

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HM 151

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Campbell; Rogers and others

Voice Vote Y's --- N's

**COMPANION
BILLS:** SM 1478

GOVERNOR'S ACTION: N/A

SUMMARY ANALYSIS

HM 151 passed the House on April 29, 2013 as SM 1478.

On January 21, 2010, Haiti suffered the largest earthquake in the country's history. The magnitude 7 earthquake caused severe damage, and Haitians are still feeling its effects. As a result, many are seeking to immigrate to the United States.

Currently, to successfully immigrate to the United States by visa, Haitians must first have a petition for a visa approved. Once their petitions are approved, they have to remain in Haiti until a visa becomes available. The wait for a visa can take anywhere from three to eleven years.

SM 1478 urges the United States Secretary of Homeland Security and the United States Department of Homeland Security to use the Immigration and Nationality Act's humanitarian parole authority to allow Haitians that have approved family-based visa petitions to wait for the availability of a visa in the United States.

This memorial has no fiscal impact on state or local government.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

The Immigration and Nationality Act

The Immigration and Nationality Act (INA) is the predominant legal authority governing immigration to the United States.¹ The INA provides for the conditions whereby an alien² may be admitted and remain in the United States.³ It also provides a registration system to monitor the entry and movement of aliens in the United States.⁴ An alien may be subject to removal for certain actions, including entering the United States without inspection, presenting fraudulent documents, health reasons, violating conditions of admission, or engaging in certain other prohibited conduct.⁵

There are various categories of legal immigration status that are based on the type and duration of permission granted to be in the United States, and expire based on those conditions. The categories include, but are not limited to: students; workers; tourists; research professors; and diplomats. All lawfully present aliens must have appropriate documentation based on status.

The Secretary of Homeland Security is charged with the administration and enforcement of the INA; however, the Attorney General is responsible for questions of law.⁶

Effect of Earthquake

On January 21, 2010, Haiti suffered the largest earthquake in the country's history.⁷ The earthquake had a magnitude of 7 (out of 10) and caused severe damage throughout the country.⁸ The Haitian government estimated that the earthquake was responsible for over 230,000 deaths and up to \$14 billion in damage.⁹ The Haitian government also estimated that the earthquake affected approximately one-third of the overall population, including over one million that were displaced.¹⁰

Today, Haitians are still feeling the effects. More than 350,000 are still living in tents, and the lack of a stable political, health, and economic infrastructure has allowed the country to be especially vulnerable to disease and crime.¹¹ In addition, most of the donor-supported cash-for-work programs set up after the quake have ended.¹²

Temporary Protected Status for Haitians¹³

¹ 8 U.S.C. s. 1101 et seq.

² Section 1101(a)(3) of the INA defines "alien" as a person present in the United States who is not a citizen of the United States.

³ *Id.* at ss. 1181-1182, 1184.

⁴ *Id.* at ss. 1201(b), 1301-1302.

⁵ *Id.* at ss. 1225, 1227, 1228, 1229, 1229c, 1231.

⁶ *Id.* at s. 1103(a)(1).

⁷ 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>.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Information obtained from the *Economist* magazine's online archive. The article is titled, "Haiti, Still Waiting for Recovery," from the print edition of the *Economist* on January 5, 2013. Available at: www.economist.com.

¹² *Id.*

¹³ The information under this subheading was 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/RS20844.pdf>.

In response to the humanitarian crisis in Haiti caused by the earthquake, the DHS announced on January 13, 2010, that it would temporarily halt deportation of Haitians from the United States. This is known as granting Temporary Protected Status (TPS). TPS is a tool available to the DHS when various countries are impacted by civil unrest, violence, or natural disaster. A foreign national who is granted TPS receives a registration document and an employment authorization for the duration of the TPS.

On May 17, 2011, Secretary of Homeland Security, Janet Napolitano, extended the TPS for Haitians to January 22, 2013. The extension allows TPS for Haitians who arrived in the United States up to one year after the earthquake.

The INA's Humanitarian Parole Authority¹⁴

In addition to TPS, many Haitians are hoping that the INA uses its humanitarian parole authority to allow Haitians that have approved visa petitions to wait for their visas in the United States.

Currently, to successfully immigrate to the United States by visa, Haitians (and all other aliens) must first have their petitions for a visa approved. Once their petitions are approved, they have to remain in Haiti until a visa becomes available. However, there is currently a lengthy worldwide backlog for available visas. As a result, the wait for a visa can take anywhere from three to eleven years. According to the DOS, there were 105,193 Haitians who had approved petitions to immigrate to the United States at the end of FY 2010.

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. 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.

Cuban Reunification Parole Program¹⁵

On November 21, 2007, the DHS announced the establishment of the Cuban Family Reunification Program (CFRP), which allows Cuban nationals who have received 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 (LPR). The stated purpose of the program 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.

Effect of Proposed Changes

The memorial urges the DHS 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 similar to the CFRP program

¹⁴ The information under this subheading was 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.

¹⁵ The information under this subheading was obtained from the U.S. Department of State Website at: <http://www.state.gov/p/wha/rls/fs/2009/115413.htm>.

described above. Its goal would be to “hasten the reunification of families and discourage Haitian citizens from resorting to illegal and dangerous means of migration into the United States.”

Proponents of expediting the admission of Haitians with family in the United States maintain 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.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.