

104TH CONGRESS
2^D SESSION

H. R. 2202

AN ACT

To amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing border patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

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to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes.

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; AMENDMENTS TO IMMIGRATION**
 4 **AND NATIONALITY ACT; TABLE OF CON-**
 5 **TENTS.**

6 (a) SHORT TITLE.—This Act may be cited as the
 7 “Immigration in the National Interest Act of 1996”.

8 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-
 9 ITY ACT.—Except as otherwise specifically provided—

10 (1) whenever in this Act an amendment or re-
 11 peal is expressed as the amendment or repeal of a
 12 section or other provision, the reference shall be con-
 13 sidered to be made to that section or provision in the
 14 Immigration and Nationality Act, and

15 (2) amendments to a section or other provision
 16 are to such section or other provision as in effect on
 17 the date of the enactment of this Act and before any
 18 amendment made to such section or other provision
 19 elsewhere in this Act.

20 (c) TABLE OF CONTENTS.—The table of contents for
 21 this Act is as follows:

Sec. 1. Short title; amendments to Immigration and Nationality Act; table of contents.

**TITLE I—DETERRENCE OF ILLEGAL IMMIGRATION
THROUGH IMPROVED BORDER ENFORCEMENT, PILOT
PROGRAMS, AND INTERIOR ENFORCEMENT**

Subtitle A—Improved Enforcement at Border

- Sec. 101. Border patrol agents and support personnel.
- Sec. 102. Improvement of barriers at border.
- Sec. 103. Improved border equipment and technology.
- Sec. 104. Improvement in border crossing identification card.
- Sec. 105. Civil penalties for illegal entry.
- Sec. 106. Prosecution of aliens repeatedly reentering the United States unlawfully.
- Sec. 107. Inservice training for the border patrol.
- Sec. 108. Report.

Subtitle B—Pilot Programs

- Sec. 111. Pilot program on interior repatriation.
- Sec. 112. Pilot program on use of closed military bases for the detention of inadmissible or deportable aliens.
- Sec. 113. Pilot program to collect records of departing passengers.

Subtitle C—Interior Enforcement

- Sec. 121. Increase in personnel for interior enforcement.
- Sec. 122. Acceptance of state services to carry out deportation functions.

**TITLE II—ENHANCED ENFORCEMENT AND PENALTIES
AGAINST ALIEN SMUGGLING; DOCUMENT FRAUD**

**Subtitle A—Enhanced Enforcement and Penalties Against
Alien Smuggling**

- Sec. 201. Wiretap authority for alien smuggling investigations.
- Sec. 202. Racketeering offenses relating to alien smuggling.
- Sec. 203. Increased criminal penalties for alien smuggling.
- Sec. 204. Increased number of Assistant United States Attorneys.
- Sec. 205. Undercover investigation authority.

Subtitle B—Deterrence of Document Fraud

- Sec. 211. Increased criminal penalties for fraudulent use of government-issued documents.
- Sec. 212. New civil penalties for document fraud.
- Sec. 213. New civil penalty for failure to present documents and for preparing immigration documents without authorization.
- Sec. 214. New criminal penalties for failure to disclose role as preparer of false application for asylum and for preparing certain post-conviction applications.
- Sec. 215. Criminal penalty for knowingly presenting document which fails to contain reasonable basis in law or fact.
- Sec. 216. Criminal penalties for false claim to citizenship.

Subtitle C—Asset Forfeiture for Passport and Visa Offenses

- Sec. 221. Criminal forfeiture for passport and visa related offenses.
- Sec. 222. Subpoenas for bank records.

Sec. 223. Effective date.

TITLE III—INSPECTION, APPREHENSION, DETENTION, ADJUDICATION, AND REMOVAL OF INADMISSIBLE AND DEPORTABLE ALIENS

Subtitle A—Revision of Procedures for Removal of Aliens

- Sec. 300. Overview of changes in removal procedures.
- Sec. 301. Treating persons present in the United States without authorization as not admitted.
- Sec. 302. Inspection of aliens; expedited removal of inadmissible arriving aliens; referral for hearing (revised section 235).
- Sec. 303. Apprehension and detention of aliens not lawfully in the United States (revised section 236).
- Sec. 304. Removal proceedings; cancellation of removal and adjustment of status; voluntary departure (revised and new sections 239 to 240C).
- Sec. 305. Detention and removal of aliens ordered removed (new section 241).
- Sec. 306. Appeals from orders of removal (new section 242).
- Sec. 307. Penalties relating to removal (revised section 243).
- Sec. 308. Redesignation and reorganization of other provisions; additional conforming amendments.
- Sec. 309. Effective dates; transition.

Subtitle B—Removal of Alien Terrorists

PART 1—REMOVAL PROCEDURES FOR ALIEN TERRORISTS

- Sec. 321. Removal procedures for alien terrorists.
- Sec. 322. Funding for detention and removal of alien terrorists.

PART 2—INADMISSIBILITY AND DENIAL OF RELIEF FOR ALIEN TERRORISTS

- Sec. 331. Membership in terrorist organization as ground of inadmissibility.
- Sec. 332. Denial of relief for alien terrorists.

Subtitle C—Deterring Transportation of Unlawful Aliens to the United States

- Sec. 341. Definition of stowaway.
- Sec. 342. List of alien and citizen passengers arriving.
- Sec. 343. Provisions relating to contracts with transportation lines.

Subtitle D—Additional Provisions

- Sec. 351. Definition of conviction.
- Sec. 352. Immigration judges and compensation.
- Sec. 353. Rescission of lawful permanent resident status.
- Sec. 354. Civil penalties for failure to depart.
- Sec. 355. Clarification of district court jurisdiction.
- Sec. 356. Demonstration project for identification of illegal aliens in incarceration facility of Anaheim, California.
- Sec. 357. Enhanced penalties for failure to depart, illegal reentry, and passport and visa fraud.
- Sec. 358. Authorization of additional funds for removal of aliens.
- Sec. 359. Application of additional civil penalties to enforcement.
- Sec. 360. Prisoner transfer treaties.

- Sec. 361. Criminal alien identification system.
- Sec. 362. Waiver of exclusion and deportation ground for certain section 274C violators.
- Sec. 363. Authorizing registration of aliens on criminal probation or criminal parole.
- Sec. 364. Confidentiality provision for certain alien battered spouses and children.
- Sec. 365. Authority for State and local law enforcement assistance in deportation.

TITLE IV—ENFORCEMENT OF RESTRICTIONS AGAINST EMPLOYMENT

- Sec. 401. Pilot program for voluntary use of employment eligibility confirmation process.
- Sec. 402. Limiting liability for certain technical violations of paperwork requirements.
- Sec. 403. Paperwork and other changes in the employer sanctions program.
- Sec. 404. Strengthened enforcement of the employer sanctions provisions.
- Sec. 405. Reports on earnings of aliens not authorized to work.
- Sec. 406. Authorizing maintenance of certain information on aliens.
- Sec. 407. Unfair immigration-related employment practices.

TITLE V—REFORM OF LEGAL IMMIGRATION SYSTEM

Subtitle A—Refugees

- Sec. 501. Persecution for resistance to coercive population control methods.

Subtitle B—Asylum Reform

- Sec. 511. Asylum reform.
- Sec. 512. Fixing numerical adjustments for asylees at 10,000 each year.
- Sec. 513. Increase in asylum officers.

TITLE VI—RESTRICTIONS ON BENEFITS FOR ALIENS

- Sec. 600. Statements of national policy concerning welfare and immigration.

Subtitle A—Eligibility of Illegal Aliens for Public Benefits

PART 1—PUBLIC BENEFITS GENERALLY

- Sec. 601. Making illegal aliens ineligible for public assistance, contracts, and licenses.
- Sec. 602. Making unauthorized aliens ineligible for unemployment benefits.
- Sec. 603. General exceptions.
- Sec. 604. Treatment of expenses subject to emergency medical services exception.
- Sec. 605. Report on disqualification of illegal aliens from housing assistance programs.
- Sec. 606. Verification of student eligibility for postsecondary Federal student financial assistance.
- Sec. 607. Payment of public assistance benefits.
- Sec. 608. Definitions.
- Sec. 609. Regulations and effective dates.

PART 2—HOUSING ASSISTANCE

- Sec. 611. Actions in cases of termination of financial assistance.
- Sec. 612. Verification of immigration status and eligibility for financial assistance.
- Sec. 613. Prohibition of sanctions against entities making financial assistance eligibility determinations.
- Sec. 614. Regulations.

PART 3—PUBLIC EDUCATION BENEFITS

- Sec. 616. Authorizing States to deny public education benefits to aliens not lawfully present in the United States.

Subtitle B—Expansion of Disqualification From Immigration Benefits on the Basis of Public Charge

- Sec. 621. Ground for inadmissibility.
- Sec. 622. Ground for deportability.

Subtitle C—Attribution of Income and Affidavits of Support

- Sec. 631. Attribution of sponsor's income and resources to family-sponsored immigrants.
- Sec. 632. Requirements for sponsor's affidavit of support.
- Sec. 633. Cosignature of alien student loans.
- Sec. 634. Statutory construction.

TITLE VII—FACILITATION OF LEGAL ENTRY

- Sec. 701. Additional land border inspectors; infrastructure improvements.
- Sec. 702. Commuter lane pilot programs.
- Sec. 703. Preinspection at foreign airports.
- Sec. 704. Training of airline personnel in detection of fraudulent documents.

TITLE VIII—MISCELLANEOUS PROVISIONS

Subtitle A—Amendments to the Immigration and Nationality Act

- Sec. 801. Nonimmigrant status for spouses and children of members of the Armed Services.
- Sec. 802. Amended definition of aggravated felony.
- Sec. 803. Authority to determine visa processing procedures.
- Sec. 804. Waiver authority concerning notice of denial of application for visas.
- Sec. 805. Treatment of Canadian landed immigrants.
- Sec. 806. Changes relating to H-1B nonimmigrants.
- Sec. 807. Validity of period of visas.
- Sec. 808. Limitation on adjustment of status of individuals not lawfully present in the United States.
- Sec. 809. Limited access to certain confidential INS files.
- Sec. 810. Change of nonimmigrant classification.
- Sec. 811. Certification requirements for foreign health-care workers.
- Sec. 812. Computation of targeted assistance.

Subtitle B—Other Provisions

- Sec. 831. Commission report on fraud associated with birth certificates.
- Sec. 832. Uniform vital statistics.

- Sec. 833. Communication between State and local government agencies, and the Immigration and Naturalization Service.
- Sec. 834. Regulations regarding habitual residence.
- Sec. 835. Female genital mutilation.
- Sec. 836. Designation of Portugal as a visa waiver pilot program country with probationary status.
- Sec. 837. Adjustment of status for certain Polish and Hungarian parolees.
- Sec. 838. Support of demonstration projects.
- Sec. 839. Treatment of certain aliens who served with special guerrilla units in Laos.
- Sec. 840. Sense of the Congress regarding the mission of the Immigration and Naturalization Service.
- Sec. 841. Authorization of reimbursement of certain Polish applicants for the 1995 diversity immigrant program.
- Sec. 842. Sense of Congress; requirements regarding notice.
- Sec. 843. Sense of the Congress with respect to State criminal alien assistance program.

Subtitle C—Technical Corrections

- Sec. 851. Miscellaneous technical corrections.

1 **TITLE I—DETERRENCE OF ILLE-**
 2 **GAL IMMIGRATION THROUGH**
 3 **IMPROVED BORDER EN-**
 4 **FORCEMENT, PILOT PRO-**
 5 **GRAMS, AND INTERIOR EN-**
 6 **FORCEMENT**

7 **Subtitle A—Improved Enforcement**
 8 **at Border**

9 **SEC. 101. BORDER PATROL AGENTS AND SUPPORT PER-**
 10 **SONNEL.**

11 (a) INCREASED NUMBER OF BORDER PATROL POSI-
 12 TIONS.—The number of border patrol agents shall be in-
 13 creased, for each fiscal year beginning with the fiscal year
 14 1996 and ending with the fiscal year 2000, by 1,000 full-
 15 time equivalent positions above the number of equivalent
 16 positions as of September 30, 1994.

1 (b) INCREASE IN SUPPORT PERSONNEL.—The num-
2 ber of full-time support positions for personnel in support
3 of border enforcement, investigation, detention and depor-
4 tation, intelligence, information and records, legal pro-
5 ceedings, and management and administration in the Im-
6 migration and Naturalization Service shall be increased,
7 beginning with fiscal year 1996, by 800 positions above
8 the number of equivalent positions as of September 30,
9 1994.

10 (c) DEPLOYMENT OF NEW BORDER PATROL
11 AGENTS.—The Attorney General shall, to the maximum
12 extent practicable, ensure that the border patrol agents
13 hired pursuant to subsection (a) shall—

14 (1) be deployed among the various Immigration
15 and Naturalization Service sectors in proportion to
16 the level of illegal crossing of the borders of the
17 United States measured in each sector during the
18 preceding fiscal year and reasonably anticipated in
19 the next fiscal year, and

20 (2) be actively engaged in law enforcement ac-
21 tivities related to such illegal crossings.

22 **SEC. 102. IMPROVEMENT OF BARRIERS AT BORDER.**

23 (a) IN GENERAL.—The Attorney General, in con-
24 sultation with the Commissioner of the Immigration and
25 Naturalization Service, shall take such actions as may be

1 necessary to install additional physical barriers and roads
2 (including the removal of obstacles to detection of illegal
3 entrants) in the vicinity of the United States border to
4 deter illegal crossings in areas of high illegal entry into
5 the United States.

6 (b) CONSTRUCTION OF FENCING AND ROAD IM-
7 PROVEMENTS IN THE BORDER AREA NEAR SAN DIEGO,
8 CALIFORNIA.—

9 (1) IN GENERAL.—In carrying out subsection
10 (a), the Attorney General shall provide for the con-
11 struction along the 14 miles of the international
12 land border of the United States, starting at the Pa-
13 cific Ocean and extending eastward, of second and
14 third fences, in addition to the existing reinforced
15 fence, and for roads between the fences.

16 (2) PROMPT ACQUISITION OF NECESSARY EASE-
17 MENTS.—The Attorney General shall promptly ac-
18 quire such easements as may be necessary to carry
19 out this subsection and shall commence construction
20 of fences immediately following such acquisition (or
21 conclusion of portions thereof).

22 (3) AUTHORIZATION OF APPROPRIATIONS.—
23 There are authorized to be appropriated to carry out
24 this subsection not to exceed \$12,000,000. Amounts

1 copters, four-wheel drive vehicles, sedans, night vision goggles,
2 gles, night vision scopes, and sensor units) determined
3 available for transfer by any other agency of the Federal
4 Government upon request of the Attorney General.

5 **SEC. 104. IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARD.**
6

7 (a) IN GENERAL.—Section 101(a)(6) (8 U.S.C.
8 1101(a)(6)) is amended by adding at the end the following:
9 “Such regulations shall provide that (A) each such
10 document include a biometric identifier (such as the fingerprint
11 or handprint of the alien) that is machine readable and (B) an alien
12 presenting a border crossing identification card is not permitted to
13 cross over the border into the United States unless the biometric
14 identifier contained on the card matches the appropriate biometric
15 characteristic of the alien.”.

16
17 (b) EFFECTIVE DATES.—

18 (1) Clause (A) of the sentence added by the
19 amendment made by subsection (a) shall apply to
20 documents issued on or after 18 months after the
21 date of the enactment of this Act.

22 (2) Clause (B) of such sentence shall apply to
23 cards presented on or after 3 years after the date
24 of the enactment of this Act.

1 (c) REPORT.—Not later than one year after the im-
2 plementation of clause (A) of the sentence added by the
3 amendment made by subsection (a) the Attorney General
4 shall submit to Congress a report on the impact of such
5 clause on border crossing activities.

6 **SEC. 105. CIVIL PENALTIES FOR ILLEGAL ENTRY.**

7 (a) IN GENERAL.—Section 275 (8 U.S.C. 1325) is
8 amended—

9 (1) by redesignating subsections (b) and (c) as
10 subsections (c) and (d), respectively, and

11 (2) by inserting after subsection (a) the follow-
12 ing new subsection:

13 “(b) Any alien who is apprehended while entering (or
14 attempting to enter) the United States at a time or place
15 other than as designated by immigration officers shall be
16 subject to a civil penalty of—

17 “(1) at least \$50 and not more than \$250 for
18 each such entry (or attempted entry), or

19 “(2) twice the amount specified in paragraph
20 (1) in the case of an alien who has been previously
21 subject to a civil penalty under this subsection.

22 Civil penalties under this subsection are in addition to,
23 and not in lieu of, any criminal or other civil penalties
24 that may be imposed.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to illegal entries or attempts to
3 enter occurring on or after the first day of the sixth month
4 beginning after the date of the enactment of this Act.

5 **SEC. 106. PROSECUTION OF ALIENS REPEATEDLY REEN-**
6 **TERING THE UNITED STATES UNLAWFULLY.**

7 (a) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to the Attorney General
9 such sums as may be necessary to provide for detention
10 and prosecution of each alien who commits an act that
11 constitutes a violation of section 275(a) of the Immigra-
12 tion and Nationality Act if the alien has committed such
13 an act on two previous occasions. Funds appropriated pur-
14 suant to this subsection are authorized to remain available
15 until expended.

16 (b) SENSE OF CONGRESS.—It is the sense of Con-
17 gress that the Attorney General should use available re-
18 sources to assure detention and prosecution of aliens in
19 the cases described in subsection (a).

20 **SEC. 107. INSERVICE TRAINING FOR THE BORDER PATROL.**

21 (a) REQUIREMENT.—Section 103 (8 U.S.C. 1103) is
22 amended by adding at the end the following new sub-
23 section:

24 “(e)(1) The Attorney General shall continue to pro-
25 vide for such programs (including intensive language

1 training programs) of inservice training for full-time and
2 part-time personnel of the Border Patrol in contact with
3 the public as will familiarize the personnel with the rights
4 and varied cultural backgrounds of aliens and citizens in
5 order to ensure and safeguard the constitutional and civil
6 rights, personal safety, and human dignity of all individ-
7 uals, aliens as well as citizens, within the jurisdiction of
8 the United States with whom such personnel have contact
9 in their work.

10 “(2) The Attorney General shall provide that the an-
11 nual report of the Service include a description of steps
12 taken to carry out paragraph (1).”.

13 (b) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated to the Attorney General
15 such sums as may be necessary for fiscal year 1996 to
16 carry out the inservice training described in section
17 103(e)(1) of the Immigration and Nationality Act. The
18 funds appropriated pursuant to this subsection are au-
19 thorized to remain available until expended.

20 **SEC. 108. REPORT.**

21 The Attorney General, in consultation with the Sec-
22 retary of State and the Secretary of Defense, shall con-
23 tract with the Comptroller General to track, monitor, and
24 evaluate the Administration’s border strategy to deter ille-
25 gal entry, more commonly referred to as prevention

1 through deterrence. To determine the efficacy of the Ad-
2 ministration's strategy and related efforts, the Comptrol-
3 ler General shall submit to Congress a report of its find-
4 ings within one year after the date of the enactment of
5 this Act and, for every year thereafter, up to and including
6 fiscal year 2000. Such a report shall include a collection
7 and systematic analysis of data, including workload indi-
8 cators, related to activities to deter illegal entry. Such a
9 report shall also include recommendations to improve and
10 increase border security at both the border and ports-of-
11 entry.

12 **Subtitle B—Pilot Programs**

13 **SEC. 111. PILOT PROGRAM ON INTERIOR REPATRIATION.**

14 (a) ESTABLISHMENT.—Not later than 120 days after
15 the date of the enactment of this Act, the Attorney Gen-
16 eral, after consultation with the Secretary of State, shall
17 establish a pilot program for up to 2 years which provides
18 for methods to deter multiple illegal entries by aliens into
19 the United States. The pilot program may include the de-
20 velopment and use of interior repatriation, third country
21 repatriation, and other disincentives for multiple illegal
22 entries into the United States.

23 (b) REPORT.—Not later than 30 months after the
24 date of the enactment of this Act, the Attorney General,
25 together with the Secretary of State, shall submit a report

1 to the Committees on the Judiciary of the House of Rep-
2 resentatives and of the Senate on the operation of the pilot
3 program under this section and whether the pilot program
4 or any part thereof should be extended or made perma-
5 nent.

6 **SEC. 112. PILOT PROGRAM ON USE OF CLOSED MILITARY**
7 **BASES FOR THE DETENTION OF INADMIS-**
8 **SIBLE OR DEPORTABLE ALIENS.**

9 (a) ESTABLISHMENT.—The Attorney General and
10 the Secretary of Defense shall establish one or more pilot
11 programs for up to 2 years each to determine the feasibil-
12 ity of the use of military bases available because of actions
13 under a base closure law as detention centers by the Immi-
14 gration and Naturalization Service. In selecting real prop-
15 erty at a military base for use as a detention center under
16 the pilot program, the Attorney General and the Secretary
17 shall consult with the redevelopment authority established
18 for the military base and give substantial deference to the
19 redevelopment plan prepared for the military base.

20 (b) REPORT.—Not later than 30 months after the
21 date of the enactment of this Act, the Attorney General,
22 together with the Secretary of State, shall submit a report
23 to the Committees on the Judiciary of the House of Rep-
24 resentatives and of the Senate, and the Committees on
25 Armed Services of the House of Representatives and of

1 the Senate, on the feasibility of using military bases closed
2 under a base closure law as detention centers by the Immi-
3 gration and Naturalization Service.

4 (c) DEFINITION.—For purposes of this section, the
5 term “base closure law” means each of the following:

6 (1) The Defense Base Closure and Realignment
7 Act of 1990 (part A of title XXIX of Public Law
8 101–510; 10 U.S.C. 2687 note).

9 (2) Title II of the Defense Authorization
10 Amendments and Base Closure and Realignment
11 Act (Public Law 100–526; 10 U.S.C. 2687 note).

12 (3) Section 2687 of title 10, United States
13 Code.

14 (4) Any other similar law enacted after the date
15 of the enactment of this Act.

16 **SEC. 113. PILOT PROGRAM TO COLLECT RECORDS OF DE-**
17 **PARTING PASSENGERS.**

18 (a) ESTABLISHMENT.—The Commissioner of the Im-
19 migration and Naturalization Service shall, within 180
20 days after the date of the enactment of this Act, establish
21 a pilot program in which officers of the Service collect a
22 record of departure for every alien departing the United
23 States and match the records of departure with the record
24 of the alien’s arrival in the United States. The program
25 shall be operated in as many air ports of entry as is

1 deemed appropriate, but at no less than 3 of the 5 air
2 ports of entry with the heaviest volume of incoming traffic
3 from foreign territories.

4 (b) REPORT.—

5 (1) DEADLINE.—The Commissioner shall sub-
6 mit a report to Congress not later than 2 years after
7 the date the pilot program is implemented under
8 subsection (a).

9 (2) INFORMATION.—The report shall include
10 the following information for each participating port
11 of entry:

12 (A) The number of departure records col-
13 lected, with an accounting by country of nation-
14 ality of the departing alien.

15 (B) The number of departure records that
16 were successfully matched to records of the
17 alien's prior arrival in the United States, with
18 an accounting by the alien's country of nation-
19 ality and by the alien's classification as an im-
20 migrant or nonimmigrant.

21 (C) The number of aliens who arrived at
22 the port of entry as nonimmigrants, or as a vis-
23 itor under the visa waiver program under sec-
24 tion 217 of the Immigration and Nationality
25 Act, for whom no matching departure record

1 has been obtained through the pilot program or
2 through other means, with an accounting by the
3 alien's country of nationality and date of arrival
4 in the United States.

5 (D) The estimated cost of establishing a
6 national system to verify the departure from
7 the United States of aliens admitted tempo-
8 rarily as nonimmigrants.

9 (3) RECOMMENDATIONS.—The report also shall
10 include specific recommendations for implementation
11 of the pilot program on a permanent basis.

12 (c) USE OF INFORMATION ON VISA OVERSTAYS.—In-
13 formation on instances of visa overstay identified through
14 the pilot program shall be integrated into appropriate data
15 bases of the Immigration and Naturalization Service and
16 the Department of State, including those used at ports
17 of entry and at consular offices.

18 **Subtitle C—Interior Enforcement**

19 **SEC. 121. INCREASE IN PERSONNEL FOR INTERIOR EN-** 20 **FORCEMENT.**

21 Subject to the availability of appropriations, the At-
22 torney General shall provide for an increase in the number
23 of investigators and enforcement personnel of the Immi-
24 gration and Naturalization Service who are deployed in
25 the interior so that the number of such personnel is ade-

1 quote properly to investigate violations of, and to enforce,
2 immigration laws.

3 **SEC. 122. ACCEPTANCE OF STATE SERVICES TO CARRY OUT**
4 **DEPORTATION FUNCTIONS.**

5 Section 287 (8 U.S.C. 1357) is amended by adding
6 at the end the following:

7 “(g)(1) Notwithstanding section 1342 of title 31,
8 United States, Code, the Attorney General may enter into
9 a written agreement with a State, or any political subdivi-
10 sion of a State, pursuant to which an officer or employee
11 of the State or subdivision, who is determined by the At-
12 torney General to be qualified to perform a function of
13 an immigration officer, or any other officer of the Depart-
14 ment of Justice, under this Act in relation to deportation
15 of aliens in the United States (including investigation, ap-
16 prehension, detention, presentation of evidence on behalf
17 of the United States in administrative proceedings to de-
18 termine the deportability of any alien, conduct of such pro-
19 ceedings, or removal of aliens with respect to whom a final
20 order of deportation has been rendered) may carry out
21 such function at the expense of the State or political sub-
22 division and to the extent consistent with State and local
23 law.

24 “(2) An agreement under this subsection shall re-
25 quire that an officer or employee of a State or political

1 subdivision of a State performing a function under the
2 agreement shall have knowledge of, and adhere to, Federal
3 law relating to the function.

4 “(3) In performing a function under this subsection,
5 an officer or employee of a State or political subdivision
6 of a State shall be subject to the direction and supervision
7 of the Attorney General.

8 “(4) In performing a function under this subsection,
9 an officer or employee of a State or political subdivision
10 of a State may use Federal property or facilities, as pro-
11 vided in a written agreement between the Attorney Gen-
12 eral and the State or subdivision.

13 “(5) With respect to each officer or employee of a
14 State or political subdivision who is authorized to perform
15 a function under this subsection, the specific powers and
16 duties that may be, or are required to be, exercised or
17 performed by the individual, the duration of the authority
18 of the individual, and the position of the agent of the At-
19 torney General who is required to supervise and direct the
20 individual, shall be set forth in a written agreement be-
21 tween the Attorney General and the State or political sub-
22 division.

23 “(6) The Attorney General may not accept a service
24 under this subsection if the service will be used to displace
25 any Federal employee.

1 “(7) Except as provided in paragraph (8), an officer
2 or employee of a State or political subdivision of a State
3 performing functions under this subsection shall not be
4 treated as a Federal employee for any purpose other than
5 for purposes of chapter 81 of title 5, United States Code,
6 (relating to compensation for injury) and sections 2671
7 through 2680 of title 28, United States Code, (relating
8 to tort claims).

9 “(8) An officer or employee of a State or political
10 subdivision of a State acting under color of authority
11 under this subsection, or any agreement entered into
12 under this subsection, shall be considered to be acting
13 under color of Federal authority for purposes of determin-
14 ing the liability, and immunity from suit, of the officer
15 or employee in a civil action brought under Federal or
16 State law.

17 “(9) Nothing in this subsection shall be construed to
18 require any State or political subdivision of a State to
19 enter into an agreement with the Attorney General under
20 this subsection.

21 “(10) Nothing in this subsection shall be construed
22 to require an agreement under this subsection in order for
23 any officer or employee of a State or political subdivision
24 of a State—

1 “(A) to communicate with the Attorney General
2 regarding the immigration status of any individual,
3 including reporting a suspicion that a particular
4 alien is not lawfully present in the United States; or

5 “(B) otherwise to cooperate with the Attorney
6 General in the identification, apprehension, deten-
7 tion, or removal of aliens not lawfully present in the
8 United States.”.

9 **TITLE II—ENHANCED ENFORCE-**
10 **MENT AND PENALTIES**
11 **AGAINST ALIEN SMUGGLING;**
12 **DOCUMENT FRAUD**

13 **Subtitle A—Enhanced Enforcement**
14 **and Penalties Against Alien**
15 **Smuggling**

16 **SEC. 201. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
17 **VESTIGATIONS.**

18 Section 2516(1) of title 18, United States Code, is
19 amended—

20 (1) by striking “and” at the end of paragraph
21 (n),

22 (2) by redesignating paragraph (o) as para-
23 graph (p), and

24 (3) by inserting after paragraph (n) the follow-
25 ing new paragraph:

1 “(o)(1) a felony violation of section 1028 (relat-
2 ing to production of false identification documenta-
3 tion), section 1541 (relating to passport issuance
4 without authority), section 1542 (relating to false
5 statements in passport applications), section 1543
6 (relating to forgery or false use of passport), section
7 1544 (relating to misuse of passport), section 1546
8 (relating to fraud or misuse of visas, permits, or
9 other documents) of this title; or

10 “(2) a violation of section 274, 277, or 278 of
11 the Immigration and Nationality Act (relating to the
12 smuggling of aliens); or”.

13 **SEC. 202. RACKETEERING OFFENSES RELATING TO ALIEN**
14 **SMUGGLING.**

15 Section 1961(1) of title 18, United States Code, is
16 amended—

17 (1) by inserting “section 1028 (relating to
18 fraud and related activity in connection with identi-
19 fication documents),” before “section 1029”;

20 (2) by inserting “section 1542 (relating to false
21 statement in application and use of passport), sec-
22 tion 1543 (relating to forgery or false use of pass-
23 port), section 1544 (relating to misuse of passport),
24 section 1546 (relating to fraud and misuse of visas,
25 permits, and other documents), sections 1581–1588

1 (relating to peonage and slavery),” after “section
2 1513 (relating to retaliating against a witness, vic-
3 tim, or an informant),”;

4 (3) by striking “or” before “(E)”; and

5 (4) by inserting before the period at the end the
6 following: “, or (F) any act which is indictable under
7 the Immigration and Nationality Act, section 274
8 (relating to bringing in and harboring certain
9 aliens), section 277 (relating to aiding or assisting
10 certain aliens to enter the United States), or section
11 278 (relating to importation of alien for immoral
12 purpose)”.

13 **SEC. 203. INCREASED CRIMINAL PENALTIES FOR ALIEN**
14 **SMUGGLING.**

15 (a) IN GENERAL.—Section 274(a)(1) (8 U.S.C.
16 1324(a)(1)) is amended—

17 (1) in subparagraph (B)(i), by inserting “or in
18 the case of a violation of subparagraph (A)(ii), (iii),
19 or (iv) in which the offense was done for the purpose
20 of commercial advantage or private financial gain”
21 after “subparagraph (A)(i)”, and

22 (2) by adding at the end the following new sub-
23 paragraph:

1 “(C) Any person who engages in any conspiracy to
2 commit, or aids or abets the commission of, any of the
3 acts described in—

4 “(i) subparagraph (A)(i) shall be fined under
5 title 18, United States Code, imprisoned not more
6 than 10 years, or both; or

7 “(ii) clause (ii), (iii), or (iv) of subparagraph
8 (A) shall be fined under title 18, United States
9 Code, imprisoned not more than 5 years, or both.”.

10 (b) SMUGGLING OF ALIENS WHO WILL COMMIT
11 CRIMES.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is
12 amended—

13 (1) in subparagraph (B)—

14 (A) by striking “or” at the end of clause
15 (ii),

16 (B) by adding “or” at the end of clause
17 (iii), and

18 (C) by inserting after clause (iii) the fol-
19 lowing:

20 “(iv) an offense committed with the
21 intent or with reason to believe that the
22 alien unlawfully brought into the United
23 States will commit an offense against the
24 United States or any State punishable by
25 imprisonment for more than 1 year,”; and

1 (2) by striking “be fined” and all that follows
2 through the final period at the end and inserting the
3 following: “be fined under title 18, United States
4 Code, and shall be imprisoned not less than 3 years
5 or more than 10 years.”.

6 (c) APPLYING CERTAIN PENALTIES ON A PER ALIEN
7 BASIS.—Section 274(a)(2) (8 U.S.C. 1324(a)(2)) is
8 amended by striking “for each transaction constituting a
9 violation of this paragraph, regardless of the number of
10 aliens involved” and inserting “for each alien in respect
11 to whom a violation of this paragraph occurs”.

12 **SEC. 204. INCREASED NUMBER OF ASSISTANT UNITED**
13 **STATES ATTORNEYS.**

14 (a) IN GENERAL.—The number of Assistant United
15 States Attorneys employed by the Department of Justice
16 for the fiscal year 1997 shall be increased by 25 above
17 the number of Assistant United States Attorneys that
18 were authorized to be employed as of September 30, 1996.

19 (b) ASSIGNMENT.—Individuals employed to fill the
20 additional positions described in subsection (a) shall pro-
21 ceed to prosecute persons who bring into the United States or harbor
22 illegal aliens or violate other criminal statutes involving
23 illegal aliens.

1 **SEC. 205. UNDERCOVER INVESTIGATION AUTHORITY.**

2 (a) IN GENERAL.—Title II is amended by adding at
3 the end the following new section:

4 “UNDERCOVER INVESTIGATION AUTHORITY

5 “SEC. 294. (a) IN GENERAL.—With respect to any
6 undercover investigative operation of the Service which is
7 necessary for the detection and prosecution of crimes
8 against the United States—

9 “(1) sums appropriated for the Service may be
10 used for leasing space within the United States and
11 the territories and possessions of the United States
12 without regard to the following provisions of law:

13 “(A) section 3679(a) of the Revised Stat-
14 utes (31 U.S.C. 1341),

15 “(B) section 3732(a) of the Revised Stat-
16 utes (41 U.S.C. 11(a)),

17 “(C) section 305 of the Act of June 30,
18 1949 (63 Stat. 396; 41 U.S.C. 255),

19 “(D) the third undesignated paragraph
20 under the heading ‘Miscellaneous’ of the Act of
21 March 3, 1877 (19 Stat. 370; 40 U.S.C. 34),

22 “(E) section 3648 of the Revised Statutes
23 (31 U.S.C. 3324),

24 “(F) section 3741 of the Revised Statutes
25 (41 U.S.C. 22), and

1 “(G) subsections (a) and (c) of section 304
2 of the Federal Property and Administrative
3 Services Act of 1949 (63 Stat. 395; 41 U.S.C.
4 254 (a) and (c));

5 “(2) sums appropriated for the Service may be
6 used to establish or to acquire proprietary corpora-
7 tions or business entities as part of an undercover
8 operation, and to operate such corporations or busi-
9 ness entities on a commercial basis, without regard
10 to the provisions of section 304 of the Government
11 Corporation Control Act (31 U.S.C. 9102);

12 “(3) sums appropriated for the Service, and the
13 proceeds from the undercover operation, may be de-
14 posited in banks or other financial institutions with-
15 out regard to the provisions of section 648 of title
16 18, United States Code, and of section 3639 of the
17 Revised Statutes (31 U.S.C. 3302); and

18 “(4) the proceeds from the undercover oper-
19 ation may be used to offset necessary and reasonable
20 expenses incurred in such operation without regard
21 to the provisions of section 3617 of the Revised
22 Statutes (31 U.S.C. 3302).

23 The authority set forth in this subsection may be exercised
24 only upon written certification of the Commissioner, in
25 consultation with the Deputy Attorney General, that any

1 action authorized by paragraph (1), (2), (3), or (4) is nec-
2 essary for the conduct of the undercover operation.

3 “(b) DISPOSITION OF PROCEEDS NO LONGER RE-
4 QUIRED.—As soon as practicable after the proceeds from
5 an undercover investigative operation, carried out under
6 paragraphs (3) and (4) of subsection (a), are no longer
7 necessary for the conduct of the operation, the proceeds
8 or the balance of the proceeds remaining at the time shall
9 be deposited into the Treasury of the United States as
10 miscellaneous receipts.

11 “(c) DISPOSITION OF CERTAIN CORPORATIONS AND
12 BUSINESS ENTITIES.—If a corporation or business entity
13 established or acquired as part of an undercover operation
14 under paragraph (2) of subsection (a) with a net value
15 of over \$50,000 is to be liquidated, sold, or otherwise dis-
16 posed of, the Service, as much in advance as the Commis-
17 sioner or Commissioner’s designee determines practicable,
18 shall report the circumstances to the Attorney General,
19 the Director of the Office of Management and Budget, and
20 the Comptroller General. The proceeds of the liquidation,
21 sale, or other disposition, after obligations are met, shall
22 be deposited in the Treasury of the United States as mis-
23 cellaneous receipts.

24 “(d) FINANCIAL AUDITS.—The Service shall conduct
25 detailed financial audits of closed undercover operations

1 on a quarterly basis and shall report the results of the
2 audits in writing to the Deputy Attorney General.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 is amended by inserting after the item relating to section
5 293 the following:

“Sec. 294. Undercover investigation authority.”.

6 **Subtitle B—Deterrence of**
7 **Document Fraud**

8 **SEC. 211. INCREASED CRIMINAL PENALTIES FOR FRAUDU-**
9 **LENT USE OF GOVERNMENT-ISSUED DOCU-**
10 **MENTS.**

11 (a) FRAUD AND MISUSE OF GOVERNMENT-ISSUED
12 IDENTIFICATION DOCUMENTS.—Section 1028(b) of title
13 18, United States Code, is amended—

14 (1) in paragraph (1), by inserting “except as
15 provided in paragraphs (3) and (4),” after “(1)”
16 and by striking “five years” and inserting “15
17 years”;

18 (2) in paragraph (2), by inserting “except as
19 provided in paragraphs (3) and (4),” after “(2)”
20 and by striking “and” at the end;

21 (3) by redesignating paragraph (3) as para-
22 graph (5); and

23 (4) by inserting after paragraph (2) the follow-
24 ing new paragraphs:

1 “(3) a fine under this title or imprisonment for
2 not more than 20 years, or both, if the offense is
3 committed to facilitate a drug trafficking crime (as
4 defined in section 929(a)(2) of this title);

5 “(4) a fine under this title or imprisonment for
6 not more than 25 years, or both, if the offense is
7 committed to facilitate an act of international terror-
8 ism (as defined in section 2331(1) of this title);
9 and”.

10 (b) CHANGES TO THE SENTENCING LEVELS.—Pur-
11 suant to section 944 of title 28, United States Code, and
12 section 21 of the Sentencing Act of 1987, the United
13 States Sentencing Commission shall promulgate guide-
14 lines, or amend existing guidelines, relating to defendants
15 convicted of violating, or conspiring to violate, sections
16 1546(a) and 1028(a) of title 18, United States Code. The
17 basic offense level under section 2L2.1 of the United
18 States Sentencing Guidelines shall be increased to—

19 (1) not less than offense level 15 if the offense
20 involves 100 or more documents;

21 (2) not less than offense level 20 if the offense
22 involves 1,000 or more documents, or if the docu-
23 ments were used to facilitate any other criminal ac-
24 tivity described in section 212(a)(2)(A)(i)(II) of the
25 Immigration and Nationality Act (8 U.S.C.

1 1182(a)(A)(i)(II)) or in section 101(a)(43) of such
2 Act; and

3 (3) not less than offense level 25 if the offense
4 involves—

5 (A) the provision of documents to a person
6 known or suspected of engaging in a terrorist
7 activity (as such terms are defined in section
8 212(a)(3)(B) of the Immigration and National-
9 ity Act (8 U.S.C. 1182(a)(3)(B));

10 (B) the provision of documents to facilitate
11 a terrorist activity or to assist a person to en-
12 gage in terrorist activity (as such terms are de-
13 fined in section 212(a)(3)(B) of the Immigra-
14 tion and Nationality Act (8 U.S.C.
15 1182(a)(3)(B)); or

16 (C) the provision of documents to persons
17 involved in racketeering enterprises (described
18 in section 1952(a) of title 18, United States
19 Code).

20 **SEC. 212. NEW CIVIL PENALTIES FOR DOCUMENT FRAUD.**

21 (a) **ACTIVITIES PROHIBITED.**—Section 274C(a) (8
22 U.S.C. 1324c(a)) is amended—

23 (1) by striking “or” at the end of paragraph
24 (3);

1 (2) by striking the period at the end of para-
2 graph (4) and inserting “, or”; and

3 (3) by adding at the end the following:

4 “(5) in reckless disregard of the fact that the
5 information is false or does not relate to the appli-
6 cant, to prepare, to file, or to assist another in pre-
7 paring or filing, documents which are falsely made
8 for the purpose of satisfying a requirement of this
9 Act.

10 For purposes of this section, the term ‘falsely made’ in-
11 cludes, with respect to a document or application, the
12 preparation or provision of the document or application
13 with knowledge or in reckless disregard of the fact that
14 such document contains a false, fictitious, or fraudulent
15 statement or material representation, or has no basis in
16 law or fact, or otherwise fails to state a material fact per-
17 taining to the document or application.”.

18 (b) CONFORMING AMENDMENTS FOR CIVIL PEN-
19 ALTIES.—Section 274C(d)(3) (8 U.S.C. 1324c(d)(3)) is
20 amended by striking “each document used, accepted, or
21 created and each instance of use, acceptance, or creation”
22 both places it appears and inserting “each instance of a
23 violation under subsection (a)”.

24 (c) EFFECTIVE DATES.—(1) The amendments made
25 by subsection (a) shall apply to the preparation or filing

1 of documents, and assistance in such preparation or filing,
2 occurring on or after the date of the enactment of this
3 Act.

4 (2) The amendment made by subsection (b) shall
5 apply to violations occurring on or after the date of the
6 enactment of this Act.

7 **SEC. 213. NEW CIVIL PENALTY FOR FAILURE TO PRESENT**
8 **DOCUMENTS AND FOR PREPARING IMMIGRA-**
9 **TION DOCUMENTS WITHOUT AUTHORIZA-**
10 **TION.**

11 (a) IN GENERAL.—Section 274C(a) (8 U.S.C.
12 1324c(a)), as amended by section 212(a), is further
13 amended—

14 (1) by striking “or” at the end of paragraph
15 (4);

16 (2) by striking the period at the end of para-
17 graph (5) and inserting a comma;

18 (3) by inserting after paragraph (5) the follow-
19 ing new paragraphs:

20 “(6) to present before boarding a common car-
21 rier for the purpose of coming to the United States
22 a document which relates to the alien’s eligibility to
23 enter the United States and to fail to present such
24 document to an immigration officer upon arrival at
25 a United States port of entry, or

1 “(1) If a person is required by law or regulation
2 to disclose the fact that the person, on behalf of an-
3 other person and for a fee or other remuneration,
4 has prepared or assisted in preparing an application
5 for asylum pursuant to section 208, or the regula-
6 tions promulgated thereunder, and the person know-
7 ingly and willfully fails to disclose, conceals, or cov-
8 ers up such fact, and the application was falsely
9 made, the person shall—

10 “(A) be imprisoned for not less than 2 nor
11 more than 5 years, fined in accordance with
12 title 18, United States Code, or both, and

13 “(B) be prohibited from preparing or as-
14 sisting in preparing, regardless of whether for
15 a fee or other remuneration, any other such ap-
16 plication for a period of at least 5 years and not
17 more than 15 years.

18 “(2) Whoever, having been convicted of a viola-
19 tion of paragraph (1), knowingly and willfully pre-
20 pares or assists in preparing an application for asy-
21 lum pursuant to section 208, or the regulations pro-
22 mulgated thereunder, regardless of whether for a fee
23 or other remuneration, in violation of paragraph
24 (1)(B) shall be imprisoned for not less than 5 years
25 or more than 15 years, fined in accordance with title

1 18, United States Code, or both, and prohibited
2 from preparing or assisting in preparing any other
3 such application.”.

4 **SEC. 215. CRIMINAL PENALTY FOR KNOWINGLY PRESENT-**
5 **ING DOCUMENT WHICH FAILS TO CONTAIN**
6 **REASONABLE BASIS IN LAW OR FACT.**

7 The fourth paragraph of section 1546(a) of title 18,
8 United States Code, is amended by striking “containing
9 any such false statement” and inserting “which contains
10 any such false statement or which fails to contain any rea-
11 sonable basis in law or fact”.

12 **SEC. 216. CRIMINAL PENALTIES FOR FALSE CLAIM TO CITI-**
13 **ZENSHIP.**

14 Section 1015 of title 18, United States Code, is
15 amended—

16 (1) by striking the dash at the end of para-
17 graph (d) and inserting “; or”, and

18 (2) by inserting after paragraph (d) the follow-
19 ing:

20 “(e) Whoever knowingly makes any false statement
21 or claim that he is, or at any time has been, a citizen
22 or national of the United States, with the intent to obtain
23 on behalf of himself, or any other person, any Federal ben-
24 efit or service, or to engage unlawfully in employment in
25 the United States; or

1 “(f) Whoever knowingly makes any false statement
2 or claim that he is a citizen of the United States in order
3 to register to vote or to vote in any Federal, State, or
4 local election (including an initiative, recall, or referen-
5 dum)—”.

6 **Subtitle C—Asset Forfeiture for**
7 **Passport and Visa Offenses**

8 **SEC. 221. CRIMINAL FORFEITURE FOR PASSPORT AND VISA**
9 **RELATED OFFENSES.**

10 Section 982 of title 18, United States Code, is
11 amended—

12 (1) in subsection (a), by inserting after para-
13 graph (5) the following new paragraph:

14 “(6) The court, in imposing sentence on a person con-
15 victed of a violation of, or conspiracy to violate, section
16 1541, 1542, 1543, 1544, or 1546 of this title, or a viola-
17 tion of, or conspiracy to violate, section 1028 of this title
18 if committed in connection with passport or visa issuance
19 or use, shall order that the person forfeit to the United
20 States any property, real or personal, which the person
21 used, or intended to be used, in committing, or facilitating
22 the commission of, the violation, and any property con-
23 stituting, or derived from, or traceable to, any proceeds
24 the person obtained, directly or indirectly, as a result of
25 such violation.”, and

1 (2) in subsection (b)(1)(B), by inserting “or
2 (a)(6)” after “(a)(2)”.

3 **SEC. 222. SUBPOENAS FOR BANK RECORDS.**

4 Section 986(a) of title 18, United States Code, is
5 amended by inserting “1028, 1541, 1542, 1543, 1544,
6 1546,” before “1956”.

7 **SEC. 223. EFFECTIVE DATE.**

8 The amendments made by this subtitle shall take ef-
9 fect on the first day of the first month that begins more
10 than 90 days after the date of the enactment of this Act.

11 **TITLE III—INSPECTION, APPRE-**
12 **HENSION, DETENTION, ADJU-**
13 **DICATION, AND REMOVAL OF**
14 **INADMISSIBLE AND DEPORT-**
15 **ABLE ALIENS**

16 **Subtitle A—Revision of Procedures**
17 **for Removal of Aliens**

18 **SEC. 300. OVERVIEW OF CHANGES IN REMOVAL PROCE-**
19 **DURES.**

20 This subtitle amends the provisions of the Immigra-
21 tion and Nationality Act relating to procedures for inspec-
22 tion, exclusion, and deportation of aliens so as to provide
23 for the following:

24 (1) **EXPEDITED REMOVAL FOR UNDOCUMENTED**
25 **ALIENS.**—Aliens arriving without valid documents

1 are subject to an expedited removal process, without
2 an evidentiary hearing and subject to strictly limited
3 judicial review.

4 (2) NO REWARD FOR ILLEGAL ENTRANTS OR
5 VISA OVERSTAYERS.—Aliens who enter illegally or
6 who overstay the period of authorized admission will
7 have a greater burden of proof in removal proceed-
8 ings and will face tougher standards for most discre-
9 tionary immigration benefits, such as suspension of
10 removal and work authorization.

11 (3) STRICTER STANDARDS TO ASSURE DETEN-
12 TION OF ALIENS.—There are more stringent stand-
13 ards for the release of aliens (particularly aliens con-
14 victed of aggravated felonies) during and after re-
15 moval proceedings.

16 (4) SIMPLIFIED, SINGLE REMOVAL PROCEEDING
17 (IN PLACE OF SEPARATE EXCLUSION AND DEPOR-
18 TION PROCEEDINGS).—The procedures for exclusion
19 and deportation are consolidated into a simpler, sin-
20 gle procedure for removal of inadmissible and de-
21 portable aliens.

22 (5) STREAMLINED JUDICIAL REVIEW.—Judicial
23 review is streamlined through removing a layer of re-
24 view in exclusion cases, shortening the time period

1 to file for review, and permitting the removal of in-
2 admissible aliens pending the review.

3 (6) INCREASED PENALTIES TO ASSURE RE-
4 MOVAL AND PREVENT FURTHER REENTRY.—Aliens
5 who are ordered removed are subject to civil money
6 penalties for failure to depart on time and if they
7 seek reentry they are subject to immediate removal
8 under the prior order.

9 (7) PROTECTION OF APPLICANTS FOR ASY-
10 LUM.—Throughout the process, the procedures pro-
11 tect those aliens who present credible claims for asy-
12 lum by giving them an opportunity for a full hearing
13 on their claims.

14 (8) REORGANIZATION.—The provisions of the
15 Act are reorganized to provide a more logical pro-
16 gression from arrival and inspection through pro-
17 ceedings and removal.

18 **SEC. 301. TREATING PERSONS PRESENT IN THE UNITED**
19 **STATES WITHOUT AUTHORIZATION AS NOT**
20 **ADMITTED.**

21 (a) “ADMISSION” DEFINED.—Paragraph (13) of sec-
22 tion 101(a) (8 U.S.C. 1101(a)) is amended to read as fol-
23 lows:

24 “(13)(A) The terms ‘admission’ and ‘admitted’ mean,
25 with respect to an alien, the lawful entry of the alien into

1 the United States after inspection and authorization by
2 an immigration officer.

3 “(B) An alien who is paroled under section 212(d)(5)
4 or permitted to land temporarily as an alien crewman shall
5 not be considered to have been admitted.

6 “(C) An alien lawfully admitted for permanent resi-
7 dence in the United States shall not be regarded as seek-
8 ing an admission into the United States for purposes of
9 the immigration laws unless the alien—

10 “(i) has abandoned or relinquished that status,

11 “(ii) has engaged in illegal activity after having
12 departed the United States,

13 “(iii) has departed from the United States while
14 under legal process seeking removal of the alien
15 from the United States, including removal proceed-
16 ings under this Act and extradition proceedings,

17 “(iv) has been convicted of an aggravated fel-
18 ony, unless since such conviction the alien has been
19 granted relief under section 240A(a), or

20 “(v) is attempting to enter at a time or place
21 other than as designated by immigration officers or
22 has not been admitted to the United States after in-
23 spection and authorization by an immigration offi-
24 cer.”.

1 (b) INADMISSIBILITY OF ALIENS PRESENT WITHOUT
2 ADMISSION OR PAROLE.—

3 (1) IN GENERAL.—Section 212(a) (8 U.S.C.
4 1182(a)) is amended by redesignating paragraph (9)
5 as paragraph (10) and by inserting after paragraph
6 (8) the following new paragraph:

7 “(9) PRESENT WITHOUT ADMISSION OR PA-
8 ROLE.—

9 “(A) IN GENERAL.—An alien present in
10 the United States without being admitted or
11 paroled, or who arrives in the United States at
12 any time or place other than as designated by
13 the Attorney General, is inadmissible.

14 “(B) EXCEPTION FOR CERTAIN BATTERED
15 WOMEN AND CHILDREN.—Subparagraph (A)
16 shall not apply to an alien who can demonstrate
17 that—

18 “(i) the alien qualifies for immigrant
19 status under subparagraphs (A)(iii),
20 (A)(iv), (B)(ii), or (B)(iii) of section
21 204(a)(1),

22 “(ii)(I) the alien has been battered or
23 subject to extreme cruelty by a spouse or
24 parent, or by a member of the spouse’s or
25 parent’s family residing in the same house-

1 hold as the alien and the spouse or parent
2 consented or acquiesced to such battery or
3 cruelty, or (II) the alien's child has been
4 battered or subject to extreme cruelty by a
5 spouse or parent of the alien (without the
6 active participation of the alien in the bat-
7 tery or extreme cruelty) or by a member of
8 the spouse's or parent's family residing in
9 the same household as the alien when the
10 spouse or parent consented to or acqui-
11 esced in such battery or cruelty and the
12 alien did not actively participate in such
13 battery or cruelty, and

14 “(iii) there was a substantial connec-
15 tion between the battery or cruelty de-
16 scribed in subclause (I) or (II) and the
17 alien's unlawful entry into the United
18 States.”.

19 (2) TRANSITION FOR BATTERED SPOUSE OR
20 CHILD PROVISION.—The requirements of clauses (ii)
21 and (iii) of section 212(a)(9)(B) of the Immigration
22 and Nationality Act, as inserted by paragraph (1),
23 shall not apply to an alien who demonstrates that
24 the alien first arrived in the United States before

1 the title III–A effective date (described in section
2 309(a)).

3 (c) REVISION TO GROUND OF INADMISSIBILITY FOR
4 ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—
5 Subparagraphs (A) and (B) of section 212(a)(6) (8 U.S.C.
6 1182(a)(6)) are amended to read as follows:

7 “(A) ALIENS PREVIOUSLY REMOVED.—

8 “(i) ARRIVING ALIENS.—Any alien
9 who has been ordered removed under sec-
10 tion 235(b)(1) or at the end of proceedings
11 under section 240 initiated upon the
12 alien’s arrival in the United States and
13 who again seeks admission within 5 years
14 of the date of such removal is inadmissible.

15 “(ii) OTHER ALIENS.—Any alien not
16 described in clause (i) who has been or-
17 dered removed under section 240 or any
18 other provision of law and who again seeks
19 admission within 10 years of the date of
20 such removal (or at any time in the case
21 of an alien convicted of an aggravated fel-
22 ony) is inadmissible.

23 “(iii) ALIENS WHO HAD THE INTENT
24 TO ILLEGALLY ENTER.—Any alien who
25 had the intent to illegally enter the United

1 States and who has been ordered removed
2 under section 235(b)(1) or at the end of
3 proceedings under section 240 initiated
4 upon the alien's arrival in the United
5 States and who again seeks admission is
6 inadmissible.

7 “(iv) OTHER ALIENS WHO HAD THE
8 INTENT TO ILLEGALLY ENTER.—Any alien
9 not described in clause (i) who had the in-
10 tent to illegally enter the United States
11 and who has been ordered removed under
12 section 240 or any other provision of law
13 and who again seeks admission is inadmis-
14 sible.

15 “(v) EXCEPTION.—Clauses (i)
16 through (iv) shall not apply to an alien
17 seeking admission within a period if, prior
18 to the alien's reembarkation at a place out-
19 side the United States or attempt to be ad-
20 mitted from foreign contiguous territory,
21 the Attorney General has consented to the
22 alien's reapplying for admission.

23 “(B) ALIENS PRESENT UNLAWFULLY FOR
24 MORE THAN 1 YEAR.—

1 “(i) IN GENERAL.—Any alien who was
2 unlawfully present in the United States for
3 an aggregate period totaling 1 year is in-
4 admissible unless the alien has remained
5 outside the United States for a period of
6 10 years.

7 “(ii) EXCEPTIONS.—

8 “(I) MINORS.—No period of time
9 in which an alien is under 18 years of
10 age shall be taken into account in de-
11 termining the period of unlawful pres-
12 ence in the United States under
13 clause (i).

14 “(II) ASYLEES.—No period of
15 time in which an alien has a bona fide
16 application for asylum pending under
17 section 208 shall be taken into ac-
18 count in determining the period of un-
19 lawful presence in the United States
20 under clause (i).

21 “(III) ALIENS WITH WORK AU-
22 THORIZATION.—No period of time in
23 which an alien is provided authoriza-
24 tion to engage in employment in the
25 United States (including such an au-

1 thorization under section
2 244A(a)(1)(B)), or in which the alien
3 is the spouse of such an alien, shall be
4 taken into account in determining the
5 period of unlawful presence in the
6 United States under clause (i).

7 “(IV) FAMILY UNITY.—No pe-
8 riod of time in which the alien is a
9 beneficiary of family unity protection
10 pursuant to section 301 of the Immi-
11 gration Act of 1990 shall be taken
12 into account in determining the period
13 of unlawful presence in the United
14 States under clause (i).

15 “(V) BATTERED WOMEN AND
16 CHILDREN.—Clause (i) shall not apply
17 to an alien who would be described in
18 paragraph (9)(B) if ‘violation of the
19 terms of the alien’s nonimmigrant
20 visa’ were substituted for ‘unlawful
21 entry into the United States’ in clause
22 (iii) of that paragraph.

23 “(iii) EXTENSION.—The Attorney
24 General may extend the period of 1 year
25 under clause (i) to a period of 15 months

1 in the case of an alien who applies to the
2 Attorney General (before the alien has
3 been present unlawfully in the United
4 States for a period totaling 1 year) and es-
5 tablishes to the satisfaction of the Attorney
6 General that—

7 “(I) the alien is not inadmissible
8 under clause (i) at the time of the ap-
9 plication, and

10 “(II) the failure to extend such
11 period would constitute an extreme
12 hardship for the alien.

13 “(iv) WAIVER.—In the case of an
14 alien who is the spouse, parent, or child of
15 a United States citizen or the spouse or
16 child of a permanent resident alien, the At-
17 torney General may waive clause (i) for
18 humanitarian purposes, to assure family
19 unity, or when it is otherwise in the public
20 interest.

21 “(v) NATIONAL INTEREST WAIVER.—
22 The Attorney General may waive clause (i)
23 if the Attorney General determines that
24 such a waiver is necessary to substantially
25 benefit—

1 “(I) the national security, na-
2 tional defense, or Federal, State, or
3 local law enforcement;

4 “(II) health care, housing, or
5 educational opportunities for an indi-
6 gent or low-income population or in
7 an underserved geographical area;

8 “(III) economic or employment
9 opportunities for a specific industry or
10 specific geographical area;

11 “(IV) the development of new
12 technologies; or

13 “(V) environmental protection or
14 the productive use of natural re-
15 sources; and

16 the alien will engage in a specific under-
17 taking to advance one or more of the inter-
18 ests identified in subclauses (I) through
19 (V).”.

20 (d) WAIVER OF MISREPRESENTATION GROUND OF
21 INADMISSIBILITY FOR CERTAIN ALIENS.—Subsection (i)
22 of section 212 (8 U.S.C. 1182) is amended to read as fol-
23 lows:

1 “(i) The Attorney General may, in the discretion of
2 the Attorney General, waive the application of clause (i)
3 of subsection (a)(6)(C)—

4 “(1) in the case of an immigrant who is the
5 spouse, son, or daughter of a United States citizen;
6 or

7 “(2) in the case of an immigrant who is the
8 spouse or son or daughter of an alien lawfully admit-
9 ted for permanent residence, if it is established to
10 the satisfaction of the Attorney General that the re-
11 fusal of admission to the United States of such im-
12 migrant alien would result in extreme hardship to
13 the lawfully resident spouse or parent of such an
14 alien.”.

15 (e) PROHIBITION ON ISSUANCE OF VISAS FOR
16 FORMER CITIZENS WHO RENOUNCED CITIZENSHIP TO
17 AVOID UNITED STATES TAXATION.—Section 212(a)(10)
18 (8 U.S.C. 1182(a)(10)), as redesignated by subsection
19 (b)(1), is amended by adding at the end the following:

20 “(D) FORMER CITIZENS WHO RENOUNCED
21 CITIZENSHIP TO AVOID TAXATION.—Any alien
22 who is a former citizen of the United States
23 who officially renounced United States citizen-
24 ship and who is determined by the Attorney
25 General to have renounced United States citi-

1 zanship for the purpose of avoiding taxation by
2 the United States is excludable.”.

3 (f) PROOF OF VACCINATION REQUIREMENT FOR IM-
4 MIGRANTS.—

5 (1) IN GENERAL.—Section 212(a)(1)(A) (8
6 U.S.C. 1182(a)(1)(A)) is amended—

7 (A) by redesignating clauses (ii) and (iii)
8 as clauses (iii) and (iv), respectively, and

9 (B) by inserting after clause (i) the follow-
10 ing new clause:

11 “(ii) who seeks admission as an immi-
12 grant, or who seeks adjustment of status
13 to the status of an alien lawfully admitted
14 for permanent residence, and who has
15 failed to present documentation of having
16 received vaccination against vaccine-pre-
17 ventable diseases, which shall include at
18 least the following diseases: mumps, mea-
19 sles, rubella, polio, tetanus and diphtheria
20 toxoids, pertussis, influenza type B and
21 hepatitis B, and any other vaccinations
22 against vaccine-preventable diseases rec-
23 ommended by the Advisory Committee for
24 Immunization Practices,”.

1 (2) WAIVER.—Section 212(g) (8 U.S.C.
2 1182(g)) is amended by striking “, or” at the end
3 of paragraph (1) and all that follows and inserting
4 a semicolon and the following:

5 “in accordance with such terms, conditions, and con-
6 trols, if any, including the giving of bond, as the At-
7 torney General, in the discretion of the Attorney
8 General after consultation with the Secretary of
9 Health and Human Services, may by regulation pre-
10 scribe;

11 “(2) subsection (a)(1)(A)(ii) in the case of any
12 alien—

13 “(A) who receives vaccination against the
14 vaccine-preventable disease or diseases for
15 which the alien has failed to present docu-
16 mentation of previous vaccination, or

17 “(B) for whom a civil surgeon, medical of-
18 ficer, or panel physician (as those terms are de-
19 fined by section 34.2 of title 42 of the Code of
20 Federal Regulations) certifies, according to
21 such regulations as the Secretary of Health and
22 Human Services may prescribe, that such vac-
23 cination would not be medically appropriate; or

24 “(3) subsection (a)(1)(A)(iii) in the case of any
25 alien, in accordance with such terms, conditions, and

1 controls, if any, including the giving of bond, as the
2 Attorney General, in the discretion of the Attorney
3 General after consultation with the Secretary of
4 Health and Human Services, may by regulation pre-
5 scribe.”.

6 (3) EFFECTIVE DATE.—The amendments made
7 by this subsection shall apply with respect to appli-
8 cations for immigrant visas or for adjustment of sta-
9 tus filed after September 30, 1996.

10 (g) ADJUSTMENT IN GROUNDS FOR DEPORTA-
11 TION.—Section 241 (8 U.S.C. 1251), before redesignation
12 as section 237 by section 305(a)(2), is amended—

13 (1) in the matter before paragraph (1) of sub-
14 section (a), by striking “in the United States” and
15 inserting “in and admitted to the United States”;

16 (2) in subsection (a)(1), by striking “EXCLUD-
17 ABLE” each place it appears and inserting “INAD-
18 MISSIBLE”;

19 (3) in subsection (a)(1)(A), by striking “exclud-
20 able” and inserting “inadmissible”; and

21 (4) by amending subparagraph (B) of sub-
22 section (a)(1) to read as follows:

23 “(B) PRESENT IN VIOLATION OF LAW.—
24 Any alien who is present in the United States

1 in violation of this Act or any other law of the
2 United States is deportable.

3 (h) WAIVERS FOR IMMIGRANTS CONVICTED OF
4 CRIMES.—Section 212(h) (8 U.S.C. 1182(h)) is amended
5 by adding at the end the following: “No waiver shall be
6 granted under this subsection to an immigrant who pre-
7 viously has been admitted to the United States unless that
8 alien has fulfilled the time in status and continuous resi-
9 dence requirements of section 212(c). No court shall have
10 jurisdiction to review a decision of the Attorney General
11 to grant or deny a waiver under this subsection.”.

12 **SEC. 302. INSPECTION OF ALIENS; EXPEDITED REMOVAL**
13 **OF INADMISSIBLE ARRIVING ALIENS; REFER-**
14 **RAL FOR HEARING (REVISED SECTION 235).**

15 Section 235 (8 U.S.C. 1225) is amended to read as
16 follows:

17 “INSPECTION BY IMMIGRATION OFFICERS; EXPEDITED
18 REMOVAL OF INADMISSIBLE ARRIVING ALIENS; RE-
19 FERRAL FOR HEARING

20 “SEC. 235. (a) INSPECTION.—

21 “(1) ALIENS TREATED AS APPLICANTS FOR AD-
22 MISSION.—An alien present in the United States
23 who has not been admitted, who arrives in the Unit-
24 ed States (whether or not at a designated port of ar-
25 rival), or who is brought to the United States after
26 having been interdicted in international or United

1 States waters shall be deemed for purposes of this
2 Act an applicant for admission.

3 “(2) STOWAWAYS.—An arriving alien who is a
4 stowaway is not eligible to apply for admission or to
5 be admitted and shall be ordered removed upon in-
6 spection by an immigration officer. Upon such in-
7 spection if the alien indicates an intention to apply
8 for asylum under section 208 or a fear of persecu-
9 tion, the officer shall refer the alien for an interview
10 under subsection (b)(1)(B). A stowaway may apply
11 for asylum only if the stowaway is found to have a
12 credible fear of persecution under subsection
13 (b)(1)(B). In no case may a stowaway be considered
14 an applicant for admission or eligible for a hearing
15 under section 240.

16 “(3) INSPECTION.—All aliens (including alien
17 crewmen) who are applicants for admission or other-
18 wise seeking admission or readmission to or transit
19 through the United States shall be inspected by im-
20 migration officers.

21 “(4) WITHDRAWAL OF APPLICATION FOR AD-
22 MISSION.—An alien applying for admission may, in
23 the discretion of the Attorney General and at any
24 time, be permitted to withdraw the application for

1 admission and depart immediately from the United
2 States.

3 “(5) STATEMENTS.—An applicant for admis-
4 sion may be required to state under oath any infor-
5 mation sought by an immigration officer regarding
6 the purposes and intentions of the applicant in seek-
7 ing admission to the United States, including the
8 applicant’s intended length of stay and whether the
9 applicant intends to remain permanently or become
10 a United States citizen, and whether the applicant
11 is inadmissible.

12 “(b) INSPECTION OF APPLICANTS FOR ADMISSION.—

13 “(1) INSPECTION OF ALIENS ARRIVING IN THE
14 UNITED STATES.—

15 “(A) SCREENING.—If the examining immi-
16 gration officer determines that an alien arriving
17 in the United States (whether or not at a port
18 of entry) is inadmissible under section
19 212(a)(6)(C) or 212(a)(7) and the alien—

20 “(i) does not indicate either an inten-
21 tion to apply for asylum under section 208
22 or a fear of persecution, the officer shall
23 order the alien removed from the United
24 States without further hearing or review;
25 or

1 “(ii) indicates an intention to apply
2 for asylum under section 208 or a fear of
3 persecution, the officer shall refer the alien
4 for an interview by an asylum officer under
5 subparagraph (B).

6 “(B) ASYLUM INTERVIEWS.—

7 “(i) CONDUCT BY ASYLUM OFFI-
8 CERS.—An asylum officer shall promptly
9 conduct interviews of aliens referred under
10 subparagraph (A)(ii).

11 “(ii) REFERRAL OF CERTAIN
12 ALIENS.—If the officer determines at the
13 time of the interview that an alien has a
14 credible fear of persecution (within the
15 meaning of clause (v)), the alien shall be
16 detained for further consideration of the
17 application for asylum.

18 “(iii) REMOVAL WITHOUT FURTHER
19 REVIEW IF NO CREDIBLE FEAR OF PERSE-
20 CUTION.—

21 “(I) IN GENERAL.—Subject to
22 subclause (II), if the officer deter-
23 mines that an alien does not have a
24 credible fear of persecution, the officer
25 shall order the alien removed from the

1 United States without further hearing
2 or review.

3 “(II) REVIEW OF DETERMINA-
4 TION BY SUPERVISORY OFFICER.—

5 The Attorney General shall promul-
6 gate regulations to provide for the im-
7 mediate review by a supervisory asy-
8 lum officer at the port of entry of a
9 determination under subclause (I).

10 “(iv) INFORMATION ABOUT INTER-
11 VIEWS.—The Attorney General shall pro-
12 vide information concerning the asylum
13 interview described in this subparagraph to
14 aliens who may be eligible. An alien who is
15 eligible for such interview may consult with
16 a person or persons of the alien’s choosing
17 prior to the interview or any review there-
18 of, according to regulations prescribed by
19 the Attorney General. Such consultation
20 shall be at no expense to the Government
21 and shall not delay the process.

22 “(v) CREDIBLE FEAR OF PERSECU-
23 TION DEFINED.—For purposes of this sub-
24 paragraph, the term ‘credible fear of perse-
25 cution’ means (I) that it is more probable

1 than not that the statements made by the
2 alien in support of the alien's claim are
3 true, and (II) that there is a significant
4 possibility, in light of such statements and
5 of such other facts as are known to the of-
6 ficer, that the alien could establish eligi-
7 bility for asylum under section 208.

8 “(C) LIMITATION ON ADMINISTRATIVE RE-
9 VIEW.—A removal order entered in accordance
10 with subparagraph (A)(i) or (B)(iii)(I) is not
11 subject to administrative appeal, except that the
12 Attorney General shall provide by regulation for
13 prompt review of such an order under subpara-
14 graph (A)(i) against an alien who claims under
15 oath, or as permitted under penalty of perjury
16 under section 1746 of title 28, United States
17 Code, after having been warned of the penalties
18 for falsely making such claim under such condi-
19 tions, to have been lawfully admitted for perma-
20 nent residence.

21 “(D) LIMIT ON COLLATERAL ATTACKS.—
22 In any action brought against an alien under
23 section 275(a) or section 276, the court shall
24 not have jurisdiction to hear any claim attack-

1 ing the validity of an order of removal entered
2 under subparagraph (A)(i) or (B)(iii)(I).

3 “(E) ASYLUM OFFICER DEFINED.—As
4 used in this paragraph, the term ‘asylum offi-
5 cer’ means an immigration officer who—

6 “(i) has had professional training in
7 country conditions, asylum law, and inter-
8 view techniques, and

9 “(ii) is supervised by an officer who
10 meets the condition described in clause (i).

11 “(2) INSPECTION OF OTHER ALIENS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), in the case of an alien who is an ap-
14 plicant for admission, if the examining immi-
15 gration officer determines that an alien seeking
16 admission is not clearly and beyond a doubt en-
17 titled to be admitted, the alien shall be detained
18 for a hearing under section 240.

19 “(B) EXCEPTION.—Subparagraph (A)
20 shall not apply to an alien—

21 “(i) who is a crewman,

22 “(ii) to whom paragraph (1) applies,

23 or

24 “(iii) who is a stowaway.

1 “(3) CHALLENGE OF DECISION.—The decision
2 of the examining immigration officer, if favorable to
3 the admission of any alien, shall be subject to chal-
4 lenge by any other immigration officer and such
5 challenge shall operate to take the alien whose privi-
6 lege to be admitted is so challenged, before an immi-
7 gration judge for a hearing under section 240.

8 “(c) REMOVAL OF ALIENS INADMISSIBLE ON SECU-
9 RITY AND RELATED GROUNDS.—

10 “(1) REMOVAL WITHOUT FURTHER HEARING.—
11 If an immigration officer or an immigration judge
12 suspects that an arriving alien may be inadmissible
13 under subparagraph (A) (other than clause (ii)),
14 (B), or (C) of section 212(a)(3), the officer or judge
15 shall—

16 “(A) order the alien removed, subject to
17 review under paragraph (2);

18 “(B) report the order of removal to the At-
19 torney General; and

20 “(C) not conduct any further inquiry or
21 hearing until ordered by the Attorney General.

22 “(2) REVIEW OF ORDER.—(A) The Attorney
23 General shall review orders issued under paragraph
24 (1).

25 “(B) If the Attorney General—

1 “(i) is satisfied on the basis of confidential
2 information that the alien is inadmissible under
3 subparagraph (A) (other than clause (ii)), (B),
4 or (C) of section 212(a)(3), and

5 “(ii) after consulting with appropriate se-
6 curity agencies of the United States Govern-
7 ment, concludes that disclosure of the informa-
8 tion would be prejudicial to the public interest,
9 safety, or security,

10 the Attorney General may order the alien removed
11 without further inquiry or hearing by an immigra-
12 tion judge.

13 “(C) If the Attorney General does not order the
14 removal of the alien under subparagraph (B), the
15 Attorney General shall specify the further inquiry or
16 hearing that shall be conducted in the case.

17 “(3) SUBMISSION OF STATEMENT AND INFOR-
18 MATION.—The alien or the alien’s representative
19 may submit a written statement and additional in-
20 formation for consideration by the Attorney General.

21 “(d) AUTHORITY RELATING TO INSPECTIONS.—

22 “(1) AUTHORITY TO SEARCH CONVEYANCES.—
23 Immigration officers are authorized to board and
24 search any vessel, aircraft, railway car, or other con-

1 veyance or vehicle in which they believe aliens are
2 being brought into the United States.

3 “(2) AUTHORITY TO ORDER DETENTION AND
4 DELIVERY OF ARRIVING ALIENS.—Immigration offi-
5 cers are authorized to order an owner, agent, mas-
6 ter, commanding officer, person in charge, purser, or
7 consignee of a vessel or aircraft bringing an alien
8 (except an alien crewmember) to the United
9 States—

10 “(A) to detain the alien on the vessel or at
11 the airport of arrival, and

12 “(B) to deliver the alien to an immigration
13 officer for inspection or to a medical officer for
14 examination.

15 “(3) ADMINISTRATION OF OATH AND CONSID-
16 ERATION OF EVIDENCE.—The Attorney General and
17 any immigration officer shall have power to admin-
18 ister oaths and to take and consider evidence of or
19 from any person touching the privilege of any alien
20 or person he believes or suspects to be an alien to
21 enter, reenter, transit through, or reside in the Unit-
22 ed States or concerning any matter which is mate-
23 rial and relevant to the enforcement of this Act and
24 the administration of the Service.

1 “(4) SUBPOENA AUTHORITY.—(A) The Attor-
2 ney General and any immigration officer shall have
3 power to require by subpoena the attendance and
4 testimony of witnesses before immigration officers
5 and the production of books, papers, and documents
6 relating to the privilege of any person to enter, reen-
7 ter, reside in, or pass through the United States or
8 concerning any matter which is material and rel-
9 evant to the enforcement of this Act and the admin-
10 istration of the Service, and to that end may invoke
11 the aid of any court of the United States.

12 “(B) Any United States district court within
13 the jurisdiction of which investigations or inquiries
14 are being conducted by an immigration officer may,
15 in the event of neglect or refusal to respond to a
16 subpoena issued under this paragraph or refusal to
17 testify before an immigration officer, issue an order
18 requiring such persons to appear before an immigra-
19 tion officer, produce books, papers, and documents
20 if demanded, and testify, and any failure to obey
21 such order of the court may be punished by the
22 court as a contempt thereof.”.

1 **SEC. 303. APPREHENSION AND DETENTION OF ALIENS NOT**
2 **LAWFULLY IN THE UNITED STATES (REVISED**
3 **SECTION 236).**

4 (a) IN GENERAL.—Section 236 (8 U.S.C. 1226) is
5 amended to read as follows:

6 “APPREHENSION AND DETENTION OF ALIENS NOT
7 LAWFULLY IN THE UNITED STATES

8 “SEC. 236. (a) ARREST, DETENTION, AND RE-
9 LEASE.—On a warrant issued by the Attorney General,
10 an alien may be arrested and detained pending a decision
11 on whether the alien is to be removed from the United
12 States. Except as provided in subsection (c) and pending
13 such decision, the Attorney General—

14 “(1) may continue to detain the arrested alien;
15 and

16 “(2) may release the alien on—

17 “(A) bond of at least \$1,500 with security
18 approved by, and containing conditions pre-
19 scribed by, the Attorney General; or

20 “(B) conditional parole; but

21 “(3) may not provide the alien with work au-
22 thorization (including an ‘employment authorized’
23 endorsement or other appropriate work permit), un-
24 less the alien is lawfully admitted for permanent res-
25 idence or otherwise would (without regard to re-
26 moval proceedings) be provided such authorization.

1 “(b) REVOCATION OF BOND OR PAROLE.—The At-
2 torney General at any time may revoke a bond or parole
3 authorized under subsection (a), rearrest the alien under
4 the original warrant, and detain the alien.

5 “(c) ALIENS CONVICTED OF AGGRAVATED FELO-
6 NIES.—

7 “(1) CUSTODY.—The Attorney General shall
8 take into custody any alien convicted of an aggra-
9 vated felony when the alien is released, without re-
10 gard to whether the alien is released on parole, su-
11 pervised release, or probation, and without regard to
12 whether the alien may be arrested or imprisoned
13 again for the same offense.

14 “(2) RELEASE.—The Attorney General may re-
15 lease the alien only if—

16 “(A) the alien was lawfully admitted to the
17 United States and satisfies the Attorney Gen-
18 eral that the alien will not pose a danger to the
19 safety of other persons or of property and is
20 likely to appear for any scheduled proceeding;

21 “(B) the alien was not lawfully admitted to
22 the United States, cannot be removed because
23 the designated country of removal will not ac-
24 cept the alien, and satisfies the Attorney Gen-
25 eral that the alien will not pose a danger to the

1 safety of other persons or of property and is
2 likely to appear for any scheduled proceeding;
3 or

4 “(C) the Attorney General decides pursu-
5 ant to section 3521 of title 18, United States
6 Code, that release of the alien from custody is
7 necessary to provide protection to a witness, a
8 potential witness, a person cooperating with an
9 investigation into major criminal activity, or an
10 immediate family member or close associate of
11 a witness, potential witness, or person cooperat-
12 ing with such an investigation.

13 A decision relating to such release shall take place
14 in accordance with a procedure that considers the
15 severity of the offense committed by the alien.

16 “(d) IDENTIFICATION OF ALIENS CONVICTED OF AG-
17 GRAVATED FELONIES.—(1) The Attorney General shall
18 devise and implement a system—

19 “(A) to make available, daily (on a 24-hour
20 basis), to Federal, State, and local authorities the
21 investigative resources of the Service to determine
22 whether individuals arrested by such authorities for
23 aggravated felonies are aliens;

24 “(B) to designate and train officers and em-
25 ployees of the Service to serve as a liaison to Fed-

1 eral, State, and local law enforcement and correc-
2 tional agencies and courts with respect to the arrest,
3 conviction, and release of any alien charged with an
4 aggravated felony; and

5 “(C) which uses computer resources to main-
6 tain a current record of aliens who have been con-
7 victed of an aggravated felony and who have been
8 removed.

9 “(2) The record under paragraph (1)(C) shall be
10 made available—

11 “(A) to inspectors at ports of entry and to bor-
12 der patrol agents at sector headquarters for pur-
13 poses of immediate identification of any such pre-
14 viously removed alien seeking to reenter the United
15 States, and

16 “(B) to officials of the Department of State for
17 use in its automated visa lookout system.”.

18 (b) INCREASE IN INS DETENTION FACILITIES.—
19 Subject to the availability of appropriations, the Attorney
20 General shall provide for an increase in the detention fa-
21 cilities of the Immigration and Naturalization Service to
22 at least 9,000 beds by fiscal year 1997.

1 **SEC. 304. REMOVAL PROCEEDINGS; CANCELLATION OF RE-**
2 **MOVAL AND ADJUSTMENT OF STATUS; VOL-**
3 **UNTARY DEPARTURE (REVISED AND NEW**
4 **SECTIONS 239 TO 240C).**

5 (a) IN GENERAL.—Chapter 4 of title II is amended—

6 (1) by redesignating section 239 (8 U.S.C.
7 1229) as section 234 and by moving such section to
8 immediately follow section 233;

9 (2) by redesignating section 240 (8 U.S.C.
10 1230) as section 240C; and

11 (3) by inserting after section 238 the following
12 new sections:

13 “INITIATION OF REMOVAL PROCEEDINGS

14 “SEC. 239. (a) NOTICE TO APPEAR.—

15 “(1) IN GENERAL.—In removal proceedings
16 under section 240, written notice (in this section re-
17 ferred to as a ‘notice to appear’) shall be given in
18 person to the alien (or, if personal service is not
19 practicable, through service by mail to the alien or
20 to the alien’s counsel of record, if any) specifying the
21 following:

22 “(A) The nature of the proceedings against
23 the alien.

24 “(B) The legal authority under which the
25 proceedings are conducted.

1 “(C) The acts or conduct alleged to be in
2 violation of law.

3 “(D) The charges against the alien and the
4 statutory provisions alleged to have been vio-
5 lated.

6 “(E) The alien may be represented by
7 counsel and the alien will be provided (i) a pe-
8 riod of time to secure counsel under subsection
9 (b)(1) and (ii) a current list of counsel prepared
10 under subsection (b)(2).

11 “(F)(i) The requirement that the alien
12 must immediately provide (or have provided)
13 the Attorney General with a written record of
14 an address and telephone number (if any) at
15 which the alien may be contacted respecting
16 proceedings under section 240.

17 “(ii) The requirement that the alien must
18 provide the Attorney General immediately with
19 a written record of any change of the alien’s ad-
20 dress or telephone number.

21 “(iii) The consequences under section
22 240(b)(5) of failure to provide address and tele-
23 phone information pursuant to this subpara-
24 graph.

1 “(G)(i) The time and place at which the
2 proceedings will be held.

3 “(ii) The consequences under section
4 240(b)(5) of the failure, except under excep-
5 tional circumstances, to appear at such proceed-
6 ings.

7 “(2) NOTICE OF CHANGE IN TIME OR PLACE OF
8 PROCEEDINGS.—

9 “(A) IN GENERAL.—In removal proceed-
10 ings under section 240, in the case of any
11 change or postponement in the time and place
12 of such proceedings, subject to subparagraph
13 (B) a written notice shall be given in person to
14 the alien (or, if personal service is not prac-
15 ticable, through service by mail to the alien or
16 to the alien’s counsel of record, if any) specify-
17 ing—

18 “(i) the new time or place of the pro-
19 ceedings, and

20 “(ii) the consequences under section
21 240(b)(5) of failing, except under excep-
22 tional circumstances, to attend such pro-
23 ceedings.

24 “(B) EXCEPTION.—In the case of an alien
25 not in detention, a written notice shall not be

1 required under this paragraph if the alien has
2 failed to provide the address required under
3 paragraph (1)(F).

4 “(3) CENTRAL ADDRESS FILES.—The Attorney
5 General shall create a system to record and preserve
6 on a timely basis notices of addresses and telephone
7 numbers (and changes) provided under paragraph
8 (1)(F).

9 “(b) SECURING OF COUNSEL.—

10 “(1) IN GENERAL.—In order that an alien be
11 permitted the opportunity to secure counsel before
12 the first hearing date in proceedings under section
13 240, the hearing date shall not be scheduled earlier
14 than 10 days after the service of the notice to ap-
15 pear, unless the alien requests in writing an earlier
16 hearing date.

17 “(2) CURRENT LISTS OF COUNSEL.—The Attor-
18 ney General shall provide for lists (updated not less
19 often than quarterly) of persons who have indicated
20 their availability to represent pro bono aliens in pro-
21 ceedings under section 240. Such lists shall be pro-
22 vided under subsection (a)(1)(E) and otherwise
23 made generally available.

24 “(c) SERVICE BY MAIL.—Service by mail under this
25 section shall be sufficient if there is proof of attempted

1 delivery to the last address provided by the alien in accord-
2 ance with subsection (a)(1)(F).

3 “(d) PROMPT INITIATION OF REMOVAL.—(1) In the
4 case of an alien who is convicted of an offense which
5 makes the alien deportable, the Attorney General shall
6 begin any removal proceeding as expeditiously as possible
7 after the date of the conviction.

8 “(2) Nothing in this subsection shall be construed to
9 create any substantive or procedural right or benefit that
10 is legally enforceable by any party against the United
11 States or its agencies or officers or any other person.

12 “REMOVAL PROCEEDINGS

13 “SEC. 240. (a) PROCEEDING.—

14 “(1) IN GENERAL.—An immigration judge shall
15 conduct proceedings for deciding the inadmissibility
16 or deportability of an alien.

17 “(2) CHARGES.—An alien placed in proceedings
18 under this section may be charged with any applica-
19 ble ground of inadmissibility under section 212(a) or
20 any applicable ground of deportability under section
21 237(a).

22 “(3) EXCLUSIVE PROCEDURES.—Unless other-
23 wise specified in this Act, a proceeding under this
24 section shall be the sole and exclusive procedure for
25 determining whether an alien may be admitted to
26 the United States or, if the alien has been so admit-

1 ted, removed from the United States. Nothing in
2 this section shall affect proceedings conducted pur-
3 suant to section 238.

4 “(b) CONDUCT OF PROCEEDING.—

5 “(1) AUTHORITY OF IMMIGRATION JUDGE.—

6 The immigration judge shall administer oaths, re-
7 ceive evidence, and interrogate, examine, and cross-
8 examine the alien and any witnesses. The immigra-
9 tion judge may issue subpoenas for the attendance
10 of witnesses and presentation of evidence. The immi-
11 gration judge shall have authority (under regulations
12 prescribed by the Attorney General) to sanction by
13 civil money penalty any action (or inaction) in con-
14 tempt of the judge’s proper exercise of authority
15 under this Act.

16 “(2) FORM OF PROCEEDING.—

17 “(A) IN GENERAL.—The proceeding may
18 take place—

19 “(i) in person,

20 “(ii) through video conference, or

21 “(iii) subject to subparagraph (B),
22 through telephone conference.

23 “(B) CONSENT REQUIRED IN CERTAIN
24 CASES.—An evidentiary hearing on the merits
25 may only be conducted through a telephone con-

1 ference with the consent of the alien involved
2 after the alien has been advised of the right to
3 proceed in person or through video conference.

4 “(3) PRESENCE OF ALIEN.—If it is impractica-
5 ble by reason of an alien’s mental incompetency for
6 the alien to be present at the proceeding, the Attor-
7 ney General shall prescribe safeguards to protect the
8 rights and privileges of the alien.

9 “(4) ALIENS RIGHTS IN PROCEEDING.—In pro-
10 ceedings under this section, under regulations of the
11 Attorney General—

12 “(A) the alien shall have the privilege of
13 being represented, at no expense to the Govern-
14 ment, by counsel of the alien’s choosing who is
15 authorized to practice in such proceedings,

16 “(B) the alien shall have a reasonable op-
17 portunity to examine the evidence against the
18 alien, to present evidence on the alien’s own be-
19 half, and to cross-examine witnesses presented
20 by the Government, and

21 “(C) a complete record shall be kept of all
22 testimony and evidence produced at the pro-
23 ceeding.

24 “(5) CONSEQUENCES OF FAILURE TO AP-
25 PEAR.—

1 “(A) IN GENERAL.—Any alien who, after
2 written notice required under paragraph (1) or
3 (2) of section 239(a) has been provided to the
4 alien or the alien’s counsel of record, does not
5 attend a proceeding under this section, shall be
6 ordered removed in absentia if the Service es-
7 tablishes by clear, unequivocal, and convincing
8 evidence that the written notice was so provided
9 and that the alien is removable (as defined in
10 subsection (e)(2)). The written notice by the
11 Attorney General shall be considered sufficient
12 for purposes of this subparagraph if provided at
13 the most recent address provided under section
14 239(a)(1)(F).

15 “(B) NO NOTICE IF FAILURE TO PROVIDE
16 ADDRESS INFORMATION.—No written notice
17 shall be required under subparagraph (A) if the
18 alien has failed to provide the address required
19 under section 239(a)(1)(F).

20 “(C) RESCISSION OF ORDER.—Such an
21 order may be rescinded only—

22 “(i) upon a motion to reopen filed
23 within 180 days after the date of the order
24 of removal if the alien demonstrates that
25 the failure to appear was because of excep-

1 tional circumstances (as defined in sub-
2 section (e)(1)), or

3 “(ii) upon a motion to reopen filed at
4 any time if the alien demonstrates that the
5 alien did not receive notice in accordance
6 with paragraph (1) or (2) of section 239(a)
7 or the alien demonstrates that the alien
8 was in Federal or State custody and did
9 not appear through no fault of the alien.

10 The filing of the motion to reopen described in
11 clause (i) or (ii) shall stay the removal of the
12 alien pending disposition of the motion.

13 “(D) EFFECT ON JUDICIAL REVIEW.—Any
14 petition for review under section 242 of an
15 order entered in absentia under this paragraph
16 shall (except in cases described in section
17 242(b)(5)) be confined to (i) the validity of the
18 notice provided to the alien, (ii) the reasons for
19 the alien’s not attending the proceeding, and
20 (iii) whether or not the alien is removable.

21 “(6) TREATMENT OF FRIVOLOUS BEHAVIOR.—
22 The Attorney General shall, by regulation—

23 “(A) define in a proceeding before an im-
24 migration judge or before an appellate adminis-

1 trative body under this title, frivolous behavior
2 for which attorneys may be sanctioned,

3 “(B) specify the circumstances under
4 which an administrative appeal of a decision or
5 ruling will be considered frivolous and will be
6 summarily dismissed, and

7 “(C) impose appropriate sanctions (which
8 may include suspension and disbarment) in the
9 case of frivolous behavior.

10 Nothing in this paragraph shall be construed as lim-
11 iting the authority of the Attorney General to take
12 actions with respect to inappropriate behavior.

13 “(7) LIMITATION ON DISCRETIONARY RELIEF
14 FOR FAILURE TO APPEAR.—Any alien against whom
15 a final order of removal is entered in absentia under
16 this subsection and who, at the time of the notice
17 described in paragraph (1) or (2) of section 239(a),
18 was provided oral notice, either in the alien’s native
19 language or in another language the alien under-
20 stands, of the time and place of the proceedings and
21 of the consequences under this paragraph of failing,
22 other than because of exceptional circumstances (as
23 defined in subsection (e)(1)) to attend a proceeding
24 under this section, shall not be eligible for relief
25 under section 240A, 240B, 245, 248, or 249 for a

1 period of 10 years after the date of the entry of the
2 final order of removal.

3 “(c) DECISION AND BURDEN OF PROOF.—

4 “(1) DECISION.—

5 “(A) IN GENERAL.—At the conclusion of
6 the proceeding the immigration judge shall de-
7 cide whether an alien is removable from the
8 United States. The determination of the immi-
9 gration judge shall be based only on the evi-
10 dence produced at the hearing.

11 “(B) CERTAIN MEDICAL DECISIONS.—If a
12 medical officer or civil surgeon or board of med-
13 ical officers has certified under section 232(b)
14 that an alien has a disease, illness, or addiction
15 which would make the alien inadmissible under
16 paragraph (1) of section 212(a), the decision of
17 the immigration judge shall be based solely
18 upon such certification.

19 “(2) BURDEN ON ALIEN.—In the proceeding
20 the alien has the burden of establishing—

21 “(A) if the alien is an applicant for admis-
22 sion, that the alien is clearly and beyond doubt
23 entitled to be admitted and is not inadmissible
24 under section 212; or

1 “(B) by clear and convincing evidence, that
2 the alien is lawfully present in the United
3 States pursuant to a prior admission.

4 In meeting the burden of proof under subparagraph
5 (B), the alien shall have access to the alien’s visa or
6 other entry document, if any, and any other records
7 and documents, not considered by the Attorney Gen-
8 eral to be confidential, pertaining to the alien’s ad-
9 mission or presence in the United States.

10 “(3) BURDEN ON SERVICE IN CASES OF DE-
11 PORTABLE ALIENS.—In the proceeding the Service
12 has the burden of establishing by clear and convinc-
13 ing evidence that, in the case of an alien who has
14 been admitted to the United States, the alien is de-
15 portable. No decision on deportability shall be valid
16 unless it is based upon reasonable, substantial, and
17 probative evidence.

18 “(4) NOTICE.—If the immigration judge de-
19 cides that the alien is removable and orders the alien
20 to be removed, the judge shall inform the alien of
21 the right to appeal that decision and of the con-
22 sequences for failure to depart under the order of re-
23 moval, including civil and criminal penalties.

24 “(5) MOTIONS TO RECONSIDER.—

1 “(A) IN GENERAL.—The alien may file one
2 motion to reconsider a decision that the alien is
3 removable from the United States.

4 “(B) DEADLINE.—The motion must be
5 filed within 30 days of the date of entry of a
6 final administrative order of removal.

7 “(C) CONTENTS.—The motion shall speci-
8 fy the errors of law or fact in the previous order
9 and shall be supported by pertinent authority.

10 “(6) MOTIONS TO REOPEN.—

11 “(A) IN GENERAL.—An alien may file one
12 motion to reopen proceedings under this sec-
13 tion.

14 “(B) CONTENTS.—The motion to reopen
15 shall state the new facts that will be proven at
16 a hearing to be held if the motion is granted,
17 and shall be supported by affidavits or other
18 evidentiary material.

19 “(C) DEADLINE.—

20 “(i) IN GENERAL.—Except as pro-
21 vided in this subparagraph, the motion to
22 reopen shall be filed within 90 days of the
23 date of entry of a final administrative
24 order of removal.

1 “(ii) ASYLUM.—There is no time limit
2 on the filing of a motion to reopen if the
3 basis of the motion is to apply for relief
4 under sections 208 or 241(b)(3) and is
5 based on changed country conditions arising
6 in the country of nationality or the
7 country to which removal has been ordered,
8 if such evidence is material and was
9 not available and would not have been discovered
10 or presented at the previous proceeding.
11

12 “(iii) FAILURE TO APPEAR.—A motion
13 to reopen may be filed within 180
14 days after the date of the final order of removal
15 if the order has been entered pursuant to subsection
16 (b)(5) due to the alien’s failure to appear for proceedings
17 under this section and the alien establishes that
18 the alien’s failure to appear was because of exceptional
19 circumstances beyond the control of the alien or because
20 the alien did not receive the notice required under section
21 239(a)(2).
22

23 “(d) STIPULATED REMOVAL.—The Attorney General
24 shall provide by regulation for the entry by an immigration
25

1 judge of an order of removal stipulated to by the alien
2 (or the alien’s representative) and the Service. A stipu-
3 lated order shall constitute a conclusive determination of
4 the alien’s removability from the United States.

5 “(e) DEFINITIONS.—In this section and section
6 240A:

7 “(1) EXCEPTIONAL CIRCUMSTANCES.—The
8 term ‘exceptional circumstances’ refers to excep-
9 tional circumstances (such as serious illness of the
10 alien or serious illness or death of the spouse, child,
11 or parent of the alien, but not including less compel-
12 ling circumstances) beyond the control of the alien.

13 “(2) REMOVABLE.—The term ‘removable’
14 means—

15 “(A) in the case of an alien not admitted
16 to the United States, that the alien is inadmis-
17 sible under section 212, or

18 “(B) in the case of an alien admitted to
19 the United States, that the alien is deportable
20 under section 237.

21 “CANCELLATION OF REMOVAL; ADJUSTMENT OF STATUS

22 “SEC. 240A. (a) CANCELLATION OF REMOVAL FOR
23 CERTAIN PERMANENT RESIDENTS.—The Attorney Gen-
24 eral may cancel removal in the case of an alien who is
25 inadmissible or deportable from the United States if the
26 alien—

1 “(1) has been an alien lawfully admitted for
2 permanent residence for not less than 5 years,

3 “(2) has resided in the United States continu-
4 ously for 7 years after having been admitted in any
5 status, and

6 “(3) has not been convicted of an aggravated
7 felony or felonies for which the alien has been sen-
8 tenced, in the aggregate, to a term of imprisonment
9 of at least 5 years.

10 “(b) CANCELLATION OF REMOVAL AND ADJUSTMENT
11 OF STATUS FOR CERTAIN NONPERMANENT RESI-
12 DENTS.—

13 “(1) IN GENERAL.—The Attorney General may
14 cancel removal in the case of an alien who is deport-
15 able from the United States if the alien—

16 “(A) has been physically present in the
17 United States for a continuous period of not
18 less than 7 years immediately preceding the
19 date of such application;

20 “(B) has been a person of good moral
21 character during such period;

22 “(C) has not been convicted of an aggra-
23 vated felony; and

24 “(D) establishes that removal would result
25 in extreme hardship to the alien or to the

1 alien's spouse, parent, or child, who is a citizen
2 of the United States or an alien lawfully admit-
3 ted for permanent residence.

4 “(2) SPECIAL RULE FOR BATTERED SPOUSE OR
5 CHILD.—The Attorney General may cancel removal
6 in the case of an alien who is inadmissible or deport-
7 able from the United States if the alien—

8 “(A) has been battered or subjected to ex-
9 treme cruelty in the United States by a spouse
10 or parent who is a United States citizen or law-
11 ful permanent resident (or is the parent of a
12 child of a United States citizen or lawful per-
13 manent resident and the child has been bat-
14 tered or subjected to extreme cruelty in the
15 United States by such citizen or permanent
16 resident parent);

17 “(B) has been physically present in the
18 United States for a continuous period of not
19 less than 3 years immediately preceding the
20 date of such application;

21 “(C) has been a person of good moral
22 character during such period;

23 “(D) is not inadmissible under paragraph
24 (2) or (3) of section 212(a), is not deportable
25 under paragraph (1)(G) or (2) through (4) of

1 section 237(a), and has not been convicted of
2 an aggravated felony; and

3 “(E) establishes that removal would result
4 in extreme hardship to the alien, the alien’s
5 child, or (in the case of an alien who is a child)
6 to the alien’s parent.

7 In acting on applications under this paragraph, the
8 Attorney General shall consider any credible evi-
9 dence relevant to the application. The determination
10 of what evidence is credible and the weight to be
11 given that evidence shall be within the sole discretion
12 of the Attorney General.

13 “(3) ADJUSTMENT OF STATUS.—The Attorney
14 General may adjust to the status of an alien lawfully
15 admitted for permanent residence any alien who the
16 Attorney General determines meets the requirements
17 of paragraph (1) or (2). The number of adjustments
18 under this paragraph shall not exceed 4,000 for any
19 fiscal year. The Attorney General shall record the
20 alien’s lawful admission for permanent residence as
21 of the date the Attorney General’s cancellation of re-
22 moval under paragraph (1) or (2) or determination
23 under this paragraph.

1 “(c) ALIENS INELIGIBLE FOR RELIEF.—The provi-
2 sions of subsections (a) and (b)(1) shall not apply to any
3 of the following aliens:

4 “(1) An alien who entered the United States as
5 a crewman subsequent to June 30, 1964.

6 “(2) An alien who was admitted to the United
7 States as a nonimmigrant exchange alien as defined
8 in section 101(a)(15)(J), or has acquired the status
9 of such a nonimmigrant exchange alien after admis-
10 sion, in order to receive graduate medical education
11 or training, regardless of whether or not the alien is
12 subject to or has fulfilled the two-year foreign resi-
13 dence requirement of section 212(e).

14 “(3) An alien who—

15 “(A) was admitted to the United States as
16 a nonimmigrant exchange alien as defined in
17 section 101(a)(15)(J) or has acquired the sta-
18 tus of such a nonimmigrant exchange alien
19 after admission other than to receive graduate
20 medical education or training,

21 “(B) is subject to the two-year foreign res-
22 idence requirement of section 212(e), and

23 “(C) has not fulfilled that requirement or
24 received a waiver thereof.

1 “(4) An alien who is inadmissible under section
2 212(a)(3) or deportable under subparagraph (B) or
3 (D) of section 237(a)(4).

4 “(d) SPECIAL RULES RELATING TO CONTINUOUS
5 RESIDENCE OR PHYSICAL PRESENCE.—

6 “(1) TERMINATION OF CONTINUOUS PERIOD.—
7 For purposes of this section, any period of continu-
8 ous residence or continuous physical presence in the
9 United States shall be deemed to end when the alien
10 is served a notice to appear under section 239(a).

11 “(2) TREATMENT OF CERTAIN BREAKS IN
12 PRESENCE.—An alien shall be considered to have
13 failed to maintain continuous physical presence in
14 the United States under subsections (b)(1) and
15 (b)(2) if the alien has departed from the United
16 States for any periods in the aggregate exceeding
17 180 days, unless the Attorney General finds that re-
18 turn could not be accomplished within that time pe-
19 riod due to emergent reasons.

20 “(3) CONTINUITY NOT REQUIRED BECAUSE OF
21 HONORABLE SERVICE IN ARMED FORCES AND PRES-
22 ENCE UPON ENTRY INTO SERVICE.—The require-
23 ments of continuous residence or continuous physical
24 presence in the United States under subsections (a)
25 and (b) shall not apply to an alien who—

1 “(A) has served for a minimum period of
2 24 months in an active-duty status in the
3 Armed Forces of the United States and, if sep-
4 arated from such service, was separated under
5 honorable conditions, and

6 “(B) at the time of the alien’s enlistment
7 or induction was in the United States.

8 “(e) ANNUAL LIMITATION.—The Attorney General
9 may not cancel the removal and adjust the status under
10 this section, nor suspend the deportation and adjust the
11 status under section 244(a) (as in effect before the enact-
12 ment of the Immigration in the National Interest Act of
13 1996), of a total of more than 4,000 aliens in any fiscal
14 year. The previous sentence shall apply regardless of when
15 an alien applied for such cancellation and adjustment and
16 whether such an alien had previously applied for suspen-
17 sion of deportation under such section 244(a).

18 “VOLUNTARY DEPARTURE

19 “SEC. 240B. (a) CERTAIN CONDITIONS.—

20 “(1) IN GENERAL.—The Attorney General may
21 permit an alien voluntarily to depart the United
22 States at the alien’s own expense under this sub-
23 section, in lieu of being subject to proceedings under
24 section 240 or prior to the completion of such pro-
25 ceedings, if the alien is not deportable under section
26 237(a)(2)(A)(iii) or section 237(a)(4)(B).

1 “(2) PERIOD.—Permission to depart voluntarily
2 under this subsection shall not be valid for a period
3 exceeding 120 days.

4 “(3) BOND.—The Attorney General may re-
5 quire an alien permitted to depart voluntarily under
6 this subsection to post a voluntary departure bond,
7 to be surrendered upon proof that the alien has de-
8 parted the United States within the time specified.

9 “(4) TREATMENT OF ALIENS ARRIVING IN THE
10 UNITED STATES.—In the case of an alien who is ar-
11 riving in the United States and with respect to
12 whom proceedings under section 240 are (or would
13 otherwise be) initiated at the time of such alien’s ar-
14 rival, paragraph (1) shall not apply. Nothing in this
15 paragraph shall be construed as preventing such an
16 alien from withdrawing the application for admission
17 in accordance with section 235(a)(4).

18 “(b) AT CONCLUSION OF PROCEEDINGS.—

19 “(1) IN GENERAL.—The Attorney General may
20 permit an alien voluntarily to depart the United
21 States at the alien’s own expense if, at the conclu-
22 sion of a proceeding under section 240, the immigra-
23 tion judge enters an order granting voluntary depart-
24 ure in lieu of removal and finds that—

1 “(A) the alien has been physically present
2 in the United States for a period of at least one
3 year immediately preceding the date the notice
4 to appear was served under section 239(a);

5 “(B) the alien is, and has been, a person
6 of good moral character for at least 5 years im-
7 mediately preceding the alien’s application for
8 voluntary departure;

9 “(C) the alien is not deportable under sec-
10 tion 237(a)(2)(A)(iii) or section 237(a)(4); and

11 “(D) the alien has established by clear and
12 convincing evidence that the alien has the
13 means to depart the United States and intends
14 to do so.

15 “(2) PERIOD.—Permission to depart voluntarily
16 under this subsection shall not be valid for a period
17 exceeding 60 days.

18 “(3) BOND.—An alien permitted to depart vol-
19 untarily under this subsection shall be required to
20 post a voluntary departure bond, in an amount nec-
21 essary to ensure that the alien will depart, to be sur-
22 rendered upon proof that the alien has departed the
23 United States within the time specified.

24 “(c) ALIENS NOT ELIGIBLE.—The Attorney General
25 shall not permit an alien to depart voluntarily under this

1 section if the alien was previously permitted to so depart
2 after having been found inadmissible under section
3 212(a)(9).

4 “(d) CIVIL PENALTY FOR FAILURE TO DEPART.—
5 If an alien is permitted to depart voluntarily under this
6 section and fails voluntarily to depart the United States
7 within the time period specified, the alien shall be subject
8 to a civil penalty of not less than \$1,000 and not more
9 than \$5,000, and be ineligible for a period of 10 years
10 for any further relief under this section and sections 240A,
11 245, 248, and 249.

12 “(e) ADDITIONAL CONDITIONS.—The Attorney Gen-
13 eral may by regulation limit eligibility for voluntary depar-
14 ture under this section for any class or classes of aliens.

15 “(f) APPEALS OF DENIALS.—An alien may appeal
16 from denial of a request for an order of voluntary depar-
17 ture under subsection (b) in accordance with the proce-
18 dures in section 242. Notwithstanding the pendency of
19 such appeal, the alien shall be removable from the United
20 States 60 days after entry of the order of removal. The
21 alien’s removal from the United States shall not moot the
22 appeal.”.

23 (b) REPEAL OF SECTION 212(c).—Section 212(c) (8
24 U.S.C. 1182(c)) is repealed.

1 **SEC. 305. DETENTION AND REMOVAL OF ALIENS ORDERED**

2 **REMOVED (NEW SECTION 241).**

3 (a) IN GENERAL.—Title II is further amended—

4 (1) by striking section 237 (8 U.S.C. 1227),

5 (2) by redesignating section 241 (8 U.S.C.

6 1251) as section 237 and by moving such section to

7 immediately follow section 236, and

8 (3) by inserting after section 240C (as redesign-

9 nated by section 304(a)(2)) the following new sec-

10 tion:

11 “DETENTION AND REMOVAL OF ALIENS ORDERED

12 REMOVED

13 “SEC. 241. (a) DETENTION, RELEASE, AND RE-

14 MOVAL OF ALIENS ORDERED REMOVED.—

15 “(1) REMOVAL PERIOD.—

16 “(A) IN GENERAL.—Except as otherwise

17 provided in this section, when an alien is or-

18 dered removed, the Attorney General shall re-

19 move the alien from the United States within a

20 period of 90 days (in this section referred to as

21 the ‘removal period’).

22 “(B) BEGINNING OF PERIOD.—The re-

23 moval period begins on the latest of the follow-

24 ing:

25 “(i) The date the order of removal be-

26 comes administratively final.

1 “(ii) If the removal order is judicially
2 reviewed and such review serves to stay the
3 removal of the alien, the date of the court’s
4 final order.

5 “(iii) If the alien is detained or con-
6 fined (except under an immigration proc-
7 ess), the date the alien is released from de-
8 tention or confinement.

9 “(C) SUSPENSION OF PERIOD.—The re-
10 moval period shall be extended beyond a period
11 of 90 days and the alien may remain in deten-
12 tion during such extended period if the alien
13 willfully fails or refuses to make timely applica-
14 tion in good faith for travel or other documents
15 necessary to the alien’s departure or conspires
16 or acts to prevent the alien’s removal subject to
17 an order of removal.

18 “(2) DETENTION AND RELEASE BY THE ATTOR-
19 NEY GENERAL.—During the removal period, the At-
20 torney General shall detain the alien. If there is in-
21 sufficient detention space to detain the alien, the At-
22 torney General shall make a specific finding to this
23 effect and may release the alien on a bond contain-
24 ing such conditions as the Attorney General may
25 prescribe.

1 “(3) SUPERVISION AFTER 90-DAY PERIOD.—If
2 the alien does not leave or is not removed within the
3 removal period, the alien, pending removal, shall be
4 subject to supervision under regulations prescribed
5 by the Attorney General. The regulations shall in-
6 clude provisions requiring the alien—

7 “(A) to appear before an immigration offi-
8 cer periodically for identification;

9 “(B) to submit, if necessary, to a medical
10 and psychiatric examination at the expense of
11 the United States Government;

12 “(C) to give information under oath about
13 the alien’s nationality, circumstances, habits,
14 associations, and activities, and other informa-
15 tion the Attorney General considers appro-
16 priate; and

17 “(D) to obey reasonable written restric-
18 tions on the alien’s conduct or activities that
19 the Attorney General prescribes for the alien.

20 “(4) ALIENS IMPRISONED, ARRESTED, OR ON
21 PAROLE, SUPERVISED RELEASE, OR PROBATION.—

22 “(A) IN GENERAL.—Except as provided in
23 section 343(a) of the Public Health Service Act
24 (42 U.S.C. 259(a)) and paragraph (2), the At-
25 torney General may not remove an alien who is

1 sentenced to imprisonment until the alien is re-
2 leased from imprisonment. Parole, supervised
3 release, probation, or possibility of arrest or
4 further imprisonment is not a reason to defer
5 removal.

6 “(B) EXCEPTION FOR REMOVAL OF NON-
7 VIOLENT OFFENDERS PRIOR TO COMPLETION
8 OF SENTENCE OF IMPRISONMENT.—The Attor-
9 ney General is authorized to remove an alien in
10 accordance with applicable procedures under
11 this Act before the alien has completed a sen-
12 tence of imprisonment—

13 “(i) in the case of an alien in the cus-
14 tody of the Attorney General, if the Attor-
15 ney General determines that (I) the alien
16 is confined pursuant to a final conviction
17 for a nonviolent offense (other than an of-
18 fense related to smuggling or harboring of
19 aliens) and (II) the removal of the alien is
20 appropriate and in the best interest of the
21 United States; or

22 “(ii) in the case of an alien in the cus-
23 tody of a State (or a political subdivision
24 of a State), if the chief State official exer-
25 cising authority with respect to the incar-

1 ceration of the alien determines that (I)
2 the alien is confined pursuant to a final
3 conviction for a nonviolent offense, (II) the
4 removal is appropriate and in the best in-
5 terest of the State, and (III) submits a
6 written request to the Attorney General
7 that such alien be so removed.

8 “(C) NOTICE.—Any alien removed pursu-
9 ant to this paragraph shall be notified of the
10 penalties under the laws of the United States
11 relating to the reentry of deported aliens, par-
12 ticularly the expanded penalties for aliens re-
13 moved under subparagraph (B).

14 “(5) REINSTATEMENT OF REMOVAL ORDERS
15 AGAINST ALIENS ILLEGALLY REENTERING.—If the
16 Attorney General finds that an alien has reentered
17 the United States illegally after having been removed
18 or having departed voluntarily, under an order of re-
19 moval, the prior order of removal is reinstated from
20 its original date and is not subject to being reopened
21 or reviewed, and the alien shall be removed under
22 the prior order at any time after the reentry.

23 “(6) INADMISSIBLE ALIENS.—An alien ordered
24 removed who is inadmissible under section 212 may
25 be detained beyond the removal period and, if re-

1 leased, shall be subject to the terms of supervision
2 in paragraph (3).

3 “(7) EMPLOYMENT AUTHORIZATION.—No alien
4 ordered removed shall be eligible to receive author-
5 ization to be employed in the United States unless
6 the Attorney General makes a specific finding that—

7 “(A) the alien cannot be removed due to
8 the refusal of all countries designated by the
9 alien or under this section to receive the alien,
10 or

11 “(B) the removal of the alien is otherwise
12 impracticable or contrary to the public interest.

13 “(b) COUNTRIES TO WHICH ALIENS MAY BE RE-
14 MOVED.—

15 “(1) ALIENS ARRIVING AT THE UNITED
16 STATES.—Subject to paragraph (3)—

17 “(A) IN GENERAL.—Except as provided by
18 subparagraphs (B) and (C), an alien who ar-
19 rives at the United States and with respect to
20 whom proceedings under section 240 were initi-
21 ated at the time of such alien’s arrival shall be
22 removed to the country in which the alien
23 boarded the vessel or aircraft on which the alien
24 arrived in the United States.

1 “(B) TRAVEL FROM CONTIGUOUS TERRI-
2 TORY.—If the alien boarded the vessel or air-
3 craft on which the alien arrived in the United
4 States in a foreign territory contiguous to the
5 United States, an island adjacent to the United
6 States, or an island adjacent to a foreign terri-
7 tory contiguous to the United States, and the
8 alien is not a native, citizen, subject, or national
9 of, or does not reside in, the territory or island,
10 removal shall be to the country in which the
11 alien boarded the vessel that transported the
12 alien to the territory or island.

13 “(C) ALTERNATIVE COUNTRIES.—If the
14 government of the country designated in sub-
15 paragraph (A) or (B) is unwilling to accept the
16 alien into that country’s territory, removal shall
17 be to any of the following countries, as directed
18 by the Attorney General:

19 “(i) The country of which the alien is
20 a citizen, subject, or national.

21 “(ii) The country in which the alien
22 was born.

23 “(iii) The country in which the alien
24 has a residence.

1 “(iv) A country with a government
2 that will accept the alien into the country’s
3 territory if removal to each country de-
4 scribed in a previous clause of this sub-
5 paragraph is impracticable, inadvisable, or
6 impossible.

7 “(2) OTHER ALIENS.—Subject to paragraph
8 (3)—

9 “(A) SELECTION OF COUNTRY BY
10 ALIEN.—Except as otherwise provided in this
11 paragraph—

12 “(i) any alien not described in para-
13 graph (1) who has been ordered removed
14 may designate one country to which the
15 alien wants to be removed, and

16 “(ii) the Attorney General shall re-
17 move the alien to the country the alien so
18 designates.

19 “(B) LIMITATION ON DESIGNATION.—An
20 alien may designate under subparagraph (A)(i)
21 a foreign territory contiguous to the United
22 States, an adjacent island, or an island adja-
23 cent to a foreign territory contiguous to the
24 United States as the place to which the alien is
25 to be removed only if the alien is a native, citi-

1 zen, subject, or national of, or has resided in,
2 that designated territory or island.

3 “(C) DISREGARDING DESIGNATION.—The
4 Attorney General may disregard a designation
5 under subparagraph (A)(i) if—

6 “(i) the alien fails to designate a
7 country promptly;

8 “(ii) the government of the country
9 does not inform the Attorney General fi-
10 nally, within 30 days after the date the At-
11 torney General first inquires, whether the
12 government will accept the alien into the
13 country;

14 “(iii) the government of the country is
15 not willing to accept the alien into the
16 country; or

17 “(iv) the Attorney General decides
18 that removing the alien to the country is
19 prejudicial to the United States.

20 “(D) ALTERNATIVE COUNTRY.—If an alien
21 is not removed to a country designated under
22 subparagraph (A)(i), the Attorney General shall
23 remove the alien to a country of which the alien
24 is a subject, national, or citizen unless the gov-
25 ernment of the country—

1 “(i) does not inform the Attorney
2 General or the alien finally, within 30 days
3 after the date the Attorney General first
4 inquires or within another period of time
5 the Attorney General decides is reasonable,
6 whether the government will accept the
7 alien into the country; or

8 “(ii) is not willing to accept the alien
9 into the country.

10 “(E) ADDITIONAL REMOVAL COUNTRIES.—
11 If an alien is not removed to a country under
12 the previous subparagraphs of this paragraph,
13 the Attorney General shall remove the alien to
14 any of the following countries:

15 “(i) The country from which the alien
16 was admitted to the United States.

17 “(ii) The country in which is located
18 the foreign port from which the alien left
19 for the United States or for a foreign terri-
20 tory contiguous to the United States.

21 “(iii) A country in which the alien re-
22 sided before the alien entered the country
23 from which the alien entered the United
24 States.

1 “(iv) The country in which the alien
2 was born.

3 “(v) The country that had sovereignty
4 over the alien’s birthplace when the alien
5 was born.

6 “(vi) The country in which the alien’s
7 birthplace is located when the alien is or-
8 dered removed.

9 “(vii) If impracticable, inadvisable, or
10 impossible to remove the alien to each
11 country described in a previous clause of
12 this subparagraph, another country whose
13 government will accept the alien into that
14 country.

15 “(F) REMOVAL COUNTRY WHEN UNITED
16 STATES IS AT WAR.—When the United States is
17 at war and the Attorney General decides that it
18 is impracticable, inadvisable, inconvenient, or
19 impossible to remove an alien under this sub-
20 section because of the war, the Attorney Gen-
21 eral may remove the alien—

22 “(i) to the country that is host to a
23 government in exile of the country of which
24 the alien is a citizen or subject if the gov-

1 ernment of the host country will permit the
2 alien's entry; or

3 “(ii) if the recognized government of
4 the country of which the alien is a citizen
5 or subject is not in exile, to a country, or
6 a political or territorial subdivision of a
7 country, that is very near the country of
8 which the alien is a citizen or subject, or,
9 with the consent of the government of the
10 country of which the alien is a citizen or
11 subject, to another country.

12 “(3) RESTRICTION ON REMOVAL TO A COUNTRY
13 WHERE ALIEN'S LIFE OR FREEDOM WOULD BE
14 THREATENED.—

15 “(A) IN GENERAL.—Notwithstanding
16 paragraphs (1) and (2), the Attorney General
17 may not remove an alien to a country if the At-
18 torney General decides that the alien's life or
19 freedom would be threatened in that country
20 because of the alien's race, religion, nationality,
21 membership in a particular social group, or po-
22 litical opinion.

23 “(B) EXCEPTION.—Subparagraph (A)
24 does not apply to an alien deportable under sec-

1 tion 237(a)(4)(D) or if the Attorney General
2 decides that—

3 “(i) the alien ordered, incited, as-
4 sisted, or otherwise participated in the per-
5 secution of an individual because of the in-
6 dividual’s race, religion, nationality, mem-
7 bership in a particular social group, or po-
8 litical opinion;

9 “(ii) the alien, having been convicted
10 by a final judgment of a particularly seri-
11 ous crime is a danger to the community of
12 the United States;

13 “(iii) there are serious reasons to be-
14 lieve that the alien committed a serious
15 nonpolitical crime outside the United
16 States before the alien arrived in the Unit-
17 ed States; or

18 “(iv) there are reasonable grounds to
19 believe that the alien is a danger to the se-
20 curity of the United States.

21 For purposes of clause (ii), an alien who has
22 been convicted of an aggravated felony (or felo-
23 nies) for which the alien has been sentenced to
24 an aggregate term of imprisonment of at least
25 5 years shall be considered to have committed

1 a particularly serious crime. For purposes of
2 clause (iv), an alien who is described in section
3 237(a)(4)(B) shall be considered to be an alien
4 with respect to whom there are reasonable
5 grounds for regarding as a danger to the secu-
6 rity of the United States.

7 “(c) REMOVAL OF ALIENS ARRIVING AT PORT OF
8 ENTRY.—

9 “(1) VESSELS AND AIRCRAFT.—An alien arriv-
10 ing at a port of entry of the United States who is
11 ordered removed either without a hearing under sec-
12 tion 235(a)(1) or 235(c) or pursuant to proceedings
13 under section 240 initiated at the time of such
14 alien’s arrival shall be removed immediately on a
15 vessel or aircraft owned by the owner of the vessel
16 or aircraft on which the alien arrived in the United
17 States, unless—

18 “(A) it is impracticable to remove the alien
19 on one of those vessels or aircraft within a rea-
20 sonable time, or

21 “(B) the alien is a stowaway—

22 “(i) who has been ordered removed in
23 accordance with section 235(a)(1),

24 “(ii) who has requested asylum, and

1 “(iii) whose application has not been
2 adjudicated or whose asylum application
3 has been denied but who has not exhausted
4 all appeal rights.

5 “(2) STAY OF REMOVAL.—

6 “(A) IN GENERAL.—The Attorney General
7 may stay the removal of an alien under this
8 subsection if the Attorney General decides
9 that—

10 “(i) immediate removal is not prac-
11 ticable or proper; or

12 “(ii) the alien is needed to testify in
13 the prosecution of a person for a violation
14 of a law of the United States or of any
15 State.

16 “(B) PAYMENT OF DETENTION COSTS.—

17 During the period an alien is detained because
18 of a stay of removal under subparagraph
19 (A)(ii), the Attorney General may pay from the
20 appropriation ‘Immigration and Naturalization
21 Service—Salaries and Expenses’—

22 “(i) the cost of maintenance of the
23 alien; and

24 “(ii) a witness fee of \$1 a day.

1 “(C) RELEASE DURING STAY.—The Attor-
2 ney General may release an alien whose removal
3 is stayed under subparagraph (A)(ii) on—

4 “(i) the alien’s filing a bond of at
5 least \$500 with security approved by the
6 Attorney General;

7 “(ii) condition that the alien appear
8 when required as a witness and for re-
9 moval; and

10 “(iii) other conditions the Attorney
11 General may prescribe.

12 “(3) COSTS OF DETENTION AND MAINTENANCE
13 PENDING REMOVAL.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B) and subsection (d), an owner
16 of a vessel or aircraft bringing an alien to the
17 United States shall pay the costs of detaining
18 and maintaining the alien—

19 “(i) while the alien is detained under
20 subsection (d)(1), and

21 “(ii) in the case of an alien who is a
22 stowaway, while the alien is being detained
23 pursuant to—

24 “(I) subsection (d)(2)(A) or
25 (d)(2)(B)(i),

1 “(II) subsection (d)(2)(B)(ii) or
2 (iii) for the period of time reasonably
3 necessary for the owner to arrange for
4 repatriation or removal of the stow-
5 away, including obtaining necessary
6 travel documents, but not to extend
7 beyond the date on which it is
8 ascertained that such travel docu-
9 ments cannot be obtained from the
10 country to which the stowaway is to
11 be returned, or

12 “(III) section 235(b)(1)(B)(ii),
13 for a period not to exceed 15 days
14 (excluding Saturdays, Sundays, and
15 holidays) commencing on the first
16 such day which begins on the earlier
17 of 72 hours after the time of the ini-
18 tial presentation of the stowaway for
19 inspection or at the time the stow-
20 away is determined to have a credible
21 fear of persecution.

22 “(B) NONAPPLICATION.—Subparagraph
23 (A) shall not apply if—

24 “(i) the alien is a crewmember;

25 “(ii) the alien has an immigrant visa;

1 “(iii) the alien has a nonimmigrant
2 visa or other documentation authorizing
3 the alien to apply for temporary admission
4 to the United States and applies for admis-
5 sion not later than 120 days after the date
6 the visa or documentation was issued;

7 “(iv) the alien has a reentry permit
8 and applies for admission not later than
9 120 days after the date of the alien’s last
10 inspection and admission;

11 “(v)(I) the alien has a nonimmigrant
12 visa or other documentation authorizing
13 the alien to apply for temporary admission
14 to the United States or a reentry permit;

15 “(II) the alien applies for admission
16 more than 120 days after the date the visa
17 or documentation was issued or after the
18 date of the last inspection and admission
19 under the reentry permit; and

20 “(III) the owner of the vessel or air-
21 craft satisfies the Attorney General that
22 the existence of the condition relating to
23 inadmissibility could not have been discov-
24 ered by exercising reasonable care before
25 the alien boarded the vessel or aircraft; or

1 “(vi) the individual claims to be a na-
2 tional of the United States and has a Unit-
3 ed States passport.

4 “(d) REQUIREMENTS OF PERSONS PROVIDING
5 TRANSPORTATION.—

6 “(1) REMOVAL AT TIME OF ARRIVAL.—An
7 owner, agent, master, commanding officer, person in
8 charge, purser, or consignee of a vessel or aircraft
9 bringing an alien (except an alien crewmember) to
10 the United States shall—

11 “(A) receive an alien back on the vessel or
12 aircraft or another vessel or aircraft owned or
13 operated by the same interests if the alien is or-
14 dered removed under this part; and

15 “(B) take the alien to the foreign country
16 to which the alien is ordered removed.

17 “(2) ALIEN STOWAWAYS.—An owner, agent,
18 master, commanding officer, charterer, or consignee
19 of a vessel or aircraft arriving in the United States
20 with an alien stowaway—

21 “(A) shall detain the alien on board the
22 vessel or aircraft, or at such place as the Attor-
23 ney General shall designate, until completion of
24 the inspection of the alien by an immigration
25 officer;

1 “(B) may not permit the stowaway to land
2 in the United States, except pursuant to regula-
3 tions of the Attorney General temporarily—

4 “(i) for medical treatment,

5 “(ii) for detention of the stowaway by
6 the Attorney General, or

7 “(iii) for departure or removal of the
8 stowaway; and

9 “(C) if ordered by an immigration officer,
10 shall remove the stowaway on the vessel or air-
11 craft or on another vessel or aircraft.

12 The Attorney General shall grant a timely request to
13 remove the stowaway under subparagraph (C) on a
14 vessel or aircraft other than that on which the stow-
15 away arrived if the requester has obtained any travel
16 documents necessary for departure or repatriation of
17 the stowaway and removal of the stowaway will not
18 be unreasonably delayed.

19 “(3) REMOVAL UPON ORDER.—An owner,
20 agent, master, commanding officer, person in
21 charge, purser, or consignee of a vessel, aircraft, or
22 other transportation line shall comply with an order
23 of the Attorney General to take on board, guard
24 safely, and transport to the destination specified any
25 alien ordered to be removed under this Act.

1 “(e) PAYMENT OF EXPENSES OF REMOVAL.—

2 “(1) COSTS OF REMOVAL AT TIME OF ARRIV-
3 AL.—In the case of an alien who is a stowaway or
4 who is ordered removed either without a hearing
5 under section 235(a)(1) or 235(c) or pursuant to
6 proceedings under section 240 initiated at the time
7 of such alien’s arrival, the owner of the vessel or air-
8 craft (if any) on which the alien arrived in the Unit-
9 ed States shall pay the transportation cost of remov-
10 ing the alien. If removal is on a vessel or aircraft not
11 owned by the owner of the vessel or aircraft on
12 which the alien arrived in the United States, the At-
13 torney General may—

14 “(A) pay the cost from the appropriation
15 ‘Immigration and Naturalization Service—Sala-
16 ries and Expenses’; and

17 “(B) recover the amount of the cost in a
18 civil action from the owner, agent, or consignee
19 of the vessel or aircraft (if any) on which the
20 alien arrived in the United States.

21 “(2) COSTS OF REMOVAL TO PORT OF REMOVAL
22 FOR ALIENS ADMITTED OR PERMITTED TO LAND.—
23 In the case of an alien who has been admitted or
24 permitted to land and is ordered removed, the cost
25 (if any) of removal of the alien to the port of re-

1 removal shall be at the expense of the appropriation
2 for the enforcement of this Act.

3 “(3) COSTS OF REMOVAL FROM PORT OF RE-
4 MOVAL FOR ALIENS ADMITTED OR PERMITTED TO
5 LAND.—

6 “(A) THROUGH APPROPRIATION.—Except
7 as provided in subparagraph (B), in the case of
8 an alien who has been admitted or permitted to
9 land and is ordered removed, the cost (if any)
10 of removal of the alien from the port of removal
11 shall be at the expense of the appropriation for
12 the enforcement of this Act.

13 “(B) THROUGH OWNER.—

14 “(i) IN GENERAL.—In the case of an
15 alien described in clause (ii), the cost of re-
16 moval of the alien from the port of removal
17 may be charged to any owner of the vessel,
18 aircraft, or other transportation line by
19 which the alien came to the United States.

20 “(ii) ALIENS DESCRIBED.—An alien
21 described in this clause is an alien who—

22 “(I) is admitted to the United
23 States (other than lawfully admitted
24 for permanent residence) and is or-
25 dered removed within 5 years of the

1 date of admission based on a ground
2 that existed before or at the time of
3 admission, or

4 “(II) is an alien crewman per-
5 mitted to land temporarily under sec-
6 tion 252 and is ordered removed with-
7 in 5 years of the date of landing.

8 “(C) COSTS OF REMOVAL OF CERTAIN
9 ALIENS GRANTED VOLUNTARY DEPARTURE.—In
10 the case of an alien who has been granted vol-
11 untary departure under section 240B and who
12 is financially unable to depart at the alien’s own
13 expense and whose removal the Attorney Gen-
14 eral deems to be in the best interest of the
15 United States, the expense of such removal may
16 be paid from the appropriation for the enforce-
17 ment of this Act.

18 “(f) ALIENS REQUIRING PERSONAL CARE DURING
19 REMOVAL.—

20 “(1) IN GENERAL.—If the Attorney General be-
21 lieves that an alien being removed requires personal
22 care because of the alien’s mental or physical condi-
23 tion, the Attorney General may employ a suitable
24 person for that purpose who shall accompany and

1 care for the alien until the alien arrives at the final
2 destination.

3 “(2) COSTS.—The costs of providing the service
4 described in paragraph (1) shall be defrayed in the
5 same manner as the expense of removing the accom-
6 panied alien is defrayed under this section.

7 “(g) PLACES OF DETENTION.—

8 “(1) IN GENERAL.—The Attorney General shall
9 arrange for appropriate places of detention for aliens
10 detained pending removal or a decision on removal.
11 When United States Government facilities are un-
12 available or facilities adapted or suitably located for
13 detention are unavailable for rental, the Attorney
14 General may expend from the appropriation ‘Immi-
15 gration and Naturalization Service—Salaries and
16 Expenses’, without regard to section 3709 of the Re-
17 vised Statutes (41 U.S.C. 5), amounts necessary to
18 acquire land and to acquire, build, remodel, repair,
19 and operate facilities (including living quarters for
20 immigration officers if not otherwise available) nec-
21 essary for detention.

22 “(2) DETENTION FACILITIES OF THE IMMIGRA-
23 TION AND NATURALIZATION SERVICE.—Prior to ini-
24 tiating any project for the construction of any new
25 detention facility for the Service, the Commissioner

1 shall consider the availability for purchase or lease
2 of any existing prison, jail, detention center, or other
3 comparable facility suitable for such use.

4 “(h) STATUTORY CONSTRUCTION.—Nothing in this
5 section shall be construed to create any substantive or pro-
6 cedural right or benefit that is legally enforceable by any
7 party against the United States or its agencies or officers
8 or any other person.”.

9 (b) MODIFICATION OF AUTHORITY.—

10 (1) Section 241(i), as redesignated by section
11 306(a)(1), is amended—

12 (A) in paragraph (3)(A) by striking “fel-
13 ony and sentenced to a term of imprisonment”
14 and inserting “felony or two or more mis-
15 demeanors”, and

16 (B) by adding at the end the following new
17 paragraph:

18 “(6) In this subsection, the term ‘incarceration’
19 includes imprisonment in a State or local prison or
20 jail the time of which is counted towards completion
21 of a sentence or the detention of an alien previously
22 convicted of a felony or misdemeanor who has been
23 arrested and is being held pending judicial action on
24 new charges or pending transfer to Federal cus-
25 tody.”.

1 (2) The amendments made by paragraph (1)
2 shall apply beginning with fiscal year 1996.

3 (c) REENTRY OF ALIEN REMOVED PRIOR TO COM-
4 PLETION OF TERM OF IMPRISONMENT.—Section 276(b)
5 (8 U.S.C. 1326(b)), as amended by section 321(b), is
6 amended—

7 (1) by striking “or” at the end of paragraph
8 (2),

9 (2) by adding “or” at the end of paragraph (3),
10 and

11 (3) by inserting after paragraph (3) the follow-
12 ing new paragraph:

13 “(4) who was removed from the United States
14 pursuant to section 241(a)(4)(B) who thereafter,
15 without the permission of the Attorney General, en-
16 ters, attempts to enter, or is at any time found in,
17 the United States (unless the Attorney General has
18 expressly consented to such alien’s reentry) shall be
19 fined under title 18, United States Code, imprisoned
20 for not more than 10 years, or both.

21 (d) MISCELLANEOUS CONFORMING AMENDMENT.—
22 Section 212(a)(4) (8 U.S.C. 1182(a)(4)), as amended by
23 section 621(a), is amended by striking “241(a)(5)(B)”
24 each place it appears and inserting “237(a)(5)(B)”.

1 **SEC. 306. APPEALS FROM ORDERS OF REMOVAL (NEW SEC-**
2 **TION 242).**

3 (a) IN GENERAL.—Section 242 (8 U.S.C. 1252) is
4 amended—

5 (1) by redesignating subsection (j) as sub-
6 section (i) and by moving such subsection and add-
7 ing it at the end of section 241, as inserted by sec-
8 tion 305(a)(3); and

9 (2) by amending the remainder of section 242
10 to read as follows:

11 “JUDICIAL REVIEW OF ORDERS OF REMOVAL

12 “SEC. 242. (a) APPLICABLE PROVISIONS.—

13 “(1) GENERAL ORDERS OF REMOVAL.—Judicial
14 review of a final order of removal (other than an
15 order of removal without a hearing pursuant to sec-
16 tion 235(b)(1)) is governed only by chapter 158 of
17 title 28 of the United States Code, except as pro-
18 vided in subsection (b) and except that the court
19 may not order the taking of additional evidence
20 under section 2347(c) of such title.

21 “(2) LIMITATIONS ON REVIEW RELATING TO
22 SECTION 235(b)(1).—Notwithstanding any other pro-
23 vision of law, no court shall have jurisdiction to re-
24 view—

25 “(A) except as provided in subsection (f),
26 any individual determination or to entertain any

1 other cause or claim arising from or relating to
2 the implementation or operation of an order of
3 removal pursuant to section 235(b)(1),

4 “(B) a decision by the Attorney General to
5 invoke the provisions of such section,

6 “(C) the application of such section to in-
7 dividual aliens, including the determination
8 made under section 235(b)(1)(B), or

9 “(D) procedures and policies adopted by
10 the Attorney General to implement the provi-
11 sions of section 235(b)(1).

12 “(3) TREATMENT OF CERTAIN DECISIONS.—No
13 alien shall have a right to appeal from a decision of
14 an immigration judge which is based solely on a cer-
15 tification described in section 240(c)(1)(B).

16 “(b) REQUIREMENTS FOR ORDERS OF REMOVAL.—

17 With respect to review of an order of removal under sub-
18 section (a)(1), the following requirements apply:

19 “(1) DEADLINE.—The petition for review must
20 be filed not later than 30 days after the date of the
21 final order of removal.

22 “(2) VENUE AND FORMS.—The petition for re-
23 view shall be filed with the court of appeals for the
24 judicial circuit in which the immigration judge com-
25 pleted the proceedings. The record and briefs do not

1 have to be printed. The court of appeals shall review
2 the proceeding on a typewritten record and on type-
3 written briefs.

4 “(3) SERVICE.—

5 “(A) IN GENERAL.—The respondent is the
6 Attorney General. The petition shall be served
7 on the Attorney General and on the officer or
8 employee of the Service in charge of the Service
9 district in which the initial proceedings under
10 section 240 were conducted.

11 “(B) STAY OF ORDER.—

12 “(i) IN GENERAL.—Except as pro-
13 vided in clause (ii), service of the petition
14 on the officer or employee stays the re-
15 moval of an alien pending the court’s deci-
16 sion on the petition, unless the court or-
17 ders otherwise.

18 “(ii) EXCEPTION.—If the alien has
19 been convicted of an aggravated felony, or
20 the alien has been ordered removed pursu-
21 ant to a finding that the alien is inadmis-
22 sible under section 212, service of the peti-
23 tion does not stay the removal unless the
24 court orders otherwise.

1 “(4) DECISION.—Except as provided in para-
2 graph (5)(B)—

3 “(A) the court of appeals shall decide the
4 petition only on the administrative record on
5 which the order of removal is based,

6 “(B) the administrative findings of fact are
7 conclusive if supported by reasonable, substan-
8 tial, and probative evidence on the record con-
9 sidered as a whole, and

10 “(C) a decision that an alien is not eligible
11 for admission to the United States is conclusive
12 unless manifestly contrary to law.

13 “(5) TREATMENT OF NATIONALITY CLAIMS.—

14 “(A) COURT DETERMINATION IF NO ISSUE
15 OF FACT.—If the petitioner claims to be a na-
16 tional of the United States and the court of ap-
17 peals finds from the pleadings and affidavits
18 that no genuine issue of material fact about the
19 petitioner’s nationality is presented, the court
20 shall decide the nationality claim.

21 “(B) TRANSFER IF ISSUE OF FACT.—If
22 the petitioner claims to be a national of the
23 United States and the court of appeals finds
24 that a genuine issue of material fact about the
25 petitioner’s nationality is presented, the court

1 shall transfer the proceeding to the district
2 court of the United States for the judicial dis-
3 trict in which the petitioner resides for a new
4 hearing on the nationality claim and a decision
5 on that claim as if an action had been brought
6 in the district court under section 2201 of title
7 28, United States Code.

8 “(C) LIMITATION ON DETERMINATION.—

9 The petitioner may have such nationality claim
10 decided only as provided in this paragraph.

11 “(6) CONSOLIDATION WITH REVIEW OF MO-
12 TIONS TO REOPEN OR RECONSIDER.—When a peti-
13 tioner seeks review of an order under this section,
14 any review sought of a motion to reopen or recon-
15 sider the order shall be consolidated with the review
16 of the order.

17 “(7) CHALLENGE TO VALIDITY OF ORDERS IN
18 CERTAIN CRIMINAL PROCEEDINGS.—

19 “(A) IN GENERAL.—If the validity of an
20 order of removal has not been judicially de-
21 cided, a defendant in a criminal proceeding
22 charged with violating section 243(a) may chal-
23 lenge the validity of the order in the criminal
24 proceeding only by filing a separate motion be-

1 fore trial. The district court, without a jury,
2 shall decide the motion before trial.

3 “(B) CLAIMS OF UNITED STATES NATION-
4 ALITY.—If the defendant claims in the motion
5 to be a national of the United States and the
6 district court finds that—

7 “(i) no genuine issue of material fact
8 about the defendant’s nationality is pre-
9 sented, the court shall decide the motion
10 only on the administrative record on which
11 the removal order is based and the admin-
12 istrative findings of fact are conclusive if
13 supported by reasonable, substantial, and
14 probative evidence on the record considered
15 as a whole; or

16 “(ii) a genuine issue of material fact
17 about the defendant’s nationality is pre-
18 sented, the court shall hold a new hearing
19 on the nationality claim and decide that
20 claim as if an action had been brought
21 under section 2201 of title 28, United
22 States Code.

23 The defendant may have such nationality claim
24 decided only as provided in this subparagraph.

1 “(C) CONSEQUENCE OF INVALIDATION.—

2 If the district court rules that the removal order
3 is invalid, the court shall dismiss the indictment
4 for violation of section 243(a). The United
5 States Government may appeal the dismissal to
6 the court of appeals for the appropriate circuit
7 within 30 days after the date of the dismissal.

8 “(D) LIMITATION ON FILING PETITIONS
9 FOR REVIEW.—The defendant in a criminal
10 proceeding under section 243(a) may not file a
11 petition for review under subsection (a) during
12 the criminal proceeding.

13 “(8) CONSTRUCTION.—This subsection—

14 “(A) does not prevent the Attorney Gen-
15 eral, after a final order of removal has been is-
16 sued, from detaining the alien under section
17 241(a);

18 “(B) does not relieve the alien from com-
19 plying with section 241(a)(4) and section
20 243(g); and

21 “(C) except as provided in paragraph (3),
22 does not require the Attorney General to defer
23 removal of the alien.

24 “(e) REQUIREMENTS FOR PETITION.—A petition for
25 review or for habeas corpus of an order of removal shall

1 state whether a court has upheld the validity of the order,
2 and, if so, shall state the name of the court, the date of
3 the court's ruling, and the kind of proceeding.

4 “(d) REVIEW OF FINAL ORDERS.—A court may re-
5 view a final order of removal only if—

6 “(1) the alien has exhausted all administrative
7 remedies available to the alien as of right, and

8 “(2) another court has not decided the validity
9 of the order, unless the reviewing court finds that
10 the petition presents grounds that could not have
11 been presented in the prior judicial proceeding or
12 that the remedy provided by the prior proceeding
13 was inadequate or ineffective to test the validity of
14 the order.

15 “(e) LIMITED REVIEW FOR NON-PERMANENT RESI-
16 DENTS CONVICTED OF AGGRAVATED FELONIES.—

17 “(1) IN GENERAL.—A petition for review filed
18 by an alien against whom a final order of removal
19 has been issued under section 238 may challenge
20 only whether—

21 “(A) the alien is the alien described in the
22 order,

23 “(B) the alien is an alien described in sec-
24 tion 238(b)(2) and has been convicted after

1 entry into the United States of an aggravated
2 felony, and

3 “(C) proceedings against the alien com-
4 plied with section 238(b)(4).

5 “(2) LIMITED JURISDICTION.—A court review-
6 ing the petition has jurisdiction only to review the is-
7 sues described in paragraph (1).

8 “(f) JUDICIAL REVIEW OF ORDERS UNDER SECTION
9 235(b)(1).—

10 “(1) APPLICATION.—The provisions of this sub-
11 section apply with respect to judicial review of or-
12 ders of removal effected under section 235(b)(1).

13 “(2) LIMITATIONS ON RELIEF.—Regardless of
14 the nature of the action or claim and regardless of
15 the identity of the party or parties bringing the ac-
16 tion, no court shall have jurisdiction or authority to
17 enter declaratory, injunctive, or other equitable relief
18 not specifically authorized in this subsection, or to
19 certify a class under Rule 23 of the Federal Rules
20 of Civil Procedure.

21 “(3) LIMITATION TO HABEAS CORPUS.—Judi-
22 cial review of any matter, cause, claim, or individual
23 determination made or arising under or pertaining
24 to section 235(b)(1) shall only be available in habeas

1 corpus proceedings, and shall be limited to deter-
2 minations of—

3 “(A) whether the petitioner is an alien,

4 “(B) whether the petitioner was ordered
5 removed under such section, and

6 “(C) whether the petitioner can prove by a
7 preponderance of the evidence that the peti-
8 tioner is an alien lawfully admitted for perma-
9 nent residence and is entitled to such further
10 inquiry as prescribed by the Attorney General
11 pursuant to section 235(b)(1)(C).

12 “(4) DECISION.—In any case where the court
13 determines that the petitioner—

14 “(A) is an alien who was not ordered re-
15 moved under section 235(b)(1), or

16 “(B) has demonstrated by a preponderance
17 of the evidence that the alien is a lawful perma-
18 nent resident,

19 the court may order no remedy or relief other than
20 to require that the petitioner be provided a hearing
21 in accordance with section 240. Any alien who is
22 provided a hearing under section 240 pursuant to
23 this paragraph may thereafter obtain judicial review
24 of any resulting final order of removal pursuant to
25 subsection (a)(1).

1 “(5) SCOPE OF INQUIRY.—In determining
2 whether an alien has been ordered removed under
3 section 235(b)(1), the court’s inquiry shall be limited
4 to whether such an order in fact was issued and
5 whether it relates to the petitioner. There shall be
6 no review of whether the alien is actually inadmis-
7 sible or entitled to any relief from removal.

8 “(g) LIMIT ON INJUNCTIVE RELIEF.—Regardless of
9 the nature of the action or claim or of the identity of the
10 party or parties bringing the action, no court (other than
11 the Supreme Court) shall have jurisdiction or authority
12 to enjoin or restrain the operation of the provisions of
13 chapter 4 of title II, as amended by the Immigration in
14 the National Interest Act of 1996, other than with respect
15 to the application of such provisions to an individual alien
16 against whom proceedings under such chapter have been
17 initiated.”.

18 (b) REPEAL OF SECTION 106.—Section 106 (8
19 U.S.C. 1105a) is repealed.

20 (c) TREATMENT OF POLITICAL SUBDIVISIONS.—Ef-
21 fective as of the date of the enactment of this Act, section
22 242(j), before being redesignated and moved under sub-
23 section (a)(1), is amended by adding at the end the follow-
24 ing new paragraph:

1 with the purpose of preventing or hampering
2 the alien's departure pursuant to such, or

3 “(D) willfully fails or refuses to present
4 himself or herself for removal at the time and
5 place required by the Attorney General pursu-
6 ant to such order,

7 shall be fined under title 18, United States Code, or
8 imprisoned not more than four years (or 10 years if
9 the alien is a member of any of the classes described
10 in paragraph (1)(E), (2), (3), or (4) of section
11 237(a)), or both.

12 “(2) EXCEPTION.—It is not a violation of para-
13 graph (1) to take any proper steps for the purpose
14 of securing cancellation of or exemption from such
15 order of removal or for the purpose of securing the
16 alien's release from incarceration or custody.

17 “(3) SUSPENSION.—The court may for good
18 cause suspend the sentence of an alien under this
19 subsection and order the alien's release under such
20 conditions as the court may prescribe. In determin-
21 ing whether good cause has been shown to justify re-
22 leasing the alien, the court shall take into account
23 such factors as—

24 “(A) the age, health, and period of deten-
25 tion of the alien;

1 “(B) the effect of the alien’s release upon
2 the national security and public peace or safety;

3 “(C) the likelihood of the alien’s resuming
4 or following a course of conduct which made or
5 would make the alien deportable;

6 “(D) the character of the efforts made by
7 such alien himself and by representatives of the
8 country or countries to which the alien’s re-
9 moval is directed to expedite the alien’s depar-
10 ture from the United States;

11 “(E) the reason for the inability of the
12 Government of the United States to secure
13 passports, other travel documents, or removal
14 facilities from the country or countries to which
15 the alien has been ordered removed; and

16 “(F) the eligibility of the alien for discre-
17 tionary relief under the immigration laws.

18 “(b) WILLFUL FAILURE TO COMPLY WITH TERMS OF
19 RELEASE UNDER SUPERVISION.—An alien who shall will-
20 fully fail to comply with regulations or requirements issued
21 pursuant to section 241(a)(3) or knowingly give false in-
22 formation in response to an inquiry under such section
23 shall be fined not more than \$1,000 or imprisoned for not
24 more than one year, or both.

1 “(c) PENALTIES RELATING TO VESSELS AND AIR-
2 CRAFT.—

3 “(1) CIVIL PENALTIES.—

4 “(A) FAILURE TO CARRY OUT CERTAIN
5 ORDERS.—If the Attorney General is satisfied
6 that a person has violated subsection (d) or (e)
7 of section 241, the person shall pay to the Com-
8 missioner the sum of \$2,000 for each violation.

9 “(B) FAILURE TO REMOVE ALIEN STOW-
10 AWAYS.—If the Attorney General is satisfied
11 that a person has failed to remove an alien
12 stowaway as required under section 241(d)(2),
13 the person shall pay to the Commissioner the
14 sum of \$5,000 for each alien stowaway not re-
15 moved.

16 “(C) NO COMPROMISE.—The Attorney
17 General may not compromise the amount of
18 such penalty under this paragraph.

19 “(2) CLEARING VESSELS AND AIRCRAFT.—

20 “(A) CLEARANCE BEFORE DECISION ON
21 LIABILITY.—A vessel or aircraft may be grant-
22 ed clearance before a decision on liability is
23 made under paragraph (1) only if a bond ap-
24 proved by the Attorney General or an amount

1 sufficient to pay the civil penalty is deposited
2 with the Commissioner.

3 “(B) PROHIBITION ON CLEARANCE WHILE
4 PENALTY UNPAID.—A vessel or aircraft may
5 not be granted clearance if a civil penalty im-
6 posed under paragraph (1) is not paid.

7 “(d) DISCONTINUING GRANTING VISAS TO NATION-
8 ALS OF COUNTRY DENYING OR DELAYING ACCEPTING
9 ALIEN.—On being notified by the Attorney General that
10 the government of a foreign country denies or unreason-
11 ably delays accepting an alien who is a citizen, subject,
12 national, or resident of that country after the Attorney
13 General asks whether the government will accept the alien
14 under this section, the Secretary of State shall order con-
15 sular officers in that foreign country to discontinue grant-
16 ing immigrant visas or nonimmigrant visas, or both, to
17 citizens, subjects, nationals, and residents of that country
18 until the Attorney General notifies the Secretary that the
19 country has accepted the alien.”.

20 **SEC. 308. REDESIGNATION AND REORGANIZATION OF**
21 **OTHER PROVISIONS; ADDITIONAL CONFORM-**
22 **ING AMENDMENTS.**

23 (a) CONFORMING AMENDMENT TO TABLE OF CON-
24 TENTS; OVERVIEW OF REORGANIZED CHAPTERS.—The

1 table of contents, as amended by section 851(d)(1), is
2 amended—

3 (1) by striking the item relating to section 106,

4 and

5 (2) by striking the item relating to chapter 4 of

6 title II and all that follows through the item relating

7 to section 244A and inserting the following:

“CHAPTER 4—INSPECTION, APPREHENSION, EXAMINATION, EXCLUSION, AND
REMOVAL

“Sec. 231. Lists of alien and citizen passengers arriving or departing; record
of resident aliens and citizens leaving permanently for foreign
country.

“Sec. 232. Detention of aliens for physical and mental examination.

“Sec. 233. Entry through or from foreign territory and adjacent islands; land-
ing stations.

“Sec. 234. Designation of ports of entry for aliens arriving by civil aircraft.

“Sec. 235. Inspection by immigration officers; expedited removal of inadmis-
sible arriving aliens; referral for hearing.

“Sec. 236. Apprehension and detention of aliens not lawfully in the United
States.

“Sec. 237. General classes of deportable aliens.

“Sec. 238. Expedited removal of aliens convicted of committing aggravated felo-
nies.

“Sec. 239. Initiation of removal proceedings.

“Sec. 240. Removal proceedings.

“Sec. 240A. Cancellation of removal; adjustment of status.

“Sec. 240B. Voluntary departure.

“Sec. 240C. Records of admission.

“Sec. 241. Detention and removal of aliens ordered removed.

“Sec. 242. Judicial review of orders of removal.

“Sec. 243. Penalties relating to removal.

“Sec. 244. Temporary protected status.

“CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

8 (b) REORGANIZATION OF OTHER PROVISIONS.—

9 Chapters 4 and 5 of title II are amended as follows:

10 (1) AMENDING CHAPTER HEADING.—Amend

11 the heading for chapter 4 of title II to read as fol-

12 lows:

1 follow section 237 (as redesignated by section
2 305(a)(2)).

3 (6) STRIKING SECTION 242B.—Strike section
4 242B (8 U.S.C. 1252b).

5 (7) STRIKING SECTION 244 AND REDESIGNAT-
6 ING SECTION 244A AS SECTION 244.—Strike section
7 244 (8 U.S.C. 1254) and redesignate section 244A
8 as section 244.

9 (8) AMENDING CHAPTER HEADING.—Amend
10 the heading for chapter 5 of title II to read as fol-
11 lows:

12 “CHAPTER 5—ADJUSTMENT AND CHANGE OF STATUS”.

13 (c) ADDITIONAL CONFORMING AMENDMENTS.—

14 (1) EXPEDITED PROCEDURES FOR AGGRA-
15 VATED FELONS (FORMER SECTION 242A).—Section
16 238 (which, previous to redesignation under section
17 308(b)(5), was section 242A) is amended—

18 (A) in subsection (a)(1), by striking “sec-
19 tion 242” and inserting “section 240”;

20 (B) in subsection (a)(2), by striking “sec-
21 tion 242(a)(2)” and inserting “section 236(c)”;

22 and

23 (C) in subsection (b)(1), by striking “sec-
24 tion 241(a)(2)(A)(iii)” and inserting “section
25 237(a)(2)(A)(iii)”.

1 (2) TREATMENT OF CERTAIN HELPLESS
2 ALIENS.—

3 (A) CERTIFICATION OF HELPLESS
4 ALIENS.—Section 232 (8 U.S.C. 1222), as
5 amended by section 308(b)(2), is further
6 amended by adding at the end the following
7 new subsection:

8 “(c) CERTIFICATION OF CERTAIN HELPLESS
9 ALIENS.—If an examining medical officer determines that
10 an alien arriving in the United States is inadmissible, is
11 helpless from sickness, mental or physical disability, or in-
12 fancy, and is accompanied by another alien whose protec-
13 tion or guardianship may be required, the officer may cer-
14 tify such fact for purposes of applying section
15 212(a)(10)(B) with respect to the other alien.”.

16 (B) GROUND OF INADMISSIBILITY FOR
17 PROTECTION AND GUARDIANSHIP OF ALIENS
18 DENIED ADMISSION FOR HEALTH OR IN-
19 FANCY.—Subparagraph (B) of section
20 212(a)(10) (8 U.S.C. 1182(a)(10)), as redesign-
21 nated by section 301(a)(1), is amended to read
22 as follows:

23 “(B) GUARDIAN REQUIRED TO ACCOMPANY
24 HELPLESS ALIEN.—Any alien—

1 “(i) who is accompanying another
2 alien who is inadmissible and who is cer-
3 tified to be helpless from sickness, mental
4 or physical disability, or infancy pursuant
5 to section 232(c), and

6 “(ii) whose protection or guardianship
7 is determined to be required by the alien
8 described in clause (i),
9 is inadmissible.”.

10 (3) CONTINGENT CONSIDERATION IN RELATION
11 TO REMOVAL OF ALIENS.—Section 273(a) (8 U.S.C.
12 1323(a)) is amended—

13 (A) by inserting “(1)” after “(a)”, and

14 (B) by adding at the end the following new
15 paragraph:

16 “(2) It is unlawful for an owner, agent, master, com-
17 manding officer, person in charge, purser, or consignee of
18 a vessel or aircraft who is bringing an alien (except an
19 alien crewmember) to the United States to take any con-
20 sideration to be kept or returned contingent on whether
21 an alien is admitted to, or ordered removed from, the
22 United States.”.

23 (4) CLARIFICATION.—(A) Section 238(a)(1),
24 which, previous to redesignation under section
25 308(b)(5), was section 242A(a)(1), is amended by

1 adding at the end the following: “Nothing in this
2 section shall be construed to create any substantive
3 or procedural right or benefit that is legally enforce-
4 able by any party against the United States or its
5 agencies or officers or any other person.”.

6 (B) Section 225 of the Immigration and Na-
7 tionality Technical Corrections Act of 1994 (Public
8 Law 103–416), as amended by section 851(b)(15),
9 is amended by striking “and nothing in” and all
10 that follows up to “shall”.

11 (d) ADDITIONAL CONFORMING AMENDMENTS RE-
12 LATING TO EXCLUSION AND INADMISSIBILITY.—

13 (1) SECTION 212.—Section 212 (8 U.S.C.
14 1182(a)) is amended—

15 (A) in the heading, by striking “EX-
16 CLUDED FROM” and inserting “INELIGIBLE
17 FOR”;

18 (B) in the matter in subsection (a) before
19 paragraph (1), by striking all that follows “(a)”
20 and inserting the following: “CLASSES OF
21 ALIENS INELIGIBLE FOR VISAS OR ADMIS-
22 SION.—Except as otherwise provided in this
23 Act, aliens who are inadmissible under the fol-
24 lowing paragraphs are ineligible to receive visas

1 and ineligible to be admitted to the United
2 States.”;

3 (C) in subsection (a), by striking “is ex-
4 cludable” and inserting “is inadmissible” each
5 place it appears;

6 (D) in subsections (a)(5)(C), (d)(1), (k),
7 by striking “exclusion” and inserting “inadmis-
8 sibility”;

9 (E) in subsections (b), (d)(3), (h)(1)(A)(i),
10 and (k), by striking “excludable” each place it
11 appears and inserting “inadmissible”;

12 (F) in subsection (b)(2), by striking “or
13 ineligible for entry”;

14 (G) in subsection (d)(7), by striking “ex-
15 cluded from” and inserting “denied”; and

16 (H) in subsection (h)(1)(B), by striking
17 “exclusion” and inserting “denial of admis-
18 sion”.

19 (2) SECTION 241.—Section 241 (8 U.S.C.
20 1251), before redesignation as section 237 by section
21 305(a)(2), is amended—

22 (A) in subsection (a)(1)(H), by striking
23 “excludable” and inserting “inadmissible”;

1 (B) in subsection (a)(4)(C)(ii), by striking
2 “excludability” and inserting “inadmissibility”;
3 and

4 (C) in subsection (c), by striking “exclu-
5 sion” and inserting “inadmissibility”.

6 (3) OTHER GENERAL REFERENCES.—The fol-
7 lowing provisions are amended by striking “exclud-
8 ability” and “excludable” each place each appears
9 and inserting “inadmissibility” and “inadmissible”,
10 respectively:

11 (A) Sections 101(f)(3), 213, 234 (before
12 redesignation by section 308(b)), 241(a)(1) (be-
13 fore redesignation by section 305(a)(2)),
14 272(a), 277, 286(h)(2)(A)(v), and
15 286(h)(2)(A)(vi).

16 (B) Section 601(c) of the Immigration Act
17 of 1990.

18 (C) Section 128 of the Foreign Relations
19 Authorization Act, Fiscal Years 1992 and 1993
20 (Public Law 102–138).

21 (D) Section 1073 of the National Defense
22 Authorization Act for Fiscal Year 1995 (Public
23 Law 103–337).

1 (E) Section 221 of the Immigration and
2 Nationality Technical Corrections Act of 1994
3 (Public Law 103–416).

4 (4) RELATED TERMS.—

5 (A) Section 101(a)(17) (8 U.S.C.
6 1101(a)(17)) is amended by striking “or expul-
7 sion” and inserting “expulsion, or removal”.

8 (B) Section 102 (8 U.S.C. 1102) is
9 amended by striking “exclusion or deportation”
10 and inserting “removal”.

11 (C) Section 103(c)(2) (8 U.S.C.
12 1103(c)(2)) is amended by striking “been ex-
13 cluded or deported” and inserting “not been ad-
14 mitted or have been removed”.

15 (D) Section 206 (8 U.S.C. 1156) is
16 amended by striking “excluded from admission
17 to the United States and deported” and insert-
18 ing “denied admission to the United States and
19 removed”.

20 (E) Section 216(f) (8 U.S.C. 1186a) is
21 amended by striking “exclusion” and inserting
22 “inadmissibility”.

23 (F) Section 217 (8 U.S.C. 1187) is amend-
24 ed by striking “excluded from admission” and

1 inserting “denied admission at the time of ar-
2 rival” each place it appears.

3 (G) Section 221(f) (8 U.S.C. 1201) is
4 amended by striking “exclude” and inserting
5 “deny admission to”.

6 (H) Section 232(a) (8 U.S.C. 1222(a)), as
7 redesignated by subsection (b)(2), is amended
8 by striking “excluded by” and “the excluded
9 classes” and inserting “inadmissible under” and
10 “inadmissible classes”, respectively.

11 (I)(i) Section 272 (8 U.S.C. 1322) is
12 amended—

13 (I) by striking “EXCLUSION” in the
14 heading and inserting “DENIAL OF ADMIS-
15 SION”,

16 (II) in subsection (a), by striking “ex-
17 cluding condition” and inserting “condition
18 causing inadmissibility”, and

19 (III) in subsection (c), by striking
20 “excluding”.

21 (ii) The item in the table of contents relat-
22 ing to such section is amended by striking “ex-
23 clusion” and inserting “denial of admission”.

24 (J) Section 276(a) (8 U.S.C. 1326) is
25 amended—

1 (i) in paragraph (1), by striking “de-
2 ported or excluded and deported” and in-
3 serting “denied admission or removed”,
4 and

5 (ii) in paragraph (2)(B), by striking
6 “excluded and deported” and inserting
7 “denied admission and removed”.

8 (K) Section 286(h)(2)(A)(vi) (8 U.S.C.
9 1356(h)(2)(A)(vi)) is amended by striking “ex-
10 clusion” each place it appears and inserting
11 “removal”.

12 (L) Section 287 (8 U.S.C. 1357) is amend-
13 ed—

14 (i) in subsection (a), by striking “or
15 expulsion” each place it appears and in-
16 serting “expulsion, or removal”, and

17 (ii) in subsection (c), by striking “ex-
18 clusion from” and inserting “denial of ad-
19 mission to”.

20 (M) Section 290(a) (8 U.S.C. 1360(a)) is
21 amended by striking “admitted to the United
22 States, or excluded therefrom” each place it ap-
23 pears and inserting “admitted or denied admis-
24 sion to the United States”.

1 (N) Section 291 (8 U.S.C. 1361) is
2 amended by striking “subject to exclusion” and
3 inserting “inadmissible” each place it appears.

4 (O) Section 292 (8 U.S.C. 1362) is
5 amended by striking “exclusion or deportation”
6 each place it appears and inserting “removal”.

7 (P) Section 360 (8 U.S.C. 1503) is amend-
8 ed—

9 (i) in subsection (a), by striking “ex-
10 clusion” each place it appears and insert-
11 ing “removal”, and

12 (ii) in subsection (c), by striking “ex-
13 cluded from” and inserting “denied”.

14 (Q) Section 301(a)(1) of the Immigration
15 Act of 1990 is amended by striking “exclusion”
16 and inserting “inadmissibility”.

17 (R) Section 401(c) of the Refugee Act of
18 1980 is amended by striking “deportation or
19 exclusion” and inserting “removal”.

20 (S) Section 501(e)(2) of the Refugee Edu-
21 cation Assistance Act of 1980 (Public Law 96-
22 422) is amended—

23 (i) by striking “exclusion or deporta-
24 tion” each place it appears and inserting
25 “removal”, and

1 (ii) by striking “deportation or exclu-
2 sion” each place it appears and inserting
3 “removal”.

4 (T) Section 4113(c) of title 18, United
5 States Code, is amended by striking “exclusion
6 and deportation” and inserting “removal”.

7 (e) REVISION OF TERMINOLOGY RELATING TO DE-
8 PORTATION.—

9 (1) Each of the following is amended by strik-
10 ing “deportation” each place it appears and insert-
11 ing “removal”:

12 (A) Subparagraphs (A)(iii)(II), (A)(iv)(II),
13 and (B)(iii)(II) of section 204(a)(1) (8 U.S.C.
14 1154(a)(1)).

15 (B) Section 212(d)(1) (8 U.S.C.
16 1182(d)(1)).

17 (C) Section 212(d)(11) (8 U.S.C.
18 1182(d)(11)).

19 (D) Section 214(k)(4)(C) (8 U.S.C.
20 1184(k)(4)(C)), as redesignated by section
21 851(a)(3)(A).

22 (E) Section 241(a)(1)(H) (8 U.S.C.
23 1251(a)(1)(H)), before redesignation as section
24 237 by section 305(a)(2).

1 (F) Section 242A (8 U.S.C. 1252a), before
2 redesignation as section 238 by subsection
3 (b)(5).

4 (G) Subsections (a)(3) and (b)(5)(B) of
5 section 244A (8 U.S.C. 1254a), before redesign-
6 nation as section 244 by subsection (b)(7).

7 (H) Section 246(a) (8 U.S.C. 1256(a)).

8 (I) Section 254 (8 U.S.C. 1284).

9 (J) Section 263(a)(4) (8 U.S.C.
10 1303(a)(4)).

11 (K) Section 276(b) (8 U.S.C. 1326(b)).

12 (L) Section 286(h)(2)(A)(v) (8 U.S.C.
13 1356(h)(2)(A)(v)).

14 (M) Section 287(g) (8 U.S.C. 1357(g)) (as
15 added by section 122).

16 (N) Section 291 (8 U.S.C. 1361).

17 (O) Section 318 (8 U.S.C. 1429).

18 (P) Section 130005(a) of the Violent
19 Crime Control and Law Enforcement Act of
20 1994 (Public Law 103–322).

21 (Q) Section 4113(b) of title 18, United
22 States Code.

23 (2) Each of the following is amended by strik-
24 ing “deported” each place it appears and inserting
25 “removed”:

1 (A) Section 212(d)(7) (8 U.S.C.
2 1182(d)(7)).

3 (B) Section 214(d) (8 U.S.C. 1184(d)).

4 (C) Section 241(a) (8 U.S.C. 1251(a)), be-
5 fore redesignation as section 237 by section
6 305(a)(2).

7 (D) Section 242A(c)(2)(D)(iv) (8 U.S.C.
8 1252a(c)(2)(D)(iv)), as amended by section
9 851(b)(14) but before redesignation as section
10 238 by subsection (b)(5).

11 (E) Section 252(b) (8 U.S.C. 1282(b)).

12 (F) Section 254 (8 U.S.C. 1284).

13 (G) Subsections (b) and (c) of section 266
14 (8 U.S.C. 1306).

15 (H) Section 301(a)(1) of the Immigration
16 Act of 1990.

17 (I) Section 4113 of title 18, United States
18 Code.

19 (3) Section 101(g) (8 U.S.C. 1101(g)) is
20 amended by inserting “or removed” after “deported”
21 each place it appears.

22 (4) Section 103(c)(2) (8 U.S.C. 1103(c)(2)) is
23 amended by striking “suspension of deportation”
24 and inserting “cancellation of removal”.

1 (5) Section 201(b)(1)(D) (8 U.S.C.
2 1151(b)(1)(D)) is amended by striking “deportation
3 is suspended” and inserting “removal is canceled”.

4 (6) Section 212(l)(2)(B) (8 U.S.C.
5 1182(l)(2)(B)) is amended by striking “deportation
6 against” and inserting “removal of”.

7 (7) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
8 (c)(4)(A), and (d)(2)(C) of section 216 (8 U.S.C.
9 1186a) are each amended by striking “DEPORTA-
10 TION”, “deportation”, “deport”, and “deported”
11 each place each appears and inserting “REMOVAL”,
12 “removal”, “remove”, and “removed”, respectively.

13 (8) Subsections (b)(2), (c)(2)(B), (c)(3)(D),
14 and (d)(2)(C) of section 216A (8 U.S.C. 1186b) are
15 each amended by striking “DEPORTATION”, “depor-
16 tation”, “deport”, and “deported” and inserting
17 “REMOVAL”, “removal”, “remove”, and “removed”,
18 respectively.

19 (9) Section 217(b)(2) (8 U.S.C. 1187(b)(2)) is
20 amended by striking “deportation against” and in-
21 serting “removal of”.

22 (10) Section 242A (8 U.S.C. 1252a), before re-
23 designation as section 238 by subsection (b)(6), is
24 amended, in the headings to various subdivisions, by

1 striking “DEPORTATION” and “DEPORTATION” and
2 inserting “REMOVAL” and “REMOVAL”, respectively.

3 (11) Section 244A(a)(1)(A) (8 U.S.C.
4 1254a(a)(1)(A)), before redesignation as section 244
5 by subsection (b)(8), is amended—

6 (A) in subsection (a)(1)(A), by striking
7 “deport” and inserting “remove”, and

8 (B) in subsection (e), by striking “SUS-
9 PENSION OF DEPORTATION” and inserting
10 “CANCELLATION OF REMOVAL”.

11 (12) Section 254 (8 U.S.C. 1284) is amended
12 by striking “deport” each place it appears and in-
13 serting “remove”.

14 (13) Section 273(d) (8 U.S.C. 1323(d)) is re-
15 pealed.

16 (14)(A) Section 276 (8 U.S.C. 1326) is amend-
17 ed by striking “DEPORTED” and inserting “RE-
18 MOVED”.

19 (B) The item in the table of contents relating
20 to such section is amended by striking “deported”
21 and inserting “removed”.

22 (15) Section 318 (8 U.S.C. 1429) is amended
23 by striking “suspending” and inserting “canceling”.

1 (16) Section 301(a) of the Immigration Act of
2 1990 is amended by striking “DEPORTATION” and
3 inserting “REMOVAL”.

4 (17) The heading of section 130005 of the Vio-
5 lent Crime Control and Law Enforcement Act of
6 1994 (Public Law 103–322) is amended by striking
7 “**DEPORTATION**” and inserting “**REMOVAL**”.

8 (18) Section 9 of the Peace Corps Act (22
9 U.S.C. 2508) is amended by striking “deported” and
10 all that follows through “Deportation” and inserting
11 “removed pursuant to chapter 4 of title II of the Im-
12 migration and Nationality Act”.

13 (19) Section 8(c) of the Foreign Agents Reg-
14 istration Act (22 U.S.C. 618(c)) is amended by
15 striking “deportation” and all that follows and in-
16 serting “removal pursuant to chapter 4 of title II of
17 the Immigration and Nationality Act.”.

18 (f) REVISION OF REFERENCES TO ENTRY.—

19 (1) The following provisions are amended by
20 striking “entry” and inserting “admission” each
21 place it appears:

22 (A) Section 101(a)(15)(K) (8 U.S.C.
23 1101(a)(15)(K)).

24 (B) Section 101(a)(30) (8 U.S.C.
25 1101(a)(30)).

1 (C) Section 212(a)(2)(D) (8 U.S.C.
2 1182(a)(2)(D)).

3 (D) Section 212(a)(6)(C)(i) (8 U.S.C.
4 1182(a)(6)(C)(i)).

5 (E) Section 212(h)(1)(A)(i) (8 U.S.C.
6 1182(h)(1)(A)(i)).

7 (F) Section 212(j)(1)(D) (8 U.S.C.
8 1182(j)(1)(D)).

9 (G) Section 214(c)(2)(A) (8 U.S.C.
10 1184(c)(2)(A)).

11 (H) Section 214(d) (8 U.S.C. 1184(d)).

12 (I) Section 216(b)(1)(A)(i) (8 U.S.C.
13 1186a(b)(1)(A)(i)).

14 (J) Section 216(d)(1)(A)(i)(III) (8 U.S.C.
15 1186a(d)(1)(A)(i)(III)).

16 (K) Subsection (b) of section 240 (8
17 U.S.C. 1230), before redesignation as section
18 240C by section 304(a)(2).

19 (L) Subsection (a)(1)(G) of section 241 (8
20 U.S.C. 1251), before redesignation as section
21 237 by section 305(a)(2).

22 (M) Subsection (a)(1)(H) of section 241 (8
23 U.S.C. 1251), before redesignation as section
24 237 by section 305(a)(2), other than the last
25 time it appears.

1 (N) Paragraphs (2) and (4) of subsection
2 (a) of section 241 (8 U.S.C. 1251), before re-
3 designation as section 237 by section 305(a)(2).

4 (O) Section 245(e)(3) (8 U.S.C.
5 1255(e)(3)).

6 (P) Section 247(a) (8 U.S.C. 1257(a)).

7 (Q) Section 601(c)(2) of the Immigration
8 Act of 1990.

9 (2) The following provisions are amended by
10 striking “enter” and inserting “be admitted”:

11 (A) Section 204(e) (8 U.S.C. 1154(e)).

12 (B) Section 221(h) (8 U.S.C. 1201(h)).

13 (C) Section 245(e)(2) (8 U.S.C.
14 1255(e)(2)).

15 (3) The following provisions are amended by
16 striking “enters” and inserting “is admitted to”:

17 (A) Section 212(j)(1)(D)(ii) (8 U.S.C.
18 1154(e)).

19 (B) Section 214(c)(5)(B) (8 U.S.C.
20 1184(c)(5)(B)).

21 (4) Subsection (a) of section 238 (8 U.S.C.
22 1228), before redesignation as section 233 by section
23 308(b)(4), is amended by striking “entry and inspec-
24 tion” and inserting “inspection and admission”.

1 (5) Subsection (a)(1)(H)(ii) of section 241 (8
2 U.S.C. 1251), before redesignation as section 237 by
3 section 305(a)(2), is amended by striking “at
4 entry”.

5 (6) Section 7 of the Central Intelligence Agency
6 Act of 1949 (50 U.S.C. 403h) is amended by strik-
7 ing “that the entry”, “given entry into”, and “enter-
8 ing” and inserting “that the admission”, “admitted
9 to”, and “admitted to”.

10 (7) Section 4 of the Atomic Weapons and Spe-
11 cial Nuclear Materials Rewards Act (50 U.S.C. 47c)
12 is amended by striking “entry” and inserting “ad-
13 mission”.

14 (g) CONFORMING REFERENCES TO REORGANIZED
15 SECTIONS.—

16 (1) REFERENCES TO SECTIONS 232, 234, 238,
17 239, 240, 241, 242A, AND 244A.—Any reference in law
18 in effect on the day before the date of the enactment
19 of this Act to section 232, 234, 238, 239, 240, 241,
20 242A, or 244A of the Immigration and Nationality
21 Act (or a subdivision of such section) is deemed, as
22 of the title III–A effective date, to refer to section
23 232(a), 232(b), 233, 234, 234A, 237, 238, or 244
24 of such Act (or the corresponding subdivision of
25 such section), as redesignated by this subtitle. Any

1 reference in law to section 241 (or a subdivision of
2 such section) of the Immigration and Nationality
3 Act in an amendment made by a subsequent subtitle
4 of this title is deemed a reference (as of the title
5 III–A effective date) to section 237 (or the cor-
6 responding subdivision of such section), as redesign-
7 nated by this subtitle.

8 (2) REFERENCES TO SECTION 106.—

9 (A) Sections 242A(b)(3) and
10 242A(c)(3)(A)(ii) (8 U.S.C. 1252a(b)(3),
11 1252a(c)(3)(A)(ii)), as amended by section
12 851(b)(14) but before redesignation as section
13 238 by subsection (b)(5), are each amended by
14 striking “106” and inserting “242”.

15 (B) Sections 210(e)(3)(A) and
16 245A(f)(4)(A) (8 U.S.C. 1160(e)(3)(A),
17 1255a(f)(4)(A)) are amended by inserting “(as
18 in effect before October 1, 1996)” after “106”.

19 (C) Section 242A(c)(3)(A)(iii) (8 U.S.C.
20 1252a(c)(3)(A)(iii)), as amended by section
21 851(b)(14) but before redesignation as section
22 238 by subsection (b)(5), is amended by strik-
23 ing “106(a)(1)” and inserting “242(b)(1)”.

24 (3) REFERENCES TO SECTION 236.—

1 (A) Sections 205 and 209(a)(1) (8 U.S.C.
2 1155, 1159(a)(1)) are each amended by strik-
3 ing “236” and inserting “240”.

4 (B) Section 4113(c) of title 18, United
5 States Code, is amended by striking “1226 of
6 title 8, United States Code” and inserting “240
7 of the Immigration and Nationality Act”.

8 (4) REFERENCES TO SECTION 237.—

9 (A) Section 209(a)(1) (8 U.S.C.
10 1159(a)(1)) is amended by striking “237” and
11 inserting “241”.

12 (B) Section 212(d)(7) (8 U.S.C.
13 1182(d)(7)) is amended by striking “237(a)”
14 and inserting “241(e)”.

15 (C) Section 280(a) (8 U.S.C. 1330(a)) is
16 amended by striking “237, 239, 243” and in-
17 serting “234, 243(e)(2)”.

18 (5) REFERENCES TO SECTION 242.—

19 (A)(i) Sections 214(d), 252(b), and
20 287(f)(1) (8 U.S.C. 1184(d), 1282(b),
21 1357(f)(1)) are each amended by striking
22 “242” and inserting “240”.

23 (ii) Subsection (c)(4) of section 242A (8
24 U.S.C. 1252a), as amended by section
25 851(b)(14) but before redesignation as section

1 238 by subsection (b)(5), are each amended by
2 striking “242” and inserting “240”.

3 (iii) Section 245A(a)(1)(B) (8 U.S.C.
4 1255a(a)(1)(B)) is amended by inserting “(as
5 in effect before October 1, 1996)” after “242”.

6 (iv) Section 4113 of title 18, United States
7 Code, is amended—

8 (I) in subsection (a), by striking “sec-
9 tion 1252(b) or section 1254(e) of title 8,
10 United States Code,” and inserting “sec-
11 tion 240B of the Immigration and Nation-
12 ality Act”; and

13 (II) in subsection (b), by striking
14 “section 1252 of title 8, United States
15 Code,” and inserting “section 240 of the
16 Immigration and Nationality Act”.

17 (B) Section 130002(a) of Public Law 103–
18 322, as amended by section 361(a), is amended
19 by striking “242(a)(3)(A)” and inserting
20 “236(d)”.

21 (C) Section 242A(b)(1) (8 U.S.C.
22 1252a(b)(1)), before redesignation as section
23 238 by section 308(b)(5), is amended by strik-
24 ing “242(b)” and inserting “240”.

1 (D) Section 242A(c)(2)(D)(ii) (8 U.S.C.
2 1252a(c)(2)(D)(ii)), as amended by section
3 851(b)(14) but before redesignation as section
4 238 by subsection (b)(5), is amended by strik-
5 ing “242(b)” and inserting “240”.

6 (E) Section 1821(e) of title 28, United
7 States Code, is amended by striking “242(b)”
8 and inserting “240”.

9 (F) Section 130007(a) of Public Law 103–
10 322 is amended by striking “242(i)” and in-
11 sserting “239(d)”.

12 (G) Section 20301(c) of Public Law 103–
13 322 is amended by striking “242(j)(5)” and
14 “242(j)” and inserting “241(h)(5)” and
15 “241(h)”, respectively.

16 (6) REFERENCES TO SECTION 242B.—

17 (A) Section 303(d)(2) of the Immigration
18 Act of 1990 is amended by striking “242B”
19 and inserting “240(b)(5)”.

20 (B) Section 545(g)(1)(B) of the Immigra-
21 tion Act of 1990 is amended by striking
22 “242B(a)(4)” and inserting “239(a)(4)”.

23 (7) REFERENCES TO SECTION 243.—

1 (A) Section 214(d) (8 U.S.C. 1184(d)) is
2 amended by striking “243” and inserting
3 “241”.

4 (B)(i) Section 315(c) of the Immigration
5 Reform and Control Act of 1986 is amended by
6 striking “243(g)” and “1253(g)” and inserting
7 “243(d)” and “1253(d)” respectively.

8 (ii) Section 702(b) of the Departments of
9 Commerce, Justice, and State, the Judiciary,
10 and Related Agencies Appropriations Act, 1988
11 is amended by striking “243(g)” and inserting
12 “243(d)”.

13 (iii) Section 903(b) of Public Law 100–204
14 is amended by striking “243(g)” and inserting
15 “243(d)”.

16 (C)(i) Section 6(f)(2)(F) of the Food
17 Stamp Act of 1977 (7 U.S.C. 2015(f)(2)(F)) is
18 amended by striking “243(h)” and inserting
19 “241(b)(3)”.

20 (ii) Section 214(a)(5) of the Housing and
21 Community Development Act of 1980 (42
22 U.S.C. 1436a(a)(5)) is amended by striking
23 “243(h)” and inserting “241(b)(3)”.

24 (D)(i) Subsection (c)(2)(B)(ii) of section
25 244A (8 U.S.C. 1254a), before redesignated as

1 section 244 by section 308(b)(7), is amended by
2 striking “243(h)(2)” and inserting
3 “208(b)(2)(A)”.

4 (ii) Section 301(e)(2) of the Immigration
5 Act of 1990 is amended by striking
6 “243(h)(2)” and inserting “208(b)(2)(A)”.

7 (E) Section 316(f) (8 U.S.C. 1427(f)) is
8 amended by striking “subparagraphs (A)
9 through (D) of paragraph 243(h)(2)” and in-
10 sserting “clauses (i) through (v) of section
11 208(b)(2)(A)”.

12 (8) REFERENCES TO SECTION 244.—

13 (A)(i) Section 201(b)(1)(D) (8 U.S.C.
14 1151(b)(1)(D)) and subsection (e) of section
15 244A (8 U.S.C. 1254a), before redesignation as
16 section 244 by section 308(b)(7), are each
17 amended by striking “244(a)” and inserting
18 “240A(a)”.

19 (ii) Section 304(c)(1)(B) of the Miscellane-
20 ous and Technical Immigration and Naturaliza-
21 tion Amendments of 1991 (Public Law 102–
22 232) is amended by striking “244(a)” and in-
23 sserting “240A(a)”.

24 (B) Section 304(c)(1)(B) of the Mis-
25 cellaneous and Technical Immigration and Nat-

1 uralization Amendments of 1991 (Public Law
2 102–232) is amended by striking “244(b)(2)”
3 and inserting “240A(b)(2)”.

4 (C) Section 364(a)(2) of this Act is
5 amended by striking “244(a)(3)” and inserting
6 “240A(a)(3)”.

7 (9) REFERENCES TO CHAPTER 5.—

8 (A) Sections 266(b), 266(c), and 291 (8
9 U.S.C. 1306(b), 1306(c), 1361) are each
10 amended by striking “chapter 5” and inserting
11 “chapter 4”.

12 (B) Section 6(b) of the Act of August 1,
13 1956 (50 U.S.C. 855(b)) is amended by strik-
14 ing “chapter 5, title II, of the Immigration and
15 Nationality Act (66 Stat. 163)” and inserting
16 “chapter 4 of title II of the Immigration and
17 Nationality Act”.

18 (10) MISCELLANEOUS CROSS-REFERENCE COR-
19 RECTIONS FOR NEWLY ADDED PROVISIONS.—

20 (A) Section 245(c)(6), as amended by sec-
21 tion 332(d), is amended by striking
22 “241(a)(4)(B)” and inserting “237(a)(4)(B)”.

23 (B) Section 249(d), as amended by section
24 332(e), is amended by striking “241(a)(4)(B)”
25 and inserting “237(a)(4)(B)”.

1 (C) Section 276(b)(3), as inserted by sec-
2 tion 321(b), is amended by striking “excluded”
3 and “excludable” and inserting “removed” and
4 “inadmissible”, respectively.

5 (D) Section 505(c)(7), as added by section
6 321(a)(1), is amended by amending subpara-
7 graphs (B) through (D) to read as follows:

8 “(B) Withholding of removal under section
9 241(b)(3).

10 “(C) Cancellation of removal under section
11 240A.

12 “(D) Voluntary departure under section
13 240B.”.

14 (E) Section 506(b)(2)(B), as added by sec-
15 tion 321(a)(1), is amended by striking “depor-
16 tation” and inserting “removal”.

17 (F) Section 508(c)(2)(D), as added by sec-
18 tion 321(a)(1), is amended by striking “exclu-
19 sion because such alien is excludable” and in-
20 serting “removal because such alien is inadmis-
21 sible”.

22 (G) Section 130007(a) of the Violent
23 Crime Control and Law Enforcement Act of
24 1994 (Public Law 103–322), as amended by

1 section 851(a)(6), is amended by striking
2 “242A(a)(3)” and inserting “238(a)(3)”.

3 (H) Section 212(h), as amended by section
4 301(h), is amended by striking “section 212(c)”
5 and inserting “paragraphs (1) and (2) of sec-
6 tion 240A(a)”.

7 **SEC. 309. EFFECTIVE DATES; TRANSITION.**

8 (a) IN GENERAL.—Except as provided in this section
9 and sections 301(f), 301(h), or 306(c), this subtitle and
10 the amendments made by this subtitle shall take effect on
11 the first day of the first month beginning more than 180
12 days after the date of the enactment of this Act (in this
13 title referred to as the “title III–A effective date”).

14 (b) PROMULGATION OF REGULATIONS.—The Attor-
15 ney General shall first promulgate regulations to carry out
16 this subtitle by not later than 30 days before the title III–
17 A effective date.

18 (c) TRANSITION FOR ALIENS IN PROCEEDINGS.—

19 (1) GENERAL RULE THAT NEW RULES DO NOT
20 APPLY.—Subject to the succeeding provisions of this
21 subsection, in the case of an alien who is in exclu-
22 sion or deportation proceedings as of the title III–
23 A effective date—

24 (A) the amendments made by this subtitle
25 shall not apply, and

1 (B) the proceedings (including judicial re-
2 view thereof) shall continue to be conducted
3 without regard to such amendments.

4 (2) ATTORNEY GENERAL OPTION TO ELECT TO
5 APPLY NEW PROCEDURES.—In a case described in
6 paragraph (1) in which an evidentiary hearing under
7 section 236 or 242 and 242B of the Immigration
8 and Nationality Act has not commenced as of the
9 title III–A effective date, the Attorney General may
10 elect to proceed under chapter 4 of title II of such
11 Act (as amended by this subtitle). The Attorney
12 General shall provide notice of such election to the
13 alien involved not later than 30 days before the date
14 any evidentiary hearing is commenced. If the Attor-
15 ney General makes such election, the notice of hear-
16 ing provided to the alien under section 235 or
17 242(a) of such Act shall be valid as if provided
18 under section 239 of such Act (as amended by this
19 subtitle) to confer jurisdiction on the immigration
20 judge.

21 (3) ATTORNEY GENERAL OPTION TO TERMI-
22 NATE AND REINITIATE PROCEEDINGS.—In the case
23 described in paragraph (1), the Attorney General
24 may elect to terminate proceedings in which there
25 has not been a final administrative decision and to

1 reinitiate proceedings under chapter 4 of title II the
2 Immigration and Nationality Act (as amended by
3 this subtitle). Any determination in the terminated
4 proceeding shall not be binding in the reinitiated
5 proceeding.

6 (4) TRANSITIONAL CHANGES IN JUDICIAL RE-
7 VIEW.—In the case described in paragraph (1) in
8 which a final order of exclusion or deportation is en-
9 tered more than 30 days after the date of the enact-
10 ment of this Act, notwithstanding any provision of
11 section 106 of the Immigration and Nationality Act
12 (as in effect as of the date of the enactment of this
13 Act) to the contrary—

14 (A) in the case of judicial review of a final
15 order of exclusion, subsection (b) of such sec-
16 tion shall not apply and the action for judicial
17 review shall be governed by the provisions of
18 subsections (a) and (c) of such in the same
19 manner as they apply to judicial review of or-
20 ders of deportation;

21 (B) a court may not order the taking of
22 additional evidence under section 2347(c) of
23 title 28, United States Code;

1 (C) the petition for judicial review must be
2 filed not later than 30 days after the date of
3 the final order of exclusion or deportation; and

4 (D) the petition for review shall be filed
5 with the court of appeals for the judicial circuit
6 in which the administrative proceedings before
7 the special inquiry officer or immigration judge
8 were completed.

9 (5) TRANSITIONAL RULE WITH REGARD TO
10 SUSPENSION OF DEPORTATION.—Paragraphs (1)
11 and (2) of section 240A(d) of the Immigration and
12 Nationality Act (relating to continuous residence or
13 physical presence) shall apply to notices to appear
14 issued after the date of the enactment of this Act.

15 (6) TRANSITION FOR CERTAIN FAMILY UNITY
16 ALIENS.—The Attorney General may waive the ap-
17 plication of section 212(a)(9) of the Immigration
18 and Nationality Act, as inserted by section
19 301(b)(1), in the case of an alien who is provided
20 benefits under the provisions of section 301 of the
21 Immigration Act of 1990 (relating to family unity).

22 (7) LIMITATION ON SUSPENSION OF DEPORTA-
23 TION.—The Attorney General may not suspend the
24 deportation and adjust the status under section 244
25 of the Immigration and Nationality Act of more

1 than 4,000 aliens in any fiscal year (beginning after
2 the date of the enactment of this Act). The previous
3 sentence shall apply regardless of when an alien ap-
4 plied for such suspension and adjustment.

5 (d) TRANSITIONAL REFERENCES.—For purposes of
6 carrying out the Immigration and Nationality Act, as
7 amended by this subtitle—

8 (1) any reference in section 212(a)(1)(A) of
9 such Act to the term “inadmissible” is deemed to in-
10 clude a reference to the term “excludable”, and

11 (2) any reference in law to an order of removal
12 shall be deemed to include a reference to an order
13 of exclusion and deportation or an order of deporta-
14 tion.

15 (e) TRANSITION.—No period of time before the date
16 of the enactment of this Act shall be included in the period
17 of 1 year described in section 212(a)(6)(B)(i) of the Immi-
18 gration and Nationality Act (as amended by section
19 301(c)).

1 “(3) The term ‘national security’ has the mean-
2 ing given such term in section 1(b) of the Classified
3 Information Procedures Act (18 U.S.C. App.).

4 “(4) The term ‘special attorney’ means an at-
5 torney who is on the panel established under section
6 502(e).

7 “(5) The term ‘special removal court’ means
8 the court established under section 502(a).

9 “(6) The term ‘special removal hearing’ means
10 a hearing under section 505.

11 “(7) The term ‘special removal proceeding’
12 means a proceeding under this title.

13 “ESTABLISHMENT OF SPECIAL REMOVAL COURT; PANEL
14 OF ATTORNEYS TO ASSIST WITH CLASSIFIED INFOR-
15 MATION

16 “SEC. 502. (a) IN GENERAL.—The Chief Justice of
17 the United States shall publicly designate 5 district court
18 judges from 5 of the United States judicial circuits who
19 shall constitute a court which shall have jurisdiction to
20 conduct all special removal proceedings.

21 “(b) TERMS.—Each judge designated under sub-
22 section (a) shall serve for a term of 5 years and shall be
23 eligible for redesignation, except that the four associate
24 judges first so designated shall be designated for terms
25 of one, two, three, and four years so that the term of one
26 judge shall expire each year.

1 title through the filing of a written application described
2 in subsection (b) with the special removal court seeking
3 an order authorizing a special removal proceeding under
4 this title. The application shall be submitted in camera
5 and ex parte and shall be filed under seal with the court.

6 “(b) CONTENTS OF APPLICATION.—Each application
7 for a special removal proceeding shall include all of the
8 following:

9 “(1) The identity of the Department of Justice
10 attorney making the application.

11 “(2) The approval of the Attorney General or
12 the Deputy Attorney General for the filing of the ap-
13 plication based upon a finding by that individual
14 that the application satisfies the criteria and re-
15 quirements of this title.

16 “(3) The identity of the alien for whom author-
17 ization for the special removal proceedings is sought.

18 “(4) A statement of the facts and cir-
19 cumstances relied on by the Department of Justice
20 to establish that—

21 “(A) the alien is an alien terrorist and is
22 physically present in the United States, and

23 “(B) with respect to such alien, adherence
24 to the provisions of title II regarding the re-

1 removal of aliens would pose a risk to the na-
2 tional security of the United States.

3 “(5) An oath or affirmation respecting each of
4 the facts and statements described in the previous
5 paragraphs.

6 “(c) RIGHT TO DISMISS.—The Department of Jus-
7 tice retains the right to dismiss a removal action under
8 this title at any stage of the proceeding.

9 “CONSIDERATION OF APPLICATION

10 “SEC. 504. (a) IN GENERAL.—In the case of an ap-
11 plication under section 503 to the special removal court,
12 a single judge of the court shall be assigned to consider
13 the application. The judge, in accordance with the rules
14 of the court, shall consider the application and may con-
15 sider other information, including classified information,
16 presented under oath or affirmation. The judge shall con-
17 sider the application (and any hearing thereof) in camera
18 and ex parte. A verbatim record shall be maintained of
19 any such hearing.

20 “(b) APPROVAL OF ORDER.—The judge shall enter
21 ex parte the order requested in the application if the judge
22 finds, on the basis of such application and such other in-
23 formation (if any), that there is probable cause to believe
24 that—

1 “(1) the alien who is the subject of the applica-
2 tion has been correctly identified and is an alien ter-
3 rorist, and

4 “(2) adherence to the provisions of title II re-
5 garding the removal of the identified alien would
6 pose a risk to the national security of the United
7 States.

8 “(c) DENIAL OF ORDER.—If the judge denies the
9 order requested in the application, the judge shall prepare
10 a written statement of the judge’s reasons for the denial.

11 “(d) EXCLUSIVE PROVISIONS.—Whenever an order is
12 issued under this section with respect to an alien—

13 “(1) the alien’s rights regarding removal and
14 expulsion shall be governed solely by the provisions
15 of this title, and

16 “(2) except as they are specifically referenced,
17 no other provisions of this Act shall be applicable.

18 “SPECIAL REMOVAL HEARINGS

19 “SEC. 505. (a) IN GENERAL.—In any case in which
20 the application for the order is approved under section
21 504, a special removal hearing shall be conducted under
22 this section for the purpose of determining whether the
23 alien to whom the order pertains should be removed from
24 the United States on the grounds that the alien is an alien
25 terrorist. Consistent with section 506, the alien shall be
26 given reasonable notice of the nature of the charges

1 against the alien and a general account of the basis for
2 the charges. The alien shall be given notice, reasonable
3 under all the circumstances, of the time and place at which
4 the hearing will be held. The hearing shall be held as expe-
5 ditiously as possible.

6 “(b) USE OF SAME JUDGE.—The special removal
7 hearing shall be held before the same judge who granted
8 the order pursuant to section 504 unless that judge is
9 deemed unavailable due to illness or disability by the chief
10 judge of the special removal court, or has died, in which
11 case the chief judge shall assign another judge to conduct
12 the special removal hearing. A decision by the chief judge
13 pursuant to the preceding sentence shall not be subject
14 to review by either the alien or the Department of Justice.

15 “(c) RIGHTS IN HEARING.—

16 “(1) PUBLIC HEARING.—The special removal
17 hearing shall be open to the public.

18 “(2) RIGHT OF COUNSEL.—The alien shall have
19 a right to be present at such hearing and to be rep-
20 resented by counsel. Any alien financially unable to
21 obtain counsel shall be entitled to have counsel as-
22 signed to represent the alien. Such counsel shall be
23 appointed by the judge pursuant to the plan for fur-
24 nishing representation for any person financially un-
25 able to obtain adequate representation for the dis-

1 trict in which the hearing is conducted, as provided
2 for in section 3006A of title 18, United States Code.
3 All provisions of that section shall apply and, for
4 purposes of determining the maximum amount of
5 compensation, the matter shall be treated as if a fel-
6 ony was charged.

7 “(3) INTRODUCTION OF EVIDENCE.—The alien
8 shall have a right to introduce evidence on the
9 alien’s own behalf.

10 “(4) EXAMINATION OF WITNESSES.—Except as
11 provided in section 506, the alien shall have a rea-
12 sonable opportunity to examine the evidence against
13 the alien and to cross-examine any witness.

14 “(5) RECORD.—A verbatim record of the pro-
15 ceedings and of all testimony and evidence offered or
16 produced at such a hearing shall be kept.

17 “(6) DECISION BASED ON EVIDENCE AT HEAR-
18 ING.—The decision of the judge in the hearing shall
19 be based only on the evidence introduced at the
20 hearing, including evidence introduced under sub-
21 section (e).

22 “(7) NO RIGHT TO ANCILLARY RELIEF.—In the
23 hearing, the judge is not authorized to consider or
24 provide for relief from removal based on any of the
25 following:

1 “(A) Asylum under section 208.

2 “(B) Withholding of deportation under sec-
3 tion 243(h).

4 “(C) Suspension of deportation under sec-
5 tion 244(a).

6 “(D) Voluntary departure under section
7 244(e).

8 “(E) Adjustment of status under section
9 245.

10 “(F) Registry under section 249.

11 “(d) SUBPOENAS.—

12 “(1) REQUEST.—At any time prior to the con-
13 clusion of the special removal hearing, either the
14 alien or the Department of Justice may request the
15 judge to issue a subpoena for the presence of a
16 named witness (which subpoena may also command
17 the person to whom it is directed to produce books,
18 papers, documents, or other objects designated
19 therein) upon a satisfactory showing that the pres-
20 ence of the witness is necessary for the determina-
21 tion of any material matter. Such a request may be
22 made ex parte except that the judge shall inform the
23 Department of Justice of any request for a subpoena
24 by the alien for a witness or material if compliance
25 with such a subpoena would reveal evidence or the

1 source of evidence which has been introduced, or
2 which the Department of Justice has received per-
3 mission to introduce, in camera and ex parte pursu-
4 ant to subsection (e) and section 506, and the De-
5 partment of Justice shall be given a reasonable op-
6 portunity to oppose the issuance of such a subpoena.

7 “(2) PAYMENT FOR ATTENDANCE.—If an appli-
8 cation for a subpoena by the alien also makes a
9 showing that the alien is financially unable to pay
10 for the attendance of a witness so requested, the
11 court may order the costs incurred by the process
12 and the fees of the witness so subpoenaed to be paid
13 from funds appropriated for the enforcement of title
14 II.

15 “(3) NATIONWIDE SERVICE.—A subpoena
16 under this subsection may be served anywhere in the
17 United States.

18 “(4) WITNESS FEES.—A witness subpoenaed
19 under this subsection shall receive the same fees and
20 expenses as a witness subpoenaed in connection with
21 a civil proceeding in a court of the United States.

22 “(5) NO ACCESS TO CLASSIFIED INFORMA-
23 TION.—Nothing in this subsection is intended to
24 allow an alien to have access to classified informa-
25 tion.

1 “(e) INTRODUCTION OF CLASSIFIED INFORMA-
2 TION.—

3 “(1) IN GENERAL.—When classified informa-
4 tion has been summarized pursuant to section
5 506(b) or where a finding has been made under sec-
6 tion 506(b)(5) that no summary is possible, classi-
7 fied information shall be introduced (either in writ-
8 ing or through testimony) in camera and ex parte
9 and neither the alien nor the public shall be in-
10 formed of such evidence or its sources other than
11 through reference to the summary provided pursuant
12 to such section. Notwithstanding the previous sen-
13 tence, the Department of Justice may, in its discre-
14 tion and, in the case of classified information, after
15 coordination with the originating agency, elect to in-
16 troduce such evidence in open session.

17 “(2) TREATMENT OF ELECTRONIC SURVEIL-
18 LANCE INFORMATION.—

19 “(A) USE OF ELECTRONIC SURVEIL-
20 LANCE.—The Government is authorized to use
21 in a special removal proceedings the fruits of
22 electronic surveillance and unconsented physical
23 searches authorized under the Foreign Intel-
24 ligence Surveillance Act of 1978 (50 U.S.C.

1 1801 et seq.) without regard to subsections (c),
2 (e), (f), (g), and (h) of section 106 of that Act.

3 “(B) NO DISCOVERY OF ELECTRONIC SUR-
4 VEILLANCE INFORMATION.—An alien subject to
5 removal under this title shall have no right of
6 discovery of information derived from electronic
7 surveillance authorized under the Foreign Intel-
8 ligence Surveillance Act of 1978 or otherwise
9 for national security purposes. Nor shall such
10 alien have the right to seek suppression of evi-
11 dence.

12 “(C) CERTAIN PROCEDURES NOT APPLICA-
13 BLE.—The provisions and requirements of sec-
14 tion 3504 of title 18, United States Code, shall
15 not apply to procedures under this title.

16 “(3) RIGHTS OF UNITED STATES.—Nothing in
17 this section shall prevent the United States from
18 seeking protective orders and from asserting privi-
19 leges ordinarily available to the United States to
20 protect against the disclosure of classified informa-
21 tion, including the invocation of the military and
22 state secrets privileges.

23 “(f) INCLUSION OF CERTAIN EVIDENCE.—The Fed-
24 eral Rules of Evidence shall not apply to hearings under
25 this section. Evidence introduced at the special removal

1 hearing, either in open session or in camera and ex parte,
2 may, in the discretion of the Department of Justice, in-
3 clude all or part of the information presented under sec-
4 tion 504 used to obtain the order for the hearing under
5 this section.

6 “(g) ARGUMENTS.—Following the receipt of evi-
7 dence, the attorneys for the Department of Justice and
8 for the alien shall be given fair opportunity to present ar-
9 gument as to whether the evidence is sufficient to justify
10 the removal of the alien. The attorney for the Department
11 of Justice shall open the argument. The attorney for the
12 alien shall be permitted to reply. The attorney for the De-
13 partment of Justice shall then be permitted to reply in
14 rebuttal. The judge may allow any part of the argument
15 that refers to evidence received in camera and ex parte
16 to be heard in camera and ex parte.

17 “(h) BURDEN OF PROOF.—In the hearing the De-
18 partment of Justice has the burden of showing by clear
19 and convincing evidence that the alien is subject to re-
20 moval because the alien is an alien terrorist. If the judge
21 finds that the Department of Justice has met this burden,
22 the judge shall order the alien removed and detained pend-
23 ing removal from the United States. If the alien was re-
24 leased pending the special removal hearing, the judge shall
25 order the Attorney General to take the alien into custody.

1 “(i) WRITTEN ORDER.—At the time of rendering a
2 decision as to whether the alien shall be removed, the
3 judge shall prepare a written order containing a statement
4 of facts found and conclusions of law. Any portion of the
5 order that would reveal the substance or source of infor-
6 mation received in camera and ex parte pursuant to sub-
7 section (e) shall not be made available to the alien or the
8 public.

9 “CONSIDERATION OF CLASSIFIED INFORMATION

10 “SEC. 506. (a) CONSIDERATION IN CAMERA AND EX
11 PARTE.—In any case in which the application for the
12 order authorizing the special procedures of this title is ap-
13 proved, the judge who granted the order shall consider
14 each item of classified information the Department of Jus-
15 tice proposes to introduce in camera and ex parte at the
16 special removal hearing and shall order the introduction
17 of such information pursuant to section 505(e) if the judge
18 determines the information to be relevant.

19 “(b) PREPARATION AND PROVISION OF WRITTEN
20 SUMMARY.—

21 “(1) PREPARATION.—The Department of Jus-
22 tice shall prepare a written summary of such classi-
23 fied information which does not pose a risk to na-
24 tional security.

25 “(2) CONDITIONS FOR APPROVAL BY JUDGE
26 AND PROVISION TO ALIEN.—The judge shall approve

1 the summary so long as the judge finds that the
2 summary is sufficient—

3 “(A) to inform the alien of the general na-
4 ture of the evidence that the alien is an alien
5 terrorist, and

6 “(B) to permit the alien to prepare a de-
7 fense against deportation.

8 The Department of Justice shall cause to be deliv-
9 ered to the alien a copy of the summary.

10 “(3) OPPORTUNITY FOR CORRECTION AND
11 RESUBMITTAL.—If the judge does not approve the
12 summary, the judge shall provide the Department a
13 reasonable opportunity to correct the deficiencies
14 identified by the court and to submit a revised sum-
15 mary.

16 “(4) CONDITIONS FOR TERMINATION OF PRO-
17 CEEDINGS IF SUMMARY NOT APPROVED.—

18 “(A) IN GENERAL.—If, subsequent to the
19 opportunity described in paragraph (3), the
20 judge does not approve the summary, the judge
21 shall terminate the special removal hearing un-
22 less the judge makes the findings described in
23 subparagraph (B).

1 “(B) FINDINGS.—The findings described
2 in this subparagraph are, with respect to an
3 alien, that—

4 “(i) the continued presence of the
5 alien in the United States would likely
6 cause serious and irreparable harm to the
7 national security or death or serious bodily
8 injury to any person, and

9 “(ii) the provision of the required
10 summary would likely cause serious and ir-
11 reparable harm to the national security or
12 death or serious bodily injury to any per-
13 son.

14 “(5) CONTINUATION OF HEARING WITHOUT
15 SUMMARY.—If a judge makes the findings described
16 in paragraph (4)(B)—

17 “(A) if the alien involved is an alien law-
18 fully admitted for permanent residence, the pro-
19 cedures described in subsection (c) shall apply;
20 and

21 “(B) in all cases the special removal hear-
22 ing shall continue, the Department of Justice
23 shall cause to be delivered to the alien a state-
24 ment that no summary is possible, and the clas-

1 sified information submitted in camera and ex
2 parte may be used pursuant to section 505(e).

3 “(c) SPECIAL PROCEDURES FOR ACCESS AND CHAL-
4 LENGES TO CLASSIFIED INFORMATION BY SPECIAL AT-
5 TORNEYS IN CASE OF LAWFUL PERMANENT ALIENS.—

6 “(1) IN GENERAL.—The procedures described
7 in this subsection are that the judge (under rules of
8 the special removal court) shall designate a special
9 attorney to assist the alien—

10 “(A) by reviewing in camera the classified
11 information on behalf of the alien, and

12 “(B) by challenging through an in camera
13 proceeding the veracity of the evidence con-
14 tained in the classified information.

15 “(2) RESTRICTIONS ON DISCLOSURE.—A spe-
16 cial attorney receiving classified information under
17 paragraph (1)—

18 “(A) shall not disclose the information to
19 the alien or to any other attorney representing
20 the alien, and

21 “(B) who discloses such information in vio-
22 lation of subparagraph (A) shall be subject to
23 a fine under title 18, United States Code, im-
24 prisoned for not less than 10 years nor more
25 than 25 years, or both.

1 “APPEALS

2 “SEC. 507. (a) APPEALS OF DENIALS OF APPLICA-
3 TIONS FOR ORDERS.—The Department of Justice may
4 seek a review of the denial of an order sought in an appli-
5 cation by the United States Court of Appeals for the Dis-
6 trict of Columbia Circuit by notice of appeal which must
7 be filed within 20 days after the date of such denial. In
8 such a case the entire record of the proceeding shall be
9 transmitted to the Court of Appeals under seal and the
10 Court of Appeals shall hear the matter *ex parte*. In such
11 a case the Court of Appeals shall review questions of law
12 *de novo*, but a prior finding on any question of fact shall
13 not be set aside unless such finding was clearly erroneous.

14 “(b) APPEALS OF DETERMINATIONS ABOUT SUM-
15 MARIES OF CLASSIFIED INFORMATION.—Either party
16 may take an interlocutory appeal to the United States
17 Court of Appeals for the District of Columbia Circuit of—

18 “(1) any determination by the judge pursuant
19 to section 506(a)—

20 “(A) concerning whether an item of evi-
21 dence may be introduced in camera and *ex*
22 parte, or

23 “(B) concerning the contents of any sum-
24 mary of evidence to be introduced in camera

1 and ex parte prepared pursuant to section
2 506(b); or

3 “(2) the refusal of the court to make the find-
4 ings permitted by section 506(b)(4)(B).

5 In any interlocutory appeal taken pursuant to this sub-
6 section, the entire record, including any proposed order
7 of the judge or summary of evidence, shall be transmitted
8 to the Court of Appeals under seal and the matter shall
9 be heard ex parte.

10 “(c) APPEALS OF DECISION IN HEARING.—

11 “(1) IN GENERAL.—Subject to paragraph (2),
12 the decision of the judge after a special removal
13 hearing may be appealed by either the alien or the
14 Department of Justice to the United States Court of
15 Appeals for the District of Columbia Circuit by no-
16 tice of appeal.

17 “(2) AUTOMATIC APPEALS IN CASES OF PERMA-
18 NENT RESIDENT ALIENS IN WHICH NO SUMMARY
19 PROVIDED.—

20 “(A) IN GENERAL.—Unless the alien
21 waives the right to a review under this para-
22 graph, in any case involving an alien lawfully
23 admitted for permanent residence who is denied
24 a written summary of classified information
25 under section 506(b)(4) and with respect to

1 which the procedures described in section
2 506(c) apply, any order issued by the judge
3 shall be reviewed by the Court of Appeals for
4 the District of Columbia Circuit.

5 “(B) USE OF SPECIAL ATTORNEY.—With
6 respect to any issue relating to classified infor-
7 mation that arises in such review, the alien
8 shall be represented only by the special attorney
9 designated under section 506(c)(1) on behalf of
10 the alien.

11 “(d) GENERAL PROVISIONS RELATING TO AP-
12 PEALS.—

13 “(1) NOTICE.—A notice of appeal pursuant to
14 subsection (b) or (c) (other than under subsection
15 (c)(2)) must be filed within 20 days after the date
16 of the order with respect to which the appeal is
17 sought, during which time the order shall not be exe-
18 cuted.

19 “(2) TRANSMITTAL OF RECORD.—In an appeal
20 or review to the Court of Appeals pursuant to sub-
21 section (b) or (c)—

22 “(A) the entire record shall be transmitted
23 to the Court of Appeals, and

24 “(B) information received pursuant to sec-
25 tion 505(e), and any portion of the judge’s

1 order that would reveal the substance or source
2 of such information, shall be transmitted under
3 seal.

4 “(3) EXPEDITED APPELLATE PROCEEDING.—In
5 an appeal or review to the Court of Appeals pursu-
6 ant to subsection (b) or (c):

7 “(A) REVIEW.—The appeal or review shall
8 be heard as expeditiously as practicable and the
9 Court may dispense with full briefing and hear
10 the matter solely on the record of the judge of
11 the special removal court and on such briefs or
12 motions as the Court may require to be filed by
13 the parties.

14 “(B) DISPOSITION.—The Court shall up-
15 hold or reverse the judge’s order within 60 days
16 after the date of the issuance of the judge’s
17 final order.

18 “(4) STANDARD FOR REVIEW.—In an appeal or
19 review to the Court of Appeals pursuant to sub-
20 section (b) or (c):

21 “(A) QUESTIONS OF LAW.—The Court of
22 Appeals shall review all questions of law de
23 novo.

24 “(B) QUESTIONS OF FACT.—(i) Subject to
25 clause (ii), a prior finding on any question of

1 fact shall not be set aside unless such finding
2 was clearly erroneous.

3 “(ii) In the case of a review under sub-
4 section (c)(2) in which an alien lawfully admit-
5 ted for permanent residence was denied a writ-
6 ten summary of classified information under
7 section 506(b)(4), the Court of Appeals shall
8 review questions of fact de novo.

9 “(e) CERTIORARI.—Following a decision by the Court
10 of Appeals pursuant to subsection (b) or (c), either the
11 alien or the Department of Justice may petition the Su-
12 preme Court for a writ of certiorari. In any such case,
13 any information transmitted to the Court of Appeals
14 under seal shall, if such information is also submitted to
15 the Supreme Court, be transmitted under seal. Any order
16 of removal shall not be stayed pending disposition of a
17 writ of certiorari except as provided by the Court of Ap-
18 peals or a Justice of the Supreme Court.

19 “(f) APPEALS OF DETENTION ORDERS.—

20 “(1) IN GENERAL.— The provisions of sections
21 3145 through 3148 of title 18, United States Code,
22 pertaining to review and appeal of a release or de-
23 tention order, penalties for failure to appear, pen-
24 alties for an offense committed while on release, and
25 sanctions for violation of a release condition shall

1 apply to an alien to whom section 508(b)(1) applies.

2 In applying the previous sentence—

3 “(A) for purposes of section 3145 of such
4 title an appeal shall be taken to the United
5 States Court of Appeals for the District of Co-
6 lumbia Circuit, and

7 “(B) for purposes of section 3146 of such
8 title the alien shall be considered released in
9 connection with a charge of an offense punish-
10 able by life imprisonment.

11 “(2) NO REVIEW OF CONTINUED DETENTION.—
12 The determinations and actions of the Attorney
13 General pursuant to section 508(c)(2)(C) shall not
14 be subject to judicial review, including application
15 for a writ of habeas corpus, except for a claim by
16 the alien that continued detention violates the alien’s
17 rights under the Constitution. Jurisdiction over any
18 such challenge shall lie exclusively in the United
19 States Court of Appeals for the District of Columbia
20 Circuit.

21 “DETENTION AND CUSTODY

22 “SEC. 508. (a) INITIAL CUSTODY.—

23 “(1) UPON FILING APPLICATION.—Subject to
24 paragraph (2), the Attorney General may take into
25 custody any alien with respect to whom an applica-
26 tion under section 503 has been filed and, notwith-

1 standing any other provision of law, may retain such
2 an alien in custody in accordance with the proce-
3 dures authorized by this title.

4 “(2) SPECIAL RULES FOR PERMANENT RESI-
5 DENT ALIENS.—An alien lawfully admitted for per-
6 manent residence shall be entitled to a release hear-
7 ing before the judge assigned to hear the special re-
8 moval hearing. Such an alien shall be detained pend-
9 ing the special removal hearing, unless the alien
10 demonstrates to the court that—

11 “(A) the alien, if released upon such terms
12 and conditions as the court may prescribe (in-
13 cluding the posting of any monetary amount),
14 is not likely to flee, and

15 “(B) the alien’s release will not endanger
16 national security or the safety of any person or
17 the community.

18 The judge may consider classified information sub-
19 mitted in camera and ex parte in making a deter-
20 mination under this paragraph.

21 “(3) RELEASE IF ORDER DENIED AND NO RE-
22 VIEW SOUGHT.—

23 “(A) IN GENERAL.—Subject to subpara-
24 graph (B), if a judge of the special removal
25 court denies the order sought in an application

1 with respect to an alien and the Department of
2 Justice does not seek review of such denial, the
3 alien shall be released from custody.

4 “(B) APPLICATION OF REGULAR PROCE-
5 DURES.—Subparagraph (A) shall not prevent
6 the arrest and detention of the alien pursuant
7 to title II.

8 “(b) CONDITIONAL RELEASE IF ORDER DENIED AND
9 REVIEW SOUGHT.—

10 “(1) IN GENERAL.—If a judge of the special re-
11 moval court denies the order sought in an applica-
12 tion with respect to an alien and the Department of
13 Justice seeks review of such denial, the judge shall
14 release the alien from custody subject to the least re-
15 strictive condition or combination of conditions of re-
16 lease described in section 3142(b) and clauses (i)
17 through (xiv) of section 3142(c)(1)(B) of title 18,
18 United States Code, that will reasonably assure the
19 appearance of the alien at any future proceeding
20 pursuant to this title and will not endanger the safe-
21 ty of any other person or the community.

22 “(2) NO RELEASE FOR CERTAIN ALIENS.—If
23 the judge finds no such condition or combination of
24 conditions, the alien shall remain in custody until
25 the completion of any appeal authorized by this title.

1 “(c) CUSTODY AND RELEASE AFTER HEARING.—

2 “(1) RELEASE.—

3 “(A) IN GENERAL.—Subject to subpara-
4 graph (B), if the judge decides pursuant to sec-
5 tion 505(i) that an alien should not be removed,
6 the alien shall be released from custody.

7 “(B) CUSTODY PENDING APPEAL.—If the
8 Attorney General takes an appeal from such de-
9 cision, the alien shall remain in custody, subject
10 to the provisions of section 3142 of title 18,
11 United States Code.

12 “(2) CUSTODY AND REMOVAL.—

13 “(A) CUSTODY.—If the judge decides pur-
14 suant to section 505(i) that an alien shall be re-
15 moved, the alien shall be detained pending the
16 outcome of any appeal. After the conclusion of
17 any judicial review thereof which affirms the re-
18 moval order, the Attorney General shall retain
19 the alien in custody and remove the alien to a
20 country specified under subparagraph (B).

21 “(B) REMOVAL.—

22 “(i) IN GENERAL.—The removal of an
23 alien shall be to any country which the
24 alien shall designate if such designation
25 does not, in the judgment of the Attorney

1 General, in consultation with the Secretary
2 of State, impair the obligation of the
3 United States under any treaty (including
4 a treaty pertaining to extradition) or other-
5 wise adversely affect the foreign policy of
6 the United States.

7 “(ii) ALTERNATE COUNTRIES.—If the
8 alien refuses to designate a country to
9 which the alien wishes to be removed or if
10 the Attorney General, in consultation with
11 the Secretary of State, determines that re-
12 moval of the alien to the country so des-
13 ignated would impair a treaty obligation or
14 adversely affect United States foreign pol-
15 icy, the Attorney General shall cause the
16 alien to be removed to any country willing
17 to receive such alien.

18 “(C) CONTINUED DETENTION.—If no
19 country is willing to receive such an alien, the
20 Attorney General may, notwithstanding any
21 other provision of law, retain the alien in cus-
22 tody. The Attorney General, in coordination
23 with the Secretary of State, shall make periodic
24 efforts to reach agreement with other countries
25 to accept such an alien and at least every 6

1 months shall provide to the attorney represent-
2 ing the alien at the special removal hearing a
3 written report on the Attorney General's ef-
4 forts. Any alien in custody pursuant to this
5 subparagraph shall be released from custody
6 solely at the discretion of the Attorney General
7 and subject to such conditions as the Attorney
8 General shall deem appropriate.

9 “(D) FINGERPRINTING.—Before an alien
10 is transported out of the United States pursu-
11 ant to this subsection, or pursuant to an order
12 of exclusion because such alien is excludable
13 under section 212(a)(3)(B), the alien shall be
14 photographed and fingerprinted, and shall be
15 advised of the provisions of subsection 276(b).

16 “(d) CONTINUED DETENTION PENDING TRIAL.—

17 “(1) DELAY IN REMOVAL.—Notwithstanding
18 the provisions of subsection (c)(2), the Attorney
19 General may hold in abeyance the removal of an
20 alien who has been ordered removed pursuant to this
21 title to allow the trial of such alien on any Federal
22 or State criminal charge and the service of any sen-
23 tence of confinement resulting from such a trial.

24 “(2) MAINTENANCE OF CUSTODY.—Pending the
25 commencement of any service of a sentence of con-

1 finement by an alien described in paragraph (1),
2 such an alien shall remain in the custody of the At-
3 torney General, unless the Attorney General deter-
4 mines that temporary release of the alien to the cus-
5 tody of State authorities for confinement in a State
6 facility is appropriate and would not endanger na-
7 tional security or public safety.

8 “(3) SUBSEQUENT REMOVAL.—Following the
9 completion of a sentence of confinement by an alien
10 described in paragraph (1) or following the comple-
11 tion of State criminal proceedings which do not re-
12 sult in a sentence of confinement of an alien released
13 to the custody of State authorities pursuant to para-
14 graph (2), such an alien shall be returned to the
15 custody of the Attorney General who shall proceed
16 to carry out the provisions of subsection (c)(2) con-
17 cerning removal of the alien.

18 “(e) APPLICATION OF CERTAIN PROVISIONS RELAT-
19 ING TO ESCAPE OF PRISONERS.—For purposes of sections
20 751 and 752 of title 18, United States Code, an alien in
21 the custody of the Attorney General pursuant to this title
22 shall be subject to the penalties provided by those sections
23 in relation to a person committed to the custody of the
24 Attorney General by virtue of an arrest on a charge of
25 a felony.

1 “(f) RIGHTS OF ALIENS IN CUSTODY.—

2 “(1) FAMILY AND ATTORNEY VISITS.—An alien
3 in the custody of the Attorney General pursuant to
4 this title shall be given reasonable opportunity to
5 communicate with and receive visits from members
6 of the alien’s family, and to contact, retain, and
7 communicate with an attorney.

8 “(2) DIPLOMATIC CONTACT.—An alien in the
9 custody of the Attorney General pursuant to this
10 title shall have the right to contact an appropriate
11 diplomatic or consular official of the alien’s country
12 of citizenship or nationality or of any country pro-
13 viding representation services therefore. The Attor-
14 ney General shall notify the appropriate embassy,
15 mission, or consular office of the alien’s detention.”.

16 (b) CRIMINAL PENALTY FOR REENTRY OF ALIEN
17 TERRORISTS.—Section 276(b) (8 U.S.C. 1326(b)) is
18 amended—

19 (1) by striking “or” at the end of paragraph
20 (1),

21 (2) by striking the period at the end of para-
22 graph (2) and inserting “; or”, and

23 (3) by inserting after paragraph (2) the follow-
24 ing new paragraph:

1 “(3) who has been excluded from the United
2 States pursuant to subsection 235(c) because the
3 alien was excludable under subsection 212(a)(3)(B)
4 or who has been removed from the United States
5 pursuant to the provisions of title V, and who there-
6 after, without the permission of the Attorney Gen-
7 eral, enters the United States or attempts to do so
8 shall be fined under title 18, United States Code,
9 and imprisoned for a period of 10 years, which sen-
10 tence shall not run concurrently with any other sen-
11 tence.”.

12 (c) ELIMINATION OF CUSTODY REVIEW BY HABEAS
13 CORPUS.—Section 106(a) (8 U.S.C. 1105a(a)) is amend-
14 ed—

15 (1) by adding “and” at the end of paragraph
16 (8),

17 (2) by striking “; and” at the end of paragraph
18 (9) and inserting a period, and

19 (3) by striking paragraph (10).

20 (d) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act and shall apply to all aliens without regard
23 to the date of entry or attempted entry into the United
24 States.

1 **SEC. 322. FUNDING FOR DETENTION AND REMOVAL OF**
2 **ALIEN TERRORISTS.**

3 In addition to amounts otherwise appropriated, there
4 are authorized to be appropriated for each fiscal year (be-
5 ginning with fiscal year 1996) \$5,000,000 to the Immigra-
6 tion and Naturalization Service for the purpose of detain-
7 ing and removing alien terrorists.

8 **PART 2—INADMISSIBILITY AND DENIAL OF**
9 **RELIEF FOR ALIEN TERRORISTS**

10 **SEC. 331. MEMBERSHIP IN TERRORIST ORGANIZATION AS**
11 **GROUND OF INADMISSIBILITY.**

12 (a) IN GENERAL.—Section 212(a)(3)(B) (8 U.S.C.
13 1182(a)(3)(B)) is amended—

14 (1) in clause (i)—

15 (A) by striking “or” at the end of
16 subclause (I),

17 (B) in subclause (II), by inserting “en-
18 gaged in or” after “believe,” and

19 (C) by inserting after subclause (II) the
20 following:

21 “(III) is a representative of a ter-
22 rorist organization, or

23 “(IV) is a member of a terrorist
24 organization which the alien knows or
25 should have known is a terrorist orga-
26 nization,”; and

1 (2) by adding at the end the following:

2 “(iv) TERRORIST ORGANIZATION DE-
3 FINED.—

4 “(I) DESIGNATION.—For pur-
5 poses of this Act, the term ‘terrorist
6 organization’ means a foreign organi-
7 zation designated in the Federal Reg-
8 ister as a terrorist organization by the
9 Secretary of State, in consultation
10 with the Attorney General, based
11 upon a finding that the organization
12 engages in, or has engaged in, terror-
13 ist activity that threatens the national
14 security of the United States.

15 “(II) PROCESS.—At least 3 days
16 before designating an organization as
17 a terrorist organization through publi-
18 cation in the Federal Register, the
19 Secretary of State, in consultation
20 with the Attorney General, shall notify
21 the Committees on the Judiciary of
22 the House of Representatives and the
23 Senate of the intent to make such
24 designation and the findings and basis
25 for designation. The Secretary of

1 State, in consultation with the Attor-
2 ney General, shall create an adminis-
3 trative record and may use classified
4 information in making such a designa-
5 tion. Such information is not subject
6 to disclosure so long as it remains
7 classified, except that it may be dis-
8 closed to a court ex parte and in cam-
9 era under subclause (III) for purposes
10 of judicial review of such a designa-
11 tion. The Secretary of State, in con-
12 sultation with the Attorney General,
13 shall provide notice and an oppor-
14 tunity for public comment prior to the
15 creation of the administrative record
16 under this subclause.

17 “(III) JUDICIAL REVIEW.—Any
18 organization designated as a terrorist
19 organization under the preceding pro-
20 visions of this clause may, not later
21 than 30 days after the date of the
22 designation, seek judicial review there-
23 of in the United States Court of Ap-
24 peals for the District of Columbia Cir-
25 cuit. Such review shall be based solely

1 upon the administrative record, except
2 that the Government may submit, for
3 ex parte and in camera review, classi-
4 fied information considered in making
5 the designation. The court shall hold
6 unlawful and set aside the designation
7 if the court finds the designation to be
8 arbitrary, capricious, an abuse of dis-
9 cretion, or otherwise not in accord-
10 ance with law, lacking substantial
11 support in the administrative record
12 taken as a whole or in classified infor-
13 mation submitted to the court under
14 the previous sentence, contrary to
15 constitutional right, power, privilege,
16 or immunity, or not in accord with the
17 procedures required by law.

18 “(IV) CONGRESSIONAL REMOVAL
19 AUTHORITY.—The Congress reserves
20 the authority to remove, by law, the
21 designation of an organization as a
22 terrorist organization for purposes of
23 this Act.

24 “(V) SUNSET.—Subject to
25 subclause (IV), the designation under

1 this clause of an organization as a
2 terrorist organization shall be effective
3 for a period of 2 years from the date
4 of the initial publication of the terror-
5 ist organization designation by the
6 Secretary of State. At the end of such
7 period (but no sooner than 60 days
8 prior to the termination of the 2-year-
9 designation period), the Secretary of
10 State, in consultation with the Attor-
11 ney General, may redesignate the or-
12 ganization in conformity with the re-
13 quirements of this clause for designa-
14 tion of the organization.

15 “(VI) REMOVAL AUTHORITY.—
16 The Secretary of State, in consulta-
17 tion with the Attorney General, may
18 remove the terrorist organization des-
19 ignation from any organization pre-
20 viously designated as such an organi-
21 zation, at any time, so long as the
22 Secretary publishes notice of the re-
23 moval in the Federal Register. The
24 Secretary is not required to report to

1 Congress prior to so removing such
2 designation.

3 “(v) REPRESENTATIVE DEFINED.—

4 “(I) IN GENERAL.—In this sub-
5 paragraph, the term ‘representative’
6 includes an officer, official, or spokes-
7 man of the organization and any per-
8 son who directs, counsels, commands
9 or induces the organization or its
10 members to engage in terrorist activ-
11 ity.

12 “(II) JUDICIAL REVIEW.—The
13 determination under this subpara-
14 graph that an alien is a representative
15 of a terrorist organization shall be
16 subject to judicial review under sec-
17 tion 706 of title 5, United States
18 Code.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act.

22 **SEC. 332. DENIAL OF RELIEF FOR ALIEN TERRORISTS.**

23 (a) WITHHOLDING OF DEPORTATION.—Subsection
24 (h)(2) of section 243 (8 U.S.C. 1253), before amendment
25 by section 307(a), is amended by adding at the end the

1 following new sentence: “For purposes of subparagraph
2 (D), an alien who is described in section 241(a)(4)(B)
3 shall be considered to be an alien for whom there are rea-
4 sonable grounds for regarding as a danger to the security
5 of the United States.”.

6 (b) SUSPENSION OF DEPORTATION.—Section 244(a)
7 (8 U.S.C. 1254(a)), before amendment by section 308(b),
8 is amended by striking “section 241(a)(4)(D)” and insert-
9 ing “subparagraph (B) or (D) of section 241(a)(4)”.

10 (c) VOLUNTARY DEPARTURE.—Section 244(e)(2) (8
11 U.S.C. 1254(e)(2)), before amendment by section 308(b),
12 is amended by inserting “under section 241(a)(4)(B) or”
13 after “who is deportable”.

14 (d) ADJUSTMENT OF STATUS.—Section 245(c) (8
15 U.S.C. 1255(c)) is amended—

16 (1) by striking “or” before “(5)”, and

17 (2) by inserting before the period at the end the
18 following: “, or (6) an alien who is deportable under
19 section 241(a)(4)(B)”.

20 (e) REGISTRY.—Section 249(d) (8 U.S.C. 1259(d))
21 is amended by inserting “and is not deportable under sec-
22 tion 241(a)(4)(B)” after “ineligible to citizenship”.

23 (f) EFFECTIVE DATE.—(1) The amendments made
24 by this section shall take effect on the date of the enact-
25 ment of this Act and shall apply to applications filed be-

1 fore, on, or after such date if final action has not been
2 taken on them before such date.

3 (2) The amendments made by subsections (a)
4 through (c) are subsequently superseded by the amend-
5 ments made by subtitle A.

6 **Subtitle C—Deterring Transportation of Unlawful Aliens to the**
7 **United States**
8

9 **SEC. 341. DEFINITION OF STOWAWAY.**

10 (a) STOWAWAY DEFINED.—Section 101(a) (8 U.S.C.
11 1101(a)) is amended by adding the following new para-
12 graph:

13 “(47) The term ‘stowaway’ means any alien who ob-
14 tains transportation without the consent of the owner,
15 charterer, master or person in command of any vessel or
16 aircraft through concealment aboard such vessel or air-
17 craft. A passenger who boards with a valid ticket is not
18 to be considered a stowaway.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on the date of the enact-
21 ment of this Act.

22 **SEC. 342. LIST OF ALIEN AND CITIZEN PASSENGERS ARRIV-**
23 **ING.**

24 (a) IN GENERAL.—Section 231(a) (8 U.S.C.
25 1221(a)) is amended—

1 (1) by amending the first sentence to read as
2 follows: “In connection with the arrival of any per-
3 son by water or by air at any port within the United
4 States from any place outside the United States, it
5 shall be the duty of the master or commanding offi-
6 cer, or authorized agent, owner, or consignee of the
7 vessel or aircraft, having such person on board to
8 deliver to the immigration officers at the port of ar-
9 rival, or other place designated by the Attorney Gen-
10 eral, electronic, typewritten, or printed lists or mani-
11 fests of the persons on board such vessel or air-
12 craft.”;

13 (2) in the second sentence, by striking “shall be
14 prepared” and inserting “shall be prepared and sub-
15 mitted”; and

16 (3) by inserting after the second sentence the
17 following sentence: “Such lists or manifests shall
18 contain, but not be limited to, for each person trans-
19 ported, the person’s full name, date of birth, gender,
20 citizenship, travel document number (if applicable)
21 and arriving flight number.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to vessels or aircraft arriving
24 at ports of entry on or after such date (not later than

1 60 days after the date of the enactment of this Act) as
2 the Attorney General shall specify.

3 **SEC. 343. PROVISIONS RELATING TO CONTRACTS WITH**
4 **TRANSPORTATION LINES.**

5 (a) COVERAGE OF NONCONTIGUOUS TERRITORY.—
6 Section 238 (8 U.S.C. 1228), before redesignation as sec-
7 tion 233 under section 308(b), is amended—

8 (1) in the heading, by striking “CONTIGUOUS”,
9 and

10 (2) by striking “contiguous” each place it ap-
11 pears in subsections (a), (b), and (d).

12 (b) COVERAGE OF RAILROAD TRAIN.—Subsection (d)
13 of such section is further amended by inserting “ or rail-
14 road train” after “aircraft”.

15 **Subtitle D—Additional Provisions**

16 **SEC. 351. DEFINITION OF CONVICTION.**

17 (a) IN GENERAL.—Section 101(a) (8 U.S.C.
18 1101(a)), as amended by section 341(a), is amended by
19 adding at the end the following new paragraph:

20 “(48) The term ‘conviction’ means a formal judgment
21 of guilt entered by a court or, if adjudication of guilt has
22 been withheld, where all of the following elements are
23 present:

24 “(A) A judge or jury has found the alien guilty
25 or the alien has entered a plea of guilty or nolo

1 contendere or has admitted sufficient facts to war-
2 rant a finding of guilt.

3 “(B) The judge has ordered some form of pun-
4 ishment, penalty, or restraint on the alien’s liberty
5 to be imposed.

6 “(C) A judgment or adjudication of guilt may
7 be entered if the alien violates the terms of the pro-
8 bation or fails to comply with the requirements of
9 the court’s order, without availability of further pro-
10 ceedings regarding the alien’s guilt or innocence of
11 the original charge.”.

12 (b) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to convictions entered before,
14 on, or after the date of the enactment of this Act.

15 **SEC. 352. IMMIGRATION JUDGES AND COMPENSATION.**

16 (a) DEFINITION OF TERM.—Paragraph (4) of section
17 101(b) (8 U.S.C. 1101(b)) is amended to read as follows:

18 “(4) The term ‘immigration judge’ means an attorney
19 whom the Attorney General appoints as an administrative
20 judge within the Executive Office for Immigration Review,
21 qualified to conduct specified classes of proceedings, in-
22 cluding a hearing under section 240. An immigration
23 judge shall be subject to such supervision and shall per-
24 form such duties as the Attorney General shall prescribe,

1 but shall not be employed by the Immigration and Natu-
2 ralization Service.”.

3 (b) SUBSTITUTION FOR TERM “SPECIAL INQUIRY
4 OFFICER”.—The Immigration and Nationality Act is
5 amended by striking “a special inquiry officer”, “special
6 inquiry officer”, and “special inquiry officers” and insert-
7 ing “an immigration judge”, “immigration judge”, and
8 “immigration judges”, respectively, each place it appears
9 in the following sections:

10 (1) Section 106(a)(2) (8 U.S.C. 1105a(a)(2)).

11 (2) Section 209(a)(2) (8 U.S.C. 1159(a)(2)).

12 (3) Section 234 (8 U.S.C. 1224), before redес-
13 igation by section 308(b).

14 (4) Section 235 (8 U.S.C. 1225), before redес-
15 igation by section 308(b).

16 (5) Section 236 (8 U.S.C. 1226), before amend-
17 ment by section 303.

18 (6) Section 242(b) (8 U.S.C. 1252(b)), before
19 amendment by section 306(a)(2).

20 (7) Section 242(d)(1) (8 U.S.C. 1252(d)(1)),
21 before amendment by section 306(a)(2).

22 (8) Section 292 (8 U.S.C. 1362).

23 (c) COMPENSATION FOR IMMIGRATION JUDGES.—

24 (1) IN GENERAL.—There shall be four levels of
25 pay for immigration judges, under the Immigration

1 Judge Schedule (designated as IJ-1, 2, 3, and 4, re-
 2 spectively), and each such judge shall be paid at one
 3 of those levels, in accordance with the provisions of
 4 this subsection.

5 (2) RATES OF PAY.—

6 (A) The rates of basic pay for the levels es-
 7 tablished under paragraph (1) shall be as fol-
 8 lows:

IJ-1	70% of the next to highest rate of basic pay for the Senior Executive Service
IJ-2	80% of the next to highest rate of basic pay for the Senior Executive Service
IJ-3	90% of the next to highest rate of basic pay for the Senior Executive Service
IJ-4	92% of the next to highest rate of basic pay for the Senior Executive Service.

9 (B) Locality pay, where applicable, shall be
 10 calculated into the basic pay for immigration
 11 judges.

12 (3) APPOINTMENT.—

13 (A) Upon appointment, an immigration
 14 judge shall be paid at IJ-1, and shall be ad-
 15 vanced to IJ-2 upon completion of 104 weeks
 16 of service, to IJ-3 upon completion of 104
 17 weeks of service in the next lower rate, and to
 18 IJ-4 upon completion of 52 weeks of service in
 19 the next lower rate.

1 (b) EFFECTIVE DATE.—The amendment made by
2 subsection (a) shall take effect on the title III–A effective
3 date (as defined in section 309(a)).

4 **SEC. 354. CIVIL PENALTIES FOR FAILURE TO DEPART.**

5 (a) IN GENERAL.—The Immigration and Nationality
6 Act is amended by inserting after section 274C the follow-
7 ing new section:

8 “CIVIL PENALTIES FOR FAILURE TO DEPART

9 “SEC. 274D. (a) IN GENERAL.—Any alien subject to
10 a final order of removal who—

11 “(1) willfully fails or refuses to—

12 “(A) depart from the United States pursu-
13 ant to the order,

14 “(B) make timely application in good faith
15 for travel or other documents necessary for de-
16 parture, or

17 “(C) present for removal at the time and
18 place required by the Attorney General; or

19 “(2) conspires to or takes any action designed
20 to prevent or hamper the alien’s departure pursuant
21 to the order,

22 shall pay a civil penalty of not more than \$500 to the
23 Commissioner for each day the alien is in violation of this
24 section.

25 “(b) CONSTRUCTION.—Nothing in this section shall
26 be construed to diminish or qualify any penalties to which

1 an alien may be subject for activities proscribed by section
2 243(a) or any other section of this Act.”.

3 (b) CLERICAL AMENDMENT.—The table of contents
4 is amended by inserting after the item relating to section
5 274C the following new item:

“Sec. 274D. Civil penalties for failure to depart.”.

6 (c) EFFECTIVE DATE.—The amendments made by
7 subsection (a) shall apply to actions occurring on or after
8 the title III–A effective date (as defined in section 309(a)).

9 **SEC. 355. CLARIFICATION OF DISTRICT COURT JURISDIC-**
10 **TION.**

11 (a) IN GENERAL.—Section 279 (8 U.S.C. 1329) is
12 amended—

13 (1) by amending the first sentence to read as
14 follows: “The district courts of the United States
15 shall have jurisdiction of all causes, civil and crimi-
16 nal, brought by the United States that arise under
17 the provisions of this title.”, and

18 (2) by adding at the end the following new sen-
19 tence: “Nothing in this section shall be construed as
20 providing jurisdiction for suits against the United
21 States or its agencies or officers.”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to actions filed after the date
24 of the enactment of this Act.

1 **SEC. 356. DEMONSTRATION PROJECT FOR IDENTIFICATION**
2 **OF ILLEGAL ALIENS IN INCARCERATION FA-**
3 **CILITY OF ANAHEIM, CALIFORNIA.**

4 (a) **AUTHORITY.**—The Attorney General may conduct
5 a project demonstrating the feasibility of identifying, from
6 among the individuals who are incarcerated in local gov-
7 ernmental prison facilities prior to arraignment on crimi-
8 nal charges, those individuals who are aliens unlawfully
9 present in the United States.

10 (b) **DESCRIPTION OF PROJECT.**—The project author-
11 ized by subsection (a) shall include—

12 (1) the detail to incarceration facilities within
13 the city of Anaheim, California and the county of
14 Ventura, California, of an employee of the Immigra-
15 tion and Naturalization Service who has expertise in
16 the identification of aliens unlawfully in the United
17 States, and

18 (2) provision of funds sufficient to provide
19 for—

20 (A) access for such employee to records of
21 the Service necessary to identify unlawful
22 aliens, and

23 (B) in the case of an individual identified
24 as an unlawful alien, pre-arraignment reporting
25 to the court regarding the Service's intention to
26 remove the alien from the United States.

1 (c) TERMINATION.—The authority under this section
2 shall cease to be effective 6 months after the date of the
3 enactment of this Act.

4 **SEC. 357. ENHANCED PENALTIES FOR FAILURE TO DEPART,**
5 **ILLEGAL REENTRY, AND PASSPORT AND VISA**
6 **FRAUD.**

7 (a) FAILING TO DEPART.—The United States Sen-
8 tencing Commission shall promptly promulgate, pursuant
9 to section 994 of title 28, United States Code, amend-
10 ments to the sentencing guidelines to make appropriate
11 increases in the base offense level for offenses under sec-
12 tion 242(e) and 276(b) of the Immigration and National-
13 ity Act (8 U.S.C. 1252(e) and 1326(b)) to reflect the
14 amendments made by section 130001 of the Violent Crime
15 Control and Law Enforcement Act of 1994.

16 (b) PASSPORT AND VISA OFFENSES.—The United
17 States Sentencing Commission shall promptly promulgate,
18 pursuant to section 994 of title 28, United States Code,
19 amendments to the sentencing guidelines to make appro-
20 priate increases in the base offense level for offenses under
21 chapter 75 of title 18, United States Code to reflect the
22 amendments made by section 130009 of the Violent Crime
23 Control and Law Enforcement Act of 1994.

1 **SEC. 358. AUTHORIZATION OF ADDITIONAL FUNDS FOR RE-**
2 **MOVAL OF ALIENS.**

3 In addition to the amounts otherwise authorized to
4 be appropriated for each fiscal year beginning with fiscal
5 year 1996, there are authorized to be appropriated to the
6 Attorney General \$150,000,000 for costs associated with
7 the removal of inadmissible or deportable aliens, including
8 costs of detention of such aliens pending their removal,
9 the hiring of more investigators, and the hiring of more
10 detention and deportation officers.

11 **SEC. 359. APPLICATION OF ADDITIONAL CIVIL PENALTIES**
12 **TO ENFORCEMENT.**

13 (a) IN GENERAL.—Subsection (b) of section 280 (8
14 U.S.C. 1330(b)) is amended to read as follows:

15 “(b)(1) There is established in the general fund of
16 the Treasury a separate account which shall be known as
17 the ‘Immigration Enforcement Account’. Notwithstanding
18 any other section of this title, there shall be deposited as
19 offsetting receipts into the Immigration Enforcement Ac-
20 count amounts described in paragraph (2) to remain avail-
21 able until expended.

22 “(2) The amounts described in this paragraph are the
23 following:

24 “(A) The increase in penalties collected result-
25 ing from the amendments made by sections 203(b)
26 and 543(a) of the Immigration Act of 1990.

1 “(B) Civil penalties collected under sections
2 240B(d), 274C, 274D, and 275(b).

3 “(3)(A) The Secretary of the Treasury shall refund
4 out of the Immigration Enforcement Account to any ap-
5 propriation the amount paid out of such appropriation for
6 expenses incurred by the Attorney General for activities
7 that enhance enforcement of provisions of this title, in-
8 cluding—

9 “(i) the identification, investigation, apprehen-
10 sion, detention, and removal of criminal aliens;

11 “(ii) the maintenance and updating of a system
12 to identify and track criminal aliens, deportable
13 aliens, inadmissible aliens, and aliens illegally enter-
14 ing the United States; and

15 “(iii) for the repair, maintenance, or construc-
16 tion on the United States border, in areas experienc-
17 ing high levels of apprehensions of illegal aliens, of
18 structures to deter illegal entry into the United
19 States.

20 “(B) The amounts which are required to be refunded
21 under subparagraph (A) shall be refunded at least quar-
22 terly on the basis of estimates made by the Attorney Gen-
23 eral of the expenses referred to in subparagraph (A).
24 Proper adjustments shall be made in the amounts subse-
25 quently refunded under subparagraph (A) to the extent

1 prior estimates were in excess of, or less than, the amount
2 required to be refunded under subparagraph (A).

3 “(C) The amounts required to be refunded from the
4 Immigration Enforcement Account for fiscal year 1996
5 and thereafter shall be refunded in accordance with esti-
6 mates made in the budget request of the Attorney General
7 for those fiscal years. Any proposed changes in the
8 amounts designated in such budget requests shall only be
9 made after notification to the Committees on Appropria-
10 tions of the House of Representatives and the Senate in
11 accordance with section 605 of Public Law 103–317.

12 “(D) The Attorney General shall prepare and submit
13 annually to the Congress statements of financial condition
14 of the Immigration Enforcement Account, including begin-
15 ning account balance, revenues, withdrawals, and ending
16 account balance and projection for the ensuing fiscal
17 year.”.

18 (b) IMMIGRATION USER FEE ACCOUNT.—Section
19 286(h)(1)(B) (8 U.S.C. 1356(h)(1)(B)) is amended by
20 striking “271” and inserting “243(c), 271,”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply to fines and penalties collected on
23 or after the date of the enactment of this Act.

1 **SEC. 360. PRISONER TRANSFER TREATIES.**

2 (a) NEGOTIATION.—Congress advises the President
3 to begin to negotiate and renegotiate, not later than 90
4 days after the date of the enactment of this Act, bilateral
5 prisoner transfer treaties. The focus of such negotiations
6 shall be—

7 (1) to expedite the transfer of aliens unlawfully
8 in the United States who are (or are about to be)
9 incarcerated in United States prisons,

10 (2) to ensure that a transferred prisoner serves
11 the balance of the sentence imposed by the United
12 States courts,

13 (3) to eliminate any requirement of prisoner
14 consent to such a transfer, and

15 (4) to allow the Federal Government or the
16 States to keep their original prison sentences in
17 force so that transferred prisoners who return to the
18 United States prior to the completion of their origi-
19 nal United States sentences can be returned to cus-
20 tody for the balance of their prison sentences.

21 In entering into such negotiations, the President may con-
22 sider providing for appropriate compensation in cases
23 where the United States is able to independently verify
24 the adequacy of the sites where aliens will be imprisoned
25 and the length of time the alien is actually incarcerated
26 in the foreign country under such a treaty.

1 (b) CERTIFICATION.—The President shall submit to
2 the Congress, annually, a certification as to whether each
3 prisoner transfer treaty in force is effective in returning
4 aliens unlawfully in the United States who have committed
5 offenses for which they are incarcerated in the United
6 States to their country of nationality for further incarcer-
7 ation.

8 **SEC. 361. CRIMINAL ALIEN IDENTIFICATION SYSTEM.**

9 (a) OPERATION AND PURPOSE.—Subsection (a) of
10 section 130002 of the Violent Crime Control and Law En-
11 forcement Act of 1994 (Public Law 103–322) is amended
12 to read as follows:

13 “(a) OPERATION AND PURPOSE.—The Commissioner
14 of Immigration and Naturalization shall, under the au-
15 thority of section 242(a)(3)(A) of the Immigration and
16 Nationality Act (8 U.S.C. 1252(a)(3)(A)), operate a crimi-
17 nal alien identification system. The criminal alien identi-
18 fication system shall be used to assist Federal, State, and
19 local law enforcement agencies in identifying and locating
20 aliens who may be subject to removal by reason of their
21 conviction of aggravated felonies, subject to prosecution
22 under section 275 of such Act, not lawfully present in the
23 United States, or otherwise removable. Such system shall
24 include providing for recording of fingerprint records of
25 aliens who have been previously arrested and removed into

1 appropriate automated fingerprint identification sys-
2 tems.”.

3 (b) IDENTIFICATION OF CRIMINAL ALIENS UNLAW-
4 FULLY PRESENT IN THE UNITED STATES.—Upon the re-
5 quest of the governor or chief executive officer of any
6 State, the Immigration and Naturalization Service shall
7 provide assistance to State courts in the identification of
8 aliens unlawfully present in the United States pending
9 criminal prosecution.

10 **SEC. 362. WAIVER OF EXCLUSION AND DEPORTATION**

11 **GROUND FOR CERTAIN SECTION 274C VIOLA-**
12 **TORS.**

13 (a) EXCLUSION GROUNDS.—Section 212 (8 U.S.C.
14 1182) is amended—

15 (1) by amending subparagraph (F) of sub-
16 section (a)(6) to read as follows:

17 “(F) SUBJECT OF CIVIL PENALTY.—

18 “(i) IN GENERAL.—An alien who is
19 the subject of a final order for violation of
20 section 274C is inadmissible.

21 “(ii) WAIVER AUTHORIZED.—For pro-
22 vision authorizing waiver of clause (i), see
23 subsection (d)(12).”; and

24 (2) by adding at the end of subsection (d) the
25 following new paragraph:

1 “(12) The Attorney General may, in the discretion
2 of the Attorney General for humanitarian purposes, to as-
3 sure family unity, or when it is otherwise in the public
4 interest, waive application of clause (i) of subsection
5 (a)(6)(F)—

6 “(A) in the case of an alien lawfully admitted
7 for permanent residence who temporarily proceeded
8 abroad voluntarily and not under an order of depor-
9 tation and who is otherwise admissible to the United
10 States as a returning resident under section 211(b),
11 and

12 “(B) in the case of an alien seeking admission
13 or adjustment of status under section 201(b)(2)(A)
14 or under section 203(a),
15 if the violation under section 274C was committed solely
16 to assist, aid, or support the alien’s spouse, parent, son,
17 or daughter (and not another individual).”.

18 (b) GROUND OF DEPORTATION.—Subparagraph (C)
19 of section 241(a)(3) (8 U.S.C. 1251(a)(3)), before redesi-
20 gnation by section 305(a)(2), is amended to read as follows:

21 “(C) DOCUMENT FRAUD.—

22 “(i) IN GENERAL.—An alien who is
23 the subject of a final order for violation of
24 section 274C is deportable.

1 “(ii) WAIVER AUTHORIZED.—The At-
2 torney General may waive clause (i) in the
3 case of an alien lawfully admitted for per-
4 manent residence if the alien’s civil money
5 penalty under section 274C was incurred
6 solely to assist, aid, or support the alien’s
7 spouse, parent, son, or daughter (and no
8 other individual).”.

9 **SEC. 363. AUTHORIZING REGISTRATION OF ALIENS ON**
10 **CRIMINAL PROBATION OR CRIMINAL PA-**
11 **ROLE.**

12 Section 263(a) (8 U.S.C. 1303(a)) is amended by
13 striking “and (5)” and inserting “(5) aliens who are or
14 have been on criminal probation or criminal parole within
15 the United States, and (6)”.

16 **SEC. 364. CONFIDENTIALITY PROVISION FOR CERTAIN**
17 **ALIEN BATTERED SPOUSES AND CHILDREN.**

18 (a) IN GENERAL.—Except as provided in subsection
19 (b), in no case may the Attorney General, or any other
20 official or employee of the Department of Justice (includ-
21 ing any bureau or agency of such Department)—

22 (1) make an adverse determination of admissi-
23 bility or deportability of an alien under the Immigra-
24 tion and Nationality Act using information furnished
25 solely by—

1 (A) a spouse or parent who has battered
2 the alien or subjected the alien to extreme cru-
3 elty,

4 (B) a member of the spouse's or parent's
5 family residing in the same household as the
6 alien who has battered the alien or subjected
7 the alien to extreme cruelty when the spouse or
8 parent consented to or acquiesced in such bat-
9 tery or cruelty,

10 (C) a spouse or parent who has battered
11 the alien's child or subjected the alien's child to
12 extreme cruelty (without the active participation
13 of the alien in the battery or extreme cruelty),
14 or

15 (D) a member of the spouse's or parent's
16 family residing in the same household as the
17 alien who has battered the alien's child or sub-
18 jected the alien's child to extreme cruelty when
19 the spouse or parent consented to or acquiesced
20 in such battery or cruelty and the alien did not
21 actively participate in such battery or cruelty,
22 unless the alien has been convicted of a crime or
23 crimes listed in section 241(a)(2) of the Immigration
24 and Nationality Act; or

1 (2) permit use by or disclosure to anyone (other
2 than a sworn officer or employee of the Department,
3 or bureau or agency thereof, for legitimate Depart-
4 ment, bureau, or agency purposes) of any informa-
5 tion which relates to an alien who is the beneficiary
6 of an application for relief under clause (iii) or (iv)
7 of section 204(a)(1)(A), clause (ii) or (iii) of section
8 204(a)(1)(B), section 216(c)(4)(C), or section
9 244(a)(3) of such Act as an alien (or the parent of
10 a child) who has been battered or subjected to ex-
11 treme cruelty.

12 The limitation under paragraph (2) ends when the appli-
13 cation for relief is denied and all opportunities for appeal
14 of the denial have been exhausted.

15 (b) EXCEPTIONS.—

16 (1) The Attorney General may provide, in the
17 Attorney General's discretion, for the disclosure of
18 information in the same manner and circumstances
19 as census information may be disclosed by the Sec-
20 retary of Commerce under section 8 of title 13,
21 United States Code.

22 (2) The Attorney General may provide in the
23 discretion of the Attorney General for the disclosure
24 of information to law enforcement officials to be
25 used solely for a legitimate law enforcement purpose.

1 (3) Subsection (a) shall not be construed as
2 preventing disclosure of information in connection
3 with judicial review of a determination in a manner
4 that protects the confidentiality of such information.

5 (4) Subsection (a)(2) shall not apply if all the
6 battered individuals in the case are adults and they
7 have all waived the restrictions of such subsection.

8 (c) PENALTIES FOR VIOLATIONS.—Anyone who uses,
9 publishes, or permits information to be disclosed in viola-
10 tion of this section shall be fined in accordance with title
11 18, United States Code, or imprisoned not more than 5
12 years, or both.

13 **SEC. 365. AUTHORITY FOR STATE AND LOCAL LAW EN-**
14 **FORCEMENT ASSISTANCE IN DEPORTATION.**

15 Section 103 (8 U.S.C. 1103) is amended by adding
16 at the end the following new subsection:

17 “(f)(1) The Attorney General may deputize any law
18 enforcement officer of any State or of any political subdivi-
19 sion of any State to seek, apprehend, detain, and commit
20 to the custody of an officer of the Department of Justice
21 aliens subject to a final order of deportation or exclusion
22 under this Act, if—

23 “(1) actions pursuant to such deputization are
24 subject to the direction and supervision of an officer
25 of the Department of Justice;

1 “(2) any deputization, its duration, an identi-
 2 fication of the supervising officer of the Department
 3 of Justice, and the specific powers, privileges, and
 4 duties to be performed or exercised are set forth in
 5 writing; and

6 “(3) the Governor of the State, or the chief
 7 elected or appointed official of a political subdivision
 8 (as may be appropriate) consents to the deputiza-
 9 tion.

10 “(2) No deputization under this subsection shall enti-
 11 tle any State, political subdivision, or individual to any
 12 compensation or reimbursement from the United States,
 13 except where the amount thereof and the entitlement
 14 thereto are set forth in the written deputization or where
 15 otherwise explicitly provided by law.”.

16 **TITLE IV—ENFORCEMENT OF**
 17 **RESTRICTIONS AGAINST EM-**
 18 **PLOYMENT**

19 **SEC. 401. PILOT PROGRAM FOR VOLUNTARY USE OF EM-**
 20 **PLOYMENT ELIGIBILITY CONFIRMATION**
 21 **PROCESS.**

22 (a) VOLUNTARY ELECTION TO PARTICIPATE IN
 23 PILOT PROGRAM CONFIRMATION MECHANISM.—

24 (1) IN GENERAL.—An employer (or a recruiter
 25 or referrer subject to section 274A(a)(1)(B)(ii) of

1 the Immigration and Nationality Act) may elect to
2 participate in the pilot program for employment eli-
3 gibility confirmation provided under this section
4 (such program in this section referred to as the
5 “pilot program”). Except as specifically provided in
6 this section, the Attorney General is not authorized
7 to require any entity to participate in the program
8 under this section. The pilot program shall operate
9 in at least 5 of the 7 States with the highest esti-
10 mated population of unauthorized aliens.

11 (2) EFFECT OF ELECTION.—The following pro-
12 visions apply in the case of an entity electing to par-
13 ticipate in the pilot program:

14 (A) OBLIGATION TO USE CONFIRMATION
15 MECHANISM.—The entity agrees to comply with
16 the confirmation mechanism under subsection
17 (c) to confirm employment eligibility under the
18 pilot program for all individuals covered under
19 the election in accordance with this section.

20 (B) BENEFIT OF REBUTTABLE PRESUMP-
21 TION.—

22 (i) IN GENERAL.—If the entity ob-
23 tains confirmation of employment eligibility
24 under the pilot program with respect to the
25 hiring (or recruiting or referral that is sub-

1 ject to section 274A(a)(1)(B)(ii) of the Im-
2 migration and Nationality Act) of an indi-
3 vidual for employment in the United
4 States, the entity has established a rebut-
5 table presumption that the entity has not
6 violated section 274A(a)(1)(A) of the Im-
7 migration and Nationality Act with respect
8 to such hiring (or such recruiting or refer-
9 ral).

10 (ii) CONSTRUCTION.—Clause (i) shall
11 not be construed as preventing an entity
12 that has an election in effect under this
13 section from establishing an affirmative de-
14 fense under section 274A(a)(3) of the Im-
15 migration and Nationality Act if the entity
16 complies with the requirements of section
17 274A(a)(1)(B) of such Act but fails to
18 comply with the obligations under subpara-
19 graph (A).

20 (C) BENEFIT OF NOTICE BEFORE EMPLOY-
21 MENT-RELATED INSPECTIONS.—The Immigra-
22 tion and Naturalization Service, the Special
23 Counsel for Immigration-Related Unfair Em-
24 ployment Practices, and any other agency au-
25 thorized to inspect forms required to be re-

1 tained under section 274A of the Immigration
2 and Nationality Act or to search property for
3 purposes of enforcing such section shall provide
4 at least 3 days notice prior to such an inspec-
5 tion or search, except that such notice is not re-
6 quired if the inspection or search is conducted
7 with an administrative or judicial subpoena or
8 warrant or under exigent circumstances.

9 (3) GENERAL TERMS OF ELECTIONS.—

10 (A) IN GENERAL.—An election under para-
11 graph (1) shall be in a form and manner and
12 under such terms and conditions as the Attor-
13 ney General shall specify and shall take effect
14 as the Attorney General shall specify. Such an
15 election shall apply (under such terms and con-
16 ditions and as specified in the election) either to
17 all hiring (and all recruitment or referral that
18 is subject to section 274A(a)(1)(B)(ii) of the
19 Immigration and Nationality Act) by the entity
20 during the period in which the election is in ef-
21 fect or to hiring (or recruitment or referral that
22 is subject to section 274A(a)(1)(B)(ii) of the
23 Immigration and Nationality Act) in one or
24 more States or one or more places of such hir-
25 ing (or such recruiting or referral, as the case

1 may be) covered by the election. The Attorney
2 General may not impose any fee as a condition
3 of making an election or participation in the
4 pilot program under this section.

5 (B) ACCEPTANCE OF ELECTIONS.—Except
6 as otherwise provided in this paragraph, the At-
7 torney General shall accept all elections made
8 under paragraph (1). The Attorney General
9 may establish a process under which entities
10 seek to make elections in advance, in order to
11 permit the Attorney General the opportunity to
12 identify and develop appropriate resources to
13 accommodate the demand for participation in
14 the pilot program under this section.

15 (C) REJECTION OF ELECTIONS.—The At-
16 torney General may reject an election by an en-
17 tity under paragraph (1) because the Attorney
18 General has determined that there are insuffi-
19 cient resources to provide services under the
20 pilot program for the entity.

21 (D) TERMINATION OF ELECTIONS.—The
22 Attorney General may terminate an election by
23 an entity under paragraph (1) because the en-
24 tity has substantially failed to comply with the

1 obligations of the entity under the pilot pro-
2 gram.

3 (E) RESCISSION OF ELECTION.—An entity
4 may rescind an election made under this sub-
5 section in such form and manner as the Attor-
6 ney General shall specify.

7 (b) CONSULTATION, EDUCATION, AND PUBLICITY.—

8 (1) CONSULTATION.—The Attorney General
9 shall closely consult with representatives of employ-
10 ers (and recruiters and referrers whose recruiting or
11 referring is subject to section 274A(a)(1)(B)(ii) of
12 the Immigration and Nationality Act) in the develop-
13 ment and implementation of the pilot program under
14 this section, including the education of employers
15 (and such recruiters and referrers) about the pro-
16 gram.

17 (2) PUBLICITY.—The Attorney General shall
18 widely publicize the election process and pilot pro-
19 gram under this section, including the voluntary na-
20 ture of the program and the advantages to employ-
21 ers of making an election under subsection (a).

22 (3) ASSISTANCE THROUGH DISTRICT OF-
23 FICES.—The Attorney General shall designate one or
24 more individuals in each District office of the Immi-
25 gration and Naturalization Service—

1 (A) to inform entities that seek informa-
2 tion about the program of the voluntary nature
3 of the program, and

4 (B) to assist entities in electing and par-
5 ticipating in the pilot program, in complying
6 with the requirements of section 274A of the
7 Immigration and Nationality Act, and in facili-
8 tating identification of individuals authorized to
9 be employed consistent with such section.

10 (c) CONFIRMATION PROCESS UNDER PILOT PRO-
11 GRAM.—An entity that is participating in the pilot pro-
12 gram agrees to conform to the following procedures in the
13 case of a hiring (or recruiting or referral in the case of
14 recruitment or referral that is subject to section
15 274A(a)(1)(B)(ii) of the Immigration and Nationality
16 Act) of each individual covered under the program for em-
17 ployment in the United States:

18 (1) PROVISION OF ADDITIONAL INFORMA-
19 TION.—The entity shall obtain from the individual
20 (and the individual shall provide) and shall record on
21 the form used for purposes of section 274A(b)(1)(A)
22 of the Immigration and Nationality Act—

23 (A) the individual's social security account
24 number (if the individual has been issued such
25 a number), and

1 (B) if the individual is an alien, such iden-
2 tification or authorization number established
3 by the Service for the alien as the Attorney
4 General shall specify.

5 (2) SEEKING CONFIRMATION.—

6 (A) IN GENERAL.—The entity shall make
7 an inquiry, under the confirmation mechanism
8 established under subsection (d), to seek con-
9 firmation of the identity, applicable number (or
10 numbers) described in section 274A(b)(2)(B) of
11 the Immigration and Nationality Act, and work
12 eligibility of the individual, by not later than
13 the end of 3 working days (as specified by the
14 Attorney General) after the date of the hiring
15 (or recruitment or referral, as the case may be).

16 (B) EXTENSION OF TIME PERIOD.—If the
17 entity in good faith attempts to make an in-
18 quiry during such 3 working days and the con-
19 firmation mechanism has registered that not all
20 inquiries were responded to during such time,
21 the entity can make an inquiry in the first sub-
22 sequent working day in which the confirmation
23 mechanism registers no nonresponses and qual-
24 ify for the presumption. If the confirmation
25 mechanism is not responding to inquiries at all

1 times during a day, the entity merely has to as-
2 sert that the entity attempted to make the in-
3 quiry on that day for the previous sentence to
4 apply to such an inquiry, and does not have to
5 provide any additional proof concerning such in-
6 quiry.

7 (3) CONFIRMATION.—

8 (A) IN GENERAL.—If the entity receives an
9 appropriate confirmation of such identity, appli-
10 cable number or numbers, and work eligibility
11 under the confirmation mechanism within the
12 time period specified under subsection (d) after
13 the time the confirmation inquiry was received,
14 the entity shall record on the form used for
15 purposes of section 274A(b)(1)(A) of the Immi-
16 gration and Nationality Act an appropriate code
17 indicating a confirmation of such identity, num-
18 ber or numbers, and work eligibility.

19 (B) FAILURE TO OBTAIN CONFIRMA-
20 TION.—If the entity has made the inquiry de-
21 scribed in paragraph (1) but has received a
22 nonconfirmation within the time period speci-
23 fied—

1 (i) the presumption under subsection
2 (a)(2)(B) shall not be considered to apply,
3 and

4 (ii) if the entity nonetheless continues
5 to employ (or recruits or refers, if such re-
6 cruitment or referral is subject to section
7 274A(a)(1)(B)(ii) of the Immigration and
8 Nationality Act) the individual for employ-
9 ment in the United States, the entity shall
10 notify the Attorney General of such fact
11 through the confirmation mechanism or in
12 such other manner as the Attorney Gen-
13 eral may specify.

14 (C) CONSEQUENCES.—

15 (i) FAILURE TO NOTIFY.—If the en-
16 tity fails to provide notice with respect to
17 an individual as required under subpara-
18 graph (B)(ii), the failure is deemed to con-
19 stitute a violation of section 274A(a)(1)(A)
20 of the Immigration and Nationality Act
21 with respect to that individual.

22 (ii) CONTINUED EMPLOYMENT.—If
23 the entity provides notice under subpara-
24 graph (B)(ii) with respect to an individual,
25 the entity has the burden of proof, for pur-

1 poses of applying section 274A(a)(1)(A) of
2 the Immigration and Nationality Act with
3 respect to such entity and individual, of es-
4 tablishing that the individual is not an un-
5 authorized alien (as defined in section
6 274A(h)(3) of such Act).

7 (iii) NO APPLICATION TO CRIMINAL
8 PENALTY.—Clauses (i) and (ii) shall not
9 apply in any prosecution under section
10 274A(f)(1) of the Immigration and Nation-
11 ality Act.

12 (d) EMPLOYMENT ELIGIBILITY PILOT CONFIRMA-
13 TION MECHANISM.—

14 (1) IN GENERAL.—The Attorney General shall
15 establish a pilot program confirmation mechanism
16 (in this section referred to as the “confirmation
17 mechanism”) through which the Attorney General
18 (or a designee of the Attorney General which may
19 include a nongovernmental entity)—

20 (A) responds to inquiries by electing enti-
21 ties, made at any time through a toll-free tele-
22 phone line or other electronic media in the form
23 of an appropriate confirmation code or other-
24 wise, on whether an individual is authorized to
25 be employed, and

1 (B) maintains a record that such an in-
2 quiry was made and the confirmation provided
3 (or not provided).

4 To the extent practicable, the Attorney General shall
5 seek to establish such a mechanism using one or
6 more nongovernmental entities. For purposes of this
7 section, the Attorney General (or a designee of the
8 Attorney General) shall provide through the con-
9 firmation mechanism confirmation or a tentative
10 nonconfirmation of an individual's employment eligi-
11 bility within 3 working days of the initial inquiry.

12 (2) EXPEDITED PROCEDURE IN CASE OF NON-
13 CONFIRMATION.—In connection with paragraph (1),
14 the Attorney General shall establish, in consultation
15 with the Commissioner of Social Security and the
16 Commissioner of the Immigration and Naturaliza-
17 tion Service, expedited procedures that shall be used
18 to confirm the validity of information used under the
19 confirmation mechanism in cases in which the con-
20 firmation is sought but is not provided through the
21 confirmation mechanism.

22 (3) DESIGN AND OPERATION OF MECHANISM.—
23 The confirmation mechanism shall be designed and
24 operated—

1 (A) to maximize the reliability of the con-
2 firmation process, and the ease of use by enti-
3 ties making elections under subsection (a) con-
4 sistent with insulating and protecting the pri-
5 vacy and security of the underlying information,
6 and

7 (B) to respond to all inquiries made by
8 such entities on whether individuals are author-
9 ized to be employed registering all times when
10 such response is not possible.

11 (4) CONFIRMATION PROCESS.—

12 (A) CONFIRMATION OF VALIDITY OF SO-
13 CIAL SECURITY ACCOUNT NUMBER.—As part of
14 the confirmation mechanism, the Commissioner
15 of Social Security, in consultation with the en-
16 tity responsible for administration of the mech-
17 anism, shall establish a reliable, secure method,
18 which within the time period specified under
19 paragraph (1), compares the name and social
20 security account number provided against such
21 information maintained by the Commissioner in
22 order to confirm (or not confirm) the validity of
23 the information provided and whether the indi-
24 vidual has presented a social security account
25 number that is not valid for employment. The

1 Commissioner shall not disclose or release social
2 security information.

3 (B) CONFIRMATION OF ALIEN AUTHORIZA-
4 TION.—As part of the confirmation mechanism,
5 the Commissioner of the Service, in consulta-
6 tion with the entity responsible for administra-
7 tion of the mechanism, shall establish a reliable,
8 secure method, which, within the time period
9 specified under paragraph (1), compares the
10 name and alien identification or authorization
11 number (if any) described in subsection
12 (c)(1)(B) provided against such information
13 maintained by the Commissioner in order to
14 confirm (or not confirm) the validity of the in-
15 formation provided and whether the alien is au-
16 thorized to be employed in the United States.

17 (C) PROCESS IN CASE OF TENTATIVE
18 NONCONFIRMATION.—In cases of tentative
19 nonconfirmation, the Attorney General shall
20 specify, in consultation with the Commissioner
21 of Social Security and the Commissioner of the
22 Immigration and Naturalization Service, an ex-
23 pedited time period not to exceed 10 working
24 days after the date of the tentative
25 nonconfirmation within which final confirmation

1 or denial must be provided through the con-
2 firmation mechanism in accordance with the
3 procedures under paragraph (2).

4 (D) UPDATING INFORMATION.—The Com-
5 missioners shall update their information in a
6 manner that promotes the maximum accuracy
7 and shall provide a process for the prompt cor-
8 rection of erroneous information.

9 (5) PROTECTIONS.—(A) In no case shall an em-
10 ployer terminate employment of an individual be-
11 cause of a failure of the individual to have work eli-
12 gibility confirmed under this section, until after the
13 end of the 10-working-day period in which a final
14 confirmation or nonconfirmation is being sought
15 under paragraph (4)(C). Nothing in this subpara-
16 graph shall apply to a termination of employment
17 for any reason other than because of such a failure.

18 (B) The Attorney General shall assure that
19 there is a timely and accessible process to challenge
20 nonconfirmations made through the mechanism.

21 (C) If an individual would not have been dis-
22 missed from a job but for an error of the confirma-
23 tion mechanism, the individual will be entitled to
24 compensation through the mechanism of the Federal
25 Tort Claims Act.

1 (6) PROTECTION FROM LIABILITY FOR ACTIONS
2 TAKEN ON THE BASIS OF INFORMATION PROVIDED
3 BY THE EMPLOYMENT ELIGIBILITY CONFIRMATION
4 MECHANISM.—No person shall be civilly or crimi-
5 nally liable under any law (including the Civil Rights
6 Act of 1964, the Americans with Disabilities Act of
7 1990, the Fair Labor Standards Act of 1938, or the
8 Age Discrimination in Employment Act of 1967) for
9 any action taken in good faith reliance on informa-
10 tion provided through the employment eligibility con-
11 firmation mechanism established under this sub-
12 section.

13 (7) MULTIPLE MECHANISMS PERMITTED.—
14 Nothing in this subsection shall be construed as pre-
15 venting the Attorney General from experimenting
16 with different mechanisms for different entities.

17 (e) SELECT ENTITIES REQUIRED TO PARTICIPATE IN
18 PILOT PROGRAM.—

19 (1) FEDERAL GOVERNMENT.—Each entity of
20 the Federal Government that is subject to the re-
21 quirements of section 274A of the Immigration and
22 Nationality Act (including the Legislative and Exec-
23 utive Branches of the Federal Government) shall
24 participate in the pilot program under this section

1 and shall comply with the terms and conditions of
2 such an election.

3 (2) APPLICATION TO CERTAIN VIOLATORS.—An
4 order under section 274A(e)(4) or section
5 274B(g)(2)(B) of the Immigration and Nationality
6 Act may require the subject of the order to partici-
7 pate in the pilot program and comply with the re-
8 quirements of subsection (c).

9 (3) CONSEQUENCE OF FAILURE TO PARTICI-
10 PATE.—If an entity is required under this subsection
11 to participate in the pilot program and fails to com-
12 ply with the requirements of subsection (c) with re-
13 spect to an individual such failure shall be treated
14 as a violation of section 274A(a)(1)(B) of the Immi-
15 gration and Nationality Act with respect to that in-
16 dividual.

17 (f) PROGRAM INITIATION; REPORTS; TERMI-
18 NATION.—

19 (1) INITIATION OF PROGRAM.—The Attorney
20 General shall implement the pilot program in a man-
21 ner that permits entities to have elections under sub-
22 section (a) made and in effect by not later than 1
23 year after the date of the enactment of this Act.

24 (2) REPORTS.—The Attorney General shall
25 submit to Congress annual reports on the pilot pro-

1 gram under this section at the end of each year in
2 which the program is in effect. The last two such re-
3 ports shall each include recommendations on wheth-
4 er or not the pilot program should be continued or
5 modified and on benefits to employers and enforce-
6 ment of section 274A of the Immigration and Na-
7 tionality Act obtained from use of the pilot program.

8 (3) TERMINATION.—Unless the Congress other-
9 wise provides, the Attorney General shall terminate
10 the pilot program under this section at the end of
11 the third year in which it is in effect under this sec-
12 tion.

13 (g) CONSTRUCTION.—This section shall not affect
14 the authority of the Attorney General under other law (in-
15 cluding section 274A(d)(4) of the Immigration and Na-
16 tionality Act) to conduct demonstration projects in rela-
17 tion to section 274A of such Act.

18 (h) LIMITATION ON USE OF THE CONFIRMATION
19 PROCESS AND ANY RELATED MECHANISMS.—Notwith-
20 standing any other provision of law, nothing in this section
21 shall be construed to permit or allow any department, bu-
22 reau, or other agency of the United States Government
23 to utilize any information, data base, or other records as-
24 sembled under this section for any other purpose other

1 than as provided for under the pilot program under this
2 section.

3 **SEC. 402. LIMITING LIABILITY FOR CERTAIN TECHNICAL**
4 **VIOLATIONS OF PAPERWORK REQUIRE-**
5 **MENTS.**

6 (a) IN GENERAL.—Section 274A(e)(1) (8 U.S.C.
7 1324a(e)(1)) is amended—

8 (1) by striking “and” at the end of subpara-
9 graph (C),

10 (2) by striking the period at the end of sub-
11 paragraph (D) and inserting “, and”, and

12 (3) by adding at the end the following new sub-
13 paragraph:

14 “(E) under which a person or entity shall
15 not be considered to have failed to comply with
16 the requirements of subsection (b) based upon
17 a technical or procedural failure to meet a re-
18 quirement of such subsection in which there
19 was a good faith attempt to comply with the re-
20 quirement unless (i) the Service (or another en-
21 forcement agency) has explained to the person
22 or entity the basis for the failure, (ii) the per-
23 son or entity has been provided a period of not
24 less than 10 business days (beginning after the
25 date of the explanation) within which to correct

1 the failure, and (iii) the person or entity has
2 not corrected the failure voluntarily within such
3 period, except that this subparagraph shall not
4 apply with respect to the engaging by any per-
5 son or entity of a pattern or practice of viola-
6 tions of subsection (a)(1)(A) or (a)(2).”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall apply to failures occurring on or after
9 the date of the enactment of this Act.

10 **SEC. 403. PAPERWORK AND OTHER CHANGES IN THE EM-**
11 **PLOYER SANCTIONS PROGRAM.**

12 (a) REDUCING TO 6 THE NUMBER OF DOCUMENTS
13 ACCEPTED FOR EMPLOYMENT VERIFICATION.—Section
14 274A(b) (8 U.S.C. 1324a(b)) is amended—

15 (1) in paragraph (1)(B)—

16 (A) by adding “or” at the end of clause (i),

17 (B) by striking clauses (ii) through (iv),

18 and

19 (C) in clause (v), by striking “or other
20 alien registration card, if the card” and insert-
21 ing “, alien registration card, or other docu-
22 ment designated by regulation by the Attorney
23 General, if the document” and redesignating
24 such clause as clause (ii); and

1 (2) by amending subparagraph (C) of para-
2 graph (1) to read as follows:

3 “(C) SOCIAL SECURITY ACCOUNT NUMBER
4 CARD AS EVIDENCE OF EMPLOYMENT AUTHOR-
5 IZATION.—A document described in this sub-
6 paragraph is an individual’s social security ac-
7 count number card (other than such a card
8 which specifies on the face that the issuance of
9 the card does not authorize employment in the
10 United States).”.

11 (b) REDUCTION OF PAPERWORK FOR CERTAIN EM-
12 PLOYEES.—Section 274A(a) (8 U.S.C. 1324a(a)) is
13 amended by adding at the end the following new para-
14 graph:

15 “(6) TREATMENT OF DOCUMENTATION FOR
16 CERTAIN EMPLOYEES.—

17 “(A) IN GENERAL.—For purposes of para-
18 graphs (1)(B) and (3), if—

19 “(i) an individual is a member of a
20 collective-bargaining unit and is employed,
21 under a collective bargaining agreement
22 entered into between one or more employee
23 organizations and an association of two or
24 more employers, by an employer that is a
25 member of such association, and

1 “(ii) within the period specified in
2 subparagraph (B), another employer that
3 is a member of the association (or an
4 agent of such association on behalf of the
5 employer) has complied with the require-
6 ments of subsection (b) with respect to the
7 employment of the individual,

8 the subsequent employer shall be deemed to
9 have complied with the requirements of sub-
10 section (b) with respect to the hiring of the em-
11 ployee and shall not be liable for civil penalties
12 described in subsection (e)(5).

13 “(B) PERIOD.—The period described in
14 this subparagraph is—

15 “(i) up to 5 years in the case of an in-
16 dividual who has presented documentation
17 identifying the individual as a national of
18 the United States or as an alien lawfully
19 admitted for permanent residence; or

20 “(ii) up to 3 years (or, if less, the pe-
21 riod of time that the individual is author-
22 ized to be employed in the United States)
23 in the case of another individual.

24 “(C) LIABILITY.—

1 “(i) IN GENERAL.—If any employer
2 that is a member of an association hires
3 for employment in the United States an in-
4 dividual and relies upon the provisions of
5 subparagraph (A) to comply with the re-
6 quirements of subsection (b) and the indi-
7 vidual is an unauthorized alien, then for
8 the purposes of paragraph (1)(A), subject
9 to clause (ii), the employer shall be pre-
10 sumed to have known at the time of hiring
11 or afterward that the individual was an un-
12 authorized alien.

13 “(ii) REBUTTAL OF PRESUMPTION.—
14 The presumption established by clause (i)
15 may be rebutted by the employer only
16 through the presentation of clear and con-
17 vincing evidence that the employer did not
18 know (and could not reasonably have
19 known) that the individual at the time of
20 hiring or afterward was an unauthorized
21 alien.”.

22 (c) ELIMINATION OF DATED PROVISIONS.—Section
23 274A (8 U.S.C. 1324a) is amended by striking subsections
24 (i) through (n).

1 (d) CLARIFICATION OF APPLICATION TO FEDERAL
2 GOVERNMENT.—Section 274A(a) (8 U.S.C. 1324a(a)) is
3 amended by adding at the end the following new para-
4 graph:

5 “(5) APPLICATION TO FEDERAL GOVERN-
6 MENT.—For purposes of this section, the term ‘en-
7 tity’ includes an entity in any Branch of the Federal
8 Government.”.

9 (e) EFFECTIVE DATES.—

10 (1) Except as provided in this subsection, the
11 amendments made by this section shall apply with
12 respect to hiring (or recruiting or referring) occur-
13 ring on or after such date (not later than 180 days
14 after the date of the enactment of this Act) as the
15 Attorney General shall designate.

16 (2) The amendments made by subsections
17 (a)(1) and (a)(2) shall apply with respect to the hir-
18 ing (or recruiting or referring) occurring on or after
19 such date (not later than 18 months after the date
20 of the enactment of this Act) as the Attorney Gen-
21 eral shall designate.

22 (3) The amendment made by subsection (b)
23 shall apply to individuals hired on or after 60 days
24 after the date of the enactment of this Act.

1 (b) ASSIGNMENT.—Individuals employed to fill the
2 additional positions described in subsection (a) shall be as-
3 signed to investigate violations of the employer sanctions
4 provisions contained in section 274A of the Immigration
5 and Nationality Act.

6 (c) PRIORITY FOR WORKSITE ENFORCEMENT.—

7 (1) IN GENERAL.—In addition to its efforts on
8 border control and easing the worker verification
9 process, the Attorney General shall make worksite
10 enforcement of employer sanctions a top priority of
11 the Immigration and Naturalization Service.

12 (2) REPORT.—Not later than 1 year after the
13 date of the enactment of this Act, the Attorney Gen-
14 eral shall submit to Congress a report on any addi-
15 tional authority or resources needed—

16 (A) by the Immigration and Naturalization
17 Service in order to enforce section 274A of the
18 Immigration and Nationality Act, or

19 (B) by Federal agencies in order to carry
20 out the Executive Order of February 13, 1996
21 (entitled “Economy and Efficiency in Govern-
22 ment Procurement Through Compliance with
23 Certain Immigration and Naturalization Act
24 Provisions”) and to expand the restrictions in
25 such Order to cover agricultural subsidies,

1 grants, job training programs, and other Feder-
2 ally subsidized assistance programs.

3 **SEC. 405. REPORTS ON EARNINGS OF ALIENS NOT AUTHOR-**
4 **IZED TO WORK.**

5 Subsection (c) of section 290 (8 U.S.C. 1360) is
6 amended to read as follows:

7 “(c)(1) Not later than 3 months after the end of each
8 fiscal year (beginning with fiscal year 1996), the Commis-
9 sioner of Social Security shall report to the Committees
10 on the Judiciary of the House of Representatives and the
11 Senate on the aggregate number of social security account
12 numbers issued to aliens not authorized to be employed
13 to which earnings were reported to the Social Security Ad-
14 ministration in such fiscal year.

15 “(2) If earnings are reported on or after January 1,
16 1997, to the Social Security Administration on a social
17 security account number issued to an alien not authorized
18 to work in the United States, the Commissioner of Social
19 Security shall provide the Attorney General with informa-
20 tion regarding the name and address of the alien, the
21 name and address of the person reporting the earnings,
22 and the amount of the earnings. The information shall be
23 provided in an electronic form agreed upon by the Com-
24 missioner and the Attorney General.”.

1 **SEC. 406. AUTHORIZING MAINTENANCE OF CERTAIN IN-**
2 **FORMATION ON ALIENS.**

3 Section 264 (8 U.S.C. 1304) is amended by adding
4 at the end the following new subsection:

5 “(f) Notwithstanding any other provision of law, the
6 Attorney General is authorized to require any alien to pro-
7 vide the alien’s social security account number for pur-
8 poses of inclusion in any record of the alien maintained
9 by the Attorney General or the Service.”.

10 **SEC. 407. UNFAIR IMMIGRATION-RELATED EMPLOYMENT**
11 **PRACTICES.**

12 (a) **REQUIRING CERTAIN REMEDIES IN UNFAIR IM-**
13 **MIGRATION-RELATED DISCRIMINATION ORDERS.**—Sec-
14 tion 274B(g)(2) (8 U.S.C. 1324b(g)(2)) is amended—

15 (1) in subparagraph (A), by adding at the end
16 the following: “Such order also shall require the per-
17 son or entity to comply with the requirements of
18 clauses (ii) and (vi) of subparagraph (B).”;

19 (2) in subparagraph (B), by striking “Such an
20 order” and inserting “Subject to the second sentence
21 of subparagraph (A), such an order”; and

22 (3) in subparagraph (B)(vi), by inserting before
23 the semicolon at the end the following: “and to cer-
24 tify the fact of such education”.

1 (b) TREATMENT OF CERTAIN DOCUMENTARY PRAC-
2 TICE AS EMPLOYMENT PRACTICES.—Section 274B(a)(6)
3 (8 U.S.C. 1324b(a)(6)) is amended—

4 (1) by striking “For” and inserting “(A) Sub-
5 ject to subparagraph (B), for”, and

6 (2) by adding at the end the following new sub-
7 paragraph:

8 “(B) A person or other entity—

9 “(i) may request a document proving a re-
10 newal of employment authorization when an in-
11 dividual has previously submitted a time-limited
12 document to satisfy the requirements of section
13 274A(b)(1); or

14 “(ii) if possessing reason to believe that an
15 individual presenting a document which reason-
16 ably appears on its face to be genuine is none-
17 theless an unauthorized alien, may (I) inform
18 the individual of the question about the docu-
19 ment’s validity, and of such person or other en-
20 tity’s intention to verify the validity of such
21 document, and (II) upon receiving confirmation
22 that the individual is unauthorized to work,
23 may dismiss the individual.

1 Nothing in this provision prohibits an individual
2 from offering alternative documents that satisfy the
3 requirements of section 274A(b)(1).”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 subsection (a) shall apply to orders issued on or after the
6 first day of the first month beginning at least 90 days
7 after the date of the enactment of this Act.

8 **TITLE V—REFORM OF LEGAL**
9 **IMMIGRATION SYSTEM**

10 **Subtitle A—Refugees**

11 **SEC. 501. PERSECUTION FOR RESISTANCE TO COERCIVE**
12 **POPULATION CONTROL METHODS.**

13 (a) DEFINITION OF REFUGEE.—Section 101(a)(42)
14 (8 U.S.C. 1101(a)(42)) is amended by adding at the end
15 the following: “For purposes of determinations under this
16 Act, a person who has been forced to abort a pregnancy
17 or to undergo involuntary sterilization, or who has been
18 persecuted for failure or refusal to undergo such a proce-
19 dure or for other resistance to a coercive population con-
20 trol program, shall be deemed to have been persecuted on
21 account of political opinion, and a person who has a well
22 founded fear that he or she will be forced to undergo such
23 a procedure or subject to persecution for such failure, re-
24 fusals, or resistance shall be deemed to have a well founded
25 fear of persecution on account of political opinion.”.

1 (b) NUMERICAL LIMITATION.—Section 207(a) (8
2 U.S.C. 1157(a)), as amended by section 512(b), is amend-
3 ed by adding at the end the following new paragraph:

4 “(4) For any fiscal year, not more than a total of
5 1,000 refugees may be admitted under this subsection or
6 granted asylum under section 208 pursuant to a deter-
7 mination under the last sentence of section 101(a)(42) (re-
8 lating to persecution for resistance to coercive population
9 control methods).”.

10 **Subtitle B—Asylum Reform**

11 **SEC. 511. ASYLUM REFORM.**

12 (a) ASYLUM REFORM.—Section 208 (8 U.S.C. 1158)
13 is amended to read as follows:

14 “ASYLUM

15 “SEC. 208. (a) AUTHORITY TO APPLY FOR ASY-
16 LUM.—

17 “(1) IN GENERAL.—Any alien who is physically
18 present in the United States or who arrives in the
19 United States (whether or not at a designated port
20 of arrival), irrespective of such alien’s status, may
21 apply for asylum in accordance with this section.

22 “(2) EXCEPTIONS.—

23 “(A) SAFE THIRD COUNTRY.—Paragraph

24 (1) shall not apply to an alien if the Attorney
25 General determines that the alien may be re-
26 moved, including pursuant to a bilateral or mul-

1 tilateral agreement, to a country (other than
2 the country of the alien’s nationality or, in the
3 case of an alien having no nationality, the coun-
4 try of the alien’s last habitual residence) in
5 which the alien’s life or freedom would not be
6 threatened on account of race, religion, nation-
7 ality, membership in a particular social group,
8 or political opinion, and where the alien would
9 have access to a full and fair procedure for de-
10 termining a claim to asylum or equivalent tem-
11 porary protection, unless the Attorney General
12 finds that it is in the public interest for the
13 alien to receive asylum in the United States.

14 “(B) TIME LIMIT.—Paragraph (1) shall
15 not apply to an alien unless the alien dem-
16 onstrates by clear and convincing evidence that
17 the application has been filed within 180 days
18 after the alien’s arrival in the United States.

19 “(C) PREVIOUS ASYLUM APPLICATIONS.—
20 Paragraph (1) shall not apply to an alien if the
21 alien has previously applied for asylum and had
22 such application denied.

23 “(D) CHANGED CONDITIONS.—An applica-
24 tion for asylum of an alien may be considered,
25 notwithstanding subparagraphs (B) and (C), if

1 the alien demonstrates to the satisfaction of the
2 Attorney General the existence of fundamen-
3 tally changed circumstances which affect the
4 applicant’s eligibility for asylum.

5 “(3) LIMITATION ON JUDICIAL REVIEW.—No
6 court shall have jurisdiction to review a determina-
7 tion of the Attorney General under paragraph (2).

8 “(b) CONDITIONS FOR GRANTING ASYLUM.—

9 “(1) IN GENERAL.—The Attorney General may
10 grant asylum to an alien who has applied for asylum
11 in accordance with the requirements and procedures
12 established by the Attorney General under this sec-
13 tion if the Attorney General determines that such
14 alien is a refugee within the meaning of section
15 101(a)(42)(A).

16 “(2) EXCEPTIONS.—

17 “(A) IN GENERAL.—Paragraph (1) shall
18 not apply to an alien if the Attorney General
19 determines that—

20 “(i) the alien ordered, incited, as-
21 sisted, or otherwise participated in the per-
22 secution of any person on account of race,
23 religion, nationality, membership in a par-
24 ticular social group, or political opinion;

1 “(ii) the alien, having been convicted
2 by a final judgment of a particularly seri-
3 ous crime, constitutes a danger to the com-
4 munity of the United States;

5 “(iii) there are serious reasons for be-
6 lieving that the alien has committed a seri-
7 ous nonpolitical crime outside the United
8 States prior to the arrival of the alien in
9 the United States;

10 “(iv) there are reasonable grounds for
11 regarding the alien as a danger to the se-
12 curity of the United States;

13 “(v) the alien is inadmissible under
14 subclause (I), (II), (III), or (IV) of section
15 212(a)(3)(B)(i) or removable under section
16 237(a)(4)(B) (relating to terrorist activ-
17 ity), unless, in the case only of an alien in-
18 admissible under subclause (IV) of section
19 212(a)(3)(B)(i), the Attorney General de-
20 termines, in the Attorney General’s discre-
21 tion, that there are not reasonable grounds
22 for regarding the alien as a danger to the
23 security of the United States; or

1 “(vi) the alien was firmly resettled in
2 another country prior to arriving in the
3 United States.

4 “(B) SPECIAL RULES.—

5 “(i) CONVICTION OF AGGRAVATED
6 FELONY.—For purposes of clause (ii) of
7 subparagraph (A), an alien who has been
8 convicted of an aggravated felony shall be
9 considered to have been convicted of a par-
10 ticularly serious crime.

11 “(ii) OFFENSES.—The Attorney Gen-
12 eral may designate by regulation offenses
13 that will be considered to be a crime de-
14 scribed in clause (ii) or (iii) of subpara-
15 graph (A).

16 “(C) ADDITIONAL LIMITATIONS.—The At-
17 torney General may by regulation establish ad-
18 ditional limitations and conditions under which
19 an alien shall be ineligible for asylum under
20 paragraph (1).

21 “(D) NO JUDICIAL REVIEW.—There shall
22 be no judicial review of a determination of the
23 Attorney General under subparagraph (A)(v).

24 “(3) TREATMENT OF SPOUSE AND CHIL-
25 DREN.—A spouse or child (as defined in section

1 101(b)(1)(A), (B), (C), (D), or (E)) of an alien who
2 is granted asylum under this subsection may, if not
3 otherwise eligible for asylum under this section, be
4 granted the same status as the alien if accompany-
5 ing, or following to join, such alien.

6 “(c) ASYLUM STATUS.—

7 “(1) IN GENERAL.—In the case of an alien
8 granted asylum under subsection (b), the Attorney
9 General—

10 “(A) shall not remove or return the alien
11 to the alien’s country of nationality or, in the
12 case of a person having no nationality, the
13 country of the alien’s last habitual residence;

14 “(B) shall authorize the alien to engage in
15 employment in the United States and provide
16 the alien with appropriate endorsement of that
17 authorization; and

18 “(C) may allow the alien to travel abroad
19 with the prior consent of the Attorney General.

20 “(2) TERMINATION OF ASYLUM.—Asylum
21 granted under subsection (b) does not convey a right
22 to remain permanently in the United States, and
23 may be terminated if the Attorney General deter-
24 mines that—

1 “(A) the alien no longer meets the condi-
2 tions described in subsection (b)(1) owing to a
3 fundamental change in circumstances;

4 “(B) the alien meets a condition described
5 in subsection (b)(2);

6 “(C) the alien may be removed, including
7 pursuant to a bilateral or multilateral agree-
8 ment, to a country (other than the country of
9 the alien’s nationality or, in the case of an alien
10 having no nationality, the country of the alien’s
11 last habitual residence) in which the alien can-
12 not establish that it is more likely than not that
13 the alien’s life or freedom would be threatened
14 on account of race, religion, nationality, mem-
15 bership in a particular social group, or political
16 opinion, and where the alien is eligible to re-
17 ceive asylum or equivalent temporary protec-
18 tion;

19 “(D) the alien has voluntarily availed him-
20 self or herself of the protection of the alien’s
21 country of nationality or, in the case of an alien
22 having no nationality, the alien’s country of last
23 habitual residence, by returning to such country
24 with permanent resident status or the reason-
25 able possibility of obtaining such status with

1 the same rights and obligations pertaining to
2 other permanent residents of that country; or

3 “(E) the alien has acquired a new nation-
4 ality and enjoys the protection of the country of
5 his new nationality.

6 “(3) REMOVAL WHEN ASYLUM IS TERMI-
7 NATED.—An alien described in paragraph (2) is sub-
8 ject to any applicable grounds of inadmissibility or
9 deportability under section 212(a) and 237(a), and
10 the alien’s removal or return shall be directed by the
11 Attorney General in accordance with sections 240
12 and 241.

13 “(4) LIMITATION ON JUDICIAL REVIEW.—No
14 court shall have jurisdiction to review a determina-
15 tion of the Attorney General under paragraph (2).

16 “(d) ASYLUM PROCEDURE.—

17 “(1) APPLICATIONS.—The Attorney General
18 shall establish a procedure for the consideration of
19 asylum applications filed under subsection (a). An
20 application for asylum shall not be considered unless
21 the alien submits fingerprints and a photograph in
22 a manner to be determined by regulation by the At-
23 torney General.

24 “(2) EMPLOYMENT.—An applicant for asylum
25 is not entitled to employment authorization, but

1 such authorization may be provided under regulation
2 by the Attorney General. An applicant who is not
3 otherwise eligible for employment authorization shall
4 not be granted such authorization prior to 180 days
5 after the date of filing of the application for asylum.

6 “(3) FEES.—The Attorney General may impose
7 fees for the consideration of an application for asy-
8 lum, for employment authorization under this sec-
9 tion, and for adjustment of status under section
10 209(b). Such fees shall not exceed the Attorney Gen-
11 eral’s costs in adjudicating the applications. The At-
12 torney General may provide for the assessment and
13 payment of such fees over a period of time or by in-
14 stallments. Nothing in this paragraph shall be con-
15 strued to require the Attorney General to charge
16 fees for adjudication services provided to asylum ap-
17 plicants, or to limit the authority of the Attorney
18 General to set adjudication and naturalization fees
19 in accordance with section 286(m).

20 “(4) NOTICE OF PRIVILEGE OF COUNSEL AND
21 CONSEQUENCES OF FRIVOLOUS APPLICATION.—At
22 the time of filing an application for asylum, the At-
23 torney General shall—

24 “(A) advise the alien of the privilege of
25 being represented by counsel and of the con-

1 sequences, under paragraph (6), of knowingly
2 filing a frivolous application for asylum; and

3 “(B) provide the alien a list of persons
4 (updated not less often than quarterly) who
5 have indicated their availability to represent
6 aliens in asylum proceedings on a pro bono
7 basis.

8 “(5) CONSIDERATION OF ASYLUM APPLICA-
9 TIONS.—

10 “(A) PROCEDURES.—The procedure estab-
11 lished under paragraph (1) shall provide that—

12 “(i) asylum cannot be granted until
13 the identity of the applicant has been
14 checked against all appropriate records or
15 databases maintained by the Attorney Gen-
16 eral and by the Secretary of State, includ-
17 ing the Automated Visa Lookout System,
18 to determine any grounds on which the
19 alien may be inadmissible to or deportable
20 from the United States, or ineligible to
21 apply for or be granted asylum;

22 “(ii) in the absence of exceptional cir-
23 cumstances, the initial interview or hearing
24 on the asylum application shall commence

1 not later than 45 days after the date an
2 application is filed;

3 “(iii) in the absence of exceptional cir-
4 cumstances, final administrative adjudica-
5 tion of the asylum application, not includ-
6 ing administrative appeal, shall be com-
7 pleted within 180 days after the date an
8 application is filed;

9 “(iv) any administrative appeal shall
10 be filed within 30 days of a decision grant-
11 ing or denying asylum, or within 30 days
12 of the completion of removal proceedings
13 before an immigration judge under section
14 240, whichever is later; and

15 “(v) in the case of an applicant for
16 asylum who fails without prior authoriza-
17 tion or in the absence of exceptional cir-
18 cumstances to appear for an interview or
19 hearing, including a hearing under section
20 240, the application may be dismissed or
21 the applicant may be otherwise sanctioned
22 for such failure.

23 “(B) ADDITIONAL REGULATORY CONDI-
24 TIONS.—The Attorney General may provide by
25 regulation for any other conditions or limita-

1 tions on the consideration of an application for
2 asylum not inconsistent with this Act.

3 “(6) FRIVOLOUS APPLICATIONS.—

4 “(A) IN GENERAL.—If the Attorney Gen-
5 eral determines that an alien has knowingly
6 made a frivolous application for asylum and the
7 alien has received the notice under paragraph
8 (4)(A), the alien shall be permanently ineligible
9 for any benefits under this Act, effective as of
10 the date of a final determination on such appli-
11 cation.

12 “(B) MATERIAL MISREPRESENTATIONS.—
13 An application shall be considered to be frivo-
14 lous if the Attorney General determines that
15 the application contains a willful misrepresenta-
16 tion or concealment of a material fact.

17 “(7) NO PRIVATE RIGHT OF ACTION.—Nothing
18 in this subsection shall be construed to create any
19 substantive or procedural right or benefit that is le-
20 gally enforceable by any party against the United
21 States or its agencies or officers or any other per-
22 son.”.

23 (b) CONFORMING AND CLERICAL AMENDMENTS.—

24 (1) The item in the table of contents relating
25 to section 208 is amended to read as follows:

“Sec. 208. Asylum.”.

1 (2) Section 104(d)(1)(A) of the Immigration
2 Act of 1990 (Public Law 101–649) is amended by
3 striking “208(b)” and inserting “208”.

4 (c) EFFECTIVE DATE.—The amendment made by
5 subsection (a) shall apply to applications for asylum filed
6 on or after the first day of the first month beginning more
7 than 180 days after the date of the enactment of this Act.

8 **SEC. 512. FIXING NUMERICAL ADJUSTMENTS FOR ASYLEES**
9 **AT 10,000 EACH YEAR.**

10 (a) IN GENERAL.—Section 209(b) (8 U.S.C.
11 1159(b)) is amended by striking “Not more than” and
12 all that follows through “adjust” and inserting the follow-
13 ing: “The Attorney General, in the Attorney General’s dis-
14 cretion and under such regulations as the Attorney Gen-
15 eral may prescribe, and in a number not to exceed 10,000
16 aliens in any fiscal year, may adjust”.

17 (b) CONFORMING AMENDMENT.—Section 207(a) (8
18 U.S.C. 1157(a)) is amended by striking paragraph (4).

19 (c) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect on October 1, 1996.

21 **SEC. 513. INCREASE IN ASYLUM OFFICERS.**

22 Subject to the availability of appropriations, the At-
23 torney General shall provide for an increase in the number
24 of asylum officers to at least 600 asylum officers by fiscal
25 year 1997.

1 **TITLE VI—RESTRICTIONS ON**
2 **BENEFITS FOR ALIENS**

3 **SEC. 600. STATEMENTS OF NATIONAL POLICY CONCERNING**
4 **WELFARE AND IMMIGRATION.**

5 The Congress makes the following statements con-
6 cerning national policy with respect to welfare and immi-
7 gration:

8 (1) Self-sufficiency has been a basic principle of
9 United States immigration law since this country's
10 earliest immigration statutes.

11 (2) It continues to be the immigration policy of
12 the United States that—

13 (A) aliens within the nation's borders not
14 depend on public resources to meet their needs,
15 but rather rely on their own capabilities and the
16 resources of their families, their sponsors, and
17 private organizations, and

18 (B) the availability of public benefits not
19 constitute an incentive for immigration to the
20 United States.

21 (3) Despite the principle of self-sufficiency,
22 aliens have been applying for and receiving public
23 benefits from Federal, State, and local governments
24 at increasing rates.

1 (4) Current eligibility rules for public assistance
2 and unenforceable financial support agreements have
3 proved wholly incapable of assuring that individual
4 aliens not burden the public benefits system.

5 (5) It is a compelling government interest to
6 enact new rules for eligibility and sponsorship agree-
7 ments in order to assure that aliens be self-reliant
8 in accordance with national immigration policy.

9 (6) It is a compelling government interest to re-
10 move the incentive for illegal immigration provided
11 by the availability of public benefits.

12 (7) With respect to the State authority to make
13 determinations concerning the eligibility of aliens for
14 public benefits, a State that chooses to follow the
15 Federal classification in determining the eligibility of
16 such aliens for public assistance shall be considered
17 to have chosen the least restrictive means available
18 for achieving the compelling government interest of
19 assuring that aliens be self-reliant in accordance
20 with national immigration policy.

1 **Subtitle A—Eligibility of Illegal**
2 **Aliens for Public Benefits**

3 **PART 1—PUBLIC BENEFITS GENERALLY**

4 **SEC. 601. MAKING ILLEGAL ALIENS INELIGIBLE FOR PUB-**
5 **LIC ASSISTANCE, CONTRACTS, AND LI-**
6 **CENSES.**

7 (a) FEDERAL PROGRAMS.—Notwithstanding any
8 other provision of law, except as provided in section 603,
9 any alien who is not lawfully present in the United States
10 shall not be eligible for any of the following:

11 (1) FEDERAL ASSISTANCE PROGRAMS.—To re-
12 ceive any benefits under any program of assistance
13 provided or funded, in whole or in part, by the Fed-
14 eral Government for which eligibility (or the amount
15 of assistance) is based on financial need.

16 (2) FEDERAL CONTRACTS OR LICENSES.—To
17 receive any grant, to enter into any contract or loan
18 agreement, or to be issued (or have renewed) any
19 professional or commercial license, if the grant, con-
20 tract, loan, or license is provided or funded by any
21 Federal agency.

22 (b) STATE PROGRAMS.—Notwithstanding any other
23 provision of law, except as provided in section 603, any
24 alien who is not lawfully present in the United States shall
25 not be eligible for any of the following:

1 (1) STATE ASSISTANCE PROGRAMS.—To receive
2 any benefits under any program of assistance (not
3 described in subsection (a)(1)) provided or funded,
4 in whole or in part, by a State or political subdivi-
5 sion of a State for which eligibility (or the amount
6 of assistance) is based on financial need.

7 (2) STATE CONTRACTS OR LICENSES.—To re-
8 ceive any grant, to enter into any contract or loan
9 agreement, or to be issued (or have renewed) any
10 professional or commercial license, if the grant, con-
11 tract, loan, or license is provided or funded by any
12 State agency.

13 (c) REQUIRING PROOF OF IDENTITY FOR FEDERAL
14 CONTRACTS, GRANTS, LOANS, LICENSES, AND PUBLIC
15 ASSISTANCE.—

16 (1) IN GENERAL.—In considering an applica-
17 tion for a Federal contract, grant, loan, or license,
18 or for public assistance under a program described
19 in paragraph (2), a Federal agency shall require the
20 applicant to provide proof of identity under para-
21 graph (3) to be considered for such Federal con-
22 tract, grant, loan, license, or public assistance.

23 (2) PUBLIC ASSISTANCE PROGRAMS COV-
24 ERED.—The requirement of proof of identity under
25 paragraph (1) shall apply to the following Federal

1 public assistance programs (and include any succes-
2 sor to such a program as identified by the Attorney
3 General in consultation with other appropriate offi-
4 cials):

5 (A) SSI.—The supplemental security in-
6 come program under title XVI of the Social Se-
7 curity Act, including State supplementary bene-
8 fits programs referred to in such title.

9 (B) AFDC.—The program of aid to fami-
10 lies with dependent children under part A or E
11 of title IV of the Social Security Act.

12 (C) SOCIAL SERVICES BLOCK GRANT.—The
13 program of block grants to States for social
14 services under title XX of the Social Security
15 Act.

16 (D) MEDICAID.—The program of medical
17 assistance under title XIX of the Social Secu-
18 rity Act.

19 (E) FOOD STAMPS.—The program under
20 the Food Stamp Act of 1977.

21 (F) HOUSING ASSISTANCE.—Financial as-
22 sistance as defined in section 214(b) of the
23 Housing and Community Development Act of
24 1980.

1 (3) DOCUMENTS THAT SHOW PROOF OF IDEN-
2 TITY.—

3 (A) IN GENERAL.—Any one of the docu-
4 ments described in subparagraph (B) may be
5 used as proof of identity under this subsection
6 if the document is current and valid. No other
7 document or documents shall be sufficient to
8 prove identity.

9 (B) DOCUMENTS DESCRIBED.—The docu-
10 ments described in this subparagraph are the
11 following:

12 (i) A United States passport (either
13 current or expired if issued both within the
14 previous 20 years and after the individual
15 attained 18 years of age).

16 (ii) A resident alien card.

17 (iii) A State driver's license, if pre-
18 sented with the individual's social security
19 account number card.

20 (iv) A State identity card, if presented
21 with the individual's social security account
22 number card.

23 (d) AUTHORIZATION FOR STATES TO REQUIRE
24 PROOF OF ELIGIBILITY FOR STATE PROGRAMS.—In con-
25 sidering an application for contracts, grants, loans, li-

1 censes, or public assistance under any State program, a
2 State is authorized to require the applicant to provide
3 proof of eligibility to be considered for such State con-
4 tracts, grants, loans, licenses, or public assistance.

5 (e) EXCEPTION FOR BATTERED ALIENS.—

6 (1) EXCEPTION.—The limitations on eligibility
7 for benefits under subsection (a) or (b) shall not
8 apply to an alien if—

9 (A)(i) the alien has been battered or sub-
10 ject to extreme cruelty in the United States by
11 a spouse or parent, or by a member of the
12 spouse or parent’s family residing in the same
13 household as the alien and the spouse or parent
14 consented or acquiesced to such battery or cru-
15 elty, or

16 (ii) the alien’s child has been battered or
17 subject to extreme cruelty in the United States
18 by a spouse or parent of the alien (without the
19 active participation of the alien in the battery
20 or extreme cruelty) or by a member of the
21 spouse or parent’s family residing in the same
22 household as the alien when the spouse or par-
23 ent consented or acquiesced to, and the alien
24 did not actively participate in, such battery or
25 cruelty; and

1 (B)(i) the alien has petitioned (or petitions
2 within 45 days after the first application for as-
3 sistance subject to the limitations under sub-
4 section (a) or (b)) for—

5 (I) status as a spouse or child of a
6 United States citizen pursuant to clause
7 (ii), (iii), or (iv) of section 204(a)(1)(A) of
8 the Immigration and Nationality Act,

9 (II) classification pursuant to clauses
10 (ii) or (iii) of section 204(a)(1)(B) of such
11 Act, or

12 (III) cancellation of removal and ad-
13 justment of status pursuant to section
14 240A(b)(2) of such Act ; or

15 (ii) the alien is the beneficiary of a petition
16 filed for status as a spouse or child of a United
17 States citizen pursuant to clause (i) of section
18 204(a)(1)(A) of the Immigration and National-
19 ity Act, or of a petition filed for classification
20 pursuant to clause (i) of section 204(a)(1)(B)
21 of such Act.

22 (2) TERMINATION OF EXCEPTION.—The excep-
23 tion under paragraph (1) shall terminate if no com-
24 plete petition which sets forth a prima facie case is

1 filed pursuant to the requirement of paragraph
2 (1)(B) or (1)(C) or when an petition is denied.

3 **SEC. 602. MAKING UNAUTHORIZED ALIENS INELIGIBLE**
4 **FOR UNEMPLOYMENT BENEFITS.**

5 (a) IN GENERAL.—Notwithstanding any other provi-
6 sion of law, no unemployment benefits shall be payable
7 (in whole or in part) out of Federal funds to the extent
8 the benefits are attributable to any employment of the
9 alien in the United States for which the alien was not
10 granted employment authorization pursuant to Federal
11 law.

12 (b) PROCEDURES.—Entities responsible for providing
13 unemployment benefits subject to the restrictions of this
14 section shall make such inquiries as may be necessary to
15 assure that recipients of such benefits are eligible consist-
16 ent with this section.

17 **SEC. 603. GENERAL EXCEPTIONS.**

18 Sections 601 and 602 shall not apply to the following:

19 (1) EMERGENCY MEDICAL SERVICES.—The pro-
20 vision of emergency medical services (as defined by
21 the Attorney General in consultation with the Sec-
22 retary of Health and Human Services).

23 (2) PUBLIC HEALTH IMMUNIZATIONS.—Public
24 health assistance for immunizations with respect to
25 immunizable diseases and for testing and treatment

1 of symptoms of communicable diseases, whether or
2 not such symptoms are actually caused by a commu-
3 nicable disease.

4 (3) SHORT-TERM EMERGENCY RELIEF.—The
5 provision of non-cash, in-kind, short-term emergency
6 relief.

7 (4) FAMILY VIOLENCE SERVICES.—The provi-
8 sion of any services directly related to assisting the
9 victims of domestic violence or child abuse.

10 (5) SCHOOL LUNCH ACT.—Programs carried
11 out under the National School Lunch Act (and any
12 successor to such a program as identified by the At-
13 torney General in consultation with other appro-
14 priate officials).

15 (6) CHILD NUTRITION ACT.—Programs of as-
16 sistance under the Child Nutrition Act of 1966 (and
17 any successor to such a program as identified by the
18 Attorney General in consultation with other appro-
19 priate officials).

20 (7) HEAD START PROGRAM.—Benefits under
21 the Head Start Act.

22 **SEC. 604. TREATMENT OF EXPENSES SUBJECT TO EMER-**
23 **GENCY MEDICAL SERVICES EXCEPTION.**

24 (a) IN GENERAL.—Subject to such amounts as are
25 provided in advance in appropriation Acts, each State or

1 local government that provides emergency medical services
2 (as defined for purposes of section 603(1)) through a pub-
3 lic hospital or other public facility (including a nonprofit
4 hospital that is eligible for an additional payment adjust-
5 ment under section 1886 of the Social Security Act) or
6 through contract with another hospital or facility to an
7 individual who is an alien not lawfully present in the Unit-
8 ed States is entitled to receive payment from the Federal
9 Government of its costs of providing such services, but
10 only to the extent that such costs are not otherwise reim-
11 bursed through any other Federal program and cannot be
12 recovered from the alien or another person.

13 (b) CONFIRMATION OF IMMIGRATION STATUS RE-
14 QUIRED.—No payment shall be made under this section
15 with respect to services furnished to an individual unless
16 the identity and immigration status of the individual has
17 been verified with the Immigration and Naturalization
18 Service in accordance with procedures established by the
19 Attorney General.

20 (c) ADMINISTRATION.—This section shall be adminis-
21 tered by the Attorney General, in consultation with the
22 Secretary of Health and Human Services.

23 (d) EFFECTIVE DATE.—Subsection (a) shall not
24 apply to emergency medical services furnished before Oc-
25 tober 1, 1995.

1 **SEC. 605. REPORT ON DISQUALIFICATION OF ILLEGAL**
2 **ALIENS FROM HOUSING ASSISTANCE PRO-**
3 **GRAMS.**

4 Not later than 90 days after the date of the enact-
5 ment of this Act, the Secretary of Housing and Urban
6 Development shall submit a report to the Committees on
7 the Judiciary of the House of Representatives and of the
8 Senate, the Committee on Banking of the House of Rep-
9 resentatives, and the Committee on Banking, Housing,
10 and Urban Affairs of the Senate, describing the manner
11 in which the Secretary is enforcing section 214 of the
12 Housing and Community Development Act of 1980. The
13 report shall contain statistics with respect to the number
14 of aliens denied financial assistance under such section.

15 **SEC. 606. VERIFICATION OF STUDENT ELIGIBILITY FOR**
16 **POSTSECONDARY FEDERAL STUDENT FINAN-**
17 **CIAL ASSISTANCE.**

18 No student shall be eligible for postsecondary Federal
19 student financial assistance unless the student has cer-
20 tified that the student is a citizen or national of the United
21 States or an alien lawfully admitted for permanent resi-
22 dence and the Secretary of Education has verified such
23 certification through an appropriate procedure determined
24 by the Attorney General.

1 **SEC. 607. PAYMENT OF PUBLIC ASSISTANCE BENEFITS.**

2 In carrying out this part, the payment or provision
3 of benefits (other than those described in section 603
4 under a program of assistance described in section
5 601(a)(1)) shall be made only through an individual or
6 person who is not ineligible to receive such benefits under
7 such program on the basis of immigration status pursuant
8 to the requirements and limitations of this part.

9 **SEC. 608. DEFINITIONS.**

10 For purposes of this part:

11 (1) **LAWFUL PRESENCE.**—The determination of
12 whether an alien is lawfully present in the United
13 States shall be made in accordance with regulations
14 of the Attorney General. An alien shall not be con-
15 sidered to be lawfully present in the United States
16 for purposes of this title merely because the alien
17 may be considered to be permanently residing in the
18 United States under color of law for purposes of any
19 particular program.

20 (2) **STATE.**—The term “State” includes the
21 District of Columbia, Puerto Rico, the Virgin Is-
22 lands, Guam, the Northern Mariana Islands, and
23 American Samoa.

24 **SEC. 609. REGULATIONS AND EFFECTIVE DATES.**

25 (a) **REGULATIONS.**—The Attorney General shall first
26 issue regulations to carry out this part (other than section

1 605) by not later than 60 days after the date of the enact-
2 ment of this Act. Such regulations shall take effect on an
3 interim basis, pending change after opportunity for public
4 comment.

5 (b) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
6 BILITY FOR PUBLIC BENEFITS.—(1) Except as provided
7 in this subsection, section 601 shall apply to benefits pro-
8 vided, contracts or loan agreements entered into, and pro-
9 fessional and commercial licenses issued (or renewed) on
10 or after such date as the Attorney General specifies in reg-
11 ulations under subsection (a). Such date shall be at least
12 30 days, and not more than 60 days, after the date the
13 Attorney General first issues such regulations.

14 (2) The Attorney General, in carrying out section
15 601(a)(2), may permit such section to be waived in the
16 case of individuals for whom an application for the grant,
17 contract, loan, or license is pending (or approved) as of
18 a date that is on or before the effective date specified
19 under paragraph (1).

20 (c) EFFECTIVE DATE FOR RESTRICTIONS ON ELIGI-
21 BILITY FOR UNEMPLOYMENT BENEFITS.—(1) Except as
22 provided in this subsection, section 602 shall apply to un-
23 employment benefits provided on or after such date as the
24 Attorney General specifies in regulations under subsection
25 (a). Such date shall be at least 30 days, and not more

1 than 60 days, after the date the Attorney General first
2 issues such regulations.

3 (2) The Attorney General, in carrying out section
4 602, may permit such section to be waived in the case
5 of an individual during a continuous period of unemploy-
6 ment for whom an application for unemployment benefits
7 is pending as of a date that is on or before the effective
8 date specified under paragraph (1).

9 (d) BROAD DISSEMINATION OF INFORMATION.—Be-
10 fore the effective dates specified in subsections (b) and (c),
11 the Attorney General shall broadly disseminate informa-
12 tion regarding the restrictions on eligibility established
13 under this part.

14 **PART 2—HOUSING ASSISTANCE**

15 **SEC. 611. ACTIONS IN CASES OF TERMINATION OF FINAN-** 16 **CIAL ASSISTANCE.**

17 (a) IN GENERAL.—Section 214(c)(1) of the Housing
18 and Community Development Act of 1980 (42 U.S.C.
19 1436a(c)(1)) is amended—

20 (1) in the matter preceding subparagraph (A),
21 by striking “may, in its discretion,” and inserting
22 “shall”;

23 (2) in subparagraph (A), by inserting after the
24 period at the end the following new sentence: “Fi-
25 nancial assistance continued under this subpara-

1 graph for a family may be provided only on a pro-
2 rated basis under which the amount of financial as-
3 sistance is based on the percentage of the total num-
4 ber of members of the family that are eligible for
5 such assistance under the program for financial as-
6 sistance and this section.”; and

7 (3) in subparagraph (B), by striking “6-month
8 period” and all that follows through “affordable
9 housing” and inserting “single 3-month period”.

10 (b) SCOPE OF APPLICATION.—The amendment made
11 by subsection (a)(3) shall apply to any deferral granted
12 under section 214(c)(1)(B) of the Housing and Commu-
13 nity Development Act of 1980 on or after the date of the
14 enactment of this Act, including any renewal of any defer-
15 ral initially granted before such date of enactment, except
16 that a public housing agency or other entity referred to
17 in such section 214(c)(1)(B) may not renew, after such
18 date of enactment, any deferral which was granted under
19 such section before such date and has been effective for
20 at least 3 months on and after such date.

21 **SEC. 612. VERIFICATION OF IMMIGRATION STATUS AND**
22 **ELIGIBILITY FOR FINANCIAL ASSISTANCE.**

23 Section 214(d) of the Housing and Community De-
24 velopment Act of 1980 (42 U.S.C. 1436a(d)) is amend-
25 ed—

1 (1) in the matter preceding paragraph (1), by
2 inserting “or to be” after “being”;

3 (2) in paragraph (1)(A), by inserting at the end
4 the following new sentences: “If the declaration
5 states that the individual is not a citizen or national
6 of the United States, the declaration shall be verified
7 by the Immigration and Naturalization Service. If
8 the declaration states that the individual is a citizen
9 or national of the United States, the Secretary shall
10 request verification of the declaration by requiring
11 presentation of documentation the Secretary consid-
12 ers appropriate, including a social security card, cer-
13 tificate of birth, driver’s license, or other documenta-
14 tion.”;

15 (3) in paragraph (2)—

16 (A) in the matter preceding subparagraph
17 (A), by striking “on the date of the enactment
18 of the Housing and Community Development
19 Act of 1987” and inserting “or applying for fi-
20 nancial assistance”; and

21 (B) by inserting at the end the following
22 new sentence:

23 “In the case of an individual applying for financial
24 assistance, the Secretary may not provide such as-
25 sistance for the benefit of the individual before such

1 documentation is presented and verified under para-
2 graph (3) or (4).”;

3 (4) in paragraph (4)—

4 (A) in the matter preceding subparagraph
5 (A), by striking “on the date of the enactment
6 of the Housing and Community Development
7 Act of 1987” and inserting “or applying for fi-
8 nancial assistance”;

9 (B) in subparagraph (A)—

10 (i) in clause (i)—

11 (I) by inserting “, not to exceed
12 30 days,” after “reasonable oppor-
13 tunity”; and

14 (II) by striking “and” at the end;

15 and

16 (ii) by striking clause (ii) and insert-
17 ing the following new clauses:

18 “(ii) in the case of any individual who
19 is already receiving assistance, may not
20 delay, deny, reduce, or terminate the indi-
21 vidual’s eligibility for financial assistance
22 on the basis of the individual’s immigra-
23 tion status until such 30-day period has
24 expired, and

1 “(iii) in the case of any individual who
2 is applying for financial assistance, may
3 not deny the application for such assist-
4 ance on the basis of the individual’s immi-
5 gration status until such 30-day period has
6 expired; and”;

7 (C) in subparagraph (B), by striking clause
8 (ii) and inserting the following new clause:

9 “(ii) pending such verification or ap-
10 peal, the Secretary may not—

11 “(I) in the case of any individual
12 who is already receiving assistance,
13 delay, deny, reduce, or terminate the
14 individual’s eligibility for financial as-
15 sistance on the basis of the individ-
16 ual’s immigration status, and

17 “(II) in the case of any individ-
18 ual who is applying for financial as-
19 sistance, deny the application for such
20 assistance on the basis of the individ-
21 ual’s immigration status, and”;

22 (5) in paragraph (5), by striking all that follows
23 “satisfactory immigration status” and inserting the
24 following: “, the Secretary shall—

1 “(A) deny the individual’s application for
2 financial assistance or terminate the individ-
3 ual’s eligibility for financial assistance, as the
4 case may be; and

5 “(B) provide the individual with written
6 notice of the determination under this para-
7 graph.”; and

8 (6) by striking paragraph (6) and inserting the
9 following new paragraph:

10 “(6) The Secretary shall terminate the eligi-
11 bility for financial assistance of an individual and
12 the members of the household of the individual, for
13 a period of not less than 24 months, upon determin-
14 ing that such individual has knowingly permitted an-
15 other individual who is not eligible for such assist-
16 ance to use the assistance (including residence in the
17 unit assisted).”.

18 **SEC. 613. PROHIBITION OF SANCTIONS AGAINST ENTITIES**
19 **MAKING FINANCIAL ASSISTANCE ELIGI-**
20 **BILITY DETERMINATIONS.**

21 Section 214(e)(4) of the Housing and Community
22 Development Act of 1980 (42 U.S.C. 1436a(e)(4)) is
23 amended—

24 (1) in paragraph (2), by inserting “or” at the
25 end;

1 (2) in paragraph (3), by striking “, or” at the
2 end and inserting a period; and

3 (3) by striking paragraph (4).

4 **SEC. 614. REGULATIONS.**

5 (a) **ISSUANCE.**—Not later than the expiration of the
6 60-day period beginning on the date of the enactment of
7 this Act, the Secretary of Housing and Urban Develop-
8 ment shall issue any regulations necessary to implement
9 the amendments made by this part. Such regulations shall
10 be issued in the form of an interim final rule, which shall
11 take effect upon issuance and shall not be subject to the
12 provisions of section 533 of title 5, United States Code,
13 regarding notice or an opportunity for comment.

14 (b) **FAILURE TO ISSUE.**—If the Secretary fails to
15 issue the regulations required under subsection (a) before
16 the expiration of the period referred to in such subsection,
17 the regulations relating to restrictions on assistance to
18 noncitizens, contained in the final rule issued by the Sec-
19 retary of Housing and Urban Development in RIN 2501–
20 AA63 (Docket No. R-95–1409; FR–2383–F–050), pub-
21 lished in the Federal Register of March 20, 1995 (Vol.
22 60., No. 53; pp. 14824–14861), shall not apply after the
23 expiration of such period.

1 **PART 3—PUBLIC EDUCATION BENEFITS**

2 **SEC. 616. AUTHORIZING STATES TO DENY PUBLIC EDU-**
3 **CATION BENEFITS TO ALIENS NOT LAW-**
4 **FULLY PRESENT IN THE UNITED STATES.**

5 (a) IN GENERAL.—The Immigration and Nationality
6 Act, as amended by section 321(a)(2), is amended by add-
7 ing at the end the following new title:

8 “TITLE VI—DISQUALIFICATION OF ALIENS NOT
9 LAWFULLY PRESENT IN THE UNITED
10 STATES FROM CERTAIN PROGRAM

11 “CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF
12 ALIENS NOT LAWFULLY PRESENT IN THE UNITED
13 STATES FOR PUBLIC EDUCATION BENEFITS

14 “SEC. 601. (a) Because Congress views that the right
15 to a free public education for aliens who are not lawfully
16 present in the United States promotes violations of the
17 immigration laws and because such a free public education
18 for such aliens creates a significant burden on States’
19 economies and depletes States’ limited educational re-
20 sources, Congress declares it to be the policy of the United
21 States that—

22 “(1) aliens who are not lawfully present in the
23 United States not be entitled to public education
24 benefits in the same manner as United States citi-
25 zens and lawful resident aliens; and

1 “(2) States should not be obligated to provide
2 public education benefits to aliens who are not law-
3 fully present in the United States.

4 “(b) Nothing in this section shall be construed as ex-
5 pressing any statement of Federal policy with regard to—

6 “(1) aliens who are lawfully present in the
7 United States, or

8 “(2) benefits other than public education bene-
9 fits provided under State law.

10 “AUTHORITY OF STATES

11 “SEC. 602. (a) In order to carry out the policies de-
12 scribed in section 601, each State may provide that an
13 alien who is not lawfully present in the United States is
14 not eligible for public education benefits in the State or,
15 at the option of the State, may be treated as a non-resi-
16 dent of the State for purposes of provision of such
17 benefits.

18 “(b) For purposes of subsection (a), an individual
19 shall be considered to be not lawfully present in the United
20 States unless the individual (or, in the case of an individ-
21 ual who is a child, another on the child’s behalf)—

22 “(1) declares in writing under penalty of per-
23 jury that the individual (or child) is a citizen or na-
24 tional of the United States and (if required by a
25 State) presents evidence of United States citizenship
26 or nationality; or

1 “(2)(A) declares in writing under penalty of
2 perjury that the individual (or child) is not a citizen
3 or national of the United States but is lawfully
4 present in the United States, and

5 “(B) presents either—

6 “(i) alien registration documentation or
7 other proof of immigration registration from
8 the Service, or

9 “(ii) such other documents as the State de-
10 termines constitutes reasonable evidence indi-
11 cating that the individual (or child) is lawfully
12 present in the United States.

13 If the documentation described in paragraph (2)(B)(i) is
14 presented, the State may (at its option) verify with the
15 Service the alien’s immigration status through a system
16 described in section 1137(d)(3) of the Social Security Act
17 (42 U.S.C. 1320b–7(d)(3)).

18 “(c) If a State denies public education benefits under
19 this section with respect to an alien, the State shall pro-
20 vide the alien with an opportunity for a fair hearing to
21 establish that the alien is lawfully present in the United
22 States, consistent with subsection (b) and Federal immi-
23 gration law.”.

1 (b) CLERICAL AMENDMENT.—The table of contents,
 2 as amended by section 321(a)(1), is amended by adding
 3 at the end the following new items:

“TITLE VI—DISQUALIFICATION OF ALIENS NOT LAWFULLY
 PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 601. Congressional policy regarding ineligibility of aliens not lawfully
 present in the United States for public education benefits.

“Sec. 602. Authority of States.”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 this section shall take effect as of the date of the enact-
 6 ment of this Act.

7 **Subtitle B—Expansion of Disquali-**
 8 **fication From Immigration Ben-**
 9 **efits on the Basis of Public**
 10 **Charge**

11 **SEC. 621. GROUND FOR INADMISSIBILITY.**

12 (a) IN GENERAL.—Paragraph (4) of section 212(a)
 13 (8 U.S.C. 1182(a)) is amended to read as follows:

14 “(4) PUBLIC CHARGE.—

15 “(A) FAMILY-SPONSORED IMMIGRANTS.—

16 Any alien who seeks admission or adjustment of
 17 status under a visa number issued under sec-
 18 tion 203(a), who cannot demonstrate to the
 19 consular officer at the time of application for a
 20 visa, or to the Attorney General at the time of
 21 application for admission or adjustment of sta-
 22 tus, that the alien’s age, health, family status,

1 assets, resources, financial status, education,
2 skills, or a combination thereof, and an affida-
3 vit of support described in section 213A, make
4 it unlikely that the alien will become a public
5 charge (as determined under section
6 241(a)(5)(B)) is inadmissible.

7 “(B) CERTAIN EMPLOYMENT-BASED IMMI-
8 GRANTS.—Any alien who seeks admission or ad-
9 justment of status under a visa number issued
10 under section 203(b) by virtue of a classifica-
11 tion petition filed by a relative of the alien (or
12 by an entity in which such relative has a signifi-
13 cant ownership interest) is inadmissible unless
14 such relative has executed an affidavit of sup-
15 port described in section 213A with respect to
16 such alien.”.

17 (b) EFFECTIVE DATE.—(1) Subject to paragraph
18 (2), the amendment made by subsection (a) shall apply
19 to applications submitted on or after such date, not earlier
20 than 30 days and not later than 60 days after the date
21 the Attorney General promulgates under section 632(f) a
22 standard form for an affidavit of support, as the Attorney
23 General shall specify.

24 (2) Section 212(a)(4)(C)(i) of the Immigration and
25 Nationality Act, as amended by subsection (a), shall apply

1 only to aliens seeking admission or adjustment of status
2 under a visa number issued on or after October 1, 1996.

3 **SEC. 622. GROUND FOR DEPORTABILITY.**

4 (a) IN GENERAL.—Paragraph (5) of subsection (a)
5 of section 241 (8 U.S.C. 1251(a)), before redesignation
6 as section 237 by section 305(a)(2), is amended to read
7 as follows:

8 “(5) PUBLIC CHARGE.—

9 “(A) IN GENERAL.—Any alien who, within
10 7 years after the date of entry or admission, be-
11 comes a public charge is deportable.

12 “(B) EXCEPTIONS.—(i) Subparagraph (A)
13 shall not apply if the alien establishes that the
14 alien has become a public charge from causes
15 that arose after entry or admission. A condition
16 that the alien knew (or had reason to know) ex-
17 isted at the time of entry or admission shall be
18 deemed to be a cause that arose before entry or
19 admission.

20 “(ii) The Attorney General, in the discre-
21 tion of the Attorney General, may waive the ap-
22 plication of subparagraph (A) in the case of an
23 alien who is admitted as a refugee under sec-
24 tion 207 or granted asylum under section 208.

1 “(C) INDIVIDUALS TREATED AS PUBLIC
2 CHARGE.—

3 “(i) IN GENERAL.—For purposes of
4 this title, an alien is deemed to be a ‘public
5 charge’ if the alien receives benefits (other
6 than benefits described in subparagraph
7 (E)) under one or more of the public as-
8 sistance programs described in subpara-
9 graph (D) for an aggregate period, except
10 as provided in clauses (ii) and (iii), of at
11 least 12 months within 7 years after the
12 date of entry. The previous sentence shall
13 not be construed as excluding any other
14 bases for considering an alien to be a pub-
15 lic charge, including bases in effect on the
16 day before the date of the enactment of the
17 Immigration in the National Interest Act
18 of 1996. The Attorney General, in con-
19 sultation with the Secretary of Health and
20 Human Services, shall establish rules re-
21 garding the counting of health benefits de-
22 scribed in subparagraph (D)(iv) for pur-
23 poses of this subparagraph.

24 “(ii) DETERMINATION WITH RESPECT
25 TO BATTERED WOMEN AND CHILDREN.—

1 For purposes of a determination under
2 clause (i) and except as provided in clause
3 (iii), the aggregate period shall be 48
4 months within 7 years after the date of
5 entry if the alien can demonstrate that (I)
6 the alien has been battered or subject to
7 extreme cruelty in the United States by a
8 spouse or parent, or by a member of the
9 spouse or parent's family residing in the
10 same household as the alien and the
11 spouse or parent consented or acquiesced
12 to such battery or cruelty, or (II) the
13 alien's child has been battered or subject
14 to extreme cruelty in the United States by
15 a spouse or parent of the alien (without
16 the active participation of the alien in the
17 battery or extreme cruelty), or by a mem-
18 ber of the spouse or parent's family resid-
19 ing in the same household as the alien
20 when the spouse or parent consented or ac-
21 quiesced to and the alien did not actively
22 participate in such battery or cruelty, and
23 the need for the public benefits received
24 has a substantial connection to the battery

1 or cruelty described in subclause (I) or
2 (II).

3 “(iii) SPECIAL RULE FOR ONGOING
4 BATTERY OR CRUELTY.—For purposes of a
5 determination under clause (i), the aggregate
6 period may exceed 48 months within
7 7 years after the date of entry if the alien
8 can demonstrate that any battery or cruelty
9 under clause (ii) is ongoing, has led to
10 the issuance of an order of a judge or an
11 administrative law judge or a prior determination
12 of the Service, and that the need
13 for the benefits received has a substantial
14 connection to such battery or cruelty.

15 “(D) PUBLIC ASSISTANCE PROGRAMS.—
16 For purposes of subparagraph (B), the public
17 assistance programs described in this subparagraph
18 are the following (and include any successor
19 to such a program as identified by the
20 Attorney General in consultation with other appropriate
21 officials):

22 “(i) SSI.—The supplemental security
23 income program under title XVI of the Social
24 Security Act, including State supple-

1 mentary benefits programs referred to in
2 such title.

3 “(ii) AFDC.—The program of aid to
4 families with dependent children under
5 part A or E of title IV of the Social Secu-
6 rity Act.

7 “(iii) MEDICAID.—The program of
8 medical assistance under title XIX of the
9 Social Security Act.

10 “(iv) FOOD STAMPS.—The program
11 under the Food Stamp Act of 1977.

12 “(v) STATE GENERAL CASH ASSIST-
13 ANCE.—A program of general cash assist-
14 ance of any State or political subdivision of
15 a State.

16 “(vi) HOUSING ASSISTANCE.—Finan-
17 cial assistance as defined in section 214(b)
18 of the Housing and Community Develop-
19 ment Act of 1980.

20 “(E) CERTAIN ASSISTANCE EXCEPTED.—
21 For purposes of subparagraph (B), an alien
22 shall not be considered to be a public charge on
23 the basis of receipt of any of the following bene-
24 fits:

1 “(i) EMERGENCY MEDICAL SERV-
2 ICES.—The provision of emergency medical
3 services (as defined by the Attorney Gen-
4 eral in consultation with the Secretary of
5 Health and Human Services).

6 “(ii) PUBLIC HEALTH IMMUNIZA-
7 TIONS.—Public health assistance for im-
8 munizations with respect to immunizable
9 diseases and for testing and treatment for
10 communicable diseases.

11 “(iii) SHORT-TERM EMERGENCY RE-
12 LIEF.—The provision of non-cash, in-kind,
13 short-term emergency relief.”.

14 (b) EFFECTIVE DATE.—(1) The amendment made by
15 subsection (a) shall take effect as of the first day of the
16 first month beginning at least 30 days after the date of
17 the enactment of this Act.

18 (2) In applying section 241(a)(5)(C) of the Immigra-
19 tion and Nationality Act (which is subsequently redesignig-
20 nated as section 237(a)(5)(C) of such Act), as amended
21 by subsection (a), no receipt of benefits under a public
22 assistance program before the effective date described in
23 paragraph (1) shall be taken into account.

1 **Subtitle C—Attribution of Income**
2 **and Affidavits of Support**

3 **SEC. 631. ATTRIBUTION OF SPONSOR'S INCOME AND RE-**
4 **SOURCES TO FAMILY-SPONSORED IMMI-**
5 **GRANTS.**

6 (a) FEDERAL PROGRAMS.—

7 (1) IN GENERAL.—Notwithstanding any other
8 provision of law (except as provided in paragraph
9 (2)), in determining the eligibility and the amount of
10 benefits of an alien for any Federal means-tested
11 public benefits program (as defined in subsection
12 (d)) the income and resources of the alien shall be
13 deemed to include—

14 (A) the income and resources of any indi-
15 vidual who executed an affidavit of support pur-
16 suant to section 213A of the Immigration and
17 Nationality Act (as inserted by section 632(a))
18 in behalf of such alien, and

19 (B) the income and resources of the spouse
20 (if any) of the individual.

21 (2) EXCEPTIONS.—Paragraph (1) shall not
22 apply to the following:

23 (A) Medical assistance provided for emer-
24 gency medical services under title XIX of the
25 Social Security Act.

1 (B) The provision of short-term, non-cash,
2 in kind emergency relief.

3 (C) Benefits under the National School
4 Lunch Act.

5 (D) Assistance under the Child Nutrition
6 Act of 1966.

7 (E) Public health assistance for immuniza-
8 tions with respect to immunizable diseases and
9 for testing and treatment for communicable dis-
10 eases.

11 (F) The provision of services directly relat-
12 ed to assisting the victims of domestic violence
13 or child abuse.

14 (G) Benefits under programs of student
15 assistance under titles IV, V, IX, and X of the
16 Higher Education Act of 1965 and titles III,
17 VII, and VIII of the Public Health Service Act.

18 (H) Benefits under means-tested programs
19 under the Elementary and Secondary Education
20 Act of 1965.

21 (I) Benefits under the Head Start Act.

22 (b) PERIOD OF CONTRIBUTION.—

23 (1) PARENTS OF UNITED STATES CITIZENS AND
24 ADULT SONS AND DAUGHTERS OF CITIZENS AND
25 PERMANENT RESIDENTS.—Subsection (a) shall

1 apply with respect to an alien who is admitted to the
2 United States as the parent of a United States citi-
3 zen under section 201(b)(2) of the Immigration and
4 Nationality Act, or as the son or daughter of a citi-
5 zen or lawful permanent resident under paragraph
6 (1) or (3) of section 203(a) of such Act, until the
7 alien is naturalized as a citizen of the United States.

8 (2) SPOUSES OF UNITED STATES CITIZENS AND
9 LAWFUL PERMANENT RESIDENTS.—Subsection (a)
10 shall apply with respect to an alien who is admitted
11 to the United States as the spouse of a United
12 States citizen or lawful permanent resident under
13 section 201(b)(2) of 203(a)(1) of the Immigration
14 and Nationality Act until—

15 (A) 7 years after the date the alien is law-
16 fully admitted to the United States for perma-
17 nent residence, or

18 (B) the alien is naturalized as a citizen of
19 the United States,

20 whichever occurs first.

21 (3) MINOR CHILDREN OF UNITED STATES CITI-
22 ZENS AND LAWFUL PERMANENT RESIDENTS.—Sub-
23 section (a) shall apply with respect to an alien who
24 is admitted to the United States as the minor child

1 of a United States citizen or lawful permanent resident
2 under section 201(b)(2) of 203(a)(1) of the Immigration
3 and Nationality Act until the child attains the age of 21
4 years or, if earlier, the date the child is naturalized as
5 a citizen of the United States.

6 (4) ATTRIBUTION OF SPONSOR'S INCOME AND
7 RESOURCES ENDED IF SPONSORED ALIEN BECOMES
8 ELIGIBLE FOR OLD-AGE BENEFITS UNDER TITLE II
9 OF THE SOCIAL SECURITY ACT.—

10 (A) Notwithstanding any other provision of
11 this section, subsection (a) shall not apply and
12 the period of attribution of a sponsor's income
13 and resources under this subsection shall termi-
14 nate if the alien is able to prove to the satisfac-
15 tion of the Attorney General that the alien has
16 been employed for 40 qualifying quarters of
17 coverage as defined under title II of the Social
18 Security Act and the alien did not receive any
19 benefit under a means-tested public benefits
20 program of (or contributed to by) the Federal
21 Government during any such quarter.

22 (B) The Attorney General shall ensure
23 that appropriate information pursuant to sub-
24 paragraph (A) is provided to the System for
25 Alien Verification of Eligibility (SAVE).

1 (5) BATTERED WOMEN AND CHILDREN.—Not-
2 withstanding any other provision of this section, sub-
3 sections (a) and (c) shall not apply and the period
4 of attribution of the income and resources of any in-
5 dividual under paragraphs (1) or (2) of subsection
6 (a) or paragraph (1) shall not apply—

7 (A) for up to 48 months if the alien can
8 demonstrate that (i) the alien has been battered
9 or subject to extreme cruelty in the United
10 States by a spouse or parent, or by a member
11 of the spouse or parent’s family residing in the
12 same household as the alien and the spouse or
13 parent consented or acquiesced to such battery
14 or cruelty, or (ii) the alien’s child has been bat-
15 tered or subject to extreme cruelty in the Unit-
16 ed States by a spouse or parent of the alien
17 (without the active participation of the alien in
18 the battery or extreme cruelty), or by a member
19 of the spouse or parent’s family residing in the
20 same household as the alien when the spouse
21 or parent consented or acquiesced to and the
22 alien did not actively participate in such battery
23 or cruelty, and need for the public benefits ap-
24 plied for has a substantial connection to the

1 battery or cruelty described in clause (i) or (ii);
2 and

3 (B) for more than 48 months if the alien
4 can demonstrate that any battery or cruelty
5 under subparagraph (A) is ongoing, has led to
6 the issuance of an order of a judge or an ad-
7 ministrative law judge or a prior determination
8 of the Service, and that need for such benefits
9 has a substantial connection to such battery or
10 cruelty.

11 (c) OPTIONAL APPLICATION TO STATE PROGRAMS.—

12 (1) AUTHORITY.—Notwithstanding any other
13 provision of law, in determining the eligibility and
14 the amount of benefits of an alien for any State
15 means-tested public benefits program, the State or
16 political subdivision that offers the program is au-
17 thorized to provide that the income and resources of
18 the alien shall be deemed to include—

19 (A) the income and resources of any indi-
20 vidual who executed an affidavit of support pur-
21 suant to section 213A of the Immigration and
22 Nationality Act (as inserted by section 632(a))
23 in behalf of such alien, and

24 (B) the income and resources of the spouse
25 (if any) of the individual.

1 (2) PERIOD OF ATTRIBUTION.—The period of
2 attribution of a sponsor’s income and resources in
3 determining the eligibility and amount of benefits
4 for an alien under any State means-tested public
5 benefits program pursuant to paragraph (1) may not
6 exceed the Federal period of attribution with respect
7 to the alien.

8 (d) MEANS-TESTED PROGRAM DEFINED.—In this
9 section:

10 (1) The term “means-tested public benefits pro-
11 gram” means a program of public benefits (includ-
12 ing cash, medical, housing, and food assistance and
13 social services) of the Federal Government or of a
14 State or political subdivision of a State in which the
15 eligibility of an individual, household, or family eligi-
16 bility unit for benefits under the program, or the
17 amount of such benefits, or both are determined on
18 the basis of income, resources, or financial need of
19 the individual, household, or unit.

20 (2) The term “Federal means-tested public ben-
21 efits program” means a means-tested public benefits
22 program of (or contributed to by) the Federal Gov-
23 ernment.

24 (3) The term “State means-tested public bene-
25 fits program” means a means-tested public benefits

1 program that is not a Federal means-tested pro-
2 gram.

3 **SEC. 632. REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF**
4 **SUPPORT.**

5 (a) IN GENERAL.—Title II is amended by inserting
6 after section 213 the following new section:

7 “REQUIREMENTS FOR SPONSOR'S AFFIDAVIT OF SUPPORT

8 “SEC. 213A. (a) ENFORCEABILITY.—(1) No affidavit
9 of support may be accepted by the Attorney General or
10 by any consular officer to establish that an alien is not
11 inadmissible as a public charge under section 212(a)(4)
12 unless such affidavit is executed by a sponsor of the alien
13 as a contract—

14 “(A) that is legally enforceable against the
15 sponsor by the Federal Government and by any
16 State (or any political subdivision of such State)
17 that provides any means-tested public benefits pro-
18 gram, subject to subsection (b)(4); and

19 “(B) in which the sponsor agrees to submit to
20 the jurisdiction of any Federal or State court for the
21 purpose of actions brought under subsection (b)(2).

22 “(2)(A) An affidavit of support shall be enforceable
23 with respect to benefits provided under any means-tested
24 public benefits program for an alien who is admitted to
25 the United States as the parent of a United States citizen

1 under section 201(b)(2) until the alien is naturalized as
2 a citizen of the United States.

3 “(B) An affidavit of support shall be enforceable with
4 respect to benefits provided under any means-tested public
5 benefits program for an alien who is admitted to the Unit-
6 ed States as the spouse of a United States citizen or lawful
7 permanent resident under section 201(b)(2) or 203(a)(2)
8 until—

9 “(i) 7 years after the date the alien is lawfully
10 admitted to the United States for permanent resi-
11 dence, or

12 “(ii) such time as the alien is naturalized as a
13 citizen of the United States,
14 whichever occurs first.

15 “(C) An affidavit of support shall be enforceable with
16 respect to benefits provided under any means-tested public
17 benefits program for an alien who is admitted to the Unit-
18 ed States as the minor child of a United States citizen
19 or lawful permanent resident under section 201(b)(2) or
20 section 203(a)(2) until the child attains the age of 21
21 years.

22 “(D)(i) Notwithstanding any other provision of this
23 subparagraph, a sponsor shall be relieved of any liability
24 under an affidavit of support if the sponsored alien is able
25 to prove to the satisfaction of the Attorney General that

1 the alien has been employed for 40 qualifying quarters of
2 coverage as defined under title II of the Social Security
3 Act and the alien did not receive any benefit under a
4 means-tested public benefits program of (or contributed
5 to by) the Federal Government during any such quarter.

6 “(ii) The Attorney General shall ensure that appro-
7 priate information pursuant to clause (i) is provided to
8 the System for Alien Verification of Eligibility (SAVE).

9 “(b) REIMBURSEMENT OF GOVERNMENT EX-
10 PENSES.—(1)(A) Upon notification that a sponsored alien
11 has received any benefit under any means-tested public
12 benefits program, the appropriate Federal, State, or local
13 official shall request reimbursement by the sponsor in the
14 amount of such assistance.

15 “(B) The Attorney General, in consultation with the
16 Secretary of Health and Human Services, shall prescribe
17 such regulations as may be necessary to carry out sub-
18 paragraph (A).

19 “(2) If within 45 days after requesting reimburse-
20 ment, the appropriate Federal, State, or local agency has
21 not received a response from the sponsor indicating a will-
22 ingness to commence payments, an action may be brought
23 against the sponsor pursuant to the affidavit of support.

24 “(3) If the sponsor fails to abide by the repayment
25 terms established by such agency, the agency may, within

1 60 days of such failure, bring an action against the spon-
2 sor pursuant to the affidavit of support.

3 “(4) No cause of action may be brought under this
4 subsection later than 10 years after the alien last received
5 any benefit under any means-tested public benefits pro-
6 gram.

7 “(5) If, pursuant to the terms of this subsection, a
8 Federal, State, or local agency requests reimbursement
9 from the sponsor in the amount of assistance provided,
10 or brings an action against the sponsor pursuant to the
11 affidavit of support, the appropriate agency may appoint
12 or hire an individual or other person to act on behalf of
13 such agency acting under the authority of law for purposes
14 of collecting any moneys owed. Nothing in this subsection
15 shall preclude any appropriate Federal, State, or local
16 agency from directly requesting reimbursement from a
17 sponsor for the amount of assistance provided, or from
18 bringing an action against a sponsor pursuant to an affi-
19 davit of support.

20 “(c) REMEDIES.—Remedies available to enforce an
21 affidavit of support under this section include any or all
22 of the remedies described in section 3201, 3203, 3204,
23 or 3205 of title 28, United States Code, as well as an
24 order for specific performance and payment of legal fees
25 and other costs of collection, and include corresponding

1 remedies available under State law. A Federal agency may
2 seek to collect amounts owed under this section in accord-
3 ance with the provisions of subchapter II of chapter 37
4 of title 31, United States Code.

5 “(d) NOTIFICATION OF CHANGE OF ADDRESS.—(1)
6 The sponsor of an alien shall notify the Federal Govern-
7 ment and the State in which the sponsored alien is cur-
8 rently residing within 30 days of any change of address
9 of the sponsor during the period specified in subsection
10 (a)(1).

11 “(2) Any person subject to the requirement of para-
12 graph (1) who fails to satisfy such requirement shall be
13 subject to a civil penalty of—

14 “(A) not less than \$250 or more than \$2,000,
15 or

16 “(B) if such failure occurs with knowledge that
17 the sponsored alien has received any benefit under
18 any means-tested public benefits program, not less
19 than \$2,000 or more than \$5,000.

20 “(e) DEFINITIONS.—For the purposes of this sec-
21 tion—

22 “(1) SPONSOR.—The term ‘sponsor’ means,
23 with respect to an alien, an individual who—

1 “(A) is a citizen or national of the United
2 States or an alien who is lawfully admitted to
3 the United States for permanent residence;

4 “(B) is 18 years of age or over;

5 “(C) is domiciled in any State;

6 “(D) demonstrates, through presentation
7 of a certified copy of an individual’s Federal in-
8 come tax returns for the individual’s most re-
9 cent two taxable years and a written statement,
10 executed under oath or as permitted under pen-
11 alty of perjury under section 1746 of title 28,
12 United States Code, that the copies are accu-
13 rate copies of such returns, (i) the means to
14 maintain an annual income equal to at least
15 200 percent of the poverty level for the individ-
16 ual and the individual’s family (including the
17 alien and any other aliens with respect to whom
18 the individual is a sponsor), or (ii) for an indi-
19 vidual who is on active duty (other than active
20 duty for training) in the Armed Forces of the
21 United States, the means to maintain an an-
22 nual income equal to at least 100 percent of the
23 poverty level for the individual and the individ-
24 ual’s family including the alien and any other

1 aliens with respect to whom the individual is a
2 sponsor); and

3 “(E) is petitioning for the admission of the
4 alien under section 204 (or is an individual who
5 is a United States citizen and who accepts joint
6 and several liability with the petitioner).

7 “(2) FEDERAL POVERTY LINE.—The term
8 ‘Federal poverty line’ means the income official pov-
9 erty line (as defined in section 673(2) of the Com-
10 munity Services Block Grant Act) that is applicable
11 to a family of the size involved.

12 “(3) MEANS-TESTED PUBLIC BENEFITS PRO-
13 GRAM.—

14 “(A) IN GENERAL.—Subject to subpara-
15 graph (B), the term ‘means-tested public bene-
16 fits program’ means a program of public bene-
17 fits (including cash, medical, housing, and food
18 assistance and social services) of the Federal
19 Government or of a State or political subdivi-
20 sion of a State in which the eligibility of an in-
21 dividual, household, or family eligibility unit for
22 benefits under the program, or the amount of
23 such benefits, or both are determined on the
24 basis of income, resources, or financial need of
25 the individual, household, or unit.

1 “(B) EXCEPTIONS.—Such term does not
2 include the following benefits:

3 “(i) Medical assistance provided for
4 emergency medical services under title XIX
5 of the Social Security Act.

6 “(ii) The provision of short-term, non-
7 cash, in kind emergency relief.

8 “(iii) Benefits under the National
9 School Lunch Act.

10 “(iv) Assistance under the Child Nu-
11 trition Act of 1966.

12 “(v) Public health assistance for im-
13 munizations with respect to immunizable
14 diseases and for testing and treatment for
15 communicable diseases.

16 “(vi) The provision of services directly
17 related to assisting the victims of domestic
18 violence or child abuse.

19 “(vii) Benefits under programs of stu-
20 dent assistance under titles IV, V, IX, and
21 X of the Higher Education Act of 1965
22 and titles III, VII, and VIII of the Public
23 Health Service Act.

1 “(viii) Benefits under means-tested
2 programs under the Elementary and Sec-
3 ondary Education Act of 1965.

4 “(ix) Benefits under the Head Start
5 Act.”.

6 (b) REQUIREMENT OF AFFIDAVIT OF SUPPORT
7 FROM EMPLOYMENT SPONSORS.—For requirement for af-
8 fidavit of support from individuals who file classification
9 petitions for a relative as an employment-based immi-
10 grant, see the amendment made by section 621(a).

11 (c) SETTLEMENT OF CLAIMS PRIOR TO NATURALIZA-
12 TION.—Section 316 (8 U.S.C. 1427) is amended—

13 (1) in subsection (a), by striking “and” before
14 “(3)”, and by inserting before the period at the end
15 the following: “, and (4) in the case of an applicant
16 that has received assistance under a means-tested
17 public benefits program (as defined in subsection
18 (f)(3) of section 213A) administered by a Federal,
19 State, or local agency and with respect to which
20 amounts may be owing under an affidavit of support
21 executed under such section, provides satisfactory
22 evidence that there are no outstanding amounts that
23 may be owed to any such Federal, State, or local
24 agency pursuant to such affidavit by the sponsor

1 who executed such affidavit, except as provided in
2 subsection (g)”; and

3 (2) by adding at the end the following new sub-
4 section:

5 “(g) Clause (4) of subsection (a) shall not apply to
6 an applicant where the applicant can demonstrate that—

7 “(A) either—

8 “(i) the applicant has been battered or
9 subject to extreme cruelty in the United States
10 by a spouse or parent or by a member of the
11 spouse or parent’s family residing in the same
12 household as the applicant and the spouse or
13 parent consented or acquiesced to such battery
14 or cruelty, or

15 “(ii) the applicant’s child has been bat-
16 tered or subject to extreme cruelty in the Unit-
17 ed States by the applicant’s spouse or parent
18 (without the active participation of the appli-
19 cant in the battery or extreme cruelty), or by a
20 member of the spouse or parent’s family resid-
21 ing in the same household as the applicant
22 when the spouse or parent consented or acqui-
23 esced to and the applicant did not actively par-
24 ticipate in such battery or cruelty;

1 “(B) such battery or cruelty has led to the issu-
2 ance of an order of a judge or an administrative law
3 judge or a prior determination of the Service; and

4 “(C) the need for the public benefits received as
5 to which amounts are owing had a substantial con-
6 nection to the battery or cruelty described in sub-
7 paragraph (A).”.

8 (d) CLERICAL AMENDMENT.—The table of contents
9 is amended by inserting after the item relating to section
10 213 the following:

 “Sec. 213A. Requirements for sponsor’s affidavit of support.”.

11 (e) EFFECTIVE DATE.—Subsection (a) of section
12 213A of the Immigration and Nationality Act, as inserted
13 by subsection (a) of this section, shall apply to affidavits
14 of support executed on or after a date specified by the
15 Attorney General, which date shall be not earlier than 60
16 days (and not later than 90 days) after the date the Attor-
17 ney General formulates the form for such affidavits under
18 subsection (f) of this section.

19 (f) PROMULGATION OF FORM.—Not later than 90
20 days after the date of the enactment of this Act, the Attor-
21 ney General, in consultation with the Secretary of State
22 and the Secretary of Health and Human Services, shall
23 promulgate a standard form for an affidavit of support
24 consistent with the provisions of section 213A of the Im-
25 migration and Nationality Act.

1 **SEC. 633. COSIGNATURE OF ALIEN STUDENT LOANS.**

2 Section 484(b) of the Higher Education Act of 1965
3 (20 U.S.C. 1091(b)) is amended by adding at the end the
4 following new paragraph:

5 “(6) Notwithstanding sections 427(a)(2)(A),
6 428B(a), 428C(b)(4)(A), and 464(c)(1)(E), a student who
7 is an alien lawfully admitted under the Immigration and
8 Nationality Act, otherwise eligible for student financial as-
9 sistance under this title, and for whom an affidavit of sup-
10 port has been provided under section 213A of such Act
11 shall not be eligible for a loan under this title unless the
12 loan is endorsed and cosigned by the alien’s sponsor under
13 such section or by another credit-worthy individual who
14 is a citizen or national of the United States.”.

15 **SEC. 634. STATUTORY CONSTRUCTION.**

16 Nothing in this title may be construed as an entitle-
17 ment or a determination of an individual’s eligibility or
18 fulfillment of the requisite requirements for any Federal,
19 State, or local governmental program, assistance, or bene-
20 fits. For purposes of this title, eligibility relates only to
21 the general issue of eligibility or ineligibility on the basis
22 of alienage.

1 **TITLE VII—FACILITATION OF**
2 **LEGAL ENTRY**

3 **SEC. 701. ADDITIONAL LAND BORDER INSPECTORS; INFRA-**
4 **STRUCTURE IMPROVEMENTS.**

5 (a) INCREASED PERSONNEL.—

6 (1) IN GENERAL.—In order to eliminate undue
7 delay in the thorough inspection of persons and vehi-
8 cles lawfully attempting to enter the United States,
9 the Attorney General shall increase, by approxi-
10 mately equal numbers in each of the fiscal years
11 1996 and 1997, the number of full-time land border
12 inspectors assigned to active duty by the Immigra-
13 tion and Naturalization Service to a level adequate
14 to assure full staffing during peak crossing hours of
15 all border crossing lanes now in use, under construc-
16 tion, or construction of which has been authorized
17 by Congress.

18 (2) DEPLOYMENT OF PERSONNEL.—The Attor-
19 ney General shall, to the maximum extent prac-
20 ticable, ensure that the personnel hired pursuant to
21 this subsection shall be deployed among the various
22 Immigration and Naturalization Service sectors in
23 proportion to the number of land border crossings
24 measured in each such sector during the preceding
25 fiscal year.

1 (b) IMPROVED INFRASTRUCTURE.—

2 (1) IN GENERAL.—The Attorney General from
3 time to time may identify those physical improve-
4 ments to the infrastructure of the international land
5 borders of the United States necessary to expedite
6 the inspection by the Immigration and Naturaliza-
7 tion Service of persons and vehicles attempting to
8 lawfully enter the United States in accordance with
9 existing policies and procedures of the Immigration
10 and Naturalization Service and the Drug Enforce-
11 ment Agency.

12 (2) PRIORITIES.—Such improvements to the in-
13 frastructure of the land border of the United States
14 shall be substantially completed and fully funded in
15 those portions of the United States where the Attor-
16 ney General, in consultation with the Committees on
17 the Judiciary of the House of Representatives and
18 the Senate, objectively determines the need to be
19 greatest or most immediate before the Attorney Gen-
20 eral may obligate funds for construction of any im-
21 provement otherwise located.

22 **SEC. 702. COMMUTER LANE PILOT PROGRAMS.**

23 (a) MAKING LAND BORDER INSPECTION FEE PER-
24 MANENT.—Section 286(q) (8 U.S.C. 1356(q)) is amend-
25 ed—

1 (1) in paragraph (1), by striking “a project”
2 and inserting “projects”;

3 (2) in paragraph (1), by striking “Such
4 project” and inserting “Such projects”; and

5 (3) by striking paragraph (5).

6 (b) CONFORMING AMENDMENT.—The Departments
7 of Commerce, Justice, and State, the Judiciary, and Re-
8 lated Agencies Appropriation Act, 1994 (Public Law 103–
9 121, 107 Stat. 1161) is amended by striking the fourth
10 proviso under the heading “Immigration and Naturaliza-
11 tion Service, Salaries and Expenses”.

12 **SEC. 703. PREINSPECTION AT FOREIGN AIRPORTS.**

13 (a) IN GENERAL.—The Immigration and Nationality
14 Act is amended by inserting after section 235 the following
15 new section:

16 “PREINSPECTION AT FOREIGN AIRPORTS

17 “SEC. 235A. (a) ESTABLISHMENT OF PRE-
18 INSPECTION STATIONS.—(1) Subject to paragraph (4),
19 not later than 2 years after the date of the enactment of
20 this section, the Attorney General, in consultation with the
21 Secretary of State, shall establish and maintain
22 preinspection stations in at least 5 of the foreign airports
23 that are among the 10 foreign airports which the Attorney
24 General identifies as serving as last points of departure
25 for the greatest numbers of passengers who arrive from
26 abroad by air at ports of entry within the United States.

1 Such preinspection stations shall be in addition to any
2 preinspection stations established prior to the date of the
3 enactment of this section.

4 “(2) Not later than November 1, 1995, and each sub-
5 sequent November 1, the Attorney General shall compile
6 data identifying—

7 “(A) the foreign airports which served as last
8 points of departure for aliens who arrived by air at
9 United States ports of entry without valid docu-
10 mentation during the preceding fiscal years,

11 “(B) the number and nationality of such aliens
12 arriving from each such foreign airport, and

13 “(C) the primary routes such aliens followed
14 from their country of origin to the United States.

15 “(3) Subject to paragraph (4), not later than 4 years
16 after the date of enactment of this section, the Attorney
17 General, in consultation with the Secretary of State, shall
18 establish preinspection stations in at least 5 additional for-
19 eign airports which the Attorney General, in consultation
20 with the Secretary of State, determines based on the data
21 compiled under paragraph (2) and such other information
22 as may be available would most effectively reduce the
23 number of aliens who arrive from abroad by air at points
24 of entry within the United States without valid docu-

1 mentation. Such preinspection stations shall be in addition
2 to those established prior to or pursuant to paragraph (1).

3 “(4) Prior to the establishment of a preinspection
4 station the Attorney General, in consultation with the Sec-
5 retary of State, shall ensure that—

6 “(A) employees of the United States stationed
7 at the preinspection station and their accompanying
8 family members will receive appropriate protection,

9 “(B) such employees and their families will not
10 be subject to unreasonable risks to their welfare and
11 safety, and

12 “(C) the country in which the preinspection sta-
13 tion is to be established maintains practices and pro-
14 cedures with respect to asylum seekers and refugees
15 in accordance with the Convention Relating to the
16 Status of Refugees (done at Geneva, July 28, 1951),
17 or the Protocol Relating to the Status of Refugees
18 (done at New York, January 31, 1967).

19 “(b) ESTABLISHMENT OF CARRIER CONSULTANT
20 PROGRAM.—The Attorney General shall assign additional
21 immigration officers to assist air carriers in the detection
22 of fraudulent documents at foreign airports which, based
23 on the records maintained pursuant to subsection (a)(2),
24 served as a point of departure for a significant number
25 of arrivals at United States ports of entry without valid

1 documentation, but where no preinspection station ex-
2 ists.”.

3 (b) CLERICAL AMENDMENT.—The table of contents,
4 as amended by section 308(a)(2), is further amended by
5 inserting after the item relating to section 235 the follow-
6 ing new item:

“Sec. 235A. Preinspection at foreign airports.”.

7 **SEC. 704. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
8 **TION OF FRAUDULENT DOCUMENTS.**

9 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
10 1356(h)(2)(A)) is amended—

11 (1) in clause (iv), by inserting “, including
12 training of, and technical assistance to, commercial
13 airline personnel regarding such detection” after
14 “United States”, and

15 (2) by adding at the end the following:

16 “The Attorney General shall provide for expenditures for
17 training and assistance described in clause (iv) in an
18 amount, for any fiscal year, not less than 5 percent of
19 the total of the expenses incurred that are described in
20 the previous sentence.”.

21 (b) COMPLIANCE WITH DETECTION REGULA-
22 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
23 adding at the end the following: “Whenever the Attorney
24 General finds that a commercial airline has failed to com-
25 ply with regulations of the Attorney General relating to

1 requirements of airlines for the detection of fraudulent
2 documents used by passengers traveling to the United
3 States (including the training of personnel in such detec-
4 tion), the Attorney General may suspend the entry of some
5 or all aliens transported to the United States by such air-
6 line.”.

7 (c) EFFECTIVE DATES.—

8 (1) The amendments made by subsection (a)
9 shall apply to expenses incurred during or after fis-
10 cal year 1996.

11 (2) The Attorney General shall first issue, in
12 proposed form, regulations referred to in the second
13 sentence of section 212(f) of the Immigration and
14 Nationality Act, as added by the amendment made
15 by subsection (b), by not later than 90 days after
16 the date of the enactment of this Act.

17 **TITLE VIII—MISCELLANEOUS**
18 **PROVISIONS**

19 **Subtitle A—Amendments to the**
20 **Immigration and Nationality Act**

21 **SEC. 801. NONIMMIGRANT STATUS FOR SPOUSES AND CHIL-**
22 **DREN OF MEMBERS OF THE ARMED SERV-**
23 **ICES.**

24 Section 101(a)(15) (8 U.S.C. 1101(a)(15)) is amend-
25 ed—

1 (1) by striking “or” at the end of subparagraph
2 (R),

3 (2) by striking the period at the end of sub-
4 paragraph (S) and inserting “; or”, and

5 (3) by inserting after subparagraph (S) the fol-
6 lowing new subparagraph:

7 “(T) an alien who is the spouse or child of a
8 another alien who is serving on active duty in the
9 Armed Forces of the United States during the pe-
10 riod in which the other alien is stationed in the
11 United States.”.

12 **SEC. 802. AMENDED DEFINITION OF AGGRAVATED FELONY.**

13 (a) IN GENERAL.—Section 101(a)(43) (8 U.S.C.
14 1101(a)(43)), as amended by section 222 of the Immigra-
15 tion and Nationality Technical Corrections Act of 1994
16 (Public Law 103–416), is amended—

17 (1) in subparagraph (N), by striking “of title
18 18, United States Code” and inserting “of this Act”,
19 and

20 (2) in subparagraph (O), by striking “which
21 constitutes” and all that follows up to the semicolon
22 at the end and inserting “, for the purpose of com-
23 mercial advantage”.

24 (b) EFFECTIVE DATE OF CONVICTION.—Section
25 101(a)(43) (8 U.S.C. 1101(a)(43)), as amended by section

1 222(a) of the Immigration and Nationality Technical Cor-
2 rections Act of 1994 (Public Law 103–416), is amended
3 by adding at the end the following sentence: “Notwith-
4 standing any other provision of law, the term applies for
5 all purposes to convictions entered before, on, or after the
6 date of enactment of the Immigration and Nationality
7 Technical Corrections Act of 1994.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall be effective as if included in the enact-
10 ment of the Immigration and Nationality Technical Cor-
11 rections Act of 1994 (Public Law 103–416).

12 **SEC. 803. AUTHORITY TO DETERMINE VISA PROCESSING**
13 **PROCEDURES.**

14 (a) IN GENERAL.—Section 202(a) (8 U.S.C.
15 1152(a)) is amended—

16 (1) in paragraph (1), by striking “paragraph
17 (2)” and inserting “paragraphs (2) and (5)”, and

18 (2) by adding at the end the following new
19 paragraph:

20 “(5) CONSTRUCTION.—Nothing in paragraph
21 (1) shall be construed to limit the authority of the
22 Secretary of State to determine the procedures for
23 the processing of immigrant visa applications or the
24 locations where such applications will be processed.”.

1 (b) ELIMINATION OF CONSULATE SHOPPING FOR
2 VISA OVERSTAYS.—Section 222 (8 U.S.C. 1202) is
3 amended by adding at the end the following new sub-
4 section:

5 “(g) In the case of an alien who has entered and re-
6 mained in the United States beyond the authorized period
7 of stay, the alien is not eligible to be admitted to the Unit-
8 ed States as a nonimmigrant on the basis of a visa issued
9 other than in a consular office located in the country of
10 the alien’s nationality (or, if there is no office in such
11 country, at such other consular office as the Secretary of
12 State shall specify).”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to visas issued before, on, or after
15 the date of the enactment of this Act.

16 **SEC. 804. WAIVER AUTHORITY CONCERNING NOTICE OF**
17 **DENIAL OF APPLICATION FOR VISAS.**

18 Section 212(b) (8 U.S.C. 1182(b)) is amended—

19 (1) by redesignating paragraphs (1) and (2) as
20 subparagraphs (A) and (B);

21 (2) by striking “If” and inserting “(1) Subject
22 to paragraph (2), if”; and

23 (3) by inserting at the end the following para-
24 graph:

1 “(2) With respect to applications for visas, the Sec-
2 retary of State may waive the application of paragraph
3 (1) in the case of a particular alien or any class or classes
4 of aliens inadmissible under subsection (a)(2) or (a)(3).”.

5 **SEC. 805. TREATMENT OF CANADIAN LANDED IMMIGRANTS.**

6 Section 212(d)(4)(B) (8 U.S.C. 1182(d)(4)(B)) is
7 amended—

8 (1) by striking “and residents” and inserting “,
9 residents”, and

10 (2) by striking “nationals,” and inserting “na-
11 tionals, and aliens who are granted permanent resi-
12 dence by the government of the foreign contiguous
13 territory and who are residing in that territory”.

14 **SEC. 806. CHANGES RELATING TO H-1B NONIMMIGRANTS.**

15 (a) PROVISIONS RELATING TO WAGE DETERMINA-
16 TIONS.—Section 212(n) (8 U.S.C. 1182(n)) is amended
17 by adding at the end the following new paragraphs:

18 “(3) For purposes of determining the actual wage
19 level paid under paragraph (1)(A)(i)(I), an employer shall
20 not be required to have and document an objective system
21 to determine the wages of workers.

22 “(4) For purposes of determining the actual wage
23 level paid under paragraph (1)(A)(i)(I), a non-H-1B-de-
24 pendent employer of more than 1,000 full-time equivalent
25 employees in the United States may demonstrate that in

1 determining the wages of H-1B nonimmigrants, it utilizes
2 a compensation and benefits system that has been pre-
3 viously certified by the Secretary of Labor (and recertified
4 at such intervals the Secretary of Labor may designate)
5 to satisfy all of the following conditions:

6 “(A) The employer has a company-wide com-
7 pensation policy for its full-time equivalent employ-
8 ees which ensures salary equity among employees
9 similarly employed.

10 “(B) The employer has a company-wide benefits
11 policy under which all full-time equivalent employees
12 similarly employed are eligible for substantially the
13 same benefits or under which some employees may
14 accept higher pay, at least equal in value to the ben-
15 efits, in lieu of benefits.

16 “(C) The compensation and benefits policy is
17 communicated to all employees.

18 “(D) The employer has a human resources or
19 compensation function that administers its com-
20 pensation system.

21 “(E) The employer has established documenta-
22 tion for the job categories in question.

23 An employer’s payment of wages consistent with a system
24 which meets the conditions of subparagraphs (A) through
25 (E) of this paragraph which has been certified by the Sec-

1 retary of Labor pursuant to this paragraph shall be
2 deemed to satisfy the requirements of paragraph
3 (1)(A)(i)(I).

4 “(5) For purposes of determining the prevailing wage
5 level paid under paragraph (1)(A)(i)(II), employers may
6 provide a published survey, a State Employment Security
7 Agency determination, a determination by an accepted pri-
8 vate source, or any other legitimate source. The Secretary
9 of Labor shall, not later than 180 days from the date of
10 enactment of this paragraph, provide for acceptance of
11 prevailing wage determinations not made by a State Em-
12 ployment Security Agency. The Secretary of Labor or the
13 Secretary’s designate must either accept such a non-State
14 Employment Security Agency wage determination or issue
15 a written decision rejecting the determination and detail-
16 ing the legitimate reasons that the determination is not
17 acceptable. If a detailed rejection is not issued within 45
18 days of the date of the Secretary’s receipt of such deter-
19 mination, the determination will be deemed accepted. An
20 employer’s payment of wages consistent with a prevailing
21 wage determination not rejected by the Secretary of Labor
22 under this paragraph shall be deemed to satisfy the re-
23 quirements of paragraph (1)(A)(i)(II).”.

24 (b) INAPPLICABILITY OF CERTAIN REGULATIONS TO
25 NON-H-1B-DEPENDENT EMPLOYERS.—

1 (1) DEFINITION OF H-1B-DEPENDENT EM-
2 PLOYER.—Section 212(n)(2) (8 U.S.C. 1182(n)(2))
3 is amended by inserting after subparagraph (D) the
4 following new subparagraphs:

5 “(E) In this subsection, the term ‘H-1B-dependent
6 employer’ means an employer that—

7 “(i)(I) has fewer than 21 full-time equivalent
8 employees who are employed in the United States,
9 and (II) employs 4 or more H-1B nonimmigrants;
10 or

11 “(ii)(I) has at least 21 but not more than 150
12 full-time equivalent employees who are employed in
13 the United States, and (II) employs H-1B
14 nonimmigrants in a number that is equal to at least
15 20 percent of the number of such full-time equiva-
16 lent employees; or

17 “(iii)(I) has at least 151 full-time equivalent
18 employees who are employed in the United States,
19 and (II) employs H-1B nonimmigrants in a number
20 that is equal to at least 15 percent of the number
21 of such full-time equivalent employees.

22 In applying this subparagraph, any group treated as a sin-
23 gle employer under subsection (b), (c), (m), or (o) of sec-
24 tion 414 of the Internal Revenue Code of 1986 shall be
25 treated as a single employer. Aliens employed under a pe-

1 titution for H-1B nonimmigrants shall be treated as em-
2 ployees, and counted as nonimmigrants under section
3 101(a)(15)(H)(i)(b) under this subparagraph. In this sub-
4 section, the term ‘non-H-1B-dependent employer’ means
5 an employer that is not an H-1B-dependent employer.

6 “(F)(i) An employer who is an H-1B-dependent em-
7 ployer as defined in subparagraph (E) can nevertheless be
8 treated as a non-H-1B-dependent employer for five years
9 on a probationary status if—

10 “(I) the employer has demonstrated to the sat-
11 isfaction of the Secretary of Labor that it has devel-
12 oped a reasonable plan for reducing its use of H-
13 1B nonimmigrants over a five-year period to the
14 level of a non-H-1B-dependent employer, and

15 “(II) annual reviews of that plan by the Sec-
16 retary of Labor indicate successful implementation
17 of that plan.

18 If the employer has not met the requirements established
19 in this clause, the probationary status ends and the em-
20 ployer shall be treated as an H-1B-dependent employer
21 until such time as the employer can prove to the Secretary
22 of Labor that it no longer is an H-1B-dependent employer
23 as defined in subparagraph (E).

1 “(ii) The probationary program set out in clause (i)
2 shall be effective for no longer than five years after the
3 date of the enactment of this subparagraph.”.

4 (2) LIMITING APPLICATION OF CERTAIN RE-
5 QUIREMENTS FOR NON-H-1B-DEPENDENT EMPLOY-
6 ERS.—Section 212(n) (8 U.S.C. 1182(n)), as
7 amended by subsection (a), is further amended by
8 adding at the end the following new paragraph:

9 “(6) In carrying out this subsection in the case of
10 an employer that is a non-H-1B-dependent employer—

11 “(A) the employer is not required to post a no-
12 tice at a worksite that was not listed on the applica-
13 tion under paragraph (1) if the worksite is within
14 the area of intended employment listed on such ap-
15 plication for such nonimmigrant; and

16 “(B) if the employer has filed and had certified
17 an application under paragraph (1) with respect to
18 one or more H-1B nonimmigrants for one or more
19 areas of employment—

20 “(i) the employer is not required to file
21 and have certified an additional application
22 under paragraph (1) with respect to such a
23 nonimmigrant for an area of employment not
24 listed in the previous application because the
25 employer has placed one or more such

1 nonimmigrants in such a nonlisted area so long
2 as either (I) each such nonimmigrant is not
3 placed in such nonlisted areas for a period ex-
4 ceeding 45 workdays in any 12-month period
5 and not to exceed 90 workdays in any 36-month
6 period, or (II) each such nonimmigrant's prin-
7 cipal place of employment has not changed to
8 a nonlisted area, and

9 “(ii) the employer is not required to pay
10 per diem and transportation costs at any speci-
11 fied rates for work performed in such a
12 nonlisted area.”.

13 (3) LIMITATION ON AUTHORITY TO INITIATE
14 COMPLAINTS AND CONDUCT INVESTIGATIONS FOR
15 NON-H-1B-DEPENDENT EMPLOYERS.—Section
16 212(n)(2)(A) (8 U.S.C. 1182(n)(2)(A)) is amend-
17 ed—

18 (A) in the second sentence, by inserting be-
19 fore the period at the end the following: “, ex-
20 cept that the Secretary may only file such a
21 complaint in the case of an H-1B-dependent
22 employer (as defined in subparagraph (E)) or
23 when conducting an annual review of a plan
24 pursuant to subparagraph (F)(i) if there ap-
25 pears to be a violation of an attestation or a

1 misrepresentation of a material fact in an appli-
2 cation”, and

3 (B) by inserting after the second sentence
4 the following new sentence: “No investigation or
5 hearing shall be conducted with respect to a
6 non-H-1B-dependent employer except in re-
7 sponse to a complaint filed under the previous
8 sentence.”.

9 (c) NO DISPLACEMENT OF AMERICAN WORKERS
10 PERMITTED.—(1) Section 212(n)(1) (8 U.S.C.
11 1182(n)(1)) is amended by inserting after subparagraph
12 (D) the following new subparagraph:

13 “(E)(i) If the employer, within the period be-
14 ginning 6 months before and ending 90 days follow-
15 ing the date of filing of the application or during the
16 90 days immediately preceding and following the
17 date of filing of any visa petition supported by the
18 application, has laid off or lays off any protected in-
19 dividual with substantially equivalent qualifications
20 and experience in the specific employment as to
21 which the nonimmigrant is sought or is employed,
22 the employer will pay a wage to the nonimmigrant
23 that is at least 110 percent of the arithmetic mean
24 of the last wage earned by all such laid off individ-
25 uals (or, if greater, at least 110 percent of the arith-

1 metric mean of the highest wage earned by all such
2 laid off individuals within the most recent year if the
3 employer reduced the wage of any such laid off indi-
4 vidual during such year other than in accordance
5 with a general company-wide reduction of wages for
6 substantially all employees).

7 “(ii) Except as provided in clause (iii), in the
8 case of an H-1B-dependent employer which employs
9 an H-1B nonimmigrant, the employer shall not
10 place the nonimmigrant with another employer
11 where—

12 “(I) the nonimmigrant performs his or her
13 duties in whole or in part at one or more work-
14 sites owned, operated, or controlled by such
15 other employer, and

16 “(II) there are indicia of an employment
17 relationship between the nonimmigrant and
18 such other employer.

19 “(iii) Clause (ii) shall not apply to an employ-
20 er’s placement of an H-1B nonimmigrant with an-
21 other employer if—

22 “(I) the other employer has executed an
23 attestation that it, within the period beginning
24 6 months before and ending 90 days following
25 the date of filing of the application or during

1 the 90 days immediately preceding and follow-
2 ing the date of filing of any visa petition sup-
3 ported by the application, has not laid off and
4 will not lay off any protected individual with
5 substantially equivalent qualifications and expe-
6 rience in the specific employment as to which
7 the H-1B nonimmigrant is being sought or is
8 employed, or

9 “(II) the employer pays a wage to the non-
10 immigrant that is at least 110 percent of the
11 arithmetic mean of the last wage earned by all
12 such laid off individuals (or, if greater, at least
13 110 percent of the arithmetic mean of the high-
14 est wage earned by all such laid off individuals
15 within the most recent year if the other em-
16 ployer reduced the wage of any such laid off in-
17 dividual during such year other than in accord-
18 ance with a general company-wide reduction of
19 wages for substantially all employees).

20 “(iv) For purposes of this subparagraph, the
21 term ‘laid off’, with respect to an individual—

22 “(I) refers to the individual’s loss of em-
23 ployment, other than a discharge for inadequate
24 performance, cause, voluntary departure, or re-
25 tirement, and

1 “(II) does not include any situation in
2 which the individual involved is offered, as an
3 alternative to such loss of employment, a simi-
4 lar job opportunity with the same employer (or
5 with the H–1B-dependent employer described in
6 clause (ii)) carrying equivalent or higher com-
7 pensation and benefits as the position from
8 which the employee was laid off, regardless of
9 whether or not the employee accepts the offer.

10 “(v) For purposes of this subparagraph, the
11 term ‘protected individual’ means an individual
12 who—

13 “(I) is a citizen or national of the United
14 States, or

15 “(II) is an alien who is lawfully admitted
16 for permanent residence, is granted the status
17 of an alien lawfully admitted for temporary res-
18 idence under section 210(a), 210A(a), or
19 245(a)(1), is admitted as a refugee under sec-
20 tion 207, or is granted asylum under section
21 208.”.

22 (2) Section 212(n)(2) (8 U.S.C. 1182(n)(2)), as
23 amended by subsection (b)(1), is amended by adding at
24 the end the following new subparagraph:

1 “(G) Under regulations of the Secretary, the previous
2 provisions of this paragraph shall apply to complaints re-
3 specting a failure of an other employer to comply with an
4 attestation described in paragraph (1)(E)(iii)(I) in the
5 same manner that they apply to complaints with respect
6 to a failure to comply with a condition described in para-
7 graph (1)(E)(i).”

8 (3) Section 212(n)(2)(C) (8 U.S.C. 1182(n)(2)(C)) is
9 amended by inserting “or (1)(E)” after “(1)(B)”.

10 (d) INCREASED PENALTIES.—Section 212(n)(2) is
11 amended—

12 (1) in subparagraph (C)(i), by striking
13 “\$1,000” and inserting “\$5,000”;

14 (2) by amending subparagraph (C)(ii) to read
15 as follows:

16 “(ii) the Attorney General shall not approve pe-
17 titions filed with respect to that employer (or any
18 employer who is a successor in interest) under sec-
19 tion 204 or 214(e) for aliens to be employed by the
20 employer—

21 “(I) during a period of at least 1 year in
22 the case of the first determination of a violation
23 or any subsequent determination of a violation
24 occurring within 1 year of that first violation or
25 any subsequent determination of a nonwillful

1 violation occurring more than 1 year after the
2 first violation;

3 “(II) during a period of at least 5 years in
4 the case of a determination of a willful violation
5 occurring more than 1 year after the first viola-
6 tion; and

7 “(III) at any time in the case of a deter-
8 mination of a willful violation occurring more
9 than 5 years after a violation described in
10 subclause (II).”; and

11 (3) in subparagraph (D), by adding at the end
12 the following: “If a penalty under subparagraph (C)
13 has been imposed in the case of a willful violation,
14 the Secretary shall impose on the employer a civil
15 monetary penalty in an amount equalling twice the
16 amount of backpay.”.

17 (e) COMPUTATION OF PREVAILING WAGE LEVEL.—
18 Section 212(n) (8 U.S.C. 1182(n)), as amended by sub-
19 sections (a) and (b)(2), is further amended by adding at
20 the end the following new paragraph:

21 “(7) In computing the prevailing wage level for an
22 occupational classification in an area of employment for
23 purposes of paragraph (1)(A)(i)(II) and subsection
24 (a)(5)(A) in the case of an employee of (A) an institution
25 of higher education (as defined in section 1201(a) of the

1 Higher Education Act of 1965), or a related or affiliated
2 nonprofit entity, or (B) a nonprofit scientific research or-
3 ganization, the prevailing wage level shall only take into
4 account employees at such institutions and entities in the
5 area of employment.”.

6 (f) CONFORMING AMENDMENTS.—Section 212(n) (8
7 U.S.C. 1182(n)) is further amended—

8 (1) in the matter in paragraph (1) before sub-
9 paragraph (A), by inserting “(in this subsection re-
10 ferred to as an ‘H–1B nonimmigrant’)” after
11 “101(a)(15)(H)(i)(b)”; and

12 (2) in paragraph (1)(A), by striking “non-
13 immigrant described in section 101(a)(15)(H)(i)(b)”
14 and inserting “H–1B nonimmigrant”.

15 (g) EFFECTIVE DATES.—

16 (1) Except as otherwise provided in this sub-
17 section, the amendments made by this section shall
18 take effect on the date of the enactment of this Act
19 and shall apply to applications filed with the Sec-
20 retary of Labor on or after 30 days after the date
21 of the enactment of this Act.

22 (2) The amendments made by subsection (b)(3)
23 shall apply to complaints filed, and to investigations
24 or hearings initiated, on or after January 19, 1995.

1 **SEC. 807. VALIDITY OF PERIOD OF VISAS.**

2 (a) EXTENSION OF VALIDITY OF IMMIGRANT VISAS
3 TO 6 MONTHS.—Section 221(c) (8 U.S.C. 1201(c)) is
4 amended by striking “four months” and inserting “six
5 months”.

6 (b) AUTHORIZING APPLICATION OF RECIPROcity
7 RULE FOR NONIMMIGRANT VISA IN CASE OF REFUGEEs
8 AND PERMANENT RESIDENTS.—Such section is further
9 amended by inserting before the period at the end of the
10 third sentence the following: “; except that in the case of
11 aliens who are nationals of a foreign country and who ei-
12 ther are granted refugee status and firmly resettled in an-
13 other foreign country or are granted permanent residence
14 and residing in another foreign country, the Secretary of
15 State may prescribe the period of validity of such a visa
16 based upon the treatment granted by that other foreign
17 country to alien refugees and permanent residents, respec-
18 tively, in the United States”.

19 **SEC. 808. LIMITATION ON ADJUSTMENT OF STATUS OF IN-**
20 **DIVIDUALS NOT LAWFULLY PRESENT IN THE**
21 **UNITED STATES.**

22 (a) IN GENERAL.—Section 245(i) (8 U.S.C. 1255),
23 as added by section 506(b) of the Department of State
24 and Related Agencies Appropriations Act, 1995 (Public
25 Law 103–317, 108 Stat. 1765), is amended—

1 (4) by striking the semicolon and inserting a
2 period;

3 (5) by striking “except that the” and inserting
4 the following:

5 “(B) The”;

6 (6) by inserting after subparagraph (B), as cre-
7 ated by the amendment made by paragraph (5), the
8 following:

9 “(C) The Attorney General may authorize an
10 application to a Federal court of competent jurisdic-
11 tion for, and a judge of such court may grant, an
12 order authorizing disclosure of information con-
13 tained in the application of the alien under this sec-
14 tion to be used—

15 “(i) for identification of the alien when
16 there is reason to believe that the alien has
17 been killed or severely incapacitated; or

18 “(ii) for criminal law enforcement purposes
19 against the alien whose application is to be dis-
20 closed if the alleged criminal activity occurred
21 after the legalization application was filed and
22 such activity involves terrorist activity or poses
23 either an immediate risk to life or to national
24 security, or would be prosecutable as an aggra-
25 vated felony, but without regard to the length

1 of sentence that could be imposed on the appli-
2 cant.”; and

3 (7) by adding at the end the following new sub-
4 paragraph:

5 “(E) Nothing in this paragraph shall preclude
6 the release for immigration enforcement purposes of
7 the following information contained in files or
8 records of the Service pertaining to the application:

9 “(i) The immigration status of the appli-
10 cant on any given date after the date of filing
11 the application (including whether the applicant
12 was authorized to work) but only for purposes
13 of a determination of whether the applicant is
14 eligible for relief from deportation or removal
15 and not otherwise.

16 “(ii) The date of the applicant’s adjust-
17 ment (if any) to the status of an alien lawfully
18 admitted for permanent residence.

19 “(iii) Information concerning whether the
20 applicant has been convicted of a crime occur-
21 ring after the date of filing the application.

22 “(iv) The date or disposition of the appli-
23 cation.”.

1 (b) SPECIAL AGRICULTURAL WORKER PROGRAM.—
2 Section 210(b) of such Act (8 U.S.C. 1160(b)) is amend-
3 ed—

4 (1) in paragraph (5), by inserting “, except as
5 permitted under paragraph (6)(B)” after “consent
6 of the alien”; and

7 (2) in paragraph (6)—

8 (A) in subparagraph (A), by striking the
9 period at the end and inserting a comma,

10 (B) by redesignating subparagraphs (A)
11 through (C) as clauses (i) through (iii), respec-
12 tively,

13 (C) by striking “Neither” and inserting
14 “(A) Except as provided in subparagraph (B),
15 neither”,

16 (D) by striking “Anyone” and inserting
17 the following:

18 “(C) Anyone”,

19 (E) by inserting after the first sentence the
20 following:

21 “(B) The Attorney General may authorize an
22 application to a Federal court of competent jurisdic-
23 tion for, and a judge of such court may grant, an
24 order authorizing disclosure of information con-
25 tained in the application of the alien to be used—

1 “(i) for identification of the alien when
2 there is reason to believe that the alien has
3 been killed or severely incapacitated, or

4 “(ii) for criminal law enforcement purposes
5 against the alien whose application is to be dis-
6 closed if the alleged criminal activity occurred
7 after the special agricultural worker application
8 was filed and such activity involves terrorist ac-
9 tivity or poses either an immediate risk to life
10 or to national security, or would be prosecutable
11 as an aggravated felony, but without regard to
12 the length of sentence that could be imposed on
13 the applicant.”, and

14 (F) by adding at the end the following new
15 subparagraph:

16 “(D) Nothing in this paragraph shall preclude
17 the release for immigration enforcement purposes of
18 the following information contained in files or
19 records of the Service pertaining to the application:

20 “(i) The immigration status of the appli-
21 cant on any given date after the date of filing
22 the application (including whether the applicant
23 was authorized to work).

1 “(ii) The date of the applicant’s adjust-
2 ment (if any) to the status of an alien lawfully
3 admitted for permanent residence.

4 “(iii) Information concerning whether the
5 applicant has been convicted of a crime occur-
6 ring after the date of filing the application.

7 “(iv) The date or disposition of the appli-
8 cation.”.

9 **SEC. 810. CHANGE OF NONIMMIGRANT CLASSIFICATION.**

10 Section 248 (8 U.S.C. 1258) is amended by inserting
11 at the end the following:

12 “Any alien whose status is changed under this section may
13 apply to the Secretary of State for a visa without having
14 to leave the United States and apply at the visa office.”.

15 **SEC. 811. CERTIFICATION REQUIREMENTS FOR FOREIGN**
16 **HEALTH-CARE WORKERS.**

17 (a) IN GENERAL.—Section 212(a) (8 U.S.C.
18 1182(a)), as amended by section 301(b)(1), is amended—

19 (1) by redesignating paragraph (10) as para-
20 graph (11), and

21 (2) by inserting after paragraph (9) the follow-
22 ing new paragraph:

23 “(10) CERTIFICATION REQUIREMENTS FOR
24 FOREIGN HEALTH-CARE WORKERS.—Any alien who
25 seeks to enter the United States for the purpose of

1 performing labor as a health care-worker, other than
2 a physician, is inadmissible unless the consular offi-
3 cer receives a certification from the Commission on
4 Graduates of Foreign Nursing Schools or a certifi-
5 cate from an equivalent independent credentialing
6 organization approved by the Secretary of Labor
7 verifying that—

8 “(A) the alien’s education, training, or ex-
9 perience meet all applicable statutory and regu-
10 latory requirements for entry into the United
11 States under the classification specified in the
12 application and is comparable to that required
13 for an American practitioner of the same type;

14 “(B) any foreign license submitted by the
15 alien is authentic and unencumbered;

16 “(C) the alien must have the ability to
17 read, write, and speak the English language at
18 a level required for standard business commu-
19 nication, as demonstrated by the alien’s score
20 on one or more standardized tests; and

21 “(D) if the alien is a registered nurse, the
22 alien has passed an examination testing both
23 nursing skills and English language pro-
24 ficiency.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall apply to aliens entering the United
3 States more than 180 days after the date of the enactment
4 of this Act.

5 **SEC. 812. COMPUTATION OF TARGETED ASSISTANCE.**

6 Section 412(c)(2) (8 U.S.C. 1522(c)(2)) is amended
7 by adding at the end the following new subparagraph:

8 “(C) Except for the Targeted Assistance Ten Percent
9 Discretionary Program, all grants made available under
10 this paragraph for a fiscal year shall be allocated by the
11 Office of Resettlement in a manner that ensures that each
12 qualifying county shall receive the same amount of assist-
13 ance for each refugee and entrant residing in the county
14 as of the beginning of the fiscal year who arrived in the
15 United States not more than 60 months prior to such fis-
16 cal year.”.

17 **Subtitle B—Other Provisions**

18 **SEC. 831. COMMISSION REPORT ON FRAUD ASSOCIATED**

19 **WITH BIRTH CERTIFICATES.**

20 Section 141 of the Immigration Act of 1990 is
21 amended—

22 (1) in subsection (b)—

23 (A) by striking “and” at the end of para-
24 graph (1),

1 (B) by striking the period at the end of
2 paragraph (2) and inserting “; and”, and

3 (C) by adding at the end the following new
4 paragraph:

5 “(3) transmit to Congress, not later than Janu-
6 ary 1, 1997, a report containing recommendations
7 (consistent with subsection (c)(3)) of methods of re-
8 ducing or eliminating the fraudulent use of birth
9 certificates for the purpose of obtaining other iden-
10 tity documents that may be used in securing immi-
11 gration, employment, or other benefits.”; and

12 (2) by adding at the end of subsection (c), the
13 following new paragraph:

14 “(3) FOR REPORT ON REDUCING BIRTH CER-
15 TIFICATE FRAUD.—In the report described in sub-
16 section (b)(3), the Commission shall consider and
17 analyze the feasibility of—

18 “(A) establishing national standards for
19 counterfeit-resistant birth certificates, and

20 “(B) limiting the issuance of official copies
21 of a birth certificate of an individual to anyone
22 other than the individual or others acting on
23 behalf of the individual.”.

1 **SEC. 832. UNIFORM VITAL STATISTICS.**

2 (a) PILOT PROGRAM.—The Secretary of Health and
3 Human Services shall consult with the State agency re-
4 sponsible for registration and certification of births and
5 deaths and, within 2 years of the date of enactment of
6 this Act, shall establish a pilot program for 3 of the 5
7 States with the largest number of undocumented aliens
8 of an electronic network linking the vital statistics records
9 of such States. The network shall provide, where practical,
10 for the matching of deaths with births and shall enable
11 the confirmation of births and deaths of citizens of such
12 States, or of aliens within such States, by any Federal
13 or State agency or official in the performance of official
14 duties. The Secretary and participating State agencies
15 shall institute measures to achieve uniform and accurate
16 reporting of vital statistics into the pilot program network,
17 to protect the integrity of the registration and certification
18 process, and to prevent fraud against the Government and
19 other persons through the use of false birth or death cer-
20 tificates.

21 (b) REPORT.—Not later than 180 days after the es-
22 tablishment of the pilot program under subsection (a), the
23 Secretary shall issue a written report to Congress with rec-
24 ommendations on how the pilot program could effectively
25 be instituted as a national network for the United States.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for fiscal year 1996 and
3 for subsequent fiscal years such sums as may be necessary
4 to carry out this section.

5 **SEC. 833. COMMUNICATION BETWEEN STATE AND LOCAL**
6 **GOVERNMENT AGENCIES, AND THE IMMIGRA-**
7 **TION AND NATURALIZATION SERVICE.**

8 Notwithstanding any other provision of Federal,
9 State, or local law, no State or local government entity
10 shall prohibit, or in any way restrict, any government en-
11 tity or any official within its jurisdiction from sending to
12 or receiving from the Immigration and Naturalization
13 Service information regarding the immigration status,
14 lawful or unlawful, of an alien in the United States. Not-
15 withstanding any other provision of Federal, State, or
16 local law (and excepting the attorney-client privilege), no
17 State or local government entity may be prohibited, or in
18 any way restricted, from sending to or receiving from the
19 Immigration and Naturalization Service information re-
20 garding the immigration status, lawful or unlawful, of an
21 alien in the United States.

22 **SEC. 834. REGULATIONS REGARDING HABITUAL RESI-**
23 **DENCE.**

24 Not later than 6 months after the date of the enact-
25 ment of this Act, the Commissioner of the Immigration

1 and Naturalization Service shall issue regulations govern-
2 ing rights of “habitual residence” in the United States
3 under the terms of Compacts of Free Association (Public
4 Law 99–239, Public Law 99–658, and Public Law 101–
5 219).

6 **SEC. 835. FEMALE GENITAL MUTILATION.**

7 (a) INFORMATION REGARDING FEMALE GENITAL
8 MUTILATION.—The Immigration and Naturalization
9 Service (in cooperation with the Department of State)
10 shall make available for all aliens who are issued immi-
11 grant or nonimmigrant visas, prior to or at the time of
12 entry into the United States, the following information:

13 (1) Information on the severe harm to physical
14 and psychological health caused by female genital
15 mutilation which is compiled and presented in a
16 manner which is limited to the practice itself and re-
17 spectful to the cultural values of the societies in
18 which such practice takes place.

19 (2) Information concerning potential legal con-
20 sequences in the United States for (A) performing
21 female genital mutilation, or (B) allowing a child
22 under his or her care to be subjected to female geni-
23 tal mutilation, under criminal or child protection
24 statutes or as a form of child abuse.

1 (b) LIMITATION.—In consultation with the Secretary
2 of State, the Commissioner of Immigration and Natu-
3 ralization shall identify those countries in which female
4 genital mutilation is commonly practiced and, to the ex-
5 tent practicable, limit the provision of information under
6 subsection (a) to aliens from such countries.

7 (c) DEFINITION.—For purposes of this section, the
8 term “female genital mutilation” means the removal or
9 infibulation (or both) of the whole or part of the clitoris,
10 the labia minora, or labia majora.

11 **SEC. 836. DESIGNATION OF PORTUGAL AS A VISA WAIVER**
12 **PILOT PROGRAM COUNTRY WITH PROBA-**
13 **TIONARY STATUS.**

14 Notwithstanding any other provision of law, Portugal
15 is designated as a visa waiver pilot program country with
16 probationary status under section 217(g) of the Immigra-
17 tion and Nationality Act for each of the fiscal years 1996,
18 1997, and 1998.

19 **SEC. 837. ADJUSTMENT OF STATUS FOR CERTAIN POLISH**
20 **AND HUNGARIAN PAROLEES.**

21 (a) IN GENERAL.—The Attorney General shall adjust
22 the status of an alien described in subsection (b) to that
23 of an alien lawfully admitted for permanent residence if
24 the alien—

25 (1) applies for such adjustment,

1 (2) has been physically present in the United
2 States for at least 1 year and is physically present
3 in the United States on the date the application for
4 such adjustment is filed,

5 (3) is admissible to the United States as an im-
6 migrant, except as provided in subsection (c), and

7 (4) pays a fee (determined by the Attorney
8 General) for the processing of such application.

9 (b) ALIENS ELIGIBLE FOR ADJUSTMENT OF STA-
10 TUS.—The benefits provided in subsection (a) shall only
11 apply to an alien who—

12 (1) was a national of Poland or Hungary, and

13 (2) was inspected and granted parole into the
14 United States during the period beginning on No-
15 vember 1, 1989, and ending on December 31, 1991,
16 after being denied refugee status.

17 (c) WAIVER OF CERTAIN GROUNDS FOR INADMIS-
18 SIBILITY.—The provisions of paragraphs (4), (5), and
19 (7)(A) of section 212(a) of the Immigration and National-
20 ity Act shall not apply to adjustment of status under this
21 section and the Attorney General may waive any other
22 provision of such section (other than paragraph (2)(C)
23 and subparagraphs (A), (B), (C), or (E) of paragraph (3))
24 with respect to such an adjustment for humanitarian pur-

1 poses, to assure family unity, or when it is otherwise in
2 the public interest.

3 (d) DATE OF APPROVAL.—Upon the approval of such
4 an application for adjustment of status, the Attorney Gen-
5 eral shall create a record of the alien’s admission as a law-
6 ful permanent resident as of the date of the alien’s inspec-
7 tion and parole described in subsection (b)(2).

8 (e) NO OFFSET IN NUMBER OF VISAS AVAILABLE.—
9 When an alien is granted the status of having been law-
10 fully admitted for permanent residence under this section,
11 the Secretary of State shall not be required to reduce the
12 number of immigrant visas authorized to be issued under
13 the Immigration and Nationality Act.

14 **SEC. 838. SUPPORT OF DEMONSTRATION PROJECTS.**

15 (a) IN GENERAL.—The Attorney General shall make
16 available funds under this section, in each of 5 consecutive
17 years (beginning with 1996), to the Immigration and Nat-
18 uralization Service or to other public or private nonprofit
19 entities to support demonstration projects under this sec-
20 tion at 10 sites throughout the United States. Each such
21 project shall be designed to provide for the administration
22 of the oath of allegiance (under section 337(a) of the Im-
23 migration and Nationality Act) on a business day around
24 the 4th of July for approximately 500 people whose appli-
25 cation for naturalization has been approved. Each project

1 shall provide for appropriate outreach and ceremonial and
2 celebratory activities.

3 (b) SELECTION OF SITES.—The Attorney General
4 shall, in the Attorney General’s discretion, select diverse
5 locations for sites on the basis of the number of natu-
6 ralization applicants living in proximity to each site and
7 on the degree of local community participation and sup-
8 port in the project to be held at the site. Not more than
9 2 sites may be located in the same State. The Attorney
10 General should consider changing the sites selected from
11 year to year.

12 (c) AMOUNTS AVAILABLE; USE OF FUNDS.—

13 (1) AMOUNT.—The amount that may be made
14 available under this section with respect to any sin-
15 gle site for a site for a year shall not exceed \$5,000.

16 (2) USE.—Funds provided under this section
17 may only be used to cover expenses incurred carry-
18 ing out symbolic swearing-in ceremonies at the dem-
19 onstration sites, including expenses for—

20 (A) cost of personnel of the Immigration
21 and Naturalization Service (including travel and
22 overtime expenses),

23 (B) local outreach,

24 (C) rental of space, and

1 (D) costs of printing appropriate brochures
2 and other information about the ceremonies.

3 (3) AVAILABILITY OF FUNDS.—Funds that are
4 otherwise available to the Immigration and Natu-
5 ralization Service to carry out naturalization activi-
6 ties (including funds in the Immigration Examina-
7 tions Fee Account, under section 286(n) of the Im-
8 migration and Nationality Act) shall be available
9 under this section.

10 (d) APPLICATION.—In the case of an entity other
11 than the Immigration and Naturalization Service seeking
12 to conduct a demonstration project under this section, no
13 amounts may be made available to the entity under this
14 section unless an appropriate application has been made
15 to, and approved by, the Attorney General, in a form and
16 manner specified by the Attorney General.

17 (e) STATE DEFINED.—In this section, the term
18 “State” has the meaning given such term in section
19 101(a)(36) of the Immigration and Nationality Act (8
20 U.S.C. 1101(a)(36)).

21 **SEC. 839. TREATMENT OF CERTAIN ALIENS WHO SERVED**
22 **WITH SPECIAL GUERRILLA UNITS IN LAOS.**

23 (a) WAIVER OF ENGLISH LANGUAGE REQUIREMENT
24 FOR CERTAIN ALIENS WHO SERVED WITH SPECIAL
25 GUERRILLA UNITS IN LAOS.—The requirement of para-

1 graph (1) of section 312(a) of the Immigration and Na-
2 tionality Act (8 U.S.C. 1423(a)) shall not apply to the nat-
3 uralization of any person who—

4 (1) served with a special guerrilla unit operat-
5 ing from a base in Laos in support of the United
6 States at any time during the period beginning Feb-
7 ruary 28, 1961, and ending September 18, 1978, or

8 (2) is the spouse or widow of a person described
9 in paragraph (1).

10 (b) NATURALIZATION THROUGH SERVICE IN A SPE-
11 CIAL GUERRILLA UNIT IN LAOS.—

12 (1) IN GENERAL.—The first sentence of sub-
13 section (a) and subsection (b) (other than paragraph
14 (3)) of section 329 of the Immigration and National-
15 ity Act (8 U.S.C. 1440) shall apply to an alien who
16 served with a special guerrilla unit operating from a
17 base in Laos in support of the United States at any
18 time during the period beginning February 28,
19 1961, and ending September 18, 1978, in the same
20 manner as they apply to an alien who has served
21 honorably in an active-duty status in the military
22 forces of the United States during the period of the
23 Vietnam hostilities.

1 (2) PROOF.—The Immigration and Naturaliza-
2 tion Service shall verify an alien’s service with a
3 guerrilla unit described in paragraph (1) through—

4 (A) review of refugee processing docu-
5 mentation for the alien,

6 (B) the affidavit of the alien’s superior of-
7 ficer,

8 (C) original documents,

9 (D) two affidavits from persons who were
10 also serving with such a special guerrilla unit
11 and who personally knew of the alien’s service,
12 or

13 (E) other appropriate proof.

14 The Service shall liberally construe the provisions of this
15 subsection to take into account the difficulties inherent in
16 proving service in such a guerrilla unit.

17 **SEC. 840. SENSE OF THE CONGRESS REGARDING THE MIS-**
18 **SION OF THE IMMIGRATION AND NATU-**
19 **RALIZATION SERVICE.**

20 It is the sense of the Congress that the mission state-
21 ment of the Immigration and Naturalization Service of the
22 Department of Justice should include that it is the respon-
23 sibility of the Service to detect, apprehend, and remove
24 those noncitizens whose entry was illegal, whether undocu-
25 mented or fraudulent, and those found to have violated

1 the conditions of their stay, particularly those involved in
2 drug trafficking or other criminal activity.

3 **SEC. 841. AUTHORIZATION OF REIMBURSEMENT OF CER-**
4 **TAIN POLISH APPLICANTS FOR THE 1995 DI-**
5 **VERSITY IMMIGRANT PROGRAM.**

6 (a) IN GENERAL.—After the date of enactment of
7 this Act, the Secretary of State, in consultation with the
8 Commissioner of the Immigration and Naturalization
9 Service, shall establish a process to provide for the reim-
10 bursement of all fees to each national of Poland (other
11 than a national illegally residing in the United States) who
12 was an applicant for the diversity immigrant program for
13 1995 under section 203(e) of the Immigration and Nation-
14 ality Act who did not receive such a visa.

15 (b) FUNDING.—The Secretary of State shall use such
16 funds as may be available at the discretion of the Sec-
17 retary to carry out the purpose of this section.

18 (c) REVIEW.—The Secretary of State shall review the
19 procedures of the Department of State regarding the ad-
20 ministration of the diversity immigrant program to ensure
21 that the erroneous notification which occurred with re-
22 spect to the 1995 diversity immigrant program for Polish
23 residents does not recur.

1 **SEC. 842. SENSE OF CONGRESS; REQUIREMENTS REGARD-**
2 **ING NOTICE.**

3 (a) PURCHASE OF AMERICAN-MADE EQUIPMENT
4 AND PRODUCTS.—It is the sense of the Congress that, to
5 the greatest extent practicable, all equipment and products
6 purchased with funds made available under this Act
7 should be American-made.

8 (b) NOTICE TO RECIPIENTS OF GRANTS.—In provid-
9 ing grants under this Act, the Attorney General, to the
10 greatest extent practicable, shall provide to each recipient
11 of a grant a notice describing the statement made in sub-
12 section (a) by the Congress.

13 **SEC. 843. SENSE OF THE CONGRESS WITH RESPECT TO**
14 **STATE CRIMINAL ALIEN ASSISTANCE PRO-**
15 **GRAM.**

16 (a) FINDINGS.—The Congress finds as follows:

17 (1) Of the \$130,000,000 appropriated in fiscal
18 year 1995 for the State Criminal Alien Assistance
19 Program (SCAAP), the Department of Justice dis-
20 bursed the first \$43,000,000 to States on October 6,
21 1994, 32 days before the 1994 general election, and
22 then failed to disburse the remaining \$87,000,000
23 until January 31, 1996, 123 days after the end of
24 fiscal year 1995.

25 (2) While H.R. 2880, the continuing appropria-
26 tion measure funding certain operations of the Fed-

1 eral Government from January 26, 1996 to March
2 15, 1996, included \$66,000,000 to reimburse States
3 for the cost of incarcerating documented illegal im-
4 migrant felons, the Department of Justice failed to
5 disburse any of the funds to the States during the
6 period of the continuing appropriation.

7 (b) SENSE OF THE CONGRESS.—It is the sense of
8 the Congress that—

9 (1) the Department of Justice was disturbingly
10 slow in disbursing fiscal year 1995 funds under the
11 State Criminal Alien Assistance Program to States
12 after the initial grants were released just prior to
13 the 1994 election; and

14 (2) the Attorney General should make it a high
15 priority to expedite the disbursement of Federal
16 funds intended to reimburse States for the cost of
17 incarcerating illegal immigrants, aiming for all State
18 Criminal Alien Assistance Program funds to be dis-
19 bursed during the fiscal year for which they are ap-
20 propriated.

21 **Subtitle C—Technical Corrections**

22 **SEC. 851. MISCELLANEOUS TECHNICAL CORRECTIONS.**

23 (a) AMENDMENTS RELATING TO PUBLIC LAW 103–
24 322 (VIOLENT CRIME CONTROL AND LAW ENFORCEMENT
25 ACT OF 1994).—

1 (1) Section 60024(1)(F) of the Violent Crime
2 Control and Law Enforcement Act of 1994 (Public
3 Law 103–322) (in this subsection referred to as
4 “VCCLEA”) is amended by inserting “United
5 States Code,” after “title 18,”.

6 (2) Section 130003(b)(3) of VCCLEA is
7 amended by striking “Naturalization” and inserting
8 “Nationality”.

9 (3)(A) Section 214 (8 U.S.C. 1184) is amended
10 by redesignating the subsection (j), added by section
11 130003(b)(2) of VCCLEA (108 Stat. 2025), and the
12 subsection (k), added by section 220(b) of the Immi-
13 gration and Nationality Technical Amendments Act
14 of 1994 (Public Law 103–416, 108 Stat. 4319), as
15 subsections (k) and (l), respectively.

16 (B) Section 101(a)(15)(S) (8 U.S.C.
17 1101(a)(15)(S)) is amended by striking “214(j)”
18 and inserting “214(k)”.

19 (4)(A) Section 245 (8 U.S.C. 1255) is amended
20 by redesignating the subsection (i) added by section
21 130003(c)(1) of VCCLEA as subsection (j).

22 (B) Section 241(a)(2)(A)(i)(I) (8 U.S.C.
23 1251(a)(2)(A)(i)(I)), as amended by section
24 130003(d) of VCCLEA and before redesignation by

1 section 305(a)(2), is amended by striking “245(i)”
2 and inserting “245(j)”.

3 (5) Section 245(j)(3), as added by section
4 130003(c)(1) of VCCLEA and as redesignated by
5 paragraph (4)(A), is amended by striking “para-
6 graphs (1) or (2)” and inserting “paragraph (1) or
7 (2)”.

8 (6) Section 130007(a) of VCCLEA is amended
9 by striking “242A(d)” and inserting “242A(a)(3)”.

10 (7) The amendments made by this subsection
11 shall be effective as if included in the enactment of
12 the VCCLEA.

13 (b) AMENDMENTS RELATING TO IMMIGRATION AND
14 NATIONALITY TECHNICAL CORRECTIONS ACT OF 1994.—

15 (1) Section 101(d) of the Immigration and Na-
16 tionality Technical Corrections Act of 1994 (Public
17 Law 103–416) (in this subsection referred to as
18 “INTCA”) is amended—

19 (A) by striking “APPLICATION” and all
20 that follows through “This” and inserting “AP-
21 PPLICABILITY OF TRANSMISSION REQUIRE-
22 MENTS.—This”;

23 (B) by striking “any residency or other re-
24 tention requirements for” and inserting “the
25 application of any provision of law relating to

1 residence or physical presence in the United
2 States for purposes of transmitting United
3 States”; and

4 (C) by striking “as in effect” and all that
5 follows through the end and inserting “to any
6 person whose claim is based on the amendment
7 made by subsection (a) or through whom such
8 a claim is derived.”.

9 (2) Section 102 of INTCA is amended by add-
10 ing at the end the following new subsection:

11 “(e) TRANSITION.—In applying the amendment made
12 by subsection (a) to children born before November 14,
13 1986, any reference in the matter inserted by such amend-
14 ment to ‘five years, at least two of which’ is deemed a
15 reference to ‘10 years, at least 5 of which’.”.

16 (3) Section 351(a) (8 U.S.C. 1483(a)), as
17 amended by section 105(a)(2)(A) of INTCA, is
18 amended by striking the comma after “nationality”.

19 (4) Section 207(2) of INTCA is amended by in-
20 serting a comma after “specified”.

21 (5) Section 101(a)(43) (8 U.S.C. 1101(a)(43))
22 is amended—

23 (A) in subparagraph (K)(ii), by striking
24 the comma after “1588”, and

1 (B) in subparagraph (O), by striking “sus-
2 picion” and inserting “suspension”.

3 (6) Section 273(b) (8 U.S.C. 1323(b)), as
4 amended by section 209(a) of INTCA, is amended
5 by striking “remain” and inserting “remains”.

6 (7) Section 209(a)(1) of INTCA is amended by
7 striking “\$3000” and inserting “\$3,000”.

8 (8) Section 209(b) of INTCA is amended by
9 striking “subsection” and inserting “section”.

10 (9) Section 217(f) (8 U.S.C. 1187(f)), as
11 amended by section 210 of INTCA, is amended by
12 adding a period at the end.

13 (10) Section 219(cc) of INTCA is amended by
14 striking “ ‘year 1993 the first place it appears’ ”
15 and inserting “ ‘year 1993’ the first place it ap-
16 pears”.

17 (11) Section 219(ee) of INTCA is amended by
18 adding at the end the following new paragraph:

19 “(3) The amendments made by this subsection shall
20 take effect on the date of the enactment of this Act.”.

21 (12) Paragraphs (4) and (6) of section 286(r)
22 (8 U.S.C. 1356(r)) are amended by inserting “the”
23 before “Fund” each place it appears.

24 (13) Section 221 of INTCA is amended—

1 (A) by striking each semicolon and insert-
2 ing a comma,

3 (B) by striking “disasters.” and inserting
4 “disasters,” and

5 (C) by striking “The official” and inserting
6 “the official”.

7 (14) Section 242A (8 U.S.C. 1252a), as added
8 by section 224(a) of INTCA and before redesigna-
9 tion as section 238 by section 308(b)(5), is amended
10 by redesignating subsection (d) as subsection (c).

11 (15) Section 225 of INTCA is amended—

12 (A) by striking “section 242(i)” and in-
13 serting “sections 242(i) and 242A”, and

14 (B) by inserting “, 1252a” after
15 “1252(i)”.

16 (16) Except as otherwise provided in this sub-
17 section, the amendments made by this subsection
18 shall take effect as if included in the enactment of
19 INTCA.

20 (c) STRIKING REFERENCES TO SECTION 210A.—

21 (1)(A) Section 201(b)(1)(C) (8 U.S.C.
22 1151(b)(1)(C)) and section 274B(a)(3)(B) (8 U.S.C.
23 1324b(a)(3)(B)) are each amended by striking “,
24 210A,”.

1 (B) Section 241(a)(1) (8 U.S.C. 1251(a)(1)),
2 before redesignation by section 305(a)(2), is amend-
3 ed by striking subparagraph (F).

4 (2) Sections 204(e)(1)(D)(i) and 204(j)(4) of
5 Immigration Reform and Control Act of 1986 are
6 each amended by striking “, 210A,”.

7 (d) MISCELLANEOUS CHANGES IN THE IMMIGRATION
8 AND NATIONALITY ACT.—

9 (1) Before being amended by section 308(a),
10 the item in the table of contents relating to section
11 242A is amended to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of committing aggra-
vated felonies.”.

12 (2) Section 101(c)(1) (8 U.S.C. 1101(c)(1)) is
13 amended by striking “, 321, and 322” and inserting
14 “and 321”.

15 (3) Pursuant to section 6(b) of Public Law
16 103–272 (108 Stat. 1378)—

17 (A) section 214(f)(1) (8 U.S.C.
18 1184(f)(1)) is amended by striking “section
19 101(3) of the Federal Aviation Act of 1958”
20 and inserting “section 40102(a)(2) of title 49,
21 United States Code”; and

22 (B) section 258(b)(2) (8 U.S.C.
23 1288(b)(2)) is amended by striking “section
24 105 or 106 of the Hazardous Materials Trans-

1 portation Act (49 U.S.C. App. 1804, 1805)”
2 and inserting “section 5103(b), 5104, 5106,
3 5107, or 5110 of title 49, United States Code”.

4 (4) Section 286(h)(1)(A) (8 U.S.C.
5 1356(h)(1)(A)) is amended by inserting a period
6 after “expended”.

7 (5) Section 286(h)(2)(A) (8 U.S.C.
8 1356(h)(2)(A)) is amended—

9 (A) by striking “and” at the end of clause
10 (iv),

11 (B) by moving clauses (v) and (vi) 2 ems
12 to the left,

13 (C) by striking “; and” in clauses (v) and
14 (vi) and inserting “and for”,

15 (D) by striking the colons in clauses (v)
16 and (vi), and

17 (E) by striking the period at the end of
18 clause (v) and inserting “; and”.

19 (6) Section 412(b) (8 U.S.C. 1522(b)) is
20 amended by striking the comma after “is author-
21 ized” in paragraph (3) and after “The Secretary” in
22 paragraph (4).

23 (e) MISCELLANEOUS CHANGE IN THE IMMIGRATION
24 ACT OF 1990.—Section 161(c)(3) of the Immigration Act

1 of 1990 is amended by striking “an an” and inserting “of
2 an”.

3 (f) MISCELLANEOUS CHANGES IN OTHER ACTS.—

4 (1) Section 506(a) of the Intelligence Author-
5 ization Act, Fiscal Year 1990 (Public Law 101–193)
6 is amended by striking “this section” and inserting
7 “such section”.

8 (2) Section 140 of the Foreign Relations Au-
9 thorization Act, Fiscal Years 1994 and 1995, as
10 amended by section 505(2) of Public Law 103–317,
11 is amended—

12 (A) by moving the indentation of sub-
13 sections (f) and (g) 2 ems to the left, and

14 (B) in subsection (g), by striking “(g)”
15 and all that follows through “shall” and insert-
16 ing “(g) Subsections (d) and (e) shall”.

Passed the House of Representatives March 21,
1996.

Attest:

Clerk.