

103D CONGRESS  
2D SESSION

# S. 2197

To amend the Immigration and Nationality Act to control illegal immigration to the United States, reduce incentives for illegal immigration, reform asylum procedures, strengthen criminal penalties for the smuggling of aliens, and reform other procedures.

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## IN THE SENATE OF THE UNITED STATES

JUNE 15 (legislative day, JUNE 7), 1994

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

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# A BILL

To amend the Immigration and Nationality Act to control illegal immigration to the United States, reduce incentives for illegal immigration, reform asylum procedures, strengthen criminal penalties for the smuggling of aliens, and reform other procedures.

1       *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Illegal Immigration  
5 Control and Enforcement Act of 1994”.

6 **SEC. 2. TABLE OF CONTENTS.**

7       The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

## TITLE I—ILLEGAL IMMIGRATION CONTROL AND ENFORCEMENT

### PART A—EXPANDED BORDER PATROL, SUPPORT, TRAINING, AND RESOURCES

Sec. 111. Border patrol expansion and deployment.

Sec. 112. Hiring preference for bilingual border patrol agents.

Sec. 113. Improved border patrol training.

Sec. 114. Technology and equipment transfer to the Department of Justice.

### PART B—EXPANDED BORDER INSPECTION PERSONNEL, SUPPORT, AND FACILITIES

Sec. 121. Additional land border inspectors.

Sec. 122. Improvement of border crossing infrastructure.

### PART C—DETENTION AND DEPORTATION

Sec. 131. Enhancing penalties for failing to depart, or reentering, after final order of deportation.

Sec. 132. Civil penalties for failure to depart.

Sec. 133. Form of deportation hearings.

Sec. 134. Interior repatriation and multiple reentry deterrence pilot program.

Sec. 135. Judicial review.

Sec. 136. Communications between federally funded government agencies and the Immigration and Naturalization Service.

### PART D—ENHANCED CRIMINAL ALIEN DEPORTATION AND TRANSFER

Sec. 141. Expansion in definition of “aggravated felony”.

Sec. 142. Deportation procedures for certain criminal aliens who are not permanent residents.

Sec. 143. Judicial deportation.

Sec. 144. Restricting defenses to deportation for certain criminal aliens.

Sec. 145. Construction of expedited deportation requirements.

Sec. 146. Negotiations for international agreements.

Sec. 147. Denial of discretionary relief to aliens convicted of aggravated felonies.

Sec. 148. Annual report.

Sec. 149. Use of legalization information for criminal prosecution purposes.

## TITLE II—ILLEGAL IMMIGRATION INCENTIVE REDUCTION

### PART A—PUBLIC BENEFITS CONTROL

Sec. 211. Ineligibility for certain direct Federal benefits.

Sec. 212. Limits on benefits to sponsored immigrants.

Sec. 213. Sponsorship enhancement.

Sec. 214. Authority to States and localities to limit assistance to aliens and to distinguish among classes of aliens in providing general public assistance.

### PART B—EMPLOYER SANCTIONS SUPPORT

Sec. 221. Additional Immigration and Naturalization Service investigators.

#### PART C—ENHANCED WAGE AND HOUR LAWS

- Sec. 231. Increased personnel levels for the labor department.
- Sec. 232. Increased number of assistant United States attorneys.

#### PART D—AUTHORIZATION VERIFICATION

- Sec. 241. Work authorization verification.

### TITLE III—ENHANCED SMUGGLING CONTROL AND PENALTIES

- Sec. 301. Increased penalties for alien smuggling.
- Sec. 302. Death penalty procedures.
- Sec. 303. Smuggling aliens for commission of crimes.
- Sec. 304. Adding alien smuggling to RICO.
- Sec. 305. Expanded forfeiture for smuggling or harboring illegal aliens.
- Sec. 306. Wiretap authority for alien smuggling investigations.
- Sec. 307. Effective date.

### TITLE IV—ADMISSIONS AND DOCUMENT FRAUD CONTROL

#### PART A—PORT OF ENTRY INSPECTIONS

- Sec. 411. Restrictions on admissions fraud.
- Sec. 412. Special port of entry exclusion for admissions fraud.
- Sec. 413. Judicial review.
- Sec. 414. Effective date.

#### PART B—ENHANCED PENALTIES

- Sec. 421. Increased penalties for document fraud.
- Sec. 422. Penalties for failure to disclose role as preparer of fraudulent documents.
- Sec. 423. Civil penalties for fraud, misrepresentation, and failure to present documents.
- Sec. 424. Effective date.

### TITLE V—ASYLUM REFORM

- Sec. 501. Penalties for frivolous applications.
- Sec. 502. Asylum and work authorization.
- Sec. 503. Resources to address asylum backlog.
- Sec. 504. Reduction of incentive to delay proceedings.
- Sec. 505. Partial revocation of Executive order.

### TITLE VI—BORDER CROSSING USER FEE

- Sec. 601. Imposition of fees.

## **1 TITLE I—ILLEGAL IMMIGRATION 2 CONTROL AND ENFORCEMENT**

## **3 PART A—EXPANDED BORDER PATROL, SUPPORT, 4 TRAINING, AND RESOURCES**

## 5 SEC. 111. BORDER PATROL EXPANSION AND DEPLOYMENT.

6       (a) INCREASED PERSONNEL.—The Attorney General,  
7 in each of the fiscal years 1995, 1996, and 1997 shall  
8 increase by no fewer than 700, and by an appropriate  
9 amount the number of personnel needed to support, the  
10 number of full-time, active-duty Border Patrol agents  
11 within the Immigration and Naturalization Service above  
12 the numbers of such agents hired in fiscal year 1994.

13       (b) DEPLOYMENT OF PERSONNEL.—The Attorney  
14 General shall, to the maximum extent practicable, ensure  
15 that the personnel hired pursuant to subsection (a) shall  
16 be deployed among the various Immigration and Natu-  
17 ralization Service sectors in proportion to the level of ille-  
18 gal intrusion measured in each sector during the preceding  
19 fiscal year, and shall be actively engaged in (or in support  
20 of) law enforcement activities related to the illegal crossing  
21 of the United States' borders.

**22 SEC. 112. HIRING PREFERENCE FOR BILINGUAL BORDER  
23 PATROL AGENTS.**

24 The Attorney General shall, in hiring the Border Pa-  
25 trol Agents specified in section 111(a), give priority to the

1 employment of multilingual candidates who are proficient  
2 in both English and such other language or languages as  
3 may be spoken in the region in which such Agents are  
4 likely to be deployed.

5 **SEC. 113. IMPROVED BORDER PATROL TRAINING.**

6 (a) IMPROVEMENT.—Section 103 of the Immigration  
7 and Nationality Act (8 U.S.C. 1103) is amended by add-  
8 ing at the end the following new subsection:

9 “(e)(1) The Attorney General shall ensure that all  
10 Border Patrol personnel, and any other personnel of the  
11 Service who are likely to have contact with undocumented  
12 or improperly documented persons, or other immigrants,  
13 in the course of their official duties, receive in-service  
14 training adequate to ensure that all such personnel respect  
15 the civil rights, personal safety, and human dignity of such  
16 persons at all times.

17 “(2) The Attorney General shall ensure that the an-  
18 nual report to Congress of the Service—

19 “(A) describes in detail actions taken by the At-  
20 torney General to meet the requirement set forth in  
21 paragraph (1);

22 “(B) incorporates specific findings by the Attor-  
23 ney General with respect to the nature and scope of  
24 any verified incident of conduct by Border Patrol  
25 personnel that—

1               “(i) was not consistent with paragraph (1);

2               and

3               “(ii) was not described in a previous an-  
4               nual report; and

5               “(C) sets forth specific recommendations for  
6               preventing any similar incident in the future.”.

7       **SEC. 114. TECHNOLOGY AND EQUIPMENT TRANSFER TO**

8               **THE DEPARTMENT OF JUSTICE.**

9               In order to facilitate or improve the detection, inter-  
10 diction, and reduction by the Immigration and Naturaliza-  
11 tion Service of illegal immigration into the United States,  
12 the Attorney General is authorized to acquire and utilize  
13 any Federal equipment (including, but not limited to, fixed  
14 wing aircraft, helicopters, four-wheel drive vehicles, se-  
15 dans, night vision goggles, night vision scopes, and sensor  
16 units) determined available for transfer to the Department  
17 of Justice by any other agency of the Federal Government  
18 upon request of the Attorney General.

19       **PART B—EXPANDED BORDER INSPECTION**

20       **PERSONNEL, SUPPORT, AND FACILITIES**

21       **SEC. 121. ADDITIONAL LAND BORDER INSPECTORS.**

22               (a) INCREASED PERSONNEL.—In order to eliminate  
23 undue delay in the thorough inspection of persons and ve-  
24 hicles lawfully attempting to enter the United States, the  
25 Attorney General and Secretary of the Treasury shall in-

1 crease, by approximately equal numbers in each of the fis-  
2 cal years 1995 and 1996, the number of full-time land  
3 border inspectors assigned to active duty by the Immigra-  
4 tion and Naturalization Service and the United States  
5 Customs Service to a level adequate to assure full staffing  
6 of all border crossing lanes now in use, under construction,  
7 or whose construction has been authorized by Congress.

8 (b) DEPLOYMENT OF PERSONNEL.—The Attorney  
9 General and the Secretary of the Treasury shall, to the  
10 maximum extent practicable, ensure that the personnel  
11 hired pursuant to subsection (a) shall be deployed among  
12 the various Immigration and Naturalization Service sec-  
13 tors in proportion to the number of land border crossings  
14 measured in each such sector during the preceding fiscal  
15 year.

16 **SEC. 122. IMPROVEMENT OF BORDER CROSSING INFRA-**  
17 **STRUCTURE.**

18 (a) IDENTIFICATION OF NECESSARY IMPROVE-  
19 MENTS.—Not later than March 1, 1995, the Attorney  
20 General shall, in consultation with the Secretary of the  
21 Treasury, identify those physical improvements to the in-  
22 frastructure of the international land borders of the  
23 United States necessary to expedite the inspection of per-  
24 sons and vehicles attempting to lawfully enter the United  
25 States in accordance with existing policies and procedures

1 of the Immigration and Naturalization Service, the United  
2 States Customs Service, and the Drug Enforcement  
3 Agency.

4 (b) IMPLEMENTATION OF RECOMMENDATIONS.—Not  
5 later than March 1, 1995, the Attorney General shall  
6 begin implementation of the projects (or securing any nec-  
7 essary approval) for the physical improvements referred  
8 to in subsection (a). Such improvements to the infrastruc-  
9 ture of the land border of the United States shall be sub-  
10 stantially completed and fully funded in those portions of  
11 the country where the Attorney General, in consultation  
12 with the Committees on the Judiciary of the House of  
13 Representatives and the Senate, objectively determines the  
14 need to be greatest before the Attorney General may obli-  
15 gate funds for construction of any improvement otherwise  
16 located.

17 **PART C—DETENTION AND DEPORTATION**

18 **SEC. 131. ENHANCING PENALTIES FOR FAILING TO DE-**  
19 **PART, OR REENTERING, AFTER FINAL ORDER**  
20 **OF DEPORTATION.**

21 (a) FAILURE To DEPART.—Section 242(e) of the  
22 Immigration and Nationality Act (8 U.S.C. 1252(e)) is  
23 amended—

24 (1) by striking “by reason of being a member  
25 of any of the classes described in paragraph (2), (3),

1        or (4) of section 241(a)" the first time it appears  
2        and inserting "by reason of being a member of any  
3        of the classes described in section 212(a) or 241(a)";  
4        and

5                (2) by striking "shall be imprisoned not more  
6        than ten years" and inserting "shall be imprisoned  
7        not more than 4 years, except that if the alien is a  
8        member of any of the classes described in paragraph  
9        (1)(E), (2), (3), or (4) of section 241(a) then the  
10      alien shall be imprisoned not more than 10 years".

11                (b) REENTRY.—Section 276(b) of the Immigration  
12      and Nationality Act (8 U.S.C. 1326(b)) is amended—

13                (1) in paragraph (1)—

14                        (A) by inserting after "commission of" the  
15        following: "three or more misdemeanors involv-  
16        ing drugs, crimes against the person, or both,  
17        or"; and

18                        (B) striking "5" and inserting "10"; and

19                (2) in paragraph (2), by striking "15" and in-  
20        serting "20", and

21                (3) by adding at the end the following sentence:  
22        "For the purposes of this subsection, the term 'deporta-  
23        tion' includes any agreement in which an alien stipulates  
24        to deportation during a criminal trial under either Federal  
25        or State law.".

1       (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-  
2 TATION ORDER.—Section 276 of the Immigration and Na-  
3 tionality Act (8 U.S.C. 1326) is amended by adding at  
4 the end the following new subsection:

5       “(c) In any criminal proceeding under this section,  
6 an alien may not challenge the validity of the deportation  
7 order described in subsection (a)(1) or subsection (b) un-  
8 less the alien demonstrates that—

9           “(1) the alien has exhausted any administrative  
10 remedies that may have been available to seek relief  
11 against such order;

12           “(2) the deportation proceedings at which the  
13 order was issued improperly deprived the alien of the  
14 opportunity for judicial review; and

15           “(3) the entry of the order was fundamentally  
16 unfair.”.

17       (d) EFFECTIVE DATE.—The amendments made by  
18 subsections (a) and (b) shall apply with respect to offenses  
19 occurring after the date of enactment of this Act.

20 **SEC. 132. CIVIL PENALTIES FOR FAILURE TO DEPART.**

21       (a) IN GENERAL.—Section 274C of the Immigration  
22 and Nationality Act (8 U.S.C. 1324c) is amended—

23           (1) by amending the section heading to read as  
24 follows:

1       “PENALTIES FOR DOCUMENT FRAUD, FAILURE TO  
2       DEPART, AND FAILURE TO PRESENT DOCUMENTS”;

3           (2) in subsection (a)—

4              (A) by striking “or” at the end of para-  
5       graph (3);

6              (B) by striking the period at the end of  
7       paragraph (4) and inserting “; or”; and

8              (C) by adding at the end the following new  
9       paragraph:

10       “(5) if such person is an alien—

11              “(A) to fail or refuse to depart from the  
12       United States by the date that final,  
13       unappealable orders of exclusion and deporta-  
14       tion or deportation become effective against  
15       such person; or

16              “(B) to fail or refuse to voluntarily depart  
17       the United States by the date granted by the  
18       Attorney General in lieu of a final,  
19       unappealable order of deportation.”;

20       (3) in subsection (c), by inserting before the pe-  
21       riod the following: “or in section 237 or section 242  
22       of this Act”;

23       (4) in subsection (d)(3)—

24              (A) by striking “or” at the end of subpara-  
25       graph (A);

1                             (B) by striking the period at the end of  
2                              subparagraph (B) and inserting “, or”; and

3                             (C) by adding at the end the following new  
4                              subparagraph:

5                             “(C) up to \$500 for each day that an alien  
6                             is in violation of subsection (a)(5)”;

7                             (5) by inserting at the end the following new  
8                             subsection:

9                             “(e) DEFINITION.—For the purposes of this section,  
10                             the term ‘final, unappealable order of deportation’ means  
11                             any order of exclusion and deportation or deportation is-  
12                             sued by the Attorney General that has not been adminis-  
13                             tratively or judicially appealed within the deadlines estab-  
14                             lished by this Act or regulations thereunder, or any such  
15                             order the judicial appeal of which has been denied, and  
16                             which denial has become final.”.

17                             (b) AMENDMENT TO THE TABLE OF CONTENTS.—  
18                             The table of contents for the Immigration and Nationality  
19                             Act is amended by amending the item relating to section  
20                             274C to read as follows:

“Sec. 274C. Civil penalties for failure to depart.”.

21                             (c) EFFECTIVE DATE.—The amendments made by  
22                             subsection (a) shall apply to violations occurring after the  
23                             date of enactment of this Act.

1   **SEC. 133. FORM OF DEPORTATION HEARINGS.**

2         The second sentence of section 242(b) of the Immig-  
3     ration and Nationality Act (8 U.S.C. 1252(b)) is amend-  
4     ed by inserting before the period the following: “, except  
5     that nothing in this sentence precludes the Attorney Gen-  
6     eral from authorizing proceedings by electronic or tele-  
7     phonic media (with the consent of the alien) or, where  
8     waived or agreed to by the parties, in the absence of the  
9     alien”.

10   **SEC. 134. INTERIOR REPATRIATION AND MULTIPLE RE-**  
11                      **ENTRY DETERRENCE PILOT PROGRAM.**

12         (a) ESTABLISHMENT.—Not later than 120 days after  
13     the date of enactment of this Act, the Attorney General,  
14     after consultation with the Secretary of State, shall estab-  
15     lish a pilot program in the San Diego sector of the Immig-  
16     ration and Naturalization Service for up to 2 years to  
17     test the effectiveness of interior repatriation in deterring  
18     multiple unauthorized entries by aliens into the United  
19     States.

20         (b) REPORT.—Not later than 24 months after the  
21     date of enactment of this Act, the Attorney General, to-  
22     gether with the Secretary of State, shall include a section  
23     in the annual report required by section 148 of this Act  
24     on the operation of the pilot program established by this  
25     section. Such report shall include a recommendation as to

1 whether the pilot program or any part thereof should be  
2 extended or made permanent.

3 **SEC. 135. JUDICIAL REVIEW.**

4 (a) IN GENERAL.—Section 106(a) of such Act (8  
5 U.S.C. 1105a(a)) is amended by amending paragraph (1)  
6 to read as follows:

7 “(1)(A) a petition for review may be filed not  
8 later than 45 days after the date of the issuance of  
9 the final deportation order, or, in the case of an  
10 alien convicted of an aggravated felony, not later  
11 than 15 days after the issuance of such order;

12 “(B) the alien shall serve and file a brief not  
13 later than 40 days after the date on which the ad-  
14 ministrative record is available, and may serve and  
15 file a reply brief not later than 14 days after service  
16 of the brief of the Attorney General, except that the  
17 court may extend these deadlines upon motion for  
18 good cause shown; and

19 “(C) if an alien fails to file a brief within the  
20 time provided in this paragraph, the Attorney Gen-  
21 eral may move to dismiss the appeal, and the court  
22 shall grant such motion unless a manifest injustice  
23 would result;”.

1       (b) EFFECTIVE DATE.—The amendment made by  
2 subsection (a) shall apply to appeals taken after the date  
3 of enactment of this Act.

**4 SEC. 136. COMMUNICATIONS BETWEEN FEDERALLY FUNDED  
5 GOVERNMENT AGENCIES AND THE IMMIGRATION AND NATURALIZATION SERVICE.**

7 Notwithstanding any other provision of law, no Fed-  
8 eral, State, or local government entity receiving Federal  
9 funds shall be prohibited or in any way restricted from  
10 confidentially communicating with the Immigration and  
11 Naturalization Service regarding the immigration status,  
12 legal or illegal, of an alien in the United States.

**13           PART D—ENHANCED CRIMINAL ALIEN**

**14           DEPORTATION AND TRANSFER**

**15 SEC. 141. EXPANSION IN DEFINITION OF "AGGRAVATED  
16 FELONY".**

17       (a) EXPANSION IN DEFINITION.—Section 101(a)(43)  
18 of the Immigration and Nationality Act (8 U.S.C.  
19 1101(a)(43)) is amended to read as follows:

20        “(43) The term ‘aggravated felony’ means—

21                   “(A) murder;

22               “(B) any illicit trafficking in any controlled  
23 substance (as defined in section 102 of the Con-  
24 trolled Substances Act), including any drug traffick-

1       ing crime as defined in section 924(c) of title 18,  
2       United States Code;

3           “(C) any illicit trafficking in any firearms or  
4       destructive devices as defined in section 921 of title  
5       18, United States Code, or in explosive materials as  
6       defined in section 841(c) of title 18, United States  
7       Code;

8           “(D) any offense described in (i) section 1956  
9       of title 18, United States Code (relating to launder-  
10      ing of monetary instruments) or (ii) section 1957 of  
11      such title (relating to engaging in monetary trans-  
12      actions in property derived from specific unlawful  
13      activity) if the value of the monetary instruments or  
14      property exceeds \$100,000;

15           “(E) any offense described in—

16               “(i) subsections (h) or (i) of section 842,  
17       title 18, United States Code, or subsection (d),  
18       (e), (f), (g), (h), or (i) of section 844 of title 18,  
19       United States Code (relating to explosive mate-  
20      rials offenses);

21               “(ii) paragraph (1), (2), (3), (4), or (5) of  
22       section 922(g), or section 922(j), section  
23       922(n), section 922(o), section 922(p), section  
24       922(r), section 924(b), or section 924(h) of title

1           18, United States Code (relating to firearms off-  
2           fenses); or

3                 “(iii) section 5861 of the Internal Revenue  
4           Code of 1986 (relating to firearms offenses);

5                 “(F) any crime of violence (as defined in sec-  
6           tion 16 of title 18, United States Code, not includ-  
7           ing a purely political offense) which is punishable by  
8           imprisonment for 5 years or more;

9                 “(G) any theft offense (including receipt of sto-  
10         len property) or any burglary offense, in which the  
11          value of the property in question exceeds \$10,000  
12          and which is punishable by imprisonment for 5 years  
13          or more;

14                 “(H) any offense described in section 875, sec-  
15          tion 876, section 877, or section 1202 of title 18,  
16          United States Code (relating to the demand for or  
17          receipt of ransom);

18                 “(I) any offense described in section 2251, sec-  
19          tion 2251A or section 2252 of title 18, United  
20          States Code (relating to child pornography);

21                 “(J) any offense described in—

22                         “(i) section 1962 of title 18, United States  
23          Code (relating to racketeer influenced corrupt  
24          organizations); or

1               “(ii) section 1084 (if it is a second or sub-  
2               sequent offense) or section 1955 of such title  
3               (relating to gambling offenses),

4               which is punishable by imprisonment for 5 years or  
5               more;

6               “(K) any offense relating to commercial bri-  
7               bery, counterfeiting, forgery or trafficking in vehicles  
8               whose identification numbers have been altered,  
9               which is punishable by imprisonment for 5 years or  
10              more;

11              “(L) any offense that—

12               “(i) relates to the owning, controlling,  
13               managing or supervising of a prostitution busi-  
14               ness;

15               “(ii) is described in section 2421, section  
16               2422, or section 2423 of title 18, United States  
17               Code (relating to transportation for the purpose  
18               of prostitution) for commercial advantage; or

19               “(iii) is described in sections 1581, 1582,  
20               1583, 1584, 1585, or section 1588, of title 18,  
21               United States Code (relating to peonage, slav-  
22               ery, and involuntary servitude);

23               “(M) any offense relating to perjury or sub-  
24               ornation of perjury which is punishable by imprison-  
25               ment for 5 years or more;

1           “(N) any offense described in—

2               “(i) section 793 (relating to gathering or  
3                   transmitting national defense information), sec-  
4                   tion 798 (relating to disclosure of classified in-  
5                   formation), section 2153 (relating to sabotage)  
6                   or section 2381 or section 2382 (relating to  
7                   treason) of title 18, United States Code; or

8               “(ii) section 601 of the National Security  
9                   Act of 1947 (50 U.S.C. 421) (relating to pro-  
10                  tecting the identity of undercover intelligence  
11                  agents);

12           “(O) any offense that—

13               “(i) involves fraud or deceit in which the  
14                  loss to the victim or victims exceeded \$200,000;  
15                  or

16               “(ii) is described in section 7201 of the In-  
17                  ternal Revenue Code of 1986 (relating to tax  
18                  evasion), in which the revenue loss to the Gov-  
19                  ernment exceeds \$200,000;

20           “(P) any offense described in section 274(a)(1)  
21                  of the Immigration and Nationality Act (relating to  
22                  alien smuggling) for the purpose of commercial ad-  
23                  vantage;

24           “(Q) any offense described in section 1546(a)  
25                  of title 18, United States Code (relating to docu-

1       ment fraud), for the purpose of commercial advan-  
2       tage;

3               “(R) any offense relating to failing to appear  
4               before a court pursuant to a court order to answer  
5               to or dispose of a charge of a felony, which is pun-  
6               ishable by imprisonment for 2 years or more; or

7               “(S) any attempt or conspiracy to commit an  
8 offense described in this paragraph.

9 The term ‘aggravated felony’ applies to offenses described  
10 in this paragraph whether in violation of Federal or State  
11 law and applies to such offenses in violation of the laws  
12 of a foreign country for which the term of imprisonment  
13 was completed within the previous 15 years.”.

14       (b) EFFECTIVE DATE.—The amendment made by  
15 this section applies to convictions entered before, on, or  
16 after the date of enactment of this Act.

17 SEC. 142. DEPORTATION PROCEDURES FOR CERTAIN  
18 CRIMINAL ALIENS WHO ARE NOT PERMA-  
19 NENT RESIDENTS.

20       (a) TECHNICAL AND CONFORMING CHANGES.—Sec-  
21 tion 242A of the Immigration and Nationality Act (8  
22 U.S.C. 1252a) is amended—

23 (1) in subsection (a)—

1       “(b) DEPORTATION OF PERMANENT RESIDENT

2 ALIENS.—

3       “(1) IN GENERAL.—”; and

4                   (B) by inserting in the first sentence “per-  
5                   manent resident” after “correctional facilities  
6                   for”;

7       (2) in subsection (b)—

8                   (A) by striking “(b) IMPLEMENTATION.—”  
9                   and inserting “(2) IMPLEMENTATION.—”; and

10                  (B) by striking “respect to an” and insert-  
11                  ing “respect to a permanent resident”;

12                  (3) by striking subsection (c);

13                  (4) in subsection (d)—

14                  (A) by striking “(d) EXPEDITED PRO-  
15                  CEEDINGS.—(1)” and inserting “(3) EXPE-  
16                  DITED PROCEEDINGS.—(A)”;

17                  (B) by inserting “permanent resident”  
18                  after “in the case of any”; and

19                  (C) by striking “(2)” and inserting “(B)”;

20                  (5) in subsection (e)—

21                  (A) by striking “(e) REVIEW.—(1)” and  
22                  inserting “(4) REVIEW.—(A)”;

23                  (B) by striking the second sentence; and

24                  (C) by striking “(2)” and inserting “(B)”.

1                         (6) by inserting after the section heading the  
2                         following new subsection:

3                         “(a) PRESUMPTION OF DEPORTABILITY.—An alien  
4                         convicted of an aggravated felony shall be conclusively pre-  
5                         sumed to be deportable from the United States.”; and

6                         (7) by amending the section heading to read as  
7                         follows:

8                         “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF  
9                         AGGRAVATED FELONIES”.

10                         (b) ELIMINATION OF ADMINISTRATIVE HEARING FOR  
11                         CERTAIN CRIMINAL ALIENS.—Section 242A of the Immi-  
12                         gration and Nationality Act (8 U.S.C. 1252a), as amended  
13                         by subsection (a), is further amended by adding at the  
14                         end the following:

15                         “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-  
16                         MANENT RESIDENTS.—(1) Notwithstanding section 242,  
17                         and subject to paragraph (5), the Attorney General may  
18                         issue a final order of deportation against any alien de-  
19                         scribed in paragraph (2) whom the Attorney General de-  
20                         termines to be deportable under section 241(a)(2)(A)(iii)  
21                         (relating to conviction of an aggravated felony).

22                         “(2) An alien is deportable under this subsection if  
23                         the alien—

24                         “(A) was not lawfully admitted for permanent  
25                         residence at the time that proceedings under this  
26                         section commenced, or

1           “(B) had permanent resident status on a condi-  
2       tional basis (as described in section 216) at the time  
3       that proceedings under this section commenced.

4           “(3) No alien described in paragraph (2) shall be eli-  
5       gible for any relief from deportation that may be granted  
6       in the discretion of the Attorney General.

7           “(4) The Attorney General may not execute any order  
8       described in paragraph (1) until 14 days have passed from  
9       the date that such order was issued, unless waived by the  
10      alien, in order to permit the alien an opportunity to apply  
11      for judicial review under section 106.”.

12          (c) LIMITED JUDICIAL REVIEW.—Section 106 of the  
13      Immigration and Nationality Act (8 U.S.C. 1105a) is  
14      amended—

15           (1) in the first sentence of subsection (a), by in-  
16       serting “or pursuant to section 242A(c)” after  
17       “under section 242(b)”;

18           (2) in subsection (a)(1) and subsection (a)(3),  
19       by inserting “(including an alien described in section  
20       242A(c))” after “aggravated felony”; and

21           (3) by adding at the end the following new sub-  
22       section:

23          “(d) Notwithstanding subsection (c), no court shall  
24       have jurisdiction to hear a petition for review or for habeas  
25       corpus on behalf of an alien described in section 242A(f)

1 except to determine whether the alien is in fact an alien,  
2 and the individual alien, described in such section.”.

3 (d) AMENDMENT TO TABLE OF CONTENTS.—The  
4 table of contents of the Immigration and Nationality Act  
5 is amended by amending the item relating to section 242A  
6 to read as follows:

“Sec. 242A. Expedited deportation of aliens convicted of aggravated felonies.”.

7 (e) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to all aliens against whom deporta-  
9 tion proceedings are initiated after the date of enactment  
10 of this Act.

11 **SEC. 143. JUDICIAL DEPORTATION.**

12 (a) JUDICIAL DEPORTATION.—Section 242A of the  
13 Immigration and Nationality Act (8 U.S.C. 1252a), as  
14 amended by section 142 of this Act, is further amended  
15 by adding at the end the following new subsection:

16 “(d) JUDICIAL DEPORTATION.—

17 (1) AUTHORITY.—Notwithstanding any other  
18 provision of this Act, a United States district court  
19 shall have jurisdiction to enter a judicial order of de-  
20 portation at the time of sentencing against an alien  
21 whose criminal conviction causes such alien to be  
22 conclusively presumed to be deportable under section  
23 241(a)(2)(A)(iii) (relating to conviction of an aggra-  
24 vated felony), but only if such an order has been re-

1       quested prior to sentencing by the United States At-  
2       torney with the concurrence of the Commissioner.

3           “(2) PROCEDURE.—(A) The United States At-  
4       torney shall provide notice of intent to request judi-  
5       cial deportation promptly after the entry in the  
6       record of an adjudication of guilt or guilty plea.  
7       Such notice shall be provided to the court, to the  
8       alien, to the alien’s counsel of record, and to the  
9       Commissioner.

10          “(B) Notwithstanding section 242B, the United  
11       States Attorney, with the concurrence of the Com-  
12       missioner, shall file at least 20 days prior to the  
13       date set for sentencing a charge containing factual  
14       allegations regarding the alienage of the defendant  
15       and satisfaction by the defendant of the definition of  
16       aggravated felony.

17          “(C) If the court determines that the defendant  
18       has presented substantial evidence to establish prima  
19       facie eligibility for relief from deportation under sec-  
20       tion 212(c), the Attorney General shall provide the  
21       court with a recommendation and report regarding  
22       the alien’s eligibility for relief under such section.  
23       The court shall either grant or deny the relief  
24       sought.

1           “(D)(i) The alien shall have a reasonable oppor-  
2 tunity to examine the evidence against him or her,  
3 to present evidence on his or her own behalf, and to  
4 cross-examine witnesses presented by the Govern-  
5 ment.

6           “(ii) The court, for the purposes of determining  
7 whether to enter an order described in paragraph  
8 (1), shall only consider evidence that would be ad-  
9 missible in proceedings conducted pursuant to sec-  
10 tion 242(b).

11          “(iii) Nothing in this subsection shall limit the  
12 information a court of the United States may receive  
13 or consider for the purposes of imposing an appro-  
14 priate sentence.

15          “(iv) The court may order the alien deported if  
16 the Attorney General demonstrates by clear and con-  
17 vincing evidence that the alien is deportable under  
18 this Act.

19          “(3) NOTICE, APPEAL, AND EXECUTION OF JU-  
20 DICIAL ORDER OF DEPORTATION.—(A)(i) A judicial  
21 order of deportation or denial of such order may be  
22 appealed by either party to the court of appeals for  
23 the circuit in which the district court is located.

1               “(ii) Except as provided in clause (iii), such ap-  
2       peal shall be considered consistent with the require-  
3       ments described in section 106.

4               “(iii) Upon execution by the defendant of a  
5       valid waiver of the right to appeal the conviction on  
6       which the order of deportation is based, the expira-  
7       tion of the period described in section 106(a)(1), or  
8       the final dismissal of an appeal from such convic-  
9       tion, the order of deportation shall become final and  
10      shall be executed at the end of the prison term to  
11      which the defendant is sentenced in accordance with  
12      the term of the order.

13               “(B) As soon as is practicable after entry of a  
14       judicial order of deportation, the Attorney General  
15       shall provide the defendant with written notice of  
16       the order or deportation, which shall designate the  
17       country to which the defendant chooses to be de-  
18       ported and any alternate country selected pursuant  
19       to section 243(a).

20               “(4) DENIAL OF JUDICIAL ORDER.—Denial of a  
21       request for a judicial order of deportation shall not  
22       preclude the Attorney General from initiating depor-  
23       tation proceedings pursuant to section 242 upon the  
24       same ground of deportability or upon any other

1 ground of deportability provided under section  
2 241(a).".

3 (b) TECHNICAL AMENDMENT.—The ninth sentence  
4 of section 242(b) of the Immigration and Nationality Act  
5 (8 U.S.C. 1252(b)) is amended by striking "The" and in-  
6 serting "Except as provided in section 242A(c) and  
7 242A(d), the".

8 (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to all aliens whose adjudication of  
10 guilt or guilty plea is entered in the record after the date  
11 of enactment of this Act.

12 **SEC. 144. RESTRICTING DEFENSES TO DEPORTATION FOR**  
13 **CERTAIN CRIMINAL ALIENS.**

14 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-  
15 NENT RESIDENCE.—The last sentence of section 212(c)  
16 of the Immigration and Nationality Act (8 U.S.C.  
17 1182(c)) is amended by striking "has served for such fel-  
18 ony or felonies" and all that follows through the period  
19 and inserting "has been sentenced for such felony or felo-  
20 nies to a term or terms of imprisonment of at least 5  
21 years, if the time for appealing such conviction or sentence  
22 has expired and the sentence has become final.".

23 (b) WITHHOLDING OF DEPORTATION DEFENSE.—  
24 Section 243(h)(2) of the Immigration and Nationality Act  
25 (8 U.S.C. 1253(h)(2)) is amended—

1                   (1) by striking “or” at the end of subparagraph  
2                   (C);

3                   (2) by striking the period at the end of sub-  
4                   paragraph (D) and inserting “; or”; and

5                   (3) by adding at the end the following new sub-  
6                   paragraph:

7                   “(E) the alien has been convicted of an ag-  
8                   gravated felony.”.

9                   **SEC. 145. CONSTRUCTION OF EXPEDITED DEPORTATION**

10                  **REQUIREMENTS.**

11                  No amendment made by this title, and nothing in sec-  
12 tion 242(i) of the Immigration and Nationality Act (8  
13 U.S.C. 1252(i)), may be construed to create any sub-  
14 stantive or procedural right or benefit that is legally en-  
15 forceable by any party against the United States, its agen-  
16 cies or officers, or against any other person.

17                  **SEC. 146. NEGOTIATIONS FOR INTERNATIONAL AGREE-  
18 MENTS.**

19                  (a) NEGOTIATIONS WITH OTHER COUNTRIES.—The  
20 Secretary of State, together with the Attorney General,  
21 may enter into an agreement with any foreign country pro-  
22 viding for the incarceration in that country of any individ-  
23 ual who—

24                  (1) is a national of that country; and

25                  (2) is an alien who—

1                             (A) is not in lawful immigration status in  
2                             the United States, or

3                             (B) on the basis of conviction of a criminal  
4                             offense under Federal or State law, or on any  
5                             other basis, is subject to deportation under the  
6                             Immigration and Nationality Act,

7                             for the duration of the prison term to which the individual  
8                             was sentenced for the offense referred to in subparagraph  
9                             (B). Any such agreement may provide for the release of  
10                            such individual pursuant to parole procedures of that  
11                            country.

12                         (b) PRIORITY.—In carrying out subsection (a), the  
13                         Secretary of State should give priority to concluding an  
14                         agreement with any country for which the President deter-  
15                         mines that the number of individuals described in sub-  
16                         section (a) who are nationals of that country in the United  
17                         States represents a significant percentage of all such indi-  
18                         viduals in the United States.

19                         (c) AUTHORIZATION OF APPROPRIATIONS.—There  
20                         are authorized to be appropriated such sums as may be  
21                         necessary to carry out this section.

22                         **SEC. 147. DENIAL OF DISCRETIONARY RELIEF TO ALIENS**  
23                         **CONVICTED OF AGGRAVATED FELONIES.**

24                         (a) INELIGIBILITY FOR SUSPENSION OF DEPORTA-  
25                         TION.—Section 244 of the Immigration and Nationality

1 Act (8 U.S.C. 1254) is amended by adding at the end the  
2 following new subsection:

3       “(g) Suspension of deportation and adjustment of  
4 status under subsection (a)(2) shall not be available to any  
5 alien who has been convicted of an aggravated felony.”.

6       (b) APPLICATION OF EXCLUSION FOR DRUG OF-  
7 FENSES.—Section 212(h) of the Immigration and Nation-  
8 ality Act (8 U.S.C. 1182(h)) is amended in the second  
9 sentence by inserting “or any other aggravated felony”  
10 after “torture”.

11       (c) ADJUSTMENT OF STATUS; CHANGE OF NON-  
12 IMMIGRANT CLASSIFICATION.—(1) Section 245(c) of the  
13 Immigration and Nationality Act (8 U.S.C. 1255(c)) is  
14 amended—

15           (A) by striking “or” after “section  
16 212(d)(4)(C)”; and

17           (B) by inserting “; or (5) an alien who has been  
18 convicted of an aggravated felony” immediately after  
19 “section 217”.

20       (2) Section 248 of such Act (8 U.S.C. 1258) is  
21 amended—

22           (A) by striking “and” at the end of paragraph  
23 (3);

24           (B) by striking the period at the end of para-  
25 graph (4) and inserting “; and”; and

1 (C) by adding at the end the following new  
2 paragraph:

3               “(5) an alien convicted of an aggravated fel-  
4       ony.”.

## **5 SEC. 148. ANNUAL REPORT.**

6        Not later than 12 months after the date of enactment  
7 of this Act, and annually thereafter, the Attorney General  
8 shall submit to the Committees on the Judiciary of the  
9 House of Representatives and of the Senate a report de-  
10 tailing—

11                   (1) the number of illegal aliens incarcerated in  
12                   Federal and State prisons for having committed felonies;  
13

**22 SEC. 149. USE OF LEGALIZATION INFORMATION FOR CRIMI-**

**23 NAL PROSECUTION PURPOSES.**

24 (a) CONFIDENTIALITY OF INFORMATION.—Section  
25 245A(c)(5)(C) (8 U.S.C. 1255a(c)(5)(C)) is amended by

1 amending the text after subparagraph (C) to read as  
2 follows:

3 “except that the Attorney General shall provide informa-  
4 tion furnished under this section when such information  
5 is requested in writing by a duly recognized law enforce-  
6 ment entity in connection with a criminal investigation or  
7 prosecution, or to an official coroner for purposes of af-  
8 firmatively identifying a deceased individual, whether or  
9 not such individual is deceased as a result of a crime, or  
10 the Attorney General may provide, in the Attorney Gen-  
11 eral’s discretion, for the furnishing of information fur-  
12 nished under this section in the same manner and cir-  
13 cumstances as census information may be disclosed by the  
14 Secretary of Commerce under section 8 of title 13, United  
15 States Code. Anyone who uses, publishes, or permits infor-  
16 mation to be examined in violation of this paragraph shall  
17 be fined in accordance with title 18, United States Code,  
18 or imprisoned not more than five years, or both.”.

19       (b) SPECIAL AGRICULTURAL WORKERS.—Section  
20 210(b)(6)(C) (8 U.S.C. 1160(b)(6)(C)) is amended—

21           (1) by striking the period at the end of sub-  
22 paragraph (C) and inserting a comma; and

23           (2) by adding in full measure margin after sub-  
24 paragraph (C) the following: “except that the Attor-  
25 ney General shall provide information furnished

1 under this section when such information is re-  
2 quested in writing by a duly recognized law enforce-  
3 ment entity in connection with a criminal investiga-  
4 tion or prosecution, or to an official coroner for pur-  
5 poses of affirmatively identifying a deceased individ-  
6 ual, whether or not such individual is deceased as a  
7 result of a crime.”.

8 (c) EFFECTIVE DATE.—The criminal penalty added  
9 by subsection (a) shall apply to offenses occurring after  
10 the date of enactment of this Act.

## 11 **TITLE II—ILLEGAL IMMIGRA- 12 TION INCENTIVE REDUCTION**

### 13 **PART A—PUBLIC BENEFITS CONTROL**

#### 14 **SEC. 211. INELIGIBILITY FOR CERTAIN DIRECT FEDERAL 15 BENEFITS.**

16 (a) DIRECT FINANCIAL ASSISTANCE OR BENE-  
17 FITS.—

18 (1) IN GENERAL.—Notwithstanding any other  
19 provision of law, an unlawful alien (as defined in  
20 subsection (d)(2)) shall not be eligible to receive any  
21 direct financial assistance or benefits under any  
22 Federal program, except—

23 (A) emergency medical services under title  
24 XIX of the Social Security Act,

25 (B) short-term emergency disaster relief,

(C) assistance or benefits under the National School Lunch Act,

(D) assistance or benefits under the Child Nutrition Act of 1966, and

16 (b) UNEMPLOYMENT BENEFITS.—

17                   (1) IN GENERAL.—Notwithstanding any other  
18 provision of law, an alien shall not be eligible to re-  
19 ceive any portion of unemployment benefits payable  
20 out of Federal funds.

1       Federal law if the unemployment benefits are attrib-  
2       utable to the authorized employment.

3           (c) HOUSING ASSISTANCE PROGRAMS.—Not later  
4       than 90 days after the date of the enactment of this Act,  
5       the Secretary of Housing and Urban Development shall  
6       submit a report to the Committees on the Judiciary of  
7       the Senate and House of Representatives, the Committee  
8       on Banking, Housing, and Urban Affairs of the Senate,  
9       and the Committee on Banking, Finance and Urban Af-  
10      fairs of the House of Representatives describing the man-  
11      ner in which the Secretary is enforcing section 214 of the  
12      Housing and Community Development Act of 1980 and  
13      containing statistics with respect to the number of individ-  
14      uals denied financial assistance under such section.

15           (d) DEFINITIONS.—For the purposes of this sec-  
16      tion—

17                  (1) LAWFUL ALIEN.—The term “lawful alien”  
18      means an individual who is

19                          (A) an alien lawfully admitted to the Unit-  
20      ed States for permanent residence,

21                          (B) an asylee,

22                          (C) a refugee,

23                          (D) an alien whose deportation has been  
24      withheld under section 243(h) of the Immigra-  
25      tion and Nationality Act,

(E) a parolee who has been paroled for a period of 1 year or more, or

3 (F) a Chinese national described in section  
4 2(b) of the Chinese Student Protection Act of  
5 1992 (Public Law 102-404) who, as of the date  
6 of enactment of this Act, has applied for adjust-  
7 ment of status in accordance with Public Law  
8 102-404.

9                         (2) UNLAWFUL ALIEN.—The term “unlawful  
10                         alien” means an individual who is not—  
11                             (A) a United States citizen; or  
12                             (B) a lawful alien.

13       (e) EFFECTIVE DATE.—The provisions of this section  
14 shall apply to benefits received after the date of the enact-  
15 ment of this Act.

16 SEC. 212. LIMITS ON BENEFITS TO SPONSORED IMMIGRANTS.  
17 GRANTS.

18       (a) IN GENERAL.—Notwithstanding any other provi-  
19 sion of law, in determining eligibility for, and the amount  
20 of direct financial benefits of, a lawful sponsored alien  
21 under Federal benefit programs such as Aid to Families  
22 with Dependent Children, Supplemental Security Income,  
23 and Food Stamps, the income and resources of the alien  
24 shall include—

- 1                         (1) the income and resources of any person  
2                         who, as a sponsor of such alien's entry into the  
3                         United States, entered into a binding contract of  
4                         support with respect to such alien, and  
5                         (2) the income and resources of such sponsor's  
6                         spouse.

7     The preceding sentence shall apply until such time as the  
8     sponsored alien achieves United States citizenship.

9                         (b) EXTENUATING CIRCUMSTANCES.—The income  
10                         and resources of the sponsor and his or her spouse shall  
11                         no longer be included in determining the eligibility of a  
12                         sponsored lawful alien for Federal benefits when—

13                         (1) the sponsor becomes impoverished, bank-  
14                         rupt, or dies, or

15                         (2) the sponsored lawful immigrant becomes  
16                         blind or disabled after entry into the United States.

17                         (c) EXEMPTIONS.—For the purposes of this section,  
18     the following groups of lawful sponsored immigrants and  
19     Federal benefit programs are exempted:

20                         (1) Refugees, asylees, and other lawful aliens  
21                         who are not sponsored.

22                         (2) Public education, Medicaid, child nutrition,  
23                         child immunization, and other public health pro-  
24                         grams.

1       (d) PROSPECTIVE EFFECT.—This section shall only  
2 affect initial applications for Federal benefits that are re-  
3 ceived after the effective date.

4       (e) EFFECTIVE DATE.—This section shall take effect  
5 90 days after enactment of this Act.

6 **SEC. 213. SPONSORSHIP ENHANCEMENT.**

7       (a) If otherwise admissible, an alien who is excludable  
8 under paragraph (4) of section 212(a) of the Immigration  
9 and Nationality Act and has not given a suitable bond (as  
10 described in the previous section 213 of the Immigration  
11 and Naturalization Act [8 U.S.C. 1183]) can only be ad-  
12 mitted when sponsored by an individual (hereafter re-  
13 ferred to in this section as the alien's "sponsor") entering  
14 into a legally binding contract that guarantees financial  
15 responsibility for the alien until he or she becomes a Unit-  
16 ed States citizen.

17       (b) Such a contract with respect to the admission into  
18 the United States of an alien under the Immigration and  
19 Naturalization Act shall provide—

20           (1) that the sponsor shall be liable for the costs  
21       incurred by any Federal, State, or political subdivi-  
22       sion of a State for general public cash assistance  
23       provided to such alien; and

1                   (2) that this responsibility will continue until  
2       the date on which the alien becomes a citizen of the  
3       United States.

4       (c) In the case of cash benefits which are provided  
5 to lawful sponsored immigrants who are ineligible for pub-  
6 lic assistance under section 212 of this Act, the binding  
7 contract referred to in section 213(a) of this Act may be  
8 enforced with respect to an alien against the alien's spon-  
9 sor in a civil suit brought by the Attorney General or a  
10 State or political subdivision of a State in the United  
11 States district court for the district in which the sponsor  
12 resides for the recovery of the costs incurred by any Fed-  
13 eral, State, or political subdivision of a State in providing  
14 general cash public assistance provided to such alien for  
15 which the sponsor agreed to be liable under such a con-  
16 tract.

17       (d) The sponsor or the sponsor's estate shall not be  
18 liable if the sponsor dies, becomes impoverished due to un-  
19 foreseen circumstances (as defined by eligibility for Fed-  
20 eral assistance), or is adjudicated a bankrupt under title  
21 11, United States Code.

22       (e) The requirements and powers of this section shall  
23 apply only to initial sponsorship-based applications for  
24 legal admission into the United States received after the  
25 effective date of this section.

1       (f) This provision shall take effect 90 days after the  
2 date of enactment of this Act.

3       (g) The admitting agencies shall record the use of  
4 sponsorship by immigrant applicants to meet the public  
5 charge test for admission to the United States set forth  
6 in paragraph (4) of section 212(a) of the Immigrating and  
7 Naturalization Act.

8 **SEC. 214. AUTHORITY TO STATES AND LOCALITIES TO**  
9                   **LIMIT ASSISTANCE TO ALIENS AND TO DIS-**  
10                  **TINGUISH AMONG CLASSES OF ALIENS IN**  
11                  **PROVIDING GENERAL PUBLIC ASSISTANCE.**

12       (a) IN GENERAL.—Subject to subsection (b) and notwithstanding any other provision of law, a State or local government may prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

18       (b) LIMITATION.—The authority under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions are not inconsistent with the eligibility requirements for comparable Federal programs or are less restrictive. For the purposes of this section, attribution to an alien of a sponsor's income and resources for purposes of determining the eligibility for and amount

1 of benefits of an alien shall be considered less restrictive  
2 than a prohibition of eligibility.

3       **PART B—EMPLOYER SANCTIONS SUPPORT**

4       **SEC. 221. ADDITIONAL IMMIGRATION AND NATURALIZA-**  
5                   **TION SERVICE INVESTIGATORS.**

6       (a) INVESTIGATORS.—The Attorney General is au-  
7 thorized to hire for fiscal years 1995 and 1996 such addi-  
8 tional investigators and staff as may be necessary to ag-  
9 gressively enforce existing sanctions against employers  
10 who employ workers in the United States illegally or who  
11 are otherwise ineligible to work in this country.

12       (b) LIMITATION ON OVERTIME.—None of the funds  
13 made available to the Immigration and Naturalization  
14 Service under this section shall be available for adminis-  
15 trative expenses to pay any employee overtime pay in an  
16 amount in excess of \$25,000 for any fiscal year.

17       **PART C—ENHANCED WAGE AND HOUR LAWS**

18       **SEC. 231. INCREASED PERSONNEL LEVELS FOR THE LABOR**  
19                   **DEPARTMENT.**

20       (a) INVESTIGATORS.—The Secretary of Labor, in  
21 consultation with the Attorney General, is authorized to  
22 hire in the Wage and Hour Division of the Department  
23 of Labor for fiscal years 1995 and 1996 such additional  
24 investigators and staff as may be necessary to aggressively

1 enforce existing legal sanctions against employers who vio-  
2 late current Federal wage and hour laws.

3       (b) ASSIGNMENT OF ADDITIONAL PERSONNEL.—In-  
4 dividuals employed to fill the additional positions described  
5 in subsection (a) shall be assigned to investigate violations  
6 of wage and hour laws in areas where the Attorney Gen-  
7 eral has notified the Secretary of Labor that there are  
8 high concentrations of aliens present in the United States  
9 in violation of law.

10 **SEC. 232. INCREASED NUMBER OF ASSISTANT UNITED  
11 STATES ATTORNEYS.**

12       The Attorney General is authorized to hire for fiscal  
13 years 1995 and 1996 such additional Assistant United  
14 States Attorneys as may be necessary to prosecute actions  
15 brought under this Act, or intended to directly further  
16 Congress' intention to preclude and deter illegal immigra-  
17 tion.

18       **PART D—AUTHORIZATION VERIFICATION**

19 **SEC. 241. WORK AUTHORIZATION VERIFICATION.**

20       The Attorney General, together with the Secretary of  
21 Health and Human Services, shall develop and implement  
22 a counterfeit-resistant system to verify work eligibility and  
23 federally-funded public assistance benefits eligibility for all  
24 persons within the United States. If the system developed  
25 includes a document (designed specifically for use for this

1 purpose), that document shall not be used as a national  
2 identification card, and the document shall not be required  
3 to be carried or presented by any person except at the  
4 time of application for federally funded public assistance  
5 benefits or to comply with employment eligibility verifica-  
6 tion requirements.

7 **TITLE III—ENHANCED SMUG-  
8 GLING CONTROL AND PEN-  
9 ALTIES**

10 **SEC. 301. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

11       Section 274(a) of the Immigration and Nationality  
12 Act (8 U.S.C. 1324(a)) is amended—

13           (1) in paragraph (1)—

14              (A) by striking “or” at the end of subparagraph  
15              (C);

16              (B) by striking the comma at the end of  
17              subparagraph (D) and all that follows through  
18              the period and inserting “; or”; and

19              (C) by adding at the end the following:

20              “(E) engages in any conspiracy to commit any  
21              of the preceding acts, or aids or abets the commis-  
22              sion of any of the preceding acts,

23       shall be fined under title 18, United States Code, and shall  
24       be imprisoned not less than 3 years nor more than 10

1 years, for each alien with respect to whom any violation  
2 of this paragraph occurs.''; and

3 (2) by adding at the end the following new  
4 paragraphs:

5 "(3) Any person who, in the commission of an act  
6 described in paragraph (1), willfully subjects any alien to  
7 a substantial risk of death or serious bodily harm shall  
8 be subject to a term of imprisonment of not less than 3  
9 years nor more than 10 years in addition to any term of  
10 imprisonment imposed under that paragraph.

11 "(4) Any person who in the perpetration of, or in the  
12 attempt to perpetrate, any violation of paragraph (1),  
13 causes the death of an alien shall be subject to the penalty  
14 of death, or life imprisonment, subject to appropriate pro-  
15 cedures under chapter 228 of title 18, United States  
16 Code.".

17 **SEC. 302. DEATH PENALTY PROCEDURES.**

18 Title 18, United States Code, is amended by inserting  
19 after chapter 227 the following new chapter:

20 **"CHAPTER 228—DEATH PENALTY PROCE-  
21 DURES RELATING TO SMUGGLING OF  
22 ALIENS**

"Sec.

"3591. Sentence of death relating to the smuggling of aliens.

1   **“§ 3591. Sentence of death relating to the smuggling**

2                   **of aliens**

3        “A sentence of death for a violation of section  
4 274(a)(4) of the Immigration and Nationality Act may be  
5 imposed only if—

6               “(1) the defendant caused the death of a person  
7 intentionally or knowingly, or caused the death of a  
8 person through the intentional infliction of serious  
9 bodily injury; and

10          “(2) the sentence is imposed in accordance with  
11 the procedures set forth in section 408 (g), (h), (i),  
12 (j), (k), (l), (m), (n), (o), (p), (q), and (r) of the  
13 Controlled Substances Act (21 U.S.C. 848 (g), (h),  
14 (i), (j), (k), (l), (m), (n), (o), (p), (q), and (r)), ex-  
15 cept that for the purposes of a violation of that law,  
16 the references to “this section” in section 408(g)  
17 and (h)(1) and “subsection (e)” in section 408(i)(1),  
18 (j), (k) (each place it appears), and (p) of the Con-  
19 trolled Substances Act shall be deemed to be ref-  
20 erences to section 274(a)(4) of that Act. No rule of  
21 law, including a rule contained in a law under which  
22 an offense is committed, may be applied in deter-  
23 mining whether a penalty of death shall be imposed  
24 in a particular case, other than those procedures.  
25 Those procedures supersede all other provisions of  
26 law that pertain to whether a penalty of death shall

1       be imposed in any particular case (not including the  
2       authorization of the penalty itself).".

3 **SEC. 303. SMUGGLING ALIENS FOR COMMISSION OF**  
4                   **CRIMES.**

5       Section 274(a)(2) of the Immigration and Nationality  
6 Act (8 U.S.C. 1324(a)(2)) is amended—

7                   (1) in subparagraph (B)—  
8                      (A) by striking "or" at the end of clause  
9                      (ii);

10                  (B) by redesignating clause (iii) as clause  
11                  (iv); and

12                  (C) by inserting after clause (ii) the follow-  
13                  ing:

14                  "(iii) an offense committed with the intent  
15                  or with reason to believe that the alien unlaw-  
16                  fully brought into the United States will commit  
17                  an offense against the United States or any  
18                  State punishable by imprisonment for more  
19                  than 1 year, including violations of or at-  
20                  tempted violations of or aiding and abetting vio-  
21                  lations of or conspiring to violate the Controlled  
22                  Substances Act (21 U.S.C. 801 et seq.) or laws  
23                  against prostitution, importation of aliens for  
24                  immoral purposes, trafficking in firearms,  
25                  money laundering, gang activities, kidnapping

1           or ransom demands, fraudulent documents, or  
2           extortion, the smuggling of known or suspected  
3           terrorists or persons involved in organized crime  
4           if offenses against such laws are punishable by  
5           imprisonment for more than 1 year,''; and  
6           (2) at the end thereof, by striking "be fined"  
7           and all that follows through the period and inserting  
8           the following: "be fined under title 18, United States  
9           Code, and shall be imprisoned not less than 3 years  
10          nor more than 10 years.".

11 **SEC. 304. ADDING ALIEN SMUGGLING TO RICO.**

12          Section 1961(1) of title 18, United States Code, is  
13 amended—  
14           (1) by striking "or" after "law of the United  
15          States,";  
16           (2) by inserting "or" at the end of clause (E);  
17          and  
18           (3) by adding at the end the following:  
19           "(F) any act in violation of section 1028, 1542,  
20          or 1546 of this title for personal financial gain and  
21          section 274, 277, or 278 of the Immigration and  
22          Nationality Act.".

1   **SEC. 305. EXPANDED FORFEITURE FOR SMUGGLING OR**  
2                   **HARBORING ILLEGAL ALIENS.**

3                 Section 274 of the Immigration and Nationality Act  
4   (8 U.S.C. 1324(b)) is amended—

5                         (1) by amending subsection (b)(1) to read as  
6                         follows:

7                 “(b) SEIZURE AND FORFEITURE.—(1) Any property,  
8   real or personal, which facilitates or is intended to facil-  
9   tate, or which has been used in or is intended to be used  
10   in the commission of a violation of subsection (a) or of  
11   section 274A(a)(1) or 274A(a)(2), or which constitutes or  
12   is derived from or traceable to the proceeds obtained di-  
13   rectly or indirectly from a commission of a violation of  
14   subsection (a) or of section 274A(a)(1) or 274A(a)(2),  
15   shall be subject to seizure and forfeiture, except that—

16                 “(A) no property, used by any person as a com-  
17   mon carrier in the transaction of business as a com-  
18   mon carrier shall be forfeited under the provisions of  
19   this section unless it shall appear that the owner or  
20   other person in charge of such property was a con-  
21   senting party or privy to the illegal act;

22                 “(B) no property shall be forfeited under the  
23   provisions of this section by reason of any act or  
24   omission established by the owner thereof to have  
25   been committed or omitted by any person other than  
26   such owner while such property was unlawfully in

1       the possession of a person other than the owner in  
2       violation of the criminal laws of the United States  
3       or of any State; and

4           “(C) no property shall be forfeited under this  
5       paragraph to the extent of an interest of any owner,  
6       by reason of any act or omission established by that  
7       owner to have been committed or omitted without  
8       the knowledge or consent of the owner, unless such  
9       action or omission was committed by an employee or  
10      agent of the owner, and facilitated or was intended  
11      to facilitate, or was used in or intended to be used  
12      in, the commission of a violation of subsection (a) or  
13      of section 274A(a)(1) or 274A(a)(2) which was com-  
14      mitted by the owner or which was intended to fur-  
15      ther the business interests of the owner, or to confer  
16      any other benefit upon the owner.”;

17           (2) in paragraph (2)—

18               (A) by striking “conveyance” both places it  
19       appears and inserting “property”; and

20               (B) by striking “is being used in” and in-  
21       serting “is being used in, is facilitating, has fa-  
22       cilitated, or was intended to facilitate”;

23           (3) in paragraph (3)—

24               (A) by inserting “(A)” immediately after  
25       “(3)”, and

1 (B) by adding at the end the following:

2       “(B) Before the seizure of any real property pursuant  
3 to this section, the Attorney General shall provide notice  
4 and an opportunity to be heard to the owner of the prop-  
5 erty. The Attorney General shall prescribe such regula-  
6 tions as may be necessary to carry out this subpara-  
7 graph.”;

12 (5) in paragraph (4) by—

15 (B) by striking the period at the end of  
16 subparagraph (D) and inserting “; or”, and

17 (C) by inserting at the end the following  
18 new subparagraph:

19                         “(E) transfer custody and ownership of  
20 forfeited property to any Federal, State, or  
21 local agency pursuant to section 616(c) of the  
22 Tariff Act of 1930 (19 U.S.C. 1616a(c)).”.

1 **SEC. 306. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**2 **VESTIGATIONS.**

3 Section 2516(1) of title 18, United States Code, is

4 amended—

5 (1) in paragraph (c), by inserting after  
6 “trains)” the following: “, or a felony violation of  
7 section 1028 (relating to production of false identi-  
8 fication documentation), section 1542 (relating to  
9 false statements in passport applications), section  
10 1546 (relating to fraud and misuse of visas, permits,  
11 and other documents)”;

12 (2) by striking “or” after paragraph (l);

13 (3) by redesignating paragraphs (m), (n), and  
14 (o) as paragraphs (n), (o), and (p), respectively; and15 (4) by inserting after paragraph (l) the follow-  
16 ing new paragraph:17 “(m) a violation of section 274, 277, or 278 of the  
18 Immigration and Nationality Act (relating to the smug-  
19 gling of aliens);”.20 **SEC. 307. EFFECTIVE DATE.**21 The amendments made by this title shall apply to of-  
22 fenses occurring after the date of enactment of this Act.

1       **TITLE IV—ADMISSIONS AND  
2       DOCUMENT FRAUD CONTROL**

3       **PART A—PORT OF ENTRY INSPECTIONS**

4       **SEC. 411. RESTRICTIONS ON ADMISSIONS FRAUD.**

5           (a) EXCLUSION FOR FRAUDULENT DOCUMENTS OR  
6       FAILURE     To     PRESENT     DOCUMENTS.—Section  
7       212(a)(6)(C) of the Immigration and Nationality Act (8  
8       U.S.C. 1182(a)(6)(C)) is amended—

9               (1) by striking “(C) MISREPRESENTATION” and  
10      inserting the following:

11               “(C) FRAUD, MISREPRESENTATION, AND FAILURE  
12      To PRESENT DOCUMENTS”; and

13               (2) by adding at the end the following new  
14      clause:

15               “(iii) FRAUD, MISREPRESENTATION, AND FAIL-  
16      URE TO PRESENT DOCUMENTS.—

17               “(I) Any alien who, in seeking entry to the  
18       United States or boarding a common carrier for  
19       the purpose of coming to the United States pre-  
20       sents any document which, in the determination  
21       of the immigration officer, is forged, counter-  
22       feit, altered, falsely made, stolen, or inapplica-  
23       ble to the person presenting the document, or  
24       otherwise contains a misrepresentation of a ma-  
25       terial fact, is excludable.

1               “(II) Any alien who is required to present  
2               a document relating to the alien’s eligibility to  
3               enter the United States prior to boarding a  
4               common carrier for the purpose of coming to  
5               the United States and who fails to present such  
6               document to an immigration officer upon arriv-  
7               al at a port of entry into the United States is  
8               excludable.”.

9               (b) PROVISION FOR ASYLUM AND OTHER DISCRE-  
10              TIONARY RELIEF.—(1) Section 208 of the Immigration  
11              and Nationality Act (8 U.S.C. 1158) is amended by add-  
12              ing at the end the following new subsection:

13              “(e)(1) Notwithstanding subsection (a), any alien  
14              who, in seeking entry to the United States or boarding  
15              a common carrier for the purpose of coming to the United  
16              States, presents any document which, in the determination  
17              of the immigration officer, is fraudulent, forged, stolen,  
18              or inapplicable to the person presenting the document, or  
19              otherwise contains a misrepresentation of a material fact,  
20              may not apply for or be granted asylum, unless presen-  
21              tation of the document was pursuant to direct departure  
22              from a country in which the alien has a credible fear of  
23              persecution or of return to persecution.

24              “(2) Notwithstanding subsection (a), an alien who  
25              boards a common carrier for the purpose of coming to the

1 United States through the presentation of any document  
2 which relates or purports to relate to the alien's eligibility  
3 to enter the United States, and who fails to present such  
4 document to an immigration officer upon arrival at a port  
5 of entry into the United States, may not apply for or be  
6 granted asylum, unless presentation of such document was  
7 pursuant to direct departure from a country in which the  
8 alien has a credible fear of persecution or of return to per-  
9 secution.

10 "(3) Notwithstanding subsection (a), an alien de-  
11 scribed in section 235(d)(3) may not apply for or be grant-  
12 ed asylum, unless the person departed directly from a  
13 country in which the alien has a credible fear of persecu-  
14 tion or of return to persecution.

15 "(4) Notwithstanding paragraphs (1), (2), and (3),  
16 the Attorney General may, in the Attorney General's sole  
17 discretion, permit an alien described in paragraphs (1),  
18 (2), or (3) to apply for asylum.

19 "(5)(A) When an immigration officer has determined  
20 that an alien has sought entry under either of the cir-  
21 cumstances described in paragraph (1) or (2) or is an  
22 alien described in section 235(d)(3) and the alien has indi-  
23 cated a desire to apply for asylum, the immigration officer  
24 shall refer the matter to an asylum officer who shall inter-  
25 view the alien to determine whether presentation of the

1 document was pursuant to direct departure from a coun-  
2 try in which the alien has a credible fear of persecution  
3 or of return to persecution, or in the case of an alien de-  
4 scribed in section 235(d)(3), whether the alien had directly  
5 departed from such a country.

6       “(B) If the officer determines that the alien does not  
7 have a credible fear of persecution or of return to persecu-  
8 tion in the country in which the alien was last present  
9 prior to attempting entry into the United States or arriv-  
10 ing in the United States or a port of entry under the cir-  
11 cumstances described in section 235(d)(3), the alien may  
12 be specially excluded and deported in accordance with sec-  
13 tion 235(e).

14       “(C) The Attorney General shall provide by regula-  
15 tion for the prompt supervisory review of a determination  
16 under subparagraph (B) that an alien does not have a  
17 credible fear of persecution or of return to persecution in  
18 the country in which the alien was last present.

19       “(D) The Attorney General shall provide information  
20 concerning the credible fear determination process de-  
21 scribed in this paragraph to persons who may be eligible  
22 for that process under the provisions of this subsection.  
23 An alien who is eligible for a credible fear determination  
24 pursuant to subparagraph (A) may consult with a person  
25 or persons of his or her choosing prior to the credible fear

1 determination process or any review thereof, according to  
2 regulations prescribed by the Attorney General. Such con-  
3 sultation shall be at no expense to the Government and  
4 shall not unduly delay the process.

5 “(6) As used in this section, the term ‘credible fear  
6 of persecution or of return to persecution’ means—

7           “(A) it is more probable than not that the  
8 statements made by the alien in support of his or  
9 her claim are true; and

10          “(B) there is a significant danger that the alien  
11 would be returned to a country in which the alien  
12 would have a credible fear of persecution.

13          “(7) As used in this subsection, the term ‘asylum offi-  
14 cer’ means a person who—

15           “(A) has had professional training in country  
16 conditions, asylum law, and interview techniques;

17           “(B) has been employed for at least one year in  
18 a position the primary responsibility of which is the  
19 adjudication of asylum claims; and

20           “(C) is supervised by an officer who meets con-  
21 ditions in subparagraphs (A) and (B).”.

22          (2) Section 235 of the Immigration and Nationality  
23 Act (8 U.S.C. 1225) is amended by adding at the end the  
24 following new subsection:

1       “(d)(1) Subject to paragraph (2), any alien who has  
2 not been admitted to the United States, and who is exclud-  
3 able under section 212(a)(6)(C)(iii), or who is an alien de-  
4 scribed in paragraph (3), is ineligible for withholding of  
5 deportation pursuant to section 243(h), and may not apply  
6 therefor or for any other relief under this Act, except that  
7 an alien found to have a credible fear of persecution or  
8 of return to persecution in accordance with section 208(e)  
9 shall be taken before a special inquiry officer for exclusion  
10 proceedings in accordance with section 236 and may apply  
11 for asylum, withholding of deportation, or both, in the  
12 course of such proceedings.

13       “(2) An alien described in paragraph (1) who has  
14 been found ineligible to apply for asylum under section  
15 208(e) may be returned under the provisions of this sec-  
16 tion only to a country in which he or she has no credible  
17 fear of persecution or of return to persecution. If there  
18 is no country to which the alien can be returned in accord-  
19 ance with the provisions of this paragraph, the alien shall  
20 be taken before a special inquiry officer for exclusion pro-  
21 ceedings in accordance with section 236 and may apply  
22 for asylum, withholding of deportation, or both, in the  
23 course of such proceedings.

1       “(3) Any alien who is excludable under section  
2 212(a), and who has been brought or escorted under the  
3 authority of the United States—

4           “(A) into the United States, having been on  
5 board a vessel encountered seaward of the territorial  
6 sea by officers of the United States, or

7           “(B) to a port of entry, having been on board  
8 a vessel encountered within the territorial sea or in-  
9 ternal waters of the United States,

10 shall either be detained on board the vessel on which such  
11 person arrived or in such facilities as are designated by  
12 the Attorney General or paroled in the discretion of the  
13 Attorney General pursuant to section 212(d)(5) pending  
14 accomplishment of the purpose for which the person was  
15 brought or escorted into the United States or to the port  
16 of entry, except that no alien shall be detained on board  
17 a public vessel of the United States without the concur-  
18 rence of the head of the department under whose authority  
19 the vessel is operating.”.

20       (3) Section 237(a) of the Immigration and National-  
21 ity Act (8 U.S.C. 1227(a)) is amended—

22           (A) in the second sentence of paragraph (1) by  
23 striking “Deportation” and inserting “Subject to  
24 section 235(d)(2), deportation”; and

1                             (B) in the first sentence of paragraph (2) by  
2                             striking “If” and inserting “Subject to section  
3                             235(d)(2), if”.

4 **SEC. 412. SPECIAL PORT OF ENTRY EXCLUSION FOR ADMIS-**  
5 **SIONS FRAUD.**

6                             Section 235 of the Immigration and Nationality Act  
7 (8 U.S.C. 1225), as amended by section 311(b)(2), is fur-  
8 ther amended by adding at the end the following new sub-  
9 section:

10                         “(e)(1) Subject to paragraph (d)(2), any alien (in-  
11 cluding an alien crewman) who—

12                         “(A) may appear to the examining immigration  
13 officer or to the special inquiry officer during the ex-  
14 amination before either of such officers to be exclud-  
15 able under section 212(a)(6)(C)(iii) of the Immigra-  
16 tion and Nationality Act may be ordered specially  
17 excluded and deported by the Attorney General, ei-  
18 ther by a special inquiry officer or otherwise; or

19                         “(B) was brought to the United States pursu-  
20 ant to subsection (d)(3) and who may appear to an  
21 examining immigration officer to be excludable may  
22 be ordered specially excluded and deported by the  
23 Attorney General without any further inquiry, either  
24 by a special inquiry officer or otherwise.

1       “(2) Such special exclusion order is not subject to  
2 administrative appeal, except that the Attorney General  
3 shall provide by regulation for prompt review of such an  
4 order against an applicant who claims to have been law-  
5 fully admitted for permanent residence. A special exclu-  
6 sion order entered in accordance with the provisions of  
7 this subsection shall have the same effect as if the alien  
8 had been ordered excluded and deported pursuant to sec-  
9 tion 236, except that judicial review of such an order shall  
10 be available only under section 106.

11       “(3) Nothing in this subsection shall be regarded as  
12 requiring an inquiry before a special inquiry officer in the  
13 case of an alien crewman.”.

14 **SEC. 413. JUDICIAL REVIEW.**

15       (a) PRECLUSION OF JUDICIAL REVIEW.—Section  
16 106 of the Immigration and Nationality Act (8 U.S.C.  
17 1105a) is amended—

18           (1) by amending the section heading to read as  
19 follows: “JUDICIAL REVIEW OF ORDERS OF DEPOR-  
20 TATION AND EXCLUSION, AND SPECIAL EXCLUSION”;  
21 and

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

24       “(d)(1) Notwithstanding any other provision of law,  
25 and except as provided in this subsection, no court shall

1 have jurisdiction to review any individual determination,  
2 or to entertain any other cause or claim, arising from or  
3 relating to the implementation or operation of sections  
4 208(e), 212(a)(6)(C)(iii), 235(d), and 235(e). Regardless  
5 of the nature of the action or claim, or the party or parties  
6 bringing the action, no court shall have jurisdiction or au-  
7 thority to enter declaratory, injunctive, or other equitable  
8 relief not specifically authorized in this subsection, nor to  
9 certify a class under Rule 23 of the Federal Rules of Civil  
10 Procedure.

11       “(2) Judicial review of any cause, claim, or individual  
12 determination covered under paragraph (d)(1) shall only  
13 be available in habeas corpus proceedings, and shall be  
14 limited to determinations of—

15           “(A) whether the petitioner is an alien, if the  
16 petitioner makes a showing that his or her claim of  
17 United States nationality is not frivolous;

18           “(B) whether the petitioner was ordered spe-  
19 cially excluded; and

20           “(C) whether the petitioner can prove by a pre-  
21 ponderance of the evidence that he or she is an alien  
22 lawfully admitted for permanent residence and is en-  
23 titled to such further inquiry as is prescribed by the  
24 Attorney General pursuant to section 235(e)(2).

1       “(3) In any case where the court determines that an  
2 alien was not ordered specially excluded, or was not prop-  
3 erly subject to special exclusion under the regulations  
4 adopted by the Attorney General, the court may order no  
5 relief beyond requiring that the alien receive a hearing in  
6 accordance with section 236, or a determination in accord-  
7 ance with section 235(c) or 273(d). Any alien excludable  
8 under section 212(a)(6)(C)(iii) who receives a hearing  
9 under section 236, whether by order of court or otherwise,  
10 may thereafter obtain judicial review of any resulting final  
11 order of exclusion pursuant to subsection (b).

12       “(4) In determining whether an alien has been or-  
13 dered specially excluded, the court’s inquiry shall be lim-  
14 ited to whether such an order was in fact issued and  
15 whether it relates to the petitioner. There shall be no re-  
16 view of whether the alien is actually excludable under sec-  
17 tion 212(a)(6)(C)(iii) or entitled to any relief from exclu-  
18 sion.”.

19       (b) PRECLUSION OF COLLATERAL ATTACKS.—Sec-  
20 tion 235 of the Immigration and Nationality Act (8 U.S.C.  
21 1225), as amended by sections 311(b)(2) and 312, is fur-  
22 ther amended by adding at the end the following new sub-  
23 section:

24       “(f) In any action brought for the assessment of pen-  
25 alties for improper entry or re-entry of an alien under sec-

1 tions 275 and 276 of the Immigration and Nationality  
2 Act, no court shall have jurisdiction to hear claims collat-  
3 erally attacking the validity of orders of exclusion, special  
4 exclusion, or deportation entered under sections 235, 236,  
5 and 242 of the Immigration and Nationality Act.”.

6 **SEC. 414. EFFECTIVE DATE.**

7 The amendments made by this title shall be effective  
8 upon the day after the date of enactment of this Act, and  
9 shall apply to aliens who arrive in or seek admission to  
10 the United States after such date. Notwithstanding any  
11 other provision of law, the Attorney General may issue in-  
12 terim final regulations to implement the provisions of such  
13 amendments at any time after the date of enactment of  
14 this Act, which regulations may become effective upon  
15 publication without prior notice or opportunity for public  
16 comment.

17 **PART B—ENHANCED PENALTIES**

18 **SEC. 421. INCREASED PENALTIES FOR DOCUMENT FRAUD.**

19 (a) FRAUD AND MISUSE OF IMMIGRATION DOCU-  
20 MENTS.—Section 1546(a) of title 18, United States Code,  
21 is amended by striking “five years” and inserting “ten  
22 years”.

23 (b) FRAUD AND MISUSE OF GOVERNMENT-ISSUED  
24 IDENTIFICATION DOCUMENTS.—Section 1028(b)(1) of

1 title 18, United States Code, is amended by striking “five  
2 years” and inserting “ten years”.

3 (c) CHANGES TO THE SENTENCING LEVELS.—Pur-  
4 suant to section 944 of title 28, United States Code, and  
5 section 21 of the Sentencing Act of 1987, the United  
6 States Sentencing Commission shall promulgate guide-  
7 lines, or amend existing guidelines, relating to defendants  
8 convicted of violating, or conspiring to violate, sections  
9 1546(a) and 1028(a) of title 18, United States Code. The  
10 basic offense level under section 2L2.1 of the United  
11 States Sentencing Guidelines shall be increased to—

12 (1) not less than offense level 15 if the offense  
13 involved 1,000 or more documents;

14 (2) not less than offense level 20 if the offense  
15 involved 2,000 or more documents, or if the docu-  
16 ments were used to facilitate any other criminal ac-  
17 tivity described in section 212(a)(2)(A)(i)(II) of the  
18 Immigration and Nationality Act (8 U.S.C.  
19 1182(a)(A)(i)(II)) or in section 101(a)(43) of such  
20 Act, as amended by this Act;

21 (3) not less than offense level 25 if the offense  
22 involved—

23 (A) the provision of documents to a person  
24 known or suspected of engaging in a terrorist  
25 activity (as such terms are defined in section

1           212(a)(3)(B) of the Immigration and National-  
2         ity Act (8 U.S.C. 1182(a)(3)(B));

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

9                 (C) the provision of documents to persons  
10      involved in racketeering enterprises (as such  
11      acts or activities are defined in section 1952 of  
12      title 18, United States Code).

13 **SEC. 422. PENALTIES FOR FAILURE TO DISCLOSE ROLE AS**  
14                 **PREPARER OF FRAUDULENT DOCUMENTS.**

15         (a) ACTIVITIES PROHIBITED.—Section 274C(a) of  
16      the Immigration and Nationality Act (8 U.S.C. 1324c(a))  
17      is amended—

18                 (1) by striking “or” at the end of paragraph  
19      (3);

20                 (2) by striking the period and inserting “, or”  
21      at the end of paragraph (4); and

22                 (3) by adding at the end the following new  
23      paragraph:

24                 “(5) in reckless disregard of the fact that the  
25      information is false or does not relate to the appli-

1       cant, to prepare, to file, or to assist another in pre-  
2       paring or filing, documents which are falsely made  
3       (including but not limited to documents which con-  
4       tain false information, contain material misrepresen-  
5       tations, or information which does not relate to the  
6       applicant) for the purpose of satisfying a require-  
7       ment of this Act.”.

8           (b) CONFORMING AMENDMENTS FOR CIVIL PEN-  
9 ALTIES.—Section 274C(d)(3) of the Immigration and Na-  
10 tionality Act (8 U.S.C. 1324c(d)(3)) is amended by strik-  
11 ing “each document used, accepted, or created and each  
12 instance of use, acceptance, or creation” each of the two  
13 places it appears and inserting “each instance of a viola-  
14 tion under subsection (a)”.

15           (c) CRIMINAL PENALTIES FOR FAILURE TO DIS-  
16 CLOSE ROLE AS DOCUMENT PREPARER.—Section 274C  
17 of the Immigration and Nationality Act (8 U.S.C. 1324c)  
18 is amended by adding at the end the following new sub-  
19 section:

20           “(e) CRIMINAL PENALTIES FOR FAILURE TO DIS-  
21 CLOSE ROLE AS DOCUMENT PREPARER.—(1) Whoever, in  
22 any matter within the jurisdiction of the Service under  
23 section 208 of this Act, knowingly and willfully fails to  
24 disclose, conceals, or covers up the fact that they have,  
25 on behalf of any person and for a fee or other remunera-

1 tion, prepared or assisted in preparing an application  
2 which was falsely made (as defined in section 274C(a))  
3 for immigration benefits pursuant to section 208 of this  
4 Act, or the regulations promulgated thereunder, shall be  
5 guilty of a felony and shall be fined in accordance with  
6 title 18, United States Code, imprisoned for not less than  
7 2 nor more than 5 years, or both, and prohibited from  
8 preparing or assisting in preparing, regardless of whether  
9 for a fee or other remuneration, any other such applica-  
10 tion.

11       “(2) Whoever, having been convicted of a violation  
12 of paragraph (1), knowingly and willfully prepares or as-  
13 sists in preparing an application for immigration benefits  
14 pursuant to this Act, or the regulations promulgated  
15 thereunder, regardless of whether for a fee or other remu-  
16 neration, shall be guilty of a felony and shall be fined in  
17 accordance with title 18, United States Code, imprisoned  
18 for not less than 5 years nor more than 15 years, or both,  
19 and prohibited from preparing or assisting in preparing  
20 any other such application.”.

21 **SEC. 423. CIVIL PENALTIES FOR FRAUD, MISREPRESEN-  
22 TION, AND FAILURE TO PRESENT DOCU-  
23 MENTS.**

24       Section 274C(a) (8 U.S.C. 1324c(a)), as amended by  
25 section 412 of this Act, is further amended—

1                   (1) by striking “or” at the end of paragraph

2                   (4);

3                   (2) by striking the period at the end of para-  
4                   graph (5) and inserting “; or”; and

5                   (3) by adding at the end the following new  
6                   paragraph:

7                   “(6) to present before boarding a common car-  
8                   rier for the purpose of coming to the United States  
9                   a document which relates to the alien’s eligibility to  
10                  enter the United States and to fail to present such  
11                  document to an immigration officer upon arrival at  
12                  a United States port of entry.

13                  The Attorney General may, in his or her discretion, waive  
14                  the penalties of this section with respect to an alien who  
15                  knowingly violates paragraph (6) if the alien is granted  
16                  asylum under section 208 or withholding of deportation  
17                  under section 243(h).”.

18                  **SEC. 424. EFFECTIVE DATE.**

19                  The amendments made by this title shall apply to of-  
20                  fenses or violations occurring after the date of enactment  
21                  of this Act.

22                  **TITLE V—ASYLUM REFORM**

23                  **SEC. 501. PENALTIES FOR FRIVOLOUS APPLICATIONS.**

24                  (a) CIVIL PENALTIES.—

1                             (1) PROHIBITED ACTIVITIES.—Section 274C of  
2       the Immigration and Nationality Act (8 U.S.C.  
3       1324c), as amended by sections 412 and 413 of this  
4       Act, is further amended by inserting at the end of  
5       subsection (a) the following new sentence: “For the  
6       purposes of this subsection, the phrase ‘falsely make  
7       any document’ includes the preparation or provision  
8       of any application for benefits under this Act which  
9       was made knowingly or in reckless disregard of the  
10      fact that such application has no basis in law or fact  
11      or which otherwise fails to contain information per-  
12      taining to the applicant.”.

13                             (2) EFFECTIVE DATE.—The amendment made  
14       by paragraph (1) applies to the preparation of appli-  
15       cations before, on, or after the date of enactment of  
16       this Act.

17                             (b) CRIMINAL PENALTIES.—The fourth paragraph of  
18       section 1546(a) of title 18, United States Code, is amend-  
19       ed to read as follows:

20       “Whoever knowingly makes under oath, or as per-  
21       mitted under penalty of perjury under section 1746 of title  
22       28, United States Code, knowingly subscribes as true, any  
23       false statement with respect to a material fact in any ap-  
24       plication, affidavit, or other document required by the im-  
25       migration laws or regulations prescribed thereunder, or

1 knowingly presents any such application, affidavit, or  
2 other document which contains any such false statement  
3 or which fails to contain any reasonable basis in law  
4 or fact—”.

5 **SEC. 502. ASYLUM AND WORK AUTHORIZATION.**

6       Section 208 of the Immigration and Nationality Act  
7 (8 U.S.C. 1158) is amended by adding at the end the fol-  
8 lowing new subsection:

9       “(f) An applicant for asylum may not engage in em-  
10 ployment in the United States except pursuant to this sub-  
11 section. The Attorney General may deny, suspend, or oth-  
12 erwise place conditions on any application for or grant of  
13 authorization to engage in employment in the United  
14 States to any alien who makes an application under this  
15 section. The Attorney General shall issue regulations to  
16 prescribe the conditions for denial, suspension, or condi-  
17 tioning of such authorization, and shall include in such  
18 regulations a plan to address sudden, substantial increases  
19 in asylum applications and repeated attempts by aliens to  
20 gain such authorization without stating a credible fear of  
21 persecution.”.

22 **SEC. 503. RESOURCES TO ADDRESS ASYLUM BACKLOG.**

23       (a) PURPOSE AND PERIOD OF AUTHORIZATION.—  
24 For the purpose of reducing the number of applications  
25 pending under sections 208 and 243(h) of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1158 and 8 U.S.C.  
2 1253) as of the date of enactment of this Act, the Atto-  
3 ney General shall have the authority described in sub-  
4 sections (b) and (c) for a period of 2 years, beginning 90  
5 days after the date of enactment of this Act.

6 (b) PROCEDURES FOR PROPERTY ACQUISITION ON  
7 LEASING.—Notwithstanding the Federal Property and  
8 Administrative Services Act of 1949 (40 U.S.C. 471 et  
9 seq.), the Attorney General is authorized to expend out  
10 of funds made available to the Department of Justice for  
11 the administration of the Immigration and Nationality Act  
12 such amounts as may be necessary for the leasing or ac-  
13 quisition of property to carry out the purpose described  
14 in subsection (a).

15 (c) USE OF FEDERAL RETIREES.—(1) In order to  
16 carry out the purpose described in subsection (a), the At-  
17 torney General may employ temporarily not more than  
18 300 persons who, by reason of retirement on or before  
19 January 1, 1993, are receiving—

20 (A) annuities under the provisions of sub-  
21 chapter III of chapter 83 of title 5, United States  
22 Code, or chapter 84 of such title;  
23 (B) annuities under any other retirement sys-  
24 tem for employees of the Federal Government; or

1                   (C) retired or retainer pay as retired officers of  
2                   regular components of the uniformed services.

3                 (2) In the case of a person retired under the provi-  
4                 sions of subchapter III of chapter 83 of title 5, United  
5                 States Code—

6                   (A) no amounts may be deducted from the per-  
7                   son's pay,

8                   (B) the annuity of such person may not be  
9                   terminated,

10                  (C) payment of annuity to such person may not  
11                  be discontinued, and

12                  (D) the annuity of such person may not be  
13                  recomputed,

14                  under section 8344 of such title by reason of temporary  
15                  employment authorized in paragraph (1).

16                  (3) In the case of a person retired under the provi-  
17                 sions of chapter 84 of title 5, United States Code—

18                  (A) no amounts may be deducted from the per-  
19                  son's pay,

20                  (B) contributions to the Civil Service Retire-  
21                  ment and Disability Fund may not be made, and

22                  (C) the annuity of such person may not be  
23                  recomputed,

24                  under section 8468 of such title by reason of temporary  
25                  employment authorized in paragraph (1).

1       (4) The retired or retainer pay of a retired officer  
2 of a regular component of a uniformed service may not  
3 be reduced under section 5532 of title 5, United States  
4 Code, by reason of temporary employment authorized in  
5 paragraph (1).

6       (5) The President shall apply the provisions of para-  
7 graphs (2) and (3) to persons referred to in paragraph  
8 (1)(B) in the same manner and to the same extent as such  
9 provisions apply to persons referred to in paragraph  
10 (1)(A).

11 **SEC. 504. REDUCTION OF INCENTIVES TO DELAY PROCEED-  
12 INGS.**

13       (a) RELIEF UNDER SECTION 212(c).—Section  
14 212(c) of the Immigration and Nationality Act (8 U.S.C.  
15 1182(c)) is amended—

16           (1) by redesignating subsection (c) as sub-  
17 section (c)(1); and

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

19           “(2) For the purpose of satisfying the 7-year period  
20 described in paragraph (1), no time shall count toward  
21 such period after the alien has received an order to show  
22 cause issued under section 242 or 242B.”.

23       (b) EFFECTIVE DATE.—The amendment made by  
24 subsection (a) shall apply to all applications for relief

1 under section 212(c) or 244 of the Immigration and Na-  
2 tionality Act filed after the date of enactment of this Act.

3 **SEC. 505. PARTIAL REVOCATION OF EXECUTIVE ORDER.**

4 Section 4 of Executive Order No. 12711 of April 11,  
5 1990, and any rule, regulation, or order issued under that  
6 section, shall be of no force or effect, except that nothing  
7 in this Act shall invalidate, or otherwise retroactively af-  
8 fect, any final determination of eligibility for asylum made  
9 before the date of enactment of this Act.

10 **TITLE VI—BORDER CROSSING**  
11 **USER FEE**

12 **SEC. 601. IMPOSITION OF FEES.**

13 (a) LAND BORDER AND PORT OF ENTRY USER FEE  
14 ACCOUNT.—Section 286(q) of the Immigration and Na-  
15 tionality Act (8 U.S.C. 1356(q)) is amended to read as  
16 follows:

17 “(q) LAND BORDER AND PORT OF ENTRY USER FEE  
18 ACCOUNT.—(1) The Attorney General, after consultation  
19 with the Secretary of State, shall impose at the time of  
20 a person’s entry into the United States by land or by sea  
21 a fee of \$1 for the person’s use of border or port facilities  
22 and services of the Immigration and Naturalization  
23 Service.

24 “(2) Notwithstanding subsection (b), the Attorney  
25 General may—

1               “(A) adjust the border crossing user fee peri-  
2       odically to compensate for inflation and other esca-  
3       lation in the cost of carrying out the purposes of this  
4       Act; and

5               “(B) develop and implement special discounted  
6       fee programs for frequent border crossers including,  
7       but not limited to, commuter coupon books or  
8       passes.

9               “(3) All fees collected under paragraph (1) shall be  
10      deposited as offsetting receipts in a separate account with-  
11      in the general fund of the Treasury of the United States  
12      and shall remain available until expended. Such account  
13      shall be known as the ‘Land Border and Port of Entry  
14      User Fee Account’.

15               “(4)(A) The Secretary of the Treasury shall refund  
16      out of the Land Border and Port of Entry User Fee Ac-  
17      count, at least on a quarterly basis, amounts to any appro-  
18      priations for expenses incurred in providing inspection  
19      services at land border points and seaports of entry. Such  
20      expenses shall include—

21               “(i) the provision of inspection services;  
22               “(ii) the operation and maintenance of inspec-  
23       tion facilities at land border and seaport points of  
24       entry;

1           “(iii) the expansion, operation, and maintenance of information systems for immigrant control;

2           “(iv) the hire of additional permanent and temporary inspectors, including those authorized by section 111 of the Illegal Immigration Control and Enforcement Act of 1994;

3           “(v) the minor construction costs associated with the addition of new traffic lanes (with the concurrence of the General Services Administration), including the establishment of commuter lanes to be made available to qualified United States citizens and aliens, as determined by the Attorney General;

4           “(vi) the detection of fraudulent documents used by persons seeking to enter the United States; and

5           “(vii) providing for the administration of the Land Border and Port of Entry User Fee Account.

6           “(B) Beginning with the fiscal year which begins after the effective date of this subsection, amounts required to be refunded in any fiscal year shall be refunded in accordance with estimates made in the budget request of the Attorney General for that fiscal year. Any proposed change in an amount specified in such budget request shall only be made after notification, at least 15 days in advance of the proposed refund, to the Committees on Ap-

1 propriations of the House of Representatives and the Sen-  
2 ate in accordance with section 606 of Public Law 101-  
3 162.

4 “(5) Beginning two years after the date of enactment  
5 of this Act, and every two years thereafter, the Attorney  
6 General shall prepare and submit to the Congress a report  
7 containing—

8       “(A) a statement of the financial condition of  
9 the Land Border and Port of Entry User Fee Ac-  
10 count, including the beginning account balance, reve-  
11 nues, withdrawals, and ending account balance and  
12 projection for the next two fiscal years; and

13       “(B) a recommendation, if necessary, regarding  
14 any adjustment in the prescribed fee that may be re-  
15 quired to ensure that the receipts collected from the  
16 fee charged for the succeeding two-year period equal,  
17 as closely as possible, the cost of providing the facili-  
18 ties and services described in paragraph (1).”.

19       (b) EFFECTIVE DATE.—(1) The amendment made by  
20 subsection (a) shall take effect 6 months after the date  
21 of enactment of this Act.

22       (2) Not later than 90 days after the date of enact-  
23 ment of this Act, the Attorney General shall submit in  
24 writing to the Committees on the Judiciary and the Com-  
25 mittees on Appropriations of the House of Representatives

1 and of the Senate a plan detailing the proposed implemen-  
2 tation of section 286(q) of the Immigration and National-  
3 ity Act (as amended by this Act).

4 (3) Effective 6 months after the date of enactment  
5 of this Act, the fourth proviso under the heading “Immi-  
6 gration and Naturalization Service, Salaries and Ex-  
7 penses” in Public Law 103–121 is repealed.

8 (c) FURTHER USE OF FUND FOR BORDER SECU-  
9 RITY.—(1) Notwithstanding any other provision of law,  
10 upon the date of enactment of this Act, the Secretary of  
11 the Treasury shall refund at the beginning of each fiscal  
12 year to the Appropriation Account of the Immigration and  
13 Naturalization Service funds in the Land Border Inspec-  
14 tion Fee Account which remain unobligated from the pre-  
15 ceding fiscal year, for use as follows:

16 (A) For the hiring, training, support, and  
17 equipping of—

18 (i) Border Patrol agents, and of related  
19 support personnel authorized in section 111 of  
20 this Act;

21 (ii) the Immigration and Naturalization  
22 Service land-border inspectors authorized by  
23 section 121 of this Act;

(iii) the Immigration and Naturalization Service investigators authorized by section 221 of this Act;

(iv) the Department of Labor inspectors authorized by section 231 of this Act; and

(v) the Assistant United States Attorneys authorized by section 232 of this Act.

(B) Not to exceed a total of \$5,000,000 in fiscal years 1995 and 1996, to carry out the project described in section 134.

14 (D) To the extent available—

(i) for costs relating to land border crossing infrastructure improvement as authorized by section 122 of this Act:

1           order to fully abate the flow of narcotics and  
2           other illegal drugs into the United States;

3               (iv) for the cost of increasing rewards for  
4               information leading to the arrest and conviction  
5               of terrorists;

6               (v) for the cost of conducting classes, or  
7               otherwise assisting or encouraging, legal immi-  
8               grants to the United States to attain American  
9               citizenship; and

10              (vi) for the cost of such other activities  
11              that, in the discretion of the Attorney General,  
12              will reduce: illegal transit of the Nation's bor-  
13              ders, the flow of illegal drugs across such bor-  
14              ders, the time necessary to process applications  
15              for asylum in the United States, and the  
16              number of alien criminals incarcerated in this  
17              country.

18           (d) AUTHORIZATION OF APPROPRIATIONS.—There  
19           are authorized to be appropriated to the Department of  
20           Justice such additional funds as may be necessary to sat-  
21           isfy the requirements of this Act not otherwise funded by  
22           this title.

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