

108TH CONGRESS
1ST SESSION

H. R. 3522

To amend the Immigration and Nationality Act to bar the admission, and facilitate the removal, of alien terrorists and their supporters and fundraisers, to secure our borders against terrorists, drug traffickers, and other illegal aliens, to facilitate the removal of illegal aliens and aliens who are criminals or human rights abusers, to reduce visa, document, and employment fraud, to temporarily suspend processing of certain visas and immigration benefits, to reform the legal immigration system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 19, 2003

Mr. BARRETT of South Carolina (for himself, Mr. MILLER of Florida, and Mr. GOODE) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

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1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CON-**
 4 **TENTS; SEVERABILITY.**

5 (a) SHORT TITLE.—This Act may be cited as—

6 (1) the “Securing America’s Future through
 7 Enforcement Reform Act of 2003”; or

8 (2) the “SAFER Act”.

9 (b) REFERENCES TO IMMIGRATION AND NATION-
 10 ALITY ACT.—Except as otherwise expressly provided,
 11 whenever in this Act an amendment or repeal is expressed
 12 in terms of an amendment to, or repeal of, a section or
 13 other provision, the reference shall be considered to be
 14 made to a section or other provision of the Immigration
 15 and Nationality Act.

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

Sec. 1. Short title; references; table of contents; severability.

Sec. 2. Congressional findings.

TITLE I—SECURING THE BORDER

Subtitle A—Prevention and Punishment of Criminal Smuggling, Transporting,
 and Harboring of Aliens

Sec. 101. Increased personnel for investigating alien smuggling.

Sec. 102. Increased criminal sentences and fines for alien smuggling.

Sec. 103. Change to sentencing guidelines.

Sec. 104. Enhanced penalties for persons committing offenses while armed.

Sec. 105. Discontinuing grant of visas to nationals of countries not cooperating
 in combatting alien smuggling.

Subtitle B—Border Personnel and Strategy

Sec. 111. Increase in full-time border patrol agents.

- Sec. 112. Report on number of border patrol agents needed to secure northern border.
- Sec. 113. Use of Army and Air Force to secure the border.
- Sec. 114. Use of border property to secure the border.
- Sec. 115. Report on border strategy.

TITLE II—SCREENING ALIENS SEEKING ADMISSION

- Sec. 201. Increase in full-time inspectors.
- Sec. 202. Visa waiver program.
- Sec. 203. Consular officer interviews of all visa applicants.
- Sec. 204. Recodification and reform of grounds of inadmissibility.
- Sec. 205. Protections for United States specialty workers.
- Sec. 206. Antifraud fee.

TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

- Sec. 301. Entry-exit system.
- Sec. 302. Collection of information regarding foreign students.
- Sec. 303. Alien registration.
- Sec. 304. Visa term compliance bonds.
- Sec. 305. Release of aliens in removal proceedings.
- Sec. 306. Detention of aliens delivered by bondsmen.

TITLE IV—REMOVING ALIEN TERRORISTS, CRIMINALS, AND HUMAN RIGHTS VIOLATORS

Subtitle A—Removing Alien Terrorists

- Sec. 401. Deportability of alien terrorists, national security threats, and serious foreign crimes.
- Sec. 402. Administrative removal of alien terrorists.
- Sec. 403. Asylum petitions by members of terrorist organizations.
- Sec. 404. Expatriation of terrorists.

Subtitle B—Removing Alien Criminals

- Sec. 411. Definition of criminal conviction.
- Sec. 412. Removing murderers, rapists, sexual abusers of children, and drunk drivers.
- Sec. 413. Detention and release of criminal aliens pending removal decision.

Subtitle C—Removing Alien Human Rights Violators

- Sec. 421. Serious human rights violator defined.
- Sec. 422. Deportability of serious human rights violators.
- Sec. 423. Arrest and detention of serious human rights violators pending removal and criminal prosecution decisions.
- Sec. 424. Exception to restriction on removal for serious human rights violators and terrorists.
- Sec. 425. Initiation of removal proceedings against serious human rights violators by complaint.
- Sec. 426. Bars to refugee status and asylum for serious human rights violators.
- Sec. 427. Bar to adjustment of status for serious human rights violators.
- Sec. 428. Bar to finding of good moral character for serious human rights violators.
- Sec. 429. Bar to cancellation of removal for serious human rights violators.

- Sec. 430. Bar to adjustment of status with respect to certain special immigrants.
- Sec. 431. Criminal penalties for reentry of removed serious human rights violators.
- Sec. 432. Aiding or assisting serious human rights violators to enter the United States.
- Sec. 433. Revision of regulations with respect to the involuntary return of persons in danger of subjection to torture.
- Sec. 434. Funding for detention and removal assistance provided by State and local law enforcement agencies.
- Sec. 435. Effective date.

TITLE V—ENHANCING ENFORCEMENT OF THE IMMIGRATION
AND NATIONALITY ACT IN THE INTERIOR

Subtitle A—Document Security

- Sec. 501. Secure travel documents.
- Sec. 502. Social security cards.
- Sec. 503. Consular identification documents.

Subtitle B—Employment Eligibility Verification

- Sec. 511. Employment eligibility verification process and elimination of examination of documentation requirement.
- Sec. 512. Employment eligibility verification system.
- Sec. 513. Notification by Commissioner of failure to correct social security information.
- Sec. 514. Protection for individuals reporting immigration law violations.

Subtitle C—Miscellaneous

- Sec. 521. Increased investigative personnel.
- Sec. 522. Expedited exclusion.
- Sec. 523. Adjustment of status for certain aliens.
- Sec. 524. Termination of continuous presence for purposes of cancellation of removal upon commission of offense rendering alien inadmissible or deportable.
- Sec. 525. Reentry of removed aliens.
- Sec. 526. Criminal and civil penalties for entry of aliens at improper time or place, avoidance of examination or inspection, unlawful presence, and misrepresentation or concealment of facts.
- Sec. 527. Communication between government agencies and the Department of Homeland Security.
- Sec. 528. Exception to removal for certain aliens.
- Sec. 529. Detention facilities.
- Sec. 530. Voluntary departure.
- Sec. 531. Cancellation of removal.
- Sec. 532. Expedited removal of criminal aliens.
- Sec. 533. Subject to jurisdiction defined.
- Sec. 534. Claims for services performed by unauthorized aliens.
- Sec. 535. Restrictions on warrantless entry.

TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY
AND ABUSIVE TACTICS BY ALIENS IN REMOVAL PROCEEDINGS

- Sec. 601. Frivolous applications.

- Sec. 602. Continuances; change of venue.
- Sec. 603. Burden of proof in asylum proceedings.
- Sec. 604. Review of convention against torture grants and denials.
- Sec. 605. Time limit for decisions in administrative appeals.
- Sec. 606. Review of asylum claims.
- Sec. 607. Judicial review.

TITLE VII—EMERGENCY IMMIGRATION WORKLOAD REDUCTION

- Sec. 701. Congressional finding.
- Sec. 702. Temporary suspension of visa waiver program.
- Sec. 703. Temporary suspension of adjustment of status applications.
- Sec. 704. Temporary suspension of renewals of temporary protected status.
- Sec. 705. Curtailment of visas for countries denying or delaying repatriation of nationals.
- Sec. 706. Waiver of suspensions.
- Sec. 707. Termination of temporary suspensions.
- Sec. 708. Effective date.

TITLE VIII—REFORMING LEGAL IMMIGRATION

Subtitle A—Promotion of Citizenship

- Sec. 801. Changes in naturalization requirements.
- Sec. 802. Oath of Renunciation and Allegiance.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

- Sec. 811. Treatment of nationals of State sponsors of terrorism.

Subtitle C—Legal Immigration Reform

- Sec. 821. Extended family preference categories.
- Sec. 822. Employment third preference category.
- Sec. 823. Elimination of diversity immigrant program.
- Sec. 824. Refugee admissions.
- Sec. 825. Aliens subject to direct numerical limitations.
- Sec. 826. Education of family-sponsored immigrants.
- Sec. 827. Sponsorship levels.
- Sec. 828. Repeal of section 245(i).

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Temporary protected status.
- Sec. 902. Good moral character.
- Sec. 903. Removal for aliens who make misrepresentations to procure benefits.
- Sec. 904. Designations of foreign terrorist organizations.
- Sec. 905. Foreign students.
- Sec. 906. Pay grade GS–15 available for trial attorneys.
- Sec. 907. Proof of identity of aliens seeking relief.
- Sec. 908. Following to join defined.
- Sec. 909. Information on foreign crimes.

- 1 (d) SEVERABILITY.—If any provision of this Act, or
- 2 the application of such a provision to any person or cir-

1 cumstance, is held to be unconstitutional, the remainder
2 of this Act, and the application of the provisions of this
3 Act to any other person or circumstance, shall not be af-
4 fected by such holding.

5 **SEC. 2. CONGRESSIONAL FINDINGS.**

6 The Congress finds as follows:

7 (1) Alien terrorists are not a distinct national
8 security problem that is somehow separable from the
9 interrelated problems of alien trafficking, alien crim-
10 inality, and illegal immigration driven by economic
11 factors.

12 (2) An effective counter-terrorism effort must
13 assume that terrorists will take advantage of our
14 permeable borders and the ability of illegal aliens to
15 operate in the United States without any systematic
16 effort to locate and remove them.

17 (3) The capability to routinely and reliably de-
18 tect and locate non-citizens present in the United
19 States, and accurately identify their immigration
20 status, is the first essential line of defense against
21 alien terrorist operations on United States territory.

22 (4) A comprehensive strategy of interior en-
23 forcement that includes an automated work author-
24 ization verification system, penalties for employers
25 who knowingly hire illegal aliens, and prompt re-

1 removal of aliens found working without authorization
2 is the only effective way to identify and control the
3 large illegal alien population in the United States.

4 (5) Suppression of illegal immigration through
5 effective alien registration and document security
6 programs is the most practical and effective means
7 to protect the civic freedoms treasured by U.S. citi-
8 zens during periods of terrorist-related national se-
9 curity threats.

10 **TITLE I—SECURING THE**
11 **BORDER**
12 **Subtitle A—Prevention and Pun-**
13 **ishment of Criminal Smuggling,**
14 **Transporting, and Harboring of**
15 **Aliens**

16 **SEC. 101. INCREASED PERSONNEL FOR INVESTIGATING**
17 **ALIEN SMUGGLING.**

18 (a) IN GENERAL.—The Secretary of Homeland Secu-
19 rity, in each of the fiscal years 2004 through 2011, shall
20 increase the number of positions for full-time, active-duty
21 investigators or other enforcement personnel within the
22 Department of Homeland Security who are assigned to
23 combat alien smuggling by not less than 50 positions
24 above the number of such positions for which funds were
25 allotted for the preceding fiscal year.

1 (b) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—In addition to funds other-
3 wise available for such purpose, there are authorized
4 to be appropriated to the Department of Homeland
5 Security such sums as may be necessary in each of
6 the fiscal years 2004 through 2011 to carry out sub-
7 section (a), and to cover the operating expenses of
8 the department in conducting undercover investiga-
9 tions of alien smuggling activities and in prosecuting
10 violations of section 274(a)(1)(A) of the Immigra-
11 tion and Nationality Act (8 U.S.C. 1324(a)(1)(A))
12 (relating to alien smuggling), resulting from the in-
13 crease in personnel under subsection (a).

14 (2) AVAILABILITY OF FUNDS.—Amounts appro-
15 priated pursuant to paragraph (1) are authorized to
16 remain available until expended.

17 (c) ALIEN SMUGGLING DEFINED.—In this section,
18 the term “alien smuggling” means any act prohibited by
19 section 274(a) of the Immigration and Nationality Act (8
20 U.S.C. 1324(a)) or section 274A(a) of such Act (8 U.S.C.
21 1324a(a)).

22 **SEC. 102. INCREASED CRIMINAL SENTENCES AND FINES**
23 **FOR ALIEN SMUGGLING.**

24 (a) IN GENERAL.—Subject to subsection (b), pursu-
25 ant to its authority under section 994(p) of title 28,

1 United States Code, the United States Sentencing Com-
2 mission shall promulgate sentencing guidelines or amend
3 existing sentencing guidelines for smuggling, transporting,
4 harboring, or inducing aliens under sections 274(a)(1)(A)
5 of the Immigration and Nationality Act (8 U.S.C.
6 1324(a)(1)(A)) so as to—

7 (1) triple the minimum term of imprisonment
8 under that section for offenses involving the smug-
9 gling, transporting, harboring, or inducing of—

10 (A) 1 to 5 aliens from 10 months to 30
11 months;

12 (B) 6 to 24 aliens from 18 months to 54
13 months;

14 (C) 25 to 100 aliens from 27 months to 81
15 months; and

16 (D) 101 aliens or more from 37 months to
17 111 months;

18 (2) increase the minimum level of fines for each
19 of the offenses described in subparagraphs (A)
20 through (D) of paragraph (1) to the greater of
21 \$25,000 per alien or 3 times the amount the defend-
22 ant received or expected to receive as compensation
23 for the illegal activity;

24 (3) increase by at least 2 offense levels above
25 the applicable enhancement in effect on the date of

1 the enactment of this Act the sentencing enhance-
2 ments for intentionally or recklessly creating a sub-
3 stantial risk of serious bodily injury or causing bod-
4 ily injury, serious injury, or permanent or life
5 threatening injury;

6 (4) for actions causing death, increase the of-
7 fense level to be equivalent to that for involuntary
8 manslaughter under section 1112 of title 18, United
9 States Code; and

10 (5) for corporations or other business entities
11 that knowingly benefit from such offenses, increase
12 the minimum level of fines for each of the offenses
13 described in subparagraphs (A) through (D) of para-
14 graph (1) to \$50,000 per alien employed directly, or
15 indirectly through contract, by the corporation or
16 entity.

17 (b) EXCEPTION.—Subsection (a) shall not apply to
18 an offense that involved the smuggling, transporting, or
19 harboring only of the defendant’s spouse or child (or both
20 the defendant’s spouse and child).

21 (c) DEADLINE.—The United States Sentencing Com-
22 mission shall carry out subsection (a) not later than the
23 date that is 6 months after the date of the enactment of
24 this Act.

1 **SEC. 103. CHANGE TO SENTENCING GUIDELINES.**

2 In the exercise of its authority under section 994 of
3 title 28, United States Code, the United States Sentencing
4 Commission shall amend the Federal sentencing guidelines
5 to provide that plea bargaining and other prosecutorial
6 policies, and differences in those policies among different
7 districts, are not a ground for imposing a sentence outside
8 the applicable guidelines range for a violation of immigra-
9 tion law.

10 **SEC. 104. ENHANCED PENALTIES FOR PERSONS COMMIT-**
11 **TING OFFENSES WHILE ARMED.**

12 (a) IN GENERAL.—Section 924(c)(1) of title 18,
13 United States Code, is amended—

14 (1) in subparagraph (A)—

15 (A) by inserting after “device)” the fol-
16 lowing: “or any violation of section
17 274(a)(1)(A) of the Immigration and Nation-
18 ality Act”; and

19 (B) by striking “or drug trafficking
20 crime—” and inserting “, drug trafficking
21 crime, or violation of section 274(a)(1)(A) of
22 the Immigration and Nationality Act—”; and

23 (2) in subparagraph (D)(ii), by striking “or
24 drug trafficking crime” and inserting “, drug traf-
25 ficking crime, or violation of section 274(a)(1)(A) of
26 the Immigration and Nationality Act”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act, and shall apply to offenses committed
4 after such date.

5 **SEC. 105. DISCONTINUING GRANT OF VISAS TO NATIONALS**
6 **OF COUNTRIES NOT COOPERATING IN COM-**
7 **BATTING ALIEN SMUGGLING.**

8 If the Secretary of Homeland Security determines
9 that the government of a foreign country has not cooper-
10 ated fully with the United States, or has not taken ade-
11 quate steps on its own, to combat the smuggling of aliens
12 into the United States from territory controlled by the
13 state, the Secretary shall order consular officers in the
14 country to discontinue granting immigrant or non-
15 immigrant visas, or both, to citizens, subjects, nationals,
16 and residents of the country until the Secretary deter-
17 mines that the country has begun to cooperate fully, or
18 has taken adequate steps, to combat such smuggling.

19 **Subtitle B—Border Personnel and**
20 **Strategy**

21 **SEC. 111. INCREASE IN FULL-TIME BORDER PATROL**
22 **AGENTS.**

23 The Secretary of Homeland Security, in each of fiscal
24 years 2004 through 2011, shall increase by not less than
25 1,000 the number of positions for full-time active-duty

1 border patrol agents within the Department of Homeland
2 Security above the number of positions for which funds
3 were allotted for the preceding fiscal year.

4 **SEC. 112. REPORT ON NUMBER OF BORDER PATROL**
5 **AGENTS NEEDED TO SECURE NORTHERN**
6 **BORDER.**

7 (a) REPORT.—Not later than 1 year after the date
8 of the enactment of this Act, the Comptroller General of
9 the United States shall submit a report to the Committees
10 on the Judiciary of the House of Representatives and the
11 Senate on the number of border patrol agents needed to
12 secure the northern border of the United States.

13 (b) COOPERATION.—The Attorney General, the Sec-
14 retary of State, the Secretary of Defense, and the Sec-
15 retary of Homeland Security shall cooperate with the
16 Comptroller General of the United States in carrying out
17 this section.

18 **SEC. 113. USE OF ARMY AND AIR FORCE TO SECURE THE**
19 **BORDER.**

20 Section 1385 of title 18, United States Code, is
21 amended by inserting after “execute the laws” the fol-
22 lowing: “other than at or near a border of the United
23 States in order to prevent aliens, terrorists, and drug
24 smugglers from entering the United States”.

1 **SEC. 114. USE OF BORDER PROPERTY TO SECURE THE BOR-**
2 **DER.**

3 Section 102(c) of the Illegal Immigration Reform and
4 Immigrant Responsibility Act of 1996 (8 U.S.C. 1103
5 note) is amended by striking “this section.” and inserting
6 “this section and to secure the borders of the United
7 States against aliens, terrorists, and drug smugglers.”.

8 **SEC. 115. REPORT ON BORDER STRATEGY.**

9 (a) **EVALUATION OF STRATEGY.**—The Comptroller
10 General of the United States shall track, monitor, and
11 evaluate the Secretary of Homeland Security’s strategy to
12 deter illegal entry in the United States to determine the
13 efficacy of such strategy.

14 (b) **COOPERATION.**—The Attorney General, the Sec-
15 retary of State, the Secretary of Defense, and the Sec-
16 retary of Homeland Security shall cooperate with the
17 Comptroller General of the United States in carrying out
18 subsection (a).

19 (c) **REPORT.**—Not later than one year after the date
20 of the enactment of this Act, and every year thereafter
21 for the succeeding 5 years, the Comptroller General of the
22 United States shall submit a report to the Committees on
23 the Judiciary of the House of Representatives and of the
24 Senate on the results of the activities undertaken under
25 subsection (a) during the previous year. Each such report
26 shall include an analysis of the degree to which the Sec-

1 retary of Homeland Security’s strategy has been effective
2 in reducing illegal entry. Each such report shall include
3 a collection and systematic analysis of data, including
4 workload indicators, related to activities to deter illegal
5 entry and recommendations to improve and increase bor-
6 der security at the border and ports of entry.

7 **TITLE II—SCREENING ALIENS** 8 **SEEKING ADMISSION**

9 **SEC. 201. INCREASE IN FULL-TIME INSPECTORS.**

10 (a) IN GENERAL.—The Secretary of Homeland Secu-
11 rity, in each of fiscal years 2004 through 2011, shall in-
12 crease by not less than 250 the number of positions for
13 full-time inspectors within the Department of Homeland
14 Security above the number of positions for which funds
15 were allotted for the preceding fiscal year.

16 (b) REPEAL.—Section 101(a)(1) of the Enhanced
17 Border Security and Visa Entry Reform Act of 2002
18 (Public Law 107–173) is repealed.

19 **SEC. 202. VISA WAIVER PROGRAM.**

20 (a) PASSPORT REQUIREMENTS.—Section 217(a)(3)
21 (8 U.S.C. 1187(a)(3)) is amended to read as follows:

22 “(3) MACHINE-READABLE, TAMPER-RESISTANT
23 PASSPORT WITH BIOMETRIC IDENTIFIERS.—On and
24 after October 1, 2005, the alien at the time of appli-

1 cation for admission is in possession of a valid unex-
2 pired machine-readable passport that—

3 “(A) satisfies the internationally accepted
4 standard for machine readability;

5 “(B) is tamper-resistant; and

6 “(C) incorporates biometric and document
7 authentication identifiers that comply with ap-
8 plicable biometric and document identifying
9 standards established by the International Civil
10 Aviation Organization.”.

11 (b) REPEAL.—Section 303(c) of the Enhanced Bor-
12 der Security and Visa Entry Reform Act of 2002 (Public
13 Law 107–173) is repealed.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on October 1, 2005.

16 **SEC. 203. CONSULAR OFFICER INTERVIEWS OF ALL VISA**
17 **APPLICANTS.**

18 (a) IN GENERAL.—Section 221 (8 U.S.C. 1201) is
19 amended by adding at the end the following:

20 “(j) Prior to the issuance of an immigrant or non-
21 immigrant visa to any alien, the consular officer shall re-
22 quire such alien to submit to an in-person interview in ac-
23 cordance with such regulations as may be prescribed.”.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to carry out the amend-

1 ment made by subsection (a) such sums as may be nec-
2 essary for fiscal years 2004 through 2011.

3 (c) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to visas issued after October 1,
5 2003.

6 **SEC. 204. RECODIFICATION AND REFORM OF GROUNDS OF**
7 **INADMISSIBILITY.**

8 (a) TRANSFER AND REDESIGNATION.—Section 212
9 (8 U.S.C. 1182) is amended—

10 (1) by transferring subsection (e) to the end of
11 section 222 (8 U.S.C. 1202) and redesignating it as
12 subsection (h);

13 (2) by transferring subsections (j), (m), (n),
14 and (q) to the end of section 214 (8 U.S.C. 1202)
15 and redesignating them as subsections (s), (t), (u),
16 and (v), respectively; and

17 (3) by amending the remainder of such section
18 to read as follows:

19 “GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE
20 VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF
21 INADMISSIBILITY

22 “SEC. 212. (a) CLASSES OF ALIENS INELIGIBLE FOR
23 VISAS OR ADMISSION.—Except as otherwise provided in
24 this Act, aliens who are inadmissible under the following
25 paragraphs are ineligible to receive visas and ineligible to
26 be admitted to the United States:

1 “(1) HEALTH-RELATED GROUNDS.—
2 “(A) IN GENERAL.—Any alien—
3 “(i) who is determined (in accordance
4 with regulations prescribed by the Sec-
5 retary of Health and Human Services) to
6 have a communicable disease of public
7 health significance, which shall include in-
8 fection with the etiologic agent for ac-
9 quired immune deficiency syndrome;
10 “(ii) except as provided in subpara-
11 graph (C), who seeks admission as an im-
12 migrant, or who seeks adjustment of status
13 to the status of an alien lawfully admitted
14 for permanent residence, and who has
15 failed to present documentation of having
16 received vaccination against vaccine-pre-
17 ventable diseases, which shall include at
18 least the following diseases: mumps, mea-
19 sles, rubella, polio, tetanus and diphtheria
20 toxoids, pertussis, influenza type B and
21 hepatitis B, and any other vaccinations
22 against vaccine-preventable diseases rec-
23 ommended by the Advisory Committee for
24 Immunization Practices;

1 “(iii) who is determined (in accord-
2 ance with regulations prescribed by the
3 Secretary of Health and Human Services
4 in consultation with the Secretary of
5 Homeland Security)—

6 “(I) to have a physical or mental
7 disorder and behavior associated with
8 the disorder that may pose, or has
9 posed, a threat to the property, safety,
10 or welfare of the alien or others; or

11 “(II) to have had a physical or
12 mental disorder and a history of be-
13 havior associated with the disorder,
14 which behavior has posed a threat to
15 the property, safety, or welfare of the
16 alien or others and which behavior is
17 likely to recur or to lead to other
18 harmful behavior; or

19 “(iv) who is determined (in accord-
20 ance with regulations prescribed by the
21 Secretary of Health and Human Services)
22 to be a drug abuser or addict,

23 is inadmissible.

1 “(B) WAIVER AUTHORIZED.—For provi-
2 sion authorizing waiver of certain clauses of
3 subparagraph (A), see subsection (e).

4 “(C) EXCEPTION FROM IMMUNIZATION RE-
5 QUIREMENT FOR ADOPTED CHILDREN 10 YEARS
6 OF AGE OR YOUNGER.—Clause (ii) of subpara-
7 graph (A) shall not apply to a child who—

8 “(i) is 10 years of age or younger;

9 “(ii) is described in section
10 101(b)(1)(F); and

11 “(iii) is seeking an immigrant visa as
12 an immediate relative under section
13 201(b),

14 if, prior to the admission of the child, an adop-
15 tive parent or prospective adoptive parent of the
16 child, who has sponsored the child for admis-
17 sion as an immediate relative, has executed an
18 affidavit stating that the parent is aware of the
19 provisions of subparagraph (A)(ii) and will en-
20 sure that, within 30 days of the child’s admis-
21 sion, or at the earliest time that is medically
22 appropriate, the child will receive the vaccina-
23 tions identified in such subparagraph.

24 “(2) CRIMINAL AND RELATED GROUNDS.—

25 “(A) CONVICTION OF CERTAIN CRIMES.—

1 “(i) IN GENERAL.—Except as pro-
2 vided in clause (ii), any alien convicted of,
3 or who admits having committed, or who
4 admits committing acts which constitute
5 the essential elements of—

6 “(I) a crime involving moral tur-
7 pitude (other than a purely political
8 offense) or an attempt or conspiracy
9 to commit such a crime; or

10 “(II) a violation of (or a con-
11 spiracy or attempt to violate) any law
12 or regulation of a State, the United
13 States, or a foreign country relating
14 to a controlled substance (as defined
15 in section 102 of the Controlled Sub-
16 stances Act (21 U.S.C. 802)),
17 is inadmissible.

18 “(ii) EXCEPTION.—Clause (i)(I) shall
19 not apply to an alien who committed only
20 one crime if—

21 “(I) the crime was committed
22 when the alien was under 18 years of
23 age, and the crime was committed
24 (and the alien released from any con-
25 finement to a prison or correctional

1 institution imposed for the crime)
2 more than 5 years before the date of
3 application for a visa or other docu-
4 mentation and the date of application
5 for admission to the United States; or

6 “(II) the maximum penalty pos-
7 sible for the crime of which the alien
8 was convicted (or which the alien ad-
9 mits having committed or of which the
10 acts that the alien admits having com-
11 mitted constituted the essential ele-
12 ments) did not exceed imprisonment
13 for one year and, if the alien was con-
14 victed of such crime, the alien was not
15 sentenced to a term of imprisonment
16 in excess of 6 months (regardless of
17 the extent to which the sentence was
18 ultimately executed).

19 “(B) MULTIPLE CRIMINAL CONVICT-
20 TIONS.—Any alien convicted of 2 or more of-
21 fenses (other than purely political offenses), re-
22 gardless of whether the conviction was in a sin-
23 gle trial or whether the offenses arose from a
24 single scheme of misconduct and regardless of
25 whether the offenses involved moral turpitude,

1 for which the aggregate sentences to confine-
2 ment were 5 years or more is inadmissible.

3 “(C) CONTROLLED SUBSTANCE TRAF-
4 FICKERS.—Any alien who the consular officer
5 or the Secretary of Homeland Security knows
6 or has reason to believe—

7 “(i) is or has been an illicit trafficker
8 in any controlled substance or in any listed
9 chemical (as defined in section 102 of the
10 Controlled Substances Act (21 U.S.C.
11 802)), or is or has been a knowing aider,
12 abettor, assistant, conspirator, or colluder
13 with others in the illicit trafficking in any
14 such controlled or listed substance or
15 chemical, or endeavored to do so; or

16 “(ii) is the spouse, son, or daughter of
17 an alien inadmissible under clause (i), has,
18 within the previous 5 years, obtained any
19 financial or other benefit from the illicit
20 activity of that alien, and knew or reason-
21 ably should have known that the financial
22 or other benefit was the product of such il-
23 licit activity,
24 is inadmissible.

1 “(D) PROSTITUTION AND COMMER-
2 CIALIZED VICE.—Any alien who—

3 “(i) is coming to the United States
4 solely, principally, or incidentally to engage
5 in prostitution, or has engaged in prostitu-
6 tion within 10 years of the date of applica-
7 tion for a visa, admission, or adjustment of
8 status;

9 “(ii) directly or indirectly procures or
10 attempts to procure, or (within 10 years of
11 the date of application for a visa, entry, or
12 adjustment of status) procured or at-
13 tempted to procure or to import, pros-
14 titutes or persons for the purpose of pros-
15 titution, or receives or (within such 10-
16 year period) received, in whole or in part,
17 the proceeds of prostitution; or

18 “(iii) is coming to the United States
19 to engage in any other unlawful commer-
20 cialized vice, whether or not related to
21 prostitution,

22 is inadmissible.

23 “(E) CERTAIN ALIENS INVOLVED IN SERI-
24 OUS CRIMINAL ACTIVITY WHO HAVE ASSERTED
25 IMMUNITY FROM PROSECUTION.—Any alien—

1 “(i) who has committed in the United
2 States at any time a serious criminal of-
3 fense (as defined in section 101(h));

4 “(ii) for whom immunity from crimi-
5 nal jurisdiction was exercised with respect
6 to that offense;

7 “(iii) who as a consequence of the of-
8 fense and exercise of immunity has de-
9 parted from the United States; and

10 “(iv) who has not subsequently sub-
11 mitted fully to the jurisdiction of the court
12 in the United States having jurisdiction
13 with respect to that offense,

14 is inadmissible.

15 “(F) WAIVER AUTHORIZED.—For provi-
16 sion authorizing waiver of certain subpara-
17 graphs of this paragraph, see subsection (f).

18 “(G) SERIOUS HUMAN RIGHTS ABUSERS.—
19 Any serious human rights violator is inadmis-
20 sible as defined in section 101(a) (8 U.S.C.
21 1101(a)) as amended.

22 “(H) SIGNIFICANT TRAFFICKERS IN PER-
23 SONS.—

24 “(i) IN GENERAL.—Any alien who is
25 listed in a report submitted pursuant to

1 section 111(b) of the Trafficking Victims
2 Protection Act of 2000, or who the con-
3 sular officer or the Secretary of Homeland
4 Security knows or has reason to believe is
5 or has been a knowing aider, abettor, as-
6 sistant, conspirator, or colluder with such
7 a trafficker in severe forms of trafficking
8 in persons, as defined in section 103 of
9 such Act, is inadmissible.

10 “(ii) BENEFICIARIES OF TRAF-
11 FICKING.—Except as provided in clause
12 (iii), any alien who the consular officer or
13 the Secretary of Homeland Security knows
14 or has reason to believe is the spouse, son,
15 or daughter of an alien inadmissible under
16 clause (i), has, within the previous 5 years,
17 obtained any financial or other benefit
18 from the illicit activity of that alien, and
19 knew or reasonably should have known
20 that the financial or other benefit was the
21 product of such illicit activity, is inadmis-
22 sible.

23 “(iii) EXCEPTION FOR CERTAIN SONS
24 AND DAUGHTERS.—Clause (ii) shall not
25 apply to a son or daughter who was a child

1 at the time he or she received the benefit
2 described in such clause.

3 “(I) MONEY LAUNDERING.—Any alien—

4 “(i) who a consular officer, the Attor-
5 ney General, or the Secretary of Homeland
6 Security knows, or has reason to believe,
7 has engaged, is engaging, or seeks to enter
8 the United States to engage, in an offense
9 which is described in section 1956 or 1957
10 of title 18, United States Code (relating to
11 laundering of monetary instruments); or

12 “(ii) who a consular officer, the Attor-
13 ney General, or the Secretary of Homeland
14 Security knows is, or has been, a knowing
15 aider, abettor, assistant, conspirator, or
16 colluder with others in an offense which is
17 described in such section,

18 is inadmissible.

19 “(J) AGGRAVATED FELONY.—

20 “(i) IN GENERAL.—Any alien con-
21 victed of an aggravated felony is inadmis-
22 sible.

23 “(ii) WAIVER AUTHORIZED.—Clause
24 (i) shall not apply in the case of an alien
25 with respect to a criminal conviction if the

1 alien subsequent to the criminal conviction
2 has been granted a full and unconditional
3 pardon by the President of the United
4 States or by the Governor of any State.

5 “(K) CERTAIN FIREARM OFFENSES.—Any
6 alien who is convicted under any law of pur-
7 chasing, selling, offering for sale, exchanging,
8 using, owning, possessing, or carrying, or of at-
9 tempting or conspiring to purchase, sell, offer
10 for sale, exchange, use, own, possess, or carry,
11 any weapon, part, or accessory which is a fire-
12 arm or destructive device (as defined in section
13 921(a) of title 18, United States Code) in viola-
14 tion of any law is inadmissible.

15 “(3) SECURITY AND RELATED GROUNDS.—

16 “(A) IN GENERAL.—Any alien who a con-
17 sular officer, the Attorney General, or the Sec-
18 retary of Homeland Security knows, or has rea-
19 sonable ground to believe, seeks to enter the
20 United States to engage solely, principally, or
21 incidentally in—

22 “(i) any activity—

23 “(I) to violate any law of the
24 United States relating to espionage or
25 sabotage; or

1 “(II) to violate or evade any law
2 prohibiting the export from the
3 United States of goods, technology, or
4 sensitive information;

5 “(ii) any other unlawful activity, in-
6 cluding participation in a criminal enter-
7 prise, conspiracy, or scheme; or

8 “(iii) any activity a purpose of which
9 is the opposition to, or the control or over-
10 throw of, the Government of the United
11 States by force, violence, or other unlawful
12 means,

13 is inadmissible.

14 “(B) TERRORIST ACTIVITIES.—

15 “(i) IN GENERAL.—Any alien who—

16 “(I) has engaged in a terrorist
17 activity;

18 “(II) a consular officer, the At-
19 torney General, or the Secretary of
20 Homeland Security knows, or has rea-
21 sonable ground to believe, is engaged
22 in or is likely to engage after entry in
23 any terrorist activity (as defined in
24 clause (iv));

1 “(III) has, under circumstances
2 indicating an intention to cause death
3 or serious bodily harm, incited ter-
4 rorist activity;

5 “(IV) is a representative (as de-
6 fined in clause (v)) of—

7 “(aa) a terrorist organiza-
8 tion; or

9 “(bb) a political, social, or
10 other group that endorses or es-
11 pouses terrorist activity;

12 “(V) is a member of a terrorist
13 organization;

14 “(VI) endorses or espouses ter-
15 rorist activity or persuades others to
16 endorse or espouse terrorist activity or
17 support a terrorist organization;

18 “(VII) had information about an
19 activity that the alien knew, or should
20 have known, was a terrorist activity
21 (before or after such activity occurred
22 or while it was ongoing), knew, or
23 should have known, that such infor-
24 mation was not public information,

1 and failed to report such information
2 to a governmental authority; or

3 “(VIII) is the spouse or child of
4 an alien who is inadmissible under
5 this subparagraph, if the activity
6 causing the alien to be found inadmis-
7 sible occurred within the last 5 years,
8 is inadmissible. An alien who is an officer,
9 official, representative, or spokesman of
10 the Palestine Liberation Organization is
11 considered, for purposes of this Act, to be
12 engaged in a terrorist activity.

13 “(ii) EXCEPTION.—Subclause (VII) of
14 clause (i) does not apply to a spouse or
15 child—

16 “(I) who did not know or should
17 not reasonably have known of the ac-
18 tivity causing the alien to be found in-
19 admissible under this subparagraph;
20 or

21 “(II) whom the consular officer,
22 the Attorney General, or the Secretary
23 of Homeland Security has reasonable
24 grounds to believe has renounced the

1 activity causing the alien to be found
2 inadmissible under this subparagraph.

3 “(iii) TERRORIST ACTIVITY DE-
4 FINED.—As used in this subparagraph, the
5 term ‘terrorist activity’ means any activity
6 which is unlawful under the laws of the
7 place where it is committed (or which, if it
8 had been or were to be committed in the
9 United States, would be unlawful under
10 the laws of the United States or any State)
11 and which involves any of the following:

12 “(I) The hijacking or sabotage of
13 any conveyance (including an aircraft,
14 vessel, or vehicle).

15 “(II) The seizing or detaining,
16 and threatening to kill, injure, or con-
17 tinue to detain, another individual in
18 order to compel a third person (in-
19 cluding a governmental organization)
20 to do or abstain from doing any act as
21 an explicit or implicit condition for
22 the release of the individual seized or
23 detained.

24 “(III) A violent attack upon an
25 internationally protected person (as

1 defined in section 1116(b)(4) of title
2 18, United States Code) or upon the
3 liberty of such a person.

4 “(IV) An assassination.

5 “(V) The use of any—

6 “(aa) biological agent, chem-
7 ical agent, or nuclear weapon or
8 device; or

9 “(bb) explosive, firearm, or
10 other weapon or dangerous device
11 (other than for mere personal
12 monetary gain),

13 with intent to endanger, directly or in-
14 directly, the safety of one or more in-
15 dividuals or to cause substantial dam-
16 age to property.

17 “(VI) A threat, attempt, or con-
18 spiracy to do any of the foregoing.

19 “(iv) ENGAGE IN TERRORIST ACTIVITY
20 DEFINED.—As used in this subparagraph,
21 the term ‘engage in terrorist activity’
22 means, in an individual capacity or as a
23 member of an organization—

24 “(I) to commit or to incite to
25 commit, under circumstances indi-

1 cating an intention to cause death or
2 serious bodily injury, a terrorist activ-
3 ity;

4 “(II) to prepare or plan a ter-
5 rorist activity;

6 “(III) to gather information on
7 potential targets for terrorist activity;

8 “(IV) to solicit funds or other
9 things of value for—

10 “(aa) a terrorist activity;

11 “(bb) a terrorist organiza-
12 tion described in clause (vi)(I) or
13 (vi)(II); or

14 “(cc) a terrorist organiza-
15 tion described in clause (vi)(III),
16 unless the solicitor can dem-
17 onstrate by clear and convincing
18 evidence that he did not know,
19 and should not reasonably have
20 known, that the organization was
21 a terrorist organization;

22 “(V) to solicit any individual—

23 “(aa) to engage in conduct
24 otherwise described in this
25 clause;

1 “(bb) for membership in a
2 terrorist organization described
3 in clause (vi)(I) or (vi)(II); or

4 “(cc) for membership in a
5 terrorist organization described
6 in clause (vi)(III), unless the so-
7 licitor can demonstrate by clear
8 and convincing evidence that he
9 did not know, and should not
10 reasonably have known, that the
11 organization was a terrorist orga-
12 nization; or

13 “(VI) to commit an act that the
14 actor knows, or reasonably should
15 know, affords material support, in-
16 cluding a safe house, transportation,
17 communications, funds, transfer of
18 funds or other material financial ben-
19 efit, false documentation or identifica-
20 tion, weapons (including chemical, bi-
21 ological, or radiological weapons), ex-
22 plosives, or training—

23 “(aa) for the commission of
24 a terrorist activity;

1 “(bb) to any individual who
2 the actor knows, or reasonably
3 should know, has committed or
4 plans to commit a terrorist activ-
5 ity; or

6 “(cc) to a terrorist organiza-
7 tion described in subclauses (I)
8 through (III) of clause (vi).

9 “(v) REPRESENTATIVE DEFINED.—As
10 used in this subparagraph, the term ‘rep-
11 resentative’ includes an officer, official, or
12 spokesman of an organization, and any
13 person who directs, counsels, commands,
14 or induces an organization or its members
15 to engage in terrorist activity.

16 “(vi) TERRORIST ORGANIZATION DE-
17 FINED.—As used in this section, the term
18 ‘terrorist organization’ means an organiza-
19 tion—

20 “(I) designated under section
21 219;

22 “(II) otherwise designated, upon
23 publication in the Federal Register, by
24 the Secretary of State in consultation
25 with or upon the request of the Attor-

1 ney General or the Secretary of
2 Homeland Security, as a terrorist or-
3 ganization, after finding that the or-
4 ganization engages in the activities
5 described in subclauses (I) through
6 (VI) of clause (iv), or that the organi-
7 zation provides material support to
8 further terrorist activity; or

9 “(III) that is a group of two or
10 more individuals, whether organized
11 or not, which engages in, or has a
12 subgroup which engages in, the activi-
13 ties described in subclauses (I)
14 through (VI) of clause (iv).

15 “(C) FOREIGN POLICY.—An alien whose
16 entry or proposed activities in the United States
17 the Secretary of State has reasonable ground to
18 believe would have potentially serious adverse
19 foreign policy consequences for the United
20 States is inadmissible.

21 “(D) IMMIGRANT MEMBERSHIP IN TOTALI-
22 TARIAN PARTY.—

23 “(i) IN GENERAL.—Any immigrant
24 who is or has been a member of or affili-
25 ated with the Communist or any other to-

1 talitarian party (or subdivision or affiliate
2 thereof), domestic or foreign, is inadmis-
3 sible.

4 “(ii) EXCEPTION FOR INVOLUNTARY
5 MEMBERSHIP.—Clause (i) shall not apply
6 to an alien because of membership or affili-
7 ation if the alien establishes to the satis-
8 faction of the consular officer when apply-
9 ing for a visa (or to the satisfaction of the
10 Secretary of Homeland Security when ap-
11 plying for admission) that the membership
12 or affiliation is or was involuntary, or is or
13 was solely when under 16 years of age, by
14 operation of law, or for purposes of obtain-
15 ing employment, food rations, or other es-
16 sentials of living and necessary for such
17 purposes.

18 “(iii) EXCEPTION FOR PAST MEMBER-
19 SHIP.—Clause (i) shall not apply to an
20 alien because of membership or affiliation
21 if the alien establishes to the satisfaction
22 of the consular officer when applying for a
23 visa (or to the satisfaction of the Secretary
24 of Homeland Security when applying for
25 admission) that—

1 “(I) the membership or affiliation
2 terminated at least—

3 “(aa) 2 years before the
4 date of such application; or

5 “(bb) 5 years before the
6 date of such application, in the
7 case of an alien whose member-
8 ship or affiliation was with the
9 party controlling the government
10 of a foreign state that is a totali-
11 tarian dictatorship as of such
12 date; and

13 “(II) the alien is not a threat to
14 the security of the United States.

15 “(E) PARTICIPANTS IN NAZI PERSECU-
16 TIONS.—Any alien who, during the period be-
17 ginning on March 23, 1933, and ending on May
18 8, 1945, under the direction of, or in associa-
19 tion with—

20 “(i) the Nazi government of Germany;

21 “(ii) any government in any area oc-
22 cupied by the military forces of the Nazi
23 government of Germany;

1 “(iii) any government established with
2 the assistance or cooperation of the Nazi
3 government of Germany; or

4 “(iv) any government which was an
5 ally of the Nazi government of Germany,
6 ordered, incited, assisted, or otherwise partici-
7 pated in the persecution of any person because
8 of race, religion, national origin, or political
9 opinion, is inadmissible.

10 “(F) ASSOCIATION WITH TERRORIST ORGA-
11 NIZATIONS.—Any alien who the Secretary of
12 Homeland Security or the Attorney General de-
13 termines has been associated with a terrorist
14 organization and intends while in the United
15 States to engage solely, principally, or inciden-
16 tally in activities that could endanger the wel-
17 fare, safety, or security of the United States is
18 inadmissible.

19 “(G) NATIONAL SECURITY CON-
20 SEQUENCES.—An alien whose entry or proposed
21 activities in the United States the Attorney
22 General or the Secretary of Homeland Security
23 has reasonable grounds to believe would have
24 potentially serious adverse consequences for the

1 national security of the United States is inad-
2 missible.

3 “(H) SERIOUS FOREIGN CRIMES.—An
4 alien whom the Secretary of Homeland Security
5 or the Attorney General has reason to believe is
6 charged with or has committed a serious crimi-
7 nal offense (other than a purely political of-
8 fense) in a country other than the United
9 States is inadmissible.

10 “(4) PUBLIC CHARGE.—

11 “(A) IN GENERAL.—Any alien who, in the
12 opinion of the consular officer or the Secretary
13 of Homeland Security at the time of application
14 for a visa, or in the opinion of the Secretary of
15 Homeland Security at the time of application
16 for admission or adjustment of status, is likely
17 at any time to become a public charge is inad-
18 missible.

19 “(B) FACTORS TO BE TAKEN INTO AC-
20 COUNT.—

21 “(i) IN GENERAL.—In determining
22 whether an alien is inadmissible under this
23 paragraph, the consular officer or the Sec-
24 retary of Homeland Security shall at a
25 minimum consider the alien’s—

- 1 “(I) age;
- 2 “(II) health;
- 3 “(III) family status;
- 4 “(IV) assets, resources, and fi-
- 5 nancial status; and
- 6 “(V) education and skills.

7 “(ii) AFFIDAVIT OF SUPPORT.—In ad-

8 dition to the factors under clause (i), the

9 consular officer or the Secretary of Home-

10 land Security may also consider any affi-

11 davit of support under section 213A for

12 purposes of exclusion under this para-

13 graph.

14 “(C) FAMILY-SPONSORED IMMIGRANTS.—

15 Any alien who seeks admission or adjustment of

16 status under a visa number issued under sec-

17 tion 201(b)(2) or 203(a) is inadmissible under

18 this paragraph unless—

- 19 “(i) the alien has obtained—
- 20 “(I) status as a spouse or a child
- 21 of a United States citizen pursuant to
- 22 clause (ii), (iii), or (iv) of section
- 23 204(a)(1)(A); or

1 “(II) classification pursuant to
2 clause (ii) or (iii) of section
3 204(a)(1)(B); or

4 “(ii) the person petitioning for the
5 alien’s admission (including any additional
6 sponsor required under section 213A(f))
7 has executed an affidavit of support de-
8 scribed in section 213A with respect to
9 such alien.

10 “(D) CERTAIN EMPLOYMENT-BASED IMMI-
11 GRANTS.—Any alien who seeks admission or ad-
12 justment of status under a visa number issued
13 under section 203(b) by virtue of a classifica-
14 tion petition filed by a relative of the alien (or
15 by an entity in which such relative has a signifi-
16 cant ownership interest) is inadmissible under
17 this paragraph unless such relative has exe-
18 cuted an affidavit of support described in sec-
19 tion 213A with respect to such alien.

20 “(5) LABOR CERTIFICATION AND QUALIFICA-
21 TIONS FOR CERTAIN IMMIGRANTS.—

22 “(A) LABOR CERTIFICATION.—

23 “(i) IN GENERAL.—Any alien who
24 seeks to enter the United States for the
25 purpose of performing skilled or unskilled

1 labor is inadmissible, unless the Secretary
2 of Labor has determined and certified to
3 the Secretary of State and the Secretary of
4 Homeland Security that—

5 “(I) there are not sufficient
6 workers who are able, willing, quali-
7 fied (or equally qualified in the case of
8 an alien described in clause (ii)) and
9 available at the time of application for
10 a visa and admission to the United
11 States and at the place where the
12 alien is to perform such skilled or un-
13 skilled labor; and

14 “(II) the employment of such
15 alien will not adversely affect the
16 wages and working conditions of
17 workers in the United States similarly
18 employed, nor displace a United
19 States citizen currently employed by
20 the entity requesting labor certifi-
21 cation.

22 “(ii) CERTAIN ALIENS SUBJECT TO
23 SPECIAL RULE.—For purposes of clause
24 (i)(I), an alien described in this clause is
25 an alien who—

1 “(I) is a member of the teaching
2 profession; or

3 “(II) has exceptional ability in
4 the sciences or the arts.

5 “(iii) PROFESSIONAL ATHLETES.—

6 “(I) IN GENERAL.—A certifi-
7 cation made under clause (i) with re-
8 spect to a professional athlete shall
9 remain valid with respect to the ath-
10 lete after the athlete changes em-
11 ployer, if the new employer is a team
12 in the same sport as the team which
13 employed the athlete when the athlete
14 first applied for the certification.

15 “(II) DEFINITION.—For pur-
16 poses of subclause (I), the term ‘pro-
17 fessional athlete’ means an individual
18 who is employed as an athlete by—

19 “(aa) a team that is a mem-
20 ber of an association of 6 or
21 more professional sports teams
22 whose total combined revenues
23 exceed \$10,000,000 per year, if
24 the association governs the con-
25 duct of its members and regu-

1 lates the contests and exhibitions
2 in which its member teams regu-
3 larly engage; or

4 “ (bb) any minor league
5 team that is affiliated with such
6 an association.

7 “(B) UNQUALIFIED PHYSICIANS.—An
8 alien who is a graduate of a medical school not
9 accredited by a body or bodies approved for the
10 purpose by the Secretary of Education (regard-
11 less of whether such school of medicine is in the
12 United States) and who is coming to the United
13 States principally to perform services as a
14 member of the medical profession is inadmis-
15 sible, unless the alien (i) has passed parts I and
16 II of the National Board of Medical Examiners
17 Examination (or an equivalent examination as
18 determined by the Secretary of Health and
19 Human Services) and (ii) is competent in oral
20 and written English. For purposes of the pre-
21 vious sentence, an alien who is a graduate of
22 a medical school shall be considered to have
23 passed parts I and II of the National Board
24 of Medical Examiners if the alien was fully and
25 permanently licensed to practice medicine in a

1 State on January 9, 1978, and was practicing
2 medicine in a State on that date.

3 “(C) UNCERTIFIED FOREIGN HEALTH-
4 CARE WORKERS.—Subject to subsection (j), any
5 alien who seeks to enter the United States for
6 the purpose of performing labor as a health-
7 care worker, other than a physician, is inadmis-
8 sible unless the alien presents to the consular
9 officer, or, in the case of an adjustment of sta-
10 tus, the Secretary of Homeland Security, a cer-
11 tificate from the Commission on Graduates of
12 Foreign Nursing Schools, or a certificate from
13 an equivalent independent credentialing organi-
14 zation approved by the Secretary of Homeland
15 Security in consultation with the Secretary of
16 Health and Human Services, verifying that—

17 “(i) the alien’s education, training, li-
18 cense, and experience—

19 “(I) meet all applicable statutory
20 and regulatory requirements for entry
21 into the United States under the clas-
22 sification specified in the application;

23 “(II) are comparable with that
24 required for an American health-care
25 worker of the same type; and

1 “(III) are authentic and, in the
2 case of a license, unencumbered;

3 “(ii) the alien has the level of com-
4 petence in oral and written English consid-
5 ered by the Secretary of Health and
6 Human Services, in consultation with the
7 Secretary of Education, to be appropriate
8 for health care work of the kind in which
9 the alien will be engaged, as shown by an
10 appropriate score on one or more nation-
11 ally recognized, commercially available,
12 standardized assessments of the applicant’s
13 ability to speak and write; and

14 “(iii) if a majority of States licensing
15 the profession in which the alien intends to
16 work recognize a test predicting the suc-
17 cess on the profession’s licensing or certifi-
18 cation examination, the alien has passed
19 such a test or has passed such an examina-
20 tion.

21 For purposes of clause (ii), determination of the
22 standardized tests required and of the minimum
23 scores that are appropriate are within the sole
24 discretion of the Secretary of Health and

1 Human Services and are not subject to further
2 administrative or judicial review.

3 “(D) APPLICATION OF GROUNDS.—The
4 grounds for inadmissibility of aliens under sub-
5 paragraphs (A) and (B) shall apply to immi-
6 grants seeking admission or adjustment of sta-
7 tus under paragraph (2) or (3) of section
8 203(b).

9 “(6) ILLEGAL ENTRANTS AND IMMIGRATION
10 VIOLATORS.—

11 “(A) ALIENS PRESENT WITHOUT ADMIS-
12 SION OR PAROLE.—

13 “(i) IN GENERAL.—An alien present
14 in the United States without being admit-
15 ted or paroled, or who arrives in the
16 United States at any time or place other
17 than as designated by the Secretary of
18 Homeland Security is inadmissible.

19 “(ii) EXCEPTION FOR CERTAIN BAT-
20 TERED WOMEN AND CHILDREN.—Clause
21 (i) shall not apply to an alien who dem-
22 onstrates that—

23 “(I) the alien qualifies for immi-
24 grant status under subparagraph

1 (A)(iii), (A)(iv), (B)(ii), or (B)(iii) of
2 section 204(a)(1);

3 “(II)(aa) the alien has been bat-
4 tered or subjected to extreme cruelty
5 by a spouse or parent, or by a mem-
6 ber of the spouse’s or parent’s family
7 residing in the same household as the
8 alien and the spouse or parent con-
9 sented or acquiesced in such battery
10 or cruelty, or

11 “(bb) the alien’s child has been
12 battered or subjected to extreme cru-
13 elty by a spouse or parent of the alien
14 (without the active participation of
15 the alien in the battery or cruelty) or
16 by a member of the spouse’s or par-
17 ent’s family residing in the same
18 household as the alien when the
19 spouse or parent consented to or ac-
20 quiesced in such battery or cruelty
21 and the alien did not actively partici-
22 pate in such battery or cruelty; and

23 “(III) there was a substantial
24 connection between the battery or cru-
25 elty described in subclause (I) or (II)

1 and the alien’s unlawful entry into the
2 United States.

3 “(B) FAILURE TO ATTEND REMOVAL PRO-
4 CEEDING.—Any alien who without reasonable
5 cause fails or refuses to attend or remain in at-
6 tendance at a proceeding to determine the
7 alien’s inadmissibility or deportability and who
8 seeks admission to the United States within 5
9 years of such alien’s subsequent departure or
10 removal is inadmissible.

11 “(C) MISREPRESENTATION.—

12 “(i) IN GENERAL.—Any alien who, by
13 fraud or willfully misrepresenting a mate-
14 rial fact, seeks to procure (or has sought
15 to procure or has procured) a visa, other
16 documentation, or admission into the
17 United States or other benefit provided
18 under this Act for himself, herself, or any
19 other alien, is inadmissible.

20 “(ii) FALSELY CLAIMING CITIZEN-
21 SHIP.—

22 “(I) IN GENERAL.—Any alien
23 who falsely represents, or has falsely
24 represented, himself or herself to be a
25 citizen of the United States for any

1 purpose or benefit under this Act (in-
2 cluding section 274A) or any other
3 Federal or State law is inadmissible.

4 “(II) EXCEPTION.—In the case
5 of an alien making a representation
6 described in subclause (I), if each nat-
7 ural parent of the alien (or, in the
8 case of an adopted alien, each adop-
9 tive parent of the alien) is or was a
10 citizen (whether by birth or natu-
11 ralization), the alien permanently re-
12 sided in the United States prior to at-
13 taining the age of 16, and the alien
14 reasonably believed at the time of
15 making such representation that he or
16 she was a citizen, the alien shall not
17 be considered to be inadmissible under
18 any provision of this subsection based
19 on such representation.

20 “(D) STOWAWAYS.—Any alien who is a
21 stowaway is inadmissible.

22 “(E) SMUGGLERS.—

23 “(i) IN GENERAL.—Any alien who at
24 any time knowingly has encouraged, in-
25 duced, assisted, abetted, or aided any other

1 alien to enter or to try to enter the United
2 States in violation of law is inadmissible.

3 “(ii) SPECIAL RULE IN THE CASE OF
4 FAMILY REUNIFICATION.—Clause (i) shall
5 not apply in the case of an alien who is an
6 eligible immigrant (as defined in section
7 301(b)(1) of the Immigration Act of
8 1990), was physically present in the
9 United States on May 5, 1988, and is
10 seeking admission as an immediate relative
11 or under section 203(a)(2) (including
12 under section 112 of the Immigration Act
13 of 1990) or benefits under section 301(a)
14 of the Immigration Act of 1990 if the
15 alien, before May 5, 1988, has encouraged,
16 induced, assisted, abetted, or aided only
17 the alien’s spouse, parent, son, or daughter
18 (and no other individual) to enter the
19 United States in violation of law.

20 “(iii) WAIVER AUTHORIZED.—For
21 provision authorizing waiver of clause (i),
22 see subsection (c)(6).

23 “(F) SUBJECT OF CIVIL PENALTY.—An
24 alien who is the subject of a final order for vio-
25 lation of section 274C is inadmissible.

1 “(G) STUDENT VISA ABUSERS.—An alien
2 who obtains the status of a nonimmigrant
3 under section 101(a)(15)(F)(i) and who violates
4 a term or condition of such status under section
5 214(l) is inadmissible until the alien has been
6 outside the United States for a continuous pe-
7 riod of 5 years after the date of the violation.

8 “(H) CHANGE OF ADDRESS.—An alien
9 who has failed to comply with section 262 is in-
10 admissible, unless the alien establishes to the
11 satisfaction of the Secretary of Homeland Secu-
12 rity that such failure was reasonably excusable
13 or was not willful.

14 “(7) DOCUMENTATION REQUIREMENTS.—

15 “(A) IMMIGRANTS.—

16 “(i) IN GENERAL.—Except as other-
17 wise specifically provided in this Act, any
18 immigrant at the time of application for
19 admission—

20 “(I) who is not in possession of a
21 valid unexpired immigrant visa, re-
22 entry permit, border crossing identi-
23 fication card, or other valid entry doc-
24 ument required by this Act, and a
25 valid unexpired passport, or other

1 suitable travel document, or document
2 of identity and nationality if such doc-
3 ument is required under the regula-
4 tions issued by the Secretary of
5 Homeland Security under section
6 211(a); or

7 “(II) whose visa has been issued
8 without compliance with the provi-
9 sions of section 203,

10 is inadmissible.

11 “(ii) WAIVER AUTHORIZED.—For pro-
12 vision authorizing waiver of clause (i), see
13 subsection (g).

14 “(B) NONIMMIGRANTS.—

15 “(i) IN GENERAL.—Any non-
16 immigrant who—

17 “(I) is not in possession of a
18 passport valid for a minimum of six
19 months from the date of the expira-
20 tion of the initial period of the alien’s
21 admission or contemplated initial pe-
22 riod of stay authorizing the alien to
23 return to the country from which the
24 alien came or to proceed to and enter

1 some other country during such pe-
2 riod; or

3 “(II) is not in possession of a
4 valid nonimmigrant visa or border
5 crossing identification card at the
6 time of application for admission,
7 is inadmissible.

8 “(ii) GENERAL WAIVER AUTHOR-
9 IZED.—For provision authorizing waiver of
10 clause (i), see subsection (c)(2).

11 “(8) INELIGIBLE FOR CITIZENSHIP.—

12 “(A) IN GENERAL.—Any immigrant who is
13 permanently ineligible to citizenship is inadmis-
14 sible.

15 “(B) DRAFT EVADERS.—Any person who
16 has departed from or who has remained outside
17 the United States to avoid or evade training or
18 service in the armed forces in time of war or a
19 period declared by the President to be a na-
20 tional emergency is inadmissible, except that
21 this subparagraph shall not apply to an alien
22 who at the time of such departure was a non-
23 immigrant and who is seeking to reenter the
24 United States as a nonimmigrant.

25 “(9) ALIENS PREVIOUSLY REMOVED.—

1 “(A) CERTAIN ALIENS PREVIOUSLY RE-
2 MOVED.—

3 “(i) ARRIVING ALIENS.—Any alien
4 who has been ordered removed under sec-
5 tion 235(b)(1) or at the end of proceedings
6 under section 240 initiated upon the
7 alien’s arrival in the United States and
8 who again seeks admission within 5 years
9 of the date of such removal (or within 20
10 years in the case of a second or subsequent
11 removal or at any time in the case of an
12 alien convicted of an aggravated felony) is
13 inadmissible.

14 “(ii) OTHER ALIENS.—Any alien not
15 described in clause (i) who—

16 “(I) has been ordered removed
17 under section 240 or any other provi-
18 sion of law; or

19 “(II) departed the United States
20 while an order of removal was out-
21 standing,

22 and who seeks admission within 10 years
23 of the date of such alien’s departure or re-
24 moval (or within 20 years of such date in
25 the case of a second or subsequent removal

1 or at any time in the case of an alien con-
2 victed of an aggravated felony) is inadmis-
3 sible.

4 “(B) ALIENS UNLAWFULLY PRESENT.—

5 “(i) IN GENERAL.—Any alien (other
6 than an alien lawfully admitted for perma-
7 nent residence) who—

8 “(I) was unlawfully present in
9 the United States for a period of more
10 than 180 days but less than 1 year,
11 voluntarily departed the United States
12 (whether or not pursuant to section
13 244(e)) prior to the commencement of
14 proceedings under section 235(b)(1)
15 or section 240, and again seeks ad-
16 mission within 3 years of the date of
17 such alien’s departure or removal; or

18 “(II) has been unlawfully present
19 in the United States for one year or
20 more, and who again seeks admission
21 within 10 years of the date of such
22 alien’s departure or removal from the
23 United States,

24 is inadmissible.

1 “(ii) CONSTRUCTION OF UNLAWFUL
2 PRESENCE.—For purposes of this para-
3 graph, an alien is deemed to be unlawfully
4 present in the United States if the alien is
5 present in the United States after the expi-
6 ration of the period of stay authorized by
7 the Secretary of Homeland Security or is
8 present in the United States without being
9 admitted or paroled.

10 “(iii) EXCEPTIONS.—

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

17 “(II) ASYLEES.—No period of
18 time in which an alien has a bona fide
19 application for asylum pending under
20 section 208 shall be taken into ac-
21 count in determining the period of un-
22 lawful presence in the United States
23 under clause (i) unless the alien dur-
24 ing such period was employed without
25 authorization in the United States.

1 “(III) FAMILY UNITY.—No pe-
2 riod of time in which the alien is a
3 beneficiary of family unity protection
4 pursuant to section 301 of the Immi-
5 gration Act of 1990 shall be taken
6 into account in determining the period
7 of unlawful presence in the United
8 States under clause (i).

9 “(IV) BATTERED WOMEN AND
10 CHILDREN.—Clause (i) shall not apply
11 to an alien who would be described in
12 paragraph (6)(A)(ii) if ‘violation of
13 the terms of the alien’s nonimmigrant
14 visa’ were substituted for ‘unlawful
15 entry into the United States’ in sub-
16 clause (III) of that paragraph.

17 “(iv) TOLLING FOR GOOD CAUSE.—In
18 the case of an alien who—

19 “(I) has been lawfully admitted
20 or paroled into the United States;

21 “(II) has filed a nonfrivolous ap-
22 plication for a change or extension of
23 status before the date of expiration of
24 the period of stay authorized by the
25 Secretary of Homeland Security; and

1 “(III) has not been employed
2 without authorization in the United
3 States before or during the pendency
4 of such application,
5 the calculation of the period of time speci-
6 fied in clause (i)(I) shall be tolled during
7 the pendency of such application, but not
8 to exceed 120 days.

9 “(C) ALIENS UNLAWFULLY PRESENT
10 AFTER PREVIOUS IMMIGRATION VIOLATIONS.—

11 “(i) IN GENERAL.—Any alien who—

12 “(I) has been unlawfully present
13 in the United States for an aggregate
14 period of more than 1 year; or

15 “(II) has been ordered removed
16 under section 235(b)(1), section 240,
17 or any other provision of law,

18 and who enters or attempts to reenter the
19 United States without being admitted is
20 inadmissible.

21 “(ii) EXCEPTION.—Clause (i) shall
22 not apply to an alien seeking admission
23 more than 10 years after the date of the
24 alien’s last departure from the United
25 States if, prior to the alien’s reembar-

1 kation at a place outside the United States
2 or attempt to be readmitted from a foreign
3 contiguous territory, the Secretary of
4 Homeland Security has consented to the
5 alien’s reapplying for admission. The Sec-
6 retary of Homeland Security in the Sec-
7 retary’s discretion may waive the provi-
8 sions of section 212(a)(9)(C)(i) in the case
9 of an alien to whom the Secretary has
10 granted classification under clause (iii),
11 (iv), or (v) of section 204(a)(1)(A), or clas-
12 sification under clause (ii), (iii), or (iv) of
13 section 204(a)(1)(B), in any case in which
14 there is a direct connection between—

15 “(I) the alien’s having been bat-
16 tered or subjected to extreme cruelty;
17 and

18 “(II) the alien’s—

19 “(aa) removal;

20 “(bb) departure from the
21 United States;

22 “(cc) reentry or reentries
23 into the United States; or

24 “(dd) attempted reentry into
25 the United States.

1 “(10) MISCELLANEOUS.—

2 “(A) PRACTICING POLYGAMISTS.—Any im-
3 migrant who is coming to the United States to
4 practice polygamy is inadmissible.

5 “(B) GUARDIAN REQUIRED TO ACCOMPANY
6 HELPLESS ALIEN.—Any alien—

7 “(i) who is accompanying another
8 alien who is inadmissible and who is cer-
9 tified to be helpless from sickness, mental
10 or physical disability, or infancy pursuant
11 to section 232(c); and

12 “(ii) whose protection or guardianship
13 is determined to be required by the alien
14 described in clause (i),
15 is inadmissible.

16 “(C) INTERNATIONAL CHILD ABDUC-
17 TION.—

18 “(i) IN GENERAL.—Except as pro-
19 vided in clause (ii), any alien who, after
20 entry of an order by a court in the United
21 States granting custody to a person of a
22 United States citizen child who detains or
23 retains the child, or withholds custody of
24 the child, outside the United States from
25 the person granted custody by that order,

1 is inadmissible until the child is surren-
2 dered to the person granted custody by
3 that order.

4 “(ii) ALIENS SUPPORTING ABDUCTORS
5 AND RELATIVES OF ABDUCTORS.—Any
6 alien who—

7 “(I) is known by the Secretary of
8 State to have intentionally assisted an
9 alien in the conduct described in
10 clause (i);

11 “(II) is known by the Secretary
12 of State to be intentionally providing
13 material support or safe haven to an
14 alien described in clause (i); or

15 “(III) is a spouse (other than the
16 spouse who is the parent of the ab-
17 ducted child), child (other than the
18 abducted child), parent, sibling, or
19 agent of an alien described in clause
20 (i), if such person has been designated
21 by the Secretary of State at the Sec-
22 retary’s sole and unreviewable discre-
23 tion, is inadmissible until the child de-
24 scribed in clause (i) is surrendered to
25 the person granted custody by the

1 order described in that clause, and
2 such person and child are permitted
3 to return to the United States or such
4 person's place of residence.

5 “(iii) EXCEPTIONS.—Clauses (i) and
6 (ii) shall not apply—

7 “(I) to a government official of
8 the United States who is acting within
9 the scope of his or her official duties;

10 “(II) to a government official of
11 any foreign government if the official
12 has been designated by the Secretary
13 of State at the Secretary's sole and
14 unreviewable discretion; or

15 “(III) so long as the child is lo-
16 cated in a foreign state that is a party
17 to the Convention on the Civil Aspects
18 of International Child Abduction,
19 done at The Hague on October 25,
20 1980.

21 “(D) UNLAWFUL VOTERS.—

22 “(i) IN GENERAL.—Any alien who has
23 voted in violation of any Federal, State, or
24 local constitutional provision, statute, ordi-
25 nance, or regulation is inadmissible.

1 “(ii) EXCEPTION.—In the case of an
2 alien who voted in a Federal, State, or
3 local election (including an initiative, re-
4 call, or referendum) in violation of a lawful
5 restriction of voting to citizens, if each nat-
6 ural parent of the alien (or, in the case of
7 an adopted alien, each adoptive parent of
8 the alien) is or was a citizen (whether by
9 birth or naturalization), the alien perma-
10 nently resided in the United States prior to
11 attaining the age of 16, and the alien rea-
12 sonably believed at the time of such viola-
13 tion that he or she was a citizen, the alien
14 shall not be considered to be inadmissible
15 under any provision of this subsection
16 based on such violation.

17 “(E) FORMER CITIZENS WHO RENOUNCED
18 CITIZENSHIP.—Any alien who is a former cit-
19 izen of the United States who officially re-
20 nounced United States citizenship is inadmis-
21 sible.

22 “(b) NOTICES OF DENIALS.—

23 “(1) IN GENERAL.— Subject to paragraphs (2)
24 and (3), if an alien’s application for a visa, for ad-
25 mission to the United States, or for adjustment of

1 status is denied by an immigration or consular offi-
2 cer because the officer determines the alien to be in-
3 admissible under subsection (a), the officer shall
4 provide the alien with a timely written notice that—

5 “(A) states the determination; and

6 “(B) lists the specific provision or provi-
7 sions of law under which the alien is excludable
8 or ineligible for entry or adjustment of status.

9 “(2) WAIVER.—The Secretary of State or the
10 Secretary of Homeland Security may waive the re-
11 quirements of paragraph (1) with respect to a par-
12 ticular alien or any class or classes of inadmissible
13 aliens.

14 “(3) INAPPLICABILITY.—Paragraph (1) does
15 not apply to any alien inadmissible under paragraph
16 (2) or (3) of subsection (a).

17 “(c) SPECIAL RULES.—

18 “(1) ‘S’ NONIMMIGRANTS.—The Secretary of
19 Homeland Security shall determine whether a
20 ground for inadmissibility exists with respect to a
21 nonimmigrant described in section 101(a)(15)(S).
22 The Secretary, in the Secretary’s discretion, may
23 waive the application of subsection (a) (other than
24 paragraph (3)(E)) in the case of a nonimmigrant de-
25 scribed in section 101(a)(15)(S), if the Attorney

1 General considers it to be in the national interest to
2 do so. Nothing in this section shall be regarded as
3 prohibiting the Secretary from instituting removal
4 proceedings against an alien admitted as a non-
5 immigrant under section 101(a)(15)(S) for conduct
6 committed after the alien's admission into the
7 United States, or for conduct or a condition that
8 was not disclosed to the Secretary prior to the
9 alien's admission as a nonimmigrant under section
10 101(a)(15)(S).

11 “(2) DOCUMENTARY REQUIREMENTS FOR NON-
12 IMMIGRANTS.—Either or both of the requirements of
13 subsection (a)(7)(B)(i) may be waived by the Sec-
14 retary of Homeland Security and the Secretary of
15 State acting jointly—

16 “(A) on the basis of unforeseen emergency
17 in individual cases; or

18 “(B) in the case of aliens proceeding in im-
19 mediate and continuous transit through the
20 United States under contracts authorized in
21 section 238(c).

22 “(3) PAROLE.—

23 “(A) IN GENERAL.—The Secretary of
24 Homeland Security may, except as provided in
25 subparagraph (B) or in section 214(f), in the

1 discretion of the Secretary, parole into the
2 United States a Cuban or Iraqi national or, in
3 the case of nationals of other countries, tempo-
4 rarily under such conditions as the Secretary
5 may prescribe only on a case-by-case basis for
6 urgent humanitarian reasons or significant law
7 enforcement reasons any alien applying for ad-
8 mission to the United States, but such parole
9 shall not be regarded as an admission of the
10 alien and when the purposes of such parole
11 shall, in the opinion of the Secretary, have been
12 served the alien shall forthwith return or be re-
13 turned to the custody from which the alien was
14 paroled and thereafter the case shall continue
15 to be dealt with in the same manner as that of
16 any other applicant for admission to the United
17 States. Parole on a temporary basis cannot ex-
18 ceed 120 days, unless for a significant law en-
19 forcement reason. The Secretary may not pa-
20 role into the United States an alien for urgent
21 humanitarian reasons if the alien is inadmis-
22 sible under paragraph (2), (3), or (9) of sub-
23 section (a).

24 “(B) REFUGEES.—The Secretary of
25 Homeland Security may not parole into the

1 United States an alien who is a refugee unless
2 the Secretary determines that compelling rea-
3 sons in the public interest with respect to that
4 particular alien require that the alien be pa-
5 roled into the United States rather than be ad-
6 mitted as a refugee under section 207.

7 “(4) ALIENS ENTERING FROM GUAM, PUERTO
8 RICO, OR THE VIRGIN ISLANDS.—The provisions of
9 subsection (a) (other than paragraph (7)) shall be
10 applicable to any alien who shall leave Guam, Puerto
11 Rico, or the Virgin Islands of the United States, and
12 who seeks to enter the continental United States or
13 any other place under the jurisdiction of the United
14 States. Any alien described in this paragraph, who
15 is denied admission to the United States, shall be
16 immediately removed in the manner provided by sec-
17 tion 241(c) of this Act.

18 “(5) FOREIGN GOVERNMENT OFFICIALS.—
19 Upon a basis of reciprocity accredited officials of
20 foreign governments, their immediate families, at-
21 tendants, servants, and personal employees may be
22 admitted in immediate and continuous transit
23 through the United States without regard to the
24 provisions of this section except paragraphs (3)(A),

1 (3)(B), (3)(C), and (7)(B) of subsection (a) of this
2 section.

3 “(6) SMUGGLERS.—The Secretary may, in the
4 discretion of the Secretary for urgent humanitarian
5 reasons, waive application of subsection (a)(6)(E)(i)
6 in the case of any alien lawfully admitted for perma-
7 nent residence who temporarily proceeded abroad
8 voluntarily and not under an order of removal, and
9 who is otherwise admissible to the United States as
10 a returning resident under section 211(b) if the
11 alien has encouraged, induced, assisted, abetted, or
12 aided only an individual who at the time of such ac-
13 tion was the alien’s spouse, parent, son, or daughter
14 (and no other individual) to enter the United States
15 in violation of law.

16 “(7) ‘T’ NONIMMIGRANTS.—

17 “(A) DETERMINATION.—The Secretary of
18 Homeland Security shall determine whether a
19 ground for inadmissibility exists with respect to
20 a nonimmigrant described in section
21 101(a)(15)(T).

22 “(B) WAIVER.—In addition to any other
23 waiver that may be available under this section,
24 in the case of a nonimmigrant described in sec-
25 tion 101(a)(15)(T), if the Secretary of Home-

1 land Security considers it to be in the national
2 interest to do so, the Secretary, in the Sec-
3 retary's discretion, may waive the application
4 of—

5 “(i) paragraphs (1) and (4) of sub-
6 section (a); and

7 “(ii) any other provision of such sub-
8 section (excluding paragraphs (2), (3), (8),
9 (9)(A), (10)(C), (10)(D), and (10)(E)) if
10 the activities rendering the alien inadmis-
11 sible under the provision were caused by
12 the victimization described in section
13 101(a)(15)(T)(i)(I).

14 “(8) ‘U’ NONIMMIGRANTS.—

15 “(A) DETERMINATION.—The Secretary of
16 Homeland Security shall determine whether a
17 ground for inadmissibility exists with respect to
18 a nonimmigrant described in section
19 101(a)(15)(U).

20 “(B) WAIVER.—In addition to any other
21 waiver that may be available under this section,
22 in the case of a nonimmigrant described in sec-
23 tion 101(a)(15)(U), if the Secretary of Home-
24 land Security considers it to be in the national
25 interest to do so, the Secretary, in the Sec-

1 retary’s discretion, may waive the application
2 of—

3 “(i) paragraphs (1) and (4) of sub-
4 section (a); and

5 “(ii) any other provision of such sub-
6 section (excluding paragraphs (2), (3), (8),
7 (9)(A), (10)(C), (10)(D), and (10)(E)) if
8 the activities rendering the alien inadmis-
9 sible under the provision were caused by
10 the criminal activity described in section
11 101(a)(15)(U)(iii).

12 “(d) SUSPENSION OF ENTRY.—Whenever the Presi-
13 dent finds that the entry of any aliens or of any class of
14 aliens into the United States would be detrimental to the
15 interests of the United States, the President may by proc-
16 lamation, and for such period as the President shall deem
17 necessary, suspend the entry of all aliens or any class of
18 aliens as immigrants or nonimmigrants, or impose on the
19 entry of aliens any restrictions the President may deem
20 to be appropriate. Whenever the Secretary of Homeland
21 Security finds that a commercial airline has failed to com-
22 ply with regulations of the Secretary relating to require-
23 ments of airlines for the detection of fraudulent documents
24 used by passengers traveling to the United States (includ-
25 ing the training of personnel in such detection), the Sec-

1 retary may suspend the entry of some or all aliens trans-
2 ported to the United States by such airline.

3 “(e) WAIVERS OF HEALTH-RELATED GROUNDS.—

4 “(1) IN GENERAL.—The Secretary of Homeland
5 Security may waive the application of—

6 “(A) subsection (a)(1)(A)(i) in the case of
7 any alien who—

8 “(i) is the spouse or the unmarried
9 son or daughter, or the minor unmarried
10 lawfully adopted child, of a United States
11 citizen, or of an alien lawfully admitted for
12 permanent residence, or of an alien who
13 has been issued an immigrant visa;

14 “(ii) has a son or daughter who is a
15 United States citizen, or an alien lawfully
16 admitted for permanent residence, or an
17 alien who has been issued an immigrant
18 visa; or

19 “(iii) qualifies for classification under
20 clause (iii) or (iv) of section 204(a)(1)(A)
21 or classification under clause (ii) or (iii) of
22 section 204(a)(1)(B);

23 in accordance with such terms, conditions, and
24 controls, if any, including the giving of bond, as
25 the Secretary of Homeland Security, in the dis-

1 cretion of such Secretary after consultation
2 with the Secretary of Health and Human Serv-
3 ices, may by regulation prescribe;

4 “(B) subsection (a)(1)(A)(ii) in the case of
5 any alien—

6 “(i) who receives vaccination against
7 the vaccine-preventable disease or diseases
8 for which the alien has failed to present
9 documentation of previous vaccination;

10 “(ii) for whom a civil surgeon, medical
11 officer, or panel physician (as those terms
12 are defined by section 34.2 of title 42,
13 Code of Federal Regulations) certifies, ac-
14 cording to such regulations as the Sec-
15 retary of Health and Human Services may
16 prescribe, that such vaccination would not
17 be medically appropriate; or

18 “(iii) under such circumstances as the
19 Secretary of Homeland Security provides
20 by regulation, with respect to whom the re-
21 quirement of such a vaccination would be
22 contrary to the alien’s religious beliefs or
23 moral convictions; or

24 “(C) subsection (a)(1)(A)(iii) in the case of
25 any alien, in accordance with such terms, condi-

1 tions, and controls, if any, including the giving
2 of bond, as the Secretary of Homeland Secu-
3 rity, in the discretion of such Secretary after
4 consultation with the Secretary of Health and
5 Human Services, may by regulation prescribe.

6 “(2) CERTIFICATE OF INSURANCE.—A waiver
7 shall not be granted under this subsection unless the
8 applicant has presented to the Secretary of Home-
9 land Security a valid certificate of insurance cov-
10 ering all medical and hospital expenses that might
11 be incurred during the period such alien has been
12 admitted to the United States.

13 “(f) WAIVERS OF CRIMINAL AND RELATED
14 GROUNDS.—The Secretary of Homeland Security may, in
15 the discretion of the Secretary, waive the application of
16 subparagraphs (A)(i)(I), (B), (D), and (E) of subsection
17 (a)(2) and subparagraph (A)(i)(II) of such subsection in-
18 sofar as it relates to a single offense of simple possession
19 of 30 grams or less of marijuana if—

20 “(1)(A) in the case of any immigrant, it is es-
21 tablished to the satisfaction of the Secretary of
22 Homeland Security that—

23 “(i) the alien is inadmissible only under
24 subparagraph (D)(i) or (D)(ii) of such sub-
25 section or the activities for which the alien is

1 inadmissible occurred more than 15 years be-
2 fore the date of the alien's application for a
3 visa, admission, or adjustment of status;

4 “(ii) the admission to the United States of
5 such alien would not be contrary to the national
6 welfare, safety, or security of the United States;
7 and

8 “(iii) the alien has been rehabilitated; or

9 “(B) in the case of an immigrant who is the
10 spouse, parent, son, or daughter of a citizen of the
11 United States or an alien lawfully admitted for per-
12 manent residence, if it is established to the satisfac-
13 tion of the Secretary that the alien's denial of ad-
14 mission would result in exceptional and extremely
15 unusual hardship to the United States citizen or
16 lawfully resident spouse, parent, son, or daughter of
17 such alien; and

18 “(2) the Secretary, in the discretion of the Sec-
19 retary, and pursuant to such terms, conditions, and
20 procedures as the Secretary may by regulations pre-
21 scribe, has consented to the alien's applying or re-
22 applying for a visa, for admission to the United
23 States, or adjustment of status.

24 No waiver shall be provided under this subsection in the
25 case of an alien who has been convicted of (or who has

1 admitted committing acts that constitute) murder or
2 criminal acts involving torture, or an attempt or con-
3 spiracy to commit murder or a criminal act involving tor-
4 ture. No waiver shall be granted under this subsection in
5 the case of an alien who has previously been admitted to
6 the United States as an alien lawfully admitted for perma-
7 nent residence if either since the date of such admission
8 the alien has been convicted of an aggravated felony or
9 the alien has not lawfully resided continuously in the
10 United States for a period of not less than 7 years imme-
11 diately preceding the date of initiation of proceedings to
12 remove the alien from the United States. No waiver shall
13 be granted under this subsection in the case of any alien
14 who is present in the United States after the expiration
15 of the period of stay authorized by the Secretary of Home-
16 land Security or is present in the United States without
17 being admitted or paroled if either the alien has been con-
18 victed of an aggravated felony committed in the United
19 States or the alien has not resided continuously in the
20 United States for a period of not less than 7 years imme-
21 diately preceding the date of initiation of proceedings to
22 remove the alien from the United States. No court shall
23 have jurisdiction to review a decision of the Secretary of
24 Homeland Security to grant or deny a waiver under this
25 subsection.

1 “(g) ALIENS HAVING IMMIGRANT VISAS.—Any alien,
2 inadmissible to the United States under paragraph (5)(A)
3 or (7)(A)(i) of subsection (a), who is in possession of an
4 immigrant visa may, if otherwise admissible, be admitted
5 in the discretion of the Secretary of Homeland if the Sec-
6 retary is satisfied that inadmissibility was not known to,
7 and could not have been ascertained by the exercise of rea-
8 sonable diligence by, the immigrant before the time of de-
9 parture of the vessel or aircraft from the last port outside
10 the United States and outside foreign contiguous territory
11 or, in the case of an immigrant coming from foreign con-
12 tiguous territory, before the time of the immigrant’s appli-
13 cation for admission.

14 “(h) WAIVER OF DOCUMENTATION REQUIREMENTS
15 FOR NONIMMIGRANTS.—

16 “(1) IN GENERAL.—The requirement of sub-
17 section (a)(7)(B)(i) may be waived by the Secretary
18 of Homeland Security, the Secretary of State, and
19 the Secretary of the Interior, acting jointly, in the
20 case of an alien applying for admission as a non-
21 immigrant visitor for business or pleasure and solely
22 for entry into and stay on Guam for a period not to
23 exceed fifteen days, if the Secretary of Homeland
24 Security, the Secretary of State and the Secretary of

1 the Interior, after consultation with the Governor of
2 Guam, jointly determine that—

3 “(A) an adequate arrival and departure
4 control system has been developed on Guam;
5 and

6 “(B) such a waiver does not represent a
7 threat to the welfare, safety, or security of the
8 United States or its territories and common-
9 wealths.

10 “(2) LIMITATION.—An alien may not be pro-
11 vided a waiver under this subsection unless the alien
12 has waived any right—

13 “(A) to review or appeal under this Act of
14 an immigration officer’s determination as to the
15 admissibility of the alien at the port of entry
16 into Guam; or

17 “(B) to contest, other than on the basis of
18 an application for asylum, any action for re-
19 moval of the alien.

20 “(i) CONDITIONS ON RECEIPT OF IMMIGRANT VISAS
21 FOLLOWING DEPARTURE.—An alien who has been phys-
22 ically present in the United States shall not be eligible to
23 receive an immigrant visa within ninety days following de-
24 parture therefrom unless—

1 “(1) the alien was maintaining a lawful non-
2 immigrant status at the time of such departure; or

3 “(2) the alien is the spouse or unmarried child
4 of an individual who obtained temporary or perma-
5 nent resident status under section 210 or 245A of
6 the Immigration and Nationality Act or section 202
7 of the Immigration Reform and Control Act of 1986
8 at any date, who—

9 “(A) as of May 5, 1988, was the unmar-
10 ried child or spouse of the individual who ob-
11 tained temporary or permanent resident status
12 under section 210 or 245A of the Immigration
13 and Nationality Act or section 202 of the Immi-
14 gration Reform and Control Act of 1986;

15 “(B) entered the United States before May
16 5, 1988, resided in the United States on May
17 5, 1988, and is not a lawful permanent resi-
18 dent; and

19 “(C) applied for benefits under section
20 301(a) of the Immigration Act of 1990.

21 “(j) UNCERTIFIED FOREIGN HEALTH-CARE WORK-
22 ERS.—Subsection (a)(5)(C) shall not apply to an alien
23 who seeks to enter the United States for the purpose of
24 performing labor as a nurse who presents to the consular
25 officer (or in the case of an adjustment of status, the Sec-

1 retary of Homeland Security) a certified statement from
2 the Commission on Graduates of Foreign Nursing Schools
3 (or an equivalent independent credentialing organization
4 approved for the certification of nurses under subsection
5 (a)(5)(C) by the Secretary of Homeland Security in con-
6 sultation with the Secretary of Health and Human Serv-
7 ices) that—

8 “(1) the alien has a valid and unrestricted li-
9 cense as a nurse in a State where the alien intends
10 to be employed and such State verifies that the for-
11 eign licenses of alien nurses are authentic and
12 unencumbered;

13 “(2) the alien has passed the National Council
14 Licensure Examination (NCLEX);

15 “(3) the alien is a graduate of a nursing pro-
16 gram—

17 “(A) in which the language of instruction
18 was English;

19 “(B) located in a country—

20 “(i) designated by such commission
21 not later than 30 days after the date of the
22 enactment of the Nursing Relief for Dis-
23 advantaged Areas Act of 1999, based on
24 such commission’s assessment that the
25 quality of nursing education in that coun-

1 try, and the English language proficiency
2 of those who complete such programs in
3 that country, justify the country's designa-
4 tion; or

5 “(ii) designated on the basis of such
6 an assessment by unanimous agreement of
7 such commission and any equivalent
8 credentialing organizations which have
9 been approved under subsection (a)(5)(C)
10 for the certification of nurses under this
11 subsection; and

12 “(C)(i) which was in operation on or before
13 the date of the enactment of the Nursing Relief
14 for Disadvantaged Areas Act of 1999; or

15 “(ii) has been approved by unanimous
16 agreement of such commission and any equiva-
17 lent credentialing organizations which have
18 been approved under subsection (a)(5)(C) for
19 the certification of nurses under this subsection.

20 “(k) PUBLIC CHARGE GROUND FOR FAMILY-SPON-
21 SORED IMMIGRANTS.—In determining whether an alien
22 described in subsection (a)(4)(C)(i) is inadmissible under
23 subsection (a)(4) or ineligible to receive an immigrant visa
24 or otherwise to adjust to the status of permanent resident
25 by reason of subsection (a)(4), the consular officer or the

1 Secretary of Homeland Security shall not consider any
2 benefits the alien may have received that were authorized
3 under section 501 of the Illegal Immigration Reform and
4 Immigrant Responsibility Act of 1996 (8 U.S.C.
5 1641(c)).”.

6 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

7 (1) The following provisions of the Immigration
8 and Nationality Act are amended by striking
9 “212(e)” and inserting “222(h)”:

10 (A) Paragraphs (1), (2)(A), and (3) of sec-
11 tion 214(l).

12 (B) Paragraphs (2) and (3)(B) of section
13 240A(e).

14 (C) Section 245A(a)(2)(C).

15 (D) Section 248(3).

16 (2) Section 214 (8 U.S.C. 1202) is amended—

17 (A) by redesignating subsection (p) (as
18 added by the Departments of Commerce, Jus-
19 tice, and State, the Judiciary, and Related
20 Agencies Appropriations Act, 2001, as enacted
21 into law by Public Law 106–553) as subsection
22 (r);

23 (B) by redesignating the second subsection
24 (o) (as added by the Departments of Com-
25 merce, Justice, and State, the Judiciary, and

1 Related Agencies Appropriations Act, 2001, as
2 enacted into law by Public Law 106–553) as
3 subsection (q);

4 (C) by redesignating the first subsection
5 (o) as subsection (p);

6 (D) by redesignating subsection (n) as sub-
7 section (o); and

8 (E) by redesignating the second subsection
9 (m) as subsection (n).

10 (3) Section 101(a) is amended—

11 (A) in paragraph (13)(B), by striking
12 “212(d)(5)” and inserting “212(c)(3)”;

13 (B) in paragraph (13)(C)(v), by striking
14 “212(h)” and inserting “212(f)”;

15 (C) in paragraph (15)(H)—

16 (i) by striking “212(j)(2)” and insert-
17 ing “214(s)(2)”;

18 (ii) by striking “212(n)(1)” and in-
19 serting “214(u)(1)”;

20 (iii) by striking “212(m)(1)” and in-
21 serting “214(t)(1)”;

22 (iv) by striking “212(m)(2)” and in-
23 serting “214(t)(2)”;

24 (v) by striking “212(m)(6)” and in-
25 serting “214(t)(6)”;

1 (D) in paragraph (15)(J), by striking
2 “212(j)” and inserting “214(s)”;

3 (E) in paragraph (15)(K), by striking “(p)
4 of section 214” and inserting “(r) of section
5 214”;

6 (F) in paragraph (15)(T)(i), by striking
7 “214(n)” and inserting “214(o)”;

8 (G) in paragraph (15)(U)(i), by striking
9 “214(o)” and inserting “214(p)”;

10 (H) in paragraph (15)(V), by striking
11 “214(o)” and inserting “214(q)”.

12 (4) Section 201(c)(4) is amended by striking
13 “212(d)(5)” and inserting “212(e)(3)”.

14 (5) Section 214(a)(1) is amended by striking
15 “212(l)” and inserting “212(h)”.

16 (6) Section 214(e)(5) is amended—

17 (A) by striking “212(m)” both places it
18 appears and inserting “214(t)”;

19 (B) by striking “212(n)” and inserting
20 “214(u)”.

21 (7) Section 214(f)(2)(A) is amended by striking
22 “212(d)(5)” and inserting “212(e)(3)”.

23 (8) Section 216(f) is amended by striking “sub-
24 section (h) or (i) of section 212” and inserting “sec-
25 tion 212(f)”.

1 (9) Section 237(a)(1)(C)(ii) is amended by
2 striking “212(g)” and inserting “212(e)”.

3 (10) Section 240A(b)(4) is amended by striking
4 “212(d)(5)” and inserting “212(e)(3)”.

5 (11) Section 242(a)(2)(B)(i) is amended by
6 striking “212(h), 212(i),” and inserting “212(f),”.

7 (12) Section 245(c) is amended—

8 (A) by striking “212(d)(4)(C)” and insert-
9 ing “212(c)(2)(C)”;

10 (B) by striking “212(l)” and inserting
11 “212(h)”.

12 (13) Section 248 is amended by striking “(or
13 whose inadmissibility under such section is waived
14 under section 212(a)(9)(B)(v))” in the matter pre-
15 ceding paragraph (1).

16 (14) Section 248(4) is amended by striking
17 “212(l)” and inserting “212(h)”.

18 (15) Section 252(a) is amended by striking
19 “212(d)(3), section 212(d)(5),” and inserting
20 “212(e)(3),”.

21 (16) Paragraphs (2) and (3) of section 254(a)
22 are each amended by striking “212(d)(5)” and in-
23 serting “212(c)(3)”.

24 (17) Section 286(s)(6) is amended—

1 (A) by striking “212(n)(1)” each place it
2 appears and inserting “214(u)(1)”; and

3 (B) by striking “212(n)(2)” both places it
4 appears and inserting “214(u)(2)”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect of the date of the enactment
7 of this Act and shall apply to acts undertaken, and condi-
8 tions existing, before, on, or after such date.

9 **SEC. 205. PROTECTION OF U.S. SPECIALTY WORKERS.**

10 Section 214(u) of the Immigration and Nationality
11 Act (8 U.S.C. 1184(u)), as so redesignated by this Act,
12 is further amended as follows:

13 (1) Paragraph (1)(E) is amended—

14 (A) by striking “(E)(i) In the case of an
15 application described in clause (ii),” and insert-
16 ing “(E)”; and

17 (B) by striking clause (ii).

18 (2) Paragraph (1)(F) is amended by striking
19 “In the case of an application described in subpara-
20 graph (E)(ii), the” and inserting “The”.

21 (3) Paragraph (1)(G) is amended—

22 (A) by striking “(G)(i) In the case of an
23 application described in subparagraph (E)(ii),
24 subject to clause (ii),” and inserting “(G)”; and

25 (B) by striking clause (ii);

1 (4) Paragraph (1) is amended in the matter fol-
2 lowing subparagraph (G)—

3 (A) by amending the 5th sentence to read
4 as follows: “The Secretary of Labor shall review
5 such an application for completeness and accu-
6 racy.”; and

7 (B) in the 6th sentence, by striking “obvi-
8 ously”.

9 (5) Paragraph (2)(C)(i) is amended by striking
10 “paragraph (1)(B), (1)(E), or (1)(F), a substantial
11 failure to meet a condition of paragraph (1)(C),
12 (1)(D), or (1)(G)(i)(I),” and inserting “paragraph
13 (1),”.

14 (6) Paragraph (2)(E) is amended to read as
15 follows: “If an employer places an H–1B non-
16 immigrant with a second employer whom the em-
17 ployer knows or had reason to know has ever dis-
18 placed a United States worker during a period de-
19 scribed in paragraph (1)(F), such displacement shall
20 be considered to be a failure to meet a condition
21 specified in an application submitted under para-
22 graph (1).”.

23 (7) Paragraphs (3) and (5) are repealed.

24 **SEC. 206. ANTIFRAUD FEE.**

25 (a) IMPOSITION OF FEE.—

1 (1) IN GENERAL.—Chapter 9 of title II of the
2 Immigration and Nationality Act (8 U.S.C. 1351 et
3 seq.) is amended by inserting after section 281 the
4 following:

5 “ANTIFRAUD FEE

6 “SEC. 281A. (a) IN GENERAL.—In addition to any
7 other fees authorized by law, the Secretary of Homeland
8 Security shall impose an antifraud fee on a petitioner fil-
9 ing a petition for classification under section 204, or a
10 petition for an alien’s status as a nonimmigrant under sec-
11 tion 101(a)(15) (excluding status under subparagraph
12 (A), (B), (G), or (S) of such section).

13 “(b) AMOUNT.—The amount of the fee shall be \$100
14 for each such petition.

15 “(c) DISPOSITION.—Fees collected under this section
16 shall be deposited in the Treasury in accordance with sec-
17 tion 286(v).”.

18 (2) CLERICAL AMENDMENT.—The table of con-
19 tents of the Immigration and Nationality Act is
20 amended by inserting after the item relating to sec-
21 tion 281 the following:

 “281A. Antifraud fee.”.

22 (b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—
23 Section 286 (8 U.S.C. 1356) is amended by adding at the
24 end the following:

25 “(v) ANTIFRAUD ACCOUNT.—

1 “(1) IN GENERAL.—There is established in the
2 general fund of the Treasury a separate account
3 which shall be known as the ‘Antifraud Account’.
4 Notwithstanding any other provision of law, there
5 shall be deposited as offsetting receipts into the ac-
6 count all fees collected under section 281A.

7 “(2) USE OF FEES TO COMBAT FRAUD.—

8 “(A) SECRETARY OF HOMELAND SECU-
9 RITY.—

10 “(i) PROGRAMS TO ELIMINATE
11 FRAUD.—20 percent of amounts deposited
12 into the Antifraud Account shall remain
13 available to the Secretary of Homeland Se-
14 curity until expended for programs and ac-
15 tivities to eliminate fraud by petitioners
16 and beneficiaries with respect to immigrant
17 visa petitions under section 204 or status
18 under section 101(a)(15) (excluding status
19 under subparagraph (A), (B), (G), or (S)
20 of such section).

21 “(ii) REMOVAL OF ALIENS.—20 per-
22 cent of amounts deposited into the Anti-
23 fraud Account shall remain available to the
24 Secretary of Homeland Security until ex-
25 pended for the removal of aliens who are

1 deportable under section 237(a)(1)(A) by
2 reason of having been found to be within
3 the class of aliens inadmissible under sec-
4 tion 212(a)(6)(C).

5 “(B) SECRETARY OF STATE.—40 percent
6 of the amounts deposited into the Antifraud Ac-
7 count shall remain available to the Secretary of
8 State until expended for programs and activities
9 to eliminate fraud by petitioners and bene-
10 ficiaries described in subparagraph (A).

11 “(C) JOINT PROGRAMS.—20 percent of
12 amounts deposited into the Antifraud Account
13 shall remain available to the Secretary of
14 Homeland Security and the Secretary of State
15 until expended for programs and activities con-
16 ducted by them jointly to eliminate fraud by pe-
17 titioners and beneficiaries described in subpara-
18 graph (A).”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect 6 months after the date of
21 the enactment of this Act.

1 **TITLE III—TRACKING ALIENS**
2 **PRESENT IN THE UNITED**
3 **STATES**

4 **SEC. 301. ENTRY-EXIT SYSTEM.**

5 (a) INTEGRATED ENTRY AND EXIT DATA SYSTEM.—
6 Section 110(b)(1) of the Illegal Immigration Reform and
7 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221
8 note) is amended to read as follows:

9 “(1) provides access to, and integrates, arrival
10 and departure data of all aliens who arrive and de-
11 part at ports of entry, in an electronic format and
12 in a database of the Department of Homeland Secu-
13 rity or the Department of State (including those cre-
14 ated or used at ports of entry and at consular of-
15 fices);”.

16 (b) CONSTRUCTION.—Section 110(c) of the Illegal
17 Immigration Reform and Immigrant Responsibility Act of
18 1996 (8 U.S.C. 1221 note) is amended to read as follows:

19 “(c) CONSTRUCTION.—Nothing in this section shall
20 be construed to reduce or curtail any authority of the Sec-
21 retary of Homeland Security or the Secretary of State
22 under any other provision of law.”.

23 (c) DEADLINES.—Section 110(d) of the Illegal Immi-
24 gration Reform and Immigrant Responsibility Act of 1996
25 (8 U.S.C. 1221 note) is amended—

1 (1) in paragraph (1), by striking “December
2 31” and inserting “October 26”;

3 (2) by amending paragraph (2) to read as fol-
4 lows:

5 “(2) LAND BORDER PORTS OF ENTRY.—Not
6 later than October 26, 2004, the Secretary of Home-
7 land Security shall implement the integrated entry
8 and exit data system using the data described in
9 paragraph (1) and available alien arrival and depart-
10 ture data described in subsection (b)(1) pertaining
11 to aliens arriving in, or departing from, the United
12 States at all land border ports of entry. Such imple-
13 mentation shall include ensuring that such data,
14 when collected or created by an immigration officer
15 at a port of entry, are entered into the system and
16 can be accessed by immigration officers at airports,
17 seaports, and other land border ports of entry.”; and

18 (3) by striking paragraph (3).

19 (d) AUTHORITY TO PROVIDE ACCESS TO SYSTEM.—

20 Section 110(f)(1) of the Illegal Immigration Reform and
21 Immigrant Responsibility Act of 1996 (8 U.S.C. 1221
22 note) is amended by adding at the end the following:

23 “The Secretary of Homeland Security shall ensure
24 that any officer or employee of the Department of
25 Homeland Security or the Department of State hav-

1 DENTS AND OTHER EXCHANGE PROGRAM PARTICI-
2 PANTS.—Section 641(d)(2) of the Illegal Immigration Re-
3 form and Immigrant Responsibility Act of 1996 (8 U.S.C.
4 1372(d)(2)) is amended to read as follows:

5 “(2) EFFECT OF FAILURE TO PROVIDE INFOR-
6 MATION.—During any period on or after the date of
7 the enactment of the Securing America’s Future
8 through Enforcement Reform Act of 2003, if an ap-
9 proved institution of higher education or a des-
10 ignated exchange visitor program fails to provide the
11 information described in subsection (c) through the
12 program described in subsection (a), all approvals
13 described in subparagraph (A) of paragraph (1), and
14 all grants of authority described in subparagraph
15 (B) of such paragraph, with respect to such institu-
16 tion or exchange visitor program shall be revoked.”.

17 **SEC. 303. ALIEN REGISTRATION.**

18 (a) IN GENERAL.—Section 262 (8 U.S.C. 1302) is
19 amended to read as follows:

20 “REGISTRATION OF ALIENS IN THE UNITED STATES

21 “SEC. 262. (a) INITIAL REGISTRATION.—

22 “(1) IN GENERAL.—It shall be the duty of
23 every alien now or hereafter in the United States,
24 who (1) is fourteen years of age or older, (2) has not
25 been registered and fingerprinted under section

1 221(b) of this Act or section 30 or 31 of the Alien
2 Registration Act, 1940, and (3) remains in the
3 United States for thirty days or longer, to apply for
4 registration and to be fingerprinted before the expi-
5 ration of such thirty days.

6 “(2) MINORS.—It shall be the duty of every
7 parent or legal guardian of any alien now or here-
8 after in the United States, who (1) is less than four-
9 teen years of age, (2) has not been registered under
10 section 221(b) of this Act or section 30 or 31 of the
11 Alien Registration Act, 1940, and (3) remains in the
12 United States for thirty days or longer, to apply for
13 the registration of such alien before the expiration of
14 such thirty days. Whenever any alien attains his
15 fourteenth birthday in the United States he shall,
16 within thirty days thereafter, apply in person for
17 registration and to be fingerprinted.

18 “(b) SUBSEQUENT REGISTRATIONS.—

19 “(1) PERMANENT RESIDENTS.—In addition to
20 any other registration otherwise required under this
21 Act or any other Act, each alien lawfully admitted
22 for permanent residence shall annually register with
23 the Secretary of Homeland Security, regardless of
24 whether there has been any change in the alien’s ad-
25 dress. This requirement shall commence on the first

1 anniversary of the date on which the alien acquired
2 the status of an alien lawfully admitted for perma-
3 nent residence that occurs after the enactment of
4 the Securing America’s Future through Enforcement
5 Reform Act of 2003.

6 “(2) OTHER ALIENS.—In addition to any other
7 registration otherwise required under this Act or any
8 other Act, every alien in the United States, other
9 than an alien described in paragraph (1), shall reg-
10 ister with the Secretary of Homeland Security at the
11 expiration of each 3-month period during which the
12 alien remains in the United States, regardless of
13 whether there has been any change in the alien’s ad-
14 dress. This requirement shall commence on the 60th
15 day after the alien enters the United States.

16 “(3) MINORS.—In the case of an alien who is
17 less than fourteen years of age, a parent or legal
18 guardian of the alien may carry out this subsection
19 on behalf of the alien.

20 “(c) CHANGE OF ADDRESS.—

21 “(1) IN GENERAL.—Each alien required to be
22 registered under this title who is within the United
23 States shall notify the Secretary of Homeland Secu-
24 rity in writing of each change of address and new
25 address within ten days from the date of such

1 change and furnish with such notice such additional
2 information as the Secretary may require by regula-
3 tion.

4 “(2) CERTAIN FOREIGN STATES.—

5 “(A) IN GENERAL.—The Secretary of
6 Homeland Security may, in the discretion of the
7 Secretary, upon ten days notice, require the na-
8 tives of any one or more foreign states, or any
9 class or group thereof, who are within the
10 United States and who are required to be reg-
11 istered under this title, to notify the Secretary
12 of their current addresses and furnish such ad-
13 ditional information as the Secretary may re-
14 quire.

15 “(B) NOTICE FOR MINORS.—In the case of
16 an alien for whom a parent or legal guardian is
17 required to apply for registration, the notice re-
18 quired by this section shall be given to such
19 parent or legal guardian.

20 “(3) MINORS.—In the case of an alien who is
21 less than fourteen years of age, a parent or legal
22 guardian of the alien may carry out this subsection
23 on behalf of the alien.

24 “(d) EXCEPTION.—Subsections (b) and (c) shall not
25 apply to an alien lawfully admitted for permanent resi-

1 dence, and the alien’s spouse and children, if the alien is
2 a member of the armed forces of the United States serving
3 on active duty (as defined in section 101(d) of title 10,
4 United States Code).

5 “(e) FORMS.—The Secretary of Homeland Security
6 shall prepare forms for registrations and change of ad-
7 dress notifications required under this section. Such forms
8 shall contain inquiries to obtain the following information:

9 “(1) Full name and aliases.

10 “(2) Current address.

11 “(3) Date of birth.

12 “(4) Visa category.

13 “(5) Date of entry into the United States.

14 “(6) Termination date of authorization to re-
15 main in the United States, if any.

16 “(7) Signature.

17 “(8) Biometric feature of the alien.

18 “(9) Any additional information that the Sec-
19 retary of Homeland Security determines to be nec-
20 essary.

21 “(f) INFORMATION TECHNOLOGY SYSTEM.—The
22 Secretary of Homeland Security shall establish and oper-
23 ate an information technology system for the electronic
24 collection, compilation, and maintenance of the informa-
25 tion submitted under this section. Such system shall per-

1 mit any alien address in the United States that has been
2 registered with the Secretary, and the date of such reg-
3 istration, to be accessed by any officer or employee of the
4 Department of Homeland Security having need for such
5 access for any lawful purpose under the Immigration and
6 Nationality Act.”.

7 (b) REPEAL.—Section 265 (8 U.S.C. 1305) is re-
8 pealed and the table of contents is amended by striking
9 the item relating to such section.

10 (c) CONFORMING AMENDMENTS.—

11 (1) REMOVAL FOR FAILURE TO COMPLY.—Sec-
12 tion 237(a)(3)(A) (8 U.S.C. 1227(a)(3)(A)) is
13 amended by striking “265” and inserting “262”.

14 (2) REGISTRATION OF SPECIAL GROUPS.—Sec-
15 tion 263(b) (8 U.S.C. 1303(b)) is amended by in-
16 serting “(excluding subsection (c) of such section)”
17 after “262”.

18 (3) FORMS AND PROCEDURE.—Section 264(a)
19 (8 U.S.C. 1304(a)) is amended by striking “of this
20 title, and the Attorney General is authorized and di-
21 rected to prepare forms for the registration and
22 fingerprinting of aliens under section 262 of this
23 title.” and inserting a period.

1 (4) PENALTIES.—Section 266 (8 U.S.C. 1306)
2 is amended by striking “265” each place such term
3 appears and inserting “262”.

4 (d) REPORT.—Not later than 3 years after the date
5 of the enactment of this Act, the Secretary of Homeland
6 Security shall submit a report to the Committees on the
7 Judiciary of the House of Representatives and the Senate
8 on the implementation of section 262 of the Immigration
9 and Nationality Act, as amended by this section, and the
10 results of such implementation.

11 (e) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this Act.

14 **SEC. 304. VISA TERM COMPLIANCE BONDS.**

15 (a) DEFINITIONS.—For purposes of this section:

16 (1) VISA TERM COMPLIANCE BOND.—The term
17 “visa term compliance bond” means a written
18 suretyship undertaking entered into by an alien indi-
19 vidual seeking admission to the United States of
20 America on a nonimmigrant visa whose performance
21 is guaranteed by a bail agent.

22 (2) SURETYSHIP UNDERTAKING.—The term
23 “suretyship undertaking” means a written agree-
24 ment, executed by a bail agent, which binds all par-
25 ties to its certain terms and conditions and which

1 provides obligations for the visa applicant while
2 under the bond and penalties for forfeiture to ensure
3 the obligations of the principal under the agreement.

4 (3) BAIL AGENT.—The term “bail agent”
5 means any individual properly licensed, approved,
6 and appointed by power of attorney to execute or
7 countersign bail bonds in connection with judicial
8 proceedings and who receives a premium.

9 (4) SURETY.—The term “surety” means an en-
10 tity, as defined by, and that is in compliance with,
11 sections 9304 through 9308 of title 31, United
12 States Code, that agrees—

13 (A) to guarantee the performance, where
14 appropriate, of the principal under a visa term
15 compliance bond;

16 (B) to perform as required in the event of
17 a forfeiture; and

18 (C) to pay over the principal (penal) sum
19 of the bond for failure to perform.

20 (b) ISSUANCE OF BOND.—A consular officer may re-
21 quire an applicant for a nonimmigrant visa, as a condition
22 for granting such application, to obtain a visa term com-
23 pliance bond.

24 (c) VALIDITY, EXPIRATION, RENEWAL, AND CAN-
25 CELLATION OF BONDS.—

1 (1) VALIDITY.—A visa term compliance bond
2 undertaking is valid if it—

3 (A) states the full, correct, and proper
4 name of the alien principal;

5 (B) states the amount of the bond;

6 (C) is guaranteed by a surety and
7 countersigned by an attorney-in-fact who is
8 properly appointed;

9 (D) is an original signed document;

10 (E) is filed with the Secretary of Home-
11 land Security along with the original application
12 for a visa; and

13 (F) is not executed by electronic means.

14 (2) EXPIRATION.—A visa term compliance bond
15 undertaking shall expire at the earliest of—

16 (A) 1 year from the date of issue;

17 (B) at the expiration, cancellation, or sur-
18 render of the visa; or

19 (C) immediately upon nonpayment of the
20 premium.

21 (3) RENEWAL.—The bond may be renewed—

22 (A) annually with payment of proper pre-
23 mium at the option of the bail agent or surety;
24 and

1 (B) provided there has been no breach of
2 conditions, default, claim, or forfeiture of the
3 bond.

4 (4) CANCELLATION.—The bond shall be can-
5 celed and the surety and bail agent exonerated—

6 (A) for nonrenewal;

7 (B) if the surety or bail agent provides
8 reasonable evidence that there was misrepresen-
9 tation or fraud in the application for the bond;

10 (C) upon termination of the visa;

11 (D) upon death, incarceration of the prin-
12 cipal, or the inability of the surety to produce
13 the principal for medical reasons;

14 (E) if the principal is detained in any city,
15 State, country, or political subdivision thereof;

16 (F) if the principal departs from the
17 United States of America for any reason with-
18 out permission of the Secretary of Homeland
19 Security and the surety or bail agent; or

20 (G) if the principal is surrendered by the
21 surety.

22 (5) EFFECT OF EXPIRATION OR CANCELLA-
23 TION.—When a visa term compliance bond expires
24 without being immediately renewed, or is canceled,

1 the nonimmigrant status of the alien shall be re-
2 voked immediately.

3 (6) SURRENDER OF PRINCIPAL; FORFEITURE
4 OF BOND PREMIUM.—

5 (A) SURRENDER.—At any time before a
6 breach of any of the conditions of the bond, the
7 surety or bail agent may surrender the prin-
8 cipal, or the principal may surrender, to any of-
9 fice or facility of the Department of Homeland
10 Security charged with immigration enforcement
11 or border protection.

12 (B) FORFEITURE OF BOND PREMIUM.—A
13 principal may be surrendered without the re-
14 turn of any bond premium if the visa holder—

15 (i) changes address without notifying
16 the surety or bail agent and the Secretary
17 of Homeland Security in writing at least
18 60 days prior to such change;

19 (ii) changes schools, jobs, or occupa-
20 tions without written permission of the
21 surety, bail agent, and the Secretary;

22 (iii) conceals himself or herself;

23 (iv) fails to report to the Secretary as
24 required at least annually; or

1 (v) violates the contract with the bail
2 agent or surety, commits any act that may
3 lead to a breach of the bond, or otherwise
4 violates any other obligation or condition
5 of the visa established by the Secretary.

6 (7) CERTIFIED COPY OF UNDERTAKING OR
7 WARRANT TO ACCOMPANY SURRENDER.—

8 (A) IN GENERAL.—A person desiring to
9 make a surrender of the visa holder—

10 (i) shall have the right to petition any
11 Federal court for an arrest warrant for the
12 arrest of the visa holder;

13 (ii) shall forthwith be provided a cer-
14 tified copy of the arrest warrant and the
15 undertaking; and

16 (iii) shall have the right to pursue, ap-
17 prehend, detain, and deliver the visa hold-
18 er, together with the certified copy of the
19 arrest warrant and the undertaking, to any
20 official or facility of the Department of
21 Homeland Security charged with immigra-
22 tion enforcement or border protection or
23 any detention facility authorized to hold
24 Federal detainees.

1 (B) EFFECTS OF DELIVERY.—Upon deliv-
2 ery of a person under subparagraph (A)(iii)—

3 (i) the official to whom the delivery is
4 made shall detain the visa holder in cus-
5 tody and issue a written certificate of sur-
6 render; and

7 (ii) the court issuing the warrant de-
8 scribed in subparagraph (A)(i) and the
9 Secretary of Homeland Security shall im-
10 mediately exonerate the surety and bail
11 agent from any further liability on the
12 bond.

13 (8) FORM OF BOND.—A visa term compliance
14 bond shall in all cases state the following and be se-
15 cured by a surety:

16 (A) BREACH OF BOND; PROCEDURE, FOR-
17 FEITURE, NOTICE.—

18 (i) If a visa holder violates any condi-
19 tions of the visa or the visa bond the Sec-
20 retary of Homeland Security shall—

21 (I) order the visa canceled;

22 (II) immediately obtain a war-
23 rant for the visa holder's arrest;

24 (III) order the bail agent and
25 surety to take the visa holder into

1 custody and surrender the visa holder
2 to the Secretary; and

3 (IV) mail notice to the bail agent
4 and surety via certified mail return
5 receipt at each of the addresses in the
6 bond.

7 (ii) A bail agent or surety shall have
8 full and complete access to any and all in-
9 formation, electronic or otherwise, in the
10 care, custody, and control of the United
11 States Government or any State or local
12 government or any subsidiary or police
13 agency thereof regarding the visa holder
14 needed to comply with section 304 of the
15 Securing America's Future through En-
16 forcement Reform Act of 2003 that the
17 court issuing the warrant believes is crucial
18 in locating the visa holder.

19 (iii) If the visa holder is later ar-
20 rested, detained, or otherwise located out-
21 side the United States and the outlying
22 possessions of the United States (as de-
23 fined in section 101(a) of the Immigration
24 and Nationality Act), the Secretary of
25 Homeland Security shall—

1 (I) order that the bail agent and
2 surety are completely exonerated, and
3 the bond canceled and terminated;
4 and

5 (II) if the Secretary has issued
6 an order under clause (i), the surety
7 may request, by written, properly filed
8 motion, reinstatement of the bond.
9 This subclause may not be construed
10 to prevent the Secretary from revok-
11 ing or resetting a higher bond.

12 (iv) The bail agent or surety must—

13 (I) produce the visa bond holder;
14 or

15 (II)(aa) prove within 180 days
16 that producing the bond holder was
17 prevented—

18 (aaa) by the bond holder's
19 illness or death;

20 (bbb) because the bond hold-
21 er is detained in custody in any
22 city, State, country, or political
23 subdivision thereof;

24 (ccc) because the bond hold-
25 er has left the United States or

1 its outlying possessions (as de-
2 fined in section 101(a) of the Im-
3 migration and Nationality Act (8
4 U.S.C. 1101(a)); or

5 (ddd) because required no-
6 tice was not given to the bail
7 agent or surety; and

8 (bb) prove within 180 days that
9 the inability to produce the bond hold-
10 er was not with the consent or conniv-
11 ance of the bail agent or sureties.

12 (v) If the bail agent or surety does
13 not comply with the terms of this bond
14 within 60 days after the mailing of the no-
15 tice required under subparagraph
16 (A)(i)(IV), a portion of the face value of
17 the bond shall be assessed as a penalty
18 against the surety.

19 (vi) If compliance occurs more than
20 60 days but no more than 90 days after
21 the mailing of the notice, the amount as-
22 sessed shall be one-third of the face value
23 of the bond.

24 (vii) If compliance occurs more than
25 90 days, but no more than 180 days, after

1 the mailing of the notice, the amount as-
2 sessed shall be two-thirds of the face value
3 of the bond.

4 (viii) If compliance does not occur
5 within 180 days after the mailing of the
6 notice, the amount assessed shall be 100
7 percent of the face value of the bond.

8 (ix) All penalty fees shall be paid by
9 the surety within 45 days after the end of
10 such 180-day period.

11 (B) The Secretary of Homeland Security
12 may waive the penalty fees or extend the period
13 for payment or both, if—

14 (i) a written request is filed with the
15 Secretary; and

16 (ii) the bail agent or surety provides
17 evidence satisfactory to the Secretary that
18 diligent efforts were made to effect compli-
19 ance of the visa holder.

20 (C) COMPLIANCE; EXONERATION; LIMITA-
21 TION OF LIABILITY.—

22 (i) COMPLIANCE.—The bail agent or
23 surety shall have the absolute right to lo-
24 cate, apprehend, arrest, detain, and sur-
25 render any visa holder, wherever he or she

1 may be found, who violates any of the
2 terms and conditions of the visa or bond.

3 (ii) EXONERATION.—Upon satisfying
4 any of the requirements of the bond, the
5 surety shall be completely exonerated.

6 (iii) LIMITATION OF LIABILITY.—The
7 total liability on any undertaking shall not
8 exceed the face amount of the bond.

9 **SEC. 305. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.**

10 (a) IN GENERAL.—Section 236(a)(2) is amended to
11 read as follows:

12 “(2) subject to section 241(a)(8), may release
13 the alien on bond of at least \$10,000, with security
14 approved by, and containing conditions prescribed
15 by, the Secretary of Homeland Security, but the
16 Secretary shall not release the alien on or to his own
17 recognizance unless an order of an immigration
18 judge expressly finds that the alien is not a flight
19 risk and is not a threat to the United States; and”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on the date of the enact-
22 ment of this Act.

1 **SEC. 306. DETENTION OF ALIENS DELIVERED BY BONDS-**
2 **MEN.**

3 (a) IN GENERAL.—Section 241(a) (8 U.S.C.
4 1231(a)) is amended by adding at the end the following:

5 “(8) EFFECT OF PRODUCTION OF ALIEN BY
6 BONDSMAN.—Notwithstanding any other provision
7 of law, the Secretary of Homeland Security shall
8 take into custody any alien subject to a final order
9 of removal, and cancel any bond previously posted
10 for the alien, if the alien is produced within the pre-
11 scribed time limit by the obligor on the bond. The
12 obligor on the bond shall be deemed to have substan-
13 tially performed all conditions imposed by the terms
14 of the bond, and shall be released from liability on
15 the bond, if the alien is produced within such time
16 limit.”.

17 (b) EFFECTIVE DATE.—The amendment made by
18 subsection (a) shall take effect on the date of the enact-
19 ment of this Act and shall apply to all immigration bonds
20 posted before, on, or after such date.

1 **TITLE IV—REMOVING ALIEN**
2 **TERRORISTS, CRIMINALS,**
3 **AND HUMAN RIGHTS VIOLA-**
4 **TORS**

5 **Subtitle A—Removing Alien**
6 **Terrorists**

7 **SEC. 401. DEPORTABILITY OF TERRORISTS, NATIONAL SE-**
8 **CURITY THREATS, AND SERIOUS FOREIGN**
9 **CRIMES.**

10 (a) IN GENERAL.—Section 237(a)(4) (8 U.S.C.
11 1227(a)(4)) is amended—

12 (1) by amending subparagraph (B) to read as
13 follows:

14 “(B) TERRORIST ACTIVITIES.—Any alien
15 who would be considered inadmissible pursuant
16 to section 212(a)(3)(B) is deportable.”; and

17 (2) by inserting after subparagraph (D) the fol-
18 lowing:

19 “(E) NATIONAL SECURITY CON-
20 SEQUENCES.—An alien described in section
21 212(a)(3)(G) is deportable.

22 “(F) SERIOUS FOREIGN CRIMES.—An alien
23 described in section 212(a)(3)(H) is deport-
24 able.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 subsection (a) shall take effect on the date of the enact-
3 ment of this Act and shall apply to conduct occurring be-
4 fore, on, or after such date.

5 **SEC. 402. ADMINISTRATIVE REMOVAL OF ALIEN TERROR-**
6 **ISTS.**

7 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is
8 amended—

9 (1) in the section heading, by striking “ALIENS
10 CONVICTED OF COMMITTING AGGRAVATED FELO-
11 NIES” and inserting “CERTAIN ALIENS”;

12 (2) in the heading of subsection (a), by insert-
13 ing “INSTITUTIONAL” before “REMOVAL”;

14 (3) in subsection (a)(1), by striking “241” each
15 place it appears and inserting “237”;

16 (4) by amending the heading of subsection (b)
17 to read as follows:

18 “(b) PROCEEDINGS FOR THE ADMINISTRATIVE RE-
19 MOVAL OF ALIENS.—”;

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

22 “(1) The Secretary of Homeland Security
23 may—

24 “(A) in the case of an alien described in
25 paragraph (2), determine the deportability of

1 such alien under section 237(a)(2)(A)(iii) (re-
2 relating to conviction of an aggravated felony); or

3 “(B) in the case of an alien certified under
4 paragraph (2)(C), determine the deportability
5 of such alien under any provision of section
6 237,

7 and issue an order of removal pursuant to the proce-
8 dures set forth in this subsection or section 240.”;

9 (6) in subsection (b)(2)—

10 (A) in subparagraph (A), by striking “or”
11 at the end;

12 (B) in subparagraph (B), by striking the
13 period at the end and inserting “; or”; and

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

15 “(C) has been certified by the Secretary of
16 Homeland Security, pursuant to paragraph (6),
17 which certification is not reviewable except as
18 provided in subsection (b)(7).”;

19 (7) by adding at the end of subsection (b) the
20 following:

21 “(6) CERTIFICATION.—The Secretary of Home-
22 land Security may certify an alien under this para-
23 graph if the Secretary has reasonable grounds to be-
24 lieve that the alien—

1 “(A) is described in section
2 212(a)(3)(A)(i), 212(a)(3)(A)(iii),
3 212(a)(3)(B), 237(a)(4)(A)(i),
4 237(a)(4)(A)(iii), or 237(a)(4)(B); or

5 “(B) is engaged in any other activity that
6 endangers the national security of the United
7 States.

8 “(7) NONDELEGATION.—The Secretary may
9 delegate the authority provided under paragraph (6)
10 only to the Deputy Secretary. The Deputy Secretary
11 may not delegate such authority.

12 “(8) JUDICIAL REVIEW.—Notwithstanding any
13 other provision of law, judicial review of an order
14 under paragraph (2)(C) shall be available only by a
15 filing in the United States Court of Appeals for the
16 District of Columbia.”;

17 (8) by striking the first subsection (c) and in-
18 serting the following:

19 “(c) PRESUMPTION OF REMOVABILITY.—An alien
20 convicted of an aggravated felony, or certified pursuant
21 to section 238(b)(2)(C), shall be conclusively presumed to
22 be removable from the United States.”; and

23 (9) by redesignating the second subsection (c)
24 (redesignated as such by section 671(b)(13) of the

1 “(ii) such person serves as a commissioned
2 or non-commissioned officer; or

3 “(B) in the case of a naturalized American cit-
4 izen, joining or serving in, or providing material sup-
5 port (as defined in section 2339A of title 18, United
6 States Code) to a terrorist organization designated
7 under section 212(a)(3) or 219 or designated under
8 the International Emergency Powers Act, if the or-
9 ganization is engaged in hostilities against the
10 United States, its people, or its national security in-
11 terests.”; and

12 (2) by adding at the end of subsection (b):
13 “‘The voluntary commission or performance of an act
14 described in subsection (a)(3)(A)(i) or (B) shall be
15 prima facie evidence that the act was done with the
16 intention of relinquishing United States nation-
17 ality.’”.

18 (b) EFFECTIVE DATE.—The amendments made by
19 subsection (a) shall take effect on the date of the enact-
20 ment of this Act and shall apply to determinations pending
21 on or after such date with respect to which a final admin-
22 istrative decision has not been rendered as of such date.

1 **Subtitle B—Removing Alien**
2 **Criminals**

3 **SEC. 411. DEFINITION OF CRIMINAL CONVICTION.**

4 (a) IN GENERAL.—Subparagraph (B) of section
5 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding
6 at the end the following: “Any conviction entered by a
7 court shall remain valid for immigration purposes notwith-
8 standing a vacation of that conviction, unless the convic-
9 tion is vacated on direct appeal wherein the court deter-
10 mines that vacation is warranted on the merits, or on
11 grounds relating to a violation of a fundamental statutory
12 or constitutional right in the underlying criminal pro-
13 ceedings.”.

14 (b) EFFECTIVE DATE.—The amendment made by
15 this section shall take effect on the date of the enactment
16 of this Act and shall apply to determinations pending on
17 or after such date with respect to which a final administra-
18 tive decision has not been rendered as of such date.

19 **SEC. 412. REMOVING MURDERERS, RAPISTS, SEXUAL ABUS-**
20 **ERS OF CHILDREN, AND DRUNK DRIVERS.**

21 (a) REMOVING MURDERERS, RAPISTS, AND SEXUAL
22 ABUSERS OF CHILDREN.—Subparagraph (A) of section
23 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by insert-
24 ing before the semicolon at the end the following: “, re-
25 gardless of the term of imprisonment, and regardless of

1 whether the offenses are deemed to be misdemeanors or
2 felonies under State or Federal law,”.

3 (b) REMOVING DRUNK DRIVERS.—Section
4 101(a)(43)(F) is amended by inserting “, including a third
5 drunk driving conviction, regardless of the States in which
6 the convictions occurred, and regardless of whether the of-
7 fenses are deemed to be misdemeanors or felonies under
8 State or Federal law,” after “offense)”.

9 (c) EFFECTIVE DATE.—The amendment made by the
10 section shall take effect on the date of the enactment of
11 this Act and shall apply to convictions entered on or after
12 such date.

13 **SEC. 413. DETENTION AND RELEASE OF CRIMINAL ALIENS**
14 **PENDING REMOVAL DECISION.**

15 (a) ARREST AND DETENTION.—

16 (1) IN GENERAL.—Section 236(c)(1) (8 U.S.C.
17 1226(c)(1)) is amended—

18 (A) by striking the matter preceding sub-
19 paragraph (A) and inserting the following:

20 “(1) ARREST AND DETENTION.—On a warrant
21 issued by the Secretary of Homeland Security, an
22 alien shall be arrested and detained pending a deci-
23 sion on whether the alien is to be removed from the
24 United States if the Secretary alleges that the
25 alien—”;

1 (B) in subparagraph (D), by striking the
2 comma at the end and inserting a period; and

3 (C) by striking the matter following sub-
4 paragraph (D) and adding at the end the fol-
5 lowing:

6 “Nothing in this paragraph shall be construed as re-
7 quiring the Secretary to arrest or detain an alien
8 who is sentenced to a term of imprisonment until
9 the alien is released from imprisonment, but parole,
10 supervised release, probation, or possibility of arrest
11 or further imprisonment is not a reason for the Sec-
12 retary to defer arrest and detention under this para-
13 graph.”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by paragraph (1) shall apply to aliens who are in
16 proceedings under the Immigration and Nationality
17 Act on or after the date of the enactment of this Act
18 if those proceedings have not resulted in a final ad-
19 ministrative order before such date.

20 (b) RELEASE.—

21 (1) IN GENERAL.—Section 236(c)(2) (8 U.S.C.
22 1226(c)(2)) is amended—

23 (A) by inserting after the first sentence the
24 following:

1 “To satisfy this burden, the alien is required to
2 present documentary evidence or witness testimony
3 from a third party, where such evidence is reason-
4 ably available. No finder of fact may determine that
5 such evidence is not reasonably available solely be-
6 cause the alien is detained.”; and

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

8 “The Secretary of Homeland Security may release
9 an alien under this paragraph only on bond of at
10 least \$5,000 with security approved by, and con-
11 taining conditions prescribed by, the Secretary.”.

12 (2) CONDITION ON RELEASE.—Section 236(a)
13 (8 U.S.C. 1226(a)) is amended by adding at the end
14 the following:

15 “In order to be released, the alien has the burden of prov-
16 ing that the alien is neither a danger to the community
17 nor a flight risk. To satisfy this burden, the alien is re-
18 quired to present documentary evidence or witness testi-
19 mony from a third party, where such evidence is reason-
20 ably available. No finder of fact may determine that such
21 evidence is not reasonably available solely because the
22 alien is detained.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by this subsection shall apply to releases occurring
25 on or after the date of the enactment of this Act.

1 **Subtitle C—Removing Alien**
2 **Human Rights Violators**

3 **SEC. 421. SERIOUS HUMAN RIGHTS VIOLATOR DEFINED.**

4 Section 101(a) (8 U.S.C. 1101(a)) is amended by
5 adding at the end the following:

6 “(51)(A) The term ‘serious human rights violator’
7 means any alien who—

8 “(i) ordered, incited, assisted, or otherwise par-
9 ticipated in the persecution of any person on account
10 of race, religion, nationality, membership in a par-
11 ticular social group, or political opinion;

12 “(ii) while serving as a foreign government offi-
13 cial, was responsible for, or directly carried out, par-
14 ticularly severe violations of religious freedom (as
15 defined in section 3 of the International Religious
16 Freedom Act of 1998 (22 U.S.C. 6402));

17 “(iii) during an armed conflict, ordered, incited,
18 assisted, or otherwise participated in a war crime (as
19 defined in section 2441(c) of title 18, United States
20 Code);

21 “(iv) ordered, incited, assisted, otherwise par-
22 ticipated in, attempted to commit, or conspired to
23 commit conduct that would constitute genocide (as
24 defined in section 1091(a) of title 18, United States

1 Code), if the conduct were committed in the United
2 States or by a United States national;

3 “(v) ordered, incited, assisted, or otherwise par-
4 ticipated in any act of torture (as defined in the
5 United Nations Convention Against Torture and
6 Other Forms of Cruel, Inhuman or Degrading
7 Treatment or Punishment, done at New York on
8 December 10, 1984, subject to any reservations, un-
9 derstandings, declarations, and provisos contained in
10 the United States Senate resolution of ratification of
11 the Convention); or

12 “(vi) committed, ordered, incited, assisted, oth-
13 erwise participated in, or was responsible for any of
14 the following acts, when undertaken in whole or in
15 significant part for a political, religious, or discrimi-
16 natory purpose:

17 “(I) Murder or other homicide.

18 “(II) Kidnapping.

19 “(III) Disappearance.

20 “(IV) Rape.

21 “(V) Torture or mutilation.

22 “(VI) Prolonged, arbitrary detention.

23 “(VII) Enslavement.

24 “(VIII) Forced prostitution, impregnation,
25 sterilization, or abortion.

1 “(IX) Genocide.

2 “(X) Extermination.

3 “(XI) Recruitment of persons under the
4 age of 15 for use in armed conflict.

5 “(B) Subparagraph (A) shall not apply to an alien
6 who demonstrates by clear and convincing evidence that
7 the conduct was committed under extreme duress. For
8 purposes of the preceding sentence, ‘extreme duress’
9 means duress created by a threat of imminent death or
10 rape of the alien, or a spouse, child, or parent of the
11 alien.”.

12 **SEC. 422. DEPORTABILITY OF SERIOUS HUMAN RIGHTS**
13 **VIOLATORS.**

14 (a) IN GENERAL.—Section 237(a) (8 U.S.C.
15 1227(a)) is amended by adding at the end the following:

16 “(8) SERIOUS HUMAN RIGHTS VIOLATORS.—
17 Any serious human rights violator is deportable.”.

18 (b) CONFORMING AMENDMENT.—Section
19 237(a)(4)(D) (8 U.S.C. 1227(a)(4)(D)) is amended to
20 read as follows:

21 “(D) ASSISTED IN NAZI PERSECUTION.—
22 Any alien described in section 212(a)(3)(E) is
23 deportable.”.

1 **SEC. 423. ARREST AND DETENTION OF SERIOUS HUMAN**
2 **RIGHTS VIOLATORS PENDING REMOVAL AND**
3 **CRIMINAL PROSECUTION DECISIONS.**

4 (a) CUSTODY.—Section 236(c)(1)(D) (8 U.S.C.
5 1226(c)(1)(D)) is amended by striking “section
6 237(a)(4)(B),” and inserting “paragraph (4)(B) or (8) of
7 section 237(a)”.

8 (b) NOTICE TO CRIMINAL DIVISION.—Section 236(c)
9 (8 U.S.C. 1226(c)) is amended by adding at the end the
10 following:

11 “(3) NOTICE TO CRIMINAL DIVISION.—The Sec-
12 retary of Homeland Security shall ensure that the
13 Assistant Attorney General for the Criminal Division
14 of the Department of Justice—

15 “(A) is notified when an alien is arrested
16 and detained under paragraph (1) by reason of
17 inadmissibility under section 212(a)(2)(G) or
18 deportability under section 237(a)(8);

19 “(B) is provided the information that was
20 the basis for the application of such paragraph;
21 and

22 “(C) makes a determination whether the
23 alien should be arrested and prosecuted in the
24 United States for a criminal offense.

25 “(4) REPORTS.—Beginning 6 months after the
26 date of the enactment of the Securing America’s Fu-

1 ture through Enforcement Reform Act of 2003, and
2 every 12 months thereafter, the Secretary of Home-
3 land Security and the Attorney General shall submit
4 to the Committees on the Judiciary of the United
5 States House of Representatives and of the Senate
6 a report containing the following:

7 “(A) The number of removal proceedings
8 initiated against aliens under sections
9 212(a)(2)(G) and 237(a)(8) during the report-
10 ing period.

11 “(B) The number of removal proceedings
12 under sections 212(a)(2)(G) and 237(a)(8)
13 pending at the conclusion of the reporting pe-
14 riod.

15 “(C) The number of aliens removed under
16 sections 212(a)(2)(G) and 237(a)(8) during the
17 reporting period.

18 “(D) The number of notifications under
19 paragraph (3)(A) made during the reporting pe-
20 riod.

21 “(E) The number of criminal prosecutions
22 initiated during the reporting period based on
23 information provided under paragraph (3).

24 “(F) The number of criminal prosecutions
25 pending at the conclusion of the reporting pe-

1 riod that were initiated based on information
2 provided under paragraph (3).

3 “(G) The number of criminal prosecutions
4 initiated based on information provided under
5 paragraph (3) that resulted in a conviction dur-
6 ing the reporting period.”.

7 **SEC. 424. EXCEPTION TO RESTRICTION ON REMOVAL FOR**
8 **SERIOUS HUMAN RIGHTS VIOLATORS AND**
9 **TERRORISTS.**

10 Section 241(b)(3)(B) (8 U.S.C. 1231(b)(3)(B)) is
11 amended—

12 (1) in the matter preceding clause (i), by strik-
13 ing “section 237(a)(4)(D)” and inserting “subpara-
14 graph (B) or (D) of section 237(a)(4)”; and

15 (2) by amending clause (i) to read as follows:

16 “(i) the alien is a serious human
17 rights violator;”.

18 **SEC. 425. INITIATION OF REMOVAL PROCEEDINGS AGAINST**
19 **SERIOUS HUMAN RIGHTS VIOLATORS BY**
20 **COMPLAINT.**

21 Section 239 (8 U.S.C. 1229) is amended by adding
22 at the end the following:

23 “(e) COMPLAINTS RESPECTING SERIOUS HUMAN
24 RIGHTS VIOLATORS.—

1 “(1) ESTABLISHMENT OF PROCESS.—The Sec-
2 retary of Homeland Security shall establish a proc-
3 ess for the receipt, investigation, and disposition of
4 complaints alleging that an alien present in the
5 United States is a serious human rights violator and
6 identifying that alien.

7 “(2) PERSONS ENTITLED TO FILE COM-
8 PLAINTS.—Any individual may file a complaint
9 under paragraph (1).

10 “(3) FORM AND CONTENT OF COMPLAINT.—A
11 complaint under paragraph (1) shall be in the form
12 of a written statement, executed under oath or as
13 permitted under penalty of perjury under section
14 1746 of title 28, United States Code, and shall con-
15 tain such information as the Secretary of Homeland
16 Security may require. Complaints shall be filed with
17 an office designated for that purpose by the Sec-
18 retary.

19 “(4) NOTICE SERVED ON SUBJECT OF COM-
20 PLAINT.—The Secretary shall serve notice, by cer-
21 tified mail and within 14 days of the filing of a com-
22 plaint under paragraph (1), on each alien identified
23 in the complaint as a serious human rights violator.
24 The alien shall answer the complaint within 10 days
25 of receiving it.

1 “(5) INVESTIGATION AND ACTION.—The Sec-
2 retary shall conduct an investigation of each com-
3 plaint that satisfies the requirements of this sub-
4 section. Not later than 180 days after the date of fil-
5 ing of such a complaint, the Secretary, with respect
6 to each alien identified in the complaint as a serious
7 human rights violator—

8 “(A) shall initiate removal proceedings
9 against the alien; or

10 “(B) shall issue to the complainant a writ-
11 ten determination that, in the opinion of the
12 Secretary, the alien is not a serious human
13 rights violator.

14 “(6) CONSTRUCTION.—Nothing in this sub-
15 section shall be construed to limit the discretion of
16 consular officers under section 291 to determine eli-
17 gibility for a visa or document required for entry or
18 to limit the discretion of any immigration officer
19 otherwise to initiate removal proceedings under this
20 Act.”.

21 **SEC. 426. BARS TO REFUGEE STATUS AND ASYLUM FOR SE-**
22 **RIOUS HUMAN RIGHTS VIOLATORS.**

23 (a) REFUGEE DEFINED.—Section 101(a)(42) (8
24 U.S.C. 1101(a)(42)) is amended by striking the second
25 sentence and inserting “The term ‘refugee’ does not in-

1 clude any person who is a serious human rights violator
2 as defined in section 101(a)(51)(A).”.

3 (b) NO WAIVER OF GROUND OF INADMISSIBILITY
4 FOR REFUGEE SEEKERS.—Section 207(c)(3) (8 U.S.C.
5 1157(c)(3)) is amended by inserting “or (2)(G)” after
6 “(2)(C)”.

7 (c) EXCEPTIONS TO GRANTING ASYLUM.—Section
8 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)) is amended to
9 read as follows:

10 “(i) the alien is a serious human
11 rights violator;”.

12 (d) EXTENSION TO SPOUSES AND CHILDREN OF EX-
13 CEPTIONS TO GRANTING ASYLUM.—Section 208(b)(3) of
14 the Immigration and Nationality Act (8 U.S.C.
15 1158(b)(3)) is amended by striking “such alien.” and in-
16 serting “such alien, unless the Secretary of Homeland Se-
17 curity determines that one of the exceptions in clauses (i)
18 through (v) of paragraph (2)(A) applies to the spouse or
19 child.”.

20 **SEC. 427. BAR TO ADJUSTMENT OF STATUS FOR SERIOUS**
21 **HUMAN RIGHTS VIOLATORS.**

22 Section 209(c) (8 U.S.C. 1159(c)) is amended by in-
23 serting “or (2)(G)” after “(2)(C)”.

1 **SEC. 428. BAR TO FINDING OF GOOD MORAL CHARACTER**
2 **FOR SERIOUS HUMAN RIGHTS VIOLATORS.**

3 Section 101(f) (8 U.S.C. 1101(f)) is amended by in-
4 serting after paragraph (1) the following:

5 “(2) a serious human rights violator;”.

6 **SEC. 429. BAR TO CANCELLATION OF REMOVAL FOR SERI-**
7 **OUS HUMAN RIGHTS VIOLATORS.**

8 Section 240A(c)(4) (8 U.S.C. 2339b(c)(4)) is amend-
9 ed—

10 (1) by striking “section 212(a)(3)” and insert-
11 ing “paragraph (2)(G) or (3) of section 212(a)”;
12 and

13 (2) by striking “section 237(a)(4).” and insert-
14 ing “paragraph (4) or (8) of section 237(a).”.

15 **SEC. 430. BAR TO ADJUSTMENT OF STATUS WITH RESPECT**
16 **TO CERTAIN SPECIAL IMMIGRANTS.**

17 Section 245(h)(2)(B) (8 U.S.C. 1255(h)(2)(B)) is
18 amended by inserting “(2)(G),” before “(3)(A)”.

19 **SEC. 431. CRIMINAL PENALTIES FOR REENTRY OF RE-**
20 **MOVED SERIOUS HUMAN RIGHTS VIOLATORS.**

21 Section 276(b) (8 U.S.C. 1326(b)) is amended—

22 (1) in paragraph (3), by striking “sentence. or”
23 and inserting “sentence;”;

24 (2) in paragraph (4), by striking the period at
25 the end and inserting “; or”; and

1 (3) by inserting after paragraph (4) the fol-
2 lowing:

3 “(5) who was removed from the United States
4 pursuant to section 212(a)(2)(G) or 237(a)(8), and
5 who thereafter, without the permission of the Sec-
6 retary of Homeland Security, enters, attempts to
7 enter, or is at any time found in, the United States
8 shall be fined under title 18, United States Code,
9 imprisoned not more than 10 years, or both.”.

10 **SEC. 432. AIDING OR ASSISTING SERIOUS HUMAN RIGHTS**
11 **VIOLATORS TO ENTER THE UNITED STATES.**

12 Section 277 (8 U.S.C. 1327) is amended by striking
13 “felony)” and inserting “felony or is a serious human
14 rights violator)”.

15 **SEC. 433. REVISION OF REGULATIONS WITH RESPECT TO**
16 **THE INVOLUNTARY RETURN OF PERSONS IN**
17 **DANGER OF SUBJECTION TO TORTURE.**

18 (a) REGULATIONS.—

19 (1) REVISION DEADLINE.—Not later than 120
20 days after the date of the enactment of this Act, the
21 Secretary of Homeland Security shall revise the reg-
22 ulations prescribed by the Secretary to implement
23 the United Nations Convention Against Torture and
24 Other Forms of Cruel, Inhuman or Degrading

1 Treatment or Punishment, done at New York on
2 December 10, 1984.

3 (2) EXCLUSION OF CERTAIN ALIENS.—The re-
4 vision shall exclude from the protection of such regu-
5 lations aliens described in section 241(b)(3)(B) of
6 the Immigration and Nationality Act (8 U.S.C.
7 1231(b)(3)(B)) (as amended by section 424 of this
8 Act), including rendering such aliens ineligible for
9 withholding or deferral of removal under the Con-
10 vention.

11 (3) BURDEN OF PROOF.—The revision shall
12 also ensure that the burden of proof is on the appli-
13 cant for withholding or deferral of removal under the
14 Convention to establish by clear and convincing evi-
15 dence that he or she would be tortured if removed
16 to the proposed country of removal.

17 (b) JUDICIAL REVIEW.—Notwithstanding any other
18 provision of law, no court shall have jurisdiction to review
19 the regulations adopted to implement this section, and
20 nothing in this section shall be construed as providing any
21 court jurisdiction to consider or review claims raised under
22 the Convention or this section, except as part of the review
23 of a final order of removal pursuant to section 242 of the
24 Immigration and Nationality Act (8 U.S.C. 1252).

1 **SEC. 434. FUNDING FOR DETENTION AND REMOVAL ASSIST-**
2 **ANCE PROVIDED BY STATE AND LOCAL LAW**
3 **ENFORCEMENT AGENCIES.**

4 (a) The Secretary of Homeland Security shall reim-
5 burse verifiable claims submitted by a law enforcement
6 agency of a State, or any political subdivision of a State,
7 that were lawfully incurred for the emergency medical
8 care, housing, and care in a secure facility, and the trans-
9 portation into Federal custody at a location designated by
10 the Secretary, of any alien detained as inadmissible under
11 section 212(a) of the Immigration and Nationality Act (8
12 U.S.C. 1182(a)) or deportable under section 237(a) of
13 such Act (8 U.S.C. 1227(a)), if—

14 (1) transfer to Federal custody has occurred;

15 (2)(A) a determination is subsequently made
16 under section 240(c)(1) of the Immigration and Na-
17 tionality Act (8 U.S.C. 1229a(c)(1)) that such alien
18 is removable; or

19 (B) a determination is made that the alien has
20 permanently departed the United States; and

21 (3) reimbursement for all costs excepting trans-
22 portation costs is made according to per diem rates
23 established by the Secretary.

24 (b) Per diem rates described in subparagraph (a)(3)
25 shall be determined after public notice and comment.

1 (c) In addition to funds otherwise available for such
2 purpose, there are authorized to be appropriated to the
3 Department of Homeland Security such sums as may be
4 necessary to carry out subsection (a).

5 **SEC. 435. EFFECTIVE DATE.**

6 This subtitle, and the amendments made by this sub-
7 title, shall take effect on the date of the enactment of this
8 Act and shall apply to violations occurring before (except
9 for section 434 of this Act), on, or after such date.

10 **TITLE V—ENHANCING ENFORCE-**
11 **MENT OF THE IMMIGRATION**
12 **AND NATIONALITY ACT IN**
13 **THE INTERIOR**

14 **Subtitle A—Document Security**

15 **SEC. 501. SECURE TRAVEL DOCUMENTS.**

16 (a) IN GENERAL.—Section 215 (8 U.S.C. 1185) is
17 amended—

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

19 “(g)(1) The use by any person of any travel or identi-
20 fication document designated as insecure by the Secretary
21 of Homeland Security (hereafter ‘the Secretary’) for entry
22 into or departure from the United States at any land, sea
23 or air port of entry, is prohibited.

24 “(2) The use by any alien of any travel or identifica-
25 tion document designated as insecure by the Secretary to

1 identify such aliens for purposes of transportation of per-
2 sons by public or private conveyance in interstate com-
3 merce is prohibited.

4 “(3) The Secretary may waive the prohibition in
5 paragraph (1) for citizens and legal permanent residents
6 of the United States whose identity has been verified by
7 a designation or endorsement of such status on the identi-
8 fication document by a state or federal government agen-
9 cy.”; and

10 (2) in subsection (c), by adding at the end the
11 following: “The term ‘insecure travel or identifica-
12 tion document’ as used in this section means a driv-
13 ers license or identification card issued by a state or
14 any political subdivision thereof, or by a consular
15 representative or agent of a foreign government in
16 the United States, which appears on a list estab-
17 lished and maintained by the Secretary of docu-
18 ments which the Secretary has determined may be
19 issued to an alien who, on the date of issuance of
20 such document, is unlawfully present in the United
21 States after the expiration of the period of stay au-
22 thorized by the Secretary or is present in the United
23 States without being admitted or paroled.”.

24 (b) EFFECTIVE DATES.—

1 (1) The Secretary shall issue the list of insecure
2 documents described in section 215(c) of the Immi-
3 gration and Nationality Act, as amended by sub-
4 section (a), not later than 60 days after the date of
5 the enactment of this Act. Such list shall be updated
6 semiannually thereafter, or upon application by any
7 State or foreign government that has demonstrated
8 to the satisfaction of the Secretary that a travel or
9 identification document issued by such government
10 is no longer insecure.

11 (2) Section 215(g)(1) of such Act, as so amend-
12 ed, shall take effect 60 days after issuance of such
13 list of insecure documents by the Secretary.

14 (3) Section 215(g)(2) of such Act, as so amend-
15 ed, shall take effect 90 days after the date of the en-
16 actment of this Act.

17 **SEC. 502. SOCIAL SECURITY CARDS.**

18 (a) IMPROVEMENTS TO CARD.—

19 (1) IN GENERAL.—For purposes of carrying out
20 section 274A of the Immigration and Nationality
21 Act, the Commissioner of Social Security (in this
22 section referred to as the “Commissioner”) shall
23 make such improvements to the physical design,
24 technical specifications, and materials of the social
25 security account number card as are necessary to

1 ensure that it is a genuine official document and
2 that it offers the best possible security against coun-
3 terfeiting, forgery, alteration, and misuse.

4 (2) PERFORMANCE STANDARDS.—In making
5 the improvements required in paragraph (1), the
6 Commissioner shall—

7 (A) make the card as secure against coun-
8 terfeiting as the 100 dollar Federal Reserve
9 note, with a rate of counterfeit detection com-
10 parable to the 100 dollar Federal Reserve note;
11 and

12 (B) make the card as secure against fraud-
13 ulent use as a United States passport.

14 (3) DEFINITION.—In this section, the term “se-
15 cured social security account number card” means a
16 social security account number card issued in ac-
17 cordance with the requirements of this paragraph.

18 (4) EFFECTIVE DATE.—All social security ac-
19 count number cards issued after January 1, 2006,
20 whether new or replacement, shall be secured social
21 security account number cards.

22 (b) NOT A NATIONAL IDENTIFICATION CARD.—
23 Cards issued pursuant to this section shall not be required
24 to be carried upon one’s person, and nothing in this sec-

1 tion shall be construed as authorizing the establishment
2 of a national identification card.

3 (c) EDUCATION CAMPAIGN.—The Secretary of
4 Homeland Security, in consultation with the Commis-
5 sioner of Social Security, shall conduct a comprehensive
6 campaign to educate employers about the security features
7 of the secured social security card and how to detect coun-
8 terfeit or fraudulently used social security account number
9 cards.

10 (d) ANNUAL REPORTS.—The Commissioner of Social
11 Security shall submit to Congress by July 1 of each year
12 a report on—

13 (1) the progress and status of developing a se-
14 cured social security account number card under this
15 section;

16 (2) the incidence of counterfeit production and
17 fraudulent use of social security account number
18 cards; and

19 (3) the steps being taken to detect and prevent
20 such counterfeiting and fraud.

21 (e) GAO ANNUAL AUDITS.—The Comptroller Gen-
22 eral of the United States shall perform an annual audit,
23 the results of which are to be presented to the Congress
24 by January 1 of each of the 5 years following the date
25 of the enactment of the Securing America's Future

1 through Enforcement Reform Act of 2003, on the per-
2 formance of the Social Security Administration in meeting
3 the requirements in paragraph (1).

4 (f) EXPENSES.—No costs incurred in developing and
5 issuing cards under this section that are above the costs
6 that would have been incurred for cards issued in the ab-
7 sence of this section shall be paid for out of any trust
8 fund established under the Social Security Act. There are
9 authorized to be appropriated such sums as may be nec-
10 essary to carry out this section.

11 **SEC. 503. CONSULAR IDENTIFICATION DOCUMENTS.**

12 (a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOC-
13 UMENTS.—

14 (1) IN GENERAL.—No agency, commission, en-
15 tity, or agent of the executive or legislative branches
16 of the federal government may accept, acknowledge,
17 recognize, or rely on for purposes of personal identi-
18 fication any identification document issued by a for-
19 eign government, unless otherwise mandated by Fed-
20 eral law.

21 (A) For purposes of this section, an agent
22 shall include:

23 (i) a Federal contractor or grantee;

1 (ii) a financial institution that is a
2 member of the Federal Reserve System,
3 described in 12 U.S.C. 321; or

4 (iii) an institution exempted from
5 Federal income taxation described in 26
6 U.S.C. 501.

7 (2) EXCEPTIONS.—

8 (A) A person who is not a citizen of the
9 United States may present for personal identi-
10 fication purposes an official identification docu-
11 ment issued by a foreign government, or other
12 foreign identification document recognized by
13 treaty, if—

14 (i) such noncitizen also simultaneously
15 presents valid verifiable documentation of
16 lawful presence in the United States issued
17 by an agency of the Federal Government;

18 (ii) reporting a violation of law; or

19 (iii) such use is expressly permitted by
20 Federal law.

21 (B) The provisions of paragraph (1) shall
22 not apply to inspections of alien applicants for
23 admission to the United States, nor to
24 verification of personal identification outside
25 the United States.

1 (3) LISTING OF ACCEPTABLE DOCUMENTS.—

2 The United States Department of Homeland Secu-
3 rity shall issue, maintain in printed and electronic
4 media, and disseminate to the public at no cost an
5 updated listing, compiled in consultation with the
6 United States Department of State, and including
7 sample facsimiles, of all acceptable federal docu-
8 ments that satisfy the requirements of paragraph
9 (2)(A). Such listing may, at the discretion of the
10 Secretary of Homeland Security, include a similar
11 listing of documents establishing employment au-
12 thorization or identity under section 274A(b) of the
13 Immigration and Nationality Act (8 U.S.C.
14 1324a(b)).

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

17 (1) in subsection (a)—

18 (A) by redesignating paragraph (6) as
19 paragraph (7); and

20 (B) by inserting after paragraph (5) the
21 following:

22 “(6) to use to establish personal identity, before
23 any agent of the Federal Government, or before any
24 agency of the Federal Government or of a State or
25 any political subdivision therein, a travel or identi-

1 fication document issued by a foreign government
2 that is not accepted by the Secretary of Homeland
3 Security to establish personal identity for purposes
4 of admission to the United States at a port of entry,
5 except where a person who is not a citizen of the
6 United States (A) simultaneously presents valid
7 verifiable documentation of lawful presence in the
8 United States issued by an agency of the federal
9 government, or (B) is reporting a violation of law,
10 or (C) such use is expressly permitted by Federal
11 law.”; and

12 (2) in subsection (d)—

13 (A) by redesignating paragraphs (2)
14 though (7) as paragraphs (3) through (8), re-
15 spectively; and

16 (B) by inserting after paragraph (1) the
17 following:

18 “(2) Every complete complaint of a violation
19 described in subsection (a) that has been filed by an
20 entity described in subsection (b), or by a private
21 party aggrieved by such violation, shall be promptly
22 investigated. The Secretary of Homeland Security
23 shall issue a cease and desist order with money pen-
24 alty in each case determined after investigation to
25 constitute a violation under subsection (a).”.

1 (c) QUALIFIED IMMUNITY.—Actions taken in viola-
 2 tion of subsections (a) of this section, or section 274C of
 3 the Immigration and Nationality Act (8 U.S.C. 1324e),
 4 as amended by subsection (b), shall be deemed outside the
 5 official capacity of the elected official or officer, employee,
 6 or agent of a Federal agency so acting.

7 **Subtitle B—Employment Eligibility**
 8 **Verification**

9 **SEC. 511. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-**
 10 **ESS AND ELIMINATION OF EXAMINATION OF**
 11 **DOCUMENTATION REQUIREMENT.**

12 (a) IN GENERAL.—Section 274A (8 U.S.C. 1324a)
 13 is amended—

14 (1) in subsection (a)(1)(A), by striking “for a
 15 fee”;

16 (2) in subsection (a)(3)—

17 (A) by inserting “(A)” after
 18 “DEFENSE.—”; and

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

20 “(B) FAILURE TO SEEK AND OBTAIN
 21 VERIFICATION.—In the case of a hiring of an indi-
 22 vidual for employment in the United States by a
 23 person or entity, the following requirements apply:

24 “(i) FAILURE TO SEEK VERIFICATION.—

1 “(I) IN GENERAL.—If the person or
2 entity has not made an inquiry, under the
3 mechanism established under subsection
4 (b)(4), seeking verification of the identity,
5 social security number, and work eligibility
6 of the individual, by not later than the end
7 of 3 working days (as specified by the Sec-
8 retary of Homeland Security) after the
9 date of the hiring, the defense under sub-
10 paragraph (A) shall not be considered to
11 apply with respect to any employment after
12 such 3 working days, except as provided in
13 subclause (II).

14 “(II) SPECIAL RULE FOR FAILURE OF
15 VERIFICATION MECHANISM.—If such a per-
16 son or entity in good faith attempts to
17 make an inquiry during such 3 working
18 days in order to qualify for the defense
19 under subparagraph (A) and the
20 verification mechanism has registered that
21 not all inquiries were responded to during
22 such time, the person or entity can make
23 an inquiry until the end of the first subse-
24 quent working day in which the verification

1 mechanism registers no nonresponses and
2 qualify for such defense.

3 “(ii) FAILURE TO OBTAIN
4 VERIFICATION.—If the person or entity has
5 made the inquiry described in clause (i)(I) but
6 has not received an appropriate verification of
7 such identity, number, and work eligibility
8 under such mechanism within the time period
9 specified under subsection (b)(4)(B) after the
10 time the verification inquiry was received, the
11 defense under subparagraph (A) shall not be
12 considered to apply with respect to any employ-
13 ment after the end of such time period.”;

14 (3) in subsection (b)(1)—

15 (A) by amending the paragraph heading to
16 read as follows:

17 “(1) ATTESTATION.—”; and

18 (B) by amending subparagraph (A) to read
19 as follows:

20 “(A) IN GENERAL.—The person or entity
21 must attest, under penalty of perjury and on a
22 form designated or established by the Secretary
23 of Homeland Security by regulation, that it has
24 verified that the individual is not an unauthor-
25 ized alien by obtaining from the individual the

1 individual’s social security account number and
2 recording the number on the form (if the indi-
3 vidual claims to have been issued such a num-
4 ber), and, if the individual does not attest to
5 United States citizenship under paragraph (2),
6 obtaining such identification or authorization
7 number established by the Department of
8 Homeland Security for the alien as the Sec-
9 retary may specify, and recording such number
10 on the form.”;

11 (4) in subsection (b)(2), by adding at the end
12 the following: “The individual must also provide that
13 individual’s social security account number (if the
14 individual claims to have been issued such a num-
15 ber), and, if the individual does not attest to United
16 States citizenship under this paragraph, such identi-
17 fication or authorization number established by the
18 Department of Homeland Security for the alien as
19 the Secretary of Homeland Security may specify.”;
20 and

21 (5) by amending subsection (b)(3) to read as
22 follows:

23 “(3) RETENTION OF VERIFICATION FORM AND
24 VERIFICATION.—

1 “(A) IN GENERAL.—After completion of
2 such form in accordance with paragraphs (1)
3 and (2), the person or entity must—

4 “(i) retain the form and make it avail-
5 able for inspection by officers of the De-
6 partment of Homeland Security, the Spe-
7 cial Counsel for Immigration-Related Un-
8 fair Employment Practices, or the Depart-
9 ment of Labor during a period beginning
10 on the date of the hiring, recruiting, or re-
11 ferral of the individual and ending—

12 “(I) in the case of the recruiting
13 or referral for a fee (without hiring)
14 of an individual, three years after the
15 date of the recruiting or referral; and

16 “(II) in the case of the hiring of
17 an individual, the later of—

18 “(aa) three years after the
19 date of such hiring; or

20 “(bb) one year after the
21 date the individual’s employment
22 is terminated; and

23 “(ii) make an inquiry, as provided in
24 paragraph (4), using the verification sys-
25 tem to seek verification of the identity and

1 employment eligibility of an individual, by
2 not later than the end of 3 working days
3 (as specified by the Secretary of Homeland
4 Security) after the date of the hiring (or
5 recruitment or referral, as the case may
6 be).

7 “(B) VERIFICATION.—

8 “(i) VERIFICATION RECEIVED.—If the
9 person or other entity receives an appro-
10 priate verification of an individual’s iden-
11 tity and work eligibility under the
12 verification system within the time period
13 specified, the person or entity shall record
14 on the form an appropriate code that is
15 provided under the system and that indi-
16 cates a final verification of such identity
17 and work eligibility of the individual.

18 “(ii) TENTATIVE NONVERIFICATION
19 RECEIVED.—If the person or other entity
20 receives a tentative nonverification of an
21 individual’s identity or work eligibility
22 under the verification system within the
23 time period specified, the person or entity
24 shall so inform the individual for whom the
25 verification is sought. If the individual does

1 not contest the nonverification within the
2 time period specified, the nonverification
3 shall be considered final. The person or en-
4 tity shall then record on the form an ap-
5 propriate code which has been provided
6 under the system to indicate a tentative
7 nonverification. If the individual does con-
8 test the nonverification, the individual shall
9 utilize the process for secondary
10 verification provided under paragraph (4).
11 The nonverification will remain tentative
12 until a final verification or nonverification
13 is provided by the verification system with-
14 in the time period specified. In no case
15 shall an employer terminate employment of
16 an individual because of a failure of the in-
17 dividual to have identity and work eligi-
18 bility confirmed under this section until a
19 nonverification becomes final. Nothing in
20 this clause shall apply to a termination of
21 employment for any reason other than be-
22 cause of such a failure.

23 “(iii) FINAL VERIFICATION OR
24 NONVERIFICATION RECEIVED.—If a final
25 verification or nonverification is provided

1 by the verification system regarding an in-
2 dividual, the person or entity shall record
3 on the form an appropriate code that is
4 provided under the system and that indi-
5 cates a verification or nonverification of
6 identity and work eligibility of the indi-
7 vidual.

8 “(iv) EXTENSION OF TIME.—If the
9 person or other entity in good faith at-
10 tempts to make an inquiry during such 3
11 working days and the verification system
12 has registered that not all inquiries were
13 received during such time, the person or
14 entity may make an inquiry in the first
15 subsequent working day in which the
16 verification system registers that it has re-
17 ceived all inquiries. If the verification sys-
18 tem cannot receive inquiries at all times
19 during a day, the person or entity merely
20 has to assert that the entity attempted to
21 make the inquiry on that day for the pre-
22 vious sentence to apply to such an inquiry,
23 and does not have to provide any addi-
24 tional proof concerning such inquiry.

1 “(v) CONSEQUENCES OF
2 NONVERIFICATION.—If the person or other
3 entity has received a final nonverification
4 regarding an individual, the person or enti-
5 ty shall terminate employment (or recruit-
6 ment or referral) of the individual.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 subsection (a) shall take effect 2 years after the date of
9 the enactment of this Act. Retention of form requirements
10 under section 274A(b)(3) of the Immigration and Nation-
11 ality Act, as in effect before such effective date, shall re-
12 main in effect as if this section had not been enacted for
13 forms completed before such effective date.

14 **SEC. 512. EMPLOYMENT ELIGIBILITY VERIFICATION SYS-**
15 **TEM.**

16 (a) IN GENERAL.— Section 274A(b)(4) (8 U.S.C.
17 1324a(b)(4)) is amended to read as follows:

18 “(4) EMPLOYMENT ELIGIBILITY VERIFICATION
19 SYSTEM.—

20 “(A) IN GENERAL.—The Secretary of
21 Homeland Security shall establish a verification
22 system through which the Secretary (or a des-
23 ignee of the Secretary, which may be a non-
24 governmental entity)—

1 “(i) responds to inquiries made by
2 persons at any time through a toll-free
3 telephone line or other toll-free electronic
4 media concerning an individual’s identity
5 and whether the individual is authorized to
6 be employed; and

7 “(ii) maintains records of the inquir-
8 ies that were made, of verifications pro-
9 vided (or not provided), and of the codes
10 provided to inquirers as evidence of their
11 compliance with their obligations under
12 this section.

13 To the extent practicable, the Secretary shall
14 seek to establish such a system using one or
15 more nongovernmental entities.

16 “(B) INITIAL RESPONSE.—The verification
17 system shall provide verification or a tentative
18 nonverification of an individual’s identity and
19 employment eligibility within 3 working days of
20 the initial inquiry. If providing verification or
21 tentative nonverification, the verification system
22 shall provide an appropriate code indicating
23 such verification or such nonverification.

24 “(C) SECONDARY VERIFICATION PROCESS
25 IN CASE OF TENTATIVE NONVERIFICATION.—In

1 cases of tentative nonverification, the Secretary
2 of Homeland Security shall specify, in consulta-
3 tion with the Commissioner of Social Security,
4 an available secondary verification process to
5 confirm the validity of information provided and
6 to provide a final verification or nonverification
7 within 7 working days after the date of the ten-
8 tative nonverification. When final verification or
9 nonverification is provided, the verification sys-
10 tem shall provide an appropriate code indicating
11 such verification or nonverification.

12 “(D) DESIGN AND OPERATION OF SYS-
13 TEM.—The verification system shall be designed
14 and operated—

15 “(i) to maximize its reliability and
16 ease of use by persons and other entities
17 consistent with insulating and protecting
18 the privacy and security of the underlying
19 information;

20 “(ii) to respond to all inquiries made
21 by such persons and entities on whether
22 individuals are authorized to be employed
23 and to register all times when such inquir-
24 ies are not received;

1 “(iii) with appropriate administrative,
2 technical, and physical safeguards to pre-
3 vent unauthorized disclosure of personal
4 information; and

5 “(iv) to have reasonable safeguards
6 against the system’s resulting in unlawful
7 discriminatory practices based on national
8 origin or citizenship status, including—

9 “(I) the selective or unauthorized
10 use of the system to verify eligibility;

11 “(II) the use of the system prior
12 to an offer of employment; or

13 “(III) the exclusion of certain in-
14 dividuals from consideration for em-
15 ployment as a result of a perceived
16 likelihood that additional verification
17 will be required, beyond what is re-
18 quired for most job applicants.

19 “(E) RESPONSIBILITIES OF THE COMMIS-
20 SIONER OF SOCIAL SECURITY.—As part of the
21 verification system, the Commissioner of Social
22 Security, in consultation with the entity respon-
23 sible for administration of the system, shall es-
24 tablish a reliable, secure method, which, within
25 the time periods specified under subparagraphs

1 (B) and (C), verifies, for each individual whose
2 identity and employment eligibility must be con-
3 firmed under this section, the individual's name
4 and social security account number, the cor-
5 respondence of the name and number, and
6 whether the social security number presented is
7 valid for employment. The Commissioner shall
8 not disclose or release social security informa-
9 tion (other than such verification or
10 nonverification). If, in carrying out this sub-
11 paragraph, the Commissioner becomes aware of
12 a suspicious pattern of use of a social security
13 account number, the Commissioner shall inves-
14 tigate such suspicious pattern, or shall notify
15 the Secretary of Homeland Security of it. Noth-
16 ing in the Social Security Act or any other pro-
17 vision of law shall be construed to prevent the
18 Commissioner from so notifying the Secretary.
19 Upon receipt of such notification, the Secretary
20 shall investigate in lieu of the Commissioner.

21 “(F) RESPONSIBILITIES OF THE SEC-
22 RETARY OF HOMELAND SECURITY.—As part of
23 the verification system, the Secretary of Home-
24 land Security, in consultation with the entity
25 responsible for administration of the system,

1 shall establish a reliable, secure method, which,
2 within the time periods specified under sub-
3 paragraphs (B) and (C), compares the name
4 and alien identification or authorization number
5 which are provided in an inquiry against such
6 information maintained by the Secretary in
7 order to validate (or not validate) the informa-
8 tion provided, the correspondence of the name
9 and number, and whether the alien is author-
10 ized to be employed in the United States.

11 “(G) UPDATING INFORMATION.—The
12 Commissioner of Social Security and the Sec-
13 retary of Homeland Security shall update their
14 information in a manner that promotes the
15 maximum accuracy and shall provide a process
16 for the prompt correction of erroneous informa-
17 tion, including instances in which it is brought
18 to their attention in the secondary verification
19 process described in subparagraph (C).

20 “(H) LIMITATION ON USE OF THE
21 VERIFICATION SYSTEM AND ANY RELATED SYS-
22 TEMS.—Nothing in this paragraph shall be con-
23 strued to authorize, directly or indirectly, the
24 issuance or use of national identification cards

1 or the establishment of a national identification
2 card.

3 “(I) FEDERAL TORT CLAIMS ACT.—If an
4 individual alleges that the individual would not
5 have been dismissed from a job but for an error
6 of the verification mechanism, the individual
7 may seek compensation only through the mech-
8 anism of the Federal Tort Claims Act, and in-
9 junctive relief to correct such error. No class
10 action may be brought under this subpara-
11 graph.

12 “(J) PROTECTION FROM LIABILITY FOR
13 ACTIONS TAKEN ON THE BASIS OF INFORMA-
14 TION.—No person or entity shall be civilly or
15 criminally liable for any action taken in good
16 faith reliance on information provided through
17 the employment eligibility verification mecha-
18 nism established under this paragraph.”.

19 (b) EFFECTIVE DATE.—The amendment made by
20 subsection (a) shall take effect 2 years after the date of
21 the enactment of this Act.

1 **SEC. 513. NOTIFICATION BY COMMISSIONER OF FAILURE**
2 **TO CORRECT SOCIAL SECURITY INFORMA-**
3 **TION.**

4 The Commissioner of Social Security shall promptly
5 notify the Secretary of Homeland Security of the failure
6 of any individual to provide, upon any request of the Com-
7 missioner made pursuant to section 205(c)(2) of the Social
8 Security Act (42 U.S.C. 405(c)(2)), evidence necessary,
9 under such section—

10 (1) to establish the age, citizenship, or alien
11 status of the individual;

12 (2) to establish such individual's true identity;

13 or

14 (3) to determine which (if any) social security
15 account number has previously been assigned to
16 such individual.

17 **SEC. 514. PROTECTION FOR INDIVIDUALS REPORTING IM-**
18 **MIGRATION LAW VIOLATIONS.**

19 Section 274B(A)(5) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1324b(A)(5)) is amended by adding
21 at the end the following: “Notwithstanding any other pro-
22 vision of law, the rights protected by this paragraph in-
23 clude the right of any individual to report a violation or
24 suspected violation of any immigration law to the Depart-
25 ment of Homeland Security or a law enforcement agen-
26 cy.”.

1 **Subtitle C—Miscellaneous**

2 **SEC. 521. INCREASED INVESTIGATIVE PERSONNEL.**

3 (a) BRINGING IN AND HARBORING CERTAIN ALIENS;
4 UNLAWFUL EMPLOYMENT OF ALIENS.—

5 (1) AUTHORIZATION OF APPROPRIATIONS.—

6 There are authorized to be appropriated such funds
7 as may be necessary to enable the Secretary of
8 Homeland Security to increase, above the number
9 specified in section 101(a)(2) of the Enhanced Bor-
10 der Security and Visa Entry Reform Act of 2002
11 (Public Law 107–173), the number of investigators
12 and support personnel to investigate potential viola-
13 tions of sections 274 and 274A of the Immigration
14 and Nationality Act (8 U.S.C. 1324 and 1324a),
15 other than alien smuggling, by a number equivalent
16 to—

17 (A) 250 full-time active-duty investigators
18 in each of fiscal years 2004 through 2007; and

19 (B) 100 full-time active-duty investigators
20 in each of fiscal years 2008 through 2011.

21 (2) ALLOCATION.—At least one-half of the in-
22 vestigators hired with funds made available under
23 paragraph (1) shall be assigned to investigate poten-
24 tial violations of section 274A of the Immigration
25 and Nationality Act.

1 (b) VISA OVERSTAYS.—There are authorized to be
2 appropriated such funds as may be necessary to enable
3 the Secretary of Homeland Security to increase, above the
4 number specified in section 101(a)(2) of the Enhanced
5 Border Security and Visa Entry Reform Act of 2002
6 (Public Law 107–173), the number of investigator and
7 support personnel to investigate aliens who remain in the
8 United States beyond the period of stay authorized under
9 their visa by a number equivalent to—

10 (1) 250 full-time active-duty investigators in
11 each of fiscal years 2004 through 2007; and

12 (2) 100 full-time active-duty investigators in
13 each of fiscal years 2008 through 2011.

14 **SEC. 522. EXPEDITED EXCLUSION.**

15 Section 235(b)(1)(A) (8 U.S.C. 1225(b)(1)(A)) is
16 amended by striking clauses (i) through (iii) and inserting
17 the following:

18 “(i) IN GENERAL.—If an immigration
19 officer determines that an alien (other
20 than an alien described in subparagraph
21 (F)) who is arriving in the United States,
22 or who has not been admitted or paroled
23 into the United States and has not been
24 physically present in the United States
25 continuously for the 5-year period imme-

1 diately prior to the date of the determina-
2 tion of inadmissibility under this para-
3 graph, is inadmissible under section
4 212(a)(6)(C) or 212(a)(7), the officer shall
5 order the alien removed from the United
6 States without further hearing or review,
7 unless—

8 “(I) the alien has been charged
9 with a crime; or

10 “(II) the alien indicates an inten-
11 tion to apply for asylum under section
12 208 or a fear of persecution and the
13 officer determines that the alien has
14 been physically present in the United
15 States for less than 1 year.

16 “(ii) CLAIMS FOR ASYLUM.—If an im-
17 migration officer determines that an alien
18 (other than an alien described in subpara-
19 graph (F)) who is arriving in the United
20 States, or who has not been admitted or
21 paroled into the United States and has not
22 been physically present in the United
23 States continuously for the 5-year period
24 immediately prior to the date of the deter-
25 mination of inadmissibility under this

1 paragraph, is inadmissible under section
2 212(a)(6)(C) or 212(a)(7), and the alien
3 indicates either an intention to apply for
4 asylum under section 208 or a fear of per-
5 secution, the officer shall refer the alien
6 for an interview by an asylum officer under
7 subparagraph (B) if the officer determines
8 that the alien has been physically present
9 in the United States for less than 1 year.”.

10 **SEC. 523. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.**

11 (a) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—
12 Section 245(e) (8 U.S.C. 1255(e)) is amended by striking
13 “(other than an immediate relative as defined in section
14 201(b) or a special immigrant described in section
15 101(a)(27)(H), (I), (J), or (K))”.

16 (b) INAPPLICABILITY OF CERTAIN PROVISIONS FOR
17 CERTAIN IMMIGRANTS.—Section 245(k) (8 U.S.C.
18 1255(k)) is amended to read as follows:

19 “(k) INAPPLICABILITY OF CERTAIN PROVISIONS FOR
20 CERTAIN IMMIGRANTS.—An alien who is eligible to receive
21 an immigrant visa under paragraph (1), (2), or (3) of sec-
22 tion 203(b), as an immediate relative as defined in section
23 201(b), or, in the case of an alien who is an immigrant
24 described in subparagraph (C), (H), (I), (J), or (K) of
25 section 101(a)(27), under section 203(b)(4), may adjust

1 status pursuant to subsection (a) and notwithstanding
2 paragraphs (2), (7), and (8) of subsection (c), if—

3 “(1) the alien, on the date of filing an applica-
4 tion for adjustment of status, is present in the
5 United States pursuant to a lawful admission; and

6 “(2) the alien, subsequent to such lawful admis-
7 sion has not, for an aggregate period exceeding 180
8 days—

9 “(A) failed to maintain continuously a law-
10 ful status;

11 “(B) engaged in unauthorized employment;
12 or

13 “(C) otherwise violated the terms and con-
14 ditions of the alien’s admission.”.

15 **SEC. 524. TERMINATION OF CONTINUOUS PRESENCE FOR**
16 **PURPOSES OF CANCELLATION OF REMOVAL**
17 **UPON COMMISSION OF OFFENSE RENDERING**
18 **ALIEN INADMISSIBLE OR DEPORTABLE.**

19 (a) IN GENERAL.—Section 240A(d)(1) (8 U.S.C.
20 1229b(d)(1)) is amended by striking “referred to in sec-
21 tion 212(a)(2)”.

22 (b) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall apply to aliens who are in proceedings
24 under the Immigration and Nationality Act on or after
25 the date of the enactment of this Act if those proceedings

1 have not resulted in a final administrative order before
2 such date.

3 **SEC. 525. REENTRY OF REMOVED ALIENS.**

4 (a) IN GENERAL.—Section 276(a) (8 U.S.C.
5 1326(a)) is amended to read as follows:

6 “SEC. 276. (a) Subject to subsection (b), any alien
7 shall be fined under title 18, United States Code, or im-
8 prisoned not more than 2 years, or both, who—

9 “(1) has been denied admission, excluded, de-
10 ported, or removed or has departed the United
11 States while an order of exclusion, deportation, or
12 removal is outstanding; and

13 “(2) thereafter enters, attempts to enter, or is
14 at any time found in, the United States,
15 unless, in the case of an alien previously denied admission
16 and removed, the alien establishes that the alien was not
17 required to obtain from the Secretary of Homeland Secu-
18 rity advance consent to reapply for admission under this
19 Act or any prior Act.”.

20 (b) CRIMINAL PENALTIES FOR REENTRY OF CER-
21 TAIN REMOVED ALIENS.—Section 276(b) (8 U.S.C.
22 1326(b)) is amended—

23 (1) in paragraph (3), by striking “sentence.”
24 and inserting “sentence;”; and

1 (2) in paragraph (4), by striking “(unless the
2 Secretary of Homeland Security has expressly con-
3 sented to such alien’s reentry)”.

4 (c) REENTRY OF ALIENS REMOVED PRIOR TO COM-
5 PLETION OF IMPRISONMENT.—Section 276(c) (8 U.S.C.
6 1326(c)) is amended—

7 (1) by inserting “(as in effect prior to the effec-
8 tive date of the amendments made by section 305 of
9 the Illegal Immigration Reform and Immigrant Re-
10 sponsibility Act of 1996), or removed under section
11 241(a)(4),” after “242(h)(2)”;

12 (2) by striking “(unless the Secretary of Home-
13 land Security has expressly consented to such alien’s
14 reentry)”;

15 (3) by inserting “or removal” after “time of de-
16 portation”; and

17 (4) by inserting “or removed” after “reentry of
18 deported”.

19 (d) CHALLENGE TO VALIDITY OF ORDER.—Section
20 276(d) (8 U.S.C. 1326(d)) is amended—

21 (1) in the matter preceding paragraph (1), by
22 striking “deportation order” and inserting “deporta-
23 tion or removal order”; and

24 (2) in paragraph (2), by inserting “or removal”
25 after “deportation”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act and shall apply to criminal proceedings involv-
4 ing aliens who enter, attempt to enter, or are found in
5 the United States, after such date.

6 **SEC. 526. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF**
7 **ALIENS AT IMPROPER TIME OR PLACE,**
8 **AVOIDANCE OF EXAMINATION OR INSPEC-**
9 **TION, UNLAWFUL PRESENCE, AND MISREPRE-**
10 **SENTATION OR CONCEALMENT OF FACTS.**

11 Section 275 (8 U.S.C. 1325) is amended to read as
12 follows:

13 “CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS
14 AT IMPROPER TIME OR PLACE, AVOIDANCE OF EX-
15 AMINATION OR INSPECTION, UNLAWFUL PRESENCE,
16 AND MISREPRESENTATION OR CONCEALMENT OF
17 FACTS

18 “SEC. 275. (a) ENTRY AT IMPROPER TIME OR
19 PLACE; AVOIDANCE OF EXAMINATION OR INSPECTION;
20 UNLAWFUL PRESENCE; MISREPRESENTATION OR CON-
21 CEALMENT OF FACTS.—Any alien who—

22 “(1) enters or attempts to enter the United
23 States at any time or place other than as designated
24 by immigration officers;

1 “(2) eludes examination or inspection by immi-
2 gration officers;

3 “(3) is knowingly unlawfully present in the
4 United States for an aggregate period of more than
5 180 days; or

6 “(4) attempts to enter or obtains entry to the
7 United States by a willfully false or misleading rep-
8 resentation or the willful concealment of a material
9 fact,

10 shall, for the first commission of any such offense, be fined
11 under title 18, United States Code, or imprisoned not
12 more than 2 years, or both, and, for a subsequent commis-
13 sion of any such offense, be fined under title 18, United
14 States Code, or imprisoned not more than 10 years, or
15 both.

16 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
17 ALTIES.—Any alien who is apprehended while entering (or
18 attempting to enter) the United States at a time or place
19 other than as designated by immigration officers shall be
20 subject to a civil penalty of—

21 “(1) at least \$100 and not more than \$10,000
22 for each such entry (or attempted entry); or

23 “(2) three times the amount specified in para-
24 graph (1) in the case of an alien who has been pre-

1 viously subject to a civil penalty under this sub-
2 section.

3 Civil penalties under this subsection are in addition to,
4 and not in lieu of, any criminal or other civil penalties
5 that may be imposed.

6 “(c) MARRIAGE FRAUD.—An individual who know-
7 ingly enters into a marriage for the purpose of evading
8 any provision of the immigration laws shall be fined not
9 more than \$1,000,000, imprisoned not more than 15
10 years, or both.

11 “(d) IMMIGRATION-RELATED ENTREPRENEURSHIP
12 FRAUD.—Any individual who knowingly established a
13 commercial enterprise for the purpose of evading any pro-
14 vision of the immigration laws shall be fined under title
15 18, United States Code, or imprisoned not more than 15
16 years, or both.”.

17 **SEC. 527. COMMUNICATION BETWEEN GOVERNMENT AGEN-**
18 **CIES AND THE DEPARTMENT OF HOMELAND**
19 **SECURITY.**

20 Section 642 of the Illegal Immigration Reform and
21 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is
22 amended by adding at the end the following:

23 “(d) ENFORCEMENT.—

24 “(1) INELIGIBILITY FOR FEDERAL LAW EN-
25 FORCEMENT AID.—Upon a determination that any

1 person, or any Federal, State, or local government
2 agency or entity, is in violation of subsection (a) or
3 (b), the Attorney General shall not provide to that
4 person, agency, or entity any grant amount pursuant
5 to any law enforcement grant program carried out
6 by any element of the Department of Justice, includ-
7 ing the program under section 241(i) of the Immi-
8 gration and Nationality Act (8 U.S.C. 241(i)), or
9 pursuant to any grant program authorized under
10 title I of the Housing and Community Development
11 Act of 1974 (42 U.S.C. 5301 et seq.), and shall en-
12 sure that no such grant amounts are provided, di-
13 rectly or indirectly, to such person, agency, or entity.
14 In the case of grant amounts that otherwise would
15 be provided to such person, agency, or entity pursu-
16 ant to a formula, such amounts shall be reallocated
17 among eligible recipients.

18 “(2) VIOLATIONS BY GOVERNMENT OFFI-
19 CIALS.—In any case in which a Federal, State, or
20 local government official is in violation of subsection
21 (a) or (b), the government agency or entity that em-
22 ploys (or, at the time of the violation, employed) the
23 official shall be subject to the sanction under para-
24 graph (1).

1 “(3) DURATION.—The sanction under para-
2 graph (1) shall remain in effect until the Secretary
3 of Homeland Security determines that the person,
4 agency, or entity has ceased violating subsections (a)
5 and (b).”.

6 **SEC. 528. EXCEPTION TO REMOVAL FOR CERTAIN ALIENS.**

7 (a)(1) Section 214(o) (8 U.S.C. 1184(o)) (as redesignig-
8 nated by section 204 of this Act) is amended by adding
9 at the end the following new paragraph:

10 “(4) No alien shall be eligible for admission to the
11 United States under section 101(a)(15)(T) if there is a
12 substantial reason to believe that the alien voluntarily
13 came to the United States, except that if the alien is or
14 has been a victim of a severe form of trafficking in the
15 form of sex trafficking, the alien shall be eligible for ad-
16 mission under such section unless the alien knew or rea-
17 sonably should have known when coming to the United
18 States that the alien would be expected to perform com-
19 mercial sex acts.”.

20 (2) Section 245(l) (8 U.S.C. 1255(l)), as added by
21 section 107(f) of Public Law 106–386, is amended—

22 (A) in paragraph (1)(C)(i), by striking “or” at
23 the end and inserting “and”;

24 (B) by redesignating—

1 (i) paragraphs (3) and (4) as paragraphs
2 (4) and (5), respectively; and

3 (ii) the second paragraph (2) as paragraph
4 (3);

5 (C) in paragraph (2)(B), by striking “(3),
6 (10)(C), and (10(E)), if the activities rendering the
7 alien inadmissible under the provision were caused
8 by, or were incident to,” and inserting “(2), (3), (8),
9 (9)(A), (10)(C), (10)(D), and (10)(E)), if the activi-
10 ties rendering the alien inadmissible under the provi-
11 sion were caused by”; and

12 (D) by amending paragraph (5) (as so redesign-
13 nated) to read as follows:

14 “(5) Upon the approval of adjustment of status under
15 paragraph (1), the Secretary of Homeland Security shall
16 record the alien’s lawful admission for permanent resi-
17 dence as of the date of such approval and the Secretary
18 of State shall reduce by one the number of visas author-
19 ized to be issued under sections 201(d) and 203(b)(4) for
20 the fiscal year then current, unless the number of remain-
21 ing visas authorized to be issued under section 203(b)(4)
22 for such year is zero, in which case such reductions shall
23 not be made.”.

24 (b)(1) Section 101(a)(15)(U)(iii) (8 U.S.C.
25 1101(a)(15)(U)(iii)) is amended to read as follows:

1 “(iii) the criminal activity referred to in this
2 clause is that involving 1 or more of the following
3 or any similar activity in violation of Federal, State,
4 or local criminal law: rape; incest; domestic violence,
5 sexual assault; abusive sexual contact; sexual exploi-
6 tation; female genital mutilation; or attempt or con-
7 spiracy to commit any of the above mentioned
8 crimes; or”.

9 (2) Section 204(a)(1)(C) (8 U.S.C. 1154(a)(1)(C)) is
10 amended by inserting “directly” before “connected”.

11 (3) Section 214(p)(1) (8 U.S.C. 1184(p)(1)) (as re-
12 designated by section 204 of this Act) is amended by strik-
13 ing “This certification may also be provided by an official
14 of the Department of Homeland Security whose ability to
15 provide such certification is not limited to information
16 concerning immigration violations.”.

17 (4) Section 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H))
18 is amended—

19 (A) by striking clause (ii);

20 (B) in clause (i), by striking “(I)”; and

21 (C) by redesignating subclause (II) as clause
22 (ii).

23 (5) Section 240A (8 U.S.C. 1229b) is amended—

24 (A) in subsection (b)(2)(A)(ii), by striking “,
25 and the issuance of a charging document for removal

1 proceedings shall not toll the 3-year period of contin-
2 uous physical presence in the United States”;

3 (B) by amending subsection (b)(2)(A)(iv) to
4 read as follows:

5 “(iv) the alien is not inadmissible
6 under paragraph (2), (3), (8), (9)(A),
7 (10)(C), (10)(D), or (10)(E) of section
8 212(a), is not deportable under paragraph
9 (1)(E), (1)(G), or (2) through (4) of sec-
10 tion 237(a) (except in a case described in
11 section 237(a)(7) where the Secretary of
12 Homeland Security exercises discretion to
13 grant a waiver), and has not been con-
14 victed of an aggravated felony; and”;

15 (C) in subsection (b)(2)(B)—

16 (i) by inserting “direct” before “connection
17 between the absence”;

18 (ii) by inserting “directly” before “con-
19 nected to the battering or extreme”; and

20 (iii) in the third sentence, by inserting
21 “battery or cruelty-related” before “absences or
22 portions of the absences”;

23 (iv) in subsection (b)(2)(C), by inserting
24 “directly” before “connected”;

1 (v) in subsection (b)(4)(A), by striking
2 “shall” and inserting “may”; and

3 (vi) in subsection (d)(1), by striking “ex-
4 cept in the case of an alien who applies for can-
5 cellation of removal under subsection (b)(2),”.

6 (6) Section 245 (8 U.S.C. 1255) is amended by redes-
7 ignating the subsection (l) that was added by section
8 1513(f) of Public Law 106–386 as subsection (m) and in
9 such redesignated subsection—

10 (A) in paragraph (1)—

11 (i) in the matter preceding subparagraph
12 (A), by striking “section 212(a)(3)(E), unless
13 the Attorney General determines based on af-
14 firmative evidence” and inserting “paragraph
15 (2), (3), (8), (9)(A), (10)(C), (10)(D), or
16 (10)(E) of section 212(a), unless the Attorney
17 General determines”;

18 (ii) by striking “and” at the end of sub-
19 paragraph (A);

20 (iii) by striking subparagraph (B) and in-
21 serting the following:

22 “(B) the alien has, throughout such period,
23 been a person of good moral character; and

24 “(C) in the opinion of the Secretary of Home-
25 land Security, the alien or the alien’s spouse, parent,

1 or child, who is a citizen of the United States or an
2 alien lawfully admitted for permanent residence,
3 would suffer extreme hardship.”;

4 (B) in paragraph (2), by striking “or unless an
5 official involved in the investigation or prosecution
6 certifies that the absence was otherwise justified”;
7 and

8 (C) by amending paragraph (4) to read as fol-
9 lows:

10 “(4) Upon the approval of adjustment of status under
11 paragraph (1) or (3), the Secretary of Homeland Security
12 shall record the alien’s lawful admission for permanent
13 residence as of the date of such approval and the Sec-
14 retary of State shall reduce by one the number of visas
15 authorized to be issued under sections 201(d) and
16 203(b)(4) for the fiscal year then current, unless the num-
17 ber of remaining visas authorized to be issued under sec-
18 tion 203(b)(4) for such year is zero, in which case such
19 reductions shall not be made.”.

20 **SEC. 529. DETENTION FACILITIES.**

21 (a) INCREASING NUMBER OF DETENTION BEDS.—
22 Subject to the availability of appropriations, the Secretary
23 of Homeland Security shall provide for a doubling in the
24 detention beds of the Department of Homeland Security

1 over the number existing on the date of the enactment
2 of this Act by the end of fiscal year 2005.

3 (b) PLACES OF DETENTION FOR ALIENS ARRESTED
4 PENDING EXAMINATION AND DECISION ON REMOVAL.—
5 Section 241(g) (8 U.S.C. 1231(g)) is amended by adding
6 at the end the following:

7 “(3) POLICY ON DETENTION IN STATE AND
8 LOCAL DETENTION FACILITIES.—In carrying out
9 paragraph (1), the Secretary of Homeland Security
10 shall ensure that an alien arrested under section
11 287(a) may be detained, pending the alien’s being
12 taken for the examination described in such section,
13 in a State or local prison, jail, detention center, or
14 other comparable facility, if—

15 “(A) such facility is the most suitably lo-
16 cated Federal, State, or local facility available
17 for such purpose under the circumstances;

18 “(B) an appropriate arrangement for such
19 use of the facility can be made; and

20 “(C) such facility satisfies the standards
21 for the housing, care, and security of persons
22 held in custody of a United States marshal.”.

23 **SEC. 530. VOLUNTARY DEPARTURE.**

24 (a) IN GENERAL.—Section 240B (8 U.S.C. 1229c)
25 is amended to read as follows:

1 “VOLUNTARY DEPARTURE

2 “SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The
3 Secretary of Homeland Security may permit an alien vol-
4 untarily to depart the United States at the alien’s own
5 expense under this subsection, in lieu of being subject to
6 proceedings under section 240 and in lieu of applying for
7 another form of relief from removal, if the alien is not
8 deportable under paragraph (2)(A)(iii) or (4)(B) of section
9 237(a). Permission to depart voluntarily under this sub-
10 section shall not be valid for a period exceeding 90 days
11 and cannot be extended. The Secretary of Homeland Secu-
12 rity shall require an alien permitted to depart voluntarily
13 under this subsection to post a voluntary departure bond,
14 in an amount necessary to ensure that the alien will de-
15 part, to be surrendered upon proof that the alien has de-
16 parted the United States within the time specified.

17 “(b) PRIOR TO SCHEDULING MERITS HEARING.—
18 The Secretary of Homeland Security may permit an alien
19 voluntarily to depart the United States at the alien’s own
20 expense under this subsection prior to the scheduling of
21 the first merits hearing, in lieu of applying for another
22 form of relief from removal, if the alien is not deportable
23 under paragraph (2)(A)(iii) or (4)(B) of section 237(a).
24 Permission to depart voluntarily under this subsection
25 shall not be valid for a period exceeding 60 days and can-

1 not be extended. The Secretary shall require an alien per-
2 mitted to depart voluntarily under this subsection to post
3 a voluntary departure bond, in an amount necessary to
4 ensure that the alien will depart, to be surrendered upon
5 proof that the alien has departed the United States within
6 the time specified.

7 “(c) ONCE FIRST MERITS HEARING SCHEDULED.—

8 “(1) IN GENERAL.—Once the first merits hear-
9 ing has been scheduled under section 240, the Sec-
10 retary of Homeland Security may permit an alien
11 voluntarily to depart the United States at the alien’s
12 own expense under this subsection, in lieu of pur-
13 suing another form of relief from removal, if the im-
14 migration judge enters an order granting voluntary
15 departure in lieu of removal and finds that—

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

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

1 “(C) the alien is not deportable under
2 paragraph (2)(A)(iii) or (4)(B) of section
3 237(a); and

4 “(D) the alien has established by clear and
5 convincing evidence that the alien has the
6 means to depart the United States and intends
7 to do so.

8 “(2) PERIOD.—Permission to depart voluntarily
9 under this subsection shall not be valid for a period
10 exceeding 30 days and cannot be extended.

11 “(3) BOND.—The Secretary of Homeland Secu-
12 rity shall require an alien permitted to depart volun-
13 tarily under this subsection to post a voluntary de-
14 parture bond, in an amount necessary to ensure that
15 the alien will depart, to be surrendered upon proof
16 that the alien has departed the United States within
17 the time specified.

18 “(d) ALIENS NOT ELIGIBLE.—The Secretary of
19 Homeland Security shall not permit an alien to depart vol-
20 untarily under this section if the alien was previously per-
21 mitted to depart voluntarily under section 244(e) or this
22 section, or to voluntarily return, at any time.

23 “(e) CIVIL PENALTY FOR FAILURE TO DEPART.—
24 If an alien is permitted to depart voluntarily under this
25 section and fails voluntarily to depart the United States

1 within the time period specified, the alien shall be subject
2 to a civil penalty of not less than \$1,000 and not more
3 than \$5,000, and be ineligible for a period of 10 years
4 for any further relief under this section and sections 240A,
5 245, 248, and 249. The order permitting the alien to de-
6 part voluntarily shall inform the alien of the penalties
7 under this subsection.

8 “(f) ADDITIONAL CONDITIONS.—The Secretary of
9 Homeland Security may by regulation limit eligibility for
10 voluntary departure under this section for any class or
11 classes of aliens. No court may review any regulation
12 issued under this subsection.

13 “(g) TREATMENT OF ALIENS ARRIVING IN THE
14 UNITED STATES.—In the case of an alien who is arriving
15 in the United States and with respect to whom pro-
16 ceedings under section 240 are (or would otherwise be)
17 initiated at the time of such alien’s arrival, subsections
18 (a) through (c) shall not apply. Nothing in this paragraph
19 shall be construed as preventing such an alien from with-
20 drawing the application for admission in accordance with
21 section 235(a)(4).

22 “(h) REVIEW.—There shall be no administrative or
23 judicial review of a denial of a request for an order of
24 voluntary departure. No court or agency shall order a stay
25 of an alien’s removal pending consideration of any claim

1 with respect to voluntary departure. The order permitting
2 the alien to depart voluntarily shall inform the alien that
3 the alien has no right to appeal any issue relating to the
4 removal proceeding.”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 subsection (a) shall take effect on the date of the enact-
7 ment of this Act and shall apply to aliens who are in pro-
8 ceedings under the Immigration and Nationality Act on
9 or after such date if those proceedings have not resulted
10 in a final administrative order before such date.

11 **SEC. 531. CANCELLATION OF REMOVAL.**

12 Section 240(A)(c) is amended by adding at the end
13 the following:

14 “(7) An alien who is inadmissible under section
15 212(a)(9)(B)(i).”.

16 **SEC. 532. EXPEDITED REMOVAL OF CRIMINAL ALIENS.**

17 (a) IN GENERAL.—Section 238 (8 U.S.C. 1228) is
18 amended—

19 (1) by amending the section heading to read as
20 follows:

21 “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

22 (2) in subsection (a), by amending the sub-
23 section heading to read as follows: “EXPEDITED RE-
24 MOVAL FROM CORRECTIONAL FACILITIES.—”;

1 (3) in subsection (b), by amending the sub-
2 section heading to read as follows: “REMOVAL OF
3 CRIMINAL ALIENS.—”;

4 (4) in subsection (b), by striking paragraphs
5 (1) and (2) and inserting the following:

6 “(1) IN GENERAL.— The Secretary may, in the
7 case of an alien described in paragraph (2), deter-
8 mine the deportability of such alien and issue an
9 order of removal pursuant to the procedures set
10 forth in this subsection or section 240.

11 “(2) ALIENS DESCRIBED.— An alien is de-
12 scribed in this paragraph if the alien, whether or not
13 admitted into the United States, was convicted of
14 any criminal offense described in subparagraph
15 (A)(iii), (C), or (D) of section 237(a)(2).”;

16 (5) in the first subsection (c) (relating to pre-
17 sumption of deportability), by striking “convicted of
18 an aggravated felony” and inserting “described in
19 paragraph (b)(2)”;

20 (6) by redesignating the second subsection (c)
21 (relating to judicial removal) as subsection (d); and

22 (7) in subsection (d)(5) (as so redesignated),
23 and by striking “, who is deportable under this
24 Act,”.

1 (b) LIMIT ON INJUNCTIVE RELIEF.—Section
2 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting
3 “or stay, whether temporarily or otherwise,” after “en-
4 join”.

5 **SEC. 533. SUBJECT TO THE JURISDICTION DEFINED.**

6 Section 101(c) (8 U.S.C. 1101(c)) is amended by
7 adding at the end the following:

8 “(3) The term ‘subject to the jurisdiction of the
9 United States’ means that, at the time of birth in
10 the United States, the mother or the father of the
11 child, excluding aliens classified under subparagraph
12 (A) or (G) of section 101(a)(15), resided lawfully
13 therein.”.

14 **SEC. 534. CLAIMS FOR SERVICES PERFORMED BY UNAU-**
15 **THORIZED ALIENS.**

16 Title II (8 U.S.C. 1151 et seq.) is amended by insert-
17 ing after section 271 the following:

18 “CLAIMS ARISING FROM SERVICES OF ALIENS WITHOUT
19 WORK AUTHORIZATION

20 “SEC. 271A. (a) IN GENERAL.—It shall be unlawful
21 for any person, entity or enterprise, including any em-
22 ployer, contractor, employee, or independent contractor, to
23 claim any deduction, credit, benefit, subsidy, rebate, grant
24 or other payment otherwise authorized by any provision
25 of the United States Code, including the Internal Revenue
26 Code, derived from compensation in any form for labor

1 or personal services provided in the United States that was
2 paid to or on behalf of a person, knowingly or in reckless
3 disregard of the fact that such person was, at the time
4 such labor or services were performed, an unauthorized
5 alien (as defined in section 274A(h)(3)).

6 “(b) ENFORCEMENT.—

7 “(1) Where any claim described in subsection
8 (a) made by a person, entity, or enterprise amount
9 in aggregate to \$50,000 or more, a right of action
10 shall exist for a State or local government agency or
11 a private party to recover such sums on behalf of the
12 United States.

13 “(2) A complaint described in subparagraph (i)
14 shall be made in writing under oath or affirmation
15 to the Chief Administrative Hearing Officer of the
16 Executive Office for Immigration Review.

17 “(3) No complaint may be filed in which all al-
18 leged violations occurred more than two years prior
19 to the filing of the complaint.

20 “(4) A prevailing private party acting on behalf
21 of the United States shall be awarded 25 percent
22 from any sums recovered.

23 “(5) Adjudication of a complaint shall proceed
24 under the provisions of the Administrative Procedure
25 Act (5 U.S.C. 551 et seq.).

1 “(6) The administrative law judge may grant
2 the prevailing party reasonable attorney’s fees if the
3 judge determines that the opposing party’s argu-
4 ment was without reasonable basis in law and fact.”.

5 **SEC. 535. RESTRICTION ON WARRANTLESS ENTRY.**

6 (a) IN GENERAL.—Section 287(e) (8 U.S.C. 1357(e))
7 is amended by inserting “that is an active participant in
8 an employment verification system approved by the Sec-
9 retary of Homeland Security” after “farm or other out-
10 door agricultural operation”.

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall take effect on the date described in
13 section 511(b).

14 **TITLE VI—ELIMINATING EXCES-**
15 **SIVE REVIEW AND DILATORY**
16 **AND ABUSIVE TACTICS BY**
17 **ALIENS IN REMOVAL PRO-**
18 **CEEDINGS**

19 **SEC. 601. FRIVOLOUS APPLICATIONS.**

20 (a) IN GENERAL.—Paragraph (6) of section 208(d)
21 (8 U.S.C. 1158(d)) is amended by adding at the end the
22 following new sentence: “As used in this section, the term
23 ‘frivolous application’ means an application that lacks a
24 reasonably arguable basis either in law or in fact. If an
25 alien withdraws an application for asylum and pursues an-

1 other benefit or form of relief under this Act, the alien
2 shall bear the burden of proving by clear and convincing
3 evidence, in the adjudication respecting such other benefit
4 or form of relief, that such asylum application was not
5 a frivolous application. If the alien fails to carry such bur-
6 den, the alien shall be permanently ineligible for any ben-
7 efit under this Act.”.

8 (b) EFFECTIVE DATE.—The amendment made by
9 subsection (a) shall take effect on the date of the enact-
10 ment of this Act and shall apply to applications for asylum
11 pending on or after such date if the application has not
12 resulted in a final administrative order before such date.

13 **SEC. 602. CONTINUANCES; CHANGE OF VENUE.**

14 (a) IN GENERAL.—Section 240(b)(1) (8 U.S.C.
15 1229a(b)(1)) is amended by adding at the end the fol-
16 lowing:

17 “The immigration judge may not grant a continu-
18 ance to permit an alien to become eligible for relief
19 under any provision of law. In proceedings under
20 this section or under section 236, the immigration
21 judge may not grant a change of venue for an alien
22 who has not been inspected and admitted or paroled
23 into the United States. For all other aliens, the im-
24 migration judge may grant a change of venue only

1 if the alien demonstrates that the alien cannot ob-
2 tain a fair proceeding in the current venue.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and shall apply to continuances and
6 changes of venue sought after such date.

7 **SEC. 603. BURDEN OF PROOF IN ASYLUM PROCEEDINGS.**

8 (a) **IN GENERAL.**—Section 208(b)(1) (8 U.S.C.
9 1158(b)(1)) is amended—

10 (1) by striking “(1) **IN GENERAL.**—The Attor-
11 ney General” and inserting the following:

12 “(1) **IF ALIEN IS A REFUGEE.**—

13 “(A) **IN GENERAL.**—The Secretary of
14 Homeland Security or the Attorney General”;
15 and

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

17 “(B) **BURDEN OF PROOF.**—The burden of
18 proof is on the applicant for asylum to establish
19 that he or she is a refugee within the meaning
20 of section 101(a)(42). The testimony of the ap-
21 plicant, if credible, may be sufficient to sustain
22 such burden without corroboration. Where it is
23 reasonable to expect corroborating evidence for
24 certain alleged facts pertaining to the specifics
25 of an alien’s claim for asylum, such evidence

1 must be provided unless a reasonable expla-
2 nation is given as to why such information is
3 not presented.”.

4 (b) **EFFECTIVE DATE.**—The amendment made by
5 subsection (a) shall take effect on the date of the enact-
6 ment of this Act and shall apply to applications for asylum
7 pending on or after such date if the application has not
8 resulted in a final administrative order before such date.

9 **SEC. 604. REVIEW OF CONVENTION AGAINST TORTURE**
10 **GRANTS AND DENIALS.**

11 (a) **IN GENERAL.**—Section 241(b) (8 U.S.C.
12 1231(b)) is amended by adding at the end the following
13 new paragraph:

14 “(4) **ELIMINATION OF REVIEW.**—A determina-
15 tion as to whether the removal of an alien to any
16 country should be withheld or deferred under the
17 United Nations Convention Against Torture and
18 Other Cruel, Inhuman, or Degrading Treatment or
19 Punishment shall be made by the Secretary of
20 Homeland Security. There shall be no administrative
21 or judicial review of a determination of the Secretary
22 under this section.”.

23 (b) **EFFECTIVE DATE.**—The amendment made by
24 subsection (a) shall take effect on the date of the enact-
25 ment of this Act and shall apply to applications pending

1 on or after such date if the application has not resulted
2 in a final administrative order before such date.

3 **SEC. 605. TIME LIMIT FOR DECISIONS IN ADMINISTRATIVE**
4 **APPEALS.**

5 (a) IN GENERAL.—Chapter 9 of title II of the Act
6 is amended by inserting after section 294 the following
7 new section:

8 “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

9 “SEC. 295. (a) DEADLINE.—A decision in any ad-
10 ministrative appeal from a decision of an immigration
11 judge shall be issued not later than 180 days after the
12 appeal is filed. If the appeal is not decided before such
13 deadline, the decision of the immigration judge shall be
14 final, unless the Attorney General certifies the decision for
15 review.

16 “(b) STANDARD OF REVIEW.—In any administrative
17 appeal from a decision of an immigration judge, such
18 judge’s determinations of factual issues, including findings
19 as to the credibility of testimony, shall be accepted unless
20 they are clearly erroneous.”.

21 (b) CLERICAL AMENDMENT.—The table of contents
22 of the Immigration and Nationality Act is amended by in-
23 serting after the item relating to section 294 the following:

“295. Rules for decisions in administrative appeals.”.

24 (c) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of the enactment

1 of this Act and shall apply to decisions appealed on or
2 after such date.

3 **SEC. 606. REVIEW OF ASYLUM CLAIMS.**

4 (a) JUDICIAL REVIEW.—

5 (1) IN GENERAL.—Section 208 (8 U.S.C. 1158)
6 is amended by adding at the end the following:

7 “(e) LIMITATION ON JUDICIAL REVIEW.—No court
8 shall have jurisdiction to review any decision of the Sec-
9 retary of Homeland Security or the Attorney General
10 under this section.”.

11 (2) CONFORMING AMENDMENTS.—Section 242
12 (8 U.S.C 1252) is amended—

13 (A) in subsection (a)(2)(B)(i), by inserting
14 “208,” before “212(h),”;

15 (B) in subsection (a)(2)(B)(ii), by striking
16 “General,” and all that follows through the pe-
17 riod at the end and inserting “General.”; and

18 (C) in subsection (b)(4)—

19 (i) in subparagraph (B), by adding
20 “and” at the end;

21 (ii) in subparagraph (C), by striking
22 “, and” at the end and inserting a period;
23 and

24 (iii) by striking subparagraph (D).

1 (b) LIMITATION ON ASYLUM OFFICE.—Section
2 208(d) (8 U.S.C. 1158(d)) is amended by adding at the
3 end the following:

4 “(8) OTHER PROCEDURAL MATTERS.—

5 “(A) DETERMINATION OF LAWFUL STA-
6 TUS.—

7 “(i) IN GENERAL.—In the case of an
8 alien who is physically present in the
9 United States and who has applied to the
10 Secretary of Homeland Security for asy-
11 lum, the Secretary shall determine whether
12 the alien is inadmissible or deportable be-
13 fore the Secretary prepares to schedule the
14 applicant for an asylum interview. If the
15 Secretary determines that the alien is not
16 inadmissible or deportable, the Secretary
17 shall adjudicate the asylum application and
18 render a decision granting or denying asy-
19 lum. If the Secretary determines that the
20 alien is inadmissible or deportable before
21 the Secretary prepares to schedule an
22 interview, the Secretary shall place the
23 alien in removal proceedings without adju-
24 dicating the asylum application. The alien

1 may then pursue such application in such
2 proceedings.

3 “(ii) REVIEW OF DETERMINATIONS.—
4 If an alien’s asylum application has been
5 denied by the Secretary, in any administra-
6 tive or judicial appeal from such denial,
7 the Secretary’s determinations of factual
8 issues, including findings as to the credi-
9 bility of testimony, shall be accepted into
10 evidence.

11 “(B) RECORDING OF INTERVIEWS.—The
12 Secretary shall record asylum interviews and in-
13 clude any such recording in the applicant’s file
14 and record of proceedings.”.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall take effect on the date of the enactment
17 of this Act and shall apply to decisions rendered on or
18 after such date.

19 **SEC. 607. JUDICIAL REVIEW.**

20 (a) ORDERS AGAINST CRIMINAL ALIENS.—Subpara-
21 graph (C) of section 242(a)(2) (8 U.S.C. 1252(a)(2)) is
22 amended—

23 (1) by striking “no court shall have jurisdic-
24 tion” and inserting “including section 2241 of title

1 28, United States Code, no court shall have jurisdic-
2 tion, except as provided in this section,”; and

3 (2) by adding at the end the following: “Such
4 review shall be limited to constitutional challenges or
5 statutory claims involving pure issues of law,”.

6 (b) VENUE FOR REVIEW OF ORDERS OF REMOVAL.—
7 Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended by
8 striking “with the court of appeals for the judicial circuit
9 in which the immigration judge completed the pro-
10 ceedings.” and inserting “with the United States Court
11 of Appeals for the District of Columbia Circuit.”.

12 (c) FEDERAL CIRCUIT COURT APPEALS.—

13 (1) IN GENERAL.—Title I of the Act is amend-
14 ed by inserting after section 105 the following:

15 “RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS
16 “SEC. 106. Notwithstanding any other provision of
17 law, the final order of a district court of the United States
18 in any proceeding under this Act, or under any other im-
19 migration law of the United States, shall be subject to re-
20 view, on appeal, by the United States Court of Appeals
21 for the District of Columbia Circuit. There shall be no
22 right of appeal in such proceedings to any other circuit
23 court of appeals. The law applied by the Supreme Court,
24 and the United States Court of Appeals for the District
25 of Columbia Circuit, shall be regarded as the rule of deci-
26 sion in any proceeding under this Act.”.

1 (2) CLERICAL AMENDMENT.—The table of con-
2 tents of the Immigration and Nationality Act is
3 amended by inserting after the item relating to sec-
4 tion 105 the following:

“106. Federal circuit court appeals.”.

5 **TITLE VII—EMERGENCY IMMI-**
6 **GRATION WORKLOAD REDUC-**
7 **TION**

8 **SEC. 701. CONGRESSIONAL FINDINGS.**

9 The Congress finds as follows:

10 (1) The effective establishment and organiza-
11 tion of the Directorate of Border and Transpor-
12 tation Security of the Department of Homeland Se-
13 curity is imperative if the Directorate is to carry out
14 the immigration enforcement and immigration serv-
15 ices responsibilities delegated to it by the Congress
16 in the manner expected by the American people.

17 (2) The effective implementation of these duties
18 will not be achieved without an unacceptable com-
19 promise to the security interests of the United
20 States unless certain visa programs are temporarily
21 suspended, and other material assistance is provided
22 to law enforcement agencies and other entities that
23 support the immigration enforcement functions of
24 the Directorate, until such time as the Secretary of

1 Homeland Security can make the certifications to
2 Congress required in section 708.

3 (3) Such certifications, taken together, will es-
4 tablish the effective operational transfer of immigra-
5 tion enforcement functions to the new Directorate.

6 **SEC. 702. TEMPORARY SUSPENSION OF VISA WAIVER PRO-**
7 **GRAM.**

8 The admission of aliens to the United States under
9 the provisions of section 217 of the Immigration and Na-
10 tionality Act (8 U.S.C. 1187) is suspended.

11 **SEC. 703. TEMPORARY SUSPENSION OF ADJUSTMENT OF**
12 **STATUS APPLICATIONS.**

13 (a) The admission of aliens described in section
14 101(a)(15)(V) of the Immigration and Nationality Act (8
15 U.S.C. 1101(a)(15)(V) is suspended.

16 (b) The authority of the Secretary of Homeland Secu-
17 rity to adjust the status of any alien to that of an alien
18 lawfully admitted for permanent residence under sections
19 240A or 245 of the Immigration and Nationality Act is
20 suspended.

21 (c) The suspensions described in subsections (a) and
22 (b) shall include the suspension of acceptance for filing
23 of applications for adjustment of status described in such
24 subsection.

1 (d) Subsections (b) and (c) shall not apply to aliens
2 described in sections 101(a)(15)(K) or 101(a)(42) of the
3 Immigration and Nationality Act.

4 **SEC. 704. TEMPORARY SUSPENSION OF RENEWALS OF TEM-**
5 **PORARY PROTECTED STATUS.**

6 The authority of the Secretary of Homeland Security
7 to renew or extend any designation made under subpara-
8 graph (B) or (C) of section 244(b)(1) of the Immigration
9 and Nationality Act (8 U.S.C. 1254(b)(1)) is suspended.

10 **SEC. 705. CURTAILMENT OF VISAS FOR COUNTRIES DENY-**
11 **ING OR DELAYING REPATRIATION OF NA-**
12 **TIONALS.**

13 (a) PUBLIC LISTING OF ALIENS WITH NO SIGNIFI-
14 CANT LIKELIHOOD OF REMOVAL.—The Secretary of
15 Homeland Security shall establish and maintain a public
16 listing of every alien who is subject to a final order of
17 removal and with respect to whom the Secretary or any
18 Federal court has determined that there is no significant
19 likelihood of removal in the reasonably foreseeable future
20 due to the refusal, or unreasonable delay, of all countries
21 designated by the alien or under this section to receive
22 the alien. The public listing shall indicate whether such
23 alien has been released from federal custody, and the city
24 and state in which such alien resides.

1 (b) DISCONTINUATION OF VISAS.—In the case of any
2 foreign state for which 24 or more of the citizens, subjects,
3 or nationals of such state appear on the public listing de-
4 scribed in paragraph (a), such foreign state shall be
5 deemed to have denied or unreasonably delayed the accept-
6 ance of such aliens, and the Secretary of Homeland Secu-
7 rity shall make the notification to the Secretary of State
8 prescribed in section 243(d) of the Immigration and Na-
9 tionality Act (8 U.S.C. 1253(d)). The Secretary of State
10 shall accordingly discontinue the issuance of non-immi-
11 grant visas to citizens, subjects, or nationals of such for-
12 eign state.

13 **SEC. 706. WAIVER OF SUSPENSIONS.**

14 The Secretary of Homeland Security may in his or
15 her discretion waive, on an individual case-by-case basis,
16 the suspension of applications under sections 702, 703,
17 or 704, if the beneficiaries of such applications are not
18 inadmissible under section 212(a) of the Immigration and
19 Nationality Act (8 U.S.C. 1182(a)) or deportable under
20 section 237(a) of such Act (8 U.S.C. 1227).

21 **SEC. 707. TERMINATION OF TEMPORARY SUSPENSIONS.**

22 The emergency suspension of issuance of non-
23 immigrant visas, and of admissions to the United States,
24 as mandated by sections 702 through 704, shall terminate
25 one week after the certification by the Secretary of Home-

1 land Security to the Congress that the following conditions
2 are satisfied:

3 (1) The integrated entry and exit data system
4 required by the Immigration and Naturalization
5 Service Data Management Improvement Act of 2000
6 (Public Law 106–215), including the requirements
7 added by section 302(a) of the Enhanced Border Se-
8 curity and Visa Entry Reform Act of 2002 (Public
9 Law 107–173), is fully operational at all ports of
10 entry.

11 (2) The system of machine-readable tamper-re-
12 sistant visas and other alien travel and entry docu-
13 ments described in section 202 of this Act is fully
14 implemented at all ports of entry.

15 (3) The Department of Homeland Security has
16 the operational capability to take into custody and
17 remove from the United States any alien described
18 in section 237(a) of the Immigration and Nationality
19 Act (8 U.S.C. 1227(a)) who has been lawfully de-
20 tained by a State or local law enforcement agency,
21 and such agency has notified the Department of
22 such detention.

23 (4) The data system for the registration of
24 aliens under chapter 7 of title II of the Immigration

1 and Nationality Act (8 U.S.C. 261 et. seq.) is fully
2 operational and—

3 (A) is fully compliant with the data system
4 integration and interoperability standards en-
5 acted in section 202(a) of the Enhanced Border
6 Security and Visa Entry Reform Act of 2002
7 (Public Law 107–173);

8 (B) ensures the entry of all registrations
9 made in accordance with section 221(b) of the
10 Immigration and Nationality Act (8 U.S.C.
11 1201(b)) into the registration system at the
12 time of the relevant visa application;

13 (C) ensures that all other registrations
14 made under procedures required by section 264
15 of such Act (8 U.S.C. 1304) are entered into
16 the data system within 72 hours of receipt from
17 the alien of an approved form of registration;
18 and

19 (D) ensures that all notices of change of
20 address required by section 265 of such Act (8
21 U.S.C. 1305) are entered in the data system
22 within 5 working days of receipt from the alien
23 of an approved change of address form.

24 (5) A program for the random audit of the
25 backlog of applications for changes in immigration

1 status by aliens present in the United States exist-
2 ing on the effective date of this Act has been fully
3 implemented by the Department of Homeland Secu-
4 rity.

5 (6) The program described in paragraph (5) re-
6 liably indicates that the estimated incidence of fraud
7 or false statements is no more than three percent of
8 all approved applications and a program is in place
9 to ensure that all benefits granted on the basis of
10 such fraud or false statements are revoked in a
11 timely manner.

12 (7) The foreign student monitoring system de-
13 scribed in section 641 of the Illegal Immigration Re-
14 form and Immigrant Responsibility Act (8 U.S.C.
15 1372), as amended and expanded by sections 501
16 and 502 of the Enhanced Border Security and Visa
17 Entry Reform Act of 2002 (Public Law 107–173),
18 is fully operational, and no educational institution
19 certified to receive nonimmigrant students under
20 subparagraph (F), (M), or (J) of section 101(a)(15)
21 of the Immigration and Nationality Act (8 U.S.C.
22 1101(a)(15)) knowingly registers or admits aliens
23 present in the United States in violation of law.

24 (8) The number of aliens removed from the
25 United States, during the 4 month period preceding

1 the month in which the certification under this sec-
2 tion is executed, was at least 25 percent higher than
3 in the comparable period of the previous year.

4 (9) All reports and plans, and all operational
5 transfers of functions, required under title IV of the
6 Homeland Security Act of 2002 (6 U.S.C. 201 et
7 seq.) have been successfully performed and imple-
8 mented to the extent required by law as of the cer-
9 tification date.

10 (10) The annual report required by section
11 205(b) of the American Competitiveness in the
12 Twenty-First Century Act of 2000 (8
13 U.S.C.1574(b)), for the fiscal year preceding the
14 date of the certification, has been submitted to the
15 Congress.

16 (11) Process changes described in section
17 205(b)(2)(C)(vi) of the American Competitiveness in
18 the Twenty-First Century Act of 2000 (8 U.S.C.
19 1574(b)(2)(C)(vi)) have been implemented and are
20 substantially operational.

21 **SEC. 708. EFFECTIVE DATE.**

22 The provisions of this title shall take effect at mid-
23 night on the first Saturday that occurs two weeks after
24 the date of enactment of this Act.

1 **TITLE VIII—REFORMING LEGAL**
2 **IMMIGRATION**
3 **Subtitle A—Promotion of**
4 **Citizenship**

5 **SEC. 801. CHANGES IN NATURALIZATION REQUIREMENTS.**

6 (a) STUDY OF NATURALIZATION EXAMINATION.—

7 (1) IN GENERAL.—The Chief of the Office of
8 Citizenship of the Department of Homeland Security
9 shall conduct a study of the scope and nature of the
10 examination of applicants for naturalization. The
11 study shall analyze the value of the questions on the
12 exam, and recommend questions that ought to be
13 eliminated and new questions that ought to be in-
14 cluded. The study shall recommend new questions to
15 be included that gauge an applicant’s understanding
16 of the principles in the oath of allegiance required
17 under section 337(a) of the Immigration and Na-
18 tionality Act (8 U.S.C. 1448(a)).

19 (2) CIVICS COURSE.—The study shall also ana-
20 lyze and make recommendations as to whether appli-
21 cants for naturalization ought to be required to com-
22 plete a course in civic education.

23 (3) REPORT.—Not later than 6 months after
24 the date of the enactment of this Act, the Chief of
25 the Office of Citizenship for the Bureau of Citizen-

1 ship and Immigration Services of the Department of
2 Homeland Security shall submit a report to the Con-
3 gress containing the results of the study conducted
4 under this subsection. The report shall also contain
5 a proposed revised examination to be administered
6 to applicants for naturalization that reflects the rec-
7 ommendations developed through the study. In de-
8 veloping the proposed examination, the Chief of the
9 Office of Citizenship shall consult with interested
10 groups specializing in immigration issues, civics or-
11 ganizations, patriotic associations, and veterans’
12 groups.

13 (b) REQUIRING APPLICANTS FOR NATURALIZATION
14 TO UNDERSTAND OATH.—

15 (1) REQUIREMENTS FOR NATURALIZATION.—

16 Section 312(a) (8 U.S.C. 1423(a)) is amended—

17 (A) in paragraph (1), by striking “and” at
18 the end;

19 (B) in paragraph (2), by striking the pe-
20 riod at the end and inserting “; and”; and

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

22 “(3) an understanding of the oath of allegiance
23 required under section 337(a).”.

24 (2) EXAMINATION.—Section 332(a) (8 U.S.C.
25 1443(a)) is amended by inserting before “ability”

1 the following: “understanding of the oath of alle-
2 giance required under section 337(a),”.

3 (c) CONTENTS OF CERTIFICATE OF NATURALIZA-
4 TION.—Section 338 (8 U.S.C. 1449) is amended by insert-
5 ing before “and the seal” the following: “the oath of alle-
6 giance required under section 337(a); a statement that the
7 applicant recognizes the privileges and responsibilities of
8 citizenship;”.

9 **SEC. 802. OATH OF RENUNCIATION AND ALLEGIANCE.**

10 Section 337(a) of the Immigration and Nationality
11 Act (8 U.S.C. 1448(a)) is amended by inserting after “the
12 child is unable to understand its meaning.” the following:
13 “The oath referred to in this section shall read the same
14 as the oath provided for in paragraph (a) or (b) of part
15 337.1 of title 8, Code of Federal Regulations, as in effect
16 on September 1, 2003.”.

17 **Subtitle B—Treatment of Nationals**
18 **of State Sponsors of Terrorism**

19 **SEC. 811. TREATMENT OF NATIONALS OF STATE SPONSORS**
20 **OF TERRORISM.**

21 (a) IN GENERAL.—

22 (1) AMENDMENT.—Chapter 9 of title II, as
23 amended by section 265 of this Act, is further
24 amended by inserting after section 295 the following
25 new section:

1 “TREATMENT OF NATIONALS OF STATE SPONSORS OF
2 TERRORISM

3 “SEC. 296. (a) IN GENERAL.—No nonimmigrant or
4 immigrant visa may be issued, or nonimmigrant or immi-
5 grant status otherwise provided, other than a visa or sta-
6 tus described in section 101(a)(15)(A) or 201(b)(2)(A)(i),
7 to any alien who is a national of, or residing in, a country
8 that is determined to be a state sponsor of terrorism, ex-
9 cept the Secretary of Homeland Security (or the consular
10 officer, in the case of an application for a visa) may, on
11 a case-by-case basis, waive the application of this sub-
12 section in the case of an alien who—

13 “(1) requires examination or treatment for an
14 emergency medical condition (as defined in section
15 562(d) of the Illegal Immigration Reform and Immi-
16 gration Responsibility Act of 1996 (8 U.S.C.
17 1396(d)); or

18 “(2) is eligible for admission as a refugee under
19 section 207 or for asylum under section 208.

20 “(b) STATE SPONSOR OF TERRORISM DEFINED.—

21 “(1) IN GENERAL.—In this section, the term
22 ‘state sponsor of terrorism’ means any country the
23 government of which has been determined by the
24 Secretary of State under any of the laws specified in
25 paragraph (2) to have repeatedly provided support

1 for acts of terrorism. Such term shall apply to a
2 country beginning on the date on which such deter-
3 mination takes effect and ending on the date on
4 which such determination is withdrawn, terminated,
5 revoked, or otherwise ceases to be effective.

6 “(2) LAWS UNDER WHICH DETERMINATIONS
7 WERE MADE.—The laws specified in this paragraph
8 are the following:

9 “(A) Section 6(j)(1)(A) of the Export Ad-
10 ministration Act of 1979 (or successor statute).

11 “(B) Section 40(d) of the Arms Export
12 Control Act.

13 “(C) Section 620A(a) of the Foreign As-
14 sistance Act of 1961.”.

15 (2) CLERICAL AMENDMENT.—The table of con-
16 tents of the Immigration and Nationality Act is
17 amended by inserting after the item relating to sec-
18 tion 295 the following:

“296. Treatment of nationals of state sponsors of terrorism.”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall take effect on the date of the
21 enactment of this Act and shall apply to visas
22 issued, or status provided, on and after such date.

23 (b) APPLICATION TO ADMITTED NONIMMIGRANTS.—

24 In the case of a nonimmigrant alien lawfully admitted into
25 the United States who would have been ineligible to be

1 granted such nonimmigrant status if the amendments
2 made by subsection (a) had been in effect on the date on
3 which such status was granted, notwithstanding any other
4 provision of law, the period of authorized admission as
5 such a nonimmigrant shall terminate 60 days after the
6 date of the enactment of this Act, unless the Secretary
7 of Homeland Security makes an individualized determina-
8 tion described in section 296(a) of the Immigration and
9 Nationality Act (as added by subsection (a)) with respect
10 to the alien.

11 (c) REPEAL.—Section 306 of the Enhanced Border
12 Security and Visa Entry Reform Act of 2002 (Public Law
13 107–173) is repealed.

14 **Subtitle C—Legal Immigration**
15 **Reform**

16 **SEC. 821. EXTENDED FAMILY PREFERENCE CATEGORIES.**

17 (a) IN GENERAL.—Section 203(a) (8 U.S.C.
18 1153(a)) is amended to read as follows:

19 “(a) PREFERENCE ALLOCATION FOR FAMILY-SPON-
20 SORED IMMIGRANTS.—Qualified immigrants who are the
21 spouses or children of an alien lawfully admitted for per-
22 manent residence shall be subject to the worldwide level
23 specified in section 201(c) for family-sponsored immi-
24 grants, and shall be allocated visas in a number not to
25 exceed such level.”.

1 (b) WORLDWIDE LEVEL OF FAMILY-SPONSORED IM-
2 MIGRANTS.—Section 201(c) (8 U.S.C. 1151(c)) is amend-
3 ed—

4 (1) by striking “480,000” and inserting
5 “87,934”; and

6 (2) by striking “226,000” and inserting
7 “87,934”.

8 (c) NUMERICAL LIMITATION TO ANY SINGLE FOR-
9 EIGN STATE.—Section 202 (8 U.S.C. 1152) is amended—

10 (1) in subsection (a)(4), by striking subpara-
11 graph (A) and inserting the following:

12 “(A) 75 PERCENT NOT SUBJECT TO PER
13 COUNTRY LIMITATION.—Of the visa numbers
14 made available under section 203(a) in any fis-
15 cal year, 75 percent shall be issued without re-
16 gard to the numerical limitation under para-
17 graph (2).”; and

18 (2) in subsection (e)—

19 (A) in paragraph (1), by adding “and” at
20 the end;

21 (B) by striking paragraph (2); and

22 (C) by redesignating paragraph (3) as
23 paragraph (2).

24 (d) PROCEDURE FOR GRANTING IMMIGRANT STA-
25 TUS.—Section 204 (8 U.S.C. 1154) is amended—

1 (1) in subsection (a)(1)(A)(i), by striking
2 “paragraph (1), (3), or (4) of”;

3 (2) in subsection (a)(1)(B), by striking
4 “203(a)(2)” and “203(a)(2)(A)” each place such
5 terms appear and inserting “203(a)”;

6 (3) in subsection (a)(1)(D)(i)—

7 (A) in subclause (I), by striking “a peti-
8 tioner for preference status under paragraph
9 (1), (2), or (3)” and all that follows through
10 the period at the end and inserting “to be an
11 individual under 21 years of age for purposes of
12 adjudicating such petition, and for purposes of
13 admission as an immediate relative under sec-
14 tion 201(b)(2)(A)(i), notwithstanding the actual
15 age of the individual.”; and

16 (B) in subclause (III), by striking “para-
17 graph (1), (2), or (3) of section 203(a), which-
18 ever paragraph is applicable,” and inserting
19 “section 203(a), and under 21 years of age
20 (notwithstanding the actual age of the indi-
21 vidual),”; and

22 (4) in subsection (f), by striking “201(b),
23 203(a)(1), or 203(a)(3), as appropriate.” and insert-
24 ing “201(b).”.

1 (e) CLASSES OF DEPORTABLE ALIENS.—Section
2 237(a)(1)(E)(ii) (8 U.S.C. 1227(a)(1)(E)(ii)) is amended
3 by striking “203(a)(2)” and inserting “203(a)”.

4 (f) CONDITIONAL PERMANENT RESIDENT STATUS
5 FOR CERTAIN ALIEN SPOUSES AND SONS AND DAUGH-
6 TERS.—Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C))
7 is amended by striking “203(a)(2)” and inserting
8 “203(a)”.

9 (g) EFFECTIVE DATE.—The amendments made this
10 section shall take effect on the date of enactment of this
11 Act.

12 **SEC. 822. EMPLOYMENT THIRD PREFERENCE CATEGORY.**

13 (a) IN GENERAL.—Paragraph (3) of section 203(b)
14 (8 U.S.C. 1153(b)) is amended to read as follows:

15 “(3) SKILLED WORKERS AND PROFES-
16 SIONALS.—

17 “(A) IN GENERAL.—Visas shall be made
18 available, in a number not to exceed 28.6 per-
19 cent of such worldwide level, plus any visas not
20 required for the classes specified in paragraphs
21 (1) and (2), to the following classes of aliens
22 who are not described in paragraph (2):

23 “(i) SKILLED WORKERS.—Qualified
24 immigrants who are capable, at the time of
25 petitioning for classification under this

1 paragraph, of performing skilled labor (re-
2 quiring at least 2 years training or experi-
3 ence), not of a temporary or seasonal na-
4 ture, for which qualified workers are not
5 available in the United States.

6 “(ii) PROFESSIONALS.—Qualified im-
7 migrants who hold baccalaureate degrees
8 and who are members of the professions.

9 “(B) LABOR CERTIFICATION REQUIRED.—
10 An immigrant visa may not be issued to an im-
11 migrant under subparagraph (A) until the con-
12 sular officer is in receipt of a determination
13 made by the Secretary of labor pursuant to the
14 provisions of section 212(a)(5)(A).”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 subsection (a) shall take effect on the date of enactment
17 of this Act.

18 **SEC. 823. ELIMINATION OF DIVERSITY IMMIGRANT PRO-**
19 **GRAM.**

20 (a) WORLDWIDE LEVEL OF DIVERSITY IMMI-
21 GRANTS.—Section 201 (8 U.S.C. 1151) is amended—

22 (1) in subsection (a)—

23 (A) by inserting “and” at the end of para-
24 graph (1);

1 (B) by striking “; and” at the end of para-
2 graph (2) and inserting a period; and

3 (C) by striking paragraph (3); and
4 (2) by striking subsection (e).

5 (b) ALLOCATION OF DIVERSITY IMMIGRANT VISAS.—

6 Section 203 (8 U.S.C. 1153) is amended—

7 (1) by striking subsection (c);

8 (2) in subsection (d), by striking “(a), (b), or
9 (c),” and inserting “(a) or (b),”;

10 (3) in subsection (e), by striking paragraph (2)
11 and redesignating paragraph (3) as paragraph (2);

12 (4) in subsection (f), by striking “(a), (b), or
13 (c)” and inserting “(a) or (b)”; and

14 (5) in subsection (g), by striking “(a), (b), and
15 (c)” and inserting “(a) and (b)”.

16 (c) PROCEDURE FOR GRANTING IMMIGRANT STA-
17 TUS.—Section 204 (8 U.S.C. 1154) is amended—

18 (1) by striking subsection (a)(1)(I); and

19 (2) in subsection (e), by striking “(a), (b), or
20 (c)” and inserting “(a) or (b)”.

21 (c) EFFECTIVE DATE.—The amendments made this
22 section shall take effect on the date of enactment of this
23 Act.

1 **SEC. 824. REFUGEE ADMISSIONS.**

2 (a) IN GENERAL.—Paragraphs (1) and (2) of section
3 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

4 “(a)(1) Except as provided in paragraph (2) and sub-
5 section (b), the number of refugees who may be admitted
6 under this section in any fiscal year shall be such number
7 as the President determines, before the beginning of the
8 fiscal year and after appropriate consultation, is justified
9 by humanitarian concerns or is otherwise in the national
10 interest.

11 “(2)(A) Except as provided in subparagraphs (B)
12 and (C), the number determined under paragraph (1) for
13 a fiscal year may not exceed the number of United Nations
14 High Commissioner for Refugees-referred refugees who
15 were resettled in a country other than the United States
16 (excluding any internally resettled person) in the second
17 preceding calendar year.

18 “(B) The number determined under paragraph (1)
19 for a fiscal year may exceed the limit specified in subpara-
20 graph (A) by the number of refugees admitted pursuant
21 to section 599D(b)(3) of the Foreign Operations, Export
22 Financing, and Related Programs Appropriations Act,
23 1990 (8 U.S.C. 1157 note).

24 “(C) The number determined under paragraph (1)
25 for a fiscal year may exceed the limit specified in subpara-

1 graph (A) if the Congress enacts a law providing for a
2 higher number.”.

3 (b) EMERGENCY REFUGEE SITUATIONS.—Section
4 207(b) (8 U.S.C. 1157(b)) is amended by striking “the
5 President may fix” and inserting “the President may, if
6 the Congress enacts a law providing such authority, fix”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the date of enactment of
9 this Act.

10 **SEC. 825. ALIENS SUBJECT TO DIRECT NUMERICAL LIMITA-**
11 **TIONS.**

12 Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amend-
13 ed—

14 (1) by striking subparagraphs (C), (D), and
15 (E); and

16 (2) by amending subparagraph (B) to read as
17 follows:

18 “(B) Aliens who are admitted under sec-
19 tion 207.”.

20 **SEC. 826. EDUCATION OF FAMILY-SPONSORED IMMI-**
21 **GRANTS.**

22 Section 203(a) (8 U.S.C. 1153(a)) is amended by
23 adding at the end the following:

24 “(5) LIMITATION.—An adult alien other than a
25 derivative spouse is not eligible for a visa under this

1 subsection unless the alien has attained at least a
2 high school education or its equivalent.”.

3 **SEC. 827. SPONSORSHIP LEVELS.**

4 Section 213A(f)(1)(E) (8 U.S.C. 1183a(f)(1)(E)) is
5 amended by striking “125 percent of the Federal poverty
6 line” and inserting “200 percent of the poverty line”.

7 **SEC. 828. REPEAL OF SECTION 245(i).**

8 Section 245(i) (8 U.S.C. 1255(i)) is repealed.

9 **TITLE IX—MISCELLANEOUS**
10 **PROVISIONS**

11 **SEC. 901. TEMPORARY PROTECTED STATUS.**

12 (a) IN GENERAL.—Section 244 (8 U.S.C. 1254a) is
13 amended—

14 (1) in subsection (a)—

15 (A) by striking paragraph (3)(D);

16 (B) in paragraph (4)—

17 (i) by striking subparagraph (B);

18 (ii) by moving the text of subpara-
19 graph (A) up and to the right so that it
20 follows immediately after the paragraph
21 heading; and

22 (iii) by striking “(A)”; and

23 (C) in paragraph (5), by striking “to deny
24 temporary protected status to an alien based on
25 the alien’s immigration status or”;

1 (2) in subsection (b)—

2 (A) in paragraph (1)—

3 (i) in subparagraph (A), by adding
4 “or” at the end;

5 (ii) in subparagraph (B)—

6 (I) in clause (i), by striking “dis-
7 ruption of living conditions” and in-
8 serting “physical destruction of homes
9 and businesses”;

10 (II) by amending clause (ii) to
11 read as follows:

12 “(ii) the foreign state is unable, tem-
13 porarily, to house and employ the aliens
14 who are nationals of the state residing in
15 the United States, but has officially re-
16 quested designation and submitted to the
17 Secretary of State a specific plan to repa-
18 triate such nationals in a short and speci-
19 fied period of time; and”;

20 (III) in clause (iii), by striking “;
21 or” and inserting a period;

22 (iii) by striking subparagraph (C);

23 and

24 (iv) by adding at the end the fol-
25 lowing:

1 “An initial designation, or extension of a designa-
2 tion, of a foreign state (or part of such foreign
3 state) under this paragraph shall not become effec-
4 tive if the Secretary of Homeland Security finds that
5 permitting the aliens to remain temporarily in the
6 United States is contrary to the national interest of
7 the United States.”

8 (B) in the last sentence of paragraph (2),
9 by striking “18 months” and inserting “12
10 months”;

11 (C) in paragraph (3)—

12 (i) in subparagraph (A), by inserting
13 “all” after “and shall determine whether”;

14 (ii) in subparagraph (B), by inserting
15 “all” after “no longer continues to meet”;

16 and

17 (iii) by amending subparagraph (C) to
18 read as follows:

19 “(C) EXTENSION OF DESIGNATION.—If
20 the Secretary of Homeland Security determines
21 under subparagraph (A) that a foreign state (or
22 part of such foreign state) continues to meet all
23 the conditions for designation under paragraph
24 (1) and that the foreign state warrants an ex-
25 tension, the period of designation of the foreign

1 State is extended for an additional period of 6
2 months (or, in the discretion of the Secretary,
3 a period of 12 months).”; and

4 (D) in paragraph (5)—

5 (i) by striking subparagraph (B);

6 (ii) by moving the text of subpara-
7 graph (A) up and to the right so that it
8 follows immediately after the paragraph
9 heading; and

10 (iii) by striking “(A) DESIGNA-
11 TIONS.—”;

12 (3) in subsection (c)—

13 (A) in paragraph (1)(B), by striking “The
14 amount of any such fee shall not exceed \$50.”;

15 (B) in paragraph (2)—

16 (i) in subparagraph (A), by striking
17 “of paragraph (1)—” and all that follows
18 through the end and inserting the fol-
19 lowing: “, the provisions of section
20 212(a)(1) may be waived in the Secretary
21 of Homeland Security’s discretion if a de-
22 nial of temporary protected status would
23 separate the alien from a spouse or child
24 in the United States.”;

25 (ii) in subparagraph (B)—

1 (I) by amending clause (i) to
2 read as follows:

3 “(i) the alien is inadmissible under
4 section 212(a) by reason of having been
5 convicted of a crime committed in the
6 United States, or the alien is deportable
7 under section 237(a) (other than under
8 section 237(a)(1)(B));”;

9 (II) in clause (ii), by striking the
10 period at the end and inserting “; or”;
11 and

12 (III) by adding at the end the
13 following:

14 “(iii) the alien was unlawfully present
15 in the United States on the effective date
16 of the designation of the applicable foreign
17 state (or part of a state), or the effective
18 date of any extension of such designation,
19 unless a law to the contrary is enacted be-
20 fore such date, except that if the Congress
21 is adjourned sine die on such date, the
22 alien may be granted temporary protected
23 status for a period of not more than 4
24 months.”;

25 (C) in paragraph (3)—

1 (i) by striking “, or” at the end of
2 subparagraph (B) and inserting a semi-
3 colon;

4 (ii) in subparagraph (C)—

5 (I) by inserting “and record the
6 alien’s current address” after “reg-
7 ister”; and

8 (II) by striking the period at the
9 end and inserting a semicolon; and

10 (iii) by adding at the end the fol-
11 lowing:

12 “(D) the alien commits a crime after being
13 granted temporary protected status; or

14 “(E) the alien travels, no matter how brief-
15 ly, to the foreign state (or part of such state)
16 the designation of which was the basis of the
17 alien being granted such status.”;

18 (D) in paragraph (4), in each of subpara-
19 graphs (A) and (B), by inserting before the pe-
20 riod at the end the following: “, unless the alien
21 travels, no matter how briefly, to the foreign
22 state (or part of such state) the designation of
23 which was the basis of the alien being granted
24 such status”; and

25 (E) by striking paragraph (6);

1 (4) in subsection (d), by striking paragraph (4);

2 (5) in subsection (e), by striking “, unless the
3 Attorney General determines that extreme hardship
4 exists” in the first sentence;

5 (6) in subsection (f)—

6 (A) by inserting “and” at the end of para-
7 graph (2);

8 (B) in paragraph (3), by striking “Attor-
9 ney General; and” and inserting “Secretary of
10 Homeland Security, except to the foreign state
11 (or part of such state) the designation of which
12 was the basis of the alien being granted such
13 status.”; and

14 (C) by striking paragraph (4); and

15 (7) in subsection (h)—

16 (A) in paragraph (1), by inserting “or the
17 House of Representatives” after “Senate”;

18 (B) in paragraph (2), by striking “three-
19 fifths” and inserting “two-thirds”; and

20 (C) by inserting “and the House of Rep-
21 resentatives” after “Senate” each place such
22 term appears in paragraphs (2) and (3).

23 (b) INELIGIBILITY OF CERTAIN ALIENS.—

24 (1) IN GENERAL.—In the case of a foreign
25 state (or part of a foreign state) initially designated

1 under section 244 (8 U.S.C. 1254a), or having such
2 a designation extended, before the date of the enact-
3 ment of this Act, an alien who is a national of such
4 state (or in the case of an alien having no nation-
5 ality, is a person who last habitually resided in such
6 state), and was unlawfully present in the United
7 States on the date of such designation or extension,
8 shall be subject to paragraph (2).

9 (2) ALIENS INELIGIBLE.—An alien described in
10 paragraph (1) shall not be considered eligible for
11 temporary protected status under section 244 pursu-
12 ant to any initial or succeeding extension of a des-
13 ignation described in such paragraph that takes ef-
14 fect after the date of the enactment of this Act, un-
15 less a law to the contrary is enacted before such ef-
16 fective date, except that if the Congress is adjourned
17 sine die on such effective date, the alien may be
18 granted temporary protected status for a period of
19 not more than 4 months.

20 **SEC. 902. GOOD MORAL CHARACTER.**

21 (a) IN GENERAL.—Section 101(f)(6) (8 U.S.C.
22 1101(f)(6)) is amended to read as follows:

23 “(6) one who, by fraud or willfully misrepre-
24 senting a material fact, seeks to procure (or has
25 sought to procure or has procured) a visa, other doc-

1 **SEC. 904. DESIGNATIONS OF FOREIGN TERRORIST ORGANI-**
2 **ZATIONS.**

3 Section 219 (8 U.S.C. 1189) is amended—

4 (1) by striking “Secretary” each place such
5 term appears, excluding subsection (a)(2)(C), and
6 inserting “official specified under subsection (d)”;

7 (2) in subsection (c)—

8 (A) in paragraph (2), by adding “and” at
9 the end;

10 (B) in paragraph (3), by striking “; and”
11 at the end and inserting a period; and

12 (C) by striking paragraph (4); and

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

14 “(d) IMPLEMENTATION OF DUTIES AND AUTHORI-
15 TIES.—The duties under this section shall, and authorities
16 under this section may, be exercised by the Secretary of
17 State, the Attorney General, or the Secretary of Homeland
18 Security.”.

19 **SEC. 905. FOREIGN STUDENTS.**

20 (a) LENGTH OF VISA TERM.—Section 221(c) (8
21 U.S.C. 1201(c)) is amended—

22 (1) by striking “A nonimmigrant visa” and in-
23 serting “Except as otherwise provided by law, a non-
24 immigrant visa”; and

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

1 “In the case of a nonimmigrant visa issued under subpara-
2 graph (F), (J), or (M) of section 101(a)(15) for study in
3 the United States, the visa shall not be valid for any pe-
4 riod in excess of the stated period that the institution or
5 place of study to which the visa relates determines is nec-
6 essary and proper for the purpose of achieving the objec-
7 tive of such study. Such determinations shall be timely
8 submitted, in accordance with such regulations as the Sec-
9 retary of Homeland Security may prescribe, as a condition
10 of the granting of authority to issue documents dem-
11 onstrating aliens’ eligibility for a visa under subparagraph
12 (F), (J), or (M) of section 101(a)(15).”

13 (b) ELIGIBLE INSTITUTION.—Section 214 (8 U.S.C.
14 1202), as amended by section 204 of this Act, is further
15 amended by adding at the end the following:

16 “(w) A nonimmigrant visa may not be issued under
17 subparagraph (F), (J), or (M) of section 101(a)(15) for
18 postsecondary study at an educational institution unless
19 that institution is an eligible institution for the purpose
20 of a program authorized under title IV of the Higher Edu-
21 cation Act of 1965 (20 U.S.C. 1070 et seq.).”

22 (c) EFFECTIVE DATE.—The amendment made by
23 subsection (a) shall take effect 6 months after the date
24 of the enactment of this Act. The amendment made by

1 subsection (b) shall take effect on the date of the enact-
2 ment of this Act.

3 **SEC. 906. PAY GRADE GS-15 AVAILABLE FOR TRIAL ATTOR-**
4 **NEYS.**

5 There are authorized to be appropriated such sums
6 as may be to establish a range for the annual rate of basic
7 pay for positions as a trial attorney in the Bureau of Cus-
8 toms and Border Protection, the Bureau of Immigration
9 and Customs Enforcement, and the Bureau of Citizenship
10 and Immigration Services between the minimum annual
11 rate of basic pay payable for grade GS-11 of the General
12 Schedule and the maximum annual rate of basic pay pay-
13 able for grade GS-15 of the General Schedule.

14 **SEC. 907. PROOF OF IDENTITY OF ALIENS SEEKING RELIEF.**

15 (a) ASYLUM.—Section 208(b)(2) (8 U.S.C.
16 1158(b)(2)) is amended by adding at the end the fol-
17 lowing:

18 “(E) PROOF OF IDENTITY.—No alien may
19 be granted asylum until the alien proves the
20 alien’s true identity by clear and convincing evi-
21 dence.”.

22 (b) ADJUSTMENT OF STATUS OF REFUGEES.—Sec-
23 tion 209 (8 U.S.C. 1159) is amended by adding at the
24 end the following:

1 “(d) No alien may have the alien’s status adjusted
2 under this section until the alien proves the alien’s true
3 identity by clear and convincing evidence.”.

4 (c) CANCELLATION OF REMOVAL.—Section 240A (8
5 U.S.C. 1229b) is amended by adding at the end the fol-
6 lowing:

7 “(f) PROOF OF IDENTITY.—No alien may receive re-
8 lief under this section until the alien proves the alien’s
9 true identity by clear and convincing evidence.”.

10 (d) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—
11 Section 245 (8 U.S.C. 1255) is amended—

12 (1) by redesignating the subsection (l) added by
13 section 1513(f) of Public Law 106–386 (114 Stat.
14 1536) as subsection (m); and

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

16 “(n) PROOF OF IDENTITY.—No alien may have the
17 alien’s status adjusted under this section until the alien
18 proves the alien’s true identity by clear and convincing evi-
19 dence.”.

20 (e) EFFECTIVE DATE.—The amendments made by
21 this section shall take effect on the date of the enactment
22 of this Act and shall apply to relief provided on and after
23 such date.

1 **SEC. 908. FOLLOWING TO JOIN DEFINED.**

2 Section 101(a) (8 U.S.C. 1101) is amended by adding
3 at the end the following:

4 “(51) The term ‘following to join’ when used with re-
5 spect to a spouse or child of an alien, means that the
6 spouse or child departs for the United States, in order
7 to reside with the alien, during the 1-year period beginning
8 on the date on which the alien is admitted into the United
9 States.”.

10 **SEC. 909. INFORMATION ON FOREIGN CRIMES.**

11 Section 245(a) is amended—

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

13 (2);

14 (2) by redesignating paragraph (3) as para-
15 graph (4); and

16 (3) by inserting after paragraph (2) the fol-
17 lowing: “(3) the Secretary of Homeland Security has
18 thoroughly examined the alien’s countries of prior
19 residence to determine that the alien has not com-
20 mitted a crime in those countries making the alien
21 inadmissible, and”.

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