



Summary of H.R. 4038

American Security Against Foreign Enemies (SAFE) Act

November 2015

H.R. 4038, introduced by Homeland Security Chairman Michael McCaul (R-TX) and Congressman Richard Hudson (R-NC), is a flawed bill that fails to adequately address the legitimate security concerns posed by resettling Syrian refugees in the United States.

I. The bill only requires certification from Executive Branch officials that Syrian and Iraqi refugees do not pose a security threat.

Even though FBI Director James Comey testified before Congress that the U.S. is unable to properly vet Syrian refugees for terrorist ties, this bill fails to prevent the Obama administration from admitting 10,000 Syrian refugees per year. Instead, Section 2(a) only requires the FBI Director to conduct a “thorough background investigation” and certify to the Homeland Security (DHS) Secretary and Director of National Intelligence whether the Syrian or Iraqi refugee applicant “is a threat to the security of the United States.”

Section 2(b) requires the DHS Secretary, FBI Director, and Director of National Intelligence to unanimously agree that the intending Syrian or Iraqi refugee is not a threat to U.S. security. The three officials must certify their decision to the “appropriate Congressional Committees.”

Why This Bill is Flawed

This bill operates under the false assumption that it is possible to properly vet refugees from the Middle East, provided new processes are put in place. This ignores the realities of the situation on the ground, disregards expert opinion on the issue, and the susceptibility these individuals have to radicalization once they arrive.

II. This bill requires monthly and annual reports on Middle Eastern refugee resettlement.

Section 2(c) requires the DHS Inspector General to annually conduct a “risk-based review” of the certifications made by the DHS Secretary, FBI Director, and Director of National Intelligence.

This section also requires the DHS IG to provide an annual report to the “appropriate Congressional Committees” of his findings.

Section 2(d) requires the DHS Secretary to submit a monthly report to the “appropriate Congressional Committees.” The report must include the number of Syrian and Iraqi aliens the DHS Secretary, FBI Director, and Director of National Intelligence certified the previous month as not posing a security threat. The report also must include the number of Syrian and Iraqi aliens the three officials did not certify, including how each official voted.

III. Appropriate Congressional Committees Defined

Section 2(e) defines the appropriate Congressional committees, for reporting purposes, as:

Senate: Armed Services; Select Committee on Intelligence; Judiciary; Homeland Security and Governmental Affairs; Foreign Relations; Appropriations.

House: Armed Services; Permanent Select Committee on Intelligence; Judiciary; Homeland Security; Appropriations; Foreign Affairs.

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