

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs, Space, and Domestic Security Committee

BILL: SM 1528

INTRODUCER: Senator Siplin

SUBJECT: Haitian Family Reunification Parole Program

DATE: February 1, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

On January 12, 2010, the largest earthquake ever recorded in Haiti devastated parts of the country, including the capital. The quake, centered about 15 miles southwest of Port-au-Prince, had a magnitude of 7.0 with a series of strong aftershocks that followed. The damage is severe and catastrophic. It is estimated that 3 million people, approximately one third of the overall population, have been affected by the earthquake. The Government of Haiti is reporting over 240,000 deaths and 300,000 injured.

The memorial urges the Secretary of the Department of Homeland Security to create the Haitian Family Reunification Parole Program (program) to support Haitian applicants for immigration to join their families in the United States due to the current circumstances in Haiti. The memorial proposes that the program be established similar to the current Cuban Family Reunification Parole Program to hasten the reunification of families and discourage Haitian citizens from resorting to illegal and dangerous means of migration into the United States.

II. Present Situation:

2010 Catastrophic Earthquake in Haiti¹

On January 12, 2010, the largest earthquake ever recorded in Haiti devastated parts of the country, including the capital. The quake, centered about 15 miles southwest of Port-au-Prince, had a magnitude of 7.0 with a series of strong aftershocks that followed. The damage is severe

¹ Information under this subheading obtained from: Congressional Research Service Report R41023, *Haiti Earthquake: Crisis and Response*, by Rhoda Margesson and Maureen Taft-Morales (February 19, 2010). Available at: <http://fpc.state.gov/documents/organization/139280.pdf>.

and catastrophic. It is estimated that 3 million people, approximately one third of the overall population, have been affected by the earthquake. The Government of Haiti is reporting over 240,000 deaths and 300,000 injured. In the immediate wake of the earthquake, President Rene Preval described conditions in his country as “unimaginable,” and appealed for international assistance. As immediate needs are met and the humanitarian relief operation continues, the government is struggling to restore the institutions needed for it to function, ensure political stability, and address long-term reconstruction and development planning.

The Immigration and Nationality Act

Immigration into the United States is largely governed by the Immigration and Nationality Act (INA).² The INA utilizes several federal agencies, including the Department of Justice, Department of Homeland Security (DHS), and Department of State (DOS) to administer and enforce federal immigration policies. An alien is a person present in the United States who is not a citizen of the United States.³ The INA provides for the conditions whereby an alien may be admitted to and remain in the United States⁴ and provides a registration system to monitor the entry and movement of aliens in the United States.⁵ An alien may be subject to removal for certain actions, including entering the United States without inspection, presenting fraudulent documents at a port of entry, health reasons, violating the conditions of admission, or engaging in certain other proscribed conduct.⁶

Various categories of legal immigration status exist that include students, workers, tourists, research professors, diplomats, and others.⁷ These categories are based on the type and duration of permission granted to be present in the United States, and expire based on those conditions. All lawfully present aliens must have appropriate documentation based on status.⁸

Temporary Protected Status for Haitians⁹

When civil unrest, violence, or natural disasters erupt in spots around the world, concerns arise over the safety of foreign nationals from these troubled places who are in the United States. Provisions exist in the INA to offer temporary protected status (TPS) or relief from removal under specified circumstances. A foreign national who is granted TPS receives a registration document and an employment authorization for the duration of TPS. The United States currently provides TPS or deferred enforced departure to over 300,000 foreign nationals from a total of seven countries: El Salvador, Haiti, Honduras, Liberia, Nicaragua, Somalia, and Sudan. Liberians have had relief from removal for the longest period, first receiving TPS in March 1991 following the outbreak of civil war.

The devastation caused by the January 12, 2010 earthquake in Haiti prompted calls for the Administration of President Barack Obama to grant TPS to Haitians in the United States at the

² 8 U.S.C. s. 1101, et seq

³ Id. s. 1101(a)(3)

⁴ Id. ss. 1181-1182, 1184.

⁵ Id. ss. 1201(b), 1301-130.

⁶ Id. ss. 1225, 1227, 1228, 1229, 1229c, 1231

⁷ Id. ss. 201- 210

⁸ Id. s. 221

⁹ Information under this subheading obtained from: Congressional Research Service Report, *Temporary Protected Status: Current Immigration Policy and Issues*, by Ruth Ellen Wasem and Karma Ester (December 13, 2011). Available at: <http://www.fas.org/sgp/crs/homesec/RS20844.pdf>.

time of the earthquake. The scale of the current humanitarian crisis led DHS to announce on January 13, 2010, that it is temporarily halting the deportation of Haitians. On January 15, 2010, DHS Secretary Janet Napolitano granted TPS to Haitians in the United States at the time of the earthquake. On May 17, 2011, TPS for Haitians was extended until January 22, 2013.

The INA's Humanitarian Parole Authority¹⁰

Humanitarian parole, in the context of immigration, refers to official permission for an otherwise inadmissible alien to legally enter the United States temporarily. This includes aliens required to have a visa to visit or immigrate to the United States who are unable to obtain one, either due to ineligibility or urgent circumstances that make it impractical to apply for one. Specifically, the INA grants the Secretary of DHS discretionary authority to parole an alien into the United States temporarily on a case-by-case basis for urgent humanitarian reasons, such as to obtain medical treatment not available in his or her home country, visit a dying relative, or reunify young children with relatives.

Advocates for Haitians are asking Secretary Napolitano to give humanitarian parole to those Haitians with approved petitions for visas. In the context of immigration law, parole means that the foreign national has been granted temporary permission to be present in the United States. Parole does not constitute formal admission to the United States, and parolees are required to leave when the terms of their parole expire, or if otherwise eligible, to be admitted in a lawful status.

Some U.S. citizens and legal permanent residents (LPRs) have family in Haiti for whom they have petitioned for visas to become LPRs in the United States. According to the DOS, there are 54,716 Haitians who have approved petitions to immigrate to the United States and who are waiting for one of these numerically limited visas to become available. The INA provides for a permanent annual worldwide level of 675,000 LPRs, but this level is flexible and certain categories of LPRs are permitted to exceed the limits. The INA establishes per-country levels at 7% of the worldwide level for other family-sponsored LPRs. Immediate relatives of U.S. citizens are among those exempt from direct numerical limits.

Cuban Family Reunification Parole Program¹¹

On November 21, 2007, the Department of Homeland Security announced the establishment of the Cuban Family Reunification Program (CFRP), which offers Cuban nationals who are beneficiaries of approved family-based immigrant visa petitions, for which no visa is currently available, an opportunity to come to the United States rather than remain in Cuba to apply for lawful permanent resident status. The purpose of the CFRP is to expedite family reunification through safe, legal, and orderly channels of migration to the United States and to discourage dangerous and irregular maritime migration. Whether to parole a particular Cuban national is case-by-case, discretionary determination. Cuban nationals who reside in Cuba and who are the beneficiaries of a properly filed Form I-130, Petition for Alien Relative, that has been approved, but for which an immigrant visa is not yet immediately available is eligible.

¹⁰ Information under this subheading obtained from: Congressional Research Service Report RS21349, *U.S. Immigration Policy on Haitian Migrants*, by Ruth Ellen Wasem (January 21, 2011). Available at: http://www.uscg.mil/history/docs/CRS_RS21349.pdf.

¹¹ Information under this subheading obtained from: U.S. Citizenship and Immigration Service. *Fact Sheet: Cuban Family Reunification Parole Program*. (November 21, 2007). Available at: http://www.uscis.gov/files/pressrelease/CFRP_FS_21Nov07.pdf.

III. Effect of Proposed Changes:

The memorial urges the Secretary of the Department of Homeland Security to create the Haitian Family Reunification Parole Program to support Haitian applicants for immigration to join their families in the United States due to the current circumstances in Haiti. The memorial proposes that the program be established similar to the current Cuban Family Reunification Program to hasten the reunification of families and discourage Haitian citizens from resorting to illegal and dangerous means of migration into the United States.

Copies of the memorial are to be distributed to the President of the United States, the Speaker of the United States House of Representatives, each member of the Florida delegation to the United States Congress, and to the Secretary of Homeland Security, Janet Napolitano.

Proponents of expediting the admission of Haitians with family in the United States maintain that it would relieve at least some of the humanitarian burden in Haiti. Those opposed to expediting the admission of Haitians assert that it would not be in the national interest, nor would it be fair to other foreign nationals waiting to reunite with their families.¹²

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

¹² Congressional Research Service Report RS21349, *U.S. Immigration Policy on Haitian Migrants*, by Ruth Ellen Wasem (January 21, 2011). Available at: http://www.uscg.mil/history/docs/CRS_RS21349.pdf.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
