and the 120 days under “voluntary departure” is adequate to deal with most emergency situations, it does not meet the needs of a relatively few aliens who are admitted to the U.S. under the visa waiver program and seek to receive long-term medical treatment. H.R. 2961 would address this problem by establishing a 3-year pilot program authorizing the Attorney General to waive the 120-day cap on voluntary departure for a limited number of patients and attending family members who enter the U.S. under the visa waiver program.

The legislation contains safeguards to ensure that only those truly in need of long-term medical care can obtain such a waiver. An alien seeking a waiver would be required to provide a comprehensive statement from the attending physician detailing the treatment sought and the alien’s anticipated length of stay in the U.S. In addition, the alien and attending family members would be

¹ 8 C.F.R. sec. 214.2(b)(1)(missionaries can receive extensions of up to 1 year).

² 8 C.F.R. sec. 214.2(b)(2).

³ INA sec. 217(a)(1).

⁴ INA sec. 240B(a)(2).

required to provide proof of their ability to pay for the treatment and their daily living expenses. The bill caps the total number of waivers at 300 annually and limits the number of family members who can enjoy the benefits of a waiver. The bill also requires the INS to provide Congress with an annual report detailing the number of waivers granted each fiscal year and provides for the suspension of the Attorney General's authority to authorize such waivers during any period in which an annual report is past due.

HEARINGS

No hearings were held on H.R. 2961.

COMMITTEE CONSIDERATION

On September 30, 1999, the Subcommittee on Immigration and Claims met in open session and ordered favorably reported the bill H.R. 2961, without amendment, by a voice vote, a quorum being present. On October 5, 1999, the committee met in open session and ordered favorably reported the bill H.R. 2961, without amendment, by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

The committee adopted H.R. 2961 by voice vote.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the committee reports that the findings and recommendations of the committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

No findings or recommendations of the Committee on Government Reform were received as referred to in clause 3(c)(4) of rule XIII of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of House Rule XIII is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the committee sets forth, with respect to the bill, H.R. 2961, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 18, 1999.

Hon. HENRY J. HYDE, *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2961, the International Patient Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Grabowicz (for Immigration and Naturalization Service costs), who can be reached at 226–2860, Valerie Baxter (for effects on entitlement programs), who can be reached at 226–2820, and Lisa Cash Driskill (for the state and local impact), who can be reached at 225–3220.

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Democratic Member

H.R. 2961—International Patient Act of 1999.

Under the visa waiver pilot program administered by the Immigration and Naturalization Service (INS), visitors from certain foreign countries may stay in the United States for up to 90 days without obtaining a visa; under limited circumstances, these visitors may stay an additional 120 days. H.R. 2961 would permit the INS to waive this restriction for visitors who need to stay longer to receive medical treatment and who meet certain other conditions. The bill's provisions would be limited to 300 individuals (and their families) each year and would be effective from January 1, 2000, through December 31, 2002. The INS would be required to prepare an annual report to the Congress regarding any waivers granted under the bill.

Enacting this bill would affect direct spending in fiscal years 2000 through 2003, but CBO estimates that the cost would not be significant in any single year. Because the bill would affect direct spending, pay-as-you-go procedures would apply. We estimate that the cost of administering the visa waiver pilot program, which is funded by immigration fees, would increase by less than \$100,000 a year as a result of enacting this bill. Although H.R. 2961 could affect spending for emergency Medicaid services, CBO expects that any such costs would not be significant because the bill would require individuals to show they have the means to pay for the medical treatment and their living expenses.

This legislation contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act, but it could have a very small effect on state, local, or tribal governments in the form of increases in emergency Medicaid spending.

The CBO staff contacts are Mark Grabowicz (for INS costs), who can be reached at 226–2860, Valerie Baxter (for effects on entitlement programs), who can be reached at 226–2820, and Lisa Cash Driskill (for the state and local impact), who can be reached at

225–3220. This estimate was approved by Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the committee finds the authority for this legislation in Article I, section 8, clause 4 of the Constitution.

SECTION-BY-SECTION ANALYSIS AND DISCUSSION

Section 1. Short Title

Section 2. Three-Year Pilot Program to extend the Period for Voluntary Departure for Certain Nonimmigrant Aliens Requiring Medical Treatment Who Were Admitted to the United States under the Visa Waiver Pilot Program

Section 2 of the bill amends section 240B(a)(2) of the Immigration and Nationality Act to provide that permission to depart voluntarily from the United States under this section shall not be valid for a period exceeding 120 days except under the terms of a 3-year pilot program. During the period lasting from January 1, 2000, through December 31, 2002, the Attorney General may, in her discretion for humanitarian purposes, waive the 120 day limitation in the case of an alien who was admitted to the United States under the visa waiver pilot program and who seeks the waiver for the purpose of continuing to receive medical treatment in the United States from a physician associated with a health care facility. An alien patient seeking a waiver must submit to the Attorney General (1) a detailed diagnosis statement from the physician, which includes the treatment being sought and the expected time period the patient will be required to remain in the United States, (2) a statement from the health care facility containing an assurance that the patient's treatment is not being paid through any Federal or State public health assistance, that the patient's account has no outstanding balance, and that such facility will notify the Immigration and Naturalization Service when the patient is released or treatment is terminated, and (3) evidence of financial ability to support the patient's day-to-day expenses while in the United States (including the expenses of any accompanying family member) and evidence that any such patient or family member is not receiving any form of public assistance.

Waivers may be granted only upon a request submitted by a INS district office to INS headquarters. No more than 300 waivers may be granted for any fiscal year for patients. Spouses, parents, brothers, sisters, sons, daughters and other family members of the patient who entered the United States accompanying the patient can also receive a waiver. However, only one adult family member may be granted a waiver for each patient (two adults if the patient is a dependent under the age of 18 or if one such adult family member is 55 or older or is physically handicapped).

Not later than March 30 of each year, the INS Commissioner shall submit to the Congress an annual report regarding all waivers granted during the preceding fiscal year. The authority of the Attorney General to grant waivers shall be suspended during any

period in which such an annual report is past due and has not been submitted.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

SECTION 240B OF THE IMMIGRATION AND NATIONALITY ACT

VOLUNTARY DEPARTURE

SEC. 240B. (a) CERTAIN CONDITIONS.—

(1) * * *

[(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.]

(2) PERIOD.—

(A) *IN GENERAL.*—*Subject to subparagraph (B), permission to depart voluntarily under this subsection shall not be valid for a period exceeding 120 days.*

(B) *3-YEAR PILOT PROGRAM WAIVER.*—*During the period January 1, 2000, through December 31, 2002 and subject to subparagraphs (C) and (D)(ii), the Attorney General may, in the discretion of the Attorney General for humanitarian purposes, waive application of subparagraph (A) in the case of an alien—*

(i) who was admitted to the United States as a nonimmigrant visitor (described in section 101(a)(15)(B)) under the provisions of the visa waiver pilot program established pursuant to section 217, seeks the waiver for the purpose of continuing to receive medical treatment in the United States from a physician associated with a health care facility, and submits to the Attorney General—

(I) a detailed diagnosis statement from the physician, which includes the treatment being sought and the expected time period the alien will be required to remain in the United States;

(II) a statement from the health care facility containing an assurance that the alien's treatment is not being paid through any Federal or State public health assistance, that the alien's account has no outstanding balance, and that such facility will notify the Service when the alien is released or treatment is terminated; and

(III) evidence of financial ability to support the alien's day-to-day expenses while in the United States (including the expenses of any family member described in clause (ii)) and evidence that any such alien or family member is not receiving any form of public assistance; or

(ii) *who—*

(I) *is a spouse, parent, brother, sister, son, daughter, or other family member of a principal alien described in clause (i); and*

(II) *entered the United States accompanying, and with the same status as, such principal alien.*

(C) *WAIVER LIMITATIONS.—*

(i) *Waivers under subparagraph (B) may be granted only upon a request submitted by a Service district office to Service headquarters.*

(ii) *Not more than 300 waivers may be granted for any fiscal year for a principal alien under subparagraph (B)(i).*

(iii)(I) *Except as provided in subclause (II), in the case of each principal alien described in subparagraph (B)(i) not more than 1 adult may be granted a waiver under subparagraph (B)(ii).*

(II) *Not more than 2 adults may be granted a waiver under subparagraph (B)(ii) in a case in which—*

(aa) *the principal alien described in subparagraph (B)(i) is a dependent under the age of 18; or*

(bb) *1 such adult is age 55 or older or is physically handicapped.*

(D) *REPORT TO CONGRESS; SUSPENSION OF WAIVER AUTHORITY.—*

(i) *Not later than March 30 of each year, the Commissioner shall submit to the Congress an annual report regarding all waivers granted under subparagraph (B) during the preceding fiscal year.*

(ii) *Notwithstanding any other provision of law, the authority of the Attorney General under subparagraph (B) shall be suspended during any period in which an annual report under clause (i) is past due and has not been submitted.*

* * * * *