

117TH CONGRESS
1ST SESSION

H. R. 5460

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

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 2021”.

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:

1 “(1) GUAM AND NORTHERN MARIANA ISLANDS VISA
2 WAIVER PROGRAM; VIRGIN ISLANDS VISA WAIVER PRO-
3 GRAM.—

4 “(1) IN GENERAL.—The requirement of sub-
5 section (a)(7)(B)(i) may be waived by the Secretary
6 of Homeland Security, in the case of an alien apply-
7 ing for admission as a nonimmigrant visitor for busi-
8 ness or pleasure and solely for entry into and stay
9 in Guam or the Commonwealth of the Northern
10 Mariana Islands, or the Virgin Islands of the United
11 States, for a period not to exceed 45 days, if the
12 Secretary of Homeland Security, after consultation
13 with the Secretary of the Interior, the Secretary of
14 State, and the Governor of Guam and the Governor
15 of the Commonwealth of the Northern Mariana Is-
16 lands, or the Governor of the Virgin Islands of the
17 United States, as the case may be, determines
18 that—

19 “(A) an adequate arrival and departure
20 control system has been developed in Guam and
21 the Commonwealth of the Northern Mariana Is-
22 lands, and the Virgin Islands of the United
23 States; and

24 “(B) such a waiver does not represent a
25 threat to the welfare, safety, or security of the

1 United States or its territories and common-
2 wealths.

3 “(2) ALIEN WAIVER OF RIGHTS.—An alien may
4 not be provided a waiver under this subsection un-
5 less the alien has waived any right—

6 “(A) to review or appeal under this Act an
7 immigration officer’s determination as to the
8 admissibility of the alien at the port of entry
9 into Guam or the Commonwealth of the North-
10 ern Mariana Islands, or the Virgin Islands of
11 the United States; or

12 “(B) to contest, other than on the basis of
13 an application for withholding of removal under
14 section 241(b)(3) of this Act or under the Con-
15 vention Against Torture, or an application for
16 asylum if permitted under section 208 of this
17 Act, any action for removal of the alien.

18 “(3) REGULATIONS.—All necessary regulations
19 to implement this subsection shall be promulgated
20 by the Secretary of Homeland Security, in consulta-
21 tion with the Secretary of the Interior and the Sec-
22 retary of State. The promulgation of such regula-
23 tions shall be considered a foreign affairs function
24 for purposes of section 553(a) of title 5, United

1 States Code. At a minimum, such regulations should
2 include, but not necessarily be limited to—

3 “(A) a listing of all countries whose na-
4 tionals may obtain the waivers provided by this
5 subsection; and

6 “(B) any bonding requirements for nation-
7 als of some or all of those countries who may
8 present an increased risk of overstays or other
9 potential problems, if different from such re-
10 quirements otherwise provided by law for non-
11 immigrant visitors.

12 “(4) FACTORS.—In determining whether to
13 grant or continue providing the waiver under this
14 subsection to nationals of any country, the Secretary
15 of Homeland Security, in consultation with the Sec-
16 retary of the Interior and the Secretary of State,
17 shall consider all factors that the Secretary deems
18 relevant, including electronic travel authorizations,
19 procedures for reporting lost and stolen passports,
20 repatriation of aliens, rates of refusal for non-
21 immigrant visitor visas, overstays, exit systems, and
22 information exchange.

23 “(5) SUSPENSION.—The Secretary of Home-
24 land Security shall monitor the admission of non-
25 immigrant visitors to Guam and the Commonwealth

1 of the Northern Mariana Islands, and the Virgin Is-
2 lands of the United States, under this subsection. If
3 the Secretary determines that such admissions have
4 resulted in an unacceptable number of visitors from
5 a country remaining unlawfully in Guam or the
6 Commonwealth of the Northern Mariana Islands, or
7 the Virgin Islands of the United States, unlawfully
8 obtaining entry to other parts of the United States,
9 or seeking withholding of removal or asylum, or that
10 visitors from a country pose a risk to law enforce-
11 ment or security interests of Guam or the Common-
12 wealth of the Northern Mariana Islands, or the Vir-
13 gin Islands of the United States, or of the United
14 States (including the interest in the enforcement of
15 the immigration laws of the United States), the Sec-
16 retary shall suspend the admission of nationals of
17 such country under this subsection. The Secretary of
18 Homeland Security may in the Secretary's discretion
19 suspend the Guam and Northern Mariana Islands
20 visa waiver program, or the Virgin Islands visa waiv-
21 er program, at any time, on a country-by-country
22 basis, for other good cause.

23 “(6) ADDITION OF COUNTRIES.—The Governor
24 of Guam and the Governor of the Commonwealth of
25 the Northern Mariana Islands, or the Governor of

1 the Virgin Islands of the United States, may request
2 the Secretary of the Interior and the Secretary of
3 Homeland Security to add a particular country to
4 the list of countries whose nationals may obtain the
5 waiver provided by this subsection, and the Sec-
6 retary of Homeland Security may grant such request
7 after consultation with the Secretary of the Interior
8 and the Secretary of State, and may promulgate reg-
9 ulations with respect to the inclusion of that country
10 and any special requirements the Secretary of
11 Homeland Security, in the Secretary's sole discre-
12 tion, may impose prior to allowing nationals of that
13 country to obtain the waiver provided by this sub-
14 section.”.

15 (b) REGULATIONS DEADLINE.—Not later than one
16 year after the date of enactment of this Act, the Secretary
17 of Homeland Security, in consultation with the Secretary
18 of the Interior and the Secretary of State, shall promul-
19 gate any necessary regulations as described in subsection
20 (a) required to implement the waiver provided in such sub-
21 section for the Virgin Islands.

22 (c) WAIVER COUNTRIES.—The regulations described
23 in subsection (b) shall include a listing of all member or
24 associate member countries of the Caribbean Community
25 (CARICOM) whose nationals may obtain, on a country-

1 by-country basis, the waiver provided by this section, ex-
 2 cept that such regulations shall not provide for a listing
 3 of any country if the Secretary of Homeland Security de-
 4 termines that such country's inclusion on such list would
 5 represent a threat to the welfare, safety, or security of
 6 the United States or its territories and commonwealths.

7 (d) CONFORMING AMENDMENTS.—

8 (1) DOCUMENTATION REQUIREMENTS.—Section
 9 212(a)(7)(B)(iii) of the Immigration and Nationality
 10 Act (8 U.S.C. 1182(a)(7)(B)(iii)) is amended to
 11 read as follows:

12 “(iii) SPECIAL VISA WAIVER PRO-
 13 GRAMS.—For a provision authorizing waiv-
 14 er of clause (i) in the case of visitors to
 15 Guam or the Commonwealth of the North-
 16 ern Mariana Islands, or the Virgin Islands
 17 of the United States, see subsection (l).”.

18 (2) ADMISSION OF NONIMMIGRANTS.—Section
 19 214(a)(1) of such Act (8 U.S.C. 1184(a)(1)) is
 20 amended by striking “Guam or the Commonwealth
 21 of the Northern Mariana Islands” each place such
 22 term appears and inserting “Guam or the Common-
 23 wealth of the Northern Mariana Islands, or the Vir-
 24 gin Islands of the United States”.

1 (e) FEES.—The Secretary of Homeland Security
2 shall establish an administrative processing fee to be
3 charged and collected from individuals seeking to enter the
4 Virgin Islands in accordance with section 212(l) of the Im-
5 migration and Nationality Act (8 U.S.C. 1182(l)), as
6 amended by this Act. Such fee shall be set at a level that
7 will ensure recovery of the full costs of such processing,
8 any additional costs associated with the administration of
9 the fees collected, and any sums necessary to offset re-
10 duced collections of the nonimmigrant visa fee or the elec-
11 tronic travel authorization fee that otherwise would have
12 been collected from such individuals.

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