

107TH CONGRESS  
1ST SESSION

# S. 1452

To provide for electronic access by the Department of State and the Immigration and Naturalization Service to certain information in the criminal history records of the Federal Bureau of Investigation to determine whether or not a visa applicant or applicant for admission has a criminal history record.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 21, 2001

Mr. KENNEDY (for himself, Mr. BROWNBACK, Mr. GRASSLEY, Mr. LEAHY, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To provide for electronic access by the Department of State and the Immigration and Naturalization Service to certain information in the criminal history records of the Federal Bureau of Investigation to determine whether or not a visa applicant or applicant for admission has a criminal history record.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ACCESS BY THE DEPARTMENT OF STATE AND**  
2 **THE INS TO CERTAIN IDENTIFYING INFORMA-**  
3 **TION IN THE CRIMINAL HISTORY RECORDS**  
4 **OF VISA APPLICANTS AND APPLICANTS FOR**  
5 **ADMISSION TO THE UNITED STATES.**

6 (a) AMENDMENT OF THE IMMIGRATION AND NA-  
7 TIONALITY ACT.—Section 105 of the Immigration and  
8 Nationality Act (8 U.S.C. 1105) is amended—

9 (1) in the section heading, by inserting “; DATA  
10 EXCHANGE” after “SECURITY OFFICERS”;

11 (2) by inserting “(a)” after “SEC. 105.”;

12 (3) in subsection (a), by inserting “and border”  
13 after “internal” the second place it appears; and

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

15 “(b)(1) Upon the promulgation of final regulations  
16 under subsection (d), the Attorney General and the Direc-  
17 tor of the Federal Bureau of Investigation shall provide  
18 the Department of State and the Service access to the  
19 criminal history record information contained in the Na-  
20 tional Crime Information Center’s Interstate Identifica-  
21 tion Index (NCIC–III), Wanted Persons File, and to any  
22 other files maintained by the National Crime Information  
23 Center that may be mutually agreed upon by the Attorney  
24 General and the agency receiving the access, for the pur-  
25 pose of determining whether or not a visa applicant or

1 applicant for admission has a criminal history record in-  
2 dexed in any such file.

3       “(2) Such access shall be provided by means of ex-  
4 tracts of the records for placement in the automated visa  
5 lookout or other appropriate database, and shall be pro-  
6 vided without any fee or charge.

7       “(3) Whoever knowingly uses any information ob-  
8 tained pursuant to this subsection for a purpose other  
9 than as authorized under this section shall be fined in ac-  
10 cordance with title 18, United States Code, imprisoned for  
11 not more than two years, or both.

12       “(4) The Federal Bureau of Investigation shall pro-  
13 vide periodic updates of the extracts at intervals mutually  
14 agreed upon with the agency receiving the access. Upon  
15 receipt of such updated extracts, the receiving agency shall  
16 make corresponding updates to its database and destroy  
17 previously provided extracts.

18       “(5) Access to an extract does not entitle the Depart-  
19 ment of State to obtain the full content of the cor-  
20 responding automated criminal history record. To obtain  
21 the full content of a criminal history record, the Depart-  
22 ment of State shall submit the applicant’s fingerprints and  
23 any appropriate fingerprint processing fee authorized by  
24 law to the Criminal Justice Information Services Division  
25 of the Federal Bureau of Investigation.

1       “(c) Upon the development and deployment of a more  
2 cost-effective and efficient means of providing the same  
3 information as is provided under subsection (b), the Attor-  
4 ney General and the receiving agency may suspend the ar-  
5 rangement for providing the access described in this sec-  
6 tion and substitute the newer means.

7       “(d) For purposes of administering this section, the  
8 Department of State shall, prior to receiving access to  
9 NCIC data but not later than 4 months after the date  
10 of enactment of this subsection, promulgate final  
11 regulations—

12               “(1) to implement procedures for the taking of  
13 fingerprints; and

14               “(2) to establish the conditions for the use of  
15 the information received from the Federal Bureau of  
16 Investigation, in order—

17                       “(A) to limit the redissemination of such  
18 information;

19                       “(B) to ensure that such information is  
20 used solely to determine whether or not to issue  
21 a visa to an alien or to admit an alien to the  
22 United States;

23                       “(C) to ensure the security, confidentiality,  
24 and destruction of such information; and

1                   “(D) to protect any privacy rights of indi-  
2                   viduals who are subjects of such information.”.

3           (b) REPORTING REQUIREMENT.—Not later than 1  
4 year after the date of enactment of this Act, the Attorney  
5 General and the Secretary of State jointly shall report to  
6 Congress on the implementation of the amendments made  
7 by this section.

8           (c) STATUTORY CONSTRUCTION.—Nothing in this  
9 section, or in any other law, shall be construed to limit  
10 the authority of the Attorney General or the Director of  
11 the Federal Bureau of Investigation to provide access to  
12 the criminal history record information contained in the  
13 National Crime Information Center’s (NCIC) Interstate  
14 Identification Index (NCIC–III), or to any other informa-  
15 tion maintained by the NCIC, to any Federal agency or  
16 officer authorized to enforce or administer the immigra-  
17 tion laws of the United States, for the purpose of such  
18 enforcement or administration, upon terms that are con-  
19 sistent with the National Crime Prevention and Privacy  
20 Compact Act of 1998 (subtitle A of title II of Public Law  
21 105–251; 42 U.S.C. 14611–16) and section 552a of title  
22 5, United States Code.

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