

Subsec. (f)(1). Pub. L. 104-208, §308(g)(5)(A)(i), substituted “section 1229a” for “section 1252”.

Subsec. (g). Pub. L. 104-208, §308(e)(1)(M), which directed amendment of subsec. (g) by substituting “removal” for “deportation” wherever appearing, could not be executed because the word “deportation” did not appear in subsec. (g).

Pub. L. 104-208, §133, added subsec. (g).

1991—Subsec. (a)(4). Pub. L. 102-232 substituted a semicolon for comma at end.

1990—Subsec. (a). Pub. L. 101-649, §503(a), struck out “and” at end of par. (3), substituted “United States, and” for “United States. Any such employee shall also have the power to execute any warrant or other process issued by any officer under any law regulating the admission, exclusion, or expulsion of aliens.” at end of par. (4), and added par. (5) and concluding provisions.

Subsec. (f). Pub. L. 101-649, §503(b)(1), added subsec. (f).

1988—Subsec. (d). Pub. L. 100-525, §5, added par. (3) and closing provisions and struck out former par. (3) which read as follows: “requests the Service to determine promptly whether or not to issue a detainer to detain the alien, the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.”

Subsec. (e). Pub. L. 100-525, §2(e)(2), made technical amendment to directory language of Pub. L. 99-603, §116, and redesignated the subsec. (d) added by such §116, as (e). See 1986 Amendment note below.

1986—Subsec. (d). Pub. L. 99-570 added subsec. (d).

Subsec. (e). Pub. L. 99-603, as amended by Pub. L. 100-525, §2(e), added subsec. (e), which prior to amendment by Pub. L. 100-525, was designated as a second subsec. (d) of this section.

1976—Subsec. (b). Pub. L. 94-550 inserted “(or who has executed an unsworn declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28)” after “to whom such oath has been administered” and “(or subscribe under penalty of perjury as permitted under section 1746 of title 28)” after “give false evidence or swear”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(d)(4)(L), (e)(1)(M), (g)(5)(A)(i) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 2(e) of Pub. L. 100-525 effective as if included in enactment of Immigration Reform and Control Act of 1986, Pub. L. 99-603, see section 2(s) of Pub. L. 100-525, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1304 of this title.

§ 1358. Local jurisdiction over immigrant stations

The officers in charge of the various immigrant stations shall admit therein the proper State and local officers charged with the enforcement of the laws of the State or Territory of the United States in which any such immigrant station is located in order that such State

and local officers may preserve the peace and make arrests for crimes under the laws of the States and Territories. For the purpose of this section the jurisdiction of such State and local officers and of the State and local courts shall extend over such immigrant stations.

(June 27, 1952, ch. 477, title II, ch. 9, §288, 66 Stat. 234.)

§ 1359. Application to American Indians born in Canada

Nothing in this subchapter shall be construed to affect the right of American Indians born in Canada to pass the borders of the United States, but such right shall extend only to persons who possess at least 50 per centum of blood of the American Indian race.

(June 27, 1952, ch. 477, title II, ch. 9, §289, 66 Stat. 234.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1612 of this title.

§ 1360. Establishment of central file; information from other departments and agencies

(a) Establishment of central file

There shall be established in the office of the Commissioner, for the use of security and enforcement agencies of the Government of the United States, a central index, which shall contain the names of all aliens heretofore admitted or denied admission to the United States, insofar as such information is available from the existing records of the Service, and the names of all aliens hereafter admitted or denied admission to the United States, the names of their sponsors of record, if any, and such other relevant information as the Attorney General shall require as an aid to the proper enforcement of this chapter.

(b) Information from other departments and agencies

Any information in any records kept by any department or agency of the Government as to the identity and location of aliens in the United States shall be made available to the Service upon request made by the Attorney General to the head of any such department or agency.

(c) Reports on social security account numbers and earnings of aliens not authorized to work

(1) Not later than 3 months after the end of each fiscal year (beginning with fiscal year 1996), the Commissioner of Social Security shall report to the Committees on the Judiciary of the House of Representatives and the Senate on the aggregate quantity of social security account numbers issued to aliens not authorized to be employed, with respect to which, in such fiscal year, earnings were reported to the Social Security Administration.

(2) If earnings are reported on or after January 1, 1997, to the Social Security Administration on a social security account number issued to an alien not authorized to work in the United States, the Commissioner of Social Security shall provide the Attorney General with information regarding the name and address of the

alien, the name and address of the person reporting the earnings, and the amount of the earnings. The information shall be provided in an electronic form agreed upon by the Commissioner and the Attorney General.

(d) Certification of search of Service records

A written certification signed by the Attorney General or by any officer of the Service designated by the Attorney General to make such certification, that after diligent search no record or entry of a specified nature is found to exist in the records of the Service, shall be admissible as evidence in any proceeding as evidence that the records of the Service contain no such record or entry, and shall have the same effect as the testimony of a witness given in open court.

(June 27, 1952, ch. 477, title II, ch. 9, § 290, 66 Stat. 234; Pub. L. 100-525, § 9(q), Oct. 24, 1988, 102 Stat. 2621; Pub. L. 104-208, div. C, title III, § 308(d)(4)(M), title IV, § 414(a), Sept. 30, 1996, 110 Stat. 3009-618, 3009-669.)

AMENDMENTS

1996—Subsec. (a). Pub. L. 104-208, § 308(d)(4)(M), substituted “admitted or denied admission to the United States” for “admitted to the United States, or excluded therefrom” in two places.

Subsec. (c). Pub. L. 104-208, § 414(a), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The Secretary of Health and Human Services shall notify the Attorney General upon request whenever any alien is issued a social security account number and social security card. The Secretary shall also furnish such available information as may be requested by the Attorney General regarding the identity and location of aliens in the United States.”

1988—Subsec. (c). Pub. L. 100-525 substituted “Secretary of Health and Human Services” for “Federal Security Administrator” and “The Secretary” for “The Administrator”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(d)(4)(M) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

REPORT ON FRAUDULENT USE OF SOCIAL SECURITY ACCOUNT NUMBERS

Section 414(b) of div. C of Pub. L. 104-208 provided that: “The Commissioner of Social Security shall transmit to the Attorney General, by not later than 1 year after the date of the enactment of this Act [Sept. 30, 1996], a report on the extent to which social security account numbers and cards are used by aliens for fraudulent purposes.”

§ 1361. Burden of proof upon alien

Whenever any person makes application for a visa or any other document required for entry, or makes application for admission, or otherwise attempts to enter the United States, the burden of proof shall be upon such person to establish that he is eligible to receive such visa or such document, or is not inadmissible under any provision of this chapter, and, if an alien, that he is entitled to the nonimmigrant, immigrant, special immigrant, immediate relative, or refugee status claimed, as the case may be. If such person fails to establish to the satisfaction of the consular officer that he is eligible to receive

a visa or other document required for entry, no visa or other document required for entry shall be issued to such person, nor shall such person be admitted to the United States unless he establishes to the satisfaction of the Attorney General that he is not inadmissible under any provision of this chapter. In any removal proceeding under part IV of this subchapter against any person, the burden of proof shall be upon such person to show the time, place, and manner of his entry into the United States, but in presenting such proof he shall be entitled to the production of his visa or other entry document, if any, and of any other documents and records, not considered by the Attorney General to be confidential, pertaining to such entry in the custody of the Service. If such burden of proof is not sustained, such person shall be presumed to be in the United States in violation of law.

(June 27, 1952, ch. 477, title II, ch. 9, § 291, 66 Stat. 234; Pub. L. 97-116, § 18(k)(1), Dec. 29, 1981, 95 Stat. 1620; Pub. L. 104-208, div. C, title III, § 308(d)(4)(N), (e)(1)(N), (g)(9)(A), Sept. 30, 1996, 110 Stat. 3009-618, 3009-619, 3009-624.)

AMENDMENTS

1996—Pub. L. 104-208, § 308(g)(9)(A), substituted “part IV” for “Part V”.

Pub. L. 104-208, § 308(e)(1)(N), substituted “removal” for “deportation”.

Pub. L. 104-208, § 308(d)(4)(N), substituted “inadmissible” for “subject to exclusion” in two places.

1981—Pub. L. 97-116 substituted “immigrant, special immigrant, immediate relative, or refugee” for “quota immigrant, or nonquota immigrant”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180 days after Sept. 30, 1996, see section 309 of Pub. L. 104-208, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

§ 1362. Right to counsel

In any removal proceedings before an immigration judge and in any appeal proceedings before the Attorney General from any such removal proceedings, the person concerned shall have the privilege of being represented (at no expense to the Government) by such counsel, authorized to practice in such proceedings, as he shall choose.

(June 27, 1952, ch. 477, title II, ch. 9, § 292, 66 Stat. 235; Pub. L. 104-208, div. C, title III, §§ 308(d)(4)(O), 371(b)(9), Sept. 30, 1996, 110 Stat. 3009-619, 3009-645.)

AMENDMENTS

1996—Pub. L. 104-208, § 371(b)(9), substituted “an immigration judge” for “a special inquiry officer”.

Pub. L. 104-208, § 308(d)(4)(O), substituted “removal” for “exclusion or deportation” in two places.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 308(d)(4)(O) of Pub. L. 104-208 effective, with certain transitional provisions, on the first day of the first month beginning more than 180