

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 3004
OFFERED BY MR. DAVIDSON OF OHIO**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Michael Davis, Jr. and
3 Danny Oliver in Honor of State and Local Law Enforce-
4 ment Act”.

5 SEC. 2. TABLE OF CONTENTS.

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

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LOCALITIES

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1 **TITLE I—IMMIGRATION LAW EN-**
2 **FORCEMENT BY STATES AND**
3 **LOCALITIES**

4 **SEC. 101. DEFINITIONS AND SEVERABILITY.**

5 (a) STATE DEFINED.—For the purposes of this title,
6 the term “State” has the meaning given to such term in
7 section 101(a)(36) of the Immigration and Nationality Act
8 (8 U.S.C. 1101(a)(36)).

1 (b) SECRETARY DEFINED.—For the purpose of this
2 title, the term “Secretary” means the Secretary of Home-
3 land Security.

4 (c) SEVERABILITY.—If any provision of this title, or
5 the application of such provision to any person or cir-
6 cumstance, is held invalid, the remainder of this title, and
7 the application of such provision to other persons not simi-
8 larly situated or to other circumstances, shall not be af-
9 fected by such invalidation.

10 **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**
11 **AND LOCALITIES.**

12 (a) IN GENERAL.—Subject to section 274A(h)(2) of
13 the Immigration and Nationality Act (8 U.S.C.
14 1324a(h)(2)), States, or political subdivisions of States,
15 may enact, implement and enforce criminal penalties that
16 penalize the same conduct that is prohibited in the crimi-
17 nal provisions of immigration laws (as defined in section
18 101(a)(17) of the Immigration and Nationality Act (8
19 U.S.C. 1101(a)(17))), as long as the criminal penalties do
20 not exceed the relevant Federal criminal penalties (without
21 regard to ancillary issues such as the availability of proba-
22 tion or pardon). States, or political subdivisions of States,
23 may enact, implement and enforce civil penalties that pe-
24 nalize the same conduct that is prohibited in the civil pro-
25 visions of immigration laws (as defined in such section

1 101(a)(17)), as long as the civil penalties do not exceed
2 the relevant Federal civil penalties.

3 (b) **LAW ENFORCEMENT PERSONNEL.**—Subject to
4 section 274A(h)(2) of the Immigration and Nationality
5 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of
6 a State, or of a political subdivision of a State, may inves-
7 tigate, identify, apprehend, arrest, detain, or transfer to
8 Federal custody aliens for the purposes of enforcing the
9 immigration laws of the United States to the same extent
10 as Federal law enforcement personnel. Law enforcement
11 personnel of a State, or of a political subdivision of a
12 State, may also investigate, identify, apprehend, arrest, or
13 detain aliens for the purposes of enforcing the immigration
14 laws of a State or of a political subdivision of State, as
15 long as those immigration laws are permissible under this
16 section. Law enforcement personnel of a State, or of a po-
17 litical subdivision of a State, may not admit aliens to or
18 remove them from the United States.

19 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**
20 **TIONAL CRIME INFORMATION CENTER DATA-**
21 **BASE.**

22 (a) **PROVISION OF INFORMATION TO THE NCIC.**—
23 Not later than 180 days after the date of the enactment
24 of this Act and periodically thereafter as updates may re-
25 quire, the Secretary shall provide the National Crime In-

1 formation Center of the Department of Justice with all
2 information that the Secretary may possess regarding any
3 alien against whom a final order of removal has been
4 issued, any alien who has entered into a voluntary depart-
5 ure agreement, any alien who has violated the terms or
6 conditions of the alien's admission or parole into the
7 United States or is unlawfully present in the United
8 States (as defined in section 212(a)(9)(B)(ii) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii))
10 subject to the exceptions set forth in section
11 212(a)(9)(B)(iii) of the Act (8 U.S.C.
12 1182(a)(9)(B)(iii))), and any alien whose visa has been
13 revoked. The National Crime Information Center shall
14 enter such information into the Immigration Violators File
15 of the National Crime Information Center database, re-
16 gardless of whether—

17 (1) the alien has received notice of a final order
18 of removal;

19 (2) the alien has already been removed; or

20 (3) sufficient identifying information is avail-
21 able with respect to the alien.

22 (b) INCLUSION OF INFORMATION IN THE NCIC
23 DATABASE.—

24 (1) IN GENERAL.—Section 534(a) of title 28,
25 United States Code, is amended—

1 (A) in paragraph (3), by striking “and” at
2 the end;

3 (B) by redesignating paragraph (4) as
4 paragraph (5); and

5 (C) by inserting after paragraph (3) the
6 following:

7 “(4) acquire, collect, classify, and preserve
8 records of violations by aliens of the immigration
9 laws (as defined in section 101(a)(17) of the Immi-
10 gration and Nationality Act (8 U.S.C.
11 1101(a)(17))), regardless of whether any such alien
12 has received notice of the violations or whether suffi-
13 cient identifying information is available with respect
14 to any such alien or whether any such alien has al-
15 ready been removed from the United States; and”.

16 (2) EFFECTIVE DATE.—The Attorney General
17 and the Secretary shall ensure that the amendment
18 made by paragraph (1) is implemented by not later
19 than 6 months after the date of the enactment of
20 this Act.

21 **SEC. 104. TECHNOLOGY ACCESS.**

22 States shall have access to Federal programs or tech-
23 nology directed broadly at identifying inadmissible or de-
24 portable aliens.

1 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**
2 **SION OF INFORMATION ABOUT APPRE-**
3 **HENDED ALIENS.**

4 (a) PROVISION OF INFORMATION.—In compliance
5 with section 642 of the Illegal Immigration Reform and
6 Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)
7 and section 434 of the Personal Responsibility and Work
8 Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),
9 each State, and each political subdivision of a State, shall
10 provide the Secretary of Homeland Security in a timely
11 manner with the information specified in subsection (b)
12 with respect to each alien apprehended in the jurisdiction
13 of the State, or in the political subdivision of the State,
14 who is believed to be inadmissible or deportable.

15 (b) INFORMATION REQUIRED.—The information re-
16 ferred to in subsection (a) is as follows:

17 (1) The alien's name.

18 (2) The alien's address or place of residence.

19 (3) A physical description of the alien.

20 (4) The date, time, and location of the encoun-
21 ter with the alien and reason for stopping, detaining,
22 apprehending, or arresting the alien.

23 (5) If applicable, the alien's driver's license
24 number and the State of issuance of such license.

25 (6) If applicable, the type of any other identi-
26 fication document issued to the alien, any designa-

1 tion number contained on the identification docu-
2 ment, and the issuing entity for the identification
3 document.

4 (7) If applicable, the license plate number,
5 make, and model of any automobile registered to, or
6 driven by, the alien.

7 (8) A photo of the alien, if available or readily
8 obtainable.

9 (9) The alien's fingerprints, if available or read-
10 ily obtainable.

11 (c) ANNUAL REPORT ON REPORTING.—The Sec-
12 retary shall maintain and annually submit to the Congress
13 a detailed report listing the States, or the political subdivi-
14 sions of States, that have provided information under sub-
15 section (a) in the preceding year.

16 (d) REIMBURSEMENT.—The Secretary shall reim-
17 burse States, and political subdivisions of a State, for all
18 reasonable costs, as determined by the Secretary, incurred
19 by the State, or the political subdivision of a State, as
20 a result of providing information under subsection (a).

21 (e) CONSTRUCTION.—Nothing in this section shall re-
22 quire law enforcement officials of a State, or of a political
23 subdivision of a State, to provide the Secretary with infor-
24 mation related to a victim of a crime or witness to a crimi-
25 nal offense.

1 (f) EFFECTIVE DATE.—This section shall take effect
2 on the date that is 120 days after the date of the enact-
3 ment of this Act and shall apply with respect to aliens
4 apprehended on or after such date.

5 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**
6 **POLICE AGENCIES THAT ASSIST IN THE EN-**
7 **FORCEMENT OF IMMIGRATION LAWS.**

8 (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING
9 AND PROCESSING CERTAIN ALIENS.—From amounts
10 made available to make grants under this section, the Sec-
11 retary shall make grants to States, and to political subdivi-
12 sions of States, for procurement of equipment, technology,
13 facilities, and other products that facilitate and are di-
14 rectly related to investigating, apprehending, arresting,
15 detaining, or transporting aliens who are inadmissible or
16 deportable, including additional administrative costs in-
17 curred under this title.

18 (b) ELIGIBILITY.—To be eligible to receive a grant
19 under this section, a State, or a political subdivision of
20 a State shall have a written policy and a practice to assist
21 in the enforcement of the immigration laws of the United
22 States in the course of carrying out the routine law en-
23 forcement duties of such State or political subdivision of
24 a State. Entities covered under this section may not have
25 any policy or practice that is in violation of section 642

1 of the Illegal Immigration Reform and Immigrant Respon-
2 sibility Act of 1996 (8 U.S.C. 1373).

3 (c) GAO AUDIT.—Not later than 3 years after the
4 date of the enactment of this Act, the Comptroller General
5 of the United States shall conduct an audit of funds dis-
6 tributed to States, and to political subdivisions of a State,
7 under subsection (a).

8 **SEC. 107. INCREASED FEDERAL DETENTION SPACE.**

9 (a) CONSTRUCTION OR ACQUISITION OF DETENTION
10 FACILITIES.—

11 (1) IN GENERAL.—The Secretary shall con-
12 struct or acquire, in addition to existing facilities for
13 the detention of aliens, detention facilities in the
14 United States for aliens detained pending removal
15 from the United States or a decision regarding such
16 removal. Each facility shall have a number of beds
17 necessary to effectuate the purposes of this title.

18 (2) DETERMINATIONS.—The location of any de-
19 tention facility built or acquired in accordance with
20 this subsection shall be determined by the Secretary.

21 (b) TECHNICAL AND CONFORMING AMENDMENT.—
22 Section 241(g)(1) of the Immigration and Nationality Act
23 (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-
24 pend” and inserting “shall expend”.

1 **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**
2 **PORTABLE ALIENS IN THE UNITED STATES**
3 **APPREHENDED BY STATE OR LOCAL LAW EN-**
4 **FORCEMENT.**

5 (a) STATE APPREHENSION.—

6 (1) IN GENERAL.—Title II of the Immigration
7 and Nationality Act (8 U.S.C. 1151 et seq.) is
8 amended by inserting after section 240C the fol-
9 lowing:

10 “CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS
11 PRESENT IN THE UNITED STATES

12 “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE
13 AND LOCAL OFFICIALS.—If a State, or a political subdivi-
14 sion of the State, exercising authority with respect to the
15 apprehension or arrest of an inadmissible or deportable
16 alien submits to the Secretary of Homeland Security a re-
17 quest that the alien be taken into Federal custody, not-
18 withstanding any other provision of law, regulation, or pol-
19 icy the Secretary may take the alien into custody not later
20 than 48 hours (excluding Saturdays, Sundays, and holi-
21 days) after a detainer has been issued pursuant to section
22 111(b)(2) of the Michael Davis, Jr. and Danny Oliver in
23 Honor of State and Local Law Enforcement Act following
24 the conclusion of the State or local charging process or
25 dismissal process, or if no State or local charging or dis-
26 missal process is required, the Secretary may take the

1 alien into custody not later than 48 hours (excluding Sat-
2 urdays, Sundays, and holidays) after a detainer has been
3 issued pursuant to section 111(b)(2) of the Michael Davis,
4 Jr. and Danny Oliver in Honor of State and Local Law
5 Enforcement Act, in order to determine whether the alien
6 should be detained, placed in removal proceedings, re-
7 leased, or removed.

8 “(b) POLICY ON DETENTION IN FEDERAL, CON-
9 TRACT, STATE, OR LOCAL DETENTION FACILITIES.—In
10 carrying out section 241(g)(1), Secretary of Homeland Se-
11 curity shall ensure that an alien arrested under this title
12 shall be held in custody, pending the alien’s examination
13 under this section, in a Federal, contract, State, or local
14 prison, jail, detention center, or other comparable facility.
15 Notwithstanding any other provision of law, regulation or
16 policy, such facility is adequate for detention, if—

17 “(1) such a facility is the most suitably located
18 Federal, contract, State, or local facility available for
19 such purpose under the circumstances;

20 “(2) an appropriate arrangement for such use
21 of the facility can be made; and

22 “(3) the facility satisfies the standards for the
23 housing, care, and security of persons held in cus-
24 tody by a United States Marshal.

1 “(c) REIMBURSEMENT.—The Secretary of Homeland
2 Security shall reimburse a State, or a political subdivision
3 of a State, for all reasonable expenses, as determined by
4 the Secretary, incurred by the State, or political subdivi-
5 sion, as a result of the incarceration and transportation
6 of an alien who is inadmissible or deportable as described
7 in subsections (a) and (b). Compensation provided for
8 costs incurred under such subsections shall be the average
9 cost of incarceration of a prisoner in the relevant State,
10 as determined by the chief executive officer of a State,
11 or of a political subdivision of a State, plus the cost of
12 transporting the alien from the point of apprehension to
13 the place of detention, and to the custody transfer point
14 if the place of detention and place of custody are different.

15 “(d) SECURE FACILITIES.—The Secretary of Home-
16 land Security shall ensure that aliens incarcerated pursu-
17 ant to this title are held in facilities that provide an appro-
18 priate level of security.

19 “(e) TRANSFER.—

20 “(1) IN GENERAL.—In carrying out this sec-
21 tion, the Secretary of Homeland Security shall es-
22 tablish a regular circuit and schedule for the prompt
23 transfer of apprehended aliens from the custody of
24 States, and political subdivisions of a State, to Fed-
25 eral custody.

1 of the enactment of this Act, the Secretary shall estab-
2 lish—

3 (1) a training manual for law enforcement per-
4 sonnel of a State, and of a political subdivision of
5 a State, to train such personnel in the investigation,
6 identification, apprehension, arrest, detention, and
7 transfer to Federal custody of inadmissible and de-
8 portable aliens in the United States (including the
9 transportation of such aliens across State lines to
10 detention centers and the identification of fraudulent
11 documents); and

12 (2) an immigration enforcement pocket guide
13 for law enforcement personnel of a State, and of a
14 political subdivision of a State, to provide a quick
15 reference for such personnel in the course of duty.

16 (b) AVAILABILITY.—The training manual and pocket
17 guide established in accordance with subsection (a) shall
18 be made available to all State and local law enforcement
19 personnel.

20 (c) COSTS.—The Secretary shall be responsible for
21 any costs incurred in establishing the training manual and
22 pocket guide.

23 (d) TRAINING FLEXIBILITY.—

24 (1) IN GENERAL.—The Secretary shall make
25 training of State and local law enforcement officers

1 available through as many means as possible, includ-
2 ing through residential training at the Center for
3 Domestic Preparedness, onsite training held at State
4 and local police agencies or facilities, online training
5 courses by computer, teleconferencing, and video-
6 tape, or the digital video display (DVD) of a train-
7 ing course or courses. E-learning through a secure,
8 encrypted distributed learning system that has all its
9 servers based in the United States, is scalable, sur-
10 vivable, and can have a portal in place not later than
11 30 days after the date of the enactment of this Act,
12 shall be made available by the Federal Law Enforce-
13 ment Training Center Distributed Learning Pro-
14 gram for State and local law enforcement personnel.

15 (2) FEDERAL PERSONNEL TRAINING.—The
16 training of State and local law enforcement per-
17 sonnel under this section shall not displace the train-
18 ing of Federal personnel.

19 (3) CLARIFICATION.—Nothing in this title or
20 any other provision of law shall be construed as
21 making any immigration-related training a require-
22 ment for, or prerequisite to, any State or local law
23 enforcement officer to assist in the enforcement of
24 Federal immigration laws.

1 (4) **PRIORITY.**—In carrying out this subsection,
2 priority funding shall be given for existing web-based
3 immigration enforcement training systems.

4 **SEC. 110. IMMUNITY.**

5 Notwithstanding any other provision of law, a law en-
6 forcement officer of a State or local law enforcement agen-
7 cy who is acting within the scope of the officer's official
8 duties shall be immune, to the same extent as a Federal
9 law enforcement officer, from personal liability arising out
10 of the performance of any duty described in this title, in-
11 cluding the authorities to investigate, identify, apprehend,
12 arrest, detain, or transfer to Federal custody, an alien for
13 the purposes of enforcing the immigration laws of the
14 United States (as defined in section 101(a)(17) of the Im-
15 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or
16 the immigration laws of a State or a political subdivision
17 of a State.

18 **SEC. 111. CRIMINAL ALIEN IDENTIFICATION PROGRAM.**

19 (a) **CONTINUATION AND EXPANSION.**—

20 (1) **IN GENERAL.**—The Secretary shall continue
21 to operate and implement a program designed to—

22 (A) identify removable criminal aliens in
23 Federal and State correctional facilities;

24 (B) ensure such aliens are not released
25 into the community; and

1 (C) remove such aliens from the United
2 States after the completion of their sentences.

3 (2) EXPANSION.—The program shall be ex-
4 tended to all States. Any State that receives Federal
5 funds for the incarceration of criminal aliens (pursu-
6 ant to the State Criminal Alien Assistance Program
7 authorized under section 241(i) of the Immigration
8 and Nationality Act (8 U.S.C. 1231(i)) or other
9 similar program) shall—

10 (A) cooperate with officials of the program;

11 (B) expeditiously and systematically iden-
12 tify criminal aliens in its prison and jail popu-
13 lations; and

14 (C) promptly convey such information to
15 officials of such program as a condition of re-
16 ceiving such funds.

17 (b) AUTHORIZATION FOR DETENTION AFTER COM-
18 PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law
19 enforcement officers of a State, or of a political subdivision
20 of a State, are authorized to—

21 (1) hold a criminal alien for a period of up to
22 48 hours (excluding Saturdays, Sundays, and holi-
23 days) after the alien has completed the alien's sen-
24 tence under State or local law in order to effectuate

1 the transfer of the alien to Federal custody when the
2 alien is inadmissible or deportable; and

3 (2) issue a detainer that would allow aliens who
4 have served a prison sentence under State or local
5 law to be detained by the State or local prison or jail
6 until the Secretary can take the alien into custody.

7 (c) **TECHNOLOGY USAGE.**—Technology, such as video
8 conferencing, shall be used to the maximum extent prac-
9 ticable in order to make the program available in remote
10 locations. Mobile access to Federal databases of aliens and
11 live scan technology shall be used to the maximum extent
12 practicable in order to make these resources available to
13 State and local law enforcement agencies in remote loca-
14 tions.

15 (d) **EFFECTIVE DATE.**—This section shall take effect
16 of the date of the enactment of this Act, except that sub-
17 section (a)(2) shall take effect on the date that is 180 days
18 after such date.

19 **SEC. 112. CLARIFICATION OF CONGRESSIONAL INTENT.**

20 Section 287(g) of the Immigration and Nationality
21 Act (8 U.S.C. 1357(g)) is amended—

22 (1) in paragraph (1) by striking “may enter”
23 and all that follows through the period at the end
24 and inserting the following: “shall enter into a writ-
25 ten agreement with a State, or any political subdivi-

1 sion of a State, upon request of the State or political
2 subdivision, pursuant to which officers or employees
3 of the State or subdivision, who are determined by
4 the Secretary to be qualified to perform a function
5 of an immigration officer in relation to the investiga-
6 tion, apprehension, or detention of aliens in the
7 United States (including the transportation of such
8 aliens across State lines to detention centers), may
9 carry out such function at the expense of the State
10 or political subdivision and to extent consistent with
11 State and local law. No request from a bona fide
12 State or political subdivision or bona fide law en-
13 forcement agency shall be denied absent a compel-
14 ling reason. No limit on the number of agreements
15 under this subsection may be imposed. The Sec-
16 retary shall process requests for such agreements
17 with all due haste, and in no case shall take not
18 more than 90 days from the date the request is
19 made until the agreement is consummated.”;

20 (2) by redesignating paragraph (2) as para-
21 graph (5) and paragraphs (3) through (10) as para-
22 graphs (7) through (14), respectively;

23 (3) by inserting after paragraph (1) the fol-
24 lowing:

1 “(2) An agreement under this subsection shall accom-
2 modate a requesting State or political subdivision with re-
3 spect to the enforcement model or combination of models,
4 and shall accommodate a patrol model, task force model,
5 jail model, any combination thereof, or any other reason-
6 able model the State or political subdivision believes is best
7 suited to the immigration enforcement needs of its juris-
8 diction.

9 “(3) No Federal program or technology directed
10 broadly at identifying inadmissible or deportable aliens
11 shall substitute for such agreements, including those es-
12 tablishing a jail model, and shall operate in addition to
13 any agreement under this subsection.

14 “(4)(A) No agreement under this subsection shall be
15 terminated absent a compelling reason.

16 “(B)(i) The Secretary shall provide a State or polit-
17 ical subdivision written notice of intent to terminate at
18 least 180 days prior to date of intended termination, and
19 the notice shall fully explain the grounds for termination,
20 along with providing evidence substantiating the Sec-
21 retary’s allegations.

22 “(ii) The State or political subdivision shall have the
23 right to a hearing before an administrative law judge and,
24 if the ruling is against the State or political subdivision,
25 to appeal the ruling to the Federal Circuit Court of Ap-

1 peals and, if the ruling is against the State or political
2 subdivision, to petition the Supreme Court for certiorari.

3 “(C) The agreement shall remain in full effect during
4 the course of any and all legal proceedings.”; and

5 (4) by inserting after paragraph (5) (as redesign-
6 nated) the following:

7 “(6) The Secretary of Homeland Security shall make
8 training of State and local law enforcement officers avail-
9 able through as many means as possible, including
10 through residential training at the Center for Domestic
11 Preparedness and the Federal Law Enforcement Training
12 Center, onsite training held at State or local police agen-
13 cies or facilities, online training courses by computer, tele-
14 conferencing, and videotape, or the digital video display
15 (DVD) of a training course or courses. Distance learning
16 through a secure, encrypted distributed learning system
17 that has all its servers based in the United States, is scal-
18 able, survivable, and can have a portal in place not later
19 than 30 days after the date of the enactment of this Act,
20 shall be made available by the COPS Office of the Depart-
21 ment of Justice and the Federal Law Enforcement Train-
22 ing Center Distributed Learning Program for State and
23 local law enforcement personnel. Preference shall be given
24 to private sector-based web-based immigration enforce-

1 ment training programs for which the Federal Govern-
2 ment has already provided support to develop.”.

3 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**
4 **(SCAAP).**

5 Section 241(i) of the Immigration and Nationality
6 Act (8 U.S.C. 1231(i)) is amended—

7 (1) by striking “Attorney General” the first
8 place such term appears and inserting “Secretary of
9 Homeland Security”;

10 (2) by striking “Attorney General” each place
11 such term appears thereafter and inserting “Sec-
12 retary”; and

13 (3) in paragraph (3)(A), by inserting “charged
14 with or” before “convicted”.

15 **SEC. 114. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**
16 **IMMIGRATION LAW.**

17 (a) IN GENERAL.—Section 642 of the Illegal Immi-
18 gration Reform and Immigrant Responsibility Act of 1996
19 (8 U.S.C. 1373) is amended—

20 (1) by striking subsection (a) and inserting the
21 following:

22 “(a) IN GENERAL.—Notwithstanding any other pro-
23 vision of Federal, State, or local law, no Federal, State,
24 or local government entity, and no individual, may prohibit
25 or in any way restrict, a Federal, State, or local govern-

1 ment entity, official or other personnel from complying
2 with the immigration laws (as defined in section
3 101(a)(17) of the Immigration and Nationality Act (8
4 U.S.C. 1101(a)(17))), or from assisting or cooperating
5 with Federal law enforcement entities, officials or other
6 personnel regarding the enforcement of these laws.”;

7 (2) by striking subsection (b) and inserting the
8 following:

9 “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-
10 standing any other provision of Federal, State, or local
11 law, no Federal, State, or local government entity, and no
12 individual, may prohibit, or in any way restrict, a Federal,
13 State, or local government entity, official or other per-
14 sonnel from undertaking any of the following law enforce-
15 ment activities as they relate to information regarding the
16 citizenship or immigration status, lawful or unlawful, the
17 inadmissibility or deportability, and the custody status, of
18 any individual:

19 “(1) Making inquiries to any individual in order
20 to obtain such information regarding such individual
21 or any other individuals.

22 “(2) Notifying the Federal Government regard-
23 ing the presence of individuals who are encountered
24 by law enforcement officials or other personnel of a
25 State or political subdivision of a State.

1 “(3) Complying with requests for such informa-
2 tion from Federal law enforcement entities, officials
3 or other personnel.”;

4 (3) by amending subsection (c) by striking “Im-
5 migration and Naturalization Service” and inserting
6 “Department of Homeland Security”; and

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

8 “(d) COMPLIANCE.—

9 “(1) ELIGIBILITY FOR CERTAIN GRANT PRO-
10 GRAMS.—A State, or a political subdivision of a
11 State, that is found not to be in compliance with
12 subsection (a) or (b) shall not be eligible to receive—

13 “(A) any of the funds that would otherwise
14 be allocated to the State or political subdivision
15 under section 241(i) of the Immigration and
16 Nationality Act (8 U.S.C. 1231(i)), the ‘Cops
17 on the Beat’ program under part Q of title I of
18 the Omnibus Crime Control and Safe Streets
19 Act of 1968 (42 U.S.C. 3796dd et seq.), or the
20 Edward Byrne Memorial Justice Assistance
21 Grant Program (42 U.S.C. 3750–3758); or

22 “(B) any other grant administered by the
23 Department of Justice or Department of Home-
24 land Security that is substantially related to law

1 enforcement, terrorism, national security, or im-
2 migration or naturalization.

3 “(2) TRANSFER OF CUSTODY OF ALIENS PEND-
4 ING REMOVAL PROCEEDINGS.—The Secretary, at the
5 Secretary’s discretion, may decline to transfer an
6 alien in the custody of the Department of Homeland
7 Security to a State or political subdivision of a State
8 found not to be in compliance with subsection (a) or
9 (b), regardless of whether the State or political sub-
10 division of the State has issued a writ or warrant.

11 “(3) TRANSFER OF CUSTODY OF CERTAIN
12 ALIENS PROHIBITED.—The Secretary shall not
13 transfer an alien with a final order of removal pur-
14 suant to paragraphs (1)(A) or (5) of section 241(a)
15 of the Immigration and Nationality Act (8 U.S.C.
16 1231(a)(1)(A), (5)) to a State or a political subdivi-
17 sion of a State that is found not to be in compliance
18 with subsection (a) or (b) .

19 “(4) ANNUAL DETERMINATION.—The Secretary
20 shall determine for each calendar year which States
21 or political subdivision of States are not in compli-
22 ance with subsection (a) or (b) and shall report such
23 determinations to Congress by March 1 of each suc-
24 ceeding calendar year.

1 “(5) REPORTS.—The Secretary of Homeland
2 Security shall issue a report concerning the compli-
3 ance with subsections (a) and (b) of any particular
4 State or political subdivision of a State at the re-
5 quest of the House or Senate Judiciary Committee.
6 Any jurisdiction that is found not to be in compli-
7 ance shall be ineligible to receive Federal financial
8 assistance as provided in paragraph (1) for a min-
9 imum period of 1 year, and shall only become eligi-
10 ble again after the Secretary of Homeland Security
11 certifies that the jurisdiction has come into compli-
12 ance.

13 “(6) REALLOCATION.—Any funds that are not
14 allocated to a State or to a political subdivision of
15 a State due to the failure of the State or of the po-
16 litical subdivision of the State to comply with sub-
17 section (a) or (b) shall be reallocated to States or to
18 political subdivisions of States that comply with both
19 such subsections.

20 “(e) CONSTRUCTION.—Nothing in this section shall
21 require law enforcement officials from States, or from po-
22 litical subdivisions of States, to report or arrest victims
23 or witnesses of a criminal offense.”.

24 (b) EFFECTIVE DATE.—The amendments made by
25 this section shall take effect on the date of the enactment

1 of this Act, except that subsection (d) of section 642 of
2 the Illegal Immigration Reform and Immigrant Responsi-
3 bility Act of 1996 (8 U.S.C. 1373), as added by this sec-
4 tion, shall apply only to prohibited acts committed on or
5 after the date of the enactment of this Act.

6 **SEC. 115. CLARIFYING THE AUTHORITY OF ICE DETAINERS.**

7 (a) IN GENERAL.—Section 287(d) of the Immigra-
8 tion and Nationality Act (8 U.S.C. 1357(d)) is amended
9 to read as follows:

10 “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE
11 ALIENS.—

12 “(1) IN GENERAL.—In the case of an individual
13 who is arrested by any Federal, State, or local law
14 enforcement official or other personnel for the al-
15 leged violation of any criminal or motor vehicle law,
16 the Secretary may issue a detainer regarding the in-
17 dividual to any Federal, State, or local law enforce-
18 ment entity, official or other personnel if the Sec-
19 retary has probable cause to believe that the indi-
20 vidual is an inadmissible or deportable alien.

21 “(2) PROBABLE CAUSE.—Probable cause is
22 deemed to be established if—

23 “(A) the individual who is the subject of
24 the detainer matches, pursuant to biometric
25 confirmation or other Federal database records,

1 the identity of an alien who the Secretary has
2 reasonable grounds to believe to be inadmissible
3 or deportable;

4 “(B) the individual who is the subject of
5 the detainer is the subject of ongoing removal
6 proceedings, including matters where a charg-
7 ing document has already been served;

8 “(C) the individual who is the subject of
9 the detainer has previously been ordered re-
10 moved from the United States and such an
11 order is administratively final;

12 “(D) the individual who is the subject of
13 the detainer has made voluntary statements or
14 provided reliable evidence that indicate that
15 they are an inadmissible or deportable alien; or

16 “(E) the Secretary otherwise has reason-
17 able grounds to believe that the individual who
18 is the subject of the detainer is an inadmissible
19 or deportable alien.

20 “(3) TRANSFER OF CUSTODY.—If the Federal,
21 State, or local law enforcement entity, official or
22 other personnel to whom a detainer is issued com-
23 plies with the detainer and detains for purposes of
24 transfer of custody to the Department of Homeland
25 Security the individual who is the subject of the de-

1 tainer, the Department may take custody of the in-
2 dividual within 48 hours (excluding weekends and
3 holidays), but in no instance more than 96 hours,
4 following the date that the individual is otherwise to
5 be released from the custody of the relevant Federal,
6 State, or local law enforcement entity.”.

7 (b) IMMUNITY.—

8 (1) IN GENERAL.—A State or a political sub-
9 division of a State (and the officials and personnel
10 of the State or subdivision acting in their official ca-
11 pacities), and a nongovernmental entity (and its per-
12 sonnel) contracted by the State or political subdivi-
13 sion for the purpose of providing detention, acting in
14 compliance with a Department of Homeland Secu-
15 rity detainer issued pursuant to this section who
16 temporarily holds an alien in its custody pursuant to
17 the terms of a detainer so that the alien may be
18 taken into the custody of the Department of Home-
19 land Security, shall be considered to be acting under
20 color of Federal authority for purposes of deter-
21 mining their liability and shall be held harmless for
22 their compliance with the detainer in any suit seek-
23 ing any punitive, compensatory, or other monetary
24 damages.

1 (2) FEDERAL GOVERNMENT AS DEFENDANT.—

2 In any civil action arising out of the compliance with
3 a Department of Homeland Security detainer by a
4 State or a political subdivision of a State (and the
5 officials and personnel of the State or subdivision
6 acting in their official capacities), or a nongovern-
7 mental entity (and its personnel) contracted by the
8 State or political subdivision for the purpose of pro-
9 viding detention, the United States Government
10 shall be the proper party named as the defendant in
11 the suit in regard to the detention resulting from
12 compliance with the detainer.

13 (3) BAD FAITH EXCEPTION.—Paragraphs (1)
14 and (2) shall not apply to any mistreatment of an
15 individual by a State or a political subdivision of a
16 State (and the officials and personnel of the State
17 or subdivision acting in their official capacities), or
18 a nongovernmental entity (and its personnel) con-
19 tracted by the State or political subdivision for the
20 purpose of providing detention.

21 (c) PRIVATE RIGHT OF ACTION.—

22 (1) CAUSE OF ACTION.—Any individual, or
23 their spouses, parents, or children (if the individual
24 is deceased), who is the victim of a murder, rape, or
25 any felony, as defined by the State, for which an

1 alien (as defined in section 101(a)(3) of the Immi-
2 gration and Nationality Act (8 U.S.C. 1101(a)(3))
3 has been convicted and sentenced to a term of im-
4 prisonment of at least one year, may bring an action
5 against a State or political subdivision of a State in
6 the appropriate Federal or State court if the State
7 or political subdivision released the alien from cus-
8 tody prior to the commission of such crime as a con-
9 sequence of the State or political subdivision's de-
10 clining to honor a detainer issued pursuant to sec-
11 tion 287(d)(1) of the Immigration and Nationality
12 Act (8 U.S.C. 1357(d)(1)).

13 (2) LIMITATION ON BRINGING ACTION.—An ac-
14 tion brought under this paragraph may not be
15 brought later than ten years following the occur-
16 rence of the crime, or death of a person as a result
17 of such crime, whichever occurs later.

18 (3) ATTORNEY'S FEE AND OTHER COSTS.—In
19 any action or proceeding under this paragraph, the
20 court shall allow a prevailing plaintiff a reasonable
21 attorneys' fee as part of the costs, and include ex-
22 pert fees as part of the attorneys' fee.

1 **TITLE II—NATIONAL SECURITY**

2 **SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-**
3 **RORIST ALIENS.**

4 (a) ASYLUM.—Section 208(b)(2)(A) of the Immigra-
5 tion and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is
6 amended—

7 (1) by inserting “or the Secretary of Homeland
8 Security” after “if the Attorney General”; and

9 (2) by amending clause (v) to read as follows:

10 “(v) the alien is described in subpara-
11 graph (B)(i) or (F) of section 212(a)(3),
12 unless, in the case of an alien described in
13 subparagraph (IV) or (IX) of section
14 212(a)(3)(B)(i), the Secretary of Home-
15 land Security or the Attorney General de-
16 termines, in the discretion of the Secretary
17 or the Attorney General, that there are not
18 reasonable grounds for regarding the alien
19 as a danger to the security of the United
20 States; or”.

21 (b) CANCELLATION OF REMOVAL.—Section
22 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-
23 ed—

24 (1) by striking “inadmissible under” and insert-
25 ing “described in”; and

1 (2) by striking “deportable under” and insert-
2 ing “described in”.

3 (c) VOLUNTARY DEPARTURE.—Section
4 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is
5 amended by striking “deportable under section
6 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-
7 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

8 (d) RESTRICTION ON REMOVAL.—Section
9 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is
10 amended—

11 (1) in the matter preceding clause (i), by insert-
12 ing “or the Secretary of Homeland Security” after
13 “Attorney General”;

14 (2) in clause (iii), by striking “or” at the end;

15 (3) in clause (iv), by striking the period at the
16 end and inserting a semicolon;

17 (4) by striking the flush matter that follows
18 after clause (iv); and

19 (5) by inserting after clause (iv) the following:

20 “(v) the alien is described in subpara-
21 graph (B)(i) or (F) of section 212(a)(3),
22 unless, in the case of an alien described in
23 subparagraph (IV) or (IX) of section
24 212(a)(3)(B)(i), the Secretary of Home-
25 land Security or the Attorney General de-

1 termines, in discretion of the Secretary or
2 the Attorney General, that there are not
3 reasonable grounds for regarding the alien
4 as a danger to the security of the United
5 States; or”.

6 (e) RECORD OF ADMISSION.—

7 (1) IN GENERAL.—Section 249 of such Act (8
8 U.S.C. 1259) is amended to read as follows:

9 “RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN
10 THE CASE OF CERTAIN ALIENS WHO ENTERED THE
11 UNITED STATES PRIOR TO JANUARY 1, 1972

12 “SEC. 249. The Secretary of Homeland Security, in
13 the discretion of the Secretary and under such regulations
14 as the Secretary may prescribe, may enter a record of law-
15 ful admission for permanent residence in the case of any
16 alien, if no such record is otherwise available and the
17 alien—

18 “(1) entered the United States before January
19 1, 1972;

20 “(2) has continuously resided in the United
21 States since such entry;

22 “(3) has been a person of good moral character
23 since such entry;

24 “(4) is not ineligible for citizenship;

25 “(5) is not described in paragraph (1)(A)(iv),
26 (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

1 “(6) did not, at any time, without reasonable
2 cause fail or refuse to attend or remain in attend-
3 ance at a proceeding to determine the alien’s inad-
4 missibility or deportability.

5 Such recordation shall be effective as of the date of ap-
6 proval of the application or as of the date of entry if such
7 entry occurred prior to July 1, 1924.”.

8 (2) CLERICAL AMENDMENT.—The table of con-
9 tents for such Act is amended by amending the item
10 relating to section 249 to read as follows:

 “Sec. 249. Record of admission for permanent residence in the case of certain
 aliens who entered the United States prior to January 1,
 1972.”.

11 (f) EFFECTIVE DATE.—The amendments made by
12 this section shall take effect on the date of the enactment
13 of this Act and sections 208(b)(2)(A), 212(a), 240A,
14 240B, 241(b)(3), and 249 of the Immigration and Nation-
15 ality Act, as so amended, shall apply to—

16 (1) all aliens in removal, deportation, or exclu-
17 sion proceedings;

18 (2) all applications pending on, or filed after,
19 the date of the enactment of this Act; and

20 (3) with respect to aliens and applications de-
21 scribed in paragraph (1) or (2) of this subsection,
22 acts and conditions constituting a ground for exclu-
23 sion, deportation, or removal occurring or existing

1 before, on, or after the date of the enactment of this
2 Act.

3 **SEC. 202. TERRORIST BAR TO GOOD MORAL CHARACTER.**

4 (a) DEFINITION OF GOOD MORAL CHARACTER.—
5 Section 101(f) of the Immigration and Nationality Act (8
6 U.S.C. 1101(f)) is amended—

7 (1) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) one who the Secretary of Homeland Secu-
10 rity or Attorney General determines to have been at
11 any time an alien described in section 212(a)(3) or
12 237(a)(4), which determination may be based upon
13 any relevant information or evidence, including clas-
14 sified, sensitive, or national security information;”;

15 (2) in paragraph (8), by inserting “, regardless
16 whether the crime was classified as an aggravated
17 felony at the time of conviction, except that the Sec-
18 retary of Homeland Security or Attorney General
19 may, in the unreviewable discretion of the Secretary
20 or Attorney General, determine that this paragraph
21 shall not apply in the case of a single aggravated fel-
22 ony conviction (other than murder, manslaughter,
23 homicide, rape, or any sex offense when the victim
24 of such sex offense was a minor) for which comple-
25 tion of the term of imprisonment or the sentence

1 (whichever is later) occurred 10 or more years prior
2 to the date of application” after “(as defined in sub-
3 section (a)(43))”; and

4 (3) in the matter following paragraph (9), by
5 striking the first sentence and inserting the fol-
6 lowing: “The fact that any person is not within any
7 of the foregoing classes shall not preclude a discre-
8 tionary finding for other reasons that such a person
9 is or was not of good moral character. The Secretary
10 or the Attorney General shall not be limited to the
11 applicant’s conduct during the period for which good
12 moral character is required, but may take into con-
13 sideration as a basis for determination the appli-
14 cant’s conduct and acts at any time.”.

15 (b) AGGRAVATED FELONS.—Section 509(b) of the
16 Immigration Act of 1990 (8 U.S.C. 1101 note) is amended
17 to read as follows:

18 “(b) EFFECTIVE DATE.—The amendment made by
19 subsection (a) shall take effect on November 29, 1990,
20 and shall apply to convictions occurring before, on or after
21 such date.”.

22 (c) TECHNICAL CORRECTION TO THE INTELLIGENCE
23 REFORM ACT.—Section 5504(2) of the Intelligence Re-
24 form and Terrorism Prevention Act of 2004 (Public Law

1 108–458) is amended by striking “adding at the end” and
2 inserting “inserting after paragraph (8)”.

3 (d) **EFFECTIVE DATE.**—The amendments made by
4 subsections (a) and (b) shall take effect on the date of
5 the enactment of this Act, shall apply to any act that oc-
6 curred before, on, or after such date and shall apply to
7 any application for naturalization or any other benefit or
8 relief, or any other case or matter under the immigration
9 laws pending on or filed after such date. The amendments
10 made by subsection (c) shall take effect as if enacted in
11 the Intelligence Reform and Terrorism Prevention Act of
12 2004 (Public Law 108–458).

13 **SEC. 203. TERRORIST BAR TO NATURALIZATION.**

14 (a) **NATURALIZATION OF PERSONS ENDANGERING**
15 **THE NATIONAL SECURITY.**—Section 316 of the Immigra-
16 tion and Nationality Act (8 U.S.C. 1426) is amended by
17 adding at the end the following:

18 “(g) **PERSONS ENDANGERING THE NATIONAL SECU-**
19 **RITY.**—No person shall be naturalized who the Secretary
20 of Homeland Security determines to have been at any time
21 an alien described in section 212(a)(3) or 237(a)(4). Such
22 determination may be based upon any relevant informa-
23 tion or evidence, including classified, sensitive, or national
24 security information.”.

1 (b) CONCURRENT NATURALIZATION AND REMOVAL
2 PROCEEDINGS.—Section 318 of the Immigration and Na-
3 tionality Act (8 U.S.C. 1429) is amended by striking
4 “other Act;” and inserting “other Act; and no application
5 for naturalization shall be considered by the Secretary of
6 Homeland Security or any court if there is pending
7 against the applicant any removal proceeding or other pro-
8 ceeding to determine the applicant’s inadmissibility or de-
9 portability, or to determine whether the applicant’s lawful
10 permanent resident status should be rescinded, regardless
11 of when such proceeding was commenced; except that the
12 findings of the Secretary of Homeland Security in termi-
13 nating removal proceedings, or in canceling the removal
14 of an alien, pursuant to the provisions of this Act shall
15 not be deemed binding in any way upon the Secretary of
16 Homeland Security with respect to the question of whether
17 such person has established his eligibility for naturaliza-
18 tion as required by this title;”.

19 (c) PENDING DENATURALIZATION OR REMOVAL
20 PROCEEDINGS.—Section 204(b) of the Immigration and
21 Nationality Act (8 U.S.C. 1154(b)) is amended by adding
22 at the end the following: “No petition shall be approved
23 pursuant to this section if there is any administrative or
24 judicial proceeding (whether civil or criminal) pending
25 against the petitioner that could (whether directly or indi-

1 rectly) result in the petitioner’s denaturalization or the
2 loss of the petitioner’s lawful permanent resident status.”.

3 (d) **CONDITIONAL PERMANENT RESIDENTS.**—Sec-
4 tions 216(e) and section 216A(e) of the Immigration and
5 Nationality Act (8 U.S.C. 1186a(e) and 1186b(e)) are
6 each amended by striking the period at the end and insert-
7 ing “, if the alien has had the conditional basis removed
8 pursuant to this section.”.

9 (e) **DISTRICT COURT JURISDICTION.**—Subsection
10 336(b) of the Immigration and Nationality Act (8 U.S.C.
11 1447(b)) is amended to read as follows:

12 “(b) If there is a failure to render a final administra-
13 tive decision under section 335 before the end of the 180-
14 day period after the date on which the Secretary of Home-
15 land Security completes all examinations and interviews
16 conducted under such section, as such terms are defined
17 by the Secretary of Homeland Security pursuant to regu-
18 lations, the applicant may apply to the district court for
19 the district in which the applicant resides for a hearing
20 on the matter. Such court shall only have jurisdiction to
21 review the basis for delay and remand the matter to the
22 Secretary of Homeland Security for the Secretary’s deter-
23 mination on the application.”.

1 (f) CONFORMING AMENDMENT.—Section 310(c) of
2 the Immigration and Nationality Act (8 U.S.C. 1421(e))
3 is amended—

4 (1) by inserting “, not later than the date that
5 is 120 days after the Secretary of Homeland Secu-
6 rity’s final determination,” after “seek”; and

7 (2) by striking the second sentence and insert-
8 ing the following: “The burden shall be upon the pe-
9 titioner to show that the Secretary’s denial of the
10 application was not supported by facially legitimate
11 and bona fide reasons. Except in a proceeding under
12 section 340, notwithstanding any other provision of
13 law (statutory or nonstatutory), including section
14 2241 of title 28, United States Code, or any other
15 habeas corpus provision, and sections 1361 and
16 1651 of such title, no court shall have jurisdiction
17 to determine, or to review a determination of the
18 Secretary made at any time regarding, for purposes
19 of an application for naturalization, whether an alien
20 is a person of good moral character, whether the
21 alien understands and is attached to the principles
22 of the Constitution of the United States, or whether
23 an alien is well disposed to the good order and hap-
24 piness of the United States.”.

1 (g) EFFECTIVE DATE.—The amendments made by
2 this section shall take effect on the date of the enactment
3 of this Act, shall apply to any act that occurred before,
4 on, or after such date, and shall apply to any application
5 for naturalization or any other case or matter under the
6 immigration laws pending on, or filed after, such date.

7 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

8 (a) IN GENERAL.—Section 340 of the Immigration
9 and Nationality Act is amended—

10 (1) by redesignating subsections (f) through (h)
11 as subsections (g) through (i), respectively; and

12 (2) by inserting after subsection (e) the fol-
13 lowing:

14 “(f)(1) If a person who has been naturalized partici-
15 pates in any act described in paragraph (2), the Attorney
16 General is authorized to find that, as of the date of such
17 naturalization, such person was not attached to the prin-
18 ciples of the Constitution of the United States and was
19 not well disposed to the good order and happiness of the
20 United States at the time of naturalization, and upon such
21 finding shall set aside the order admitting such person to
22 citizenship and cancel the certificate of naturalization as
23 having been obtained by concealment of a material fact
24 or by willful misrepresentation, and such revocation and
25 setting aside of the order admitting such person to citizen-

1 ship and such canceling of certificate of naturalization
2 shall be effective as of the original date of the order and
3 certificate, respectively.

4 “(2) The acts described in this paragraph are the fol-
5 lowing:

6 “(A) Any activity a purpose of which is the op-
7 position to, or the control or overthrow of, the Gov-
8 ernment of the United States by force, violence, or
9 other unlawful means.

10 “(B) Engaging in a terrorist activity (as de-
11 fined in clauses (iii) and (iv) of section
12 212(a)(3)(B)).

13 “(C) Incitement of terrorist activity under cir-
14 cumstances indicating an intention to cause death or
15 serious bodily harm.

16 “(D) Receiving military-type training (as de-
17 fined in section 2339D(c)(1) of title 18, United
18 States Code) from or on behalf of any organization
19 that, at the time the training was received, was a
20 terrorist organization (as defined in section
21 212(a)(3)(B)(vi)).”.

22 (b) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall take effect on the date of the enact-
24 ment of this Act and shall apply to acts that occur on
25 or after such date.

1 **SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**
2 **FOR NATIONAL SECURITY PURPOSES.**

3 (a) SPECIAL AGRICULTURAL WORKERS.—Section
4 210(b)(6) of the Immigration and Nationality Act (8
5 U.S.C. 1160(b)(6)) is amended—

6 (1) by striking “Attorney General” each place
7 such term appears and inserting “Secretary of
8 Homeland Security”;

9 (2) in subparagraph (A), by striking “Depart-
10 ment of Justice,” and inserting “Department of
11 Homeland Security,”;

12 (3) by redesignating subparagraphs (C) and
13 (D) as subparagraphs (D) and (E), respectively;

14 (4) by inserting after subparagraph (B) the fol-
15 lowing:

16 “(C) AUTHORIZED DISCLOSURES.—

17 “(i) CENSUS PURPOSE.—The Sec-
18 retary of Homeland Security may provide,
19 in his discretion, for the furnishing of in-
20 formation furnished under this section in
21 the same manner and circumstances as
22 census information may be disclosed under
23 section 8 of title 13, United States Code.

24 “(ii) NATIONAL SECURITY PUR-
25 POSE.—The Secretary of Homeland Secu-
26 rity may provide, in his discretion, for the

1 furnishing, use, publication, or release of
2 information furnished under this section in
3 any investigation, case, or matter, or for
4 any purpose, relating to terrorism, national
5 intelligence or the national security.”; and

6 (5) in subparagraph (D), as redesignated, by
7 striking “Service” and inserting “Department of
8 Homeland Security”.

9 (b) ADJUSTMENT OF STATUS UNDER THE IMMIGRA-
10 TION REFORM AND CONTROL ACT OF 1986.—Section
11 245A(c)(5) of the Immigration and Nationality Act (8
12 U.S.C. 1255a(c)(5)), is amended—

13 (1) by striking “Attorney General” each place
14 such term appears and inserting “Secretary of
15 Homeland Security”;

16 (2) in subparagraph (A), by striking “Depart-
17 ment of Justice,” and inserting “Department of
18 Homeland Security,”;

19 (3) by amending subparagraph (C) to read as
20 follows:

21 “(C) AUTHORIZED DISCLOSURES.—

22 “(i) CENSUS PURPOSE.—The Sec-
23 retary of Homeland Security may provide,
24 in his discretion, for the furnishing of in-
25 formation furnished under this section in

1 the same manner and circumstances as
2 census information may be disclosed under
3 section 8 of title 13, United States Code.

4 “(ii) NATIONAL SECURITY PUR-
5 POSE.—The Secretary of Homeland Secu-
6 rity may provide, in his discretion, for the
7 furnishing, use, publication, or release of
8 information furnished under this section in
9 any investigation, case, or matter, or for
10 any purpose, relating to terrorism, national
11 intelligence or the national security.”; and

12 (4) in subparagraph (D)(i), striking “Service”
13 and inserting “Department of Homeland Security”.

14 **SEC. 206. BACKGROUND AND SECURITY CHECKS.**

15 (a) REQUIREMENT TO COMPLETE BACKGROUND AND
16 SECURITY CHECKS.—Section 103 of the Immigration and
17 Nationality Act (8 U.S.C. 1103) is amended by adding
18 at the end the following:

19 “(h) Notwithstanding any other provision of law
20 (statutory or nonstatutory), including but not limited to
21 section 309 of Public Law 107–173, sections 1361 and
22 1651 of title 28, United States Code, and section 706(1)
23 of title 5, United States Code, neither the Secretary of
24 Homeland Security, the Attorney General, nor any court
25 may—

1 “(1) grant, or order the grant of or adjudica-
2 tion of an application for adjustment of status to
3 that of an alien lawfully admitted for permanent res-
4 idence;

5 “(2) grant, or order the grant of or adjudica-
6 tion of an application for United States citizenship
7 or any other status, relief, protection from removal,
8 employment authorization, or other benefit under
9 the immigration laws;

10 “(3) grant, or order the grant of or adjudica-
11 tion of, any immigrant or nonimmigrant petition; or

12 “(4) issue or order the issuance of any docu-
13 mentation evidencing or related to any such grant,
14 until—

15 “(A) such background and security checks
16 as the Secretary may in the Secretary’s discre-
17 tion require have been completed or updated to
18 the satisfaction of the Secretary; and

19 “(B) any suspected or alleged materially
20 false information, material misrepresentation or
21 omission, concealment of a material fact, fraud
22 or forgery, counterfeiting, or alteration, or fal-
23 sification of a document, as determined by the
24 Secretary, relating to the adjudication of an ap-
25 plication or petition for any status (including

1 the granting of adjustment of status), relief,
2 protection from removal, or other benefit under
3 this subsection has been investigated and re-
4 solved to the Secretary's satisfaction.

5 “(i) Notwithstanding any other provision of law (stat-
6 utory or nonstatutory), including section 309 of the En-
7 hanced Border Security and Visa Entry Reform Act (8
8 U.S.C. 1738), sections 1361 and 1651 of title 28, United
9 States Code, and section 706(1) of title 5, United States
10 Code, no court shall have jurisdiction to require any of
11 the acts in subsection (h) to be completed by a certain
12 time or award any relief for failure to complete or delay
13 in completing such acts.”.

14 (b) CONSTRUCTION.—

15 (1) IN GENERAL.—Chapter 4 of title III of the
16 Immigration and Nationality Act (8 U.S.C. 1501 et
17 seq.) is amended by adding at the end the following:

18 “CONSTRUCTION

19 “SEC. 362. (a) IN GENERAL.—Nothing in this Act
20 or any other law, except as provided in subsection (d),
21 shall be construed to require the Secretary of Homeland
22 Security, the Attorney General, the Secretary of State, the
23 Secretary of Labor, or a consular officer to grant any ap-
24 plication, approve any petition, or grant or continue any
25 relief, protection from removal, employment authorization,

1 or any other status or benefit under the immigration laws
2 by, to, or on behalf of—

3 “(1) any alien deemed by the Secretary to be
4 described in section 212(a)(3) or section 237(a)(4);
5 or

6 “(2) any alien with respect to whom a criminal
7 or other proceeding or investigation is open or pend-
8 ing (including, but not limited to, issuance of an ar-
9 rest warrant, detainer, or indictment), where such
10 proceeding or investigation is deemed by the official
11 described in subsection (a) to be material to the
12 alien’s eligibility for the status or benefit sought.

13 “(b) DENIAL OR WITHHOLDING OF ADJUDICA-
14 TION.—An official described in subsection (a) may, in the
15 discretion of the official, deny (with respect to an alien
16 described in paragraph (1) or (2) of subsection (a)) or
17 withhold adjudication of pending resolution of the inves-
18 tigation or case (with respect to an alien described in sub-
19 section (a)(2) of this section) any application, petition, re-
20 lief, protection from removal, employment authorization,
21 status or benefit.

22 “(c) JURISDICTION.—Notwithstanding any other pro-
23 vision of law (statutory or nonstatutory), including section
24 309 of the Enhanced Border Security and Visa Entry Re-
25 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title

1 28, United States Code, and section 706(1) of title 5,
2 United States Code, no court shall have jurisdiction to re-
3 view a decision to deny or withhold adjudication pursuant
4 to subsection (b) of this section.

5 “(d) WITHHOLDING OF REMOVAL AND TORTURE
6 CONVENTION.—This section does not limit or modify the
7 applicability of section 241(b)(3) or the United Nations
8 Convention Against Torture and Other Cruel, Inhuman or
9 Degrading Treatment or Punishment, subject to any res-
10 ervations, understandings, declarations and provisos con-
11 tained in the United States Senate resolution of ratifica-
12 tion of the Convention, as implemented by section 2242
13 of the Foreign Affairs Reform and Restructuring Act of
14 1998 (Public Law 105–277) with respect to an alien oth-
15 erwise eligible for protection under such provisions.”.

16 (2) CLERICAL AMENDMENT.—The table of con-
17 tents for such Act is amended by inserting after the
18 item relating to section 361 the following:

“Sec. 362. Construction.”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall take effect on the date of the enactment
21 of this Act and shall apply to applications for immigration
22 benefits pending on or after such date.

1 **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**
2 **TELLIGENCE REFORM AND TERRORISM PRE-**
3 **VENTION ACT OF 2004.**

4 (a) TRANSIT WITHOUT VISA PROGRAM.—Section
5 7209(d) of the Intelligence Reform and Terrorism Preven-
6 tion Act of 2004 (8 U.S.C. 1185 note) is amended by
7 striking “the Secretary, in conjunction with the Secretary
8 of Homeland Security,” and inserting “the Secretary of
9 Homeland Security, in consultation with the Secretary of
10 State,”.

11 (b) TECHNOLOGY ACQUISITION AND DISSEMINATION
12 PLAN.—Section 7201(c)(1) of such Act is amended by in-
13 serting “and the Department of State” after “used by the
14 Department of Homeland Security”.

15 **SEC. 208. REVOCATION OR DENIAL OF PASSPORTS AND**
16 **PASSPORT CARDS TO TERRORISTS.**

17 The Act entitled “An Act to regulate the issue and
18 validity of passports, and for other purposes”, approved
19 July 3, 1926 (22 U.S.C. 211a et seq.) (commonly known
20 as the “Passport Act of 1926”) is amended by adding at
21 the end the following:

22 **“SEC. 4. AUTHORITY TO DENY OR REVOKE PASSPORT AND**
23 **PASSPORT CARD.**

24 “(a) ISSUANCE.—Subject to subsection (c), the Sec-
25 retary of State, in the Secretary’s discretion, may decline

1 to issue a passport or passport card to any national of
2 the United States who—

3 “(1) has been convicted under chapter 113B of
4 title 18, United States Code; or

5 “(2) the Secretary has determined would be de-
6 scribed, if the national were an alien—

7 “(A) in subclause (IV)(aa) or (VIII) of sec-
8 tion 212(a)(3)(B)(i) of the Immigration and
9 Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)),
10 but only to the extent that the relevant terrorist
11 organization is described in subclause (I) or (II)
12 of section 212(a)(3)(B)(vi) of such Act (8
13 U.S.C. 1182(a)(3)(B)(vi));

14 “(B) in section 212(a)(3)(B)(i)(V) of such
15 Act (8 U.S.C. 1182(a)(3)(B)(i)(V)); or

16 “(C) in subclause (IV)(bb), (V)(bb), or
17 (VI)(cc) of section 212(a)(3)(B)(iv) of such Act
18 (8 U.S.C. 1182(a)(3)(B)(iv)).

19 “(b) REVOCATION.—Subject to subsection (c), the
20 Secretary of State, in the Secretary’s discretion, may re-
21 voke a passport or passport card previously issued to any
22 United States national described in subsection (a).

23 “(c) LIMITATION FOR RETURN TO UNITED
24 STATES.—

1 “(1) DECLINATION OF ISSUE.—If the Secretary
2 of State declines to issue a passport or passport card
3 pursuant to subsection (a) to a national of the
4 United States who is not physically present in the
5 United States, the Secretary shall issue, at the na-
6 tional’s request, a passport or passport card only
7 valid for direct return to the United States.

8 “(2) REVOCATION.—If the Secretary of State
9 revokes a passport or passport card pursuant to sub-
10 section (b) to a national of the United States who
11 is not physically present in the United States, the
12 Secretary shall, at the national’s request, issue a
13 passport or passport card only valid for direct return
14 to the United States.

15 “(d) RIGHT OF REVIEW.—Any person who, in ac-
16 cordance with this section, is denied issuance of a passport
17 or passport card, or has their passport or passport card
18 revoked, by the Secretary of State, may request a due
19 process hearing not later than 60 days after receiving such
20 notice of the nonissuance or revocation.

21 “(e) DEFINITIONS.—For purposes of this section:

22 “(1) ALIEN.—The term ‘alien’ has the meaning
23 given such term in section 101(a)(3) of the Immi-
24 gration and Nationality Act (8 U.S.C. 1101(a)(3)).

1 “(2) NATIONAL OF THE UNITED STATES.—The
2 term ‘national of the United States’ has the meaning
3 given such term in section 101(a)(22) of such Act
4 (8 U.S.C. 1101(a)(22)).”.

5 **SEC. 209. CLARIFICATION OF TERRORISM DEFINITIONS.**

6 Section 212(a)(3)(B)(iv) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1182(a)(3)(B)(iv)) is amended—

8 (1) in subclause (I), by striking “death or seri-
9 ous bodily injury, a terrorist activity;” and inserting
10 “death, serious bodily injury, or substantial damage
11 to property, a terrorist activity”;

12 (2) in subclause (V)(cc), by striking “or” at the
13 end;

14 (3) in subclause (VI)(dd), by striking the period
15 at the end and inserting “; or”; and

16 (4) by adding at the end the following:

17 “(VII) to threaten, attempt, or
18 conspire to do any of the acts de-
19 scribed in subclauses (I) through
20 (VI).”.

1 **TITLE III—REMOVAL OF**
2 **CRIMINAL ALIENS**

3 **SEC. 301. DEFINITION OF AGGRAVATED FELONY.**

4 (a) DEFINITION OF AGGRAVATED FELONY.—Section
5 101(a)(43) of the Immigration and Nationality Act (8
6 U.S.C. 1101(a)(43)) is amended—

7 (1) by striking “The term ‘aggravated felony’
8 means—” and inserting “Notwithstanding any other
9 provision of law, the term ‘aggravated felony’ applies
10 to an offense described in this paragraph, whether in
11 violation of Federal or State law, or in violation of
12 the law of a foreign country for which the term of
13 imprisonment was completed within the previous 15
14 years, even if the length of the term of imprisonment
15 for the offense is based on recidivist or other en-
16 hancements and regardless of whether the conviction
17 was entered before, on, or after September 30, 1996,
18 and means—”;

19 (2) in subparagraph (A), by striking “murder,
20 rape, or sexual abuse of a minor;” and inserting
21 “murder, manslaughter, homicide, rape (whether the
22 victim was conscious or unconscious), or any offense
23 of a sexual nature involving a victim under the age
24 of 18 years;”;

1 (3) in subparagraph (I), by striking “or 2252”
2 and inserting “2252, or 2252A”;

3 (4) in subparagraph (F), by striking “at least
4 one year;” and inserting “is at least one year, except
5 that if the conviction records do not conclusively es-
6 tablish whether a crime constitutes a crime of vio-
7 lence, the Attorney General may consider other evi-
8 dence related to the conviction that clearly estab-
9 lishes that the conduct for which the alien was en-
10 gaged constitutes a crime of violence;”;

11 (5) by striking subparagraph (G) and inserting
12 the following:

13 “(G) a theft offense under State or Federal law
14 (including theft by deceit, theft by fraud, and receipt
15 of stolen property) or burglary offense under State
16 or Federal law for which the term of imprisonment
17 is at least one year, except that if the conviction
18 records do not conclusively establish whether a crime
19 constitutes a theft or burglary offense, the Secretary
20 of Homeland Security may consider other evidence
21 related to the conviction that clearly establishes that
22 the conduct for which the alien was engaged con-
23 stitutes a theft or burglary offense;”;

24 (6) in subparagraph (N)—

1 (A) by striking “paragraph (1)(A) or (2)
2 of”; and

3 (B) by inserting a semicolon at the end;

4 (7) in subparagraph (O), by striking “section
5 275(a) or 276 committed by an alien who was pre-
6 viously deported on the basis of a conviction for an
7 offense described in another subparagraph of this
8 paragraph” and inserting “section 275 or 276 for
9 which the term of imprisonment is at least 1 year”;
10 (8) in subparagraph (P)—

11 (A) by striking “(i) which either is falsely
12 making, forging, counterfeiting, mutilating, or
13 altering a passport or instrument in violation of
14 section 1543 of title 18, United States Code, or
15 is described in section 1546(a) of such title (re-
16 lating to document fraud) and (ii)” and insert-
17 ing “which is described in any section of chap-
18 ter 75 of title 18, United States Code, and”;
19 and

20 (B) by striking “, except in the case of a
21 first offense for which the alien has affirma-
22 tively shown that the alien committed the of-
23 fense for the purpose for assisting, abetting, or
24 aiding only the alien’s spouse, child, or parent

1 (and no other individual) to violate a provision
2 of this Act”;

3 (9) in subparagraph (U), by striking “an at-
4 tempt or conspiracy to commit an offense described
5 in this paragraph” and inserting “attempting or
6 conspiring to commit an offense described in this
7 paragraph, or aiding, abetting, counseling, pro-
8 curing, commanding, inducing, or soliciting the com-
9 mission of such an offense”; and

10 (10) by striking the undesignated matter fol-
11 lowing subparagraph (U).

12 (b) EFFECTIVE DATE; APPLICATION OF AMEND-
13 MENTS.—

14 (1) IN GENERAL.—The amendments made by
15 subsection (a)—

16 (A) shall take effect on the date of the en-
17 actment of this Act; and

18 (B) shall apply to any act or conviction
19 that occurred before, on, or after such date.

20 (2) APPLICATION OF IIRIRA AMENDMENTS.—

21 The amendments to section 101(a)(43) of the Immi-
22 gration and Nationality Act (8 U.S.C. 1101(a)(43))
23 made by section 321 of the Illegal Immigration Re-
24 form and Immigrant Responsibility Act of 1996 (di-
25 vision C of Public Law 104–208; 110 Stat. 3009–

1 627) shall continue to apply, whether the conviction
2 was entered before, on, or after September 30, 1996.

3 **SEC. 302. PRECLUDING ADMISSIBILITY OF ALIENS CON-**
4 **VICTED OF AGGRAVATED FELONIES OR**
5 **OTHER SERIOUS OFFENSES.**

6 (a) INADMISSIBILITY ON CRIMINAL AND RELATED
7 GROUND; WAIVERS.—Section 212 of the Immigration
8 and Nationality Act (8 U.S.C. 1182) is amended—

9 (1) in subsection (a)(2)(A)(i)—

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

12 (B) in subclause (II), by adding “or” at
13 the end; and

14 (C) by inserting after subclause (II) the
15 following:

16 “(III) a violation of (or a con-
17 spiracy or attempt to violate) an of-
18 fense described in section 208 of the
19 Social Security Act (42 U.S.C. 408)
20 (relating to social security account
21 numbers or social security cards) or
22 section 1028 of title 18, United States
23 Code (relating to fraud and related
24 activity in connection with identifica-

1 tion documents, authentication fea-
2 tures, and information),”;

3 (2) by adding at the end of subsection (a)(2)
4 the following:

5 “(J) PROCUREMENT OF CITIZENSHIP OR
6 NATURALIZATION UNLAWFULLY.—Any alien
7 convicted of, or who admits having committed,
8 or who admits committing acts which constitute
9 the essential elements of, a violation of, or an
10 attempt or a conspiracy to violate, subsection
11 (a) or (b) of section 1425 of title 18, United
12 States Code (relating to the procurement of
13 citizenship or naturalization unlawfully) is inad-
14 missible.

15 “(K) CERTAIN FIREARM OFFENSES.—Any
16 alien who at any time has been convicted under
17 any law of, or who admits having committed or
18 admits committing acts which constitute the es-
19 sential elements of, purchasing, selling, offering
20 for sale, exchanging, using, owning, possessing,
21 or carrying, or of attempting or conspiring to
22 purchase, sell, offer for sale, exchange, use,
23 own, possess, or carry, any weapon, part, or ac-
24 cessory which is a firearm or destructive device
25 (as defined in section 921(a) of title 18, United

1 States Code) in violation of any law is inadmis-
2 sible.

3 “(L) AGGRAVATED FELONS.—Any alien
4 who has been convicted of an aggravated felony
5 at any time is inadmissible.

6 “(M) CRIMES OF DOMESTIC VIOLENCE,
7 STALKING, OR VIOLATION OF PROTECTION OR-
8 DERS, CRIMES AGAINST CHILDREN.—

9 “(i) DOMESTIC VIOLENCE, STALKING,
10 AND CHILD ABUSE.—Any alien who at any
11 time is convicted of, or who admits having
12 committed or admits committing acts
13 which constitute the essential elements of,
14 a crime of domestic violence, a crime of
15 stalking, or a crime of child abuse, child
16 neglect, or child abandonment is inadmis-
17 sible. For purposes of this clause, the term
18 ‘crime of domestic violence’ means any
19 crime of violence (as defined in section 16
20 of title 18, United States Code) against a
21 person committed by a current or former
22 spouse of the person, by an individual with
23 whom the person shares a child in com-
24 mon, by an individual who is cohabiting
25 with or has cohabited with the person as a

1 spouse, by an individual similarly situated
2 to a spouse of the person under the domes-
3 tic or family violence laws of the jurisdic-
4 tion where the offense occurs, or by any
5 other individual against a person who is
6 protected from that individual's acts under
7 the domestic or family violence laws of the
8 United States or any State, Indian tribal
9 government, or unit of local or foreign gov-
10 ernment.

11 “(ii) VIOLATORS OF PROTECTION OR-
12 DERS.—Any alien who at any time is en-
13 joined under a protection order issued by
14 a court and whom the court determines
15 has engaged in conduct that violates the
16 portion of a protection order that involves
17 protection against credible threats of vio-
18 lence, repeated harassment, or bodily in-
19 jury to the person or persons for whom the
20 protection order was issued is inadmissible.
21 For purposes of this clause, the term ‘pro-
22 tection order’ means any injunction issued
23 for the purpose of preventing violent or
24 threatening acts of domestic violence, in-
25 cluding temporary or final orders issued by

1 civil or criminal courts (other than support
2 or child custody orders or provisions)
3 whether obtained by filing an independent
4 action or as a independent order in an-
5 other proceeding.

6 “(iii) WAIVER AUTHORIZED.—The
7 waiver authority available under section
8 237(a)(7) with respect to section
9 237(a)(2)(E)(i) shall be available on a
10 comparable basis with respect to this sub-
11 paragraph.

12 “(iv) CLARIFICATION.—If the convic-
13 tion records do not conclusively establish
14 whether a crime of domestic violence con-
15 stitutes a crime of violence (as defined in
16 section 16 of title 18, United States Code),
17 the Attorney General may consider other
18 evidence related to the conviction that
19 clearly establishes that the conduct for
20 which the alien was engaged constitutes a
21 crime of violence.”; and

22 (3) in subsection (h)—

23 (A) by striking “The Attorney General
24 may, in his discretion, waive the application of
25 subparagraphs (A)(i)(I), (B), (D), and (E) of

1 subsection (a)(2)” and inserting “The Attorney
2 General or the Secretary of Homeland Security
3 may, in the discretion of the Attorney General
4 or the Secretary, waive the application of sub-
5 paragraphs (A)(i)(I), (III), (B), (D), (E), (K),
6 and (M) of subsection (a)(2)”;

7 (B) by striking “a criminal act involving
8 torture.” and inserting “a criminal act involving
9 torture, or has been convicted of an aggravated
10 felony.”;

11 (C) by striking “if either since the date of
12 such admission the alien has been convicted of
13 an aggravated felony or the alien” and inserting
14 “if since the date of such admission the alien”;
15 and

16 (D) by inserting “or Secretary of Home-
17 land Security” after “the Attorney General”
18 each place it appears.

19 (b) DEPORTABILITY; CRIMINAL OFFENSES.—Section
20 237(a)(3)(B) of the Immigration and Nationality Act (8
21 U.S.C. 1227(a)(3)(B)) is amended—

22 (1) in clause (ii), by striking “or” at the end;

23 (2) in clause (iii), by inserting “or” at the end;

24 and

25 (3) by inserting after clause (iii) the following:

1 “(iv) of a violation of, or an attempt
2 or a conspiracy to violate, section 1425(a)
3 or (b) of title 18 (relating to the procure-
4 ment of citizenship or naturalization un-
5 lawfully),”.

6 (c) DEPORTABILITY; OTHER CRIMINAL OFFENSES.—
7 Section 237(a)(2) of the Immigration and Nationality Act
8 (8 U.S.C. 1227(a)(2)) is amended by adding at the end
9 the following:

10 “(G) FRAUD AND RELATED ACTIVITY AS-
11 SOCIATED WITH SOCIAL SECURITY ACT BENE-
12 FITS AND IDENTIFICATION DOCUMENTS.—Any
13 alien who at any time after admission has been
14 convicted of a violation of (or a conspiracy or
15 attempt to violate) section 208 of the Social Se-
16 curity Act (42 U.S.C. 408) (relating to social
17 security account numbers or social security
18 cards) or section 1028 of title 18, United States
19 Code (relating to fraud and related activity in
20 connection with identification) is deportable.”.

21 (d) EFFECTIVE DATE.—The amendments made by
22 this section shall apply—

23 (1) to any act that occurred before, on, or after
24 the date of the enactment of this Act; and

1 (2) to all aliens who are required to establish
2 admissibility on or after such date, and in all re-
3 moval, deportation, or exclusion proceedings that are
4 filed, pending, or reopened, on or after such date.

5 (e) CONSTRUCTION.—The amendments made by sub-
6 section (a) shall not be construed to create eligibility for
7 relief from removal under former section 212(c) of the Im-
8 migration and Nationality Act where such eligibility did
9 not exist before these amendments became effective.

10 **SEC. 303. ESPIONAGE CLARIFICATION.**

11 Section 212(a)(3)(A) of the Immigration and Nation-
12 ality Act (8 U.S.C. 1182(a)(3)(A)), is amended to read
13 as follows:

14 “(A) IN GENERAL.—Any alien who a con-
15 sular officer, the Attorney General, or the Sec-
16 retary of Homeland Security knows, or has rea-
17 sonable ground to believe, seeks to enter the
18 United States to engage solely, principally, or
19 incidentally in, or who is engaged in, or with re-
20 spect to clauses (i) and (iii) of this subpara-
21 graph has engaged 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; or
6 “(iii) any activity a purpose of which
7 is the opposition to, or the control or over-
8 throw of, the Government of the United
9 States by force, violence, or other unlawful
10 means;
11 is inadmissible.”.

12 **SEC. 304. PROHIBITION OF THE SALE OF FIREARMS TO, OR**
13 **THE POSSESSION OF FIREARMS BY, CERTAIN**
14 **ALIENS.**

15 Section 922 of title 18, United States Code, is
16 amended—

17 (1) in subsection (d)(5), in subparagraph (B),
18 by striking “(y)(2)” and all that follows and insert-
19 ing “(y), is in the United States not as an alien law-
20 fully admitted for permanent residence;”;

21 (2) in subsection (g)(5), in subparagraph (B),
22 by striking “(y)(2)” and all that follows and insert-
23 ing “(y), is in the United States not as an alien law-
24 fully admitted for permanent residence;” and

25 (3) in subsection (y)—

1 (A) in the header, by striking “ADMITTED
2 UNDER NONIMMIGRANT VISAS.—” and insert-
3 ing “NOT LAWFULLY ADMITTED FOR PERMA-
4 NENT RESIDENCE.—”;

5 (B) in paragraph (1), by amending sub-
6 paragraph (B) to read as follows:

7 “(B) the term ‘lawfully admitted for per-
8 manent residence’ has the same meaning as in
9 section 101(a)(20) of the Immigration and Na-
10 tionality Act (8 U.S.C. 1101(a)(20)).”;

11 (C) in paragraph (2), by striking “under a
12 nonimmigrant visa” and inserting “but not law-
13 fully admitted for permanent residence”; and

14 (D) in paragraph (3)(A), by striking “ad-
15 mitted to the United States under a non-
16 immigrant visa” and inserting “lawfully admit-
17 ted to the United States but not as an alien
18 lawfully admitted for permanent residence”.

19 **SEC. 305. UNIFORM STATUTE OF LIMITATIONS FOR CER-**
20 **TAIN IMMIGRATION, NATURALIZATION, AND**
21 **PEONAGE OFFENSES.**

22 Section 3291 of title 18, United States Code, is
23 amended by striking “No person” and all that follows
24 through the period at the end and inserting the following:
25 “No person shall be prosecuted, tried, or punished for a

1 violation of any section of chapters 69 (relating to nation-
2 ality and citizenship offenses) and 75 (relating to pass-
3 port, visa, and immigration offenses), or for a violation
4 of any criminal provision of sections 243, 266, 274, 275,
5 276, 277, or 278 of the Immigration and Nationality Act,
6 or for an attempt or conspiracy to violate any such section,
7 unless the indictment is returned or the information is
8 filed within ten years after the commission of the of-
9 fense.”.

10 **SEC. 306. CONFORMING AMENDMENT TO THE DEFINITION**
11 **OF RACKETEERING ACTIVITY.**

12 Section 1961(1) of title 18, United States Code, is
13 amended by striking “section 1542” and all that follows
14 through “section 1546 (relating to fraud and misuse of
15 visas, permits, and other documents)” and inserting “sec-
16 tions 1541–1548 (relating to passports and visas)”.

17 **SEC. 307. PRECLUDING ASYLEE AND REFUGEE ADJUST-**
18 **MENT OF STATUS FOR CERTAIN GROUNDS OF**
19 **INADMISSIBILITY AND DEPORTABILITY.**

20 (a) **GROUND FOR INADMISSIBILITY.**—Section
21 209(c) of the Immigration and Nationality Act (8 U.S.C.
22 1159(c)) is amended by striking “any other provision of
23 such section (other than paragraph (2)(C) or subpara-
24 graph (A), (B), (C), or (E) of paragraph (3))” and insert-
25 ing “paragraph (1) of such section”.

1 (b) GROUNDS FOR DEPORTABILITY.—Section 209 of
2 the Immigration and Nationality Act (8 U.S.C. 1159) is
3 amended by adding at the end the following:

4 “(d) COORDINATION WITH GROUNDS FOR DEPORT-
5 ABILITY.—An alien may not adjust status under this sec-
6 tion if the alien is deportable under any provision of sec-
7 tion 237 except subsection (a)(5) of such section.”.

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall apply—

10 (1) to any act that occurred before, on, or after
11 the date of the enactment of this Act; and

12 (2) to all aliens who are required to establish
13 admissibility on or after such date, and in all re-
14 moval, deportation, or exclusion proceedings that are
15 filed, pending, or reopened, on or after such date.

16 **SEC. 308. PRECLUDING WITHHOLDING OF REMOVAL FOR**
17 **AGGRAVATED FELONS.**

18 (a) IN GENERAL.—Section 241(b)(3)(B) (8 U.S.C.
19 1231(b)(3)(B)), as amended by section 201, is further
20 amended by inserting after clause (v), as inserted by sec-
21 tion 201, the following:

22 “(vi) the alien is convicted of an ag-
23 gravated felony.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall apply—

1 (1) to any act that occurred before, on, or after
2 the date of the enactment of this Act; and

3 (2) to all aliens who are required to establish
4 admissibility on or after such date, and in all re-
5 moval, deportation, or exclusion proceedings that are
6 filed, pending, or reopened on or after such date.

7 **SEC. 309. INADMISSIBILITY AND DEPORTABILITY OF**
8 **DRUNK DRIVERS.**

9 (a) IN GENERAL.—Section 101(a)(43) of the Immi-
10 gration and Nationality Act (8 U.S.C. 1101(a)(43)) (as
11 amended by this Act) is further amended—

12 (1) in subparagraph (T), by striking “and”;

13 (2) in subparagraph (U), by striking the period
14 at the end and inserting “; and”; and

15 (3) by inserting after subparagraph (U) the fol-
16 lowing:

17 “(V)(i) a single conviction for driving while
18 intoxicated (including a conviction for driving
19 while under the influence of or impairment by
20 alcohol or drugs), when such impaired driving
21 was a cause of the serious bodily injury or
22 death of another person; or

23 “(ii) a second or subsequent conviction for
24 driving while intoxicated (including a conviction

1 for driving under the influence of or impaired
2 by alcohol or drugs).”.

3 (b) **EFFECTIVE DATE.**—The amendments made by
4 subsection (a) shall take effect on the date of the enact-
5 ment of this Act and apply to convictions entered on or
6 after such date.

7 **SEC. 310. DETENTION OF DANGEROUS ALIENS.**

8 (a) **IN GENERAL.**—Section 241(a) of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—

10 (1) by striking “Attorney General” each place
11 it appears, except for the first reference in para-
12 graph (4)(B)(i), and inserting “Secretary of Home-
13 land Security”;

14 (2) in paragraph (1), by amending subpara-
15 graph (B) to read as follows:

16 “(B) **BEGINNING OF PERIOD.**—The re-
17 moval period begins on the latest of the fol-
18 lowing:

19 “(i) The date the order of removal be-
20 comes administratively final.

21 “(ii) If the alien is not in the custody
22 of the Secretary on the date the order of
23 removal becomes administratively final, the
24 date the alien is taken into such custody.

1 “(iii) If the alien is detained or con-
2 fined (except under an immigration proc-
3 ess) on the date the order of removal be-
4 comes administratively final, the date the
5 alien is taken into the custody of the Sec-
6 retary, after the alien is released from such
7 detention or confinement.”;

8 (3) in paragraph (1), by amending subpara-
9 graph (C) to read as follows:

10 “(C) SUSPENSION OF PERIOD.—

11 “(i) EXTENSION.—The removal period
12 shall be extended beyond a period of 90
13 days and the Secretary may, in the Sec-
14 retary’s sole discretion, keep the alien in
15 detention during such extended period if—

16 “(I) the alien fails or refuses to
17 make all reasonable efforts to comply
18 with the removal order, or to fully co-
19 operate with the Secretary’s efforts to
20 establish the alien’s identity and carry
21 out the removal order, including mak-
22 ing timely application in good faith
23 for travel or other documents nec-
24 essary to the alien’s departure or con-
25 spires or acts to prevent the alien’s

1 removal that is subject to an order of
2 removal;

3 “(II) a court, the Board of Immi-
4 gration Appeals, or an immigration
5 judge orders a stay of removal of an
6 alien who is subject to an administra-
7 tively final order of removal;

8 “(III) the Secretary transfers
9 custody of the alien pursuant to law
10 to another Federal agency or a State
11 or local government agency in connec-
12 tion with the official duties of such
13 agency; or

14 “(IV) a court or the Board of
15 Immigration Appeals orders a remand
16 to an immigration judge or the Board
17 of Immigration Appeals, during the
18 time period when the case is pending
19 a decision on remand (with the re-
20 moval period beginning anew on the
21 date that the alien is ordered removed
22 on remand).

23 “(ii) RENEWAL.—If the removal pe-
24 riod has been extended under clause (C)(i),

1 a new removal period shall be deemed to
2 have begun on the date—

3 “(I) the alien makes all reason-
4 able efforts to comply with the re-
5 moval order, or to fully cooperate with
6 the Secretary’s efforts to establish the
7 alien’s identity and carry out the re-
8 moval order;

9 “(II) the stay of removal is no
10 longer in effect; or

11 “(III) the alien is returned to the
12 custody of the Secretary.

13 “(iii) MANDATORY DETENTION FOR
14 CERTAIN ALIENS.—In the case of an alien
15 described in subparagraphs (A) through
16 (D) of section 236(c)(1), the Secretary
17 shall keep that alien in detention during
18 the extended period described in clause (i).

19 “(iv) SOLE FORM OF RELIEF.—An
20 alien may seek relief from detention under
21 this subparagraph only by filing an appli-
22 cation for a writ of habeas corpus in ac-
23 cordance with chapter 153 of title 28,
24 United States Code. No alien whose period
25 of detention is extended under this sub-

1 paragraph shall have the right to seek re-
2 lease on bond.”;

3 (4) in paragraph (3)—

4 (A) by adding after “If the alien does not
5 leave or is not removed within the removal pe-
6 riod” the following: “or is not detained pursu-
7 ant to paragraph (6) of this subsection”; and

8 (B) by striking subparagraph (D) and in-
9 serting the following:

10 “(D) to obey reasonable restrictions on the
11 alien’s conduct or activities that the Secretary
12 prescribes for the alien, in order to prevent the
13 alien from absconding, for the protection of the
14 community, or for other purposes related to the
15 enforcement of the immigration laws.”;

16 (5) in paragraph (4)(A), by striking “paragraph
17 (2)” and inserting “subparagraph (B)”; and

18 (6) by striking paragraph (6) and inserting the
19 following:

20 “(6) ADDITIONAL RULES FOR DETENTION OR
21 RELEASE OF CERTAIN ALIENS.—

22 “(A) DETENTION REVIEW PROCESS FOR
23 COOPERATIVE ALIENS ESTABLISHED.—For an
24 alien who is not otherwise subject to mandatory
25 detention, who has made all reasonable efforts

1 to comply with a removal order and to cooper-
2 ate fully with the Secretary of Homeland Secu-
3 rity's efforts to establish the alien's identity and
4 carry out the removal order, including making
5 timely application in good faith for travel or
6 other documents necessary to the alien's depar-
7 ture, and who has not conspired or acted to
8 prevent removal, the Secretary shall establish
9 an administrative review process to determine
10 whether the alien should be detained or released
11 on conditions. The Secretary shall make a de-
12 termination whether to release an alien after
13 the removal period in accordance with subpara-
14 graph (B). The determination shall include con-
15 sideration of any evidence submitted by the
16 alien, and may include consideration of any
17 other evidence, including any information or as-
18 sistance provided by the Secretary of State or
19 other Federal official and any other information
20 available to the Secretary of Homeland Security
21 pertaining to the ability to remove the alien.

22 “(B) AUTHORITY TO DETAIN BEYOND RE-
23 MOVAL PERIOD.—

24 “(i) IN GENERAL.—The Secretary of
25 Homeland Security, in the exercise of the

1 Secretary's sole discretion, may continue to
2 detain an alien for 90 days beyond the re-
3 moval period (including any extension of
4 the removal period as provided in para-
5 graph (1)(C)). An alien whose detention is
6 extended under this subparagraph shall
7 have no right to seek release on bond.

8 “(ii) SPECIFIC CIRCUMSTANCES.—The
9 Secretary of Homeland Security, in the ex-
10 ercise of the Secretary's sole discretion,
11 may continue to detain an alien beyond the
12 90 days authorized in clause (i)—

13 “(I) until the alien is removed, if
14 the Secretary, in the Secretary's sole
15 discretion, determines that there is a
16 significant likelihood that the alien—

17 “(aa) will be removed in the
18 reasonably foreseeable future; or

19 “(bb) would be removed in
20 the reasonably foreseeable future,
21 or would have been removed, but
22 for the alien's failure or refusal
23 to make all reasonable efforts to
24 comply with the removal order,
25 or to cooperate fully with the

1 Secretary's efforts to establish
2 the alien's identity and carry out
3 the removal order, including
4 making timely application in
5 good faith for travel or other doc-
6 uments necessary to the alien's
7 departure, or conspires or acts to
8 prevent removal;

9 “(II) until the alien is removed,
10 if the Secretary of Homeland Security
11 certifies in writing—

12 “(aa) in consultation with
13 the Secretary of Health and
14 Human Services, that the alien
15 has a highly contagious disease
16 that poses a threat to public safe-
17 ty;

18 “(bb) after receipt of a writ-
19 ten recommendation from the
20 Secretary of State, that release
21 of the alien is likely to have seri-
22 ous adverse foreign policy con-
23 sequences for the United States;

24 “(cc) based on information
25 available to the Secretary of

1 Homeland Security (including
2 classified, sensitive, or national
3 security information, and without
4 regard to the grounds upon
5 which the alien was ordered re-
6 moved), that there is reason to
7 believe that the release of the
8 alien would threaten the national
9 security of the United States; or
10 “(dd) that the release of the
11 alien will threaten the safety of
12 the community or any person,
13 conditions of release cannot rea-
14 sonably be expected to ensure the
15 safety of the community or any
16 person, and either (AA) the alien
17 has been convicted of one or
18 more aggravated felonies (as de-
19 fined in section 101(a)(43)(A))
20 or of one or more crimes identi-
21 fied by the Secretary of Home-
22 land Security by regulation, or of
23 one or more attempts or conspir-
24 acies to commit any such aggra-
25 vated felonies or such identified

1 crimes, if the aggregate term of
2 imprisonment for such attempts
3 or conspiracies is at least 5
4 years; or (BB) the alien has com-
5 mitted one or more crimes of vio-
6 lence (as defined in section 16 of
7 title 18, United States Code, but
8 not including a purely political
9 offense) and, because of a mental
10 condition or personality disorder
11 and behavior associated with that
12 condition or disorder, the alien is
13 likely to engage in acts of vio-
14 lence in the future; or

15 “(III) pending a certification
16 under subclause (II), so long as the
17 Secretary of Homeland Security has
18 initiated the administrative review
19 process not later than 30 days after
20 the expiration of the removal period
21 (including any extension of the re-
22 moval period, as provided in para-
23 graph (1)(C)).

24 “(iii) NO RIGHT TO BOND HEARING.—

25 An alien whose detention is extended under

1 this subparagraph shall have no right to
2 seek release on bond, including by reason
3 of a certification under clause (ii)(II).

4 “(C) RENEWAL AND DELEGATION OF CER-
5 TIFICATION.—

6 “(i) RENEWAL.—The Secretary of
7 Homeland Security may renew a certifi-
8 cation under subparagraph (B)(ii)(II)
9 every 6 months, after providing an oppor-
10 tunity for the alien to request reconsider-
11 ation of the certification and to submit
12 documents or other evidence in support of
13 that request. If the Secretary does not
14 renew a certification, the Secretary may
15 not continue to detain the alien under sub-
16 paragraph (B)(ii)(II).

17 “(ii) DELEGATION.—Notwithstanding
18 section 103, the Secretary of Homeland
19 Security may not delegate the authority to
20 make or renew a certification described in
21 item (bb), (cc), or (dd) of subparagraph
22 (B)(ii)(II) below the level of the Director
23 of Immigration and Customs Enforcement.

24 “(iii) HEARING.—The Secretary of
25 Homeland Security may request that the

1 Attorney General or the Attorney General's
2 designee provide for a hearing to make the
3 determination described in item (dd)(BB)
4 of subparagraph (B)(ii)(II).

5 “(D) RELEASE ON CONDITIONS.—If it is
6 determined that an alien should be released
7 from detention by a Federal court, the Board of
8 Immigration Appeals, or if an immigration
9 judge orders a stay of removal, the Secretary of
10 Homeland Security, in the exercise of the Sec-
11 retary's discretion, may impose conditions on
12 release as provided in paragraph (3).

13 “(E) REDETENTION.—The Secretary of
14 Homeland Security, in the exercise of the Sec-
15 retary's discretion, without any limitations
16 other than those specified in this section, may
17 again detain any alien subject to a final re-
18 moval order who is released from custody, if re-
19 moval becomes likely in the reasonably foresee-
20 able future, the alien fails to comply with the
21 conditions of release, or to continue to satisfy
22 the conditions described in subparagraph (A),
23 or if, upon reconsideration, the Secretary, in
24 the Secretary's sole discretion, determines that
25 the alien can be detained under subparagraph

1 (B). This section shall apply to any alien re-
2 turned to custody pursuant to this subpara-
3 graph, as if the removal period terminated on
4 the day of the redetention.

5 “(F) REVIEW OF DETERMINATIONS BY
6 SECRETARY.—A determination by the Secretary
7 under this paragraph shall not be subject to re-
8 view by any other agency.”.

9 (b) DETENTION OF ALIENS DURING REMOVAL PRO-
10 CEEDINGS.—

11 (1) CLERICAL AMENDMENT.—(A) Section 236
12 of the Immigration and Nationality Act (8 U.S.C.
13 1226) is amended by striking “Attorney General”
14 each place it appears (except in the second place
15 that term appears in section 236(a)) and inserting
16 “Secretary of Homeland Security”.

17 (B) Section 236(a) of such Act (8 U.S.C.
18 1226(a)) is amended by inserting “the Secretary of
19 Homeland Security or” before “the Attorney Gen-
20 eral—”.

21 (C) Section 236(e) of such Act (8 U.S.C.
22 1226(e)) is amended by striking “Attorney Gen-
23 eral’s” and inserting “Secretary of Homeland Secu-
24 rity’s”.

1 (2) LENGTH OF DETENTION.—Section 236 of
2 such Act (8 U.S.C. 1226) is amended by adding at
3 the end the following:

4 “(f) LENGTH OF DETENTION.—

5 “(1) IN GENERAL.—Notwithstanding any other
6 provision of this section, an alien may be detained,
7 and for an alien described in subsection (c) shall be
8 detained, under this section without time limitation,
9 except as provided in subsection (h), during the
10 pendency of removal proceedings.

11 “(2) CONSTRUCTION.—The length of detention
12 under this section shall not affect detention under
13 section 241.”.

14 (3) DETENTION OF CRIMINAL ALIENS.—Section
15 236(c)(1) of such Act (8 U.S.C. 1226(c)(1)) is
16 amended—

17 (A) in subparagraph (C), by striking “or”
18 at the end:

19 (B) by inserting after subparagraph (D)
20 the following:

21 “(E) is unlawfully present in the United
22 States and has been convicted for driving while
23 intoxicated (including a conviction for driving
24 while under the influence or impaired by alcohol
25 or drugs) without regard to whether the convic-

1 tion is classified as a misdemeanor or felony
2 under State Law, or

3 “(F)(i)(I) is inadmissible under section
4 212(a)(6)(i),

5 “(II) is deportable by reason of a visa rev-
6 ocation under section 221(i), or

7 “(III) is deportable under section
8 237(a)(1)(C)(i), and

9 “(ii) has been arrested or charged with a
10 particularly serious crime or a crime resulting
11 in the death or serious bodily injury (as defined
12 in section 1365(h)(3) of title 18, United States
13 Code) of another person;” and

14 (C) by amending the matter following sub-
15 paragraph (F) (as added by subparagraph (B)
16 of this paragraph) to read as follows:

17 “any time after the alien is released, without regard
18 to whether an alien is released related to any activ-
19 ity, offense, or conviction described in this para-
20 graph; to whether the alien is released on parole, su-
21 pervised release, or probation; or to whether the
22 alien may be arrested or imprisoned again for the
23 same offense. If the activity described in this para-
24 graph does not result in the alien being taken into
25 custody by any person other than the Secretary,

1 then when the alien is brought to the attention of
2 the Secretary or when the Secretary determines it is
3 practical to take such alien into custody, the Sec-
4 retary shall take such alien into custody.”.

5 (4) ADMINISTRATIVE REVIEW.—Section 236 of
6 the Immigration and Nationality Act (8 U.S.C.
7 1226), as amended by paragraph (2), is further
8 amended by adding at the end the following:

9 “(g) ADMINISTRATIVE REVIEW.—The Attorney Gen-
10 eral’s review of the Secretary’s custody determinations
11 under subsection (a) for the following classes of aliens
12 shall be limited to whether the alien may be detained, re-
13 leased on bond (of at least \$1,500 with security approved
14 by the Secretary), or released with no bond:

15 “(1) Aliens in exclusion proceedings.

16 “(2) Aliens described in section 212(a)(3) or
17 237(a)(4).

18 “(3) Aliens described in subsection (c).

19 “(h) RELEASE ON BOND.—

20 “(1) IN GENERAL.—An alien detained under
21 subsection (a) may seek release on bond. No bond
22 may be granted except to an alien who establishes
23 by clear and convincing evidence that the alien is not
24 a flight risk or a danger to another person or the
25 community.

1 “(2) CERTAIN ALIENS INELIGIBLE.—No alien
2 detained under subsection (c) may seek release on
3 bond.”.

4 (5) CLERICAL AMENDMENTS.—(A) Section
5 236(a)(2)(B) of the Immigration and Nationality
6 Act (8 U.S.C. 1226(a)(2)(B)) is amended by strik-
7 ing “conditional parole” and inserting “recog-
8 nizance”.

9 (B) Section 236(b) of such Act (8 U.S.C.
10 1226(b)) is amended by striking “parole” and in-
11 serting “recognizance”.

12 (c) SEVERABILITY.—If any of the provisions of this
13 section or any amendment by this section, or the applica-
14 tion of any such provision to any person or circumstance,
15 is held to be invalid for any reason, the remainder of this
16 section and of amendments made by this section, and the
17 application of the provisions and of the amendments made
18 by this section to any other person or circumstance shall
19 not be affected by such holding.

20 (d) EFFECTIVE DATES.—

21 (1) The amendments made by subsection (a)
22 shall take effect upon the date of the enactment of
23 this Act, and section 241 of the Immigration and
24 Nationality Act, as so amended, shall in addition
25 apply to—

1 (A) all aliens subject to a final administra-
2 tive removal, deportation, or exclusion order
3 that was issued before, on, or after the date of
4 the enactment of this Act; and

5 (B) acts and conditions occurring or exist-
6 ing before, on, or after such date.

7 (2) The amendments made by subsection (b)
8 shall take effect upon the date of the enactment of
9 this Act, and section 236 of the Immigration and
10 Nationality Act, as so amended, shall in addition
11 apply to any alien in detention under provisions of
12 such section on or after such date.

13 **SEC. 311. GROUNDS OF INADMISSIBILITY AND DEPORT-**
14 **ABILITY FOR ALIEN GANG MEMBERS.**

15 (a) DEFINITION OF GANG MEMBER.—Section 101(a)
16 of the Immigration and Nationality Act (8 U.S.C.
17 1101(a)) is amended by adding at the end the following:

18 “(53)(A) The term ‘criminal gang’ means an ongoing
19 group, club, organization, or association of 5 or more per-
20 sons that has as one of its primary purposes the commis-
21 sion of 1 or more of the following criminal offenses and
22 the members of which engage, or have engaged within the
23 past 5 years, in a continuing series of such offenses, or
24 that has been designated as a criminal gang by the Sec-
25 retary of Homeland Security, in consultation with the At-

1 torney General, as meeting these criteria. The offenses de-
2 scribed, whether in violation of Federal or State law or
3 foreign law and regardless of whether the offenses oc-
4 curred before, on, or after the date of the enactment of
5 this paragraph, are the following:

6 “(i) A ‘felony drug offense’ (as defined in sec-
7 tion 102 of the Controlled Substances Act (21
8 U.S.C. 802)).

9 “(ii) An offense under section 274 (relating to
10 bringing in and harboring certain aliens), section
11 277 (relating to aiding or assisting certain aliens to
12 enter the United States), or section 278 (relating to
13 importation of alien for immoral purpose).

14 “(iii) A crime of violence (as defined in section
15 16 of title 18, United States Code).

16 “(iv) A crime involving obstruction of justice,
17 tampering with or retaliating against a witness, vic-
18 tim, or informant, or burglary.

19 “(v) Any conduct punishable under sections
20 1028 and 1029 of title 18, United States Code (re-
21 lating to fraud and related activity in connection
22 with identification documents or access devices), sec-
23 tions 1581 through 1594 of such title (relating to
24 peonage, slavery and trafficking in persons), section
25 1952 of such title (relating to interstate and foreign

1 travel or transportation in aid of racketeering enter-
2 prises), section 1956 of such title (relating to the
3 laundering of monetary instruments), section 1957
4 of such title (relating to engaging in monetary trans-
5 actions in property derived from specified unlawful
6 activity), or sections 2312 through 2315 of such title
7 (relating to interstate transportation of stolen motor
8 vehicles or stolen property).

9 “(vi) A conspiracy to commit an offense de-
10 scribed in clauses (i) through (v).

11 “(B) Notwithstanding any other provision of law (in-
12 cluding any effective date), the term applies regardless of
13 whether the conduct occurred before, on, or after the date
14 of the enactment of this paragraph.”.

15 (b) INADMISSIBILITY.—Section 212(a)(2) of such Act
16 (8 U.S.C. 1182(a)(2)), as amended by section 302(a)(2)
17 of this Act, is further amended by adding at the end the
18 following:

19 “(N) ALIENS ASSOCIATED WITH CRIMINAL
20 GANGS.—Any alien is inadmissible who a con-
21 sular officer, the Secretary of Homeland Secu-
22 rity, or the Attorney General knows or has rea-
23 son to believe—

1 “(i) to be or to have been a member
2 of a criminal gang (as defined in section
3 101(a)(53)); or

4 “(ii) to have participated in the activi-
5 ties of a criminal gang (as defined in sec-
6 tion 101(a)(53)), knowing or having reason
7 to know that such activities will promote,
8 further, aid, or support the illegal activity
9 of the criminal gang.”.

10 (c) DEPORTABILITY.—Section 237(a)(2) of the Im-
11 migration and Nationality Act (8 U.S.C. 1227(a)(2)), as
12 amended by section 302(c) of this Act, is further amended
13 by adding at the end the following:

14 “(H) ALIENS ASSOCIATED WITH CRIMINAL
15 GANGS.—Any alien is deportable who the Sec-
16 retary of Homeland Security or the Attorney
17 General knows or has reason to believe—

18 “(i) is or has been a member of a
19 criminal gang (as defined in section
20 101(a)(53)); or

21 “(ii) has participated in the activities
22 of a criminal gang (as so defined), knowing
23 or having reason to know that such activi-
24 ties will promote, further, aid, or support
25 the illegal activity of the criminal gang.”.

1 (d) DESIGNATION.—

2 (1) IN GENERAL.—Chapter 2 of title II of the
3 Immigration and Nationality Act (8 U.S.C. 1182) is
4 amended by inserting after section 219 the fol-
5 lowing:

6 “DESIGNATION

7 “SEC. 220. (a) IN GENERAL.—The Secretary of
8 Homeland Security, in consultation with the Attorney
9 General, and the Secretary of State may designate a group
10 or association as a criminal street gang if their conduct
11 is described in section 101(a)(53) or if the group or asso-
12 ciation conduct poses a significant risk that threatens the
13 security and the public safety of United States nationals
14 or the national security, homeland security, foreign policy,
15 or economy of the United States.

16 “(b) EFFECTIVE DATE.—Designations under sub-
17 section (a) shall remain in effect until the designation is
18 revoked after consultation between the Secretary of Home-
19 land Security, the Attorney General, and the Secretary of
20 State or is terminated in accordance with Federal law.”.

21 (2) CLERICAL AMENDMENT.—The table of con-
22 tents for such Act is amended by inserting after the
23 item relating to section 219 the following:

“220. Designation.”.

24 (e) MANDATORY DETENTION OF CRIMINAL STREET
25 GANG MEMBERS.—

1 (1) IN GENERAL.—Section 236(c)(1)(D) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1226(c)(1)(D)) is amended—

4 (A) by inserting “or 212(a)(2)(N)” after
5 “212(a)(3)(B)”; and

6 (B) by inserting “237(a)(2)(H) or” before
7 “237(a)(4)(B)”.

8 (2) ANNUAL REPORT.—Not later than March 1
9 of each year (beginning 1 year after the date of the
10 enactment of this Act), the Secretary of Homeland
11 Security, after consultation with the appropriate
12 Federal agencies, shall submit a report to the Com-
13 mittees on the Judiciary of the House of Represent-
14 atives and of the Senate on the number of aliens de-
15 tained under the amendments made by paragraph
16 (1).

17 (f) ASYLUM CLAIMS BASED ON GANG AFFILI-
18 ATION.—

19 (1) INAPPLICABILITY OF RESTRICTION ON RE-
20 MOVAL TO CERTAIN COUNTRIES.—Section
21 241(b)(3)(B) of the Immigration and Nationality
22 Act (8 U.S.C. 1251(b)(3)(B)) is amended, in the
23 matter preceding clause (i), by inserting “who is de-
24 scribed in section 212(a)(2)(N)(i) or section
25 237(a)(2)(H)(i) or who is” after “to an alien”.

1 (2) INELIGIBILITY FOR ASYLUM.—Section
2 208(b)(2)(A) of such Act (8 U.S.C. 1158(b)(2)(A))
3 (as amended by this Act) is further amended—

4 (A) in clause (v), by striking “or” at the
5 end;

6 (B) by redesignating clause (vi) as clause
7 (vii); and

8 (C) by inserting after clause (v) the fol-
9 lowing:

10 “(vi) the alien is described in section
11 212(a)(2)(N)(i) or section 237(a)(2)(H)(i)
12 (relating to participation in criminal street
13 gangs); or”.

14 (g) TEMPORARY PROTECTED STATUS.—Section 244
15 of such Act (8 U.S.C. 1254a) is amended—

16 (1) by striking “Attorney General” each place
17 it appears and inserting “Secretary of Homeland Se-
18 curity”;

19 (2) in subparagraph (c)(2)(B)—

20 (A) in clause (i), by striking “or” at the
21 end;

22 (B) in clause (ii), by striking the period
23 and inserting “; or”; and

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

1 “(iii) the alien is, or at any time after
2 admission has been, a member of a crimi-
3 nal gang (as defined in section
4 101(a)(53)).”; and

5 (3) in subsection (d)—

6 (A) by striking paragraph (3); and

7 (B) in paragraph (4), by adding at the end
8 the following: “The Secretary of Homeland Se-
9 curity may detain an alien provided temporary
10 protected status under this section whenever
11 appropriate under any other provision of law.”.

12 (h) **EFFECTIVE DATE.**—The amendments made by
13 this section shall take effect on the date of the enactment
14 of this Act and shall apply to acts that occur before, on,
15 or after the date of the enactment of this Act.

16 **SEC. 312. EXTENSION OF IDENTITY THEFT OFFENSES.**

17 Section 1028A of title 18, United States Code, is
18 amended by adding at the end the following:

19 “(d) **STATE OF MIND PROOF REQUIREMENT.**—In a
20 prosecution for a violation of subsection (a)(1) predicated
21 on a violation described in subsection (c)(2), (6), (7), (9),
22 or (10) of this section, the Government need not prove
23 that the defendant knew the means of identification was
24 of another person.”.

1 **SEC. 313. LAUNDERING OF MONETARY INSTRUMENTS.**

2 (a) ADDITIONAL PREDICATE OFFENSES.—Section
3 1956(c)(7)(D) of title 18, United States Code, is amend-
4 ed—

5 (1) by inserting “section 1590 (relating to traf-
6 ficking with respect to peonage, slavery, involuntary
7 servitude, or forced labor),” after “section 1363 (re-
8 lating to destruction of property within the special
9 maritime and territorial jurisdiction),”; and

10 (2) by inserting “section 274(a) of the Immi-
11 gration and Nationality Act (8 U.S.C.1324(a)) (re-
12 lating to bringing in and harboring certain aliens),”
13 after “section 590 of the Tariff Act of 1930 (19
14 U.S.C. 1590) (relating to aviation smuggling),”.

15 (b) INTENT TO CONCEAL OR DISGUISE.—Section
16 1956(a) of title 18, United States Code, is amended—

17 (1) in paragraph (1) so that subparagraph (B)
18 reads as follows:

19 “(B) knowing that the transaction—

20 “(i) conceals or disguises, or is intended to
21 conceal or disguise, the nature, source, location,
22 ownership, or control of the proceeds of some
23 form of unlawful activity; or

24 “(ii) avoids, or is intended to avoid, a
25 transaction reporting requirement under State
26 or Federal law,”; and

1 (2) in paragraph (2) so that subparagraph (B)
2 reads as follows:

3 “(B) knowing that the monetary instrument or
4 funds involved in the transportation, transmission,
5 or transfer represent the proceeds of some form of
6 unlawful activity, and knowing that such transpor-
7 tation, transmission, or transfer—

8 “(i) conceals or disguises, or is intended to
9 conceal or disguise, the nature, source, location,
10 ownership, or control of the proceeds of some
11 form of unlawful activity; or

12 “(ii) avoids, or is intended to avoid, a
13 transaction reporting requirement under State
14 or Federal law.”.

15 **SEC. 314. PENALTIES FOR ILLEGAL ENTRY OR PRESENCE.**

16 (a) IN GENERAL.—Section 275 of the Immigration
17 and Nationality Act (8 U.S.C. 1325) is amended to read
18 as follows:

19 “ILLEGAL ENTRY OR PRESENCE

20 “SEC. 275. (a) IN GENERAL.—

21 “(1) ILLEGAL ENTRY OR PRESENCE.—An alien
22 shall be subject to the penalties set forth in para-
23 graph (2) if the alien—

24 “(A) knowingly enters or crosses the bor-
25 der into the United States at any time or place

1 other than as designated by the Secretary of
2 Homeland Security;

3 “(B) knowingly eludes, at any time or
4 place, examination or inspection by an author-
5 ized immigration, customs, or agriculture offi-
6 cer (including by failing to stop at the com-
7 mand of such officer);

8 “(C) knowingly enters or crosses the bor-
9 der to the United States and, upon examination
10 or inspection, knowingly makes a false or mis-
11 leading representation or the knowing conceal-
12 ment of a material fact (including such rep-
13 resentation or concealment in the context of ar-
14 rival, reporting, entry, or clearance require-
15 ments of the customs laws, immigration laws,
16 agriculture laws, or shipping laws);

17 “(D) knowingly violates the terms or con-
18 ditions of the alien’s admission or parole into
19 the United States; or

20 “(E) knowingly is unlawfully present in the
21 United States (as defined in section
22 212(a)(9)(B)(ii) subject to the exceptions set
23 forth in section 212(a)(9)(B)(iii)).

24 “(2) CRIMINAL PENALTIES.—Any alien who
25 violates any provision under paragraph (1)—

1 “(A) shall, for the first violation, be fined
2 under title 18, United States Code, imprisoned
3 not more than 6 months, or both;

4 “(B) shall, for a second or subsequent vio-
5 lation, or following an order of voluntary depar-
6 ture, be fined under such title, imprisoned not
7 more than 2 years (or not more than 6 months
8 in the case of a second or subsequent violation
9 of paragraph (1)(E)), or both;

10 “(C) if the violation occurred after the
11 alien had been convicted of 3 or more mis-
12 demeanors or for a felony, shall be fined under
13 such title, imprisoned not more than 10 years,
14 or both;

15 “(D) if the violation occurred after the
16 alien had been convicted of a felony for which
17 the alien received a term of imprisonment of
18 not less than 30 months, shall be fined under
19 such title, imprisoned not more than 15 years,
20 or both; and

21 “(E) if the violation occurred after the
22 alien had been convicted of a felony for which
23 the alien received a term of imprisonment of
24 not less than 60 months, such alien shall be

1 fined under such title, imprisoned not more
2 than 20 years, or both.

3 “(3) PRIOR CONVICTIONS.—The prior convic-
4 tions described in subparagraphs (C) through (E) of
5 paragraph (2) are elements of the offenses described
6 and the penalties in such subparagraphs shall apply
7 only in cases in which the conviction or convictions
8 that form the basis for the additional penalty are—

9 “(A) alleged in the indictment or informa-
10 tion; and

11 “(B) proven beyond a reasonable doubt at
12 trial or admitted by the defendant.

13 “(4) DURATION OF OFFENSE.—An offense
14 under this subsection continues until the alien is dis-
15 covered within the United States by an immigration,
16 customs, or agriculture officer.

17 “(5) ATTEMPT.—Whoever attempts to commit
18 any offense under this section shall be punished in
19 the same manner as for a completion of such of-
20 fense.

21 “(b) IMPROPER TIME OR PLACE; CIVIL PEN-
22 ALTIES.—Any alien who is apprehended while entering, at-
23 tempting to enter, or knowingly crossing or attempting to
24 cross the border to the United States at a time or place
25 other than as designated by immigration officers shall be

1 subject to a civil penalty, in addition to any criminal or
2 other civil penalties that may be imposed under any other
3 provision of law, in an amount equal to—

4 “(1) not less than \$50 or more than \$250 for
5 each such entry, crossing, attempted entry, or at-
6 tempted crossing; or

7 “(2) twice the amount specified in paragraph
8 (1) if the alien had previously been subject to a civil
9 penalty under this subsection.”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 for the Immigration and Nationality Act is amended by
12 striking the item relating to section 275 and inserting the
13 following:

“Sec. 275. Illegal entry or presence.”.

14 **SEC. 315. ILLEGAL REENTRY.**

15 Section 276 of the Immigration and Nationality Act
16 (8 U.S.C. 1326) is amended to read as follows:

17 “REENTRY OF REMOVED ALIEN

18 “SEC. 276. (a) REENTRY AFTER REMOVAL.—Any
19 alien who has been denied admission, excluded, deported,
20 or removed, or who has departed the United States while
21 an order of exclusion, deportation, or removal is out-
22 standing, and subsequently enters, attempts to enter,
23 crosses the border to, attempts to cross the border to, or
24 is at any time found in the United States, shall be fined

1 under title 18, United States Code, imprisoned not more
2 than 2 years, or both.

3 “(b) REENTRY OF CRIMINAL OFFENDERS.—Not-
4 withstanding the penalty provided in subsection (a), if an
5 alien described in that subsection was convicted before
6 such removal or departure—

7 “(1) for 3 or more misdemeanors or for a fel-
8 ony, the alien shall be fined under title 18, United
9 States Code, imprisoned not more than 10 years, or
10 both;

11 “(2) for a felony for which the alien was sen-
12 tenced to a term of imprisonment of not less than
13 30 months, the alien shall be fined under such title,
14 imprisoned not more than 15 years, or both;

15 “(3) for a felony for which the alien was sen-
16 tenced to a term of imprisonment of not less than
17 60 months, the alien shall be fined under such title,
18 imprisoned not more than 20 years, or both; or

19 “(4) for murder, rape, kidnapping, or a felony
20 offense described in chapter 77 (relating to peonage
21 and slavery) or 113B (relating to terrorism) of such
22 title, or for 3 or more felonies of any kind, the alien
23 shall be fined under such title, imprisoned not more
24 than 25 years, or both.

1 “(c) REENTRY AFTER REPEATED REMOVAL.—Any
2 alien who has been denied admission, excluded, deported,
3 or removed 3 or more times and thereafter enters, at-
4 tempts to enter, crosses the border to, attempts to cross
5 the border to, or is at any time found in the United States,
6 shall be fined under title 18, United States Code, impris-
7 oned not more than 10 years, or both.

8 “(d) PROOF OF PRIOR CONVICTIONS.—The prior
9 convictions described in subsection (b) are elements of the
10 crimes described, and the penalties in that subsection shall
11 apply only in cases in which the conviction or convictions
12 that form the basis for the additional penalty are—

13 “(1) alleged in the indictment or information;
14 and

15 “(2) proven beyond a reasonable doubt at trial
16 or admitted by the defendant.

17 “(e) AFFIRMATIVE DEFENSES.—It shall be an af-
18 firmative defense to a violation of this section that—

19 “(1) prior to the alleged violation, the alien had
20 sought and received the express consent of the Sec-
21 retary of Homeland Security to reapply for admis-
22 sion into the United States; or

23 “(2) with respect to an alien previously denied
24 admission and removed, the alien—

1 “(A) was not required to obtain such ad-
2 vance consent under the Immigration and Na-
3 tionality Act or any prior Act; and

4 “(B) had complied with all other laws and
5 regulations governing the alien’s admission into
6 the United States.

7 “(f) LIMITATION ON COLLATERAL ATTACK ON UN-
8 DERLYING REMOVAL ORDER.—In a criminal proceeding
9 under this section, an alien may not challenge the validity
10 of any prior removal order concerning the alien.

11 “(g) REENTRY OF ALIEN REMOVED PRIOR TO COM-
12 PLETION OF TERM OF IMPRISONMENT.—Any alien re-
13 moved pursuant to section 241(a)(4) who enters, attempts
14 to enter, crosses the border to, attempts to cross the bor-
15 der to, or is at any time found in, the United States shall
16 be incarcerated for the remainder of the sentence of im-
17 prisonment which was pending at the time of deportation
18 without any reduction for parole or supervised release un-
19 less the alien affirmatively demonstrates that the Sec-
20 retary of Homeland Security has expressly consented to
21 the alien’s reentry. Such alien shall be subject to such
22 other penalties relating to the reentry of removed aliens
23 as may be available under this section or any other provi-
24 sion of law.

1 “(h) DEFINITIONS.—For purposes of this section and
2 section 275, the following definitions shall apply:

3 “(1) CROSSES THE BORDER TO THE UNITED
4 STATES.—The term ‘crosses the border’ refers to the
5 physical act of crossing the border, regardless of
6 whether the alien is free from official restraint.

7 “(2) FELONY.—The term ‘felony’ means any
8 criminal offense punishable by a term of imprison-
9 ment of more than 1 year under the laws of the
10 United States, any State, or a foreign government.

11 “(3) MISDEMEANOR.—The term ‘misdemeanor’
12 means any criminal offense punishable by a term of
13 imprisonment of not more than 1 year under the ap-
14 plicable laws of the United States, any State, or a
15 foreign government.

16 “(4) REMOVAL.—The term ‘removal’ includes
17 any denial of admission, exclusion, deportation, or
18 removal, or any agreement by which an alien stipu-
19 lates or agrees to exclusion, deportation, or removal.

20 “(5) STATE.—The term ‘State’ means a State
21 of the United States, the District of Columbia, and
22 any commonwealth, territory, or possession of the
23 United States.”.

1 **SEC. 316. REFORM OF PASSPORT, VISA, AND IMMIGRATION**
2 **FRAUD OFFENSES.**

3 Chapter 75 of title 18, United States Code, is amend-
4 ed to read as follows:

5 **“CHAPTER 75—PASSPORTS AND VISAS**

“Sec.

“1541. Issuance without authority.

“1542. False statement in application and use of passport.

“1543. Forgery or false use of passport.

“1544. Misuse of a passport.

“1545. Schemes to defraud aliens.

“1546. Immigration and visa fraud.

“1547. Attempts and conspiracies.

“1548. Alternative penalties for certain offenses.

“1549. Definitions.

6 **“§ 1541. Issuance without authority**

7 “(a) IN GENERAL.—Whoever—

8 “(1) acting or claiming to act in any office or
9 capacity under the United States, or a State, with-
10 out lawful authority grants, issues, or verifies any
11 passport or other instrument in the nature of a
12 passport to or for any person; or

13 “(2) being a consular officer authorized to
14 grant, issue, or verify passports, knowingly grants,
15 issues, or verifies any such passport to or for any
16 person not owing allegiance, to the United States,
17 whether a citizen or not;

18 shall be fined under this title or imprisoned not more than
19 15 years, or both.

1 “(b) DEFINITION.—In this section, the term ‘State’
2 means a State of the United States, the District of Colum-
3 bia, and any commonwealth, territory, or possession of the
4 United States.

5 **“§ 1542. False statement in application and use of**
6 **passport**

7 “Whoever knowingly—

8 “(1) makes any false statement in an applica-
9 tion for passport with intent to induce or secure the
10 issuance of a passport under the authority of the
11 United States, either for his own use or the use of
12 another, contrary to the laws regulating the issuance
13 of passports or the rules prescribed pursuant to such
14 laws; or

15 “(2) uses or attempts to use, or furnishes to
16 another for use any passport the issue of which was
17 secured in any way by reason of any false statement;
18 shall be fined under this title or imprisoned not more than
19 15 years, or both.

20 **“§ 1543. Forgery or false use of passport**

21 “Whoever—

22 “(1) falsely makes, forges, counterfeits, muti-
23 lates, or alters any passport or instrument pur-
24 porting to be a passport, with intent that the same
25 may be used; or

1 “(2) knowingly uses, or attempts to use, or fur-
2 nishes to another for use any such false, forged,
3 counterfeited, mutilated, or altered passport or in-
4 strument purporting to be a passport, or any pass-
5 port validly issued which has become void by the oc-
6 currence of any condition therein prescribed invali-
7 dating the same;
8 shall be fined under this title or imprisoned not more than
9 15 years, or both.

10 **“§ 1544. Misuse of a passport**

11 “Whoever knowingly—

12 “(1) uses any passport issued or designed for
13 the use of another;

14 “(2) uses any passport in violation of the condi-
15 tions or restrictions therein contained, or in violation
16 of the laws, regulations, or rules governing the
17 issuance and use of the passport;

18 “(3) secures, possesses, uses, receives, buys,
19 sells, or distributes any passport knowing it to be
20 forged, counterfeited, altered, falsely made, procured
21 by fraud, stolen, or produced or issued without law-
22 ful authority; or

23 “(4) violates the terms and conditions of any
24 safe conduct duly obtained and issued under the au-
25 thority of the United States;

1 shall be fined under this title, imprisoned not more than
2 15 years, or both.

3 **“§ 1545. Schemes to defraud aliens**

4 “Whoever inside the United States, or in or affecting
5 interstate or foreign commerce, in connection with any
6 matter that is authorized by or arises under the immigra-
7 tion laws (as defined in section 101(a)(17) of the Immi-
8 gration and Nationality Act (8 U.S.C. 1101(a)(17))) or
9 any matter the offender claims or represents is authorized
10 by or arises under the immigration laws of the United
11 States, knowingly executes a scheme or artifice—

12 “(1) to defraud any person, or

13 “(2) to obtain or receive money or anything else
14 of value from any person by means of false or fraud-
15 ulent pretenses, representations, or promises;

16 shall be fined under this title, imprisoned not more than
17 15 years, or both.

18 **“§ 1546. Immigration and visa fraud**

19 “Whoever knowingly—

20 “(1) uses any immigration document issued or
21 designed for the use of another;

22 “(2) forges, counterfeits, alters, or falsely
23 makes any immigration document;

1 “(3) mails, prepares, presents, or signs any im-
2 migration document knowing it to contain any mate-
3 rially false statement or representation;

4 “(4) secures, possesses, uses, transfers, re-
5 ceives, buys, sells, or distributes any immigration
6 document knowing it to be forged, counterfeited, al-
7 tered, falsely made, stolen, procured by fraud, or
8 produced or issued without lawful authority;

9 “(5) adopts or uses a false or fictitious name to
10 evade or to attempt to evade the immigration laws;

11 “(6) transfers or furnishes, without lawful au-
12 thority, an immigration document to another person
13 for use by a person other than the person for whom
14 the immigration document was issued or designed;
15 or

16 “(7) produces, issues, authorizes, or verifies,
17 without lawful authority, an immigration document;
18 shall be fined under this title, imprisoned not more than
19 15 years, or both.

20 **“§ 1547. Attempts and conspiracies**

21 “Whoever attempts or conspires to violate this chap-
22 ter shall be punished in the same manner as a person who
23 completes that violation.

1 **“§ 1548. Alternative penalties for certain offenses**

2 “(a) **TERRORISM.**—Whoever violates any section in
3 this chapter to facilitate an act of international terrorism
4 or domestic terrorism (as such terms are defined in section
5 2331), shall be fined under this title or imprisoned not
6 more than 25 years, or both.

7 “(b) **DRUG TRAFFICKING OFFENSES.**—Whoever vio-
8 lates any section in this chapter to facilitate a drug traf-
9 ficking crime (as defined in section 929(a)) shall be fined
10 under this title or imprisoned not more than 20 years, or
11 both.

12 **“§ 1549. Definitions**

13 “In this chapter:

14 “(1) An ‘application for a United States pass-
15 port’ includes any document, photograph, or other
16 piece of evidence attached to or submitted in support
17 of the application.

18 “(2) The term ‘immigration document’ means
19 any instrument on which is recorded, by means of
20 letters, figures, or marks, matters which may be
21 used to fulfill any requirement of the Immigration
22 and Nationality Act.”.

23 **SEC. 317. FORFEITURE.**

24 Section 981(a)(1) of title 18, United States Code, is
25 amended by adding at the end the following:

1 “(I) Any property, real or personal, that has
2 been used to commit or facilitate the commission of
3 a violation of chapter 75, the gross proceeds of such
4 violation, and any property traceable to any such
5 property or proceeds.”.

6 **SEC. 318. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**
7 **ON CRIMINAL OR SECURITY GROUNDS.**

8 (a) IN GENERAL.—Section 238 of the Immigration
9 and Nationality Act (8 U.S.C. 1228) is amended—

10 (1) by adding at the end of the section heading
11 the following: “OR WHO ARE SUBJECT TO TER-
12 RORISM-RELATED GROUNDS FOR REMOVAL”;

13 (2) in subsection (b)—

14 (A) in paragraph (1)—

15 (i) by striking “Attorney General”
16 and inserting “Secretary of Homeland Se-
17 curity in the exercise of discretion”; and

18 (ii) by striking “set forth in this sub-
19 section or” and inserting “set forth in this
20 subsection, in lieu of removal proceedings
21 under”;

22 (B) in paragraphs (3) and (4), by striking
23 “Attorney General” each place the term ap-
24 pears and inserting “Secretary of Homeland
25 Security”;

1 (C) in paragraph (5)—

2 (i) by striking “described in this sec-
3 tion” and inserting “described in para-
4 graph (1) or (2)”; and

5 (ii) by striking “the Attorney General
6 may grant in the Attorney General’s dis-
7 cretion.” and inserting “the Secretary of
8 Homeland Security or the Attorney Gen-
9 eral may grant, in the discretion of the
10 Secretary or the Attorney General, in any
11 proceeding.”;

12 (D) by redesignating paragraphs (3), (4),
13 and (5) as paragraphs (4), (5), and (6) respec-
14 tively; and

15 (E) by inserting after paragraph (2) the
16 following:

17 “(3) The Secretary of Homeland Security, in
18 the exercise of discretion, may determine inadmis-
19 sibility under section 212(a)(2) and issue an order
20 of removal pursuant to the procedures set forth in
21 this subsection, in lieu of removal proceedings under
22 section 240, with respect to an alien who—

23 “(A) has not been admitted or paroled;

1 “(B) has not been found to have a credible
2 fear of persecution pursuant to the procedures
3 set forth in 235(b)(1)(B); and

4 “(C) is not eligible for a waiver of inadmis-
5 sibility or relief from removal.”; and

6 (3) by redesignating the 2 subsections after
7 subsection (b) as subsections (d) and (e), respec-
8 tively, and inserting after subsection (b) the fol-
9 lowing:

10 “(c) REMOVAL ALIENS WHO ARE SUBJECT TO TER-
11 RORISM-RELATED GROUNDS FOR REMOVAL.—

12 “(1) The Secretary of Homeland Security—

13 “(A) shall, notwithstanding section 240, in
14 the case of every alien, determine the inadmis-
15 sibility of the alien under subclause (I), (II), or
16 (III) of section 212(a)(3)(B)(i), or the deport-
17 ability of the alien under section 237(a)(4)(B)
18 as consequence of being described in one of
19 such subclauses, and issue an order of removal
20 pursuant to the procedures set forth in this
21 subsection to every alien determined to be inad-
22 missible or deportable on such a ground; and

23 “(B) may, in the case of any alien, deter-
24 mine the inadmissibility of the alien under sub-
25 paragraph (A) or (B) of section 212(a)(3)

1 (other than subclauses (I), (II), and (III) of
2 section 212(a)(3)(B)), or the deportability of
3 the alien under subparagraph (A) or (B) of sec-
4 tion 237(a)(4) (as a consequence of being de-
5 scribed in subclause (I), (II), or (III) of section
6 212(a)(3)(B)), and issue an order of removal
7 pursuant to the procedures set forth in this
8 subsection or section 240 to every alien deter-
9 mined to be inadmissible or deportable on such
10 a ground.

11 “(2) The Secretary of Homeland Security may
12 not execute any order described in paragraph (1)
13 until 14 calendar days have passed from the date
14 that such order was issued, unless waived by the
15 alien, in order that the alien has an opportunity to
16 apply for judicial review under section 242.

17 “(3) Proceedings before the Secretary of Home-
18 land Security under this subsection shall be in ac-
19 cordance with such regulations as the Secretary
20 shall prescribe. The Secretary shall provide that—

21 “(A) the alien is given reasonable notice of
22 the charges and of the opportunity described in
23 subparagraph (C);

24 “(B) the alien shall have the privilege of
25 being represented (at no expense to the Govern-

1 ment) by such counsel, authorized to practice in
2 such proceedings, as the alien shall choose;

3 “(C) the alien has a reasonable oppor-
4 tunity to inspect the evidence and rebut the
5 charges;

6 “(D) a determination is made on the
7 record that the individual upon whom the notice
8 for the proceeding under this section is served
9 (either in person or by mail) is, in fact, the
10 alien named in such notice;

11 “(E) a record is maintained for judicial re-
12 view; and

13 “(F) the final order of removal is not adju-
14 dicated by the same person who issues the
15 charges.

16 “(4) No alien described in this subsection shall
17 be eligible for any relief from removal that the Sec-
18 retary of Homeland Security may grant in the Sec-
19 retary’s discretion.”.

20 (b) CONFORMING AMENDMENT.—The table of con-
21 tents of the Immigration and Nationality Act (8 U.S.C.
22 1101 et seq.) is amended by striking the item relating to
23 section 238 and inserting the following:

 “Sec. 238. Expedited removal of aliens convicted of aggravated felonies or who
 are subject to terrorism-related grounds for removal.”.

1 (b) DEPORTABILITY.—Section 237(a)(2) of such Act
2 (8 U.S.C. 1227(a)(2)), as amended by sections 302(c) and
3 311(c) of this Act, is further amended—

4 (1) in subparagraph (A), by striking clause (v);
5 and

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

7 “(I) FAILURE TO REGISTER AS A SEX OF-
8 FENDER.—Any alien convicted of, or who ad-
9 mits having committed, or who admits commit-
10 ting acts which constitute the essential elements
11 of a violation of section 2250 of title 18, United
12 States Code (relating to failure to register as a
13 sex offender) is deportable.”.

14 (c) EFFECTIVE DATE.—The amendments made by
15 this section shall take effect on the date of the enactment
16 of this Act and shall apply to acts that occur before, on,
17 or after the date of the enactment of this Act.

18 **SEC. 320. PROTECTING IMMIGRANTS FROM CONVICTED**
19 **SEX OFFENDERS.**

20 (a) IMMIGRANTS.—Section 204(a)(1) of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1154(a)(1)), is amend-
22 ed—

23 (1) in subparagraph (A), by amending clause
24 (viii) to read as follows:

1 “(viii) Clause (i) shall not apply to a citizen of the
2 United States who has been convicted of an offense de-
3 scribed in subparagraph (A), (I), or (K) of section
4 101(a)(43), unless the Secretary of Homeland Security,
5 in the Secretary’s sole and unreviewable discretion, deter-
6 mines that the citizen poses no risk to the alien with re-
7 spect to whom a petition described in clause (i) is filed.”;
8 and

9 (2) in subparagraph (B)(i)—

10 (A) by redesignating the second subclause

11 (I) as subclause (II); and

12 (B) by amending such subclause (II) to
13 read as follows:

14 “(II) Subclause (I) shall not apply in the case of an
15 alien admitted for permanent residence who has been con-
16 victed of an offense described in subparagraph (A), (I),
17 or (K) of section 101(a)(43), unless the Secretary of
18 Homeland Security, in the Secretary’s sole and
19 unreviewable discretion, determines that the alien lawfully
20 admitted for permanent residence poses no risk to the
21 alien with respect to whom a petition described in sub-
22 clause (I) is filed.”.

23 (b) NONIMMIGRANTS.—Section 101(a)(15)(K) of
24 such Act (8 U.S.C. 1101(a)(15)(K)), is amended by strik-

1 ing “204(a)(1)(A)(viii)(I)” each place such term appears
2 and inserting “204(a)(1)(A)(viii)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act and shall apply to petitions filed on or after
6 such date.

7 **SEC. 321. CLARIFICATION TO CRIMES OF VIOLENCE AND**
8 **CRIMES INVOLVING MORAL TURPITUDE.**

9 (a) INADMISSIBLE ALIENS.—Section 212(a)(2)(A) of
10 the Immigration and Nationality Act (8 U.S.C.
11 1182(a)(2)(A)) is amended by adding at the end the fol-
12 lowing:

13 “(iii) CLARIFICATION.—If the convic-
14 tion records do not conclusively establish
15 whether a crime constitutes a crime involv-
16 ing moral turpitude, the Secretary of
17 Homeland Security may consider other evi-
18 dence related to the conviction that clearly
19 establishes that the conduct for which the
20 alien was engaged constitutes a crime in-
21 volving moral turpitude.”.

22 (b) DEPORTABLE ALIENS.—

23 (1) GENERAL CRIMES.—Section 237(a)(2)(A)
24 of such Act (8 U.S.C. 1227(a)(2)(A)), as amended

1 by section 320(b) of this Act, is further amended by
2 inserting after clause (iv) the following:

3 “(v) CRIMES INVOLVING MORAL TUR-
4 PITUDE.—If the conviction records do not
5 conclusively establish whether a crime con-
6 stitutes a crime involving moral turpitude,
7 the Secretary of Homeland Security may
8 consider other evidence related to the con-
9 viction that clearly establishes that the
10 conduct for which the alien was engaged
11 constitutes a crime involving moral turpi-
12 tude.”.

13 (2) DOMESTIC VIOLENCE.—Section
14 237(a)(2)(E) of such Act (8 U.S.C. 1227(a)(2)(E))
15 is amended by adding at the end the following:

16 “(iii) CRIMES OF VIOLENCE.—If the
17 conviction records do not conclusively es-
18 tablish whether a crime of domestic vio-
19 lence constitutes a crime of violence (as de-
20 fined in section 16 of title 18, United
21 States Code), the Secretary of Homeland
22 Security may consider other evidence re-
23 lated to the conviction that clearly estab-
24 lishes that the conduct for which the alien

1 was engaged constitutes a crime of vio-
2 lence.”.

3 (c) **EFFECTIVE DATE.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act and shall apply to acts that occur before, on,
6 or after the date of the enactment of this Act.

7 **SEC. 322. PENALTIES FOR FAILURE TO OBEY REMOVAL OR-**
8 **DERS.**

9 (a) **IN GENERAL.**—Section 243(a) of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1253(a)) is amended—

11 (1) in the matter preceding subparagraph (A)
12 of paragraph (1), by inserting “212(a) or” before
13 “237(a),”; and

14 (2) by striking paragraph (3).

15 (b) **EFFECTIVE DATE.**—The amendments made by
16 subsection (a) shall take effect on the date of the enact-
17 ment of this Act and shall apply to acts that are described
18 in subparagraphs (A) through (D) of section 243(a)(1) of
19 the Immigration and Nationality Act (8 U.S.C.
20 1253(a)(1)) that occur on or after the date of the enact-
21 ment of this Act.

22 **SEC. 323. PARDONS.**

23 (a) **DEFINITION.**—Section 101(a) of the Immigration
24 and Nationality Act (8 U.S.C. 1101(a)), as amended by

1 section 312(a) of this Act, is further amended by adding
2 at the end the following:

3 “(54) The term ‘pardon’ means a full and uncondi-
4 tional pardon granted by the President of the United
5 States, Governor of any of the several States or constitu-
6 tionally recognized body.”.

7 (b) DEPORTABILITY.—Section 237(a) of such Act (8
8 U.S.C. 1227(a)) is amended—

9 (1) in paragraph (2)(A), by striking clause (vi);
10 and

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

12 “(8) PARDONS.—In the case of an alien who
13 has been convicted of a crime and is subject to re-
14 moval due to that conviction, if the alien, subsequent
15 to receiving the criminal conviction, is granted a
16 pardon, the alien shall not be deportable by reason
17 of that criminal conviction.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall take effect on the date of the enactment
20 of this Act and shall apply to a pardon granted before,
21 on, or after such date.

22 **SEC. 324. CONVICTIONS.**

23 (a) Section 212(a)(2) of the Immigration and Nation-
24 ality Act (8 U.S.C. 1182(a)(2)) is amended by adding at
25 the end the following subparagraph:

1 “(O) CONVICTIONS.—

2 “(i) IN GENERAL.—For purposes of
3 determining whether an underlying crimi-
4 nal offense constitutes a ground of inad-
5 missibility under this subsection, all stat-
6 utes or common law offenses are divisible
7 so long as any of the conduct encompassed
8 by the statute constitutes an offense that
9 is a ground of inadmissibility.

10 “(ii) OTHER EVIDENCE.—If the con-
11 viction records do not conclusively establish
12 whether a crime constitutes a ground of in-
13 admissibility, the Attorney General or the
14 Secretary of Homeland Security may con-
15 sider other evidence related to the convic-
16 tion that clearly establishes that the con-
17 duct for which the alien was engaged con-
18 stitutes a ground of inadmissibility.”.

19 (b) Section 237(a)(2) of the Immigration and Nation-
20 ality Act (8 U.S.C. 1227(a)(2)) is amended by adding at
21 the end the following subparagraph:

22 “(J) CRIMINAL OFFENSES.—

23 “(i) IN GENERAL.—For purposes of
24 determining whether an underlying crimi-
25 nal offense constitutes a ground of deport-

1 ability under this subsection, all statutes or
2 common law offenses are divisible so long
3 as any of the conduct encompassed by the
4 statute constitutes an offense that is a
5 ground of deportability.

6 “(ii) OTHER EVIDENCE.—If the con-
7 viction records do not conclusively establish
8 whether a crime constitutes a ground of
9 deportability, the Attorney General or the
10 Secretary of Homeland Security may con-
11 sider other evidence related to the convic-
12 tion that clearly establishes that the con-
13 duct for which the alien was engaged con-
14 stitutes a ground of deportability.”.

15 **TITLE IV—VISA SECURITY**

16 **SEC. 401. CANCELLATION OF ADDITIONAL VISAS.**

17 (a) IN GENERAL.—Section 222(g) of the Immigra-
18 tion and Nationality Act (8 U.S.C. 1202(g)) is amended—

19 (1) in paragraph (1)—

20 (A) by striking “Attorney General” and in-
21 serting “Secretary”; and

22 (B) by inserting “and any other non-
23 immigrant visa issued by the United States that
24 is in the possession of the alien” after “such
25 visa”; and

1 (2) in paragraph (2)(A), by striking “(other
2 than the visa described in paragraph (1)) issued in
3 a consular office located in the country of the alien’s
4 nationality” and inserting “(other than a visa de-
5 scribed in paragraph (1)) issued in a consular office
6 located in the country of the alien’s nationality or
7 foreign residence”.

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 a visa issued before,
11 on, or after such date.

12 **SEC. 402. VISA INFORMATION SHARING.**

13 (a) **IN GENERAL.**—Section 222(f) of the Immigration
14 and Nationality Act (8 U.S.C. 1202(f)(2)) is amended—

15 (1) by striking “issuance or refusal” and insert-
16 ing “issuance, refusal, or revocation”;

17 (2) in paragraph (2), in the matter preceding
18 subparagraph (A), by striking “and on the basis of
19 reciprocity”;

20 (3) in paragraph (2)(A)—

21 (A) by inserting “(i)” after “for the pur-
22 pose of”; and

23 (B) by striking “illicit weapons; or” and
24 inserting “illicit weapons, or (ii) determining a

1 person's deportability or eligibility for a visa,
2 admission, or other immigration benefit;";

3 (4) in paragraph (2)(B)—

4 (A) by striking "for the purposes" and in-
5 serting "for one of the purposes"; and

6 (B) by striking "or to deny visas to per-
7 sons who would be inadmissible to the United
8 States." and inserting "; or"; and

9 (5) in paragraph (2), by adding at the end the
10 following:

11 "(C) with regard to any or all aliens in the
12 database specified data elements from each
13 record, if the Secretary of State determines that
14 it is in the national interest to provide such in-
15 formation to a foreign government."

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall take effect 60 days after the date of
18 the enactment of the Act.

19 **SEC. 403. RESTRICTING WAIVER OF VISA INTERVIEWS.**

20 Section 222(h) of the Immigration and Nationality
21 Act (8 U.S.C. 1202(h)(1)(B)) is amended—

22 (1) in paragraph (1)(C), by inserting " , in con-
23 sultation with the Secretary of Homeland Security,"
24 after "if the Secretary";

1 (2) in paragraph (1)(C)(i), by inserting “,
2 where such national interest shall not include facili-
3 tation of travel of foreign nationals to the United
4 States, reduction of visa application processing
5 times, or the allocation of consular resources” before
6 the semicolon at the end; and

7 (3) in paragraph (2)—

8 (A) by striking “or” at the end of subpara-
9 graph (E);

10 (B) by striking the period at the end of
11 subparagraph (F) and inserting “; or”; and

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

13 “(G) is an individual—

14 “(i) determined to be in a class of
15 aliens determined by the Secretary of
16 Homeland Security to be threats to na-
17 tional security;

18 “(ii) identified by the Secretary of
19 Homeland Security as a person of concern;
20 or

21 “(iii) applying for a visa in a visa cat-
22 egory with respect to which the Secretary
23 of Homeland Security has determined that
24 a waiver of the visa interview would create

1 a high risk of degradation of visa program
2 integrity.”.

3 **SEC. 404. AUTHORIZING THE DEPARTMENT OF STATE TO**
4 **NOT INTERVIEW CERTAIN INELIGIBLE VISA**
5 **APPLICANTS.**

6 (a) IN GENERAL.—Section 222(h)(1) of the Immi-
7 gration and Nationality Act (8 U.S.C. 1202(h)(1)) is
8 amended by inserting “the alien is determined by the Sec-
9 retary of State to be ineligible for a visa based upon review
10 of the application or” after “unless”.

11 (b) GUIDANCE.—Not later than 90 days after the
12 date of the enactment of this Act, the Secretary of State
13 shall issue guidance to consular officers on the standards
14 and processes for implementing the authority to deny visa
15 applications without interview in cases where the alien is
16 determined by the Secretary of State to be ineligible for
17 a visa based upon review of the application.

18 (c) REPORTS.—Not less frequently than once each
19 quarter, the Secretary of State shall submit to the Con-
20 gress a report on the denial of visa applications without
21 interview, including—

- 22 (1) the number of such denials; and
23 (2) a post-by-post breakdown of such denials.

1 **SEC. 405. VISA REFUSAL AND REVOCATION.**

2 (a) AUTHORITY OF THE SECRETARY OF HOMELAND
3 SECURITY AND THE SECRETARY OF STATE.—

4 (1) IN GENERAL.—Section 428 of the Home-
5 land Security Act of 2002 (6 U.S.C. 236) is amend-
6 ed by striking subsections (b) and (c) and inserting
7 the following:

8 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND
9 SECURITY.—

10 “(1) IN GENERAL.—Notwithstanding section
11 104(a) of the Immigration and Nationality Act (8
12 U.S.C. 1104(a)) or any other provision of law, and
13 except as provided in subsection (c) and except for
14 the authority of the Secretary of State under sub-
15 paragraphs (A) and (G) of section 101(a)(15) of the
16 Immigration and Nationality Act (8 U.S.C.
17 1101(a)(15)), the Secretary—

18 “(A) shall have exclusive authority to issue
19 regulations, establish policy, and administer and
20 enforce the provisions of the Immigration and
21 Nationality Act (8 U.S.C. 1101 et seq.) and all
22 other immigration or nationality laws relating
23 to the functions of consular officers of the
24 United States in connection with the granting
25 and refusal of a visa; and

1 “(B) may refuse or revoke any visa to any
2 alien or class of aliens if the Secretary, or des-
3 ignee, determines that such refusal or revoca-
4 tion is necessary or advisable in the security or
5 foreign policy interests of the United States.

6 “(2) EFFECT OF REVOCATION.—The revocation
7 of any visa under paragraph (1)(B)—

8 “(A) shall take effect immediately; and

9 “(B) shall automatically cancel any other
10 valid visa that is in the alien’s possession.

11 “(3) JUDICIAL REVIEW.—Notwithstanding any
12 other provision of law, including section 2241 of title
13 28, United States Code, or any other habeas corpus
14 provision, and sections 1361 and 1651 of such title,
15 no court shall have jurisdiction to review a decision
16 by the Secretary of Homeland Security to refuse or
17 revoke a visa, and no court shall have jurisdiction to
18 hear any claim arising from, or any challenge to,
19 such a refusal or revocation.

20 “(c) AUTHORITY OF THE SECRETARY OF STATE.—

21 “(1) IN GENERAL.—The Secretary of State may
22 direct a consular officer to refuse a visa requested
23 by an alien if the Secretary of State determines such
24 refusal to be necessary or advisable in the security
25 or foreign policy interests of the United States.

1 “(2) LIMITATION.—No decision by the Sec-
2 retary of State to approve a visa may override a de-
3 cision by the Secretary of Homeland Security under
4 subsection (b).”.

5 (2) AUTHORITY OF THE SECRETARY OF
6 STATE.—Section 221(i) of the Immigration and Na-
7 tionality Act (8 U.S.C. 1201(i)) is amended by strik-
8 ing “section, except in the context of a removal pro-
9 ceeding if such revocation provides the sole ground
10 for removal under section 1227(a)(1)(B).” and in-
11 serting “section.”.

12 (3) CONFORMING AMENDMENT.—Section
13 237(a)(1)(B) of the Immigration and Nationality
14 Act (8 U.S.C. 1227(a)(1)(B)) is amended by strik-
15 ing “under section 221(i)”.

16 (4) EFFECTIVE DATE.—The amendment made
17 by paragraph (1) shall take effect on the date of the
18 enactment of this Act and shall apply to visa refus-
19 als and revocations occurring before, on, or after
20 such date.

21 (b) TECHNICAL CORRECTIONS TO THE HOMELAND
22 SECURITY ACT.—Section 428(a) of the Homeland Secu-
23 rity Act of 2002 (6 U.S.C. 236(a)) is amended—

24 (1) by striking “subsection” and inserting “sec-
25 tion”; and

1 (2) by striking “consular office” and inserting
2 “consular officer”.

3 **SEC. 406. PETITION AND APPLICATION PROCESSING FOR**
4 **VISAS AND IMMIGRATION BENEFITS.**

5 (a) IN GENERAL.—Chapter 2 of title II of the Immi-
6 gration and Nationality Act (8 U.S.C. 1181 et seq.) is
7 amended by inserting after section 211 the following:

8 **“SEC. 211A. PETITION AND APPLICATION PROCESSING.**

9 “(a) SIGNATURE REQUIREMENT.—

10 “(1) IN GENERAL.—No petition or application
11 filed with the Secretary of Homeland Security or
12 with a consular officer relating to the issuance of a
13 visa or to the admission of an alien to the United
14 States as an immigrant or as a nonimmigrant may
15 be approved unless the petition or application is
16 signed by each party required to sign such petition
17 or application.

18 “(2) APPLICATIONS FOR IMMIGRANT VISAS.—
19 Except as may be otherwise prescribed by regula-
20 tions, each application for an immigrant visa shall
21 be signed by the applicant in the presence of the
22 consular officer, and verified by the oath of the ap-
23 plicant administered by the consular officer.

24 “(b) COMPLETION REQUIREMENT.—No petition or
25 application filed with the Secretary of Homeland Security

1 or with a consular officer relating to the issuance of a visa
2 or to the admission of an alien to the United States as
3 an immigrant or as a nonimmigrant may be approved un-
4 less each applicable portion of the petition or application
5 has been completed.

6 “(c) TRANSLATION REQUIREMENT.—No document
7 submitted in support of a petition or application for a non-
8 immigrant or immigrant visa may be accepted by a con-
9 sular officer if such document contains information in a
10 foreign language, unless such document is accompanied by
11 a full English translation, which the translator has cer-
12 tified as complete and accurate, and by the translator’s
13 certification that he or she is competent to translate from
14 the foreign language into English.

15 “(d) REQUESTS FOR ADDITIONAL INFORMATION.—
16 In an instance where the Secretary of Homeland Security
17 or a consular officer requests any additional information
18 relating to a petition or application filed with the Sec-
19 retary or consular officer relating to the issuance of a visa
20 or to the admission of an alien to the United States as
21 an immigrant or as a nonimmigrant, such petition or ap-
22 plication may not be approved unless all of the additional
23 information requested is provided in complete form and
24 is provided on or before any deadline included in the re-
25 quest.

1 **“SEC. 211B. BACKGROUND CHECKS AND OTHER SCREEN-**
2 **ING REQUIREMENTS.**

3 “(a) **COMPREHENSIVE SECURITY AND BACKGROUND**
4 **CHECK.**—No petition or application filed with the Sec-
5 retary of Homeland Security or with a consular officer re-
6 lating to the issuance of a visa to or to the admission of
7 an alien to the United States as an immigrant or as a
8 nonimmigrant may be approved unless a background
9 check to determine whether or not the alien is a national
10 security threat and or is otherwise ineligible for such visa
11 or admission is completed for—

12 “(1) the petitioner or applicant; and

13 “(2) each beneficiary or derivative of the peti-
14 tion or application.

15 “(b) **REVIEW OF SOCIAL MEDIA ACTIVITY.**—The
16 background check under subsection (a) shall include a re-
17 view of the alien’s publicly available interactions on and
18 posting of material to the Internet (including social media
19 services).

20 “(c) **DNA TESTING.**—No petition or application filed
21 with the Secretary of Homeland Security or with a con-
22 sular officer relating to the issuance of an immigrant visa
23 to an alien or to the admission of an alien to the United
24 States as an immigrant, if the eligibility for the immigra-
25 tion benefit is predicated on the fact that a biological rela-
26 tionship exists between the petitioner or applicant and the

1 beneficiary or derivative, may be approved, unless a ge-
2 netic test is conducted to confirm such biological relation-
3 ship and the results of such test are submitted as part
4 of the petition or application. Any such genetic test shall
5 be conducted at the expense of the petitioner or applicant.
6 Evidence of a biological relationship, as submitted under
7 this subsection, shall not in itself be determinative of such
8 biological relationship.”.

9 (b) CLERICAL AMENDMENT.—The table of contents
10 for the Immigration and Nationality Act (8 U.S.C. 1101
11 et seq.) is amended by inserting after the item pertaining
12 to section 211 the following:

“211A. Petition and application processing.

“211B. Background checks and other screening requirements.”.

13 (c) CONFORMING AMENDMENT.—Section 222(e) of
14 the Immigration and Nationality Act (8 U.S.C. 1201(e))
15 is amended by striking the following: “Except as may be
16 otherwise prescribed by regulations, each application for
17 an immigrant visa shall be signed by the applicant in the
18 presence of the consular officer, and verified by the oath
19 of the applicant administered by the consular officer.”.

20 (d) APPLICATION.—The amendments made by this
21 section shall apply with respect to applications and peti-
22 tions filed after the date of the enactment of this Act.

23 **SEC. 407. FRAUD PREVENTION.**

24 (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

1 (1) PLAN FOR IMPLEMENTATION.—Not later
2 than 180 days after the date of the enactment of
3 this Act, the Secretary of Homeland Security shall
4 submit to the Committee on the Judiciary of the
5 House of Representatives and the Committee on the
6 Judiciary of the Senate a plan for the use of ad-
7 vanced analytics software to ensure the proactive de-
8 tection of fraud in immigration benefits applications
9 and petitions and to ensure that any such applicant
10 or petitioner does not pose a threat to national secu-
11 rity.

12 (2) IMPLEMENTATION OF PLAN.—Not later
13 than 1 year after the date of the submission of the
14 plan under paragraph (1), the Secretary of Home-
15 land Security shall begin implementation of the plan.

16 (b) BENEFITS FRAUD ASSESSMENT.—

17 (1) IN GENERAL.—The Secretary of Homeland
18 Security, acting through the Fraud Detection and
19 Nationality Security Directorate, shall complete a
20 benefit fraud assessment by fiscal year 2021 on each
21 of the following:

22 (A) Petitions by VAWA self-petitioners (as
23 such term is defined in section 101(a)(51) of
24 the Immigration and Nationality Act).

1 (B) Applications or petitions for visas or
2 status under section 101(a)(15)(K) of such Act
3 or under section 201(b)(2) of such Act, in the
4 case of spouses.

5 (C) Applications for visas or status under
6 section 101(a)(27)(J) of such Act.

7 (D) Applications for visas or status under
8 section 101(a)(15)(U) of such Act.

9 (E) Petitions for visas or status under sec-
10 tion 101(a)(27)(C) of such Act.

11 (F) Applications for asylum under section
12 208 of such Act.

13 (G) Applications for adjustment of status
14 under section 209 of such Act.

15 (H) Petitions for visas or status under sec-
16 tion 201(b) of such Act.

17 (2) REPORTING ON FINDINGS.—Not later than
18 30 days after the completion of each benefit fraud
19 assessment under paragraph (1), the Secretary shall
20 submit to the Committee on the Judiciary of the
21 House of Representatives and the Committee on the
22 Judiciary of the Senate such assessment and rec-
23 ommendations on how to reduce the occurrence of
24 instances of fraud identified by the assessment.

1 **SEC. 408. VISA SECURITY PROGRAM.**

2 (a) FUNDING.—Notwithstanding any other provision
3 of law, Beginning in fiscal year 2017 and thereafter, the
4 Secretary of State shall charge surcharges in support of
5 visa security that are in addition to the passport and im-
6 migrant visa fees in effect on January 1, 2004, and any
7 other fees collected pursuant to the fourth paragraph
8 under the heading “Diplomatic and Consular Programs”
9 in the Department of State and Related Agency Appro-
10 priations Act, 2005 (title IV of division B of Public Law
11 108-447): *Provided*, that funds collected pursuant to this
12 authority shall be credited to the appropriation for U.S.
13 Immigration and Customs Enforcement for the fiscal year
14 in which the fees were collected, and shall be available
15 until expended for the funding of the Visa Security Pro-
16 gram established by the Secretary of Homeland Security
17 under section 428(e) of the Homeland Security Act of
18 2002 (Public Law 107-296): *Provided further*, that such
19 surcharges shall total the amount sufficient annually to
20 cover the Visa Security Program costs.

21 (b) EXPEDITIOUS EXPANSION OF ASSIGNMENT OF
22 HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND
23 CONSULAR POSTS.—

24 (1) IN GENERAL.—Section 428 of the Home-
25 land Security Act of 2002 (6 U.S.C. 236) is amend-
26 ed—

1 (A) in subsection (e)—

2 (i) by amending paragraph (1) to read
3 as follows:

4 “(1) IN GENERAL.—Not later than 4 years
5 after the date of the enactment of the Visa Integrity
6 and Security Act of 2016, the Secretary shall assign
7 employees of the Department to each diplomatic and
8 consular post at which visas are issued, and shall
9 communicate such assignments to the Secretary of
10 State.”; and

11 (ii) by amending paragraph (2)(B) to
12 read as follows:

13 “(B) Review all such applications and sup-
14 porting documentation prior to the adjudication
15 of such an application.”; and

16 (B) by striking subsection (i).

17 (2) EXPEDITED CLEARANCE AND PLACEMENT
18 OF DHS PERSONNEL.—Notwithstanding any other
19 provision of law, and the processes set forth in Na-
20 tional Security Defense Directive 38 (dated June 2,
21 1982) or any successor Directive, not later than one
22 year after the date on which the Secretary of Home-
23 land Security communicates to the Secretary of
24 State the assignment of personnel to a diplomatic or
25 consular post under section 428(e) of the Homeland

1 Security Act of 2002 (6 U.S.C. 236(e)), as amended
2 by this Act, the Chief of Mission of such a post shall
3 ensure that such personnel have been stationed and
4 accommodated at that post and are able to carry out
5 their duties.

6 **TITLE V—AID TO IMMIGRATION**
7 **AND CUSTOMS ENFORCE-**
8 **MENT OFFICERS**

9 **SEC. 501. ICE DEPORTATION OFFICERS.**

10 (a) IN GENERAL.—The Secretary of Homeland Secu-
11 rity shall authorize all deportation officers of the Depart-
12 ment of Homeland Security who have successfully com-
13 pleted basic immigration law enforcement training to exer-
14 cise the powers conferred by—

15 (1) section 287(a)(5)(A) of the Immigration
16 and Nationality Act (8 U.S.C. 1357(a)(5)(A)) to ar-
17 rest for any offense against the United States;

18 (2) section 287(a)(5)(B) of such Act (8 U.S.C.
19 1357(a)(5)(B)) to arrest for any felony;

20 (3) section 274(a) of such Act (8 U.S.C.
21 1324(a)) to arrest for bringing in, transporting, or
22 harboring certain aliens, or inducing them to enter;

23 (4) section 287(a) of such Act (8 U.S.C.
24 1357(a)) to execute warrants of arrest for adminis-
25 trative immigration violations issued under section

1 236 of such Act (8 U.S.C. 1226) or to execute war-
2 rants of criminal arrest issued under the authority
3 of the United States; and

4 (5) section 287(a) of such Act (8 U.S.C.
5 1357(a)) to carry firearms, if they are individually
6 qualified by training and experience to handle and
7 safely operate the firearms they are permitted to
8 carry, maintain proficiency in the use of such fire-
9 arms, and adhere to the provisions of the enforce-
10 ment standard governing the use of force.

11 (b) ARREST POWERS.—Section 287(a)(2) of the Im-
12 migration and Nationality Act (8 U.S.C. 1357(a)(2)) is
13 amended by striking “regulation and is likely to escape
14 before a warrant can be obtained for his arrest,” and in-
15 serting “regulation,”.

16 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

17 (a) AUTHORIZATION.—The Secretary of Homeland
18 Security shall, subject to the availability of appropriations
19 for such purpose, increase the number of positions for full-
20 time active duty United States Immigration and Customs
21 Enforcement detention enforcement officers by 2,500
22 above the number of full-time positions for which funds
23 were appropriated for fiscal year 2017. The Secretary will
24 determine the rate at which the additional officers will be
25 added with due regard to filling positions as expeditiously

1 as possible without making any compromises in the selec-
2 tion or the training of the additional officers.

3 (b) DUTIES.—U.S. Immigration and Customs En-
4 forcement detention enforcement officers who have suc-
5 cessfully completed detention enforcement officers' basic
6 training shall be responsible for—

7 (1) taking and maintaining custody of any per-
8 son who has been arrested by an immigration offi-
9 cer;

10 (2) transporting and guarding immigration de-
11 tainees;

12 (3) securing Department of Homeland Security
13 detention facilities; and

14 (4) assisting in the processing of detainees.

15 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS.**

16 (a) BODY ARMOR.—The Secretary of Homeland Se-
17 curity shall ensure that every U.S. Immigration and Cus-
18 toms Enforcement deportation officer on duty is issued
19 high-quality body armor that is appropriate for the climate
20 and risks faced by the agent. Enough body armor must
21 be purchased to cover every agent in the field.

22 (b) WEAPONS.—Such Secretary shall ensure that
23 U.S. Immigration and Customs Enforcement deportation
24 officers are equipped with weapons that are reliable and
25 effective to protect themselves, their fellow agents, and in-

1 nocent third parties from the threats posed by armed
2 criminals. Such weapons shall include, at a minimum,
3 standard-issue handguns, M-4 (or equivalent) rifles, and
4 Tasers.

5 (c) SPECIAL TRAINING FOR HIGH-RISK ENFORCE-
6 MENT OPERATIONS.—Such Secretary shall provide appro-
7 priate training and certification to selected U.S. Immigra-
8 tion and Customs Enforcement deportation officers, at
9 each field office, to conduct high-risk enforcement oper-
10 ations requiring enhanced tactical capabilities effectively
11 to combat known dangers, to assist in high-risk trans-
12 ports, or to participate in other special assignments as
13 designated by the Secretary and consistent with law, ex-
14 cept that nothing in this subsection shall be construed to
15 impose a requirement that such training be completed, or
16 such certification be obtained, in order to participate in
17 such a high-risk enforcement operation.

18 (d) EFFECTIVE DATE.—This section shall take effect
19 90 days after the date of the enactment of this Act.

20 **SEC. 504. ICE ADVISORY COUNCIL.**

21 (a) ESTABLISHMENT.—An ICE Advisory Council
22 shall be established not later than 3 months after the date
23 of the enactment of this Act.

24 (b) MEMBERSHIP.—The ICE Advisor Council shall
25 be comprised of 7 members.

1 (c) APPOINTMENT.—Members shall to be appointed
2 in the following manner:

3 (1) One member shall be appointed by the
4 President.

5 (2) One member shall be appointed by the
6 Chairman of the Judiciary Committee of the House
7 of Representatives.

8 (3) One member shall be appointed by the
9 Chairman of the Judiciary Committee of the Senate.

10 (4) One member shall be appointed by the
11 Local 511, the ICE prosecutor's union.

12 (5) Three members shall be appointed by the
13 National Immigration and Customs Enforcement
14 Council.

15 (d) TERM.—Members shall serve renewable, 2-year
16 terms.

17 (e) VOLUNTARY.—Membership shall be voluntary and
18 non-remunerated, except that members will receive reim-
19 bursement from the Secretary of Homeland Security for
20 travel and other related expenses.

21 (f) RETALIATION PROTECTION.—Members who are
22 employed by the Secretary of Homeland Security shall be
23 protected from retaliation by their supervisors, managers,
24 and other Department of Homeland Security employees
25 for their participation on the Council.

1 (g) PURPOSE.—The purpose of the Council is to ad-
2 vise the Congress and the Secretary of Homeland Security
3 on issues including the following:

4 (1) The current status of immigration enforce-
5 ment efforts, including prosecutions and removals,
6 the effectiveness of such efforts, and how enforce-
7 ment could be improved.

8 (2) The effectiveness of cooperative efforts be-
9 tween the Secretary of Homeland Security and other
10 law enforcement agencies, including additional types
11 of enforcement activities that the Secretary should
12 be engaged in, such as State and local criminal task
13 forces.

14 (3) Personnel, equipment, and other resource
15 needs of field personnel.

16 (4) Improvements that should be made to the
17 organizational structure of the Department of
18 Homeland Security, including whether the position
19 of immigration enforcement agent should be merged
20 into the deportation officer position.

21 (5) The effectiveness of specific enforcement
22 policies and regulations promulgated by the Sec-
23 retary of Homeland Security, and whether other en-
24 forcement priorities should be considered.

1 (h) REPORTS.—The Council shall provide quarterly
2 reports to the Chairmen and Ranking Members of the
3 Committees on the Judiciary of the Senate and the House
4 of Representatives and to the Secretary of Homeland Se-
5 curity. The Council members shall meet directly with the
6 Chairmen and Ranking Members (or their designated rep-
7 resentatives) and with the Secretary to discuss their re-
8 ports every 6 months.

9 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-**
10 **ESSING.**

11 (a) IN GENERAL.—The Secretary of Homeland Secu-
12 rity shall establish a pilot program in at least 5 of the
13 10 U.S. Immigration and Customs Enforcement field of-
14 fices with the largest removal caseloads to allow U.S. Im-
15 migration and Customs Enforcement deportation officers
16 to—

17 (1) electronically process and serve charging
18 documents, including notices to appear, while in the
19 field;

20 (2) electronically process and place detainers
21 while in the field; and

22 (3) electronically collect biometric data for the
23 purpose of identifying an alien and establishing both
24 immigration status and criminal history while in the
25 field.

1 (b) DUTIES.—The pilot program described in sub-
2 section (a) shall be designed to allow deportation officers
3 to use handheld or vehicle-mounted computers to—

4 (1) enter any required data, including personal
5 information about the alien subject and the reason
6 for issuing the document;

7 (2) apply the electronic signature of the issuing
8 officer or agent;

9 (3) set the date the alien is required to appear
10 before an immigration judge, in the case of notices
11 to appear;

12 (4) print any documents the alien subject may
13 be required to sign, along with additional copies of
14 documents to be served on the alien; and

15 (5) interface with the ENFORCE database so
16 that all data is stored and retrievable.

17 (c) CONSTRUCTION.—The pilot program described in
18 subsection (a) shall be designed to replace, to the extent
19 possible, the current paperwork and data-entry process
20 used for issuing such charging documents and detainers.

21 (d) DEADLINE.—The Secretary shall initiate the pilot
22 program described in subsection (a) not later than 6
23 months after the date of the enactment of this Act.

24 (e) REPORT.—The Government Accountability Office
25 shall report to the Judiciary Committee of the Senate and

1 the House of Representatives no later than 18 months
2 after the date of the enactment of this Act on the effective-
3 ness of the pilot program and provide recommendations
4 for improving it.

5 (f) **ADVISORY COUNCIL.**—The ICE Advisory Council
6 established by section 504 shall include recommendations
7 on how the pilot program should work in the first quar-
8 terly report of the Council, and shall include assessments
9 of the program and recommendations for improvement in
10 each subsequent report.

11 (g) **EFFECTIVE DATE.**—This section shall take effect
12 180 days after the date of the enactment of this Act.

13 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND**
14 **SUPPORT STAFF.**

15 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
16 rity shall, subject to the availability of appropriations for
17 such purpose, increase the number of positions for full-
18 time active-duty U.S. Immigration and Customs Enforce-
19 ment deportation officers by 10,000 above the number of
20 full-time positions for which funds were appropriated for
21 fiscal year 2017. The Secretary will determine the rate
22 at which the additional officers will be added with due re-
23 gard to filling the positions as expeditiously as possible
24 without making any compromises in the selection or the
25 training of the additional officers.

1 (b) SUPPORT STAFF.—The Secretary shall, subject
2 to the availability of appropriations for such purpose, in-
3 crease the number of positions for full-time support staff
4 for U.S. Immigration and Customs Enforcement deporta-
5 tion officers by 700 above the number of full-time posi-
6 tions for which funds were appropriated for fiscal year
7 2017.

8 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

9 The Secretary of Homeland Security shall increase,
10 subject to the availability of appropriations for such pur-
11 pose, increase the number of positions for full-time trial
12 attorneys working for United States Immigration and
13 Customs Enforcement by 60 above the number of full-time
14 positions for which funds were appropriated for fiscal year
15 2017. The Secretary will determine the rate at which the
16 additional trial attorneys will be added with due regard
17 to filling positions as expeditiously as possible without
18 making any compromises in the selection or the training
19 of the additional attorneys.

20 **TITLE VI—MISCELLANEOUS**
21 **ENFORCEMENT PROVISIONS**

22 **SEC. 601. TIMELY REPATRIATION.**

23 (a) LISTING OF COUNTRIES.—Beginning on the date
24 that is 6 months after the date of the enactment of this
25 Act, and every 6 months thereafter, the Secretary of

1 Homeland Security shall publish a report including the
2 following:

3 (1) A list of the following:

4 (A) Countries that have refused or unrea-
5 sonably delayed repatriation of an alien who is
6 a national of that country since the date of the
7 enactment of this Act and the total number of
8 such aliens, disaggregated by nationality.

9 (B) Countries that have an excessive repa-
10 triation failure rate.

11 (2) A list of each country that was included
12 under subparagraph (B) or (C) of paragraph (1) in
13 both the report preceding the current report and the
14 current report.

15 (b) SANCTIONS.—Beginning on the date that a coun-
16 try is included in a list under subsection (a)(2) and ending
17 on the date that that country is not included in such list,
18 that country shall be subject to the following:

19 (1) The Secretary of State may not issue visas
20 under section 101(a)(15)(A)(iii) of the Immigration
21 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))
22 to attendants, servants, personal employees, and
23 members of their immediate families, of the officials
24 and employees of that country who receive non-

1 immigrant status under clause (i) or (ii) of section
2 101(a)(15)(A) of such Act.

3 (2) Each 6 months thereafter that the country
4 is included in that list, the Secretary of State shall
5 reduce the number of visas available under clause (i)
6 or (ii) of section 101(a)(15)(A) of the Immigration
7 and Nationality Act in a fiscal year to nationals of
8 that country by an amount equal to 10 percent of
9 the baseline visa number for that country. Except as
10 provided under section 243(d) of the Immigration
11 and Nationality Act (8 U.S.C. 1253), the Secretary
12 may not reduce the number to a level below 20 per-
13 cent of the baseline visa number.

14 (c) WAIVERS.—

15 (1) NATIONAL SECURITY WAIVER.—If the Sec-
16 retary of State submits to Congress a written deter-
17 mination that significant national security interests
18 of the United States require a waiver of the sanc-
19 tions under subsection (b), the Secretary may waive
20 any reduction below 80 percent of the baseline visa
21 number. The Secretary of Homeland Security may
22 not delegate the authority under this subsection.

23 (2) TEMPORARY EXIGENT CIRCUMSTANCES.—If
24 the Secretary of State submits to Congress a written
25 determination that temporary exigent circumstances

1 require a waiver of the sanctions under subsection
2 (b), the Secretary may waive any reduction below 80
3 percent of the baseline visa number during 6-month
4 renewable periods. The Secretary of Homeland Secu-
5 rity may not delegate the authority under this sub-
6 section.

7 (d) EXEMPTION.—The Secretary of Homeland Secu-
8 rity, in consultation with the Secretary of State, may ex-
9 empt a country from inclusion in a list under subsection
10 (a)(2) if the total number of nonrepatriations outstanding
11 is less than 10 for the preceding 3-year period.

12 (e) UNAUTHORIZED VISA ISSUANCE.—Any visa
13 issued in violation of this section shall be void.

14 (f) NOTICE.—If an alien who has been convicted of
15 a criminal offense before a Federal or State court whose
16 repatriation was refused or unreasonably delayed is to be
17 released from detention by the Secretary of Homeland Se-
18 curity, the Secretary shall provide notice to the State and
19 local law enforcement agency for the jurisdictions in which
20 the alien is required to report or is to be released. When
21 possible, and particularly in the case of violent crime, the
22 Secretary shall make a reasonable effort to provide notice
23 of such release to any crime victims and their immediate
24 family members.

25 (g) DEFINITIONS.—For purposes of this section:

1 (1) REFUSED OR UNREASONABLY DELAYED.—

2 A country is deemed to have refused or unreasonably
3 delayed the acceptance of an alien who is a citizen,
4 subject, national, or resident of that country if, not
5 later than 90 days after receiving a request to repa-
6 triate such alien from an official of the United
7 States who is authorized to make such a request, the
8 country does not accept the alien or issue valid trav-
9 el documents.

10 (2) FAILURE RATE.—The term “failure rate”
11 for a period means the percentage determined by di-
12 viding the total number of repatriation requests for
13 aliens who are citizens, subjects, nationals, or resi-
14 dents of a country that that country refused or un-
15 reasonably delayed during that period by the total
16 number of such requests during that period.

17 (3) EXCESSIVE REPATRIATION FAILURE
18 RATE.—The term “excessive repatriation failure
19 rate” means, with respect to a report under sub-
20 section (a), a failure rate greater than 10 percent
21 for any of the following:

22 (A) The period of the 3 full fiscal years
23 preceding the date of publication of the report.

24 (B) The period of 1 year preceding the
25 date of publication of the report.

1 (4) NUMBER OF NON-REPATRIATIONS OUT-
2 STANDING.—The term “number of non-repatriations
3 outstanding” means, for a period, the number of
4 unique aliens whose repatriation a country has re-
5 fused or unreasonably delayed and whose repatri-
6 ation has not occurred during that period.

7 (5) BASELINE VISA NUMBER.—The term “base-
8 line visa number” means, with respect to a country,
9 the average number of visas issued each fiscal year
10 to nationals of that country under clauses (i) and
11 (ii) of section 101(a)(15)(A) of the Immigration and
12 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3
13 full fiscal years immediately preceding the first re-
14 port under subsection (a) in which that country is
15 included in the list under subsection (a)(2).

16 (h) GAO REPORT.—On the date that is 1 day after
17 the date that the President submits a budget under sec-
18 tion 1105(a) of title 31, United States Code, for fiscal year
19 2016, the Comptroller General of the United States shall
20 submit a report to Congress regarding the progress of the
21 Secretary of Homeland Security and the Secretary of
22 State in implementation of this section and in making re-
23 quests to repatriate aliens as appropriate.

1 **SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-**
2 **TARILY.**

3 (a) IN GENERAL.—Section 240B of the Immigration
4 and Nationality Act (8 U.S.C. 1229c) is amended—

5 (1) in subsection (a)—

6 (A) by amending paragraph (1) to read as
7 follows:

8 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If
9 an alien is not described in paragraph (2)(A)(iii) or
10 (4) of section 237(a), the Secretary of Homeland Se-
11 curity may permit the alien to voluntarily depart the
12 United States at the alien’s own expense under this
13 subsection instead of being subject to proceedings
14 under section 240.”;

15 (B) by striking paragraph (3);

16 (C) by redesignating paragraph (2) as
17 paragraph (3);

18 (D) by adding after paragraph (1) the fol-
19 lowing:

20 “(2) BEFORE THE CONCLUSION OF REMOVAL
21 PROCEEDINGS.—If an alien is not described in para-
22 graph (2)(A)(iii) or (4) of section 237(a), the Sec-
23 retary of Homeland Security may permit the alien to
24 voluntarily depart the United States at the alien’s
25 own expense under this subsection after the initi-
26 ation of removal proceedings under section 240 and

1 before the conclusion of such proceedings before an
2 immigration judge.”;

3 (E) in paragraph (3), as redesignated—

4 (i) by amending subparagraph (A) to
5 read as follows:

6 “(A) INSTEAD OF REMOVAL.—Subject to
7 subparagraph (C), permission to voluntarily de-
8 part under paragraph (1) shall not be valid for
9 any period in excess of 120 days. The Secretary
10 may require an alien permitted to voluntarily
11 depart under paragraph (1) to post a voluntary
12 departure bond, to be surrendered upon proof
13 that the alien has departed the United States
14 within the time specified.”;

15 (ii) by redesignating subparagraphs
16 (B), (C), and (D) as subparagraphs (C),
17 (D), and (E), respectively;

18 (iii) by adding after subparagraph (A)
19 the following:

20 “(B) BEFORE THE CONCLUSION OF RE-
21 MOVAL PROCEEDINGS.—Permission to volun-
22 tarily depart under paragraph (2) shall not be
23 valid for any period in excess of 60 days, and
24 may be granted only after a finding that the
25 alien has the means to depart the United States

1 and intends to do so. An alien permitted to vol-
2 untarily depart under paragraph (2) shall post
3 a voluntary departure bond, in an amount nec-
4 essary to ensure that the alien will depart, to be
5 surrendered upon proof that the alien has de-
6 parted the United States within the time speci-
7 fied. An immigration judge may waive the re-
8 quirement to post a voluntary departure bond
9 in individual cases upon a finding that the alien
10 has presented compelling evidence that the
11 posting of a bond will pose a serious financial
12 hardship and the alien has presented credible
13 evidence that such a bond is unnecessary to
14 guarantee timely departure.”;

15 (iv) in subparagraph (C), as redesign-
16 ated, by striking “subparagraphs (C) and
17 (D)(ii)” and inserting “subparagraphs (D)
18 and (E)(ii)”;

19 (v) in subparagraph (D), as redesign-
20 ated, by striking “subparagraph (B)”
21 each place that term appears and inserting
22 “subparagraph (C)”;

23 (vi) in subparagraph (E), as redesign-
24 ated, by striking “subparagraph (B)”

1 each place that term appears and inserting
2 “subparagraph (C)”; and

3 (F) in paragraph (4), by striking “para-
4 graph (1)” and inserting “paragraphs (1) and
5 (2)”;

6 (2) in subsection (b)(2), by striking “a period
7 exceeding 60 days” and inserting “any period in ex-
8 cess of 45 days”;

9 (3) by amending subsection (c) to read as fol-
10 lows:

11 “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

12 “(1) VOLUNTARY DEPARTURE AGREEMENT.—

13 Voluntary departure may only be granted as part of
14 an affirmative agreement by the alien. A voluntary
15 departure agreement under subsection (b) shall in-
16 clude a waiver of the right to any further motion,
17 appeal, application, petition, or petition for review
18 relating to removal or relief or protection from re-
19 moval.

20 “(2) CONCESSIONS BY THE SECRETARY.—In

21 connection with the alien’s agreement to depart vol-
22 untarily under paragraph (1), the Secretary of
23 Homeland Security may agree to a reduction in the
24 period of inadmissibility under subparagraph (A) or
25 (B)(i) of section 212(a)(9).

1 “(3) ADVISALS.—Agreements relating to vol-
2 untary departure granted during removal pro-
3 ceedings under section 240, or at the conclusion of
4 such proceedings, shall be presented on the record
5 before the immigration judge. The immigration
6 judge shall advise the alien of the consequences of
7 a voluntary departure agreement before accepting
8 such agreement.

9 “(4) FAILURE TO COMPLY WITH AGREE-
10 MENT.—

11 “(A) IN GENERAL.—If an alien agrees to
12 voluntary departure under this section and fails
13 to depart the United States within the time al-
14 lowed for voluntary departure or fails to comply
15 with any other terms of the agreement (includ-
16 ing failure to timely post any required bond),
17 the alien is—

18 “(i) ineligible for the benefits of the
19 agreement;

20 “(ii) subject to the penalties described
21 in subsection (d); and

22 “(iii) subject to an alternate order of
23 removal if voluntary departure was granted
24 under subsection (a)(2) or (b).

1 “(B) EFFECT OF FILING TIMELY AP-
2 PEAL.—If, after agreeing to voluntary depar-
3 ture, the alien files a timely appeal of the immi-
4 gration judge’s decision granting voluntary de-
5 parture, the alien may pursue the appeal in-
6 stead of the voluntary departure agreement.
7 Such appeal operates to void the alien’s vol-
8 untary departure agreement and the con-
9 sequences of such agreement, but precludes the
10 alien from another grant of voluntary departure
11 while the alien remains in the United States.

12 “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-
13 FECTED.—Except as expressly agreed to by the Sec-
14 retary in writing in the exercise of the Secretary’s
15 discretion before the expiration of the period allowed
16 for voluntary departure, no motion, appeal, applica-
17 tion, petition, or petition for review shall affect, rein-
18 state, enjoin, delay, stay, or toll the alien’s obligation
19 to depart from the United States during the period
20 agreed to by the alien and the Secretary.”;

21 (4) by amending subsection (d) to read as fol-
22 lows:

23 “(d) PENALTIES FOR FAILURE TO DEPART.—If an
24 alien is permitted to voluntarily depart under this section
25 and fails to voluntarily depart from the United States

1 within the time period specified or otherwise violates the
2 terms of a voluntary departure agreement, the alien will
3 be subject to the following penalties:

4 “(1) CIVIL PENALTY.—The alien shall be liable
5 for a civil penalty of \$3,000. The order allowing vol-
6 untary departure shall specify this amount, which
7 shall be acknowledged by the alien on the record. If
8 the Secretary thereafter establishes that the alien
9 failed to depart voluntarily within the time allowed,
10 no further procedure will be necessary to establish
11 the amount of the penalty, and the Secretary may
12 collect the civil penalty at any time thereafter and
13 by whatever means provided by law. An alien will be
14 ineligible for any benefits under this chapter until
15 this civil penalty is paid.

16 “(2) INELIGIBILITY FOR RELIEF.—The alien
17 shall be ineligible during the time the alien remains
18 in the United States and for a period of 10 years
19 after the alien’s departure for any further relief
20 under this section and sections 240A, 245, 248, and
21 249. The order permitting the alien to depart volun-
22 tarily shall inform the alien of the penalties under
23 this subsection.

24 “(3) REOPENING.—The alien shall be ineligible
25 to reopen the final order of removal that took effect

1 upon the alien's failure to depart, or upon the alien's
2 other violations of the conditions for voluntary de-
3 parture, during the period described in paragraph
4 (2). This paragraph does not preclude a motion to
5 reopen to seek withholding of removal under section
6 241(b)(3) or protection against torture, if the mo-
7 tion—

8 “(A) presents material evidence of changed
9 country conditions arising after the date of the
10 order granting voluntary departure in the coun-
11 try to which the alien would be removed; and

12 “(B) makes a sufficient showing to the sat-
13 isfaction of the Secretary of Homeland Security
14 that the alien is otherwise eligible for such pro-
15 tection.”;

16 (5) by amending subsection (e) to read as fol-
17 lows:

18 “(e) ELIGIBILITY.—

19 “(1) PRIOR GRANT OF VOLUNTARY DEPAR-
20 TURE.—An alien shall not be permitted to volun-
21 tarily depart under this section if the Secretary of
22 Homeland Security or the Attorney General pre-
23 viously permitted the alien to depart voluntarily.

24 “(2) RULEMAKING.—The Secretary may pro-
25 mulgate regulations to limit eligibility or impose ad-

1 ditional conditions for voluntary departure under
2 subsection (a)(1) for any class of aliens. The Sec-
3 retary may by regulation limit eligibility or impose
4 additional conditions for voluntary departure under
5 subsections (a)(2) or (b) of this section for any class
6 or classes of aliens.”; and

7 (6) in subsection (f), by adding at the end the
8 following: “Notwithstanding section 242(a)(2)(D) of
9 this Act, sections 1361, 1651, and 2241 of title 28,
10 United States Code, any other habeas corpus provi-
11 sion, and any other provision of law (statutory or
12 nonstatutory), no court shall have jurisdiction to af-
13 fect, reinstate, enjoin, delay, stay, or toll the period
14 allowed for voluntary departure under this section.”.

15 (b) RULEMAKING.—The Secretary shall within one
16 year of the date of the enactment of this Act promulgate
17 regulations to provide for the imposition and collection of
18 penalties for failure to depart under section 240B(d) of
19 the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-
22 graph (2), the amendments made by this section
23 shall apply with respect to all orders granting vol-
24 untary departure under section 240B of the Immi-
25 gration and Nationality Act (8 U.S.C. 1229c) made

1 on or after the date that is 180 days after the enact-
2 ment of this Act.

3 (2) EXCEPTION.—The amendment made by
4 subsection (a)(6) shall take effect on the date of the
5 enactment of this Act and shall apply with respect
6 to any petition for review which is filed on or after
7 such date.

8 **SEC. 603. DETERRING ALIENS ORDERED REMOVED FROM**
9 **REMAINING IN THE UNITED STATES UNLAW-**
10 **FULLY.**

11 (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of
12 the Immigration and Nationality Act (8 U.S.C.
13 1182(a)(9)(A)) is amended—

14 (1) in clause (i), by striking “seeks admission
15 within 5 years of the date of such removal (or within
16 20 years” and inserting “seeks admission not later
17 than 5 years after the date of the alien’s removal (or
18 not later than 20 years after the alien’s removal”;
19 and

20 (2) in clause (ii), by striking “seeks admission
21 within 10 years of the date of such alien’s departure
22 or removal (or within 20 years of” and inserting
23 “seeks admission not later than 10 years after the
24 date of the alien’s departure or removal (or not later
25 than 20 years after”.

1 (b) BAR ON DISCRETIONARY RELIEF.—Section 274D
2 of such Act (8 U.S.C. 324d) is amended—

3 (1) in subsection (a), by striking “Commis-
4 sioner” and inserting “Secretary of Homeland Secu-
5 rity”; and

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

7 “(c) INELIGIBILITY FOR RELIEF.—

8 “(1) IN GENERAL.—Unless a timely motion to
9 reopen is granted under section 240(c)(6), an alien
10 described in subsection (a) shall be ineligible for any
11 discretionary relief from removal (including cancella-
12 tion of removal and adjustment of status) during the
13 time the alien remains in the United States and for
14 a period of 10 years after the alien’s departure from
15 the United States.

16 “(2) SAVINGS PROVISION.—Nothing in para-
17 graph (1) shall preclude a motion to reopen to seek
18 withholding of removal under section 241(b)(3) or
19 protection against torture, if the motion—

20 “(A) presents material evidence of changed
21 country conditions arising after the date of the
22 final order of removal in the country to which
23 the alien would be removed; and

24 “(B) makes a sufficient showing to the sat-
25 isfaction of the Secretary of Homeland Security

1 that the alien is otherwise eligible for such pro-
2 tection.”.

3 (c) **EFFECTIVE DATES.**—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act with respect to aliens who are subject to a final
6 order of removal entered before, on, or after such date.

7 **SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.**

8 (a) **IN GENERAL.**—Section 241(a)(5) of the Immi-
9 gration and Nationality Act (8 U.S.C. 1231(a)(5)) is
10 amended to read as follows:

11 “(5) **REINSTATEMENT OF REMOVAL ORDERS**
12 **AGAINST ALIENS ILLEGALLY REENTERING.**—If the
13 Secretary of Homeland Security finds that an alien
14 has entered the United States illegally after having
15 been removed, deported, or excluded or having de-
16 parted voluntarily, under an order of removal, depor-
17 tation, or exclusion, regardless of the date of the
18 original order or the date of the illegal entry—

19 “(A) the order of removal, deportation, or
20 exclusion is reinstated from its original date
21 and is not subject to being reopened or reviewed
22 notwithstanding section 242(a)(2)(D);

23 “(B) the alien is not eligible and may not
24 apply for any relief under this Act, regardless

1 of the date that an application or request for
2 such relief may have been filed or made; and

3 “(C) the alien shall be removed under the
4 order of removal, deportation, or exclusion at
5 any time after the illegal entry.

6 Reinstatement under this paragraph shall not re-
7 quire proceedings under section 240 or other pro-
8 ceedings before an immigration judge.”.

9 (b) JUDICIAL REVIEW.—Section 242 of the Immigra-
10 tion and Nationality Act (8 U.S.C. 1252) is amended by
11 adding at the end the following:

12 “(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER
13 SECTION 241(a)(5).—

14 “(1) REVIEW OF REINSTATEMENT.—Judicial
15 review of determinations under section 241(a)(5) is
16 available in an action under subsection (a).

17 “(2) NO REVIEW OF ORIGINAL ORDER.—Not-
18 withstanding any other provision of law (statutory or
19 nonstatutory), including section 2241 of title 28,
20 United States Code, any other habeas corpus provi-
21 sion, or sections 1361 and 1651 of such title, no
22 court shall have jurisdiction to review any cause or
23 claim, arising from, or relating to, any challenge to
24 the original order.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 subsections (a) and (b) shall take effect as if enacted on
3 April 1, 1997, and shall apply to all orders reinstated or
4 after that date by the Secretary of Homeland Security (or
5 by the Attorney General prior to March 1, 2003), regard-
6 less of the date of the original order.

7 **SEC. 605. ATTORNEY GENERAL’S DISCRETION IN DETER-**
8 **MINING COUNTRIES OF REMOVAL.**

9 Section 241(b) of the Immigration and Nationality
10 Act (8 U.S.C. 1231(b)) is amended—

11 (1) in paragraph (1)(C)(iv), by striking the pe-
12 riod at the end and inserting “, or the Attorney
13 General decides that removing the alien to the coun-
14 try is prejudicial to the United States.”; and

15 (2) in paragraph (2)(E)(vii), by inserting “or
16 the Attorney General decides that removing the alien
17 to one or more such countries is prejudicial to the
18 United States,” after “this subparagraph,”.

19 **SEC. 606. STATUTE OF LIMITATIONS FOR FRAUD OFFENSES**
20 **INVOLVING CERTAIN HUMAN RIGHTS VIOLA-**
21 **TIONS OR WAR CRIMES.**

22 (a) IN GENERAL.—Chapter 213 of title 18, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 **“§ 3302. Fraud in connection with certain human**
2 **rights violations or war crimes**

3 “(a) IN GENERAL.—Unless the indictment is found
4 or the information is instituted within 10 years after the
5 commission of the offense, no person shall be prosecuted,
6 tried, or punished for a violation of any provision of sec-
7 tion 1001, 1015, 1546, or 1621, or for attempt or con-
8 spiracy to violate any of such provisions, when the viola-
9 tion, attempt, or conspiracy concerns the alleged offend-
10 er’s—

11 “(1) participation, at any time, at any place,
12 and irrespective of the nationality of the alleged of-
13 fender or any victim, in a human rights violation or
14 war crime; or

15 “(2) membership in, service in, or authority
16 over, a military, paramilitary, or police organization
17 that participated in such conduct during any part of
18 any period in which the alleged offender was a mem-
19 ber of, served in, or had authority over, the organi-
20 zation.

21 “(b) DEFINITIONS.—For purposes of this section:

22 “(1) The term ‘extrajudicial killing under color
23 of foreign law’ means conduct specified in section
24 212(a)(3)(E)(iii) of the Immigration and Nationality
25 Act (8 U.S.C. 1182(a)(3)(E)(iii)).

1 “(2) The term ‘female genital mutilation’
2 means conduct described in section 116.

3 “(3) The term ‘genocide’ means conduct de-
4 scribed in section 1091(a).

5 “(4) The term ‘human rights violation or war
6 crime’ means genocide, incitement to genocide, war
7 crimes, torture, female genital mutilation,
8 extrajudicial killing under color of foreign law, perse-
9 cution, particularly severe violations of religious free-
10 dom by a foreign government official, or the use or
11 recruitment of child soldiers.

12 “(5) The term ‘incitement to genocide’ means
13 conduct described in section 1091(c).

14 “(6) The term ‘particularly severe violations of
15 religious freedom’ has the meaning given such term
16 in section 3(13) of the International Religious Free-
17 dom Act of 1998 (22 U.S.C. 6402(13)).

18 “(7) The term ‘persecution’ means conduct de-
19 scribed in section 208(b)(2)(A)(i) of the Immigra-
20 tion and Nationality Act (8 U.S.C.
21 1158(b)(2)(A)(i)).

22 “(8) The term ‘torture’ means conduct de-
23 scribed in paragraph (1) or (2) of section 2340.

24 “(9) The term ‘use or recruitment of child sol-
25 diers’ means conduct described in section 2442(a).

1 (2) by striking subparagraph (C) and inserting
2 the following:

3 “(C) RECOMMENDATION TO CONGRESS TO
4 EXTEND DESIGNATION.—If the Secretary deter-
5 mines under subparagraph (A) that a foreign
6 state (or part of such foreign state) continues
7 to meet the condition for designation under
8 paragraph (1), the Secretary of Homeland Se-
9 curity shall submit a recommendation to the
10 Congress to extend the period of designation for
11 not more than 18 months. The Secretary shall
12 set forth the justification for the extension, in-
13 cluding the humanitarian concerns, or how the
14 extension otherwise is in the national interest.
15 If, 90 days after the submission of the Sec-
16 retary’s recommendation, the President has not
17 signed into law legislation passed by the House
18 and the Senate extending the designation, the
19 designation shall be terminated in accordance
20 with subsection (d)(3).”.

21 (b) ADJUSTMENT OF STATUS OF ALIENS WITH TEM-
22 PORARY PROTECTED STATUS.—Section 244(f)(4) of the
23 Immigration and Nationality Act (8 U.S.C. 1254(f)(4)) is
24 amended by striking the period at the end and inserting

1 “but shall not be regarded as satisfying the definition of
2 the term ‘admitted’ under section 101(a)(13)(A).”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect on the date of the enactment
5 of this Act, except that the amendments made by sub-
6 section (a) shall not apply to extensions pursuant to sub-
7 section 244(b)(3)(C) of the Immigration and Nationality
8 Act (8 U.S.C. 1254a(b)(3)(C)) of designations originally
9 made pursuant to section 244(b)(1) of such Act (8 U.S.C.
10 1254a(b)(1)) before such date.

11 **SEC. 609. INFORMATION ON FOREIGN CRIMES.**

12 Section 245(a) of the Immigration and Nationality
13 Act (8 U.S.C. 1255(a)) is amended by striking “and (3)”
14 and inserting the following “(3) the Secretary of Home-
15 land Security or the Attorney General has thoroughly ex-
16 amined the records of the alien’s countries of prior resi-
17 dence to determine whether the alien has committed a
18 crime in any of those countries that renders the alien inad-
19 missible, and (4)”.

20 **SEC. 610. CLARIFICATION OF STANDARDS FOR FAMILY DE-**
21 **TENTION.**

22 (a) IN GENERAL.—Section 235 of the William Wil-
23 berforce Trafficking Victims Protection Reauthorization
24 Act of 2008 (8 U.S.C. 1232) is amended by adding at
25 the end the following:

1 “(j) CONSTRUCTION.—

2 “(1) IN GENERAL.—Notwithstanding any other
3 provision of law, judicial determination, consent de-
4 cree, or settlement agreement, the detention of any
5 alien child who is not an unaccompanied alien child
6 shall be governed by sections 217, 235, 236, and
7 241 of the Immigration and Nationality Act (8
8 U.S.C. 1187, 1225, 1226, and 1231). There exists
9 no presumption that an alien child who is not an un-
10 accompanied alien child should not be detained, and
11 all such determinations shall be in the discretion of
12 the Secretary of Homeland Security.

13 “(2) RELEASE OF MINORS OTHER THAN UNAC-
14 COMPANIED ALIENS.—In no circumstances shall an
15 alien minor who is not an unaccompanied alien child
16 be released by the Secretary of Homeland Security
17 other than to a parent or legal guardian.

18 “(3) CONDITIONS OF CONFINEMENT.—The con-
19 ditions of confinement applicable under this sub-
20 section shall be in the discretion of the Secretary
21 and, in no instance may specific licensing require-
22 ments be imposed beyond those deemed appropriate
23 by the Secretary of Homeland Security.”.

24 (b) EFFECTIVE DATE.—The amendment made by
25 subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to all actions that occur
2 before, on, or after the date of the enactment of this Act.

3 **SEC. 611. REPORTS TO CONGRESS ON THE EXERCISE AND**
4 **ABUSE OF PROSECUTORIAL DISCRETION.**

5 (a) IN GENERAL.—Not later than 180 days after the
6 end of each fiscal year, the Secretary of Homeland Secu-
7 rity and the Attorney General shall each provide to the
8 Committees on the Judiciary of the House of Representa-
9 tives and of the Senate a report on the following:

10 (1) Aliens apprehended or arrested by State or
11 local law enforcement agencies who were identified
12 by the Department of Homeland Security in the pre-
13 vious fiscal year and for whom the Department of
14 Homeland Security did not issue detainers and did
15 not take into custody despite the Department of
16 Homeland Security's findings that the aliens were
17 inadmissible or deportable.

18 (2) Aliens who were applicants for admission in
19 the previous fiscal year but not clearly and beyond
20 a doubt entitled to be admitted by an immigration
21 officer and who were not detained as required pursu-
22 ant to section 235(b)(2)(A) of the Immigration and
23 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

24 (3) Aliens who in the previous fiscal year were
25 found by Department of Homeland Security officials

1 performing duties related to the adjudication of ap-
2 plications for immigration benefits or the enforce-
3 ment of the immigration laws to be inadmissible or
4 deportable who were not issued notices to appear
5 pursuant to section 239 of such Act (8 U.S.C. 1229)
6 or placed into removal proceedings pursuant to sec-
7 tion 240 (8 U.S.C. 1229a), unless the aliens were
8 placed into expedited removal proceedings pursuant
9 to section 235(b)(1)(A)(i) (8 U.S.C.
10 1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),
11 were granted voluntary departure pursuant to sec-
12 tion 240B, were granted relief from removal pursu-
13 ant to statute, were granted legal nonimmigrant or
14 immigrant status pursuant to statute, or were deter-
15 mined not to be inadmissible or deportable.

16 (4) Aliens issued notices to appear that were
17 cancelled in the previous fiscal year despite the De-
18 partment of Homeland Security's findings that the
19 aliens were inadmissible or deportable, unless the
20 aliens were granted relief from removal pursuant to
21 statute, were granted voluntary departure pursuant
22 to section 240B of such Act (8 U.S.C. 1229c), or
23 were granted legal nonimmigrant or immigrant sta-
24 tus pursuant to statute.

1 (5) Aliens who were placed into removal pro-
2 ceedings, whose removal proceedings were termi-
3 nated in the previous fiscal year prior to their con-
4 clusion, unless the aliens were granted relief from
5 removal pursuant to statute, were granted voluntary
6 departure pursuant to section 240B, were granted
7 legal nonimmigrant or immigrant status pursuant to
8 statute, or were determined not to be inadmissible or
9 deportable.

10 (6) Aliens granted parole pursuant to section
11 212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

12 (7) Aliens granted deferred action, extended
13 voluntary departure or any other type of relief from
14 removal not specified in the Immigration and Na-
15 tionality Act or where determined not to be inadmis-
16 sible or deportable.

17 (b) CONTENTS OF REPORT.—The report shall include
18 a listing of each alien described in each paragraph of sub-
19 section (a), including when in the possession of the De-
20 partment of Homeland Security their names, fingerprint
21 identification numbers, alien registration numbers, and
22 reason why each was granted the type of prosecutorial dis-
23 cretion received. The report shall also include current
24 criminal histories on each alien from the Federal Bureau
25 of Investigation.

1 **SEC. 612. CLARIFYING RESCISSION OF ADJUSTMENT OF**
2 **STATUS.**

3 Section 246(a) of the Immigration and Nationality
4 Act (8 U.S.C. 1256(a)) is amending by striking “within
5 five years”.

6 **SEC. 613. GAO STUDY ON DEATHS IN CUSTODY.**

7 The Comptroller General of the United States shall
8 submit to Congress within 6 months after the date of the
9 enactment of this Act, a report on the deaths in custody
10 of detainees held by the Department of Homeland Secu-
11 rity. The report shall include the following information
12 with respect to any such deaths and in connection there-
13 with:

14 (1) Whether any such deaths could have been
15 prevented by the delivery of medical treatment ad-
16 ministered while the detainee is in the custody of the
17 Department of Homeland Security.

18 (2) Whether Department practice and proce-
19 dures were properly followed and obeyed.

20 (3) Whether such practice and procedures are
21 sufficient to protect the health and safety of such
22 detainees.

23 (4) Whether reports of such deaths were made
24 to the Deaths in Custody Reporting Program.

1 **SEC. 614. REMOVAL PROCEEDINGS.**

2 Section 240(b) of the Immigration and Nationality
3 Act (8 U.S.C. 1229a(b)) is amended by adding at the end
4 the following:

5 “(8) ORDER OF CONSIDERATION OF PRO-
6 CEEDINGS.—Whenever possible, proceedings shall
7 take place in the order in which aliens are placed in
8 proceedings, except that proceedings pertaining to
9 aliens in the custody of the Secretary of Homeland
10 Security shall, to the extent practical, take place
11 prior to proceedings for aliens not in such custody.”.

12 **SEC. 615. PROPER FILING OF INCOME TAXES REQUIRED**
13 **FOR GOOD MORAL CHARACTER.**

14 Section 101(f) of the Immigration and Nationality
15 Act (8 U.S.C. 1101(f)) is amended by inserting after para-
16 graph (1) the following:

17 “(2) one who has failed properly to file an in-
18 come tax return for each year that one was required
19 to be filed, has not committed fraud on any tax re-
20 turn filed, and has paid all taxes owed;”.

21 **SEC. 616. WAIVER OF RIGHTS BY B VISA NONIMMIGRANTS.**

22 Section 101(a)(15)(B) of the Immigration and Na-
23 tionality Act (8 U.S.C. 1101(a)(15)(B)) is amended by
24 adding before the semicolon at the end the following: “,
25 and who has waived any right to review or appeal of an
26 immigration officer’s determination as to the admissibility

1 of the alien at the port of entry into the United States,
2 or to contest, other than on the basis of an application
3 for asylum, any action for removal of the alien”.

