

103^D CONGRESS
1ST SESSION

S. 1351

To curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

IN THE SENATE OF THE UNITED STATES

AUGUST 4 (legislative day, JUNE 30), 1993

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

A BILL

To curb criminal activity by aliens, to defend against acts of international terrorism, to protect American workers from unfair labor competition, and to relieve pressure on public services by strengthening border security and stabilizing immigration into the United States.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immigration Stabiliza-
5 tion Act of 1993”.

6 **SEC. 2. TABLE OF TITLES.**

TITLE I—ADMISSION OF IMMIGRANTS

TITLE II—ADMISSION OF REFUGEES

TITLE III—ASYLUM REFORM

TITLE IV—CRIMINAL ALIENS

TITLE V—FINANCIAL RESPONSIBILITY

TITLE VI—EMPLOYER SANCTIONS

TITLE VII—BORDER SECURITY

TITLE VIII—ALIEN SMUGGLING

TITLE IX—LOCAL COOPERATION

TITLE X—CITIZENSHIP

1 **SEC. 3. EFFECTIVE DATE.**

2 Except where otherwise specifically provided, the pro-
3 visions of this Act are effective for fiscal years after fiscal
4 year 1993.

5 **TITLE I—ADMISSION OF IMMIGRANTS**

6 **SEC. 101. WORLDWIDE LEVELS OF IMMIGRATION.**

7 Section 201 of the Immigration and Nationality Act
8 (8 U.S.C. 1151) is amended—

9 (a) by striking subsection (c) and inserting:

10 “(c) The worldwide level of family-sponsored immi-
11 grants is—

12 “(i) 300,000, minus

13 “(ii) the sum of—

14 “(A) the number of refugees admitted
15 under section 207 in the preceding fiscal year,
16 and

17 “(B) the number of aliens described in sec-
18 tions 201(b)(2) and 203(b) who were issued im-

1 migrant visas or who otherwise acquired the
2 status of aliens lawfully admitted to the United
3 States for permanent residence in the previous
4 fiscal year;”;

5 (b) by striking subsection (d) and inserting:

6 “(d) The worldwide level of employment-based immi-
7 grants is 40,000”; and

8 (c) by striking “55,000” from subsection (e)
9 and inserting “zero”.

10 **SEC. 102. ALLOTMENT OF VISAS.**

11 Section 203 of the Immigration and Nationality Act
12 (8 U.S.C. 1153) is amended by—

13 (a) adding the following paragraph to sub-
14 section (a):

15 “(5) If the worldwide level of family-sponsored
16 immigrants for any fiscal year is less than 226,000,
17 then the maximum number of visas that can be al-
18 lotted to any class of family-sponsored immigrants
19 under this subsection shall be proportionately re-
20 duced for that fiscal year;”;

21 (b) striking subsection (b) and inserting:

22 “(b) ALLOCATION FOR EMPLOYMENT-BASED IMMI-
23 GRANTS.—Visas shall be made available in a number not
24 to exceed the worldwide level of employment-based immi-

1 grants to qualified immigrants who are aliens described
2 in any of the following paragraphs (1) through (3).

3 “(1) ALIENS WITH EXTRAORDINARY ABILITY.—

4 An alien is described in this paragraph if—

5 “(A) the alien has extraordinary ability in
6 the sciences, arts, education, business, or ath-
7 letics which has been demonstrated by sus-
8 tained national or international acclaim and
9 whose achievements have been recognized in the
10 field through extensive documentation,

11 “(B) the alien seeks to enter the United
12 States to continue work in the area of extraor-
13 dinary ability, and

14 “(C) the alien’s entry into the United
15 States will substantially benefit prospectively
16 the United States.

17 “(2) OUTSTANDING PROFESSORS AND RE-
18 SEARCHERS.—An alien is described in this para-
19 graph if—

20 “(A) the alien is recognized internationally
21 as outstanding in a specific academic area,

22 “(B) the alien has at least 3 years of expe-
23 rience in teaching or research in the academic
24 area, and

1 “(C) the alien seeks to enter the United
2 States—

3 “(i) for a tenured position (or tenure-
4 track position) within a university or insti-
5 tution of higher education to teach in the
6 academic area,

7 “(ii) for a comparable position with a
8 university or institution of higher edu-
9 cation to conduct research in the area, or

10 “(iii) for a comparable position to
11 conduct research in the area with a depart-
12 ment, division, or institute of a private em-
13 ployer, if the department, division, or insti-
14 tute employs at least 3 persons full-time in
15 research activities and has achieved docu-
16 mented accomplishments in an academic
17 field.

18 “(3) CERTAIN MULTINATIONAL EXECUTIVES
19 AND MANAGERS.—An alien is described in this para-
20 graph if the alien, in the 3 years preceding the time
21 of the alien’s application for classification and ad-
22 mission into the United States under this paragraph,
23 has been employed for at least 1 year by a firm or
24 corporation or other legal entity or an affiliate or
25 subsidiary thereof and the alien seeks to enter the

1 United States in order to continue to render services
2 to the same employer or to a subsidiary or affiliate
3 thereof in a capacity that is managerial or execu-
4 tive.”.

5 (c) striking subsection (c) and inserting:

6 “(c) Visas shall be made available to employment-re-
7 lated immigrants in the order in which a petition on behalf
8 of each such immigrant is filed with the Attorney General
9 and waiting lists of applicants for visas shall be main-
10 tained in accordance with regulations prescribed by the
11 Secretary of State.”;

12 (d) striking “(a), (b), or (c)” from subsections
13 (d), (f), and (g) and inserting “(a) or (b)”;

14 (e) striking subsection (e); and

15 (f) renumbering subsections (f) and (g) as (e)
16 and (f), respectively.

17 **SEC. 103. APPROVAL OF PETITIONS.**

18 Section 204 of the Immigration and Nationality Act
19 (8 U.S.C. 1154) is amended by—

20 (a) striking from subsection (a)(1)(A) “the clas-
21 sification by reason of a relationship described in
22 paragraph (1), (3), or (4) of section 203(a) or”;

23 (b) striking from subsection (a)(1) subpara-
24 graphs (B), (C), (D), (E), (F), (G), and inserting:

1 “(B) Any alien desiring to be classified
2 under section 203(b), or any person on behalf
3 of such an alien, may file a petition with the
4 Attorney General for such classification.”;

5 (c) striking from subsection (e) “as an immi-
6 grant under subsection (a), (b), or (c) of section 203
7 or”;

8 (d) striking from subsection (f)(i) “, 203(a)(1),
9 or 203(a)(3), as appropriate”; and

10 (e) adding:

11 “(h) Notwithstanding any other provision of this sec-
12 tion, the Attorney General shall not approve after Septem-
13 ber 30, 1993, any petitions other than for immediate rel-
14 ative status under section 201(b)(2) or classification by
15 reason of a relationship described in section 203(b).”.

16 **SEC. 104. CONFORMING AMENDMENTS.**

17 The Immigration and Nationality Act is amended
18 by—

19 (a) striking from section 201(b)(2)(A)(i) “the
20 children, spouses, and parents of a citizen of the
21 United States, except that, in the case of parents,
22 such citizens shall be at least 21 years of age” and
23 inserting “children and spouses of a citizen of the
24 United States”;

1 (b) striking from section 203(a)(1) “UNMAR-
2 RIED SONS OR DAUGHTERS OF CITIZENS.—Quali-
3 fied immigrants who are the unmarried sons or
4 daughters of citizens or the United States” and in-
5 serting “PARENTS OF ADULT UNITED STATES CITI-
6 ZENS.—Qualified immigrants who are the parents of
7 citizens of the United States who are at least 21
8 years of age”; and

9 (c) striking “MARRIED” and “married” from
10 section 203(a)(3) .

11 **TITLE II—ADMISSION OF REFUGEES**

12 **SEC. 201. NUMBER OF ADMISSIONS.**

13 Section 207 of the Immigration and Nationality Act
14 (8 U.S.C. 1157) is amended by striking subsection (a) and
15 inserting:

16 “(a) Except as provided in subsection (b), the number
17 of refugees who may be admitted under this section in any
18 fiscal year may not exceed 50,000. Admissions under this
19 subsection shall be allocated by the President among refu-
20 gees of special humanitarian concern to the United
21 States.”.

22 **SEC. 202. NONDISCRIMINATION IN REFUGEE ADMISSIONS.**

23 (a) Public Law 89–732, as amended by Public Law
24 94–571, is repealed.

1 (b) Section 207 of the Immigration and Nationality
2 Act (8 U.S.C. 1157) is amended by adding after sub-
3 section (e) thereof:

4 “(f) Determinations of the allocation of admissions
5 under subsections (a) and (b), determinations of admis-
6 sions under subsection (c), and procedures for the deter-
7 mination of refugee status shall not discriminate in favor
8 of or against any alien on the basis of the alien’s race,
9 religion, nationality, membership in a particular social
10 group, or political opinion.”.

11 **TITLE III—ASYLUM REFORM**

12 **SEC. 301. INSPECTION AND EXCLUSION BY IMMIGRATION** 13 **OFFICERS.**

14 (a) INSPECTION OF ALIENS.—Section 235(b) of the
15 Immigration and Nationality Act (8 U.S.C. 1225(b)) is
16 amended to read as follows:

17 “(b) INSPECTION AND EXCLUSION BY IMMIGRATION
18 OFFICERS.—

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

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

23 “(i) does not present the documentation
24 required (if any) to obtain legal entry to the
25 United States; and

1 “(ii) does not indicate either an intention
2 to apply for asylum (under section 208) or a
3 fear of persecution, the officer shall order the
4 alien excluded from the United States without
5 further hearing or review.

6 “(B) The examining immigration officer shall
7 refer for immediate inspection at a port of entry by
8 an asylum officer under subparagraph (C) any alien
9 who has indicated an intention to apply for asylum
10 or a fear of persecution.

11 “(C)(i) If an asylum officer determines that an
12 alien has a credible fear of persecution, the alien
13 shall be entitled to apply for asylum under section
14 208.

15 “(ii) If an asylum officer determines that an
16 alien does not have a credible fear of persecution the
17 officer shall order the alien excluded from the
18 United States without further hearing or review.

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

24 “(B) The provisions of subparagraph (A) shall
25 not apply—

1 “(i) to an alien crewman,

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

4 “(iii) if the conditions described in section
5 273(d) exist.

6 “(4) The decision of the examining immigration
7 officer, if favorable to the admission of any alien,
8 shall be subject to challenge by any other immigra-
9 tion officer and such challenge shall operate to take
10 the alien, whose privilege to enter is so challenged,
11 before a special inquiry officer for a hearing on ex-
12 clusion of the alien.

13 “(5)(A) Subject to subparagraph (B), an alien
14 has not entered the United States for purposes of
15 this Act unless and until such alien has been in-
16 spected and admitted by an immigration officer pur-
17 suant to this subsection.

18 “(B) An alien who (i) is physically present in
19 the United States, (ii) has been physically present in
20 the United States for a continuous period of one
21 year, and (iii) has not been inspected and admitted
22 by an immigration officer shall be deemed to have
23 entered the United States without inspection.

24 “(6) INTERIOR REPATRIATION.—The Secretary
25 of State shall undertake to enter into, on behalf of

1 the United States, arrangements with the govern-
2 ments of countries contiguous to the United States
3 that any excludable or deportable alien who is to de-
4 part the United States to such country under an
5 order of deportation, under a grant of voluntary de-
6 parture with safeguards, or at a time when the alien
7 is in federal custody shall be transported to a point
8 in the contiguous country that, to the extent prac-
9 ticable, is not less than 500 kilometers from the bor-
10 der of the United States.”.

11 (b) GROUNDS FOR EXCLUSION.—Section 221(a)(6)
12 of the Immigration and Nationality Act is amended by
13 adding the following paragraphs:

14 “(G)(i) Any alien who, in seeking entry to the
15 United States or boarding a common carrier for the
16 purpose of coming to the United States, presents
17 any document which is forged, counterfeit, altered,
18 falsely made, stolen, or inapplicable to the alien pre-
19 senting the document, or otherwise contains a mis-
20 representation of a material fact, shall be excluded.

21 “(ii) Subparagraph (i) shall not apply to an
22 alien if, in the determination of the asylum officer,
23 the document or documents to which that subpara-
24 graph refers were presented by the alien solely to en-
25 able the alien to depart directly from—

1 “(A) a country in which the alien had a
2 credible fear of persecution; or

3 “(B) a country in which there was a sig-
4 nificant danger that the alien would be returned
5 to a country in which the alien would have a
6 credible fear of persecution.

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

15 “(H) Any alien who, in boarding a common car-
16 rier for the purpose of coming to the United States,
17 presents a document that relates or purports to re-
18 late to the alien’s eligibility to enter the United
19 States, and fails to present such document to an im-
20 migration officer upon arrival at a port of entry into
21 the United States, shall be excluded.”.

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

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

4 (2) in the first sentence of paragraph (2) by
5 striking “If” and inserting “Subject to section
6 235(b)(2), if”.

7 **SEC. 302. ASYLUM.**

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

10 “SEC. 208. (a) ASYLUM.—

11 “(1) RIGHT TO APPLY.—An alien physically
12 present in the United States or at a land border or
13 port of entry may apply for asylum in accordance
14 with this section.

15 “(2) CONDITIONS FOR GRANTING.—

16 “(A) GRANTS BY ATTORNEY GENERAL.—

17 The Attorney General may grant asylum to an
18 alien if the alien applies for asylum in accord-
19 ance with the requirements of this section and
20 establishes that it is more probable than not
21 that in the alien’s country of nationality (or, in
22 the case of a person having no nationality, the
23 country in which such alien last habitually re-
24 sided) such alien would be arrested and incar-
25 cerated or such alien’s life would be threatened

1 on account of race, religion, nationality, mem-
2 bership in a particular social group, or political
3 opinion.

4 “(B) EXCEPTION.—Subparagraph (A)
5 shall not apply to an alien if the Attorney Gen-
6 eral determines that—

7 “(i) the alien ordered, incited, as-
8 sisted, or otherwise participated in the per-
9 secution of any person on account of race,
10 religion, nationality, membership in a par-
11 ticular social group, or political opinion;

12 “(ii) the alien, having been convicted
13 by a final judgment of a particularly seri-
14 ous crime, constitutes a danger to the com-
15 munity of the United States;

16 “(iii) there are serious reasons for be-
17 lieving that the alien has committed a seri-
18 ous nonpolitical crime outside the United
19 States prior to the arrival of the alien in
20 the United States;

21 “(iv) there are reasonable grounds for
22 regarding the alien as a danger to the se-
23 curity of the United States; or

24 “(v) a country willing to accept the
25 alien has been identified (other than the

1 country described in subparagraph (A)) to
2 which the alien can be deported or re-
3 turned and the alien does not establish
4 that it is more likely than not that the
5 alien would be incarcerated or the alien's
6 life would be threatened in such country on
7 account of race, religion, nationality, mem-
8 bership of a particular social group, or po-
9 litical opinion. For purposes of clause (ii),
10 an alien who has been convicted of an ag-
11 gravated felony shall be considered to have
12 committed a particularly serious crime.
13 The Attorney General shall promulgate
14 regulations that specify additional crimes
15 that will be considered to be a crime de-
16 scribed in clause (ii) or clause (iii).

17 “(3) ASYLUM STATUS.—In the case of any alien
18 granted asylum under paragraph (2), the Attorney
19 General, in accordance with this section—

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

22 “(B) shall authorize the alien to engage in
23 employment in the United States and provide
24 the alien with an ‘employment authorized’ en-

1 dorsement or other appropriate work permit;
2 and

3 “(C) may allow the alien to travel abroad
4 with the prior consent of the Attorney General,
5 except that such travel may not be authorized
6 to the country from which the alien claimed to
7 be fleeing persecution.

8 “(4) TERMINATION.—Asylum granted under
9 paragraph (2) shall be terminated if the Attorney
10 General, pursuant to such regulations as the Attor-
11 ney General may prescribe, determines that—

12 “(A) the alien no longer meets the condi-
13 tions described in paragraph (2) owing to a
14 change in circumstances in the alien’s country
15 of nationality or, in the case of an alien having
16 no nationality, in the country in which the alien
17 last habitually resided;

18 “(B) the alien meets a condition described
19 in paragraph (2);

20 “(C) a country willing to accept the alien
21 has been identified (other than the country de-
22 scribed in paragraph (2)) to which the alien can
23 be deported or returned and the alien cannot
24 establish that it is more likely than not that the
25 alien would be arrested or incarcerated in such

1 country on account of race, religion, nationality,
2 membership in a particular social group, or po-
3 litical opinion; or

4 “(D) the alien returns to the country from
5 which the alien claimed to be fleeing persecu-
6 tion or makes application with the Attorney
7 General to return to the country from which the
8 alien claimed to fleeing persecution.

9 “(5) ACCEPTANCE BY ANOTHER COUNTRY.—In
10 the case of an alien described in paragraph (2)(C)(v)
11 or paragraph (4)(C), the alien’s deportation or re-
12 turn shall be directed by the Attorney General in the
13 sole discretion of the Attorney General, to any coun-
14 try which is willing to accept the alien into its terri-
15 tory (other than the country described in paragraph
16 (2)).

17 “(b) ASYLUM PROCEDURE.—

18 “(1) APPLICATIONS.—

19 “(A) IN GENERAL.—

20 “(i) DEADLINE.—Subject to clause
21 (ii), an alien’s application for asylum shall
22 not be considered under this section un-
23 less—

24 “(I) the alien has filed, not later
25 than 30 days after entering or coming

1 to the United States, notice of inten-
2 tion to file such an application, and

3 “(II) such application is actually
4 filed not later than 45 days after en-
5 tering or coming to the United States.

6 “(ii) EXCEPTION.—An application for
7 temporary asylum may be considered, not-
8 withstanding that the requirements of
9 clause (i) have not been met, only if the
10 alien demonstrates by clear and convincing
11 evidence changed circumstances in the
12 alien’s country of nationality (or in the
13 case of an alien with no nationality, in the
14 country where the alien last habitually re-
15 sided) affecting eligibility for asylum.

16 “(B) REQUIREMENTS.—An application for
17 temporary asylum shall not be considered un-
18 less the alien submits to the taking of finger-
19 prints and a photograph in a manner deter-
20 mined by the Attorney General.

21 “(C) FEES.—The Attorney General may
22 provide for a reasonable fee for the consider-
23 ation of an application for asylum or for any
24 employment authorization under subsection
25 (a)(3)(B).

1 “(D) NOTICE OF PRIVILEGE OF COUNSEL
2 AND CONSEQUENCES OF FRIVOLOUS APPLICA-
3 TION.—At the time of filing a notice of inten-
4 tion to apply for asylum, the alien shall be ad-
5 vised of the privilege of being represented (at
6 no expense to the government) by such counsel,
7 authorized to practice in such proceedings, as
8 the alien shall choose and of the consequences,
9 under subsection (d), of filling a frivolous appli-
10 cation for temporary asylum.

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

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

1 “(B) SCHEDULING OF HEARINGS.—

2 “(i) IN GENERAL.—Upon the filing of
3 an application for asylum, an asylum offi-
4 cer, at the earliest practicable time and
5 after consultation with the attorney for the
6 Government and the attorney (if any) for
7 the applicant, shall set the application for
8 hearing on a day certain or list it on a
9 weekly or other short-term calendar, so as
10 to assure a speedy hearing.

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

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

21 “(D) RIGHTS IN HEARINGS.—The officer
22 shall, to the extent practicable, conduct the
23 hearing in a nonadversarial manner. During
24 such hearing, the applicant shall have the privi-
25 lege of the assistance and participation of coun-

1 sel (as provided under paragraph (1)(D)) and
2 both the government and the applicant shall be
3 entitled to present evidence and witnesses, to
4 examine and object to evidence, and to cross-ex-
5 amine all witnesses.

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

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

22 “(G) DEADLINE FOR DETERMINATIONS ON
23 APPLICATIONS.—The officer shall render a de-
24 termination on the application not later than 30
25 days after the date of completion of the hear-

1 ing. The determination of the officer shall be
2 based only on the officer’s knowledge of inter-
3 national conditions and human rights records of
4 foreign countries, and evidence produced at the
5 hearing.

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

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

18 “(i) Subject to clause (ii), the applica-
19 tion for asylum of an alien who does not
20 appear for a hearing on such application
21 shall be summarily dismissed unless the
22 alien can show exceptional circumstances
23 (as defined in section 242B(f)(2)) as deter-
24 mined by the asylum officer.

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

4 “(iii) Except in exceptional cir-
5 cumstances (as defined in section
6 242B(f)(2)), an application summarily dis-
7 missed in accordance with Clause (i) shall
8 not be reopened or reconsidered nor shall
9 a new application for asylum be enter-
10 tained by the Attorney General at any
11 time.

12 “(J) FINALITY OF DETERMINATIONS.—

13 “(i) IN GENERAL.—The decision of
14 the asylum officer shall be the final admin-
15 istrative determination of a claim for asy-
16 lum.

17 “(ii) TREATMENT OF CASES IN EX-
18 CLUSION OR DEPORTATION.—If proceed-
19 ings are instituted against an alien under
20 section 235 or 242 of this Act and the
21 alien files an application for asylum based
22 on circumstances described in subsection
23 (b)(1)(A)(ii), the asylum officer shall
24 render, on an expedited basis, a decision
25 on the application.

1 “(c) ASYLUM STATUS ADJUSTMENTS.—

2 “(1) ADJUSTMENT OF STATUS.—Under such
3 regulations as the Attorney General may prescribe,
4 the Attorney General shall adjust to the status of an
5 alien granted asylum the status of any alien granted
6 asylum under subsection (a)(2)(A) who—

7 “(A) applies for such adjustment;

8 “(B) has been physically present in the
9 United States for at least 3 years after being
10 granted asylum;

11 “(C) continues to be eligible for asylum
12 under this section; and

13 “(D) is admissible under this Act at the
14 time of examination for adjustment of status
15 under this subsection.

16 “(2) TREATMENT OF SPOUSE AND CHIL-
17 DREN.—A spouse or child (as defined in section
18 101(b)(A), (B), (C), (D), or (E)) of an alien whose
19 status is adjusted to that of an alien granted asylum
20 under paragraph (a)(2) may be granted the same
21 status as the alien if accompanying, or following to
22 join, such alien.

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

1 “(d) DENIAL OF IMMIGRATION BENEFITS FOR FRIV-
2 OLOUS APPLICATIONS.—

3 “(1) IN GENERAL.—If the asylum officer deter-
4 mines that an alien has made a frivolous application
5 for asylum under this section and the alien has re-
6 ceived the notice under subsection (b)(1)(D)(i), the
7 alien shall be permanently ineligible for any benefits
8 under this Act, effective as of the date of a final de-
9 termination on such application.

10 “(2) TREATMENT OF FRAUDULENT OR MATE-
11 RIAL MISREPRESENTATIONS.—For purposes of this
12 subsection, an application considered to be ‘frivolous’
13 includes, but is not limited to, an application which
14 is fraudulent or otherwise contains a willful mis-
15 representation or concealment of a material fact.”.

16 **SEC. 303. FAILURE TO APPEAR FOR ASYLUM HEARING.**

17 Section 24B(e)(4) (8 U.S.C. 1252b(e)(4)) is amended
18 in subparagraph (A), by striking all after clause (iii) and
19 inserting “shall not be eligible for any benefits under this
20 Act.”.

21 **SEC. 304. JUDICIAL REVIEW.**

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

1 “(d) Notwithstanding any other provision of law, no
2 court shall have jurisdiction to review, except by petition
3 for habeas corpus, any determination made with respect
4 to an alien found excludable pursuant to titles I or II of
5 this Act. In any such case, review by habeas corpus shall
6 be limited to examination of whether the petitioner (I) is
7 an alien, and (II) was ordered excluded from the United
8 States pursuant to the provisions of this Act. Regardless
9 of the nature of the suit or claim, no court shall have juris-
10 diction except as provided in this paragraph to consider
11 the validity of any adjudication or determination of exclu-
12 sion, to certify a class in an action challenging the exclu-
13 sion provisions of this Act or any portion or implementa-
14 tion thereof, or to provide declaratory or injunctive relief
15 with respect to the exclusion of any alien.

16 “(e) In any action brought for the assessment of pen-
17 alties for improper entry or re-entry of an alien under sec-
18 tions 275, 276, 277 or 278 of the Immigration and Na-
19 tionality Act, no court shall have jurisdiction to hear
20 claims collaterally attacking the validity of orders of exclu-
21 sion, or deportation entered under sections 235, 236, or
22 242 of that Act.”.

23 **SEC. 305. CONFORMING AMENDMENTS.**

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

1 (b) ADJUSTMENT OF STATUS.—Section 209(b) of the
2 Immigration and Nationality Act (8 U.S.C. 1159(b)) is
3 amended—

4 (1) in paragraph (2) by striking “one year” and
5 inserting “5 years”; and

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

8 “(3) continues to be eligible for asylum under
9 section 208,”.

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

15 (d) ELIGIBILITY FOR NATURALIZATION.—Section
16 316(f)(1) of the Immigration and Nationality Act (8
17 U.S.C. 1427(f)(1)) is amended by striking “subpara-
18 graphs (A) through (D) of paragraph 243(h)(2)” and in-
19 serting “clauses (i), (ii), (iii), or (iv) of section
20 208(a)(2)(C)”.

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

1 **SEC. 306. EFFECTIVE DATES.**

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

5 (b) EXCEPTIONS.—

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

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

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

23 (B) the deadline for the filing of the appli-
24 cation for asylum is 45 days after the date of
25 filing such notice.

1 (3) The amendments made by section 305(b)
2 (relating to adjustment of status) shall not apply to
3 aliens granted asylum under section 208 of the Im-
4 migration and Nationality Act, as in effect before
5 the date of the enactment of this Act.

6 **TITLE IV—CRIMINAL ALIENS**

7 **SEC. 401. EXPANSION IN DEFINITION OF “AGGRAVATED**
8 **FELONY”.**

9 (a) EXPANSION IN DEFINITION.—Section 101(a)(43)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1101(a)(43) is amended to read as follows:

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

13 “(A) murder;

14 “(B) any illicit trafficking in any controlled
15 substance (as defined in section 102 of the Con-
16 trolled Substances Act), including any drug traffick-
17 ing crime as defined in section 924(c) of title 18,
18 United States Code;

19 “(C) any illicit trafficking in any firearms or
20 destructive devices as defined in section 921 of title
21 18, United States Code, or in explosive materials as
22 defined in section 841(c) of title 18, United States
23 Code;

24 “(D) any offense described in (i) section 1956
25 of title 18, United States Code (relating to launder-

1 ing of monetary instruments) or (ii) section 1957 of
2 such title (relating to engaging in monetary trans-
3 actions in property derived from specific unlawful
4 activity) if the value of the funds exceeded
5 \$100,000;

6 “(E) any offense described in—

7 “(i) subsection (h) or (i) of section 842,
8 title 18, United States Code, or subsection (d),
9 (e), (f), (g), (h), or (i) of section 844 of title 18,
10 United States Code (relating to explosive mate-
11 rials offenses),

12 “(ii) paragraph (1), (2), (3), (4), or (5) of
13 section 922(g), or section 922(j), section
14 922(n), section 922(o), section 922(p), section
15 922(r), section 924(b), or section 924(h) of title
16 18, United States Code (relating to firearms of-
17 fenses), or

18 “(iii) section 5861 of title 26, United
19 States Code (relating to firearms offenses);

20 “(F) any crime of violence (as defined in sec-
21 tion 16 of title 18, United States Code, not includ-
22 ing a purely political offense) for which the term of
23 imprisonment imposed (regardless of any suspension
24 of such imprisonment) is at least 5 years;

1 “(G) any theft offense (including receipt of sto-
2 len property) or any burglary offense, where a sen-
3 tence of 5 years imprisonment or more may be im-
4 posed;

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

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

12 “(J) any offense described in—

13 “(i) section 1962 of title 18, United States
14 Code (relating to racketeer influenced corrupt
15 organizations), or

16 “(ii) section 1084 (if it is a second or sub-
17 sequent offense) or section 1955 of such title
18 (relating to gambling offenses), where a sen-
19 tence of 5 years imprisonment or more may be
20 imposed;

21 “(K) any offense relating to commercial brib-
22 ery, counterfeiting, forgery or trafficking in vehicles
23 whose identification numbers have been altered,
24 where a sentence of 5 years imprisonment or more
25 may be imposed;

1 “(L) any offense—

2 “(i) described in section 2421, section
3 2422, or section 2423 of title 18, United States
4 Code (relating to transportation for the purpose
5 of prostitution) for commercial advantage, or

6 “(ii) described in section 1581 through
7 1585, or section 1588, of title 18, United
8 States Code (relating to peonage, slavery, and
9 involuntary servitude);

10 “(M) any offense relating to perjury or sub-
11 ortion of perjury where a sentence of 5 years im-
12 prisonment or more may be imposed;

13 “(N) any offense described in—

14 “(i) section 793 (relating to gathering or
15 transmitting national defense information), sec-
16 tion 798 (relating to disclosure of classified in-
17 formation), section 2153 (relating to sabotage)
18 or section 2381 or section 2382 (relating to
19 treason) of title 18, United States Code, or

20 “(ii) section 421 of title 50, United States
21 Code (relating to protecting the identity of un-
22 dercover intelligence agents);

23 “(O) any offense—

1 “(i) involving fraud or deceit where the
2 loss to the victim or victims exceeded \$200,000;
3 or

4 “(ii) described in section 7201 of title 26,
5 United States Code (relating to tax evasion),
6 where the tax loss to the Government exceeds
7 \$200,000;

8 “(P) any offense described in section 274(a)(1)
9 of title 18, United States Code (relating to alien
10 smuggling) for the purpose of commercial advan-
11 tage;

12 “(Q) any violation of section 1546(a) of title
13 18, United States Code (relating to document
14 fraud), for the purpose of commercial advantage;

15 “(R) any offense relating to failing to appear
16 before a court pursuant to a court order to answer
17 to or dispose of a charge of a felony, where a sen-
18 tence of 2 years or more may be imposed; or any at-
19 tempt or conspiracy to commit any such act. Such
20 term applies to offenses described in this paragraph
21 whether in violation of Federal or State law and ap-
22 plies to such offenses in violation of the laws of a
23 foreign country for which the term of imprisonment
24 was completed within the previous 15 years; or

1 “(S) any felony committed by an alien on or
2 after the date that alien had received a waiver of de-
3 portation under sections 212 or 241 of this Act (8
4 U.S.C. 1182 or 1251) after commission of a prior
5 felony.”.

6 (b) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to all convictions entered before,
8 on, or after the date of enactment of this Act.

9 **SEC. 402. DEPORTATION PROCEDURES.**

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

14 “(c) DEPORTATION OF ALIENS WHO ARE NOT PER-
15 MANENT RESIDENTS.—

16 “(1) Notwithstanding section 242, and subject
17 to paragraph (5), the Attorney General may issue a
18 final order of deportation against any alien described
19 in paragraph (2) whom the Attorney General deter-
20 mines to be deportable under section
21 241(a)(2)(A)(iii) (relating to conviction of an aggra-
22 vated felony).

23 “(2) An alien is described in this paragraph if
24 the alien—

1 “(A) was not lawfully admitted for perma-
2 nent residence at the time that proceedings
3 under this section commenced, or

4 “(B) had permanent resident status on a
5 conditional basis (as described in section 216)
6 at the time that proceedings under this section
7 commenced.

8 “(3) The Attorney General may delegate the
9 authority in this section to the Commissioner or to
10 any District Director of the Service.

11 “(4) No alien described in this section shall be
12 eligible for—

13 “(A) any relief from deportation that the
14 Attorney General may grant in his discretion,
15 or

16 “(B) relief under section 243(h).

17 “(5) The Attorney General may not execute any
18 order described in paragraph (1) until 14 calendar
19 days have passed from the date that such order was
20 issued, in order that the alien has an opportunity to
21 apply for judicial review under section 106.”.

22 (b) LIMITED JUDICIAL REVIEW.—Section 106 of the
23 Immigration and Nationality Act (8 U.S.C. 1105a) is
24 amended—

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

4 (2) in subsection (a)(1) and subsection (a)(3),
5 by inserting “(including an alien described in section
6 242(A)” after “aggravated felony”; and

7 (3) by adding at the end the following new sub-
8 section;

9 “(d) Notwithstanding subsection (c), a petition for
10 review or for habeas corpus on behalf of an alien described
11 in section 242A(c) may only challenge whether the alien
12 is in fact as alien described in such section, and no court
13 shall have jurisdiction to review any other issue.”.

14 (c) TECHNICAL AND CONFORMING CHANGES.—Sec-
15 tion 242A of the Immigration and Nationality Act (8
16 U.S.C. 1252a) is amended as follows:

17 (1) In subsection (a)—

18 (A) by striking “(a) IN GENERAL.—” and
19 inserting “(b) DEPORTATION OF PERMANENT
20 RESIDENT ALIENS.—(1) IN GENERAL.—”; and

21 (B) by inserting in the first sentence “per-
22 manent resident” after “correctional facilities
23 for”;

24 (2) In subsection (b)—

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

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

5 (3) By striking out subsection (c);

6 (4) In subsection (d)—

7 (A) by striking “(d) EXPEDITED PRO-
8 CEEDINGS.—(1)” and inserting “(3) EXPE-
9 DITED PROCEEDINGS.—(A)”;

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

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

13 (5) In subsection (e)—

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

16 (B) by striking the second sentence; and

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

18 (6) By inserting after the section heading the
19 following new subsection:

20 “(a) PRESUMPTION OF DEPORTABILITY.—An alien
21 convicted of an aggravated felony shall be conclusively pre-
22 sumed to be deportable from the United States.”.

23 (7) The heading of such section is amended to
24 read as follows:

1 “EXPEDITED DEPORTATION OF ALIENS CONVICTED OF
2 COMMITTING AGGRAVATED FELONIES”.

3 (d) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to all aliens against whom deporta-
5 tion proceedings are initiated after the date of enactment
6 of this Act.

7 **SEC. 403. JUDICIAL DEPORTATION.**

8 (a) JUDICIAL DEPORTATION.—Section 242A of the
9 Immigration and Nationality Act (8 U.S.C. 1252a) is
10 amended by inserting at the end the following new sub-
11 section:

12 “(d) JUDICIAL DEPORTATION.—

13 “(1) AUTHORITY.—In any criminal case subject
14 to the jurisdiction of any court of the United States
15 or of any State, such court may enter a judicial
16 order of deportation at the time of sentencing
17 against an alien whose criminal conviction causes
18 such alien to be deportable under section
19 241(a)(2)(A)(iii) (relating to conviction of a felony).

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

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

3 (b) TECHNICAL AND CONFORMING CHANGES.—The
4 ninth sentence of section 242(b) of the Immigration and
5 Nationality Act (8 U.S.C. 1252(b)) is amended by striking
6 out “The” and inserting in lieu thereof, “Except as pro-
7 vided in section 242A(d), the”.

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

12 **SEC. 404. DEFENSES TO DEPORTATION.**

13 (a) DEFENSES BASED ON SEVEN YEARS OF PERMA-
14 NENT RESIDENCE.—The last sentence of section 212(c)
15 of the Immigration and Nationality Act (8 U.S.C.
16 1182(c)) is amended by striking out “has served for such
17 felony or felonies” and all that follows through the period
18 and inserting in lieu thereof “has been sentenced for such
19 felony or felonies to a term of imprisonment of at least
20 5 years, *Provided*, That the time for appealing such con-
21 viction or sentence has expired and the sentence has be-
22 come final.”.

23 (b) DEFENSES BASED ON WITHHOLDING OF DEPOR-
24 TATION.—Section 243(h)(2) of the Immigration and Na-
25 tionality Act (8 U.S.C. 1253(h)(2)) is amended by—

1 (1) striking out the final sentence and inserting
2 in lieu thereof the following new subparagraph:

3 “(E) the alien has been convicted of a fel-
4 ony.”; and

5 (2) striking out the “or” at the end of subpara-
6 graph (C) and inserting “or” at the end of subpara-
7 graph (D).

8 **SEC. 405. ENHANCED PENALTIES FOR REENTRY OR FAIL-**
9 **URE TO DEPART.**

10 (a) FAILURE TO DEPART.—Section 242(e) of the Im-
11 migration and Nationality Act (8 U.S.C. 1252(e)) is
12 amended—

13 (1) by striking out “paragraph (2), (3), or 4
14 of” the first time it appears, and

15 (2) by striking out “shall be imprisoned not
16 more than ten years” and inserting in lieu thereof,
17 “shall be imprisoned not more than two years, or
18 shall be imprisoned not more than ten years if the
19 alien is a member of any of the classes described in
20 paragraph (2), (3), or (4) of section 241(a)”.

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

23 (1) in paragraph (1), by (A) inserting after
24 “commission of” the following: “two or more mis-

1 demeanors or”, and (B) striking out “5” and insert-
2 ing in lieu thereof “10”,

3 (2) in paragraph (2), by striking out “15” and
4 inserting in lieu thereof “20”, and

5 (3) by adding at the end the following sentence:
6 “For the purposes of this subsection, the term ‘de-
7 portation’ shall include any agreement where an
8 alien stipulates to deportation during a criminal trial
9 under either Federal or State law.”.

10 (c) COLLATERAL ATTACKS ON UNDERLYING DEPOR-
11 TATION ORDER.—Section 276 of the Immigration and Na-
12 tionality Act (8 U.S.C. 1326) is amended by inserting
13 after subsection (b) the following new subsection:

14 “(c) In any criminal proceeding under this section,
15 no alien may challenge the validity of the deportation
16 order described in subsection (a)(1) or subsection (b).”.

17 **SEC. 406. DEPORTATION OF IMPRISONED ALIENS.**

18 Section 242(h) of the Immigration and Nationality
19 Act (8 U.S.C. 1252(h)) is amended to read as follows:

20 “(h)(1) Except as provided in paragraph (2), an alien
21 sentenced to imprisonment may not be deported until such
22 imprisonment has been terminated by the release of the
23 alien from confinement. Parole, supervised release, proba-
24 tion, or possibility of rearrest or further confinement in

1 respect of the same offense shall not be a ground for defer-
2 ral of deportation.

3 “(2) The Attorney General may deport an alien prior
4 to the completion of a sentence of imprisonment—

5 “(A) in the case of an alien in the custody of
6 the Attorney General, if the Attorney General deter-
7 mines that the alien has been adequately punished
8 and that such deportation of the alien is appro-
9 priate; or

10 “(B) in the case of an alien in the custody of
11 a State, if the chief State official exercising author-
12 ity with respect to the incarceration of the alien de-
13 termines (i) that the alien has been adequately pun-
14 ished and that such deportation is appropriate, and
15 (ii) submits a written request to the Attorney Gen-
16 eral that such alien be so deported.”.

17 **SEC. 407. JUDICIAL ORDER OF DEPORTATION.**

18 (a) **IN GENERAL.**—Subchapter A of chapter 227 of
19 title 18, United States Code, is amended by adding at the
20 end the following:

21 **“§ 3560. Order of Deportation for certain aliens**

22 “The court, upon sentencing an individual who is an
23 alien for an aggravated felony (as defined in section
24 101(a)(43) of the Immigration and Nationality Act, shall
25 include in a sentencing order a declaration that the indi-

1 vidual is deportable. And presentence report required
2 under the Rules of Criminal Procedure with respect to the
3 sentencing of any individual for such a felony shall include
4 whether or not such individual is an alien.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of subchapter A of chapter 227 of title
7 18, United States Code, is amended by adding at the end
8 the following new item:

“3560. Order of deportation for certain aliens.”.

9 (c) DEPORTATION PROCEDURES.—Section 242A of
10 the Immigration and Nationality Act (18 U.S.C. 1252a)
11 is amended by adding at the end the following:

12 “(f) DEPORTATION PURSUANT TO A JUDICIAL
13 ORDER.—An alien subject to a judicial order of deporta-
14 tion under section 3560 of title 18, United States Code,
15 shall be deported consistent with section 242(h).”.

16 **SEC. 408. FEDERAL INCARCERATION.**

17 (a) FEDERAL INCARCERATION.—Section 242 of the
18 Immigration and Nationality Act (8 U.S.C. 1252) is
19 amended by adding at the end the following:

20 “(j)(1) The Attorney General shall take into the cus-
21 tody of the Federal Government, and shall incarcerate for
22 a determinate sentence of imprisonment, a criminal alien
23 described in paragraph (3) if—

24 “(A) the chief State official exercising authority
25 with respect to the incarceration of the undocu-

1 mented criminal alien submits a written request to
2 the secretary;

3 “(B) the undocumented criminal is sentenced to
4 a determinate term of imprisonment;

5 “(C) the State in which the official described in
6 paragraph A exercises authority cooperates, and re-
7 quires local governments or agencies in such State
8 to cooperate, with Federal immigration authorities
9 with respect to the identification, location, arrest,
10 prosecution, detention, and deportation of aliens who
11 are not lawfully present in the United States; and

12 “(D) adequate Federal facilities are available
13 for the incarceration of the criminal alien.

14 “(2) Criminal aliens taken into the custody of the At-
15 torney General under paragraph (1) may be deported
16 under subsection (h)(2)(A).

17 “(3) An alien is described in this paragraph if the
18 alien—

19 “(A) has been convicted of a felony and sen-
20 tenced to a term of imprisonment, and

21 “(B)(i) had entered the United States without
22 inspection or at any time or place other than as des-
23 ignated by the Attorney General, or

1 “(ii) was the subject of exclusion or deportation
2 proceedings at the time he or she was taken into
3 custody by the State.”.

4 **SEC. 409. INCREASED PENALTY FOR VISA FRAUD.**

5 (a) FALSE STATEMENT.—Section 1542 of title 18,
6 United States Code, is amended by striking “fined not
7 more than \$2,000 or imprisoned not more than five years,
8 or both” and inserting “fined under this title or impris-
9 oned not more than 10 years, or both”.

10 (b) FORGERY.—Section 1543 of title 18, United
11 States Code, is amended by striking “fined not more than
12 \$2,000 or imprisoned not more than five years, or both”
13 and inserting “fined under this title or imprisoned not
14 more than 10 years, or both”.

15 (c) MISUSE OF PASSPORT.—Section 1544 of title 18,
16 United States Code, is amended by striking “fined not
17 more than \$2,000 or imprisoned not more than five years,
18 or both” and inserting “fined under this title or impris-
19 oned not more than 10 years, or both”.

20 (d) SAFE CONDUCT VIOLATION.—Section 1545 of
21 title 18, United States Code, is amended by striking
22 “fined not more than \$2,000 or imprisoned not more than
23 three years, or both” and inserting “fined under this title
24 or imprisoned not more than 10 years, or both”.

1 (e) FRAUD AND MISUSE OF VISAS.—Section 1546(a)
2 of title 18, United States Code, is amended by striking
3 “fined not more than \$2,000 or imprisoned not more than
4 five years, or both” and inserting “fined under this title
5 or imprisoned not more than 10 years, or both”.

6 **SEC. 410. NOTIFICATION OF ALIEN ARREST.**

7 Whenever a State or local law enforcement agency ar-
8 rests an immigrant or nonimmigrant alien for the commis-
9 sion of a felony, that State or local law enforcement agen-
10 cy shall provide the District Director of the Immigration
11 and Naturalization Service for the district in which the
12 State or local law enforcement agency has jurisdiction the
13 following information within 72 hours of the arrest: the
14 name of the alien; the alien’s place of birth; the alien’s
15 date of birth; the alien’s alien registration number, if any;
16 the nature of the offense for which the alien was arrested;
17 and any available information on bond, future hearings
18 and proceedings.

19 **SEC. 411. EXCLUDABILITY OF UNLAWFUL ENTRANTS.**

20 Section 204(c) of the Immigration and Nationality
21 Act is amended by adding a comma after the word “laws”
22 the first time it appears, striking the word “or” prior to
23 “(2)” and inserting the following before the period: “or
24 (3) the petition was submitted by or on behalf of any alien
25 who entered or attempted to enter the United States un-

1 lawfully, who entered or attempted to enter with fraudu-
2 lent, forged or stolen documents, who failed to present the
3 immigration officer any document produced when the alien
4 boarded a common carrier for travel to the United States,
5 or who entered the United States lawfully as a non-
6 immigrant but violated the terms of his or her non-
7 immigrant visa”.

8 **SEC. 412. EXCLUSION OF IMMIGRATION LAW VIOLATORS.**

9 (a) EXCLUSION OF CRIMINAL ALIEN.—Section
10 212(a)(2)(A)(i) of the Immigration and Nationality Act
11 (8 U.S.C. 1182(a)(2)(A)(i)) is amended by striking “or”
12 at the end of subparagraph (I) and inserting the following
13 new subparagraph prior to the phrase “is excludable”: “or
14 (III) any violation of any immigration law or any violation
15 of any federal or State statute prohibiting fraud, including
16 any statutes prohibiting income tax evasion”.

17 (b) EXCLUSION REFORM.—Section 212 of the Immi-
18 gration and Nationality Act (8 U.S.C. 1182) is amended
19 by striking paragraph (c) and inserting the following as
20 new paragraph (c):

21 “(c) Aliens lawfully admitted for permanent residence
22 who temporarily proceeded abroad voluntarily and not
23 under an order of deportation shall not be admitted if that
24 alien is excludable under paragraph (a).”.

1 **SEC. 413. MISCELLANEOUS AND TECHNICAL CHANGES.**

2 (a) FORM OF DEPORTATION HEARINGS.—The sec-
3 ond sentence of section 242(b) of the Immigration and
4 Nationality Act (8 U.S.C. 1252(b)) is amended by insert-
5 ing before the period the following: “; except that nothing
6 in this subsection shall preclude the Attorney General
7 from authorizing proceedings by electronic or telephonic
8 media (with or without the consent of the alien) or, where
9 waived or agreed to by the parties, in the absence of the
10 alien”.

11 (b) CONSTRUCTION OF EXPEDITED DEPORTATION
12 REQUIREMENTS.—No amendment made by this Act and
13 nothing in section 242(i) of the Immigration and Nation-
14 ality Act (8 U.S.C. 1252(i)), shall be construed to create
15 any right or benefit, substantive or procedural, which is
16 legally enforceable by any party against the United States,
17 its agencies, its officers, or any other person.

18 **TITLE V—FINANCIAL RESPONSIBILITY**

19 **SEC. 501. PUBLIC CHARGE DEFINED.**

20 Section 212(a) of the Immigration and Nationality
21 Act (8 U.S.C. 1182(a)(4)) is amended by striking para-
22 graph (4) and inserting:

23 “(4) PUBLIC CHARGE.—Any alien who cannot
24 demonstrate to the consular officer at the time of
25 application for a visa, or to the Attorney General at
26 the time of application for admission or adjustment

1 of status, that, taking into account the alien's age
2 and medical condition, he or she has assets, edu-
3 cation, skills, or a combination thereof that make it
4 very unlikely that he or she will become eligible for
5 means-tested public assistance of any kind (includ-
6 ing, but not limited to, medical care or food and
7 housing assistance) or will otherwise become a public
8 charge is excludable.”.

9 **SEC. 502. GUARANTEE OF FINANCIAL RESPONSIBILITY.**

10 The Immigration and Nationality Act is amended by
11 striking section 213 (8 U.S.C. 1183) and inserting:

12 **“SEC. 213. FINANCIAL RESPONSIBILITY OF SPONSORS.**

13 “(a) An alien excludable under paragraph 4 of Sec-
14 tion 212(a) may, if otherwise admissible, be admitted in
15 the discretion of the Attorney General upon the giving of
16 a suitable and proper bond and a guarantee of financial
17 responsibility by an individual (hereinafter in this section
18 referred to as the alien's ‘sponsor’) who is not less than
19 21 nor more than 60 years of age, is of good moral char-
20 acter, has never been convicted of a felony, has never filed
21 for bankruptcy or been adjudicated a bankrupt, and is a
22 citizen of the United States or an alien lawfully admitted
23 for permanent residence.

24 “(b) The guarantee of financial responsibility in sub-
25 section (a) must provide (1) that the sponsor, and the

1 sponsor's spouse if the sponsor is married, agree in the
2 case of an alien under 21 years of age, to assume legal
3 custody for the alien after the alien's departure to the
4 United States and until the alien becomes 21 years of age,
5 in accordance with the law of the State where the sponsor
6 resides, and (2) that the sponsor agrees to furnish, during
7 the 5-year period beginning on the date of the alien's ac-
8 quiring the status of an alien lawfully admitted for perma-
9 nent residence, or during the period beginning on the date
10 of the alien's acquiring the status of an alien lawfully ad-
11 mitted for permanent residence and ending on the date
12 on which the alien becomes 21 years of age, whichever pe-
13 riod is longer, such financial support as is necessary to
14 prevent the alien's becoming a public charge.

15 “(c) A guarantee of financial responsibility given
16 under subsection (a) may be enforced with respect to an
17 alien by a civil suit against his sponsor by the Attorney
18 General or by any Federal or State agency that has pro-
19 vided the alien means-tested public assistance of any kind,
20 including but not limited to medical, food, and housing
21 assistance.

22 “(d) Civil suits under subsection (c) shall be brought
23 in the United States district court for the district in which
24 the defendant resides and may be brought at any time on
25 or before the date that is 5 years after the date on which

1 the sponsor's period of financial responsibility under sub-
2 section (a) expired.

3 “(e) The bond required of an alien's sponsor by sub-
4 section (a) shall be in favor of the United States and all
5 States, territories, countries, towns, municipalities, and
6 districts within the United States and shall hold them
7 harmless against the alien's becoming a public charge. The
8 bond shall be in such amount and shall contain such condi-
9 tions as the Attorney General may prescribe. The bond
10 shall terminate upon (1) the alien's permanent departure
11 from the United States, (2) the death of an alien, or (3)
12 the expiration of the period of financial responsibility de-
13 scribed in subsection (b), whichever occurs first, and any
14 sums or other security held to secure performance thereof,
15 except to the extent forfeited for violation of the terms
16 thereof, shall be returned to the person by whom fur-
17 nished, or to his legal representative.”.

18 **SEC. 503. LIMITED BENEFITS FOR ILLEGAL ALIENS.**

19 (a) DIRECT FEDERAL FINANCIAL BENEFITS.—Not-
20 withstanding any other provision of law, no direct Federal
21 financial benefit or social insurance benefit may be paid,
22 conferred, or otherwise given, on or after the date of en-
23 actment of this Act, to any alien not lawfully admitted
24 to the United States as a permanent resident or a refugee
25 except pursuant to a provision of the Immigration and Na-

1 tionality Act: *Provided, however,* That Federal reimburse-
2 ment of emergency medical care provided to such an alien
3 may be provided under such regulations as the Secretary
4 of Health and Human Services may in his or her discre-
5 tion prescribe.

6 (b) UNEMPLOYMENT BENEFITS.—No alien who has
7 not been granted employment authorization pursuant to
8 Federal law shall be eligible for unemployment compensa-
9 tion under an unemployment compensation law of a State
10 or the United States.

11 **TITLE VI—EMPLOYER SANCTIONS**

12 **SEC. 601. IMPLEMENTATION OF GAO RECOMMENDATIONS.**

13 (a) WORK ELIGIBILITY DOCUMENTS.—Effective
14 January 1, 1995, Section 274A of the Immigration and
15 Nationality Act (8 U.S.C. 1324a) is amended by striking
16 subparagraphs (A) through (D) of subsection (b)(1) and
17 inserting:

18 “(A) IN GENERAL.—The person or entity
19 must attest, under penalty of perjury and on a
20 form designated or established by the Attorney
21 General by regulation, that it has verified that
22 the individual is not an unauthorized alien by—

23 “(i) examining the document de-
24 scribed in (B) in the case of an individual

1 claiming to be a United States citizen,
2 United States national,

3 “(ii) examining the document de-
4 scribed in paragraph (C) in the case of an
5 individual not claiming to be a United
6 States citizen, a United States national, or
7 a permanent resident alien, and

8 “(iii) reporting the individual’s Social
9 Security account number to the Social Se-
10 curity Administration through the tele-
11 phone verification system established pur-
12 suant to section 602 of the Immigration
13 Stabilization Act of 1993.

14 “(B) DOCUMENTS OF CITIZENS AND NA-
15 TIONALS.—The document described in this
16 paragraph is an individual’s Social Security ac-
17 count number card issued pursuant to section
18 601(c) of the Immigration Stabilization Act of
19 1993.

20 “(C) DOCUMENTS OF ALIENS.—The docu-
21 ment described in this paragraph is an alien’s
22 identification card issued by the Immigration
23 and Naturalization Service pursuant to section
24 601(b) of the Immigration Stabilization Act of
25 1993.”.

1 (b) IMPROVEMENT OF ALIEN IDENTITY CARDS.—

2 (1) PERMANENT RESIDENT ALIENS.—The At-
3 torney General shall cause to be issued to every alien
4 acquiring lawful permanent residence in the United
5 States after June 30, 1994, and, upon application,
6 to any alien who acquired lawful permanent resi-
7 dence before July 1, 1994, an alien identification
8 card that shall—

9 (A) be uniform in appearance,

10 (B) be as tamper-proof and counterfeit-re-
11 sistant as practicable,

12 (C) contain a photograph and fingerprint,

13 (D) display the name, sex, date of birth,
14 and such other identifying information as the
15 Attorney General shall determine, and

16 (E) incorporate a machine-readable encod-
17 ing of the information displayed on the card.

18 (2) OTHER ALIENS.—The Attorney General
19 shall cause to be issued to every alien who becomes
20 authorized to work in the United States after June
21 30, 1994, other than by reason of lawful admission
22 for permanent residence, and shall cause to be is-
23 sued, upon application, to any other alien who is au-
24 thorized to work in the United States other than by

1 reason of lawful admission for permanent residence
2 an alien identification card that shall—

3 (A) be uniform in appearance,

4 (B) be as tamper-proof and counterfeit-re-
5 sistant as practicable,

6 (C) contain a photograph and fingerprint,

7 (D) display the alien's name, sex, date of
8 birth, place of birth, and such other identifying
9 information as the Attorney General shall de-
10 termine,

11 (E) show an expiration date that shall be
12 determined in accordance with regulations is-
13 sued by the Attorney General, but shall not in
14 any case be later than three calendar years
15 after the date of issuance, and

16 (F) incorporate a machine-readable encod-
17 ing of the information displayed on the card.

18 (c) IMPROVEMENT OF SOCIAL SECURITY CARDS.—

19 (1) IMPROVED CARD FOR CITIZENS.—The Sec-
20 retary shall cause to be issued improved Social Secu-
21 rity account number cards to United States citizens
22 and United States nationals upon application, proof
23 of identity, proof of citizenship or nationality, and
24 payment of a reasonable fee.

1 (2) IMPROVED CARD FOR ALIENS.—The Sec-
2 retary shall cause to be issued improved Social Secu-
3 rity account number cards to aliens lawfully admit-
4 ted for permanent residence upon application, proof
5 of identity, verification of status by the Immigration
6 and Naturalization Service, and payment of a rea-
7 sonable fee.

8 (3) REQUIREMENTS.—The cards described in
9 paragraphs (1) and (2) shall—

10 (A) be uniform in appearance,

11 (B) be as tamper-proof and counterfeit-re-
12 sistant as practicable,

13 (C) contain a photograph and fingerprint,

14 (D) display the name, sex, date of birth,
15 place of birth, and Social Security account
16 number of the issuee, and such other identify-
17 ing information as the Secretary shall deter-
18 mine, and

19 (E) incorporate a machine-readable encod-
20 ing of the information displayed on the card.

21 (4) SECRETARY DEFINED.—For purposes of
22 this subsection, Secretary means the Secretary of
23 Health and Human Services.

24 (d) REASONABLE FEE.—The amount of the fee that
25 is to be charged under subsections (b) and (c) shall be

1 the amount (rounded to the nearest whole dollar), not ex-
2 ceeding \$50, required to cover the costs of issuing the
3 card.

4 (e) NO OTHER CARDS.—No Social Security account
5 number card or alien identification card shall be issued
6 after June 30, 1994, whether as an original card or as
7 a replacement, that does not satisfy the requirements of
8 this section.

9 (f) DEFINITIONS.—For purposes of this section—

10 (1) “State” means one of the United States,
11 the District of Columbia, or Puerto Rico, and

12 (2) “place of birth” means, for an individual—

13 (A) born in a State, the two-letter symbol
14 used by the United States Post Office to iden-
15 tify that State, or

16 (B) not born in a State, such two-letter
17 symbol as the Secretary shall determine by reg-
18 ulations.

19 **SEC. 602. VERIFICATION BY TELEPHONE.**

20 (a) SOCIAL SECURITY DATABASE.—By September
21 30, 1994, the Secretary of Health and Human Services
22 shall make such modifications to the Social Security ac-
23 count number data base (NUMIDENT) as are practicable
24 and enable confirmation through the telephone verification
25 system described in subsection (d) that a Social Security

1 account number has been issued to an individual identified
2 by last name, sex, year of birth, and place of birth and
3 that such individual is not known to the Secretary of
4 Health and Human Services to be an alien not authorized
5 to work in the United States. At a minimum the data base
6 shall be modified to enable confirmation that a Social Se-
7 curity account number is not assigned to an individual au-
8 thorized to work in the United States because the num-
9 ber—

10 (1) has not been issued,

11 (2) was issued to an individual known by the
12 Secretary of Health and Human Services as not au-
13 thorized to work,

14 (3) was issued to a person that is deceased and
15 has not been reissued, or

16 (4) was issued to an alien that any data base
17 of the Immigration and Naturalization Service shows
18 is not authorized to work in the United States.

19 The Attorney General shall provide such assistance as the
20 Secretary of Health and Human Services may require to
21 merge or otherwise make use of any data base of the Im-
22 migration and Naturalization Service for the purposes of
23 this section.

24 (b) EXCHANGE OF INFORMATION.—The Attorney
25 General shall notify the Secretary of Health and Human

1 Services of the expiration of an alien's authorization to
2 work in the United States not later than 14 calendar days
3 after the date of expiration. The Secretary of Health and
4 Human Services shall furnish the Attorney General with
5 a list of any aliens for whom confirmation of work eligi-
6 bility has been requested not later than 5 calendar days
7 after such request. Such list shall include the telephone
8 number from which the request was made and the em-
9 ployer identification number of the requester.

10 (c) ADULT APPLICANTS.—The Secretary of Health
11 and Human Services shall furnish to the Attorney General
12 a copy of any application (including supporting docu-
13 mentation) for a Social Security account number by an
14 alien or by an individual over 16 years of age who claims
15 to be a United States citizen or national and shall not
16 issue a number before the earlier of the following dates:

17 (1) The date on which the Attorney General
18 confirms in writing that his records do not show
19 that the applicant is an alien unauthorized to work
20 in the United States.

21 (2) 60 days after a copy of the application and
22 supporting documentation has been delivered to the
23 Attorney General.

24 (d) TELEPHONE VERIFICATION SYSTEM.—Before
25 January 1, 1995, the Secretary of Health and Human

1 Services shall test and place in operation a system whereby
2 an employer can report by touch-tone telephone his em-
3 ployer identification number and the Social Security ac-
4 count number, last name, sex, year of birth, and place of
5 birth of any individual who is to be employed and can re-
6 ceive immediate confirmation that the number was issued
7 to the individual having that identity and that such person
8 is not identified within the Social Security account number
9 data base as an individual who is not a United States citi-
10 zen, a United States national, or an alien authorized to
11 work in the United States. The charge for each call will
12 be sufficient to cover the costs of operating the system,
13 except that it shall not exceed \$2 plus any line charges
14 payable to the telephone carrier. The system shall provide
15 for access to a live operator if an entry is not accepted
16 or confirmed, shall provide a verification code to the caller,
17 shall create and maintain a record of each inquiry (includ-
18 ing the telephone number of the requester) and its ver-
19 ification code for not less than two years, and shall accom-
20 modate devices that read the magnetic strip incorporated
21 by a card issued under section 601.

22 (e) ABUSE OF SYSTEM.—The use of the telephone
23 verification system established by subsection (d) by a per-
24 son other than—

1 (1) an employer acting pursuant to Section
2 274A(b)(1) of the Immigration and Nationality Act,
3 or

4 (2) an officer or employee of an agency of the
5 United States or of any State acting in the perform-
6 ance of official duties,

7 shall be punishable by a fine of not more than \$1,000 per
8 occurrence.

9 **SEC. 603. UNIFORM VITAL STATISTICS.**

10 The Secretary of Health and Human Services shall
11 consult with the State agency responsible for registration
12 and certification of births and deaths and, within 2 years
13 of the date of enactment of this Act, shall establish a na-
14 tional electronic network linking the vital statistics records
15 of such States. The network shall provide, where practical,
16 for the matching of deaths with births and shall enable
17 the confirmation of births and deaths of citizens of the
18 United States, or of aliens within the United States, by
19 any Federal or State agency or official in the performance
20 of official duties. The Secretary shall institute measures
21 to achieve uniform and accurate reporting of vital statis-
22 tics into the national network, to protect the integrity of
23 the registration and certification process, and to prevent
24 fraud against the Government and other persons through
25 the use of false birth or death certificates.

1 **TITLE VII—BORDER SECURITY**

2 **SEC. 701. BORDER PATROL PERSONNEL.**

3 The number of full-time officer positions in the bor-
4 der patrol of the Immigration and Naturalization Service
5 shall be increased to 5,900 in fiscal year 1994, 6,900 in
6 fiscal year 1995, 7,900 in fiscal year 1996, 8,900 in fiscal
7 year 1997, and 9,900 in fiscal year 1998.

8 **SEC. 702. BORDER CROSSING FEE.**

9 The Commissioner shall collect a user fee for each
10 entry into the United States by land or by sea after De-
11 cember 31, 1993. The fee shall be \$3 for each person en-
12 tering other than by private automobile, van, or truck and
13 \$5 for each private automobile, van, or truck. The Com-
14 missioner by regulation may establish a reduced fee or a
15 multiple-crossing fee for frequent border crossers.

16 **SEC. 703. BORDER CONTROL TRUST FUND.**

17 There is established a Border Control Trust Fund
18 (“Fund”) under the control of the Commissioner. The fees
19 collected under section 702 shall be deposited into the
20 Fund. Amounts deposited into the Fund and the earnings
21 thereon shall be expended by the Commissioner exclusively
22 on (1) measures, personnel, structures, and devices to
23 deter and prevent illegal entry of persons and contraband
24 into the United States by land or by sea, (2) construction
25 and operation of facilities to expedite lawful border traffic

1 and reduce, where practical, extensive delays in the time
2 required for lawful entry of goods and persons, and (3)
3 financial and other assistance to State and local law en-
4 forcement agencies that have entered into cooperative ar-
5 rangements with the Immigration and Naturalization
6 Service. Not less than 80 percent of the sum of (a)
7 amounts deposited into the Fund during a fiscal year and
8 (b) the earnings of the Fund during that fiscal year shall
9 be expended during that or the subsequent fiscal year.

10 **SEC. 704. RESPONSIBILITY OF INTERNATIONAL CARRIERS.**

11 (A) IN GENERAL.—Section 273 of the Immigration
12 and Nationality Act (8 U.S.C. 1323) is amended—

13 (1) in subsection (a), by striking “(other than
14 from foreign contiguous territory)”;

15 (2) by redesignating subsections (c) and (d) as
16 subsections (e) and (f), respectively;

17 (3) by inserting after subsection (b) the follow-
18 ing:

19 “(c) RECORDS.—The Attorney General shall main-
20 tain a record of each undocumented alien arriving on or
21 after the date of enactment of this subsection at a United
22 States port of entry and of the carrier which brought such
23 alien to that port of entry.”;

24 (4) by inserting after subsection (c) (as added
25 by paragraph (4)), the following:

1 “(d) REPEAT OFFENSES.—(1) If the Attorney Gen-
2 eral determines that, during the preceding calendar year,
3 any carrier has delivered an average of more than 0.5 un-
4 documented aliens per arrival at United States ports of
5 entry then, for the next calendar year, in lieu of the pen-
6 alty of \$3,000 specified in subsection (b), such carrier
7 shall pay to the Attorney General a penalty of \$10,000
8 for each alien brought in violation of subsection (a) or,
9 alternatively, such carrier may choose to participate in a
10 1-year pilot program intended to reduce the number of
11 undocumented aliens arriving at United States ports of
12 entry via international carriers. If such international car-
13 rier chooses to participate in the 1-year pilot program,
14 that carrier will be subject to the penalty levels prescribed
15 in subsection (b), rather than the increased penalty levels
16 specified in this subsection, for each alien brought in viola-
17 tion of subsection (a). The 1-year pilot program, which
18 can be extended for multiple years at the discretion of the
19 Attorney General, shall consist of a program whereby the
20 international carrier collects the travel documents nec-
21 essary for entry into the United States from all passengers
22 upon their entry to the carrier and physically returns them
23 to the passengers on an individual basis only at the actual
24 point of inspection at the United States port of entry by
25 United States immigration officials.

1 “(2) If the Attorney General determines that, during
2 the preceding calendar year, any carrier has delivered an
3 average of more than 1.5 undocumented aliens per arrival
4 at United States ports of entry, then, for the next calendar
5 year, in lieu of the penalties specified in subsection (b)
6 and in paragraph (1) of this subsection, such carrier shall
7 pay to the Attorney General a penalty of \$20,000 for each
8 alien brought in violation of subsection (a).

9 “(3) If the Attorney General determines that, in the
10 preceding calendar year, any carrier has delivered an aver-
11 age of more than 2 undocumented aliens per arrival at
12 United States ports of entry, then such carrier shall forfeit
13 all landing rights in the United States for the next cal-
14 endar year.”; and

15 (5) subsection (e) (as redesignated) is amend-
16 ed—

17 (A) by inserting after “refunded.” the fol-
18 lowing: “Unless the alien transported is granted
19 political asylum status in the United States or”;
20 and

21 (B) by inserting before the period at the
22 end thereof “or that the visa or other immigra-
23 tion documentation presented to the carrier was
24 forged, counterfeit, altered, falsely made, stolen,

1 or inapplicable to the alien presenting the docu-
2 ment”.

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a)(4) shall take effect on January 1 of the sec-
5 ond calendar year following the date of enactment of this
6 Act.

7 **TITLE VIII—ALIEN SMUGGLING**

8 **SEC. 801. COOPERATIVE ARRANGEMENTS.**

9 The Secretary of State shall undertake to enter into,
10 on behalf of the United States, cooperative arrangements
11 with appropriate foreign governments for the purpose of
12 preventing the unlawful entry of aliens by land, air, or
13 sea.

14 **SEC. 802. COAST GUARD INSTRUCTIONS.**

15 The Secretary of Defense, in consultation, when ap-
16 propriate, with the Attorney General and the Secretary of
17 State, shall instruct the Coast Guard to deter and prevent
18 the unlawful entry of aliens into the United States by sea.
19 Such instructions shall include directives providing for
20 stopping and boarding vessels, making inquiries of persons
21 and inspecting documents and property on board such ves-
22 sels, and returning a vessel to the country from which it
23 came or to another country. In the case of vessels outside
24 the territorial sea of the United States, such instructions
25 shall be limited to vessels of the United States, vessels

1 without nationality, vessels assimilated to vessels without
2 nationality, and vessels of foreign nations with which the
3 United States has arrangements authorizing the United
4 States to stop and board such vessels. Except as otherwise
5 provided in the preceding sentence, actions pursuant to
6 this section are authorized to be undertaken both within
7 and beyond the territorial sea of the United States.

8 **SEC. 803. APPLICATION OF RICO.**

9 Section 1961(1) of title 18, United States Code, is
10 amended by striking “or” immediately prior to “(E)”, and
11 by adding: “or (F) any act which is indictable under any
12 of the following provisions of title 8, United States Code,
13 section 1324(a)(i) (relating to prohibitions on bringing in
14 or harboring certain aliens), section 1325 (relating to ille-
15 gal entry, marriage fraud, or establishing a commercial
16 enterprise for the purpose of evading the immigration
17 laws), section 1327 (relating to aiding or assisting certain
18 aliens to enter the United States), or section 1328 (relat-
19 ing to the importation of aliens for immoral purpose).”

20 **SEC. 804. INCREASED PENALTIES FOR ALIEN SMUGGLING.**

21 Pursuant to section 994 of title 28, United States
22 Code, the United States Sentencing Commission shall pro-
23 mulgate guidelines, or amend existing guidelines, to pro-
24 vide that a defendant convicted of violating, or conspiring
25 to violate section 1324(a) of title 8, United States Code,

1 shall be assigned not less than offense level 25 under sec-
2 tion 2L1.1 of the United States Sentencing Guidelines if
3 any of the following factors exist—

4 (1) if the offense involved five or more aliens in
5 a single scheme or otherwise;

6 (2) if the offense involved other criminal activ-
7 ity including, but not limited to, violations of the
8 Controlled Substances Act, prostitution, importation
9 of aliens for immoral purposes, trafficking in fire-
10 arms, money laundering, illegal gang activities, kid-
11 napping or ransom demands, fraudulent documents,
12 or extortion;

13 (3) if the offense involves smuggling of persons
14 under the age of 18 years for the purposes of illegal
15 adoption or of sexual or commercial exploitation;

16 (4) if the offense involves the smuggling of
17 known or suspected terrorists or persons involved in
18 organized crime;

19 (5) if the offense involves dangerous or inhu-
20 mane treatment of the persons smuggled; or

21 (6) if death or serious bodily harm occurs to
22 persons smuggled.

23 Otherwise, the base offense level shall be 13, except for
24 an offense described in section 1324(a)(2)(A) of title 8,
25 United States Code.

1 **SEC. 805. EXPANDED FORFEITURE FOR SMUGGLING OR**
2 **HARBORING.**

3 Subsection 274(b) of the Immigration and National-
4 ity Act (8 U.S.C. 1324(b)) is amended—

5 (1) by amending paragraph (1) to read as fol-
6 lows:

7 “(1) Any property, real or personal, which fa-
8 cilitates or is intended to facilitate, or which has
9 been used in or is intended to be used in the com-
10 mission of a violation of subsection (a) or of sections
11 274A(a)(1) or 274A(a)(2), or which constitutes or is
12 derived from or traceable to the proceeds obtained
13 directly or indirectly from a commission of a viola-
14 tion of subsection (a), shall be subject to seizure and
15 forfeiture, except that—

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

23 “(B) no property shall be forfeited under
24 the provisions of this section by reason of any
25 act or omission established by the owner thereof
26 to have been committed or omitted by any per-

1 son other than such owner while such property
2 was unlawfully in the possession of a person
3 other than the owner in violation of the crimi-
4 nal laws of the United States or of any State;
5 and

6 “(C) no property shall be forfeited under
7 this paragraph to the extent of an interest of
8 any owner, by reason of any act or omission es-
9 tablished by that owner to have been committed
10 or omitted without the knowledge or consent of
11 the owner, unless such action or omission was
12 committed by an employee or agent of the
13 owner, and facilitated or was intended to facili-
14 tate, or was used in or intended to be used in,
15 the commission of a violation of subsection (a)
16 or of section 274A(a)(1) or 274A(a)(2) which
17 was committed by the owner or which intended
18 to further the business interests of the owner,
19 or to confer any other benefit upon the owner.”.
20 (2) by striking from paragraph (2)—

21 (A) “conveyance” both places it appears
22 and inserting in lieu thereof “property”; and

23 (B) “is being used in” and inserting in lieu
24 thereof “is being used in, is facilitating, has fa-
25 cilitated, or was intended to facilitate”;

1 (3) by striking from paragraphs (4) and (5) “a
2 conveyance” and “conveyance” each place such
3 phrase or word appears and inserting in lieu thereof
4 “property”;

5 (4) by striking from paragraph (4)—

6 (A) “or” at the end of subparagraph (C),

7 and

8 (B) the period at the end of subparagraph

9 (D) and inseting “; or”; and

10 (5) by adding after paragraph (4)(E):

11 “(E) transfer custody and ownership of
12 forfeited property to any Federal, State, or
13 local agency pursuant to the Tariff Act of
14 1930, as amended (19 U.S.C. 1616a(c)).”.

15 **SEC. 806. WIRETAP AUTHORITY FOR ALIEN SMUGGLING IN-**
16 **VESTIGATIONS.**

17 (a) Section 2516(1) of title 18, United States Code,
18 is amended—

19 (1) in paragraph (c) by inserting after “weap-
20 ons),” the following: “or a felony violation of section
21 1028 (relating to production of false identification
22 documentation), section 1546 (relating to fraud and
23 misuse of visas, permits, and other documents),”;

1 (2) by striking “or” after paragraph (l) and re-
2 designating paragraphs (m), (n), and (o) as para-
3 graphs (n), (o), and (p), respectively;

4 (3) by inserting after paragraph (l) the follow-
5 ing new paragraph:

6 “(m) a violation of section 274 of the Immigra-
7 tion and Nationality Act (8 U.S.C. 1324) (relating
8 to alien smuggling), of section 277 of the Immigra-
9 tion and Nationality Act (8 U.S.C. 1327) (relating
10 to the smuggling of aliens convicted of aggravated
11 felonies or of aliens subject to exclusion on grounds
12 of national security), or of section 278 of the Immi-
13 gration and Nationality Act (8 U.S.C. 1328) (relat-
14 ing to smuggling of aliens for the purpose of pros-
15 titution or other immoral purpose); ”; and

16 (4) by striking “or any Deputy Assistant Attor-
17 ney General in the Criminal Division specially des-
18 ignated by the Attorney General” and inserting “or
19 any Deputy Assistant Attorney General or acting
20 Deputy Assistant Attorney General in, or one other
21 officer or employee of, the Criminal Division spe-
22 cially designated by the Attorney General”.

23 (b) Section 2518(5) of title 18, United States Code,
24 is amended by inserting “(including personnel of a foreign

1 government or of a State or subdivision of a State)” after
2 “Government personnel”.

3 (c) Section 2510(7) of title 18, United States Code,
4 is amended by inserting before the semicolon “and addi-
5 tionally, for purposes of section 2517(1)–(2), any person
6 authorized to perform investigative, law enforcement, or
7 prosecutorial functions by a foreign government”.

8 **TITLE IX—LOCAL COOPERATION**

9 **SEC. 901. SAVE SYSTEM MANDATED.**

10 Notwithstanding any other provision of law, no Fed-
11 eral financial assistance shall be paid to a State or local
12 government or agency for the aid to families with depend-
13 ent children program under subchapter IV of title 42
14 United States Code, the medicaid program under sub-
15 chapter XIX of title 42 United States Code, the unemploy-
16 ment compensation program under section 3304 of title
17 26 of United States Code, the Food Stamp Program under
18 the Food Stamp Act of 1977, or the financial assistance
19 programs under the United States Housing Act of 1937,
20 Section 235 or 236 of the National Housing Act, or sec-
21 tion 101 of the Housing and Urban Development Act of
22 1965 if such government or agency does not verify the
23 immigration status of aliens applying for benefits under
24 these programs through use of the automated SAVE sys-

1 tem established under section 12 of the Immigration Re-
2 form and Control Act of 1986 (Public Law 99–603).

3 **TITLE X—CITIZENSHIP**

4 **SEC. 1001. BASIS OF CITIZENSHIP CLARIFIED.**

5 In the exercise of its powers under section 5 of the
6 Fourteenth Article of Amendment to the Constitution of
7 the United States, the Congress has determined and here-
8 by declares that any person born after the date of enact-
9 ment of this title to a mother who is neither a citizen of
10 the United States nor admitted to the United States as
11 a lawful permanent resident, and which person is a na-
12 tional or citizen of another country of which either of his
13 or her natural parents is a national or citizen, or is enti-
14 tled upon application to become a national or citizen of
15 such country, shall be considered as born subject to the
16 jurisdiction of that foreign country and not subject to the
17 jurisdiction of the United States within the meaning of
18 section 1 of such Article and shall therefore not be a citi-
19 zen of the United States or of any State solely by reason
20 of physical presence within the United States at the
21 moment of birth.

22 **SEC. 1002. VOTING LIMITED TO CITIZENS.**

23 In the exercise of its powers under section 5 of the
24 Fourteenth Article of Amendment to the Constitution of
25 the United States to enforce the prohibition of section 1

1 of such Article against the making or enforcing of any law
2 that shall abridge the privileges or immunities of citizens
3 of the United States, the Congress determines that the
4 right of citizens to vote is a privilege of citizens of the
5 United States and that voting in elections of the United
6 States or of any State by persons who are not citizens
7 of the United States is an abridgement of that privilege.
8 It shall be unlawful, and a felony punishable by a fine
9 of not more than \$10,000 and/or imprisonment of not
10 more than 1 year for each unlawful vote, for any person
11 who is not a citizen of the United States to vote in any
12 election to which the provisions of the Fifteenth, Nine-
13 teenth, Twenty-Fourth, or Twenty-Sixth Article of
14 Amendment to the Constitution applies or in any other
15 election, referendum, ballot, or other procedure of the
16 United States or of any State in which votes are taken.
17 Any vote that is cast in violation of this section shall be
18 null, void, and of no effect and shall not be counted.

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S 1351 IS—2

S 1351 IS—3

S 1351 IS—4

S 1351 IS—5