

Union Calendar No. 312

117TH CONGRESS
2^D SESSION

H. R. 5460

[Report No. 117-404]

To establish the Virgin Islands visa waiver program.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2021

Ms. PLASKETT introduced the following bill; which was referred to the
Committee on the Judiciary

JULY 12, 2022

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on September 30, 2021]

A BILL

To establish the Virgin Islands visa waiver program.

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 “Virgin Islands Visa*
5 *Waiver Act of 2022”.*

6 **SEC. 2. ADDITION OF VIRGIN ISLANDS VISA WAIVER TO**
7 **GUAM AND NORTHERN MARIANA ISLANDS**
8 **VISA WAIVER.**

9 *(a) IN GENERAL.—Section 212(l) of the Immigration*
10 *and Nationality Act (8 U.S.C. 1182(l)) is amended to read*
11 *as follows:*

12 *“(l) GUAM AND NORTHERN MARIANA ISLANDS VISA*
13 *WAIVER PROGRAM; VIRGIN ISLANDS VISA WAIVER PRO-*
14 *GRAM.—*

15 *“(1) IN GENERAL.—The requirement of sub-*
16 *section (a)(7)(B)(i) may be waived by the Secretary*
17 *of Homeland Security, in the case of an alien apply-*
18 *ing for admission as a nonimmigrant visitor for busi-*
19 *ness or pleasure and solely for entry into and stay in*
20 *Guam or the Commonwealth of the Northern Mariana*
21 *Islands, or the Virgin Islands of the United States, for*
22 *a period not to exceed 45 days, if the Secretary of*
23 *Homeland Security, after consultation with the Sec-*
24 *retary of the Interior, the Secretary of State, and the*
25 *Governor of Guam and the Governor of the Common-*

1 *wealth of the Northern Mariana Islands, or the Gov-*
2 *ernor of the Virgin Islands of the United States, as*
3 *the case may be, determines that—*

4 *“(A) an adequate arrival and departure*
5 *control system has been developed in Guam and*
6 *the Commonwealth of the Northern Mariana Is-*
7 *lands, or the Virgin Islands of the United States;*
8 *and*

9 *“(B) such a waiver does not represent a*
10 *threat to the welfare, safety, or security of the*
11 *United States or its territories and common-*
12 *wealths.*

13 *“(2) ALIEN WAIVER OF RIGHTS.—An alien may*
14 *not be provided a waiver under this subsection unless*
15 *the alien has waived any right—*

16 *“(A) to review or appeal under this Act an*
17 *immigration officer’s determination as to the ad-*
18 *missibility of the alien at the port of entry into*
19 *Guam or the Commonwealth of the Northern*
20 *Mariana Islands, or the Virgin Islands of the*
21 *United States; or*

22 *“(B) to contest, other than on the basis of*
23 *an application for withholding of removal under*
24 *section 241(b)(3) of this Act or under the Con-*
25 *vention Against Torture, or an application for*

1 *asylum if permitted under section 208 of this*
2 *Act, any action for removal of the alien.*

3 “(3) *REGULATIONS.*—*All necessary regulations*
4 *to implement this subsection shall be promulgated by*
5 *the Secretary of Homeland Security, in consultation*
6 *with the Secretary of the Interior and the Secretary*
7 *of State. The promulgation of such regulations shall*
8 *be considered a foreign affairs function for purposes*
9 *of section 553(a) of title 5, United States Code. At a*
10 *minimum, such regulations should include, but not*
11 *necessarily be limited to—*

12 “(A) *a listing of all countries whose nation-*
13 *als may obtain the waivers provided by this sub-*
14 *section; and*

15 “(B) *any bonding requirements for nation-*
16 *als of some or all of those countries who may*
17 *present an increased risk of overstays or other*
18 *potential problems, if different from such re-*
19 *quirements otherwise provided by law for non-*
20 *immigrant visitors.*

21 “(4) *FACTORS.*—*In determining whether to*
22 *grant or continue providing the waiver under this*
23 *subsection to nationals of any country, the Secretary*
24 *of Homeland Security, in consultation with the Sec-*
25 *retary of the Interior and the Secretary of State, shall*

1 *consider all factors that the Secretary deems relevant,*
2 *including electronic travel authorizations, procedures*
3 *for reporting lost and stolen passports, repatriation of*
4 *aliens, rates of refusal for nonimmigrant visitor visas,*
5 *overstays, exit systems, and information exchange.*

6 *“(5) SUSPENSION.—The Secretary of Homeland*
7 *Security shall monitor the admission of non-*
8 *immigrant visitors to Guam and the Commonwealth*
9 *of the Northern Mariana Islands, and the Virgin Is-*
10 *lands of the United States, under this subsection. If*
11 *the Secretary determines that such admissions have*
12 *resulted in an unacceptable number of visitors from*
13 *a country remaining unlawfully in Guam or the*
14 *Commonwealth of the Northern Mariana Islands, or*
15 *the Virgin Islands of the United States, unlawfully*
16 *obtaining entry to other parts of the United States,*
17 *or seeking withholding of removal or asylum, or that*
18 *visitors from a country pose a risk to law enforcement*
19 *or security interests of Guam or the Commonwealth*
20 *of the Northern Mariana Islands, or of the Virgin Is-*
21 *lands of the United States, or of the United States*
22 *(including the interest in the enforcement of the im-*
23 *migration laws of the United States), the Secretary*
24 *shall suspend the admission of nationals of such coun-*
25 *try under this subsection. The Secretary of Homeland*

1 *Security may in the Secretary’s discretion suspend*
2 *the Guam and Northern Mariana Islands visa waiver*
3 *program, or the Virgin Islands visa waiver program,*
4 *at any time, on a country-by-country basis, for other*
5 *good cause.*

6 “(6) *ADDITION OF COUNTRIES.—The Governor of*
7 *Guam and the Governor of the Commonwealth of the*
8 *Northern Mariana Islands, or the Governor of the*
9 *Virgin Islands of the United States, may request the*
10 *Secretary of the Interior and the Secretary of Home-*
11 *land Security to add a particular country to the list*
12 *of countries whose nationals may obtain the waiver*
13 *provided by this subsection, and the Secretary of*
14 *Homeland Security may grant such request after con-*
15 *sultation with the Secretary of the Interior and the*
16 *Secretary of State, and may promulgate regulations*
17 *with respect to the inclusion of that country and any*
18 *special requirements the Secretary of Homeland Secu-*
19 *urity, in the Secretary’s sole discretion, may impose*
20 *prior to allowing nationals of that country to obtain*
21 *the waiver provided by this subsection.”.*

22 “(b) *REGULATIONS DEADLINE.—Not later than one*
23 *year after the date of enactment of this Act, the Secretary*
24 *of Homeland Security, in consultation with the Secretary*
25 *of the Interior and the Secretary of State, shall promulgate*

1 *any necessary regulations to implement the waiver provided*
 2 *in the amendment made by subsection (a) for the Virgin*
 3 *Islands of the United States.*

4 *(c) WAIVER COUNTRIES.—The regulations described in*
 5 *subsection (b) shall include a listing of all member or asso-*
 6 *ciate member countries of the Caribbean Community whose*
 7 *nationals may obtain, on a country-by-country basis, the*
 8 *waiver provided by this section, except that such regulations*
 9 *shall not provide for a listing of any country if the Sec-*
 10 *retary of Homeland Security determines that such country’s*
 11 *inclusion on such list would represent a threat to the wel-*
 12 *fare, safety, or security of the United States or its territories*
 13 *and commonwealths, or would increase fraud or abuse of*
 14 *the nonimmigrant visa system.*

15 *(d) CONFORMING AMENDMENTS.—*

16 *(1) DOCUMENTATION REQUIREMENTS.—Section*
 17 *212(a)(7)(B)(iii) of the Immigration and Nationality*
 18 *Act (8 U.S.C. 1182(a)(7)(B)(iii)) is amended to read*
 19 *as follows:*

20 *“(iii) SPECIAL VISA WAIVER PRO-*
 21 *GRAMS.—For a provision authorizing waiv-*
 22 *er of clause (i) in the case of visitors to*
 23 *Guam or the Commonwealth of the North-*
 24 *ern Mariana Islands, or the Virgin Islands*
 25 *of the United States, see subsection (l).”.*

1 (2) *ADMISSION OF NONIMMIGRANTS.*—Section
2 214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is amend-
3 ed by striking “Guam or the Commonwealth of the
4 Northern Mariana Islands” each place such term ap-
5 pears and inserting “Guam or the Commonwealth of
6 the Northern Mariana Islands, or the Virgin Islands
7 of the United States”.

8 (e) *FEEES.*—The Secretary of Homeland Security shall
9 establish an administrative processing fee to be charged and
10 collected from individuals seeking to enter the Virgin Is-
11 lands of the United States in accordance with section 212(l)
12 of the Immigration and Nationality Act (8 U.S.C. 1182(l)),
13 as amended by this Act. Such fee shall be set at a level
14 that will ensure recovery of the full costs of such processing,
15 any additional costs associated with the administration of
16 the fees collected, and any sums necessary to offset reduced
17 collections of the nonimmigrant visa fee or the electronic
18 travel authorization fee that otherwise would have been col-
19 lected from such individuals.

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