

103^D CONGRESS
1ST SESSION

S. 1358

To amend the Immigration and Nationality Act to improve immigration enforcement and anti-smuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service.

IN THE SENATE OF THE UNITED STATES

AUGUST 4 (legislative day, JUNE 30), 1993

Mr. JOHNSTON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to improve immigration enforcement and anti-smuggling activities, to reform the asylum law, and to authorize appropriations for the Immigration and Naturalization Service.

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 MADE BY ACT;**

4 **TABLE OF CONTENTS.**

5 (a) SHORT TITLE.—This Act may be cited as the
6 “Immigration Enforcement and Asylum Reform Act of
7 1993”.

1 (b) AMENDMENTS TO IMMIGRATION AND NATIONAL-
 2 ITY ACT.—Except as otherwise expressly provided, when-
 3 ever in this Act an amendment or repeal is expressed in
 4 terms of an amendment to, or repeal of, a section or other
 5 provision, the reference shall be considered to be made to
 6 a section or other provision of the Immigration and
 7 Nationality Act.

8 (c) TABLE OF CONTENTS.—The table of contents of
 9 this Act is as follows:

Sec. 1. Short title; amendments made by Act; table of contents.

TITLE I—SMUGGLING AND FRAUD

Sec. 101. Inspection and exclusion by immigration officers.
 Sec. 102. Enhanced penalties for alien smuggling.
 Sec. 103. Effective date.

TITLE II—ASYLUM

Sec. 201. Asylum.
 Sec. 202. Failure to appear for provisional asylum hearing; judicial review.
 Sec. 203. Conforming amendments.
 Sec. 204. Effective dates.

TITLE III—INSPECTIONS

Sec. 301. Preinspection at foreign airports.
 Sec. 302. Expediting airport immigration processing.
 Sec. 303. Visa waiver program.
 Sec. 304. Training of airline personnel in detection of fraudulent documents.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE IMMIGRATION AND NATURALIZATION SERVICE

Sec. 401. Authorization of appropriations for I.N.S. for fiscal years 1994 and
 1995.

10 TITLE I—SMUGGLING AND FRAUD

11 **SEC. 101. INSPECTION AND EXCLUSION BY IMMIGRATION** 12 **OFFICERS.**

13 (a) IN GENERAL.—Section 235(b) (8 U.S.C.
 14 1225(b)) is amended to read as follows:

1 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
2 OFFICERS.—

3 “(1) An immigration officer shall inspect each
4 alien who is seeking entry to the United States.

5 “(2)(A) If the examining immigration officer
6 determines that an alien seeking entry—

7 “(i) does not present the documentation
8 required (if any) to obtain legal entry to the
9 United States; and

10 “(ii) does not indicate either an intention
11 to apply for provisional asylum (under section
12 208) or a fear of persecution,

13 the officer shall order the alien excluded from the
14 United States without further hearing or review.

15 “(B) The examining immigration officer shall
16 refer for immediate inspection at the port of entry
17 by an asylum officer under subparagraph (C) any
18 alien who (i) does not present the documentation re-
19 quired (if any) to obtain legal entry to the United
20 States, and (ii) has indicated an intention to apply
21 for provisional asylum or a fear of persecution.

22 “(C)(i) If an asylum officer determines that an
23 alien has a credible fear of persecution, the alien
24 shall be entitled to apply for provisional asylum
25 under section 208.

1 “(ii)(I) Subject to subclause (II), if an asylum
2 officer determines that an alien does not have a
3 credible fear of persecution the officer shall order
4 the alien excluded from the United States without
5 further hearing or review.

6 “(II) The Attorney General shall promulgate
7 regulations to provide for the immediate review by
8 another asylum officer at the port of entry of a deci-
9 sion under subclause (I).

10 “(iii) For the purposes of this subparagraph,
11 the term ‘credible fear of persecution’ means (I) that
12 it is more probable than not that the statements
13 made by the alien in support of his or her claim are
14 true, and (II) that there is a significant possibility,
15 in light of such statements and of such other facts
16 as are known to the officer that the alien could es-
17 tablish eligibility for provisional asylum under sec-
18 tion 208.

19 “(iv) Notwithstanding any other provision of
20 law, no court shall have jurisdiction to review, except
21 by petition for habeas corpus, any determination
22 made with respect to an alien found excludable pur-
23 suant to this paragraph. In any such case, review by
24 habeas corpus shall be limited to examination of
25 whether the petitioner (I) is an alien, and (II) was

1 ordered excluded from the United States pursuant to
2 this paragraph.

3 “(3)(A) Except as provided in subparagraph
4 (B), if the examining immigration officer determines
5 that an alien seeking entry is not clearly and beyond
6 a doubt entitled to enter, the alien shall be detained
7 for a hearing before a special inquiry officer.

8 “(B) The provisions of subparagraph (A) shall
9 not apply—

10 “(i) to an alien crewman,

11 “(ii) to an alien described in paragraph
12 (2)(A) or 2(C)(ii)(I), or

13 “(iii) if the conditions described in section
14 273(d) exist.

15 “(4) The decision of the examining immigration
16 officer, if favorable to the admission of any alien,
17 shall be subject to challenge by any other immigra-
18 tion officer and such challenge shall operate to take
19 the alien, whose privilege to enter is so challenged,
20 before a special inquiry officer for a hearing on
21 exclusion of the alien.

22 “(5)(A) Subject to subparagraph (B), an alien
23 has not entered the United States for purposes of
24 this Act unless and until such alien has been in-

1 spected and admitted by an immigration officer pur-
2 suant to this subsection.

3 “(B) An alien who (i) is physically present in
4 the United States, (ii) has been physically present in
5 the United States for a continuous period of one
6 year, and (iii) has not been inspected and admitted
7 by an immigration officer shall be deemed to have
8 entered the United States without inspection.”.

9 (b) CONFORMING AMENDMENTS.—Section 237(a) (8
10 U.S.C. 1227(a)) is amended—

11 (1) in the second sentence of paragraph (1) by
12 striking “Deportation” and inserting “Subject to
13 section 235(b)(2), deportation”; and

14 (2) in the first sentence of paragraph (2) by
15 striking “If” and inserting “Subject to section
16 235(b)(2), if”.

17 **SEC. 102. ENHANCED PENALTIES FOR ALIEN SMUGGLING.**

18 (a) ADDITIONAL CRIMINAL PENALTY.—Section
19 274(a)(1) (8 U.S.C. 1324(a)(1)) is amended—

20 (1) by striking “or” at the end of subparagraph
21 (C),

22 (2) by striking the comma at the end of sub-
23 paragraph (D) and inserting “; or”,

24 (3) by inserting after subparagraph (D) the fol-
25 lowing:

1 “(E) contracts or agrees with another party for
2 that party to provide, for employment by the person
3 or another, an alien who is not authorized to be em-
4 ployed in the United States, knowing that such
5 party intends to cause such alien to be brought into
6 the United States in violation of the laws of the
7 United States,” and

8 (4) by striking “five years” and inserting “ten
9 years”.

10 (b) TREATMENT OF SMUGGLING AS AN AGGRAVATED
11 FELONY.—The first sentence of section 101(a)(43) (8
12 U.S.C. 1101(a)(43)) is amended by inserting “or any of-
13 fense under section 274(a)” before “for which the term
14 of imprisonment”.

15 **SEC. 103. EFFECTIVE DATE.**

16 (a) IN GENERAL.—Except as otherwise provided, the
17 amendments made by this title shall take effect on the
18 date of the enactment of this Act and shall apply to aliens
19 who arrive in or seek admission to the United States on
20 or after such date.

21 (b) SMUGGLING.—The amendment made by section
22 102(b) shall apply to offenses for which convictions are
23 entered before, on, or after the date of the enactment of
24 this Act.

1 (c) INTERIM REFERENCE TO PROVISIONAL ASY-
 2 LUM.—Any reference in section 235(b)(2) of the Immigra-
 3 tion and Nationality Act (as amended by section 101(a)
 4 of this Act) to provisional asylum under section 208 of
 5 the Immigration and Nationality Act shall be deemed, be-
 6 fore the effective date of the amendment made by section
 7 201(a), to be a reference to asylum under section 208 of
 8 such Act.

9 TITLE II—ASYLUM

10 **SEC. 201. ASYLUM.**

11 (a) IN GENERAL.—Section 208 (8 U.S.C. 1158) is
 12 amended to read as follows:

13 “ASYLUM

14 “SEC. 208. (a) PROVISIONAL ASYLUM.—

15 “(1) RIGHT TO APPLY.—An alien physically
 16 present in the United States or at a land border or
 17 port of entry, irrespective of such alien’s status, may
 18 apply for provisional asylum in accordance with this
 19 section.

20 “(2) CONDITIONS FOR GRANTING.—

21 “(A) MANDATORY CASES.—The Attorney
 22 General shall grant provisional asylum to an
 23 alien if the alien applies for provisional asylum
 24 in accordance with the requirements of this sec-
 25 tion and establishes that it is more likely than
 26 not that in the alien’s country of nationality

1 (or, in the case of a person having no national-
2 ity, the country in which such alien last habit-
3 ually resided) such alien's life or freedom would
4 be threatened on account of race, religion, na-
5 tionality, membership in a particular social
6 group, or political opinion.

7 “(B) DISCRETIONARY CASES.—The Attor-
8 ney General may grant provisional asylum to an
9 alien if the alien applies for provisional asylum
10 in accordance with the requirements of this sec-
11 tion and establishes that the alien has good rea-
12 son to fear persecution in the alien's country of
13 nationality (or, in the case of a person having
14 no nationality, the country in which such alien
15 last habitually resided) on account of race, reli-
16 gion, nationality, membership in a particular
17 social group, or political opinion.

18 “(C) EXCEPTION.—Subparagraphs (A)
19 and (B) shall not apply to an alien if the
20 Attorney General determines that—

21 “(i) the alien ordered, incited, as-
22 sisted, or otherwise participated in the per-
23 secution of any person on account of race,
24 religion, nationality, membership in a par-
25 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; or

13 “(v) a country willing to accept the
14 alien has been identified (other than the
15 country described in subparagraph (A)) to
16 which the alien can be deported or re-
17 turned and the alien does not establish
18 that it is more likely than not that the
19 alien’s life or freedom would be threatened
20 in such country on account of race, reli-
21 gion, nationality, membership in a particu-
22 lar social group, or political opinion.

23 For purposes of clause (ii), an alien who
24 has been convicted of an aggravated felony shall
25 be considered to have committed a particularly

1 serious crime. The Attorney General shall pro-
2 mulgate regulations that specify additional
3 crimes that will be considered to be a crime de-
4 scribed in clause (ii) or clause (iii). The Attor-
5 ney General shall promulgate regulations estab-
6 lishing such additional limitations and condi-
7 tions as the Attorney General considers appro-
8 priate under which an alien shall be ineligible to
9 apply for provisional asylum under subpara-
10 graph (B).

11 “(3) PROVISIONAL ASYLUM STATUS.—In the
12 case of any alien granted provisional asylum under
13 paragraph (2), the Attorney General, in accordance
14 with this section—

15 “(A) shall not deport or return the alien to
16 the country described under paragraph (2)(A);

17 “(B) shall authorize the alien to engage in
18 employment in the United States and provide
19 the alien with an ‘employment authorized’ en-
20 dorsement or other appropriate work permit;
21 and

22 “(C) may allow the alien to travel abroad
23 with the prior consent of the Attorney General.

24 “(4) TERMINATION.—Provisional asylum grant-
25 ed under paragraph (2) may be terminated if the At-

1 torney General, pursuant to such regulations as the
2 Attorney General may prescribe, determines that—

3 “(A) the alien no longer meets the condi-
4 tions described in paragraph (2) owing to a
5 change in circumstances in the alien’s country
6 of nationality or, in the case of an alien having
7 no nationality, in the country in which the alien
8 last habitually resided;

9 “(B) the alien meets a condition described
10 in paragraph (2)(C); or

11 “(C) a country willing to accept the alien
12 has been identified (other than the country de-
13 scribed in paragraph (2)) to which the alien can
14 be deported or returned and the alien cannot
15 establish that it is more likely than not that the
16 alien’s life or freedom would be threatened in
17 such country on account of race, religion, na-
18 tionality, membership in a particular social
19 group, or political opinion.

20 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
21 the case of an alien described in paragraph (2)(C)(v)
22 or paragraph (4)(C), the alien’s deportation or re-
23 turn shall be directed by the Attorney General in the
24 sole discretion of the Attorney General, to any coun-
25 try which is willing to accept the alien into its terri-

1 tory (other than the country described in paragraph
2 (2)).

3 “(b) PROVISIONAL ASYLUM PROCEDURE.—

4 “(1) APPLICATIONS.—

5 “(A) IN GENERAL.—

6 “(i) DEADLINE.—Subject to clause
7 (ii), an alien’s application for provisional
8 asylum shall not be considered under this
9 section unless—

10 “(I) the alien has filed, not later
11 than 30 days after entering or coming
12 to the United States, notice of inten-
13 tion to file such an application, and

14 “(II) such application is actually
15 filed not later than 60 days after en-
16 tering or coming to the United States.

17 “(ii) EXCEPTION.—An application for
18 provisional asylum may be considered, not-
19 withstanding that the requirements of
20 clause (i) have not been met, only if the
21 alien demonstrates by clear and convincing
22 evidence changed circumstances in the
23 alien’s country of nationality (or in the
24 case of an alien with no nationality, in the
25 country where the alien last habitually re-

1 sided) affecting eligibility for provisional
2 asylum.

3 “(B) REQUIREMENTS.—An application for
4 provisional asylum shall not be considered un-
5 less the alien submits to the taking of finger-
6 prints and a photograph in a manner deter-
7 mined by the Attorney General.

8 “(C) FEES.—The Attorney General may
9 provide for a reasonable fee for the consider-
10 ation of an application for provisional asylum or
11 for any employment authorization under sub-
12 section (a)(3)(B).

13 “(D) NOTICE OF PRIVILEGE OF COUNSEL
14 AND CONSEQUENCES OF FRIVOLOUS APPLICA-
15 TION.—

16 “(i) NOTICE.—At the time of filing a
17 notice of intention to apply for provisional
18 asylum, the alien shall be advised of the
19 privilege of being represented (at no ex-
20 pense to the Government) by such counsel,
21 authorized to practice in such proceedings,
22 as the alien shall choose and of the con-
23 sequences, under subsection (d), of filing a
24 frivolous application for provisional asy-
25 lum.

1 “(ii) PROVISION OF LIST OF COUN-
2 SEL.—The Attorney General shall provide
3 for lists (updated not less often than quar-
4 terly) of persons who have indicated their
5 availability to represent pro bono aliens in
6 provisional asylum proceedings. Such lists
7 shall be provided to the alien at the time
8 of filing of notice of intention to apply for
9 provisional asylum, and otherwise be made
10 generally available.

11 “(2) CONSIDERATION OF APPLICATIONS; HEAR-
12 INGS.—

13 “(A) ASYLUM OFFICERS.—Applications for
14 provisional asylum shall be considered by offi-
15 cers of the Service (referred to in this Act as
16 ‘asylum officers’) who are specially designated
17 by the Service as having special training and
18 knowledge of international conditions and
19 human rights records of foreign countries.
20 Pending the designation of such officers, indi-
21 viduals who as of the date of the enactment of
22 the Immigration Enforcement and Asylum Re-
23 form Act of 1993 are authorized to perform du-
24 ties as asylum officers shall be deemed to be

1 qualified to be asylum officers for purposes of
2 this Act.

3 “(B) SCHEDULING OF HEARINGS.—

4 “(i) IN GENERAL.—Upon the filing of
5 an application for provisional asylum, an
6 asylum officer, at the earliest practicable
7 time and after consultation with the attor-
8 ney for the Government and the attorney
9 (if any) for the applicant, shall set the ap-
10 plication for hearing on a day certain or
11 list it on a weekly or other short-term cal-
12 endar, so as to assure a speedy hearing.

13 “(ii) DEADLINE.—Unless the appli-
14 cant (or an attorney for the applicant) con-
15 sents in writing to the contrary, the hear-
16 ing on the provisional asylum application
17 shall commence not later than 45 days
18 after the date the application was filed.

19 “(C) PUBLIC HEARINGS.—A hearing on a
20 provisional asylum application shall be open to
21 the public unless the applicant requests that it
22 be closed to the public.

23 “(D) RIGHTS IN HEARINGS.—The officer
24 shall conduct the hearing in a nonadversarial
25 manner. During such hearing, the applicant

1 shall have the privilege of the assistance and
2 participation of counsel (as provided under
3 paragraph (1)(D)) and shall be entitled to
4 present evidence and witnesses, to examine and
5 object to evidence presented by the Government,
6 and to cross-examine all witnesses presented by
7 the Government.

8 “(E) COUNTRY CONDITIONS.—An officer
9 may request opinions regarding country condi-
10 tions from the Secretary of State, but shall not
11 request or consider recommendations from the
12 Secretary of State as to whether a particular
13 named individual should or should not be
14 granted provisional asylum.

15 “(F) TRANSCRIPT OF HEARINGS.—A com-
16 plete record of the proceedings and of all testi-
17 mony and evidence produced at the hearing
18 shall be kept. The hearing shall be recorded
19 verbatim. The Attorney General and the Service
20 shall provide that a transcript of a hearing held
21 under this section is made available not later
22 than 10 days after the date of completion of the
23 hearing.

24 “(G) DEADLINE FOR DETERMINATIONS ON
25 APPLICATIONS.—The officer shall render a de-

1 termination on the application not later than 30
2 days after the date of completion of the hear-
3 ing. The determination of the officer shall be
4 based only on the evidence produced at the
5 hearing.

6 “(H) RESOURCE ALLOCATION.—The At-
7 torney General shall allocate sufficient re-
8 sources so as to assure that applications for
9 provisional asylum are heard and determined on
10 a timely basis. However, nothing in this para-
11 graph relating to scheduling or deadlines shall
12 be construed as creating any right or benefit,
13 substantive or procedural, which is legally en-
14 forceable by any party against the United
15 States, its agencies, its officers, or any other
16 person.

17 “(I) SANCTIONS FOR FAILURE TO AP-
18 PEAR.—

19 “(i) Subject to clause (ii), the applica-
20 tion for provisional asylum of an alien who
21 does not appear for a hearing on such ap-
22 plication shall be summarily dismissed un-
23 less the alien can show exceptional cir-
24 cumstances (as defined in section

1 242B(f)(2)) as determined by the asylum
2 officer.

3 “(ii) Clause (i) shall not apply if writ-
4 ten and oral notice were not provided as
5 required by section 242B(e)(4)(B).

6 “(J) FINALITY OF DETERMINATIONS.—

7 “(i) IN GENERAL.—The decision of
8 the asylum officer shall be the final admin-
9 istrative determination of a claim for provi-
10 sional asylum.

11 “(ii) TREATMENT OF CASES IN EX-
12 CLUSION OR DEPORTATION.—If proceed-
13 ings are instituted against an alien under
14 section 235 or 242 of this Act and the
15 alien files an application for provisional
16 asylum based on circumstances described
17 in subsection (b)(1)(A)(ii), the asylum offi-
18 cer shall render, on an expedited basis, a
19 decision on the application.

20 “(c) ASYLUM.—

21 “(1) ADJUSTMENT OF STATUS.—Under such
22 regulations as the Attorney General may prescribe,
23 the Attorney General shall adjust to the status of an
24 alien granted asylum the status of any alien granted
25 provisional asylum under subsection (a)(2)(A) who—

1 “(A) applies for such adjustment;

2 “(B) has been physically present in the
3 United States for at least 1 year after being
4 granted provisional asylum;

5 “(C) continues to be eligible for provisional
6 asylum under this section; and

7 “(D) is admissible under this Act at the
8 time of examination for adjustment of status
9 under this subsection.

10 “(2) TREATMENT OF SPOUSE AND CHIL-
11 DREN.—A spouse or child (as defined in section
12 101(b) (A), (B), (C), (D), or (E)) of an alien whose
13 status is adjusted to that of an alien granted asylum
14 under paragraph (a)(2) may be granted the same
15 status as the alien if accompanying, or following to
16 join, such alien.

17 “(3) APPLICATION FEES.—The Attorney Gen-
18 eral may impose a reasonable fee for the filing of an
19 application for asylum under this subsection.

20 “(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
21 OLOUS APPLICATIONS.—

22 “(1) IN GENERAL.—If the asylum officer deter-
23 mines that an alien has made a frivolous application
24 for provisional asylum under this section and the
25 alien has received the notice under subsection

1 (b)(1)(D)(i), the alien shall be permanently ineligible
2 for any benefits under this Act, effective as of the
3 date of a final determination on such application.

4 “(2) TREATMENT OF MATERIAL MISREPRESENTATIONS.—For purposes of this subsection, an appli-
5 cation considered to be ‘frivolous’ includes, but is
6 not limited to, an application which contains a will-
7 ful misrepresentation or concealment of a material
8 fact.”.

10 (b) CLERICAL AMENDMENT.—The item in the table
11 of contents relating to section 208 is amended to read as
12 follows:

“Sec. 208. Asylum.”.

13 **SEC. 202. FAILURE TO APPEAR FOR PROVISIONAL ASYLUM**
14 **HEARING; JUDICIAL REVIEW.**

15 (a) FAILURE TO APPEAR FOR PROVISIONAL ASYLUM
16 HEARING.—Section 242B(e)(4) (8 U.S.C. 1252b(e)(4)) is
17 amended—

18 (1) in the heading, by striking “ASYLUM” and
19 inserting “PROVISIONAL ASYLUM”;

20 (2) by striking “asylum” each place it appears
21 and inserting “provisional asylum”; and

22 (3) in subparagraph (A), by striking all after
23 clause (iii) and inserting “shall not be eligible for
24 any benefits under this Act.”.

1 (b) JUDICIAL REVIEW.—Section 106 (8 U.S.C.
2 1105a) is amended by adding at the end the following sub-
3 section:

4 “(d) The procedure prescribed by, and all the provi-
5 sions of chapter 158 of title 28, United States Code, shall
6 apply to, and shall be the sole and exclusive procedure for,
7 the judicial review of all final orders granting or denying
8 provisional asylum, except that—

9 “(1) a petition for review may be filed not later
10 than 90 days after the date of the issuance of the
11 final order granting or denying provisional asylum;

12 “(2) the venue of any petition for review under
13 this subsection shall be in the judicial circuit in
14 which the administrative proceedings before an asy-
15 lum officer were conducted in whole or in part, or
16 in the judicial circuit wherein is the residence, as de-
17 fined in this Act, of the petitioner, but not in more
18 than one circuit; and

19 “(3) notwithstanding any other provision of
20 law, a determination granting or denying provisional
21 asylum based on changed circumstances pursuant to
22 section 208(b)(1)(A)(ii) shall be in the sole discre-
23 tion of the asylum officer.”.

1 **SEC. 203. CONFORMING AMENDMENTS.**

2 (a) LIMITATION ON DEPORTATION.—Section 243 (8
3 U.S.C. 1253) is amended by striking subsection (h).

4 (b) ADJUSTMENT OF STATUS.—Section 209(b) (8
5 U.S.C. 1159(b)) is amended—

6 (1) in paragraph (2) by striking “one year” and
7 inserting “2 years”; and

8 (2) by amending paragraph (3) to read as
9 follows:

10 “(3) continues to be eligible for provisional asy-
11 lum under section 208.”.

12 (c) ALIENS INELIGIBLE FOR TEMPORARY PRO-
13 TECTED STATUS.—Section 244A(c)(2)(B)(ii) (8 U.S.C.
14 1254a(c)(2)(B)(ii)) is amended by striking “section
15 243(h)(2)” and inserting “clauses (i), (ii), (iii), or (iv) of
16 section 208(a)(2)(B)”.

17 (d) ELIGIBILITY FOR NATURALIZATION.—Section
18 316(f)(1) (8 U.S.C. 1427(f)(1)) is amended by striking
19 “subparagraphs (A) through (D) of paragraph 243(h)(2)”
20 and inserting “clauses (i), (ii), (iii), or (iv) of section
21 208(a)(2)(B).”.

22 (e) FAMILY UNITY.—Section 301(e) of the Immigra-
23 tion Act of 1990 (P.L. 101–649) is amended by striking
24 “section 243(h)(2)” and inserting “clauses (i), (ii), (iii),
25 or (iv) of section 208(a)(2)(B).”.

1 **SEC. 204. EFFECTIVE DATES.**

2 (a) IN GENERAL.—Except as otherwise provided, the
3 amendments made by this title shall take effect on the
4 date of the enactment of this Act.

5 (b) EXCEPTIONS.—

6 (1) The amendments made by this title shall
7 not apply to applications for asylum or withholding
8 of deportation made before the first day of the first
9 month that begins more than 180 days after the
10 date of the enactment of this Act and no application
11 for provisional asylum under section 208 of the Im-
12 migration and Nationality Act (as amended by sec-
13 tion 201 of this Act) shall be considered before such
14 first day.

15 (2) In applying section 208(b)(1)(A) of the Im-
16 migration and Nationality Act (as amended by this
17 title) in the case of an alien who has entered or
18 came to the United States before the first day de-
19 scribed in paragraph (1), notwithstanding the dead-
20 lines specified in such section—

21 (A) the deadline for the filing of a notice
22 of intention to file an application for provisional
23 asylum is 30 days after such first day, and

24 (B) the deadline for the filing of the appli-
25 cation for provisional asylum is 30 days after
26 the date of filing such notice.

1 (3) The amendments made by section 203(b)
2 (relating to adjustment of status) shall not apply to
3 aliens granted asylum under section 208 of the Im-
4 migration and Nationality Act, as in effect before
5 the date of the enactment of this Act.

6 TITLE III—INSPECTIONS

7 **SEC. 301. PREINSPECTION AT FOREIGN AIRPORTS.**

8 (a) IN GENERAL.—The Immigration and Nationality
9 Act is amended by inserting after section 235 the following
10 new section:

11 “PREINSPECTION AT FOREIGN AIRPORTS
12 “SEC. 235A. (a) ESTABLISHMENT OF ADDITIONAL
13 PREINSPECTION STATIONS AT HIGH VOLUME AIR-
14 PORTS.—Subject to subsection (c), not later than 2 years
15 after the date of the enactment of this section, the Attor-
16 ney General, in consultation with the Secretary of State,
17 shall establish and maintain preinspection stations in at
18 least 3 of the foreign airports that are among the 10 for-
19 eign airports which the Attorney General identifies as
20 serving as last points of departure for the greatest num-
21 bers of passengers who arrive from abroad by air at ports
22 of entry within the United States. Such preinspection sta-
23 tions shall be in addition to any preinspection stations es-
24 tablished or authorized to be established prior to the date
25 of the enactment of this section.

1 “(b) ESTABLISHMENT OF ADDITIONAL
2 PREINSPECTION STATIONS AT CERTAIN FOREIGN AIR-
3 PORTS FROM WHICH UNDOCUMENTED ALIENS DEPART
4 FOR THE UNITED STATES.—

5 “(1) REPORTS TO CONGRESS.—Not later than
6 November 1, 1993, and each subsequent November
7 1, the Attorney General shall compile and submit to
8 the Committee on the Judiciary of the House of
9 Representatives and the Committee on the Judiciary
10 of the Senate a report identifying the foreign air-
11 ports which served as last points of departure for
12 aliens who arrived by air at United States ports of
13 entry without valid documentation during the pre-
14 ceding fiscal year. Such report shall indicate the
15 number and nationality of such aliens arriving from
16 each such foreign airport.

17 “(2) ESTABLISHMENT OF ADDITIONAL
18 PREINSPECTION STATIONS.—Subject to subsection
19 (c), not later than November 1, 1995, the Attorney
20 General, in consultation with the Secretary of State,
21 shall establish preinspection stations in at least 3 of
22 the foreign airports that are among the 10 foreign
23 airports identified in the first report submitted
24 under paragraph (1) as serving as the last points of
25 departure for the greatest number of aliens who ar-

1 rive from abroad by air at points of entry within the
2 United States without valid documentation. Such
3 preinspection stations shall be in addition to any
4 preinspection stations established or authorized to be
5 established either under subsection (a) or prior to
6 the date of the enactment of this section.

7 “(3) ESTABLISHMENT OF CARRIER CONSULT-
8 ANT PROGRAM.—The Attorney General shall assign
9 additional immigration officers to any foreign air-
10 port identified in the first report submitted under
11 paragraph (1) which served as a point of departure
12 for a significant number of arrivals at United States
13 ports of entry without valid documentation, but
14 where no preinspection station is established.

15 “(c) CONDITIONS FOR ESTABLISHMENT OF
16 PREINSPECTION.—Prior to the establishment of a
17 preinspection station the Attorney General, in consultation
18 with the Secretary of State, shall ensure that—

19 “(1) employees of the United States stationed
20 at the preinspection station and their accompanying
21 family members will receive appropriate protection,

22 “(2) such employees and their families will not
23 be subject to unreasonable risks to their welfare and
24 safety, and

1 “(3) the country in which the preinspection sta-
2 tion is to be established maintains practices and pro-
3 cedures with respect to asylum seekers and refugees
4 in accordance with the Convention Relating to the
5 Status of Refugees (done at Geneva, July 28, 1951)
6 or the Protocol Relating to the Status of Refugees
7 (done at New York, January 31, 1967).”.

8 (b) CLERICAL AMENDMENT.—The table of contents
9 is amended by inserting after the item relating to section
10 235 the following new item:

 “Sec. 235A. Preinspection at foreign airports.”.

11 **SEC. 302. EXPEDITING AIRPORT IMMIGRATION PROCESS-**
12 **ING.**

13 (a) PASSENGER MANIFESTS.—

14 (1) ELECTRONIC PASSENGER MANIFESTS.—Sec-
15 tion 231(a) (8 U.S.C. 1221(a)) is amended in the
16 first sentence by striking “typewritten” and insert-
17 ing “electronic, typewritten,”.

18 (2) INFORMATION CONTAINED IN PASSENGER
19 MANIFEST.—Section 231(a) (8 U.S.C. 1221(a)) is
20 further amended by inserting immediately before the
21 period at the end of the second sentence “, except
22 that regulations concerning the information con-
23 tained in such lists may not require information
24 other than the full name, date of birth, passport
25 number, and citizenship of the person transported,

1 and information identifying the flight on which the
2 person was transported”.

3 (b) INSPECTION BY IMMIGRATION OFFICERS.—Sec-
4 tion 235(a) (8 U.S.C. 1225(a)) is amended by adding
5 after the second sentence the following: “Except as the
6 Attorney General may provide, nothing in this section
7 shall be construed as requiring a personal interview in the
8 conduct of an examination or inspection.”.

9 (c) EXPEDITED PROCESS FOR THE INSPECTION OF
10 CITIZENS.—

11 (1) IN GENERAL.—Section 235A, as inserted by
12 section 301(a) of this Act, is amended—

13 (A) in the heading, by adding at the end
14 the following: “; EXPEDITED PROCESS FOR THE
15 INSPECTION OF CITIZENS”, and

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

18 “(d) EXPEDITED PROCESS FOR THE INSPECTION OF
19 CITIZENS.—Not later than 90 days after the date of the
20 enactment of this section, the Attorney General shall im-
21 plement an expedited process for the inspection of United
22 States citizens upon arrival from abroad by air at ports
23 of entry within the United States. An expedited process
24 shall be maintained except during a national or airport

1 specific security emergency as determined by the Attorney
2 General.”.

3 (2) CLERICAL AMENDMENT.—The item in the
4 table of contents relating to section 235A, as in-
5 serted by section 301(b) of this Act, is amended to
6 read as follows:

“Sec. 235A. Preinspection at foreign airports; expedited process for the inspec-
tion of citizens.”.

7 **SEC. 303. VISA WAIVER PROGRAM.**

8 (a) PERMANENCY OF PROGRAM.—Section 217 (8
9 U.S.C. 1187) is amended—

10 (1) by amending the section heading to read as
11 follows:

12 “VISA WAIVER PROGRAM FOR CERTAIN VISITORS”;

13 (2) in the heading of subsection (a), (a)(2), and
14 (c) by striking “PILOT” and “PILOT” each place ei-
15 ther appears and inserting “VISA WAIVER” and
16 “VISA WAIVER”, respectively;

17 (3) by striking “pilot” each place it appears
18 and inserting “visa waiver”;

19 (4) in subsection (a)(1) by striking “during the
20 pilot program period (as defined in subsection (e)),”;

21 (5) in subsection (c)(3) by striking “(within the
22 pilot program period) after the initial period”;

23 (6) in subsection (c) by striking paragraph (4);

1 (7) in subsection (e)(1)(A) by striking
2 “(a)(1)(A)” and inserting “(a)(1)”; and
3 (8) by striking subsection (f).

4 (b) ELIMINATION OF REQUIREMENT FOR EXECU-
5 TION OF IMMIGRATION FORMS.—Section 217 is further
6 amended—

7 (1) in subsection (a) by striking paragraph (3);
8 (2) in subsection (a) by redesignating para-
9 graphs (4) through (7) as paragraphs (3) through
10 (6); and

11 (3) in subsection (e)(1) by striking “subsection
12 (a)(4)” and inserting “subsection (a)(3)”.

13 (c) EXCLUSION AND DEPORTATION OF APPLICANTS
14 FOR ADMISSION UNDER VISA WAIVER PROGRAM.—Sec-
15 tion 217(b) (8 U.S.C. 1187(b)) is amended to read as fol-
16 lows:

17 “(b) EXCLUSION AND DEPORTATION OF APPLICANTS
18 FOR ADMISSION UNDER VISA WAIVER PROGRAM.—

19 “(1) EXCLUSION.—

20 “(A) An immigration officer’s determina-
21 tion that an applicant for admission under this
22 section is not clearly and beyond a doubt enti-
23 tled to land shall constitute a final order of ex-
24 clusion and deportation, enforceable pursuant
25 to section 237. Pending such a determination,

1 the Attorney General may maintain such appli-
2 cant in custody.

3 “(B) The procedure described in section
4 236 shall not apply to an order issued under
5 this paragraph.

6 “(2) DEPORTATION.—

7 “(A) Notwithstanding any other provision
8 of law, an alien admitted to the United States
9 under this section who is determined, pursuant
10 to such regulations as the Attorney General
11 shall prescribe, to be subject to deportation
12 shall be deported pursuant to section 243. An
13 immigration officer’s determination under this
14 subsection shall constitute a final order of de-
15 portation. Pending such determination, the At-
16 torney General may maintain such alien in
17 custody.

18 “(B) The procedure described in section
19 242 shall not apply to an order issued under
20 this paragraph.

21 “(3) REVIEW.—Notwithstanding any other pro-
22 vision of law or the failure of a carrier to provide the
23 notice described in subsection (e)(1)(D), an alien
24 who applies for admission to the United States
25 under this section shall not be entitled—

1 “(A) to review or appeal under this Act of
2 an immigration officer’s determination as to the
3 admissibility of the alien at the port of entry
4 into the United States, or

5 “(B) subject to paragraph (4), to contest
6 an immigration officer’s determination under
7 paragraph (2).

8 “(4) ASYLUM.—The Attorney General shall es-
9 tablish a procedure for an alien who is applying for
10 admission under this section or who has been admit-
11 ted under this section to apply for provisional asy-
12 lum under section 208.

13 “(5) TREATMENT OF NATIONALS OF VISA WAIV-
14 ER COUNTRIES.—An alien who—

15 “(A) is a national of a visa waiver program
16 country or claims to be a national of a visa
17 waiver country, and

18 “(B) is not in possession of a valid visa,
19 shall be considered to be an applicant for ad-
20 mission under this section.”.

21 (d) CARRIER AGREEMENTS.—Section 217(e)(1) (8
22 U.S.C. 1187(e)(1)) is amended—

23 (1) in subparagraph (B) by striking “and”;

24 (2) in subparagraph (C) by striking the period
25 at the end and inserting “; and”; and

1 (3) by inserting after subparagraph (C) the fol-
2 lowing new subparagraph:

3 “(D) to provide passengers applying for
4 admission to the United States under this sec-
5 tion with written notification that they are not
6 entitled (i) to any appeal or review of an immi-
7 gration officer’s determination of admissibility,
8 or (ii) to contest any action for deportation.”.

9 (e) CLERICAL AMENDMENT.—The item in the table
10 of contents relating to section 217 is amended to read as
11 follows:

“Sec. 217. Visa waiver program for certain visitors.”.

12 **SEC. 304. TRAINING OF AIRLINE PERSONNEL IN DETEC-**
13 **TION OF FRAUDULENT DOCUMENTS.**

14 (a) USE OF FUNDS.—Section 286(h)(2)(A) (8 U.S.C.
15 1356(h)(2)(A)) is amended—

16 (1) in clause (iv), by inserting “, including
17 training of, and technical assistance to, commercial
18 airline personnel on such detection” after “United
19 States”, and

20 (2) by adding at the end the following:

21 “The Attorney General shall provide for expenditures for
22 training and assistance described in clause (iv) in an
23 amount, for any fiscal year, not less than 5 percent of
24 the total of the expenses incurred that are described in
25 the previous sentence.”.

1 (b) COMPLIANCE WITH DETECTION REGULA-
2 TIONS.—Section 212(f) (8 U.S.C. 1182(f)) is amended by
3 adding at the end the following: “Whenever the Attorney
4 General finds that a commercial airline has failed to com-
5 ply with regulations of the Attorney General relating to
6 requirements of airlines for the detection of fraudulent
7 documents used by passengers traveling to the United
8 States (including the training of personnel in such detec-
9 tion), the Attorney General may suspend the entry of some
10 or all aliens transported to the United States by such air-
11 line.”.

12 (c) EFFECTIVE DATES.—

13 (1) The amendments made by subsection (a)
14 shall apply to expenses incurred during or after fis-
15 cal year 1994.

16 (2) The Attorney General shall first issue, in
17 proposed form, regulations referred to in the second
18 sentence of section 212(f) of the Immigration and
19 Nationality Act, as added by the amendment made
20 by subsection (b), by not later than 90 days after
21 the date of the enactment of this Act.

1 TITLE IV—AUTHORIZATION OF APPROPRIA-
2 TIONS FOR THE IMMIGRATION AND NATU-
3 RALIZATION SERVICE

4 **SEC. 401. AUTHORIZATION OF APPROPRIATIONS FOR I.N.S.**
5 **FOR FISCAL YEARS 1994 AND 1995.**

6 (a) IN GENERAL.—There are authorized to be appro-
7 priated for the Immigration and Naturalization Service—

8 (1) for fiscal year 1994, \$1,082,038,100, of
9 which \$413,224,900 are authorized to be appro-
10 priated for the operation of the Border Patrol and
11 \$27,434,000 are authorized to be appropriated for
12 anti-smuggling activities; and

13 (2) for fiscal year 1995, \$1,154,885,900, of
14 which \$454,547,000 are authorized to be appro-
15 priated for the operation of the Border Patrol and
16 \$31,277,400 are authorized to be appropriated for
17 anti-smuggling activities.

18 Of the amounts authorized to be appropriated under this
19 subsection, such sums as may be necessary are authorized
20 to be available to provide by October 1, 1996, for not less
21 than a 100 percent increase in the average number of asy-
22 lum officers from the period for fiscal year 1993.

23 (b) ACTIVITIES INCLUDED.—The amounts provided
24 pursuant to subsection (a) for a fiscal year include—

1 (1) funds for the purchase for police-type use of
2 passenger motor vehicles, without regard to the gen-
3 eral purchase price limit for the fiscal year involved,
4 and for the hire of passenger motor vehicles;

5 (2) funds for the acquisition, lease, mainte-
6 nance, and operation of aircraft;

7 (3) funds for the purchase of uniforms without
8 regard to the general purchase price limitation for
9 the fiscal year involved;

10 (4) not to exceed \$50,000 to meet unforeseen
11 emergencies of a confidential character to be ex-
12 pended under the direction of the Attorney General
13 and to be accounted for solely on the certificate of
14 the Attorney General; and

15 (5) not to exceed \$500,000 of those sums ap-
16 propriated for research and \$17,188,000 of those
17 funds appropriated for construction, which amounts
18 shall remain available until expended.

19 (c) LIMITATION ON OVERTIME.—None of the funds
20 available to the Immigration and Naturalization Service
21 under this section shall be available for administrative ex-
22 penses to pay any employee overtime pay in an amount
23 in excess of \$25,000 for a fiscal year involved.

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