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'Fiancé visas' off limits in rush to tighten borders

Republicans are wary of hurting a program they think bolsters marriage

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Lawmakers are rushing to tighten the nation's border controls in the wake of terrorist attacks in Paris and San Bernardino, California. But even amid that push, they've been wary of singling out so-called fiancé visas — which one of the San Bernardino shooters used to enter the United States.

One of the biggest reasons: Republicans are reluctant to undermine a program that supports marriage.

 "They don't want to cross Cupid," Rep. Steve King (R-Iowa) said of Congress' reluctance to restrict fiancé visas. Lawmakers "think a fiancée is certainly someone who had fallen madly and deeply in love with their fiancé so therefore, why would you interrupt a visa that's designed to put people together and start new families here?"

So, rather than clamp down on the tens of thousands of fiancé visas issued each year, House and Senate Republicans are calling for a broader review of all avenues by which immigrants can travel to U.S. as part of their counterterrorism strategy. Even the most conservative GOP lawmakers are hesitant, at least for now, to pursue explicit curbs on the immigration of the future spouses of U.S. citizens.

That wariness stands in sharp contrast with the swift pace at which lawmakers moved to restrict the Syrian refugee resettlement program after the Paris terrorist attacks, as well as potential loopholes with the nation's visa waiver system. The House voted 407-19 on Tuesday to tighten the visa waiver program, which allows citizens of 38 countries to travel here without first obtaining a visa.

Fiancé visas have gotten far gentler treatment to this point. For instance, King, an immigration hard-liner, took a wait-and-see approach on Tuesday, saying he wants to review the program to see whether there are ways to root out fraudulent applications. And Sen. Jeff Sessions (R-Ala.), one of the chamber's most conservative voices on immigration, also said the program should be reviewed in order to limit fraud, but he wasn't entertaining any changes to the program for now.

"We admit a million people a year, so I think high on the list of people we would lawfully admit would be spouses or people about to be married," Sessions said. "In general, I think we would want to, if we can, to maintain that kind of priority given to spouses and fiancés."

Tashfeen Malik, the now-deceased female suspect in last week's massacre, was a native of Pakistan who came to the United States on a fiancée visa, which allows foreigners to enter the country to marry an American citizen. Her husband, Syed Farook, was a U.S. citizen who carried out the attack at the San Bernardino developmental-disabilities center with Malik, officials said.

The Obama administration has launched a review of the fiancé visa, officially classified as a K-1 visa, in the departments of State and Homeland Security for "possible program enhancements," a DHS spokeswoman said. Officials, however, did not offer specifics.

And on Capitol Hill, GOP lawmakers are largely pausing on whether to limit the K-1 program until they've had a review of the fiancé visa and the multitude of other ways that foreigners can enter the United States. That has mirrored the Obama administration's approach.

"There is going to probably be a review across the board," said Sen. Jeff Flake of Arizona, a key GOP voice on immigration policy who also sits on the Foreign Relations Committee. "I'm not calling for a halt or a moratorium or anything. I think there will be a review, certainly."

Flake said no potential security issue involving fiancé visas have jumped out at him so far, adding: "I know there's significant scrutiny that goes into those."

Indeed, immigration policy experts and lawyers say foreigners who apply for the fiancé visa go through some of the most rigorous screening requirements before they are admitted into the United States — akin to the arduous process for obtaining permanent residency, analysts say.

Obtaining a fiancé visa can take months, and involves multiple checks — such as background checks, biometric tests and medical screenings — as well as interviews with consular officials. Couples often have to show documentation, such as photographs or wedding invitations, to prove they are together and are planning to get married. The partner who is a U.S. citizen also has to undergo a criminal background check.

And when a person enters the United States on a fiancé visa, they must marry their intended spouse within 90 days and then apply for a green card. If they don't, the immigrant could be deported.

"It would be unprecedented in American history," Alex Nowrasteh, immigration policy analyst at the Cato Institute, said of potential limits to immigration based on marriage. "If they were to put significant roadblocks [to fiancé visas], it would be a huge infringement on Americans to marry who they want to."

In fiscal 2014, the U.S. issued 35,925 K-1 visas, while rejecting 618. Officials are careful to say those figures don't account for all applications that year since many are pending or may have been withdrawn, but the figures do nonetheless suggest a relatively low rejection rate. The Center for Immigration Studies, a think tank that supports stricter immigration controls, noted that the fiancé visa is rarely ever denied.

"Maybe we should be more careful about issuing these visas in this category, too, along with all the others," wrote David North, a fellow at the center. "Just because someone is entering the country as the beloved of one our citizens should not bring out an automatic rubber stamp of approval."

But any substantial legislative action on fiancé visas appears unlikely at this point. Key lawmakers are calling for a review of the visa system, but few legislative remedies beyond that have emerged.

Meanwhile, refugees and the visa waiver issue have both skyrocketed to the top of Congress' agenda. Enacting restrictions on the Syrian refugee resettlement program remains a major sticking point in ongoing negotiations over a year-end spending bill due at the end of this week. And lawmakers have said it's likely the visa waiver language winds up in the government funding legislation.

"I can't speak to her specific case because I don't know enough about it," Senate Foreign Relations Committee Chairman Bob Corker (R-Tenn.) said of Malik. "I will say in going through the issues that we have, I think we've got greater possibilities for bad things happening in our visa program than we once thought. So I think Congress is probably going to want to examine all of that."

Senate Judiciary Committee Chairman Chuck Grassley (R-Iowa), whose influential panel oversees immigration policy, said he would welcome a discussion about visas "generally," not just the K-1 visa.

"I think what that says is all of the means by which people entering the country are vetted need to be reviewed," Senate Majority Whip John Cornyn (R-Texas) said of Malik's fiancée visa. "It's a broader vetting criteria issue. So we will be looking into that and I think it's important."

Rep. Candice Miller (R-Mich.), the chief author of the visa waiver program that overwhelmingly passed the House on Tuesday, said she "absolutely" believes fiancé visas need to be reviewed, along with visa overstays, student visas and other facets of the U.S. immigration system.

"I think it is a good program," Miller said of the fiancé visa system. "But I always say the largest room is the room for improvement. And obviously, we have a big room for improvement there."