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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 9, 2005

Mr. BARRETT of South Carolina introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS; SEVERABILITY.

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

(1) the “Securing America’s Future through Enforcement Reform Act of 2005”; or

(2) the “SAFER Act”.

(b) REFERENCES TO IMMIGRATION AND NATIONALITY ACT.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Immigration and Nationality Act.

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

Sec. 1. Short title; references; table of contents; severability.
Sec. 2. Congressional findings.

TITLE I—SECURING THE BORDER

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

Sec. 101. Increased personnel for investigating alien smuggling.
Sec. 102. Increased criminal sentences and fines for alien smuggling.
Sec. 103. Change to sentencing guidelines.
Sec. 104. Enhanced penalties for persons committing offenses while armed.
Sec. 105. Discontinuing grant of visas to nationals of countries not cooperating in combatting alien smuggling.

Subtitle B—Border Personnel and Strategy

Sec. 111. Report on number of border patrol agents needed to secure northern border.
Sec. 112. Use of Army and Air Force to secure the border.
Sec. 113. Use of border property to secure the border.
Sec. 114. Report on border strategy.

TITLE II—SCREENING ALIENS SEEKING ADMISSION

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

TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

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

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

Subtitle A—Removing Alien Terrorists

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

Subtitle B—Removing Alien Criminals

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

Subtitle C—Removing Alien Human Rights Violators

Sec. 421. Serious human rights violator defined.
Sec. 422. Deportability of serious human rights violators.
Sec. 423. Arrest and detention of serious human rights violators pending removal and criminal prosecution decisions.
Sec. 424. Exception to restriction on removal for serious human rights violators and terrorists.
Sec. 425. Initiation of removal proceedings against serious human rights violators by complaint.
Sec. 426. Bars to refugee status and asylum for serious human rights violators.
Sec. 427. Bar to adjustment of status for serious human rights violators.
Sec. 428. Bar to finding of good moral character for serious human rights violators.
Sec. 429. Bar to cancellation of removal for serious human rights violators.
Sec. 430. Bar to adjustment of status with respect to certain special immigrants.
Sec. 431. Criminal penalties for reentry of removed serious human rights violators.
Sec. 432. Aiding or assisting serious human rights violators to enter the United States.
Sec. 433. Revision of regulations with respect to the involuntary return of persons in danger of subjection to torture.
Sec. 434. Funding for detention and removal assistance provided by State and local law enforcement agencies.
Sec. 435. Effective date.

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

Subtitle A—Document Security

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

Subtitle B—Employment Eligibility Verification

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

Subtitle C—Miscellaneous

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

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

Sec. 601. Frivolous applications.
Sec. 602. Continuances; change of venue.
Sec. 603. Burden of proof in asylum proceedings.
Sec. 604. Review of Convention Against Torture grants and denials.
Sec. 605. Time limit for decisions in administrative appeals.
Sec. 606. Review of asylum claims.
Sec. 607. Judicial review.

TITLE VII—EMERGENCY IMMIGRATION WORKLOAD REDUCTION

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

TITLE VIII—REFORMING LEGAL IMMIGRATION

Subtitle A—Promotion of Citizenship

Sec. 801. Changes in naturalization requirements.
Sec. 802. Oath of renunciation and allegiance.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

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

Subtitle C—Legal Immigration Reform

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

TITLE IX—MISCELLANEOUS PROVISIONS

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

(d) SEVERABILITY.—If any provision of this Act, or the application of such a provision to any person or circumstance, is held to be unconstitutional, the remainder of this Act, and the application of the provisions of this
Act to any other person or circumstance, shall not be affected by such holding.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds as follows:

(1) Alien terrorists are not a distinct national security problem that is somehow separable from the interrelated problems of alien trafficking, alien criminality, and illegal immigration driven by economic factors.

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

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

(4) A comprehensive strategy of interior enforcement that includes an automated work authorization verification system, penalties for employers who knowingly hire illegal aliens, and prompt removal of aliens found working without authorization
is the only effective way to identify and control the
large illegal alien population in the United States.

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

TITLE I—SECURING THE
BORDER
Subtitle A—Prevention and Pun-
ishment of Criminal Smuggling,
Transporting, and Harboring of
Aliens
SEC. 101. INCREASED PERSONNEL FOR INVESTIGATING
ALIEN SMUGGLING.
(a) In General.—The Secretary of Homeland Secu-
rity, in each of the fiscal years 2006 through 2013, shall
increase the number of positions for full-time, active-duty
investigators or other enforcement personnel within the
Department of Homeland Security who are assigned to
combat alien smuggling by not less than 50 positions
above the number of such positions for which funds were
allotted for the preceding fiscal year.
(b) Authorization of Appropriations.—
(1) IN GENERAL.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the Department of Homeland Security such sums as may be necessary in each of the fiscal years 2006 through 2013 to carry out subsection (a), and to cover the operating expenses of the department in conducting undercover investigations of alien smuggling activities and in prosecuting violations of section 274(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)(A)) (relating to alien smuggling), resulting from the increase in personnel under subsection (a).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

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

SEC. 102. INCREASED CRIMINAL SENTENCES AND FINES FOR ALIEN SMUGGLING.

(a) IN GENERAL.—Subject to subsection (b), pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Com-
mission shall promulgate sentencing guidelines or amend
existing sentencing guidelines for smuggling, transporting,
harboring, or inducing aliens under sections 274(a)(1)(A)
of the Immigration and Nationality Act (8 U.S.C.
1324(a)(1)(A)) so as to—

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

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

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

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

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

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

(3) increase by at least 2 offense levels above
the applicable enhancement in effect on the date of
the enactment of this Act the sentencing enhance-
ments for intentionally or recklessly creating a sub-
stantial risk of serious bodily injury or causing bod-
ily injury, serious injury, or permanent or life
threatening injury;

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

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

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

(e) DEADLINE.—The United States Sentencing Com-
mission shall carry out subsection (a) not later than the
date that is 6 months after the date of the enactment of
this Act.
SEC. 103. CHANGE TO SENTENCING GUIDELINES.

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

SEC. 104. ENHANCED PENALTIES FOR PERSONS COMMITTING OFFENSES WHILE ARMED.

(a) In general.—Section 924(c)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting after “device)” the following: “or any violation of section 274(a)(1)(A) of the Immigration and Nationality Act”; and

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

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

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(b) **Effective Date.**—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply to offenses committed after such date.

**SEC. 105. DISCONTINUING GRANT OF VISAS TO NATIONALS OF COUNTRIES NOT COOPERATING IN COMBATTING ALIEN SMUGGLING.**

If the Secretary of Homeland Security determines that the government of a foreign country has not cooperated fully with the United States, or has not taken adequate steps on its own, to combat the smuggling of aliens into the United States from territory controlled by the state, the Secretary shall order consular officers in the country to discontinue granting immigrant or non-immigrant visas, or both, to citizens, subjects, nationals, and residents of the country until the Secretary determines that the country has begun to cooperate fully, or has taken adequate steps, to combat such smuggling.

**Subtitle B—Border Personnel and Strategy**

**SEC. 111. REPORT ON NUMBER OF BORDER PATROL AGENTS NEEDED TO SECURE NORTHERN BORDER.**

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

(b) COOPERATION.—The Attorney General, the Secretary of State, the Secretary of Defense, and the Secretary of Homeland Security shall cooperate with the Comptroller General of the United States in carrying out this section.

SEC. 112. USE OF ARMY AND AIR FORCE TO SECURE THE BORDER.

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

SEC. 113. USE OF BORDER PROPERTY TO SECURE THE BORDER.

Section 102(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) is amended by striking “this section.” and inserting “this section and to secure the borders of the United States against aliens, terrorists, and drug smugglers.”.
SEC. 114. REPORT ON BORDER STRATEGY.

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

(b) COOPERATION.—The Attorney General, the Secretary of State, the Secretary of Defense, and the Secretary of Homeland Security shall cooperate with the Comptroller General of the United States in carrying out subsection (a).

(c) REPORT.—Not later than one year after the date of the enactment of this Act, and every year thereafter for the succeeding 5 years, the Comptroller General of the United States shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the results of the activities undertaken under subsection (a) during the previous year. Each such report shall include an analysis of the degree to which the Secretary of Homeland Security’s strategy has been effective in reducing illegal entry. Each such report shall include a collection and systematic analysis of data, including workload indicators, related to activities to deter illegal entry and recommendations to improve and increase border security at the border and ports of entry.
TITLE II—SCREENING ALIENS SEEKING ADMISSION

SEC. 201. INCREASE IN FULL-TIME INSPECTORS.
(a) In General.—The Secretary of Homeland Security, in each of fiscal years 2006 through 2013, shall increase by not less than 250 the number of positions for full-time inspectors within the Department of Homeland Security above the number of positions for which funds were allotted for the preceding fiscal year.

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

SEC. 202. VISA WAIVER PROGRAM.
(a) Passport Requirements.—Section 217(a)(3) (8 U.S.C. 1187(a)(3)) is amended to read as follows:

“(3) Machine-readable, tamper-resistant passport with biometric identifiers.—On and after October 1, 2005, the alien at the time of application for admission is in possession of a valid unexpired machine-readable passport that—

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

“(B) is tamper-resistant; and

“(C) incorporates biometric and document authentification identifiers that comply with ap-
applicable biometric and document identifying standards established by the International Civil Aviation Organization.”.

(b) REPEAL.—Section 303(e) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2007.

SEC. 203. CONSULAR OFFICER INTERVIEWS OF ALL VISA APPLICANTS.

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

“(j) Prior to the issuance of an immigrant or non-immigrant visa to any alien, the consular officer shall require such alien to submit to an in-person interview in accordance with such regulations as may be prescribed.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the amendment made by subsection (a) such sums as may be necessary for fiscal years 2006 through 2013.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to visas issued after October 1, 2005.
SEC. 204. RECODIFICATION AND REFORM OF GROUNDS OF INADMISSIBILITY.

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

(1) by transferring subsection (e) to the end of section 222 (8 U.S.C. 1202), as amended by section 5301(a) of the Intelligence Reform and Terrorism Prevention Act of 2004 (Public Law 108–458) and redesignating it as subsection (i);

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

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

"GENERAL CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND INELIGIBLE FOR ADMISSION; WAIVERS OF INADMISSIBILITY"

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

“(1) HEALTH-RELATED GROUNDS.—

“(A) IN GENERAL.—Any alien—
“(i) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to have a communicable disease of public health significance, which shall include infection with the etiologic agent for acquired immune deficiency syndrome;

“(ii) except as provided in subparagraph (C), who seeks admission as an immigrant, or who seeks adjustment of status to the status of an alien lawfully admitted for permanent residence, and who has failed to present documentation of having received vaccination against vaccine-preventable diseases, which shall include at least the following diseases: mumps, measles, rubella, polio, tetanus and diphtheria toxoids, pertussis, influenza type B and hepatitis B, and any other vaccinations against vaccine-preventable diseases recommended by the Advisory Committee for Immunization Practices;

“(iii) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services
in consultation with the Secretary of Homeland Security)—

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

“(II) to have had a physical or mental disorder and a history of behavior associated with the disorder, which behavior has posed a threat to the property, safety, or welfare of the alien or others and which behavior is likely to recur or to lead to other harmful behavior; or

“(iv) who is determined (in accordance with regulations prescribed by the Secretary of Health and Human Services) to be a drug abuser or addict, is inadmissible.

“(B) Waiver Authorized.—For provision authorizing waiver of certain clauses of subparagraph (A), see subsection (e).

“(C) Exception from Immunization Requirement for Adopted Children 10 Years
OF AGE OR YOUNGER.—Clause (ii) of subparagraph (A) shall not apply to a child who—

“(i) is 10 years of age or younger;

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

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

if, prior to the admission of the child, an adoptive parent or prospective adoptive parent of the child, who has sponsored the child for admission as an immediate relative, has executed an affidavit stating that the parent is aware of the provisions of subparagraph (A)(ii) and will ensure that, within 30 days of the child’s admission, or at the earliest time that is medically appropriate, the child will receive the vaccinations identified in such subparagraph.

“(2) CRIMINAL AND RELATED GROUNDS.—

“(A) CONVICTION OF CERTAIN CRIMES.—

“(i) IN GENERAL.—Except as provided in clause (ii), any alien convicted of, or who admits having committed, or who admits committing acts which constitute the essential elements of—
“(I) a crime involving moral turptitude (other than a purely political offense) or an attempt or conspiracy to commit such a crime; or

“(II) a violation of (or a conspiracy or attempt to violate) any law or regulation of a State, the United States, or a foreign country relating to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)), is inadmissible.

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

“(I) the crime was committed when the alien was under 18 years of age, and the crime was committed (and the alien released from any confinement to a prison or correctional institution imposed for the crime) more than 5 years before the date of application for a visa or other documentation and the date of application for admission to the United States; or
“(II) the maximum penalty possible for the crime of which the alien was convicted (or which the alien admits having committed or of which the acts that the alien admits having committed constituted the essential elements) did not exceed imprisonment for one year and, if the alien was convicted of such crime, the alien was not sentenced to a term of imprisonment in excess of 6 months (regardless of the extent to which the sentence was ultimately executed).

“(B) Multiple Criminal Convictions.—Any alien convicted of 2 or more offenses (other than purely political offenses), regardless of whether the conviction was in a single trial or whether the offenses arose from a single scheme of misconduct and regardless of whether the offenses involved moral turpitude, for which the aggregate sentences to confinement were 5 years or more is inadmissible.

“(C) Controlled Substance Traffic.—Any alien who the consular officer
or the Secretary of Homeland Security knows
or has reason to believe—

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

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

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

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

“(ii) directly or indirectly procures or attempts to procure, or (within 10 years of the date of application for a visa, entry, or adjustment of status) procured or attempted to procure or to import, prostitutes or persons for the purpose of prostitution, or receives or (within such 10-year period) received, in whole or in part, the proceeds of prostitution; or

“(iii) is coming to the United States to engage in any other unlawful commercialized vice, whether or not related to prostitution,

is inadmissible.

“(E) CERTAIN AliENS INVOLVED IN SERIOUS CRIMINAL ACTIVITY WHO HAVE ASSERTED IMMUNITY FROM PROSECUTION.—Any alien—

“(i) who has committed in the United States at any time a serious criminal offense (as defined in section 101(h));
“(ii) for whom immunity from criminal jurisdiction was exercised with respect to that offense;

“(iii) who as a consequence of the offense and exercise of immunity has departed from the United States; and

“(iv) who has not subsequently submitted fully to the jurisdiction of the court in the United States having jurisdiction with respect to that offense, is inadmissible.

“(F) WAIVER AUTHORIZED.—For provision authorizing waiver of certain subparagraphs of this paragraph, see subsection (f).

“(G) SERIOUS HUMAN RIGHTS ABUSERS.—Any serious human rights violator (as defined in section 101(a)(51)) is inadmissible.

“(H) SIGNIFICANT TRAFFICKERS IN PERSONS.—

“(i) IN GENERAL.—Any alien who is listed in a report submitted pursuant to section 111(b) of the Trafficking Victims Protection Act of 2000, or who the consular officer or the Secretary of Homeland Security knows or has reason to believe is
or has been a knowing aider, abettor, assistant, conspirator, or colluder with such a trafficker in severe forms of trafficking in persons, as defined in section 103 of such Act, is inadmissible.

“(ii) Beneficiaries of trafficking.—Except as provided in clause (iii), any alien who the consular officer or the Secretary of Homeland Security knows or has reason to believe is the spouse, son, or daughter of an alien inadmissible under clause (i), has, within the previous 5 years, obtained any financial or other benefit from the illicit activity of that alien, and knew or reasonably should have known that the financial or other benefit was the product of such illicit activity, is inadmissible.

“(iii) Exception for certain sons and daughters.—Clause (ii) shall not apply to a son or daughter who was a child at the time he or she received the benefit described in such clause.

“(I) Money laundering.—Any alien—
“(i) who a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reason to believe, has engaged, is engaging, or seeks to enter the United States to engage, in an offense which is described in section 1956 or 1957 of title 18, United States Code (relating to laundering of monetary instruments); or

“(ii) who a consular officer, the Attorney General, or the Secretary of Homeland Security knows is, or has been, a knowing aider, abettor, assistant, conspirator, or colluder with others in an offense which is described in such section, is inadmissible.

“(J) AGGRAVATED FELONY.—

“(i) IN GENERAL.—Any alien convicted of an aggravated felony is inadmissible.

“(ii) WAIVER AUTHORIZED.—Clause (i) shall not apply in the case of an alien with respect to a criminal conviction if the alien subsequent to the criminal conviction has been granted a full and unconditional
pardon by the President of the United States or by the Governor of any State.

“(K) CERTAIN FIREARM OFFENSES.—Any alien who is convicted under any law of purchasing, selling, offering for sale, exchanging, using, owning, possessing, or carrying, or of attempting or conspiring to purchase, sell, offer for sale, exchange, use, own, possess, or carry, any weapon, part, or accessory which is a firearm or destructive device (as defined in section 921(a) of title 18, United States Code) in violation of any law is inadmissible.

“(3) SECURITY AND RELATED GROUNDS.—

“(A) IN GENERAL.—Any alien who a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, seeks to enter the United States to engage solely, principally, or incidentally in—

“(i) any activity—

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

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

“(ii) any other unlawful activity, including participation in a criminal enterprise, conspiracy, or scheme; or

“(iii) any activity a purpose of which is the opposition to, or the control or overthrow of, the Government of the United States by force, violence, or other unlawful means,

is inadmissible.

“(B) TERRORIST ACTIVITIES.—

“(i) IN GENERAL.—Any alien who—

“(I) has engaged in a terrorist activity;

“(II) a consular officer, the Attorney General, or the Secretary of Homeland Security knows, or has reasonable ground to believe, is engaged in or is likely to engage after entry in any terrorist activity (as defined in clause (iv));

“(III) has, under circumstances indicating an intention to cause death
or serious bodily harm, incited terrorist activity;

“(IV) is a representative (as defined in clause (v)) of—

“(aa) a terrorist organization; or

“(bb) a political, social, or other group that endorses or espouses terrorist activity;

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

“(VI) endorses or espouses terrorist activity or persuades others to endorse or espouse terrorist activity or support a terrorist organization;

“(VII) had information about an activity that the alien knew, or should have known, was a terrorist activity (before or after such activity occurred or while it was ongoing), knew, or should have known, that such information was not public information, and failed to report such information to a governmental authority; or
“(VIII) is the spouse or child of an alien who is inadmissible under this subparagraph, if the activity causing the alien to be found inadmissible occurred within the last 5 years, is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this Act, to be engaged in a terrorist activity.

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

“(I) who did not know or should not reasonably have known of the activity causing the alien to be found inadmissible under this subparagraph; or

“(II) whom the consular officer, the Attorney General, or the Secretary of Homeland Security has reasonable grounds to believe has renounced the activity causing the alien to be found inadmissible under this subparagraph.
“(iii) TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term ‘terrorist activity’ means any activity which is unlawful under the laws of the place where it is committed (or which, if it had been or were to be committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following:

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

“(II) The seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained.

“(III) A violent attack upon an internationally protected person (as defined in section 1116(b)(4) of title
18, United States Code) or upon the
liberty of such a person.

“(IV) An assassination.
“(V) The use of any—
“(aa) biological agent, chemical agent, or nuclear weapon or device; or
“(bb) explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain),

with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property.

“(VI) A threat, attempt, or conspiracy to do any of the foregoing.

“(iv) ENGAGE IN TERRORIST ACTIVITY DEFINED.—As used in this subparagraph, the term ‘engage in terrorist activity’ means, in an individual capacity or as a member of an organization—
“(I) to commit or to incite to commit, under circumstances indicating an intention to cause death or
serious bodily injury, a terrorist activity;

“(II) to prepare or plan a terrorist activity;

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

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

“(aa) a terrorist activity;

“(bb) a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization;

“(V) to solicit any individual—

“(aa) to engage in conduct otherwise described in this clause;
“(bb) for membership in a terrorist organization described in clause (vi)(I) or (vi)(II); or

“(cc) for membership in a terrorist organization described in clause (vi)(III), unless the solicitor can demonstrate by clear and convincing evidence that he did not know, and should not reasonably have known, that the organization was a terrorist organization; or

“(VI) to commit an act that the actor knows, or reasonably should know, affords material support, including a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons (including chemical, biological, or radiological weapons), explosives, or training—

“(aa) for the commission of a terrorist activity;
“(bb) to any individual who
the actor knows, or reasonably
should know, has committed or
plans to commit a terrorist activ-
ity; or

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

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

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

“(I) designated under section
219;

“(II) otherwise designated, upon
publication in the Federal Register, by
the Secretary of State in consultation
with or upon the request of the Attor-
ney General or the Secretary of Homeland Security, as a terrorist organization, after finding that the organization engages in the activities described in subclauses (I) through (VI) of clause (iv), or that the organization provides material support to further terrorist activity; or

“(III) that is a group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in, the activities described in subclauses (I) through (VI) of clause (iv).

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

“(D) IMMIGRANT MEMBERSHIP IN TOTALITARIAN PARTY.—

“(i) IN GENERAL.—Any immigrant who is or has been a member of or affiliated with the Communist or any other to-
talitarian party (or subdivision or affiliate thereof), domestic or foreign, is inadmissible.

“(ii) Exception for involuntary membership.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Secretary of Homeland Security when applying for admission) that the membership or affiliation is or was involuntary, or is or was solely when under 16 years of age, by operation of law, or for purposes of obtaining employment, food rations, or other essentials of living and necessary for such purposes.

“(iii) Exception for past membership.—Clause (i) shall not apply to an alien because of membership or affiliation if the alien establishes to the satisfaction of the consular officer when applying for a visa (or to the satisfaction of the Secretary of Homeland Security when applying for admission) that—
“(I) the membership or affiliation terminated at least—

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

“(bb) 5 years before the date of such application, in the case of an alien whose membership or affiliation was with the party controlling the government of a foreign state that is a totalitarian dictatorship as of such date; and

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

“(E) PARTICIPANTS IN NAZI PERSECUTIONS.—Any alien who, during the period beginning on March 23, 1933, and ending on May 8, 1945, under the direction of, or in association with—

“(i) the Nazi government of Germany;

“(ii) any government in any area occupied by the military forces of the Nazi government of Germany;
“(iii) any government established with
the assistance or cooperation of the Nazi
government of Germany; or

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

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

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

“(H) SERIOUS FOREIGN CRIMES.—An alien whom the Secretary of Homeland Security or the Attorney General has reason to believe is charged with or has committed a serious criminal offense (other than a purely political offense) in a country other than the United States is inadmissible.

“(4) PUBLIC CHARGE.—

“(A) IN GENERAL.—Any alien who, in the opinion of the consular officer or the Secretary of Homeland Security at the time of application for a visa, or in the opinion of the Secretary of Homeland Security at the time of application for admission or adjustment of status, is likely at any time to become a public charge is inadmissible.

“(B) FACTORS TO BE TAKEN INTO ACCOUNT.—

“(i) IN GENERAL.—In determining whether an alien is inadmissible under this paragraph, the consular officer or the Secretary of Homeland Security shall at a minimum consider the alien’s—
“(I) age;
“(II) health;
“(III) family status;
“(IV) assets, resources, and financial status; and
“(V) education and skills.
“(ii) AFFIDAVIT OF SUPPORT.—In addition to the factors under clause (i), the consular officer or the Secretary of Homeland Security may also consider any affidavit of support under section 213A for purposes of exclusion under this paragraph.
“(C) FAMILY-SPONSORED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 201(b)(2) or 203(a) is inadmissible under this paragraph unless—
“(i) the alien has obtained—
“(I) status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of section 204(a)(1)(A); or
“(II) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B); or

“(ii) the person petitioning for the alien’s admission (including any additional sponsor required under section 213A(f)) has executed an affidavit of support described in section 213A with respect to such alien.

“(D) CERTAIN EMPLOYMENT-BASED IMMIGRANTS.—Any alien who seeks admission or adjustment of status under a visa number issued under section 203(b) by virtue of a classification petition filed by a relative of the alien (or by an entity in which such relative has a significant ownership interest) is inadmissible under this paragraph unless such relative has executed an affidavit of support described in section 213A with respect to such alien.

“(5) LABOR CERTIFICATION AND QUALIFICATIONS FOR CERTAIN IMMIGRANTS.—

“(A) LABOR CERTIFICATION.—

“(i) IN GENERAL.—Any alien who seeks to enter the United States for the purpose of performing skilled or unskilled
labor is inadmissible, unless the Secretary
of Labor has determined and certified to
the Secretary of State and the Secretary of
Homeland Security that—

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

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

“(ii) CERTAIN ALIENS SUBJECT TO
SPECIAL RULE.—For purposes of clause
(i)(I), an alien described in this clause is
an alien who—
“(I) is a member of the teaching profession; or

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

“(iii) PROFESSIONAL ATHLETES.—

“(I) IN GENERAL.—A certification made under clause (i) with respect to a professional athlete shall remain valid with respect to the athlete after the athlete changes employer, if the new employer is a team in the same sport as the team which employed the athlete when the athlete first applied for the certification.

“(II) DEFINITION.—For purposes of subclause (I), the term ‘professional athlete’ means an individual who is employed as an athlete by—

“(aa) a team that is a member of an association of 6 or more professional sports teams whose total combined revenues exceed $10,000,000 per year, if the association governs the conduct of its members and regu-
lates the contests and exhibitions in which its member teams regularly engage; or

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

“(B) Unqualified Physicians.—An alien who is a graduate of a medical school not accredited by a body or bodies approved for the purpose by the Secretary of Education (regardless of whether such school of medicine is in the United States) and who is coming to the United States principally to perform services as a member of the medical profession is inadmissible, unless the alien (i) has passed parts I and II of the National Board of Medical Examiners Examination (or an equivalent examination as determined by the Secretary of Health and Human Services) and (ii) is competent in oral and written English. For purposes of the previous sentence, an alien who is a graduate of a medical school shall be considered to have passed parts I and II of the National Board of Medical Examiners if the alien was fully and permanently licensed to practice medicine in a
State on January 9, 1978, and was practicing medicine in a State on that date.

“(C) UNCERTIFIED FOREIGN HEALTH-CARE WORKERS.—Subject to subsection (j), any alien who seeks to enter the United States for the purpose of performing labor as a health-care worker, other than a physician, is inadmissible unless the alien presents to the consular officer, or, in the case of an adjustment of status, the Secretary of Homeland Security, a certificate from the Commission on Graduates of Foreign Nursing Schools, or a certificate from an equivalent independent credentialing organization approved by the Secretary of Homeland Security in consultation with the Secretary of Health and Human Services, verifying that—

“(i) the alien’s education, training, license, and experience—

“(I) meet all applicable statutory and regulatory requirements for entry into the United States under the classification specified in the application;

“(II) are comparable with that required for an American health-care worker of the same type; and
“(III) are authentic and, in the case of a license, unencumbered;

“(ii) the alien has the level of competence in oral and written English considered by the Secretary of Health and Human Services, in consultation with the Secretary of Education, to be appropriate for health care work of the kind in which the alien will be engaged, as shown by an appropriate score on one or more nationally recognized, commercially available, standardized assessments of the applicant’s ability to speak and write; and

“(iii) if a majority of States licensing the profession in which the alien intends to work recognize a test predicting the success on the profession’s licensing or certification examination, the alien has passed such a test or has passed such an examination.

For purposes of clause (ii), determination of the standardized tests required and of the minimum scores that are appropriate are within the sole discretion of the Secretary of Health and
Human Services and are not subject to further administrative or judicial review.

“(D) APPLICATION OF GROUNDS.—The grounds for inadmissibility of aliens under subparagraphs (A) and (B) shall apply to immigrants seeking admission or adjustment of status under paragraph (2) or (3) of section 203(b).

“(6) ILLEGAL ENTRANTS AND IMMIGRATION VIOLATORS.—

“(A) ALIENS PRESENT WITHOUT ADMISSION OR PAROLE.—

“(i) IN GENERAL.—An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Secretary of Homeland Security is inadmissible.

“(ii) EXCEPTION FOR CERTAIN BATTERED WOMEN AND CHILDREN.—Clause (i) shall not apply to an alien who demonstrates that—

“(I) the alien qualifies for immigrant status under subparagraph
(A)(iii), (A)(iv), (B)(ii), or (B)(iii) of section 204(a)(1);

“(II)(aa) the alien has been battered or subjected to extreme cruelty by a spouse or parent, or by a member of the spouse’s or parent’s family residing in the same household as the alien and the spouse or parent consented or acquiesced in such battery or cruelty, or

“(bb) the alien’s child has been battered or subjected to extreme cruelty by a spouse or parent of the alien (without the active participation of the alien in the battery or cruelty) or by a member of the spouse’s or parent’s family residing in the same household as the alien when the spouse or parent consented to or acquiesced in such battery or cruelty and the alien did not actively participate in such battery or cruelty; and

“(III) there was a substantial connection between the battery or cruelty described in subclause (I) or (II)
and the alien’s unlawful entry into the United States.

“(B) FAILURE TO ATTEND REMOVAL PROCEEDING.—Any alien who without reasonable cause fails or refuses to attend or remain in attendance at a proceeding to determine the alien’s inadmissibility or deportability and who seeks admission to the United States within 5 years of such alien’s subsequent departure or removal is inadmissible.

“(C) MISREPRESENTATION.—

“(i) IN GENERAL.—Any alien who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other documentation, or admission into the United States or other benefit provided under this Act for himself, herself, or any other alien, is inadmissible.

“(ii) FALSELY CLAIMING CITIZENSHIP.—

“(I) IN GENERAL.—Any alien who falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any
purpose or benefit under this Act (including section 274A) or any other Federal or State law is inadmissible.

“(II) EXCEPTION.—In the case of an alien making a representation described in subclause (I), if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of making such representation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such representation.

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

“(E) SMUGGLERS.—

“(i) IN GENERAL.—Any alien who at any time knowingly has encouraged, induced, assisted, abetted, or aided any other
alien to enter or to try to enter the United States in violation of law is inadmissible.

“(ii) Special rule in the case of family reunification.—Clause (i) shall not apply in the case of an alien who is an eligible immigrant (as defined in section 301(b)(1) of the Immigration Act of 1990), was physically present in the United States on May 5, 1988, and is seeking admission as an immediate relative or under section 203(a)(2) (including under section 112 of the Immigration Act of 1990) or benefits under section 301(a) of the Immigration Act of 1990 if the alien, before May 5, 1988, has encouraged, induced, assisted, abetted, or aided only the alien’s spouse, parent, son, or daughter (and no other individual) to enter the United States in violation of law.

“(iii) Waiver authorized.—For provision authorizing waiver of clause (i), see subsection (c)(6).

“(F) Subject of civil penalty.—An alien who is the subject of a final order for violation of section 274C is inadmissible.
“(G) STUDENT VISA ABUSERS.—An alien who obtains the status of a nonimmigrant under section 101(a)(15)(F)(i) and who violates a term or condition of such status under section 214(l) is inadmissible until the alien has been outside the United States for a continuous period of 5 years after the date of the violation.

“(H) CHANGE OF ADDRESS.—An alien who has failed to comply with section 262 is inadmissible, unless the alien establishes to the satisfaction of the Secretary of Homeland Security that such failure was reasonably excusable or was not willful.

“(7) DOCUMENTATION REQUIREMENTS.—

“(A) IMMIGRANTS.—

“(i) IN GENERAL.—Except as otherwise specifically provided in this Act, any immigrant at the time of application for admission—

“(I) who is not in possession of a valid unexpired immigrant visa, re-entry permit, border crossing identification card, or other valid entry document required by this Act, and a valid unexpired passport, or other
suitable travel document, or document
of identity and nationality if such doc-
ument is required under the regula-
tions issued by the Secretary of
Homeland Security under section
211(a); or

“(II) whose visa has been issued
without compliance with the provi-
sions of section 203,
is inadmissible.

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

“(B) NON IMMIGRANTS.—
“(i) IN GENERAL.—Any non-
immigrant who—

“(I) is not in possession of a
passport valid for a minimum of six
months from the date of the expira-
tion of the initial period of the alien’s
admission or contemplated initial pe-
riod of stay authorizing the alien to
return to the country from which the
alien came or to proceed to and enter
some other country during such pe-
period; or

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

“(ii) General waiver author-
ized.—For provision authorizing waiver of
clause (i), see subsection (c)(2).

“(8) Ineligible for citizenship.—

“(A) In general.—Any immigrant who is
permanently ineligible to citizenship is inadmis-
sible.

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

“(9) Aliens previously removed.—
“(A) Certain aliens previously removed.—

“(i) Arriving aliens.—Any alien who has been ordered removed under section 235(b)(1) or at the end of proceedings under section 240 initiated upon the alien’s arrival in the United States and who again seeks admission within 5 years of the date of such removal (or within 20 years in the case of a second or subsequent removal or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

“(ii) Other aliens.—Any alien not described in clause (i) who—

“(I) has been ordered removed under section 240 or any other provision of law; or

“(II) departed the United States while an order of removal was outstanding,

and who seeks admission within 10 years of the date of such alien’s departure or removal (or within 20 years of such date in the case of a second or subsequent removal
or at any time in the case of an alien convicted of an aggravated felony) is inadmissible.

“(B) Aliens unlawfully present.—

“(i) In general.—Any alien (other than an alien lawfully admitted for permanent residence) who—

“(I) was unlawfully present in the United States for a period of more than 180 days but less than 1 year, voluntarily departed the United States (whether or not pursuant to section 244(e)) prior to the commencement of proceedings under section 235(b)(1) or section 240, and again seeks admission within 3 years of the date of such alien’s departure or removal; or

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

is inadmissible.
“(ii) Construction of unlawful presence.—For purposes of this paragraph, an alien is deemed to be unlawfully present in the United States if the alien is present in the United States after the expiration of the period of stay authorized by the Secretary of Homeland Security or is present in the United States without being admitted or paroled.

“(iii) Exceptions.—

“(I) Minors.—No period of time in which an alien is under 18 years of age shall be taken into account in determining the period of unlawful presence in the United States under clause (i).

“(II) Asylees.—No period of time in which an alien has a bona fide application for asylum pending under section 208 shall be taken into account in determining the period of unlawful presence in the United States under clause (i) unless the alien during such period was employed without authorization in the United States.
“(III) FAMILY UNITY.—No pe-
riod of time in which the alien is a
beneficiary of family unity protection
pursuant to section 301 of the Immi-
igration Act of 1990 shall be taken
into account in determining the period
of unlawful presence in the United
States under clause (i).

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

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

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

“(II) has filed a nonfrivolous ap-
lication for a change or extension of
status before the date of expiration of
the period of stay authorized by the
Secretary of Homeland Security; and
“(III) has not been employed without authorization in the United States before or during the pendency of such application,

the calculation of the period of time specified in clause (i)(I) shall be tolled during the pendency of such application, but not to exceed 120 days.

“(C) Aliens unlawfully present after previous immigration violations.—

“(i) In general.—Any alien who—

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

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

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

“(ii) Exception.—Clause (i) shall not apply to an alien seeking admission more than 10 years after the date of the alien’s last departure from the United States if, prior to the alien’s reembar-
kation at a place outside the United States or attempt to be readmitted from a foreign contiguous territory, the Secretary of Homeland Security has consented to the alien’s reapplying for admission. The Secretary of Homeland Security in the Secretary’s discretion may waive the provisions of section 212(a)(9)(C)(i) in the case of an alien to whom the Secretary has granted classification under clause (iii), (iv), or (v) of section 204(a)(1)(A), or classification under clause (ii), (iii), or (iv) of section 204(a)(1)(B), in any case in which there is a direct connection between—

“(I) the alien’s having been battered or subjected to extreme cruelty; and

“(II) the alien’s—

“(aa) removal;

“(bb) departure from the United States;

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

“(dd) attempted reentry into the United States.
“(10) MISCELLANEOUS.—

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

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

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

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

“(C) INTERNATIONAL CHILD ABDUC-
TION.—

“(i) IN GENERAL.—Except as pro-
vided in clause (ii), any alien who, after
entry of an order by a court in the United
States granting custody to a person of a
United States citizen child who detains or
retains the child, or withholds custody of
the child, outside the United States from
the person granted custody by that order,
is inadmissible until the child is surrendered to the person granted custody by that order.

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

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

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

“(III) is a spouse (other than the spouse who is the parent of the abducted child), child (other than the abducted child), parent, sibling, or agent of an alien described in clause (i), if such person has been designated by the Secretary of State at the Secretary’s sole and unreviewable discretion, is inadmissible until the child described in clause (i) is surrendered to the person granted custody by the
order described in that clause, and
such person and child are permitted
to return to the United States or such
person’s place of residence.

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

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

“(II) to a government official of
any foreign government if the official
has been designated by the Secretary
of State at the Secretary’s sole and
unreviewable discretion; or

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

“(D) UNLAWFUL VOTERS.—

“(i) IN GENERAL.—Any alien who has
voted in violation of any Federal, State, or
local constitutional provision, statute, ordi-
nance, or regulation is inadmissible.
“(ii) Exception.—In the case of an alien who voted in a Federal, State, or local election (including an initiative, recall, or referendum) in violation of a lawful restriction of voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed at the time of such violation that he or she was a citizen, the alien shall not be considered to be inadmissible under any provision of this subsection based on such violation.

“(E) Former Citizens Who Renounced Citizenship.—Any alien who is a former citizen of the United States who officially renounced United States citizenship is inadmissible.

“(b) Notices of Denials.—

“(1) In General.—Subject to paragraphs (2) and (3), if an alien’s application for a visa, for admission to the United States, or for adjustment of
status is denied by an immigration or consular officer because the officer determines the alien to be inadmissible under subsection (a), the officer shall provide the alien with a timely written notice that—

“(A) states the determination; and

“(B) lists the specific provision or provisions of law under which the alien is excludable or ineligible for entry or adjustment of status.

“(2) WAIVER.—The Secretary of State or the Secretary of Homeland Security may waive the requirements of paragraph (1) with respect to a particular alien or any class or classes of inadmissible aliens.

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

“(c) SPECIAL RULES.—

“(1) ‘S’ NONIMMIGRANTS.—The Secretary of Homeland Security shall determine whether a ground for inadmissibility exists with respect to a nonimmigrant described in section 101(a)(15)(S). The Secretary, in the Secretary’s discretion, may waive the application of subsection (a) (other than paragraph (3)(E)) in the case of a nonimmigrant described in section 101(a)(15)(S), if the Attorney
General considers it to be in the national interest to do so. Nothing in this section shall be regarded as prohibiting the Secretary from instituting removal proceedings against an alien admitted as a non-immigrant under section 101(a)(15)(S) for conduct committed after the alien’s admission into the United States, or for conduct or a condition that was not disclosed to the Secretary prior to the alien’s admission as a nonimmigrant under section 101(a)(15)(S).

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

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

“(B) in the case of aliens proceeding in immediate and continuous transit through the United States under contracts authorized in section 238(c).

“(3) PAROLE.—

“(A) IN GENERAL.—The Secretary of Homeland Security may, except as provided in subparagraph (B) or in section 214(f), in the
discretion of the Secretary, parole into the United States a Cuban or Iraqi national or, in the case of nationals of other countries, temporarily under such conditions as the Secretary may prescribe only on a case-by-case basis for urgent humanitarian reasons or significant law enforcement reasons any alien applying for admission to the United States, but such parole shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Secretary, have been served the alien shall forthwith return or be returned to the custody from which the alien was paroled and thereafter the case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States. Parole on a temporary basis cannot exceed 120 days, unless for a significant law enforcement reason. The Secretary may not parole into the United States an alien for urgent humanitarian reasons if the alien is inadmissible under paragraph (2), (3), or (9) of subsection (a).

“(B) Refugees.—The Secretary of Homeland Security may not parole into the
United States an alien who is a refugee unless the Secretary determines that compelling reasons in the public interest with respect to that particular alien require that the alien be paroled into the United States rather than be admitted as a refugee under section 207.

“(4) Aliens entering from Guam, Puerto Rico, or the Virgin Islands.—The provisions of subsection (a) (other than paragraph (7)) shall be applicable to any alien who shall leave Guam, Puerto Rico, or the Virgin Islands of the United States, and who seeks to enter the continental United States or any other place under the jurisdiction of the United States. Any alien described in this paragraph, who is denied admission to the United States, shall be immediately removed in the manner provided by section 241(c) of this Act.

“(5) Foreign government officials.—Upon a basis of reciprocity accredited officials of foreign governments, their immediate families, attendants, servants, and personal employees may be admitted in immediate and continuous transit through the United States without regard to the provisions of this section except paragraphs (3)(A),
(3)(B), (3)(C), and (7)(B) of subsection (a) of this section.

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

“(7) ‘T’ NONIMMIGRANTS.—

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

“(B) WAIVER.—In addition to any other waiver that may be available under this section, in the case of a nonimmigrant described in section 101(a)(15)(T), if the Secretary of Home-
land Security considers it to be in the national interest to do so, the Secretary, in the Sec-
retary’s discretion, may waive the application of—

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

“(ii) any other provision of such sub-
section (excluding paragraphs (2), (3), (8),
(9)(A), (10)(C), (10)(D), and (10)(E)) if
the activities rendering the alien inadmis-
sible under the provision were caused by
the victimization described in section

“(8) ‘U’ NONIMMIGRANTS.—

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

“(B) WAIVER.—In addition to any other
waiver that may be available under this section,
in the case of a nonimmigrant described in sec-
tion 101(a)(15)(U), if the Secretary of Home-
land Security considers it to be in the national
interest to do so, the Secretary, in the Sec-
retary’s discretion, may waive the application of—

“(i) paragraphs (1) and (4) of subsection (a); and

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

“(d) SUSPENSION OF ENTRY.—Whenever the President finds that the entry of any aliens or of any class of aliens into the United States would be detrimental to the interests of the United States, the President may by proclamation, and for such period as the President shall deem necessary, suspend the entry of all aliens or any class of aliens as immigrants or nonimmigrants, or impose on the entry of aliens any restrictions the President may deem to be appropriate. Whenever the Secretary of Homeland Security finds that a commercial airline has failed to comply with regulations of the Secretary relating to requirements of airlines for the detection of fraudulent documents used by passengers traveling to the United States (including the training of personnel in such detection), the Sec-
retary may suspend the entry of some or all aliens trans-
ported to the United States by such airline.

“(e) Waivers of Health-Related Grounds.—

“(1) In general.—The Secretary of Homeland
Security may waive the application of—

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

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

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

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

in accordance with such terms, conditions, and
controls, if any, including the giving of bond, as
the Secretary of Homeland Security, in the dis-
cretion of such Secretary after consultation
with the Secretary of Health and Human Serv-
ices, may by regulation prescribe;

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

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

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

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

“(C) subsection (a)(1)(A)(iii) in the case of
any alien, in accordance with such terms, condi-
tions, and controls, if any, including the giving of bond, as the Secretary of Homeland Security, in the discretion of such Secretary after consultation with the Secretary of Health and Human Services, may by regulation prescribe.

“(2) Certificate of Insurance.—A waiver shall not be granted under this subsection unless the applicant has presented to the Secretary of Homeland Security a valid certificate of insurance covering all medical and hospital expenses that might be incurred during the period such alien has been admitted to the United States.

“(f) Waivers of Criminal and Related Grounds.—The Secretary of Homeland Security may, in the discretion of the Secretary, waive the application of subparagraphs (A)(i)(I), (B), (D), and (E) of subsection (a)(2) and subparagraph (A)(i)(II) of such subsection insofar as it relates to a single offense of simple possession of 30 grams or less of marijuana if—

“(1)(A) in the case of any immigrant, it is established to the satisfaction of the Secretary of Homeland Security that—

“(i) the alien is inadmissible only under subparagraph (D)(i) or (D)(ii) of such subsection or the activities for which the alien is
inadmissible occurred more than 15 years before the date of the alien’s application for a visa, admission, or adjustment of status;

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

“(iii) the alien has been rehabilitated; or

“(B) in the case of an immigrant who is the spouse, parent, son, or daughter of a citizen of the United States or an alien lawfully admitted for permanent residence, if it is established to the satisfaction of the Secretary that the alien’s denial of admission would result in exceptional and extremely unusual hardship to the United States citizen or lawfully resident spouse, parent, son, or daughter of such alien; and

“(2) the Secretary, in the discretion of the Secretary, and pursuant to such terms, conditions, and procedures as the Secretary may by regulations prescribe, has consented to the alien’s applying or re-applying for a visa, for admission to the United States, or adjustment of status.

No waiver shall be provided under this subsection in the case of an alien who has been convicted of (or who has
admitted committing acts that constitute murder or criminal acts involving torture, or an attempt or conspiracy to commit murder or a criminal act involving torture. No waiver shall be granted under this subsection in the case of an alien who has previously been admitted to the United States as an alien lawfully admitted for permanent residence if either since the date of such admission the alien has been convicted of an aggravated felony or the alien has not lawfully resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No waiver shall be granted under this subsection in the case of any alien who is present in the United States after the expiration of the period of stay authorized by the Secretary of Homeland Security or is present in the United States without being admitted or paroled if either the alien has been convicted of an aggravated felony committed in the United States or the alien has not resided continuously in the United States for a period of not less than 7 years immediately preceding the date of initiation of proceedings to remove the alien from the United States. No court shall have jurisdiction to review a decision of the Secretary of Homeland Security to grant or deny a waiver under this subsection.
“(g) ALIENS HAVING IMMIGRANT VISAS.—Any alien, inadmissible to the United States under paragraph (5)(A) or (7)(A)(i) of subsection (a), who is in possession of an immigrant visa may, if otherwise admissible, be admitted in the discretion of the Secretary of Homeland if the Secretary is satisfied that inadmissibility was not known to, and could not have been ascertained by the exercise of reasonable diligence by, the immigrant before the time of departure of the vessel or aircraft from the last port outside the United States and outside foreign contiguous territory or, in the case of an immigrant coming from foreign contiguous territory, before the time of the immigrant’s application for admission.

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

“(1) IN GENERAL.—The requirement of subsection (a)(7)(B)(i) may be waived by the Secretary of Homeland Security, the Secretary of State, and the Secretary of the Interior, acting jointly, in the case of an alien applying for admission as a non-immigrant visitor for business or pleasure and solely for entry into and stay on Guam for a period not to exceed fifteen days, if the Secretary of Homeland Security, the Secretary of State and the Secretary of
the Interior, after consultation with the Governor of Guam, jointly determine that—

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

“(B) such a waiver does not represent a threat to the welfare, safety, or security of the United States or its territories and commonwealths.

“(2) LIMITATION.—An alien may not be provided a waiver under this subsection unless the alien has waived any right—

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

“(B) to contest, other than on the basis of an application for asylum, any action for removal of the alien.

“(i) CONDITIONS ON RECEIPT OF IMMIGRANT VISAS FOLLOWING DEPARTURE.—An alien who has been physically present in the United States shall not be eligible to receive an immigrant visa within ninety days following departure therefrom unless—
“(1) the alien was maintaining a lawful non-
immigrant status at the time of such departure; or
“(2) the alien is the spouse or unmarried child
of an individual who obtained temporary or perma-
nent resident status under section 210 or 245A of
the Immigration and Nationality Act or section 202
of the Immigration Reform and Control Act of 1986
at any date, who—
“(A) as of May 5, 1988, was the unmar-
rried child or spouse of the individual who ob-
tained temporary or permanent resident status
under section 210 or 245A of the Immigration
and Nationality Act or section 202 of the Immi-
igration Reform and Control Act of 1986;
“(B) entered the United States before May
5, 1988, resided in the United States on May
5, 1988, and is not a lawful permanent resi-
dent; and
“(C) applied for benefits under section
301(a) of the Immigration Act of 1990.
“(j) UNCERTIFIED FOREIGN HEALTH-CARE WORK-
ERS.—Subsection (a)(5)(C) shall not apply to an alien
who seeks to enter the United States for the purpose of
performing labor as a nurse who presents to the consular
officer (or in the case of an adjustment of status, the Sec-
retary of Homeland Security) a certified statement from
the Commission on Graduates of Foreign Nursing Schools
(or an equivalent independent credentialing organization
approved for the certification of nurses under subsection
(a)(5)(C) by the Secretary of Homeland Security in con-
sultation with the Secretary of Health and Human Serv-
ices) that—

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

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

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

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

“(B) located in a country—

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

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try, and the English language proficiency of those who complete such programs in that country, justify the country's designation; or

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

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

“(ii) has been approved by unanimous agreement of such commission and any equivalent credentialing organizations which have been approved under subsection (a)(5)(C) for the certification of nurses under this subsection.

“(k) PUBLIC CHARGE GROUND FOR FAMILY-SUPPORTED IMMIGRANTS.—In determining whether an alien described in subsection (a)(4)(C)(i) is inadmissible under subsection (a)(4) or ineligible to receive an immigrant visa or otherwise to adjust to the status of permanent resident by reason of subsection (a)(4), the consular officer or the
Secretary of Homeland Security shall not consider any benefits the alien may have received that were authorized under section 501 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1641(c)).

“(l) Special Rules for Certain Cultural Exchange Participants.—

“(1) In General.—Except as provided in paragraph (2), no person admitted under section 101(a)(15)(Q)(ii)(I), or acquiring such status after admission, shall be eligible to apply for non-immigrant status, an immigrant visa, or permanent residence under this Act until it is established that such person has resided and been physically present in the person’s country of nationality or last residence for an aggregate of at least 2 years following departure from the United States.

“(2) Exception.—The Secretary of Homeland Security may waive the requirement of such 2-year foreign residence abroad if the Secretary determines that—

“(A) departure from the United States would impose exceptional hardship upon the alien’s spouse or child (if such spouse or child is a citizen of the United States or an alien lawfully admitted for permanent residence); or
“(B) the admission of the alien is in the public interest or the national interest of the United States.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

(A) Paragraphs (1), (2)(A), and (3) of section 214(l) (8 U.S.C. 1184(l)) .

(B) Paragraphs (2) and (3)(B) of section 240A(c) (8 U.S.C. 1229b(c)).

(C) Section 245A(a)(2)(C) (8 U.S.C. 1255a(a)(2)(C)) .

(D) Section 248(3) (8 U.S.C. 1258(3)) .

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

(A) by redesignating subsection (p) (as added by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as enacted into law by Public Law 106–553) as subsection (r);

(B) by redesignating the second subsection (o) (as added by the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2001, as
enacted into law by Public Law 106–553) as subsection (q);

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

(D) by redesignating subsection (n) as subsection (o); and

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

(3) Section 101(a) (8 U.S.C. 1101(a)) is amended—

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

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

(C) in paragraph (15)(H)—

(i) by striking “212(j)(2)” and inserting “214(s)(2)”;

(ii) by striking “212(n)(1)” and inserting “214(u)(1)”;

(iii) by striking “212(m)(1)” and inserting “214(t)(1)”;

(iv) by striking “212(m)(2)” and inserting “214(t)(2)”;

(v) by striking “212(m)(6)” and inserting “214(t)(6)”;

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

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

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

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

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

(4) Section 201(c)(4) (8 U.S.C. 1151(c)(4)) is amended by striking “212(d)(5)” and inserting “212(c)(3)”.

(5) Section 214(a)(1) (8 U.S.C. 1184(a)(1)) is amended by striking “212(l)” and inserting “212(h)”.

(6) Section 214(e)(5) (8 U.S.C. 1184(e)(5)) is amended—

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

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

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(8) Section 216(f) (8 U.S.C. 1186a(f)) is amended by striking “subsection (h) or (i) of section 212” and inserting “section 212(f)”.

(9) Section 237(a)(1)(C)(ii) (8 U.S.C. 1227(a)(1)(C)(ii)) is amended by striking “212(g)” and inserting “212(e)”.

(10) Section 240A(b)(4) (8 U.S.C. 1229b(b)(4)) is amended by striking “212(d)(5)” and inserting “212(c)(3)”.

(11) Section 242(a)(2)(B)(i) (8 U.S.C. 1252(a)(2)(B)(i)) is amended by striking “212(h), 212(i),” and inserting “212(f),”.

(12) Section 245(e) (8 U.S.C. 1255(e)) is amended—

(A) by striking “212(d)(4)(C)” and inserting “212(c)(2)(C)”;

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

(13) Section 248 (8 U.S.C. 1258) is amended by striking “(or whose inadmissibility under such section is waived under section 212(a)(9)(B)(v))” in the matter preceding paragraph (1).
(14) Section 248(4) (8 U.S.C. 1258(4)) is amended by striking “212(l)” and inserting “212(h)”.

(15) Section 252(a) (8 U.S.C. 1282(a)) is amended by striking “212(d)(3), section 212(d)(5),” and inserting “212(c)(3),”.

(16) Paragraphs (2) and (3) of section 254(a) (8 U.S.C. 1284(a)) are each amended by striking “212(d)(5)” and inserting “212(c)(3)”.

(17) Section 286(s)(6) (8 U.S.C. 1356(s)(6)) is amended—

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

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

e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to acts undertaken, and conditions existing, before, on, or after such date.

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

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

(1) Paragraph (1)(E) is amended—
(A) by striking “(E)(i) In the case of an application described in clause (ii),” and inserting “(E)”;
and

(B) by striking clause (ii).

(2) Paragraph (1)(F) is amended by striking “In the case of an application described in subparagraph (E)(ii), the” and inserting “The”.

(3) Paragraph (1)(G) is amended—

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

(B) by striking clause (ii);

(4) Paragraph (1) is amended in the matter following subparagraph (G)—

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

(B) in the 6th sentence, by striking “obviously”.

(5) Paragraph (2)(C)(i) is amended by striking “paragraph (1)(B), (1)(E), or (1)(F), a substantial failure to meet a condition of paragraph (1)(C), (1)(D), or (1)(G)(i)(I),” and inserting “paragraph (1),”.
(6) Paragraph (2)(E) is amended to read as follows: “If an employer places an H–1B non-immigrant with a second employer whom the employer knows or had reason to know has ever displaced a United States worker during a period described in paragraph (1)(F), such displacement shall be considered to be a failure to meet a condition specified in an application submitted under paragraph (1).”.

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

SEC. 206. ANTIFRAUD FEE.

(a) IMPOSITION OF FEE.—

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

“ANTIFRAUD FEE

“In General

“Sec. 281A. (a) In addition to any other fees authorized by law, the Secretary of Homeland Security shall impose an antifraud fee on a petitioner filing a petition for classification under section 204, or a petition for an alien’s status as a nonimmigrant under section 101(a)(15) (excluding status under subparagraph (A), (B), (G), or (S) of such section).
“Amount

“(b) The amount of the fee shall be $100 for each such petition.

“Disposition

“(c) Fees collected under this section shall be deposited in the Treasury in accordance with section 286(w).”.

(2) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 281 the following:

“281A. Antifraud fee.”.

(b) ESTABLISHMENT OF ACCOUNT; USE OF FEES.—

Section 286 (8 U.S.C. 1356) is amended by adding at the end the following:

“(w) ANTIFRAUD ACCOUNT.—

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

“(2) USE OF FEES TO COMBAT FRAUD.—

“(A) SECRETARY OF HOMELAND SECURITY.—

“(i) PROGRAMS TO ELIMINATE FRAUD.—20 percent of amounts deposited
into the Antifraud Account shall remain available to the Secretary of Homeland Security until expended for programs and activities to eliminate fraud by petitioners and beneficiaries with respect to immigrant visa petitions under section 204 or status under section 101(a)(15) (excluding status under subparagraph (A), (B), (G), or (S) of such section).

“(ii) Removal of aliens.—20 percent of amounts deposited into the Antifraud Account shall remain available to the Secretary of Homeland Security until expended for the removal of aliens who are deportable under section 237(a)(1)(A) by reason of having been found to be within the class of aliens inadmissible under section 212(a)(6)(C).

“(B) Secretary of state.—40 percent of the amounts deposited into the Antifraud Account shall remain available to the Secretary of State until expended for programs and activities to eliminate fraud by petitioners and beneficiaries described in subparagraph (A).
“(C) JOINT PROGRAMS.—20 percent of amounts deposited into the Antifraud Account shall remain available to the Secretary of Homeland Security and the Secretary of State until expended for programs and activities conducted by them jointly to eliminate fraud by petitioners and beneficiaries described in subparagraph (A).”.

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

TITLE III—TRACKING ALIENS PRESENT IN THE UNITED STATES

SEC. 301. ENTRY-EXIT SYSTEM.

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

“(1) provides access to, and integrates, arrival and departure data of all aliens who arrive and depart at ports of entry, in an electronic format and in a database of the Department of Homeland Security or the Department of State (including those cre-
ated or used at ports of entry and at consular offices);’’.

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

‘‘(c) CONSTRUCTION.—Nothing in this section shall be construed to reduce or curtail any authority of the Secretary of Homeland Security or the Secretary of State under any other provision of law.’’.

(c) DEADLINES.—Section 110(d) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1221 note) is amended—

(1) in paragraph (1), by striking ‘‘December 31’’ and inserting ‘‘October 26’’;

(2) by amending paragraph (2) to read as follows:

‘‘(2) LAND BORDER PORTS OF ENTRY.—Not later than October 26, 2005, the Secretary of Homeland Security shall implement the integrated entry and exit data system using the data described in paragraph (1) and available alien arrival and departure data described in subsection (b)(1) pertaining to aliens arriving in, or departing from, the United States at all land border ports of entry. Such implementation shall include ensuring that such data,
when collected or created by an immigration officer
at a port of entry, are entered into the system and
can be accessed by immigration officers at airports,
seaports, and other land border ports of entry.”; and
(3) by striking paragraph (3).
(d) Authority to Provide Access to System.—
Section 110(f)(1) of the Illegal Immigration Reform and
note) is amended by adding at the end the following:
“The Secretary of Homeland Security shall ensure that
any officer or employee of the Department of Homeland
Security or the Department of State having need to access
the data contained in the integrated entry and exit data
system for any lawful purpose under the Immigration and
Nationality Act has such access, including access for pur-
oposes of representation of the Department of Homeland
Security in removal proceedings under section 240 of such
Act and adjudication of applications for benefits under
such Act.”.
(e) Waiver Available.—If the President deter-
mines in writing, with respect to a fiscal or calendar year,
that a waiver of one or more of the amendments made
by this section is desirable and would not threaten the na-
tional security of the United States, the President may
waive the effectiveness of such amendment or amendments
with respect to such year.

SEC. 302. COLLECTION OF INFORMATION REGARDING FOR-
EIGN STUDENTS.

(a) Course of Study.—Section 641(c)(1)(C) of the
Illegal Immigration Reform and Immigrant Responsibility
Act of 1996 (8 U.S.C. 1372(c)(1)(C)) is amended by in-
serting after “including” the following: “each course of
study the student has taken and is taking at the institu-
tion and”.

(b) Implementation of Program to Collect In-
formation Relating to Nonimmigrant Foreign Stu-
dents and Other Exchange Program Partici-
pants.—Section 641(d)(2) of the Illegal Immigration Re-
1372(d)(2)) is amended to read as follows:

“(2) Effect of failure to provide infor-
mation.—During any period on or after the date of
the enactment of the Securing America’s Future
through Enforcement Reform Act of 2005, if an ap-
proved institution of higher education or a des-
ignated exchange visitor program fails to provide the
information described in subsection (c) through the
program described in subsection (a), all approvals
described in subparagraph (A) of paragraph (1), and
all grants of authority described in subparagraph (B) of such paragraph, with respect to such institution or exchange visitor program shall be revoked.”.

SEC. 303. ALIEN REGISTRATION.

(a) In General.—Section 262 (8 U.S.C. 1302) is amended to read as follows:

“REGISTRATION OF ALIENS IN THE UNITED STATES

“SEC. 262. (a) INITIAL REGISTRATION.—

“(1) In General.—It shall be the duty of every alien now or hereafter in the United States, who (1) is fourteen years of age or older, (2) has not been registered and fingerprinted under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for registration and to be fingerprinted before the expiration of such thirty days.

“(2) MINORS.—It shall be the duty of every parent or legal guardian of any alien now or hereafter in the United States, who (1) is less than fourteen years of age, (2) has not been registered under section 221(b) of this Act or section 30 or 31 of the Alien Registration Act, 1940, and (3) remains in the United States for thirty days or longer, to apply for the registration of such alien before the expiration of such thirty days. Whenever any alien attains his
fourteenth birthday in the United States he shall, within thirty days thereafter, apply in person for registration and to be fingerprinted.

“(b) Subsequent Registrations.—

“(1) Permanent residents.—In addition to any other registration otherwise required under this Act or any other Act, each alien lawfully admitted for permanent residence shall annually register with the Secretary of Homeland Security, regardless of whether there has been any change in the alien's address. This requirement shall commence on the first anniversary of the date on which the alien acquired the status of an alien lawfully admitted for permanent residence that occurs after the enactment of the Securing America’s Future through Enforcement Reform Act of 2005.

“(2) Other aliens.—In addition to any other registration otherwise required under this Act or any other Act, every alien in the United States, other than an alien described in paragraph (1), shall register with the Secretary of Homeland Security at the expiration of each 3-month period during which the alien remains in the United States, regardless of whether there has been any change in the alien’s ad-
dress. This requirement shall commence on the 60th day after the alien enters the United States.

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

“(c) CHANGE OF ADDRESS.—

“(1) IN GENERAL.—Each alien required to be registered under this title who is within the United States shall notify the Secretary of Homeland Security in writing of each change of address and new address within ten days from the date of such change and furnish with such notice such additional information as the Secretary may require by regulation.

“(2) CERTAIN FOREIGN STATES.—

“(A) IN GENERAL.—The Secretary of Homeland Security may, in the discretion of the Secretary, upon ten days notice, require the natives of any one or more foreign states, or any class or group thereof, who are within the United States and who are required to be registered under this title, to notify the Secretary of their current addresses and furnish such ad-
ditional information as the Secretary may re-
quire.

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

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

“(d) EXCEPTION.—Subsections (b) and (c) shall not
apply to an alien lawfully admitted for permanent resi-
dence, and the alien’s spouse and children, if the alien is
a member of the armed forces of the United States serving
on active duty (as defined in section 101(d) of title 10,
United States Code).

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

“(1) Full name and aliases.

“(2) Current address.

“(3) Date of birth.

“(4) Visa category.
“(5) Date of entry into the United States.

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

“(7) Signature.

“(8) Biometric feature of the alien.

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

“(f) INFORMATION TECHNOLOGY SYSTEM.—The
Secretary of Homeland Security shall establish and oper-
ate an information technology system for the electronic
collection, compilation, and maintenance of the informa-
tion submitted under this section. Such system shall per-
mit any alien address in the United States that has been
registered with the Secretary, and the date of such reg-
istration, to be accessed by any officer or employee of the
Department of Homeland Security having need for such
access for any lawful purpose under the Immigration and
Nationality Act.”.

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

(e) CONFORMING AMENDMENTS.—
(1) Removal for failure to comply.—Section 237(a)(3)(A) (8 U.S.C. 1227(a)(3)(A)) is amended by striking “265” and inserting “262”.

(2) Registration of special groups.—Section 263(b) (8 U.S.C. 1303(b)) is amended by inserting “(excluding subsection (c) of such section)” after “262”.

(3) Forms and procedure.—Section 264(a) (8 U.S.C. 1304(a)) is amended by striking “of this title, and the Attorney General is authorized and directed to prepare forms for the registration and fingerprinting of aliens under section 262 of this title.” and inserting a period.

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

(d) Report.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate on the implementation of section 262 of the Immigration and Nationality Act, as amended by this section, and the results of such implementation.
(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 304. VISA TERM COMPLIANCE BONDS.

(a) Definitions.—For purposes of this section:

(1) Visa term compliance bond.—The term “visa term compliance bond” means a written suretyship undertaking entered into by an alien individual seeking admission to the United States of America on a nonimmigrant visa whose performance is guaranteed by a bail agent.

(2) Suretyship undertaking.—The term “suretyship undertaking” means a written agreement, executed by a bail agent, which binds all parties to its certain terms and conditions and which provides obligations for the visa applicant while under the bond and penalties for forfeiture to ensure the obligations of the principal under the agreement.

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

(4) Surety.—The term “surety” means an entity, as defined by, and that is in compliance with,
sections 9304 through 9308 of title 31, United States Code, that agrees—

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

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

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

(b) ISSUANCE OF BOND.—A consular officer may require an applicant for a nonimmigrant visa, as a condition for granting such application, to obtain a visa term compliance bond.

c) VALIDITY, EXPIRATION, RENEWAL, AND CANCELLATION OF BONDS.—

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

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

(B) states the amount of the bond;

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

(D) is an original signed document;
(E) is filed with the Secretary of Homeland Security along with the original application for a visa; and

(F) is not executed by electronic means.

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

(A) 1 year from the date of issue;

(B) at the expiration, cancellation, or surrender of the visa; or

(C) immediately upon nonpayment of the premium.

(3) RENEWAL.—The bond may be renewed—

(A) annually with payment of proper premium at the option of the bail agent or surety; and

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

(4) CANCELLATION.—The bond shall be canceled and the surety and bail agent exonerated—

(A) for nonrenewal;

(B) if the surety or bail agent provides reasonable evidence that there was misrepresentation or fraud in the application for the bond;

(C) upon termination of the visa;
(D) upon death, incarceration of the principal, or the inability of the surety to produce the principal for medical reasons;

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

(F) if the principal departs from the United States of America for any reason without permission of the Secretary of Homeland Security and the surety or bail agent; or

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

(5) Effect of Expiration or Cancellation.—When a visa term compliance bond expires without being immediately renewed, or is canceled, the nonimmigrant status of the alien shall be revoked immediately.

(6) Surrender of Principal; Forfeiture of Bond Premium.—

(A) Surrender.—At any time before a breach of any of the conditions of the bond, the surety or bail agent may surrender the principal, or the principal may surrender, to any office or facility of the Department of Homeland Security charged with immigration enforcement or border protection.
(B) FORFEITURE OF BOND PREMIUM.—A principal may be surrendered without the re-
turn of any bond premium if the visa holder—

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

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

(iii) conceals himself or herself;

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

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

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

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

(i) shall have the right to petition any
Federal court for an arrest warrant for the
arrest of the visa holder;
(ii) shall forthwith be provided a certified copy of the arrest warrant and the undertaking; and

(iii) shall have the right to pursue, apprehend, detain, and deliver the visa holder, together with the certified copy of the arrest warrant and the undertaking, to any official or facility of the Department of Homeland Security charged with immigration enforcement or border protection or any detention facility authorized to hold Federal detainees.

(B) EFFECTS OF DELIVERY.—Upon delivery of a person under subparagraph (A)(iii)—

(i) the official to whom the delivery is made shall detain the visa holder in custody and issue a written certificate of surrender; and

(ii) the court issuing the warrant described in subparagraph (A)(i) and the Secretary of Homeland Security shall immediately exonerate the surety and bail agent from any further liability on the bond.
(8) **FORM OF BOND.**—A visa term compliance bond shall in all cases state the following and be secured by a surety:

(A) **BREACH OF BOND; PROCEDURE, FORFEITURE, NOTICE.**—

(i) If a visa holder violates any conditions of the visa or the visa bond the Secretary of Homeland Security shall—

1. order the visa canceled;
2. immediately obtain a warrant for the visa holder’s arrest;
3. order the bail agent and surety to take the visa holder into custody and surrender the visa holder to the Secretary; and
4. mail notice to the bail agent and surety via certified mail return receipt at each of the addresses in the bond.

(ii) A bail agent or surety shall have full and complete access to any and all information, electronic or otherwise, in the care, custody, and control of the United States Government or any State or local government or any subsidiary or police
agency thereof regarding the visa holder needed to comply with section 304 of the Securing America’s Future through Enforcement Reform Act of 2005 that the court issuing the warrant believes is crucial in locating the visa holder.

(iii) If the visa holder is later arrested, detained, or otherwise located outside the United States and the outlying possessions of the United States (as defined in section 101(a) of the Immigration and Nationality Act), the Secretary of Homeland Security shall—

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

(II) if the Secretary has issued an order under clause (i), the surety may request, by written, properly filed motion, reinstatement of the bond. This subclause may not be construed to prevent the Secretary from revoking or resetting a higher bond.

(iv) The bail agent or surety must—
(I) produce the visa bond holder;

or

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

(aaa) by the bond holder’s illness or death;

(bbb) because the bond holder is detained in custody in any city, State, country, or political subdivision thereof;

(ccc) because the bond holder has left the United States or its outlying possessions (as defined in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a))); or

(ddd) because required notice was not given to the bail agent or surety; and

(bb) prove within 180 days that the inability to produce the bond holder was not with the consent or connivance of the bail agent or sureties.
(v) If the bail agent or surety does not comply with the terms of this bond within 60 days after the mailing of the notice required under subparagraph (A)(i)(IV), a portion of the face value of the bond shall be assessed as a penalty against the surety.

(vi) If compliance occurs more than 60 days but no more than 90 days after the mailing of the notice, the amount assessed shall be one-third of the face value of the bond.

(vii) If compliance occurs more than 90 days, but no more than 180 days, after the mailing of the notice, the amount assessed shall be two-thirds of the face value of the bond.

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

(ix) All penalty fees shall be paid by the surety within 45 days after the end of such 180-day period.
(B) The Secretary of Homeland Security may waive the penalty fees or extend the period for payment or both, if—

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

(ii) the bail agent or surety provides evidence satisfactory to the Secretary that diligent efforts were made to effect compliance of the visa holder.

(C) COMPLIANCE; EXONERATION; LIMITATION OF LIABILITY.—

(i) COMPLIANCE.—The bail agent or surety shall have the absolute right to locate, apprehend, arrest, detain, and surrender any visa holder, wherever he or she may be found, who violates any of the terms and conditions of the visa or bond.

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

(iii) LIMITATION OF LIABILITY.—The total liability on any undertaking shall not exceed the face amount of the bond.
SEC. 305. RELEASE OF ALIENS IN REMOVAL PROCEEDINGS.

(a) In General.—Section 236(a)(2) (8 U.S.C. 1226(a)(2)) is amended to read as follows:

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

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 306. DETENTION OF ALIENS DELIVERED BY BONDSMEN.

(a) In General.—Section 241(a) (8 U.S.C. 1231(a)) is amended by adding at the end the following:

“(8) Effect of production of alien by bondsman.—Notwithstanding any other provision of law, the Secretary of Homeland Security shall take into custody any alien subject to a final order of removal, and cancel any bond previously posted for the alien, if the alien is produced within the prescribed time limit by the obligor on the bond. The obligor on the bond shall be deemed to have substan-
tially performed all conditions imposed by the terms of the bond, and shall be released from liability on the bond, if the alien is produced within such time limit.”.

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

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

Subtitle A—Removing Alien Terrorists

SEC. 401. DEPORTABILITY OF TERRORISTS, NATIONAL SECURITY THREATS, AND SERIOUS FOREIGN CRIMES.

(a) In General.—Section 237(a)(4) (8 U.S.C. 1227(a)(4)) is amended—

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

“(B) TERRORIST ACTIVITIES.—Any alien who would be considered inadmissible pursuant to section 212(a)(3)(B) is deportable.”; and
(2) by inserting after subparagraph (D) the following:

“(E) National security consequences.—An alien described in section 212(a)(3)(G) is deportable.

“(F) Serious foreign crimes.—An alien described in section 212(a)(3)(H) is deportable.”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to conduct occurring before, on, or after such date.

SEC. 402. ADMINISTRATIVE REMOVAL OF ALIEN TERRORISTS.

(a) In General.—Section 238 (8 U.S.C. 1228) is amended—

(1) in the section heading, by striking “aliens convicted of committing aggravated felonies” and inserting “certain aliens”;  

(2) in the heading of subsection (a), by inserting “Institutional” before “Removal”;  

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

(4) by amending the heading of subsection (b) to read as follows:
“(b) PROCEEDINGS FOR THE ADMINISTRATIVE REMOVAL OF ALIENS.—”;

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

“(1) The Secretary of Homeland Security may—

“(A) in the case of an alien described in paragraph (2), determine the deportability of such alien under section 237(a)(2)(A)(iii) (relating to conviction of an aggravated felony); or

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

and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.”;

(6) in subsection (b)(2)—

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

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

(C) by adding at the end the following:

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

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

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

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

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

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

“(8) JUDICIAL REVIEW.—Notwithstanding any
other provision of law, judicial review of an order
under paragraph (2)(C) shall be available only by a
filing in the United States Court of Appeals for the
District of Columbia.”;
(8) by striking the first subsection (c) and inserting the following:

“(c) Presumption of Removability.—An alien convicted of an aggravated felony, or certified pursuant to section 238(b)(2)(C), shall be conclusively presumed to be removable from the United States.”; and

(9) by redesignating the second subsection (c) (redesignated as such by section 671(b)(13) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) as subsection (d).

(b) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens in removal proceedings on or after such date.

SEC. 403. ASYLUM PETITIONS BY MEMBERS OF TERRORIST ORGANIZATIONS.

Paragraph (1) of section 208(b) (8 U.S.C. 1158(b)) is amended by adding at the end the following: “In any case in which there may be more than one motive for persecution, the alien bears the burden of showing that such persecution was or would be inflicted solely on account of race, religion, nationality, membership in a particular social group, or political opinion.”.
SEC. 404. EXPATRIATION OF TERRORISTS.

(a) In General.—Section 349 of the Immigration and Nationality Act (8 U.S.C. 1481) is amended—

(1) by amending subsection (a)(3) to read as follows:

“(3)(A) entering, or serving in, the armed forces of a foreign state if—

“(i) such armed forces are engaged in hostilities against the United States; or

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

“(B) in the case of a naturalized American citizen, joining or serving in, or providing material support (as defined in section 2339A of title 18, United States Code) to a terrorist organization designated under section 212(a)(3) or 219 or designated under the International Emergency Powers Act, if the organization is engaged in hostilities against the United States, its people, or its national security interests.”; and

(2) by adding at the end of subsection (b):

“The voluntary commission or performance of an act described in subsection (a)(3)(A)(i) or (B) shall be prima facie evidence that the act was done with the intention of relinquishing United States nationality.”.
(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to determinations pending on or after such date with respect to which a final administrative decision has not been rendered as of such date.

Subtitle B—Removing Alien Criminals

SEC. 411. DEFINITION OF CRIMINAL CONVICTION.

(a) IN GENERAL.—Subparagraph (B) of section 101(a)(48) (8 U.S.C. 1101(a)(48)) is amended by adding at the end the following: “Any conviction entered by a court shall remain valid for immigration purposes notwithstanding a vacation of that conviction, unless the conviction is vacated on direct appeal wherein the court determines that vacation is warranted on the merits, or on grounds relating to a violation of a fundamental statutory or constitutional right in the underlying criminal proceedings.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act and shall apply to determinations pending on or after such date with respect to which a final administrative decision has not been rendered as of such date.
SEC. 412. REMOVING MURDERERS, RAPISTS, SEXUAL ABUSERS OF CHILDREN, AND DRUNK DRIVERS.

(a) Removing Murderers, Rapists, and Sexual Abusers of Children.—Subparagraph (A) of section 101(a)(43) (8 U.S.C. 1101(a)(43)) is amended by inserting before the semicolon at the end the following: “, regardless of the term of imprisonment, and regardless of whether the offenses are deemed to be misdemeanors or felonies under State or Federal law,”.

(b) Removing Drunk Drivers.—Section 101(a)(43)(F) is amended by inserting “, including a third drunk driving conviction, regardless of the States in which the convictions occurred, and regardless of whether the offenses are deemed to be misdemeanors or felonies under State or Federal law,” after “offense)”.

(c) Effective Date.—The amendment made by the section shall take effect on the date of the enactment of this Act and shall apply to convictions entered on or after such date.

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

(a) Arrest and Detention.—

(1) In general.—Section 236(c)(1) (8 U.S.C. 1226(c)(1)) is amended—

(A) by striking the matter preceding subparagraph (A) and inserting the following:
“(1) ARREST AND DETENTION.—On a warrant issued by the Secretary of Homeland Security, an alien shall be arrested and detained pending a decision on whether the alien is to be removed from the United States if the Secretary alleges that the alien—”;

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

(C) by striking the matter following subparagraph (D) and adding at the end the following:

“Nothing in this paragraph shall be construed as requiring the Secretary to arrest or detain an alien who is sentenced to a term of imprisonment until the alien is released from imprisonment, but parole, supervised release, probation, or possibility of arrest or further imprisonment is not a reason for the Secretary to defer arrest and detention under this paragraph.”.

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

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

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

“To satisfy this burden, the alien is required to present documentary evidence or witness testimony from a third party, where such evidence is reasonably available. No finder of fact may determine that such evidence is not reasonably available solely because the alien is detained.”;

and

(B) by adding at the end the following:

“The Secretary of Homeland Security may release an alien under this paragraph only on bond of at least $5,000 with security approved by, and containing conditions prescribed by, the Secretary.”.

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

“In order to be released, the alien has the burden of proving that the alien is neither a danger to the community nor a flight risk. To satisfy this burden, the alien is required to present documentary evidence or witness testimony from a third party, where such evidence is reasonably available. No finder of fact may determine that such
evidence is not reasonably available solely because the alien is detained.”.

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

Subtitle C—Removing Alien Human Rights Violators

SEC. 421. SERIOUS HUMAN RIGHTS VIOLATOR DEFINED.

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

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

“(i) ordered, incited, assisted, or otherwise participated in the persecution of any person on account of race, religion, nationality, membership in a particular social group, or political opinion;

“(ii) while serving as a foreign government official, was responsible for, or directly carried out, particularly severe violations of religious freedom (as defined in section 3 of the International Religious Freedom Act of 1998 (22 U.S.C. 6402));

“(iii) during an armed conflict, ordered, incited, assisted, or otherwise participated in a war crime (as defined in section 2441(c) of title 18, United States Code);
“(iv) ordered, incited, assisted, otherwise participated in, attempted to commit, or conspired to commit conduct that would constitute genocide (as defined in section 1091(a) of title 18, United States Code), if the conduct were committed in the United States or by a United States national;

“(v) ordered, incited, assisted, or otherwise participated in the commission of—

“(I) any act of torture, as defined in section 2340 of title 18, United States Code; or

“(II) under color of law of any foreign nation, any extrajudicial killing, as defined in section 3(a) of the Torture Victim Protection Act of 1991 (28 U.S.C. 1350 note); or

“(vi) committed, ordered, incited, assisted, otherwise participated in, or was responsible for any of the following acts, when undertaken in whole or in significant part for a political, religious, or discriminatory purpose:

“(I) Murder or other homicide.

“(II) Kidnapping.

“(III) Disappearance.

“(IV) Rape.

“(V) Torture or mutilation.

“(VI) Prolonged, arbitrary detention.
“(VII) Enslavement.

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

“(IX) Genocide.

“(X) Extermination.

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

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

SEC. 422. DEPORTABILITY OF SERIOUS HUMAN RIGHTS VIOLATORS.

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

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

(b) CONFORMING AMENDMENT.—Section 237(a)(4)(D) (8 U.S.C. 1227(a)(4)(D)) is amended to read as follows:
“(D) ASSISTED IN NAZI PERSECUTION.—

Any alien described in section 212(a)(3)(E) is deportable.”.

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

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

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

“(3) NOTICE TO CRIMINAL DIVISION.—The Secretary of Homeland Security shall ensure that the Assistant Attorney General for the Criminal Division of the Department of Justice—

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

“(B) is provided the information that was the basis for the application of such paragraph; and
“(C) makes a determination whether the alien should be arrested and prosecuted in the United States for a criminal offense.

“(4) REPORTS.—Beginning 6 months after the date of the enactment of the Securing America’s Future through Enforcement Reform Act of 2005, and every 12 months thereafter, the Secretary of Homeland Security and the Attorney General shall submit to the Committees on the Judiciary of the United States House of Representatives and of the Senate a report containing the following:

“(A) The number of removal proceedings initiated against aliens under sections 212(a)(2)(G) and 237(a)(8) during the reporting period.

“(B) The number of removal proceedings under sections 212(a)(2)(G) and 237(a)(8) pending at the conclusion of the reporting period.

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

“(D) The number of notifications under paragraph (3)(A) made during the reporting period.
“(E) The number of criminal prosecutions initiated during the reporting period based on information provided under paragraph (3).

“(F) The number of criminal prosecutions pending at the conclusion of the reporting period that were initiated based on information provided under paragraph (3).

“(G) The number of criminal prosecutions initiated based on information provided under paragraph (3) that resulted in a conviction during the reporting period.”.

SEC. 424. EXCEPTION TO RESTRICTION ON REMOVAL FOR SERIOUS HUMAN RIGHTS VIOLATORS AND TERRORISTS.

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

(1) in the matter preceding clause (i), by striking “section 237(a)(4)(D)” and inserting “subparagraph (B), (D), or (E) of section 237(a)(4)”;

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

“(i) the alien is a serious human rights violator;”.
SEC. 425. INITIATION OF REMOVAL PROCEEDINGS AGAINST SERIOUS HUMAN RIGHTS VIOLATORS BY COMPLAINT.

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

“(e) Complaints respecting serious human rights violators.—

“(1) Establishment of process.—The Secretary of Homeland Security shall establish a process for the receipt, investigation, and disposition of complaints alleging that an alien present in the United States is a serious human rights violator and identifying that alien.

“(2) Persons entitled to file complaints.—Any individual may file a complaint under paragraph (1).

“(3) Form and content of complaint.—A complaint under paragraph (1) shall be in the form of a written statement, executed under oath or as permitted under penalty of perjury under section 1746 of title 28, United States Code, and shall contain such information as the Secretary of Homeland Security may require. Complaints shall be filed with an office designated for that purpose by the Secretary.
“(4) NOTICE SERVED ON SUBJECT OF COMPLAINT.—The Secretary shall serve notice, by certified mail and within 14 days of the filing of a complaint under paragraph (1), on each alien identified in the complaint as a serious human rights violator. The alien shall answer the complaint within 10 days of receiving it.

“(5) INVESTIGATION AND ACTION.—The Secretary shall conduct an investigation of each complaint that satisfies the requirements of this subsection. Not later than 180 days after the date of filing of such a complaint, the Secretary, with respect to each alien identified in the complaint as a serious human rights violator—

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

“(B) shall issue to the complainant a written determination that, in the opinion of the Secretary, the alien is not a serious human rights violator.

“(6) CONSTRUCTION.—Nothing in this subsection shall be construed to limit the discretion of consular officers under section 291 to determine eligibility for a visa or document required for entry or to limit the discretion of any immigration officer.
otherwise to initiate removal proceedings under this Act.”.

SEC. 426. BARS TO REFUGEE STATUS AND ASYLUM FOR SERIOUS HUMAN RIGHTS VIOLATORS.

(a) Refugee Defined.—Section 101(a)(42) (8 U.S.C. 1101(a)(42)) is amended by striking the second sentence and inserting “The term ‘refugee’ does not in- clude any person who is a serious human rights violator as defined in section 101(a)(51)(A).”.

(b) No Waiver of Ground of Inadmissibility for Refuge Seekers.—Section 207(c)(3) (8 U.S.C. 1157(c)(3)) is amended by inserting “or (2)(G)” after “(2)(C)”.

(c) Exceptions to Granting Asylum.—Section 208(b)(2)(A)(i) (8 U.S.C. 1158(b)(2)(A)(i)) is amended to read as follows:

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

(d) Extension to Spouses and Children of Exceptions to Granting Asylum.—Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended by striking “such alien.” and inserting “such alien, unless the Secretary of Homeland Se-
through (v) of paragraph (2)(A) applies to the spouse or child.”.

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

Section 209(c) (8 U.S.C. 1159(c)) is amended by inserting “or (2)(G)” after “(2)(C)”.

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

Section 101(f) (8 U.S.C. 1101(f)) is amended by inserting after paragraph (1) the following:

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

SEC. 429. BAR TO CANCELLATION OF REMOVAL FOR SERIOUS HUMAN RIGHTS VIOLATORS.

Section 240A(c)(4) (8 U.S.C. 1229b(c)(4)) is amended—

(1) by striking “section 212(a)(3)” and inserting “paragraph (2)(G) or (3) of section 212(a)”;

and

(2) by striking “section 237(a)(4)” and inserting “paragraph (4) or (8) of section 237(a)”.

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

Section 245(h)(2)(B) (8 U.S.C. 1255(h)(2)(B)) is amended by inserting “(2)(G),” before “(3)(A)”.
SEC. 431. CRIMINAL PENALTIES FOR REENTRY OF REMOVED SERIOUS HUMAN RIGHTS VIOLATORS.

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

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

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

(3) by inserting after paragraph (4) the following:

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

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

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

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

(a) Regulations.—
(1) Revision Deadline.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Homeland Security shall revise the regulations prescribed by the Secretary to implement the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment, done at New York on December 10, 1984.

(2) Exclusion of Certain Aliens.—The revision shall exclude from the protection of such regulations aliens described in section 241(b)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1231(b)(3)(B)) (as amended by section 424 of this Act), including rendering such aliens ineligible for withholding or deferral of removal under the Convention.

(3) Burden of Proof.—The revision shall also ensure that the burden of proof is on the applicant for withholding or deferral of removal under the Convention to establish by clear and convincing evidence that he or she would be tortured if removed to the proposed country of removal.

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

SEC. 434. FUNDING FOR DETENTION AND REMOVAL ASSISTANCE PROVIDED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

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

(1) transfer to Federal custody has occurred;

(2)(A) a determination is subsequently made under section 240(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1229a(c)(1)) that such alien is removable; or

(B) a determination is made that the alien has permanently departed the United States; and
(3) reimbursement for all costs excepting transportation costs is made according to per diem rates established by the Secretary.

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

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

**SEC. 435. EFFECTIVE DATE.**

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

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

**Subtitle A—Document Security**

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

(a) In General.—Section 215 (8 U.S.C. 1185) is amended—

(1) by adding at the end the following:

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

“(2) The use by any alien of any travel or identification document designated as insecure by the Secretary to identify such aliens for purposes of transportation of persons by public or private conveyance in interstate commerce is prohibited.

“(3) The Secretary may waive the prohibition in paragraph (1) for citizens and legal permanent residents of the United States whose identity has been verified by a designation or endorsement of such status on the identification document by a state or federal government agency.”; and

(2) in subsection (c), by adding at the end the following: “The term ‘insecure travel or identification document’ as used in this section means a driver’s license or identification card issued by a state or any political subdivision thereof, or by a consular representative or agent of a foreign government in the United States, which appears on a list established and maintained by the Secretary of documents which the Secretary has determined may be issued to an alien who, on the date of issuance of such document, is unlawfully present in the United
States after the expiration of the period of stay authorized by the Secretary or is present in the United States without being admitted or paroled.”.

(b) EFFECTIVE DATES.—

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

(2) Section 215(g)(1) of such Act, as so amended, shall take effect 60 days after issuance of such list of insecure documents by the Secretary.

(3) Section 215(g)(2) of such Act, as so amended, shall take effect 90 days after the date of the enactment of this Act.

SEC. 502. SOCIAL SECURITY CARDS.

(a) IMPROVEMENTS TO CARD.—

(1) IN GENERAL.—For purposes of carrying out section 274A of the Immigration and Nationality Act, the Commissioner of Social Security (in this
section referred to as the “Commissioner”) shall
make such improvements to the physical design,
technical specifications, and materials of the social
security account number card as are necessary to
ensure that it is a genuine official document and
that it offers the best possible security against coun-
terfeiting, forgery, alteration, and misuse.

(2) PERFORMANCE STANDARDS.—In making
the improvements required in paragraph (1), the
Commissioner shall—

(A) make the card as secure against coun-
terfeiting as the 100 dollar Federal Reserve
note, with a rate of counterfeit detection com-
parable to the 100 dollar Federal Reserve note;
and

(B) make the card as secure against fraud-
ulent use as a United States passport.

(3) DEFINITION.—In this section, the term “se-
cured social security account number card” means a
social security account number card issued in ac-
cordance with the requirements of this paragraph.

(4) EFFECTIVE DATE.—All social security ac-
count number cards issued after January 1, 2008,
whether new or replacement, shall be secured social
security account number cards.
(b) NOT A NATIONAL IDENTIFICATION CARD.—
Cards issued pursuant to this section shall not be required
to be carried upon one’s person, and nothing in this sec-
tion shall be construed as authorizing the establishment
of a national identification card.

(c) EDUCATION CAMPAIGN.—The Secretary of
Homeland Security, in consultation with the Commis-
sioner of Social Security, shall conduct a comprehensive
campaign to educate employers about the security features
of the secured social security card and how to detect coun-
terfeit or fraudulently used social security account number
cards.

(d) ANNUAL REPORTS.—The Commissioner of Social
Security shall submit to Congress by July 1 of each year
a report on—

(1) the progress and status of developing a se-
cured social security account number card under this
section;

(2) the incidence of counterfeit production and
fraudulent use of social security account number
cards; and

(3) the steps being taken to detect and prevent
such counterfeiting and fraud.

(e) GAO ANNUAL AUDITS.—The Comptroller Gen-
eral of the United States shall perform an annual audit,
the results of which are to be presented to the Congress by January 1 of each of the 5 years following the date of the enactment of the Securing America’s Future through Enforcement Reform Act of 2005, on the performance of the Social Security Administration in meeting the requirements in paragraph (1).

(f) EXPENSES.—No costs incurred in developing and issuing cards under this section that are above the costs that would have been incurred for cards issued in the absence of this section shall be paid for out of any trust fund established under the Social Security Act. There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 503. CONSULAR IDENTIFICATION DOCUMENTS.

(a) ACCEPTANCE OF FOREIGN IDENTIFICATION DOCUMENTS.—

(1) IN GENERAL.—No agency, commission, entity, or agent of the executive or legislative branches of the federal government may accept, acknowledge, recognize, or rely on for purposes of personal identification any identification document issued by a foreign government, unless otherwise mandated by Federal law.

(A) For purposes of this section, an agent shall include:
(i) a Federal contractor or grantee;
(ii) a financial institution that is a member of the Federal Reserve System, described in 12 U.S.C. 321; or

(2) EXCEPTIONS.—

(A) A person who is not a citizen of the United States may present for personal identification purposes an official identification document issued by a foreign government, or other foreign identification document recognized by treaty, if—

(i) such noncitizen also simultaneously presents valid verifiable documentation of lawful presence in the United States issued by an agency of the Federal Government;
(ii) reporting a violation of law; or
(iii) such use is expressly permitted by Federal law.

(B) The provisions of paragraph (1) shall not apply to inspections of alien applicants for admission to the United States, nor to
verification of personal identification outside
the United States.

(3) Listing of Acceptable Documents.—
The United States Department of Homeland Secu-

rity shall issue, maintain in printed and electronic
media, and disseminate to the public at no cost an
updated listing, compiled in consultation with the
United States Department of State, and including
sample facsimiles, of all acceptable federal docu-
ments that satisfy the requirements of paragraph
(2)(A). Such listing may, at the discretion of the
Secretary of Homeland Security, include a similar
listing of documents establishing employment au-
thorization or identity under section 274A(b) of the
Immigration and Nationality Act (8 U.S.C.
1324a(b)).

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

(1) in subsection (a)—

(A) by redesignating paragraph (6) as
paragraph (7); and

(B) by inserting after paragraph (5) the
following:

“(6) to use to establish personal identity, before
any agent of the Federal Government, or before any
agency of the Federal Government or of a State or
any political subdivision therein, a travel or identi-
fication document issued by a foreign government
that is not accepted by the Secretary of Homeland
Security to establish personal identity for purposes
of admission to the United States at a port of entry,
except where a person who is not a citizen of the
United States (A) simultaneously presents valid
verifiable documentation of lawful presence in the
United States issued by an agency of the Federal
Government, or (B) is reporting a violation of law,
or (C) such use is expressly permitted by Federal
law.”; and

(2) in subsection (d)—

(A) by redesignating paragraphs (2)
though (7) as paragraphs (3) through (8), re-
respectively; and

(B) by inserting after paragraph (1) the
following:

“(2) Every complete complaint of a violation
described in subsection (a) that has been filed by an
entity described in subsection (b), or by a private
party aggrieved by such violation, shall be promptly
investigated. The Secretary of Homeland Security
shall issue a cease and desist order with money pen-
ality in each case determined after investigation to
constitute a violation under subsection (a).”.

(c) QUALIFIED IMMUNITY.—Actions taken in viola-
tion of subsections (a) of this section, or section 274C of
the Immigration and Nationality Act (8 U.S.C. 1324c),
as amended by subsection (b), shall be deemed outside the
official capacity of the elected official or officer, employee,
or agent of a Federal agency so acting.

Subtitle B—Employment Eligibility Verification

SEC. 511. EMPLOYMENT ELIGIBILITY VERIFICATION PROC-
ESS AND ELIMINATION OF EXAMINATION OF
DOCUMENTATION REQUIREMENT.

(a) In General.—Section 274A (8 U.S.C. 1324a)
is amended—

(1) in subsection (a)(1)(A), by striking “for a
fee”;

(2) in subsection (a)(3)—

(A) by inserting “(A)” after “Defense.—”;

and

(B) by adding at the end the following:

“(B) FAILURE TO SEEK AND OBTAIN
VERIFICATION.—In the case of a hiring of an indi-
vidual for employment in the United States by a
person or entity, the following requirements apply:
“(i) Failure to seek verification.—

“(I) In general.—If the person or entity has not made an inquiry, under the mechanism established under subsection (b)(4), seeking verification of the identity, social security number, and work eligibility of the individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of the hiring, the defense under subparagraph (A) shall not be considered to apply with respect to any employment after such 3 working days, except as provided in subclause (II).

“(II) Special rule for failure of verification mechanism.—If such a person or entity in good faith attempts to make an inquiry during such 3 working days in order to qualify for the defense under subparagraph (A) and the verification mechanism has registered that not all inquiries were responded to during such time, the person or entity can make an inquiry until the end of the first subsequent working day in which the verification
mechanism registers no nonresponses and
qualify for such defense.

“(ii) **FAILURE TO OBTAIN**
VERIFICATION.—If the person or entity has
made the inquiry described in clause (i)(I) but
has not received an appropriate verification of
such identity, number, and work eligibility
under such mechanism within the time period
specified under subsection (b)(4)(B) after the
time the verification inquiry was received, the
defense under subparagraph (A) shall not be
considered to apply with respect to any employ-
ment after the end of such time period.”;

(3) in subsection (b)(1)—

(A) by amending the paragraph heading to
read as follows:

“(1) **ATTESTATION.**—”; and

(B) by amending subparagraph (A) to read
as follows:

“(A) **IN GENERAL.**—The person or entity
must attest, under penalty of perjury and on a
form designated or established by the Secretary
of Homeland Security by regulation, that it has
verified that the individual is not an unauthor-
ized alien by obtaining from the individual the
individual’s social security account number and
recording the number on the form (if the indi-
vidual claims to have been issued such a num-
ber), and, if the individual does not attest to
United States citizenship under paragraph (2),
obtaining such identification or authorization
number established by the Department of
Homeland Security for the alien as the Sec-
retary may specify, and recording such number
on the form.”;

(4) in subsection (b)(2), by adding at the end
the following: “The individual must also provide that
individual’s social security account number (if the
individual claims to have been issued such a num-
ber), and, if the individual does not attest to United
States citizenship under this paragraph, such identi-
fication or authorization number established by the
Department of Homeland Security for the alien as
the Secretary of Homeland Security may specify.”;
and

(5) by amending subsection (b)(3) to read as
follows:

“(3) RETENTION OF VERIFICATION FORM AND
VERIFICATION.—

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“(A) IN GENERAL.—After completion of such form in accordance with paragraphs (1) and (2), the person or entity must—

“(i) retain the form and make it available for inspection by officers of the Department of Homeland Security, the Special Counsel for Immigration-Related Unfair Employment Practices, or the Department of Labor during a period beginning on the date of the hiring, recruiting, or referral of the individual and ending—

“(I) in the case of the recruiting or referral for a fee (without hiring) of an individual, three years after the date of the recruiting or referral; and

“(II) in the case of the hiring of an individual, the later of—

“(aa) three years after the date of such hiring; or

“(bb) one year after the date the individual’s employment is terminated; and

“(ii) make an inquiry, as provided in paragraph (4), using the verification system to seek verification of the identity and
employment eligibility of an individual, by
not later than the end of 3 working days
(as specified by the Secretary of Homeland
Security) after the date of the hiring (or
recruitment or referral, as the case may
be).

“(B) Verification.—

“(i) Verification received.—If the
person or other entity receives an appro-
priate verification of an individual’s iden-
tity and work eligibility under the
verification system within the time period
specified, the person or entity shall record
on the form an appropriate code that is
provided under the system and that indi-
cates a final verification of such identity
and work eligibility of the individual.

“(ii) Tentative nonverification
received.—If the person or other entity
receives a tentative nonverification of an
individual’s identity or work eligibility
under the verification system within the
time period specified, the person or entity
shall so inform the individual for whom the
verification is sought. If the individual does
not contest the nonverification within the
time period specified, the nonverification
shall be considered final. The person or en-
tity shall then record on the form an ap-
propriate code which has been provided
under the system to indicate a tentative
nonverification. If the individual does con-
test the nonverification, the individual shall
utilize the process for secondary
verification provided under paragraph (4).
The nonverification will remain tentative
until a final verification or nonverification
is provided by the verification system with-
in the time period specified. In no case
shall an employer terminate employment of
an individual because of a failure of the in-
dividual to have identity and work eligi-
bility confirmed under this section until a
nonverification becomes final. Nothing in
this clause shall apply to a termination of
employment for any reason other than be-
cause of such a failure.

“(iii) Final verification or
nonverification received.—If a final
verification or nonverification is provided
by the verification system regarding an individual, the person or entity shall record on the form an appropriate code that is provided under the system and that indicates a verification or nonverification of identity and work eligibility of the individual.

“(iv) Extension of time.—If the person or other entity in good faith attempts to make an inquiry during such 3 working days and the verification system has registered that not all inquiries were received during such time, the person or entity may make an inquiry in the first subsequent working day in which the verification system registers that it has received all inquiries. If the verification system cannot receive inquiries at all times during a day, the person or entity merely has to assert that the entity attempted to make the inquiry on that day for the previous sentence to apply to such an inquiry, and does not have to provide any additional proof concerning such inquiry.
“(v) Consequences of nonverification.—If the person or other entity has received a final nonverification regarding an individual, the person or entity shall terminate employment (or recruitment or referral) of the individual.”.

(b) Effective Date.—The amendments made by subsection (a) shall take effect 2 years after the date of the enactment of this Act. Retention of form requirements under section 274A(b)(3) of the Immigration and Nationality Act, as in effect before such effective date, shall remain in effect as if this section had not been enacted for forms completed before such effective date.

SEC. 512. EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM.

(a) In General.—Section 274A(b)(4) (8 U.S.C. 1324(a)(4)) is amended to read as follows:

“(4) Employment eligibility verification system.—

“(A) In general.—The Secretary of Homeland Security shall establish a verification system through which the Secretary (or a designee of the Secretary, which may be a non-governmental entity)—
“(i) responds to inquiries made by persons at any time through a toll-free telephone line or other toll-free electronic media concerning an individual’s identity and whether the individual is authorized to be employed; and

“(ii) maintains records of the inquiries that were made, of verifications provided (or not provided), and of the codes provided to inquirers as evidence of their compliance with their obligations under this section.

To the extent practicable, the Secretary shall seek to establish such a system using one or more nongovernmental entities.

“(B) INITIAL RESPONSE.—The verification system shall provide verification or a tentative nonverification of an individual’s identity and employment eligibility within 3 working days of the initial inquiry. If providing verification or tentative nonverification, the verification system shall provide an appropriate code indicating such verification or such nonverification.

“(C) SECONDARY VERIFICATION PROCESS IN CASE OF TENTATIVE NONVERIFICATION.—In
cases of tentative nonverification, the Secretary of Homeland Security shall specify, in consultation with the Commissioner of Social Security, an available secondary verification process to confirm the validity of information provided and to provide a final verification or nonverification within 7 working days after the date of the tentative nonverification. When final verification or nonverification is provided, the verification system shall provide an appropriate code indicating such verification or nonverification.

“(D) Design and Operation of System.—The verification system shall be designed and operated—

“(i) to maximize its reliability and ease of use by persons and other entities consistent with insulating and protecting the privacy and security of the underlying information;

“(ii) to respond to all inquiries made by such persons and entities on whether individuals are authorized to be employed and to register all times when such inquiries are not received;
“(iii) with appropriate administrative, technical, and physical safeguards to pre
vent unauthorized disclosure of personal information; and

“(iv) to have reasonable safeguards against the system’s resulting in unlawful discriminatory practices based on national origin or citizenship status, including—

“(I) the selective or unauthorized use of the system to verify eligibility;

“(II) the use of the system prior to an offer of employment; or

“(III) the exclusion of certain in-
dividuals from consideration for em-
ployment as a result of a perceived likelihood that additional verification will be required, beyond what is re-
quired for most job applicants.

“(E) Responsibilities of the Commis-
sioner of Social Security.—As part of the verification system, the Commissioner of Social Security, in consultation with the entity respon-
sible for administration of the system, shall es-
tablish a reliable, secure method, which, within the time periods specified under subparagraphs
(B) and (C), verifies, for each individual whose
identity and employment eligibility must be con-
confirmed under this section, the individual’s name
and social security account number, the cor-
respondence of the name and number, and
whether the social security number presented is
valid for employment. The Commissioner shall
not disclose or release social security informa-
tion (other than such verification or
nonverification). If, in carrying out this sub-
paragraph, the Commissioner becomes aware of
a suspicious pattern of use of a social security
account number, the Commissioner shall inves-
tigate such suspicious pattern, or shall notify
the Secretary of Homeland Security of it. Noth-
ing in the Social Security Act or any other pro-
vision of law shall be construed to prevent the
Commissioner from so notifying the Secretary.
Upon receipt of such notification, the Secretary
shall investigate in lieu of the Commissioner.

“(F) RESPONSIBILITIES OF THE SEC-
RETARY OF HOMELAND SECURITY.—As part of
the verification system, the Secretary of Home-
land Security, in consultation with the entity
responsible for administration of the system,
shall establish a reliable, secure method, which, within the time periods specified under subparagraphs (B) and (C), compares the name and alien identification or authorization number which are provided in an inquiry against such information maintained by the Secretary in order to validate (or not validate) the information provided, the correspondence of the name and number, and whether the alien is authorized to be employed in the United States.

“(G) Updating information.—The Commissioner of Social Security and the Secretary of Homeland Security shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information, including instances in which it is brought to their attention in the secondary verification process described in subparagraph (C).

“(H) Limitation on use of the verification system and any related systems.—Nothing in this paragraph shall be construed to authorize, directly or indirectly, the issuance or use of national identification cards
or the establishment of a national identification card.

“(I) FEDERAL TORT CLAIMS ACT.—If an individual alleges that the individual would not have been dismissed from a job but for an error of the verification mechanism, the individual may seek compensation only through the mechanism of the Federal Tort Claims Act, and injunctive relief to correct such error. No class action may be brought under this subparagraph.

“(J) PROTECTION FROM LIABILITY FOR ACTIONS TAKEN ON THE BASIS OF INFORMATION.—No person or entity shall be civilly or criminally liable for any action taken in good faith reliance on information provided through the employment eligibility verification mechanism established under this paragraph.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 2 years after the date of the enactment of this Act.
SEC. 513. NOTIFICATION BY COMMISSIONER OF FAILURE TO CORRECT SOCIAL SECURITY INFORMATION.

The Commissioner of Social Security shall promptly notify the Secretary of Homeland Security of the failure of any individual to provide, upon any request of the Commissioner made pursuant to section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)), evidence necessary, under such section—

(1) to establish the age, citizenship, or alien status of the individual;

(2) to establish such individual’s true identity;

or

(3) to determine which (if any) social security account number has previously been assigned to such individual.

SEC. 514. PROTECTION FOR INDIVIDUALS REPORTING IMMIGRATION LAW VIOLATIONS.

Section 274B(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1324b(a)(5)) is amended by adding at the end the following: “Notwithstanding any other provision of law, the rights protected by this paragraph include the right of any individual to report a violation or suspected violation of any immigration law to the Department of Homeland Security or a law enforcement agency.”.
Subtitle C—Miscellaneous

SEC. 521. EXPEDITED EXCLUSION.

Section 235(b)(1)(A) (8 U.S.C. 1225(b)(1)(A)) is amended by striking clauses (i) through (iii) and inserting the following:

“(i) IN GENERAL.—If an immigration officer determines that an alien (other than an alien described in subparagraph (F)) who is arriving in the United States, or who has not been admitted or paroled into the United States and has not been physically present in the United States continuously for the 5-year period immediately prior to the date of the determination of inadmissibility under this paragraph, is inadmissible under section 212(a)(6)(C) or 212(a)(7), the officer shall order the alien removed from the United States without further hearing or review, unless—

“(I) the alien has been charged with a crime; or

“(II) the alien indicates an intention to apply for asylum under section 208 or a fear of persecution and the
officer determines that the alien has
been physically present in the United
States for less than 1 year.

“(ii) CLAIMS FOR ASYLUM.—If an im-
migration officer determines that an alien
(other than an alien described in subpara-
graph (F)) who is arriving in the United
States, or who has not been admitted or
paroled into the United States and has not
been physically present in the United
States continuously for the 5-year period
immediately prior to the date of the deter-
mination of inadmissibility under this
paragraph, is inadmissible under section
212(a)(6)(C) or 212(a)(7), and the alien
indicates either an intention to apply for
asylum under section 208 or a fear of per-
secution, the officer shall refer the alien
for an interview by an asylum officer under
subparagraph (B) if the officer determines
that the alien has been physically present
in the United States for less than 1 year.”.

SEC. 522. ADJUSTMENT OF STATUS FOR CERTAIN ALIENS.

(a) INELIGIBILITY FOR ADJUSTMENT OF STATUS.—

Section 245(c) (8 U.S.C. 1255(c)) is amended by striking
“(other than an immediate relative as defined in section 201(b) or a special immigrant described in section 101(a)(27)(H), (I), (J), or (K))”.

(b) INAPPLICABILITY OF CERTAIN PROVISIONS FOR CERTAIN IMMIGRANTS.—Section 245(k) (8 U.S.C. 1255(k)) is amended to read as follows:

“(k) INAPPLICABILITY OF CERTAIN PROVISIONS FOR CERTAIN IMMIGRANTS.—An alien who is eligible to receive an immigrant visa under paragraph (1), (2), or (3) of section 203(b), as an immediate relative as defined in section 201(b), or, in the case of an alien who is an immigrant described in subparagraph (C), (H), (I), (J), or (K) of section 101(a)(27), under section 203(b)(4), may adjust status pursuant to subsection (a) and notwithstanding paragraphs (2), (7), and (8) of subsection (e), if—

“(1) the alien, on the date of filing an application for adjustment of status, is present in the United States pursuant to a lawful admission; and

“(2) the alien, subsequent to such lawful admission has not, for an aggregate period exceeding 180 days—

“(A) failed to maintain continuously a lawful status;

“(B) engaged in unauthorized employment;

or
“(C) otherwise violated the terms and conditions of the alien’s admission.”.

SEC. 523. TERMINATION OF CONTINUOUS PRESENCE FOR PURPOSES OF CANCELLATION OF REMOVAL UPON COMMISSION OF OFFENSE RENDERING ALIEN INADMISSIBLE OR DEPORTABLE.

(a) In General.—Section 240A(d)(1) (8 U.S.C. 1229b(d)(1)) is amended by striking “referred to in section 212(a)(2)”.

(b) Effective Date.—The amendment made by subsection (a) shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after the date of the enactment of this Act if those proceedings have not resulted in a final administrative order before such date.

SEC. 524. REENTRY OF REMOVED Aliens.

(a) In General.—Section 276(a) (8 U.S.C. 1326(a)) is amended to read as follows:

“Sec. 276. (a) Subject to subsection (b), any alien shall be fined under title 18, United States Code, or imprisoned not more than 2 years, or both, who—

“(1) has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding; and
“(2) thereafter enters, attempts to enter, or is at any time found in, the United States, unless, in the case of an alien previously denied admission and removed, the alien establishes that the alien was not required to obtain from the Secretary of Homeland Security advance consent to reapply for admission under this Act or any prior Act.”.

(b) CRIMINAL PENALTIES FOR REENTRY OF CERTAIN REMOVED ALIENS.—Section 276(b) (8 U.S.C. 1326(b)) is amended—

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

(2) in paragraph (4), by striking “(unless the Secretary of Homeland Security has expressly consented to such alien’s reentry)”.

(c) REENTRY OF ALIENS REMOVED PRIOR TO COMPLETION OF IMPRISONMENT.—Section 276(c) (8 U.S.C. 1326(c)) is amended—

(1) by inserting “(as in effect prior to the effective date of the amendments made by section 305 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996), or removed under section 241(a)(4),” after “242(h)(2)”;

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(2) by striking “(unless the Secretary of Homeland Security has expressly consented to such alien’s reentry)”;

(3) by inserting “or removal” after “time of deportation”; and

(4) by inserting “or removed” after “reentry of deported”.

(d) CHALLENGE TO VALIDITY OF ORDER.—Section 276(d) (8 U.S.C. 1326(d)) is amended—

(1) in the matter preceding paragraph (1), by striking “deportation order” and inserting “deportation or removal order”; and

(2) in paragraph (2), by inserting “or removal” after “deportation”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to criminal proceedings involving aliens who enter, attempt to enter, or are found in the United States, after such date.
SEC. 525. CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF

ALIENS AT IMPROPER TIME OR PLACE,

AVOIDANCE OF EXAMINATION OR INSPECTION, UNLAWFUL PRESENCE, AND MISREPRESENTATION OR CONCEALMENT OF FACTS.

Section 275 (8 U.S.C. 1325) is amended to read as follows:

"CRIMINAL AND CIVIL PENALTIES FOR ENTRY OF ALIENS

AT IMPROPER TIME OR PLACE, AVOIDANCE OF EX-

AMINATION OR INSPECTION, UNLAWFUL PRESENCE,

AND MISREPRESENTATION OR CONCEALMENT OF

FACTS

"SEC. 275. (a) ENTRY AT IMPROPER TIME OR

PLACE; AVOIDANCE OF EXAMINATION OR INSPECTION;

UNLAWFUL PRESENCE; MISREPRESENTATION OR CON-

CEALMENT OF FACTS.—Any alien who—

“(1) enters or attempts to enter the United

States at any time or place other than as designated

by immigration officers;

“(2) eludes examination or inspection by immi-

gration officers;

“(3) is knowingly unlawfully present in the

United States for an aggregate period of more than

180 days; or

“(4) attempts to enter or obtains entry to the

United States by a willfully false or misleading rep-
resentation or the willful concealment of a material fact,
shall, for the first commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 2 years, or both, and, for a subsequent commission of any such offense, be fined under title 18, United States Code, or imprisoned not more than 10 years, or both.

“(b) Improper Time or Place; Civil Penalties.—Any alien who is apprehended while entering (or attempting to enter) the United States at a time or place other than as designated by immigration officers shall be subject to a civil penalty of—

“(1) at least $100 and not more than $10,000 for each such entry (or attempted entry); or

“(2) three times the amount specified in paragraph (1) in the case of an alien who has been previously subject to a civil penalty under this subsection.

Civil penalties under this subsection are in addition to, and not in lieu of, any criminal or other civil penalties that may be imposed.

“(c) Marriage Fraud.—An individual who knowingly enters into a marriage for the purpose of evading any provision of the immigration laws shall be fined not
more than $1,000,000, imprisoned not more than 15 years, or both.

“(d) IMMIGRATION-RELATED ENTREPRENEURSHIP FRAUD.—Any individual who knowingly established a commercial enterprise for the purpose of evading any provision of the immigration laws shall be fined under title 18, United States Code, or imprisoned not more than 15 years, or both.”.

SEC. 526. COMMUNICATION BETWEEN GOVERNMENT AGENCIES AND THE DEPARTMENT OF HOMELAND SECURITY.

Section 642 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1373) is amended by adding at the end the following:

“(d) ENFORCEMENT.—

“(1) INELIGIBILITY FOR FEDERAL LAW ENFORCEMENT AID.—Upon a determination that any person, or any Federal, State, or local government agency or entity, is in violation of subsection (a) or (b), the Attorney General shall not provide to that person, agency, or entity any grant amount pursuant to any law enforcement grant program carried out by any element of the Department of Justice, including the program under section 241(i) of the Immigration and Nationality Act (8 U.S.C. 241(i)), or
pursuant to any grant program authorized under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.), and shall ensure that no such grant amounts are provided, directly or indirectly, to such person, agency, or entity. In the case of grant amounts that otherwise would be provided to such person, agency, or entity pursuant to a formula, such amounts shall be reallocated among eligible recipients.

“(2) Violations by government officials.—In any case in which a Federal, State, or local government official is in violation of subsection (a) or (b), the government agency or entity that employs (or, at the time of the violation, employed) the official shall be subject to the sanction under paragraph (1).

“(3) Duration.—The sanction under paragraph (1) shall remain in effect until the Secretary of Homeland Security determines that the person, agency, or entity has ceased violating subsections (a) and (b).”.

SEC. 527. EXCEPTION TO REMOVAL FOR CERTAIN ALIENS.

(a)(1) Section 214(o) (8 U.S.C. 1184(o)) (as redesignated by section 204 of this Act) is amended by adding at the end the following new paragraph:
“(4) No alien shall be eligible for admission to the United States under section 101(a)(15)(T) if there is a substantial reason to believe that the alien voluntarily came to the United States, except that if the alien is or has been a victim of a severe form of trafficking in the form of sex trafficking, the alien shall be eligible for admission under such section unless the alien knew or reasonably should have known when coming to the United States that the alien would be expected to perform commercial sex acts.”.

(2) Section 245(l) (8 U.S.C. 1255(l)), as added by section 107(f) of Public Law 106–386, is amended—

(A) in paragraph (1)(C)(i), by striking “or” at the end and inserting “and”;

(B) by redesignating—

(i) paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) the second paragraph (2) as paragraph (3);

(C) in paragraph (2)(B), by striking “(3), (10)(C), and (10)(E)), if the activities rendering the alien inadmissible under the provision were caused by, or were incident to,” and inserting “(2), (3), (8), (9)(A), (10)(C), (10)(D), and (10)(E)), if the activi-
ties rendering the alien inadmissible under the provision were caused by”; and

(D) by amending paragraph (5) (as so redesignated) to read as follows:

“(5) Upon the approval of adjustment of status under paragraph (1), the Secretary of Homeland Security shall record the alien’s lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current, unless the number of remaining visas authorized to be issued under section 203(b)(4) for such year is zero, in which case such reductions shall not be made.”.

(b)(1) Section 101(a)(15)(U)(iii) (8 U.S.C. 1101(a)(15)(U)(iii)) is amended to read as follows:

“(iii) the criminal activity referred to in this clause is that involving 1 or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; incest; domestic violence, sexual assault; abusive sexual contact; sexual exploitation; female genital mutilation; or attempt or conspiracy to commit any of the above mentioned crimes; or”.

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(2) Section 204(a)(1)(C) (8 U.S.C. 1154(a)(1)(C)) is amended by inserting “directly” before “connected”.

(3) Section 214(p)(1) (8 U.S.C. 1184(p)(1)) (as redesignated by section 204 of this Act) is amended by striking “This certification may also be provided by an official of the Department of Homeland Security whose ability to provide such certification is not limited to information concerning immigration violations.”.

(4) Section 237(a)(1)(H) (8 U.S.C. 1227(a)(1)(H)) is amended—

   (A) by striking clause (ii);
   (B) in clause (i), by striking “(I)”; and
   (C) by redesignating subclause (II) as clause (ii).

(5) Section 240A (8 U.S.C. 1229b) is amended—

   (A) in subsection (b)(2)(A)(ii), by striking “, and the issuance of a charging document for removal proceedings shall not toll the 3-year period of continuous physical presence in the United States”;
   (B) by amending subsection (b)(2)(A)(iv) to read as follows:

      “(iv) the alien is not inadmissible under paragraph (2), (3), (8), (9)(A), (10)(C), (10)(D), or (10)(E) of section 212(a), is not deportable under paragraph
(1)(E), (1)(G), or (2) through (4) of section 237(a) (except in a case described in section 237(a)(7) where the Secretary of Homeland Security exercises discretion to grant a waiver), and has not been convicted of an aggravated felony; and”; and

(C) in subsection (b)(2)(B)—

(i) by inserting “direct” before “connection between the absence”;  

(ii) by inserting “directly” before “connected to the battering or extreme”; and

(iii) in the third sentence, by inserting “battery or cruelty-related” before “absences or portions of the absences”;  

(iv) in subsection (b)(2)(C), by inserting “directly” before “connected”;  

(v) in subsection (b)(4)(A), by striking “shall” and inserting “may”; and

(vi) in subsection (d)(1), by striking “except in the case of an alien who applies for cancellation of removal under subsection (b)(2),”.

(6) Section 245 (8 U.S.C. 1255) is amended by redesignating the subsection (l) that was added by section 1513(f) of Public Law 106–386 as subsection (m) and in such redesignated subsection—
(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “section 212(a)(3)(E), unless the Attorney General determines based on affirmative evidence” and inserting “paragraph (2), (3), (8), (9)(A), (10)(C), (10)(D), or (10)(E) of section 212(a), unless the Attorney General determines”;

(ii) by striking “and” at the end of subparagraph (A);

(iii) by striking subparagraph (B) and inserting the following:

“(B) the alien has, throughout such period, been a person of good moral character; and

“(C) in the opinion of the Secretary of Homeland Security, the alien or the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence, would suffer extreme hardship.”;

(B) in paragraph (2), by striking “or unless an official involved in the investigation or prosecution certifies that the absence was otherwise justified”; and
(C) by amending paragraph (4) to read as follows:

“(4) Upon the approval of adjustment of status under paragraph (1) or (3), the Secretary of Homeland Security shall record the alien’s lawful admission for permanent residence as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(4) for the fiscal year then current, unless the number of remaining visas authorized to be issued under section 203(b)(4) for such year is zero, in which case such reductions shall not be made.”.

SEC. 528. VOLUNTARY DEPARTURE.

(a) IN GENERAL.—Section 240B (8 U.S.C. 1229c) is amended to read as follows:

“VOLUNTARY DEPARTURE

“SEC. 240B. (a) IN LIEU OF PROCEEDINGS.—The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of being subject to proceedings under section 240 and in lieu of applying for another form of relief from removal, if the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a). Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 90 days
and cannot be extended. The Secretary of Homeland Security shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(b) Prior to Scheduling Merits Hearing.—
The Secretary of Homeland Security may permit an alien voluntarily to depart the United States at the alien’s own expense under this subsection prior to the scheduling of the first merits hearing, in lieu of applying for another form of relief from removal, if the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a). Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 60 days and cannot be extended. The Secretary shall require an alien permitted to depart voluntarily under this subsection to post a voluntary departure bond, in an amount necessary to ensure that the alien will depart, to be surrendered upon proof that the alien has departed the United States within the time specified.

“(c) Once First Merits Hearing Scheduled.—
“(1) In general.—Once the first merits hearing has been scheduled under section 240, the Secretary of Homeland Security may permit an alien
voluntarily to depart the United States at the alien’s own expense under this subsection, in lieu of pursing another form of relief from removal, if the immigration judge enters an order granting voluntary departure in lieu of removal and finds that—

“(A) the alien has been physically present in the United States for a period of at least one year immediately preceding the date the notice to appear was served under section 239(a);

“(B) the alien is, and has been, a person of good moral character for at least 5 years immediately preceding the alien’s application for voluntary departure;

“(C) the alien is not deportable under paragraph (2)(A)(iii) or (4)(B) of section 237(a); and

“(D) the alien has established by clear and convincing evidence that the alien has the means to depart the United States and intends to do so.

“(2) PERIOD.—Permission to depart voluntarily under this subsection shall not be valid for a period exceeding 30 days and cannot be extended.

“(3) BOND.—The Secretary of Homeland Security shall require an alien permitted to depart volun-
tarily under this subsection to post a voluntary de-
parture bond, in an amount necessary to ensure that
the alien will depart, to be surrendered upon proof
that the alien has departed the United States within
the time specified.

“(d) ALIENS NOT ELIGIBLE.—The Secretary of
Homeland Security shall not permit an alien to depart vol-
untarily under this section if the alien was previously per-
mitted to depart voluntarily under section 244(e) or this
section, or to voluntarily return, at any time.

“(e) CIVIL PENALTY FOR FAILURE TO DEPART.—If
an alien is permitted to depart voluntarily under this sec-
tion and fails voluntarily to depart the United States with-
in the time period specified, the alien shall be subject to
a civil penalty of not less than $1,000 and not more than
$5,000, and be ineligible for a period of 10 years for any
further relief under this section and sections 240A, 245,
248, and 249. The order permitting the alien to depart
voluntarily shall inform the alien of the penalties under
this subsection.

“(f) ADDITIONAL CONDITIONS.—The Secretary of
Homeland Security may by regulation limit eligibility for
voluntary departure under this section for any class or
classes of aliens. No court may review any regulation
issued under this subsection.
“(g) Treatment of Aliens Arriving in the United States.—In the case of an alien who is arriving in the United States and with respect to whom proceedings under section 240 are (or would otherwise be) initiated at the time of such alien’s arrival, subsections (a) through (c) shall not apply. Nothing in this paragraph shall be construed as preventing such an alien from withdrawing the application for admission in accordance with section 235(a)(4).

“(h) Review.—There shall be no administrative or judicial review of a denial of a request for an order of voluntary departure. No court or agency shall order a stay of an alien’s removal pending consideration of any claim with respect to voluntary departure. The order permitting the alien to depart voluntarily shall inform the alien that the alien has no right to appeal any issue relating to the removal proceeding.”.

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to aliens who are in proceedings under the Immigration and Nationality Act on or after such date if those proceedings have not resulted in a final administrative order before such date.
SEC. 529. CANCELLATION OF REMOVAL.

Section 240A(c) (8 U.S.C. 1229b(c)) is amended by adding at the end the following:

“(7) An alien who is inadmissible under section 212(a)(9)(B)(i).”.

SEC. 530. EXPEDITED REMOVAL OF CRIMINAL ALIENS.

(a) In General.—Section 238 (8 U.S.C. 1228) is amended—

(1) by amending the section heading to read as follows: “EXPEDITED REMOVAL OF CRIMINAL ALIENS”;

(2) in subsection (a), by amending the subsection heading to read as follows: “EXPEDITED REMOVAL FROM CORRECTIONAL FACILITIES.—”;

(3) in subsection (b), by amending the subsection heading to read as follows: “REMOVAL OF CRIMINAL ALIENS.—”;

(4) in subsection (b), by striking paragraphs (1) and (2) and inserting the following:

“(1) In General.—The Secretary may, in the case of an alien described in paragraph (2), determine the deportability of such alien and issue an order of removal pursuant to the procedures set forth in this subsection or section 240.

“(2) Aliens Described.—An alien is described in this paragraph if the alien, whether or not
admitted into the United States, was convicted of any criminal offense described in subparagraph (A)(iii), (C), or (D) of section 237(a)(2).”;

(5) in the first subsection (e) (relating to presumption of deportability), by striking “convicted of an aggravated felony” and inserting “described in paragraph (b)(2)”;

(6) by redesignating the second subsection (e) (relating to judicial removal) as subsection (d); and

(7) in subsection (d)(5) (as so redesignated), and by striking “, who is deportable under this Act.”.

(b) LIMIT ON INJUNCTIVE RELIEF.—Section 242(f)(2) (8 U.S.C. 1252(f)(2)) is amended by inserting “or stay, whether temporarily or otherwise,” after “enjoin”.

SEC. 531. SUBJECT TO THE JURISDICTION DEFINED.

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

“(3) The term ‘subject to the jurisdiction of the United States’ means that, at the time of birth in the United States, the mother or the father of the child, excluding aliens classified under subparagraph (A) or (G) of section 101(a)(15), resided lawfully therein.”.
SEC. 532. CLAIMS FOR SERVICES PERFORMED BY UNAUTHORIZED ALIENS.

(a) In General.—Title II (8 U.S.C. 1151 et seq.) is amended by inserting after section 271 the following: "CLAIMS ARISING FROM SERVICES OF ALIENS WITHOUT WORK AUTHORIZATION" "Sec. 271A. (a) In General.—It shall be unlawful for any person, entity or enterprise, including any employer, contractor, employee, or independent contractor, to claim any deduction, credit, benefit, subsidy, rebate, grant or other payment otherwise authorized by any provision of the United States Code, including the Internal Revenue Code, derived from compensation in any form for labor or personal services provided in the United States that was paid to or on behalf of a person, knowingly or in reckless disregard of the fact that such person was, at the time such labor or services were performed, an unauthorized alien (as defined in section 274A(h)(3))."

(b) Enforcement.—

"(1) Where any claim described in subsection (a) made by a person, entity, or enterprise amount in aggregate to $50,000 or more, a right of action shall exist for a State or local government agency or a private party to recover such sums on behalf of the United States."
“(2) A complaint described in subparagraph (i) shall be made in writing under oath or affirmation to the Chief Administrative Hearing Officer of the Executive Office for Immigration Review.

“(3) No complaint may be filed in which all alleged violations occurred more than two years prior to the filing of the complaint.

“(4) A prevailing private party acting on behalf of the United States shall be awarded 25 percent from any sums recovered.

“(5) Adjudication of a complaint shall proceed under the provisions of the Administrative Procedure Act (5 U.S.C. 551 et seq.).

“(6) The administrative law judge may grant the prevailing party reasonable attorney’s fees if the judge determines that the opposing party’s argument was without reasonable basis in law and fact.”.

(b) CLERICAL AMENDMENT.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 270 the following:

“270A. Claims arising from services of aliens without work authorization.”.

SEC. 533. RESTRICTION ON WARRANTLESS ENTRY.

(a) IN GENERAL.—Section 287(e) (8 U.S.C. 1357(e)) is amended by inserting “that is an active participant in an employment verification system approved by the Sec-
retary of Homeland Security’’ after ‘‘farm or other out-
door agricultural operation’’.

(b) Effective Date.—The amendment made by
subsection (a) shall take effect on the date described in
section 511(b).

TITLE VI—ELIMINATING EXCESSIVE REVIEW AND DILATORY
AND ABUSIVE TACTICS BY
ALIENS IN REMOVAL PRO-
CEEDINGS

SEC. 601. FRIVOLOUS APPLICATIONS.

(a) In General.—Paragraph (6) of section 208(d)
(8 U.S.C. 1158(d)) is amended by adding at the end the
following new sentence: ‘‘As used in this section, the term
‘frivolous application’ means an application that lacks a
reasonably arguable basis either in law or in fact. If an
alien withdraws an application for asylum and pursues an-
other benefit or form of relief under this Act, the alien
shall bear the burden of proving by clear and convincing
evidence, in the adjudication respecting such other benefit
or form of relief, that such asylum application was not
a frivolous application. If the alien fails to carry such bur-
den, the alien shall be permanently ineligible for any ben-
efit under this Act.’’.
(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for asylum pending on or after such date if the application has not resulted in a final administrative order before such date.

SEC. 602. CONTINUANCES; CHANGE OF VENUE.

(a) In General.—Section 240(b)(1) (8 U.S.C. 1229a(b)(1)) is amended by adding at the end the following:

"The immigration judge may not grant a continuance to permit an alien to become eligible for relief under any provision of law. In proceedings under this section or under section 236, the immigration judge may not grant a change of venue for an alien who has not been inspected and admitted or paroled into the United States. For all other aliens, the immigration judge may grant a change of venue only if the alien demonstrates that the alien cannot obtain a fair proceeding in the current venue."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to continuances and changes of venue sought after such date.

SEC. 603. BURDEN OF PROOF IN ASYLUM PROCEEDINGS.

(a) In General.—Section 208(b)(1) (8 U.S.C. 1158(b)(1)) is amended—
(1) by striking "(1) In general.—The Attorney General” and inserting the following:

“(1) IF ALIEN IS A REFUGEE.—

“(A) IN GENERAL.—The Secretary of Homeland Security or the Attorney General”;

and

(2) by adding at the end the following:

“(B) BURDEN OF PROOF.—The burden of proof is on the applicant for asylum to establish that he or she is a refugee within the meaning of section 101(a)(42). The testimony of the applicant, if credible, may be sufficient to sustain such burden without corroboration. Where it is reasonable to expect corroborating evidence for certain alleged facts pertaining to the specifics of an alien’s claim for asylum, such evidence must be provided unless a reasonable explanation is given as to why such information is not presented.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications for asylum pending on or after such date if the application has not resulted in a final administrative order before such date.
SEC. 604. REVIEW OF CONVENTION AGAINST TORTURE GRANTS AND DENIALS.

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

“(4) ELIMINATION OF REVIEW.—A determination as to whether the removal of an alien to any country should be withheld or deferred under the United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment shall be made by the Secretary of Homeland Security. There shall be no administrative or judicial review of a determination of the Secretary under this section.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to applications pending on or after such date if the application has not resulted in a final administrative order before such date.

SEC. 605. TIME LIMIT FOR DECISIONS IN ADMINISTRATIVE APPEALS.

(a) IN GENERAL.—Chapter 9 of title II of the Act is amended by inserting after section 294 the following new section:
RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

"Sec. 295. (a) Deadline.—A decision in any administrative appeal from a decision of an immigration judge shall be issued not later than 180 days after the appeal is filed. If the appeal is not decided before such deadline, the decision of the immigration judge shall be final, unless the Attorney General certifies the decision for review.

"(b) Standard of Review.—In any administrative appeal from a decision of an immigration judge, such judge’s determinations of factual issues, including findings as to the credibility of testimony, shall be accepted unless they are clearly erroneous."

(b) Clerical Amendment.—The table of contents of the Immigration and Nationality Act is amended by inserting after the item relating to section 294 the following:

"295. Rules for decisions in administrative appeals."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to decisions appealed on or after such date.

SEC. 606. REVIEW OF ASYLUM CLAIMS.

(a) Judicial Review.—

(1) In general.—Section 208 (8 U.S.C. 1158) is amended by adding at the end the following:
“(e) LIMITATION ON JUDICIAL REVIEW.—No court shall have jurisdiction to review any decision of the Secretary of Homeland Security or the Attorney General under this section.”.

(2) CONFORMING AMENDMENTS.—Section 242 (8 U.S.C 1252) is amended—

(A) in subsection (a)(2)(B)(i), by inserting “208,” before “212(h),”;

(B) in subsection (a)(2)(B)(ii), by striking “General,” and all that follows through the period at the end and inserting “General.”; and

(C) in subsection (b)(4)—

(i) in subparagraph (B), by adding “and” at the end;

(ii) in subparagraph (C), by striking “, and” at the end and inserting a period;

and

(iii) by striking subparagraph (D).

(b) LIMITATION ON ASYLUM OFFICE.—Section 208(d) (8 U.S.C. 1158(d)) is amended by adding at the end the following:

“(8) OTHER PROCEDURAL MATTERS.—

“(A) DETERMINATION OF LAWFUL STATUS.—
“(i) IN GENERAL.—In the case of an alien who is physically present in the United States and who has applied to the Secretary of Homeland Security for asylum, the Secretary shall determine whether the alien is inadmissible or deportable before the Secretary prepares to schedule the applicant for an asylum interview. If the Secretary determines that the alien is not inadmissible or deportable, the Secretary shall adjudicate the asylum application and render a decision granting or denying asylum. If the Secretary determines that the alien is inadmissible or deportable before the Secretary prepares to schedule an interview, the Secretary shall place the alien in removal proceedings without adjudicating the asylum application. The alien may then pursue such application in such proceedings.

“(ii) REVIEW OF DETERMINATIONS.—If an alien’s asylum application has been denied by the Secretary, in any administrative or judicial appeal from such denial, the Secretary’s determinations of factual
issues, including findings as to the credibility of testimony, shall be accepted into evidence.

“(B) Recording of interviews.—The Secretary shall record asylum interviews and include any such recording in the applicant’s file and record of proceedings.”.

(c) Effective date.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to decisions rendered on or after such date.

**SEC. 607. JUDICIAL REVIEW.**

(a) Orders against criminal aliens.—Subparagraph (C) of section 242(a)(2) (8 U.S.C. 1252(a)(2)) is amended—

(1) by striking “no court shall have jurisdiction” and inserting “including section 2241 of title 28, United States Code, no court shall have jurisdiction, except as provided in this section,”; and

(2) by adding at the end the following: “Such review shall be limited to constitutional challenges or statutory claims involving pure issues of law,”.

(b) Venue for review of orders of removal.—Section 242(b)(2) (8 U.S.C. 1252(b)(2)) is amended by striking “with the court of appeals for the judicial circuit
in which the immigration judge completed the pro-
ceedings.” and inserting “with the United States Court
of Appeals for the District of Columbia Circuit.”.

(c) FEDERAL CIRCUIT COURT APPEALS.—

(1) IN GENERAL.—Title I of the Act is amend-
ed by inserting after section 105 the following:

“RULES FOR DECISIONS IN ADMINISTRATIVE APPEALS

“Sec. 106.

Notwithstanding any other provision of law, the final
order of a district court of the United States in any pro-
ceeding under this Act, or under any other immigration
law of the United States, shall be subject to review, on
appeal, by the United States Court of Appeals for the Dis-
trict of Columbia Circuit. There shall be no right of appeal
in such proceedings to any other circuit court of appeals.
The law applied by the Supreme Court, and the United
States Court of Appeals for the District of Columbia Cir-
cuit, shall be regarded as the rule of decision in any pro-
ceeding under this Act.”.

(2) CLERICAL AMENDMENT.—The table of con-
tents of the Immigration and Nationality Act is
amended by inserting after the item relating to sec-
tion 105 the following:

“106. Federal circuit court appeals.”.
TITLE VII—EMERGENCY IMMIGRATION WORKLOAD REDUCTION

SEC. 701. CONGRESSIONAL FINDINGS.

The Congress finds as follows:

(1) The effective establishment and organization of the Directorate of Border and Transportation Security of the Department of Homeland Security is imperative if the Directorate is to carry out the immigration enforcement and immigration services responsibilities delegated to it by the Congress in the manner expected by the American people.

(2) The effective implementation of these duties will not be achieved without an unacceptable compromise to the security interests of the United States unless certain visa programs are temporarily suspended, and other material assistance is provided to law enforcement agencies and other entities that support the immigration enforcement functions of the Directorate, until such time as the Secretary of Homeland Security can make the certifications to Congress required in section 708.

(3) Such certifications, taken together, will establish the effective operational transfer of immigration enforcement functions to the new Directorate.
SEC. 702. TEMPORARY SUSPENSION OF VISA WAIVER PROGRAM.

The admission of aliens to the United States under the provisions of section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is suspended.

SEC. 703. TEMPORARY SUSPENSION OF ADJUSTMENT OF STATUS APPLICATIONS.


(b) The authority of the Secretary of Homeland Security to adjust the status of any alien to that of an alien lawfully admitted for permanent residence under sections 240A or 245 of the Immigration and Nationality Act (8 U.S.C. 1229b, 1255) is suspended.

(c) The suspensions described in subsections (a) and (b) shall include the suspension of acceptance for filing of applications for adjustment of status described in such subsection.

(d) Subsections (b) and (c) shall not apply to aliens described in sections 101(a)(15)(K) or 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K), 1101(a)(42)).
SEC. 704. TEMPORARY SUSPENSION OF RENEWALS OF TEMPORARY PROTECTED STATUS.  

The authority of the Secretary of Homeland Security to renew or extend any designation made under subparagraph (B) or (C) of section 244(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1254(b)(1)) is suspended.

SEC. 705. CURTAILMENT OF VISAS FOR COUNTRIES DENYING OR DELAYING REPATRIATION OF NATIONALS.

(a) Public Listing of Aliens With No Significant Likelihood of Removal.—The Secretary of Homeland Security shall establish and maintain a public listing of every alien who is subject to a final order of removal and with respect to whom the Secretary or any Federal court has determined that there is no significant likelihood of removal in the reasonably foreseeable future due to the refusal, or unreasonable delay, of all countries designated by the alien or under this section to receive the alien. The public listing shall indicate whether such alien has been released from federal custody, and the city and state in which such alien resides.

(b) Discontinuation of Visas.—In the case of any foreign state for which 24 or more of the citizens, subjects, or nationals of such state appear on the public listing described in paragraph (a), such foreign state shall be deemed to have denied or unreasonably delayed the accept-
ance of such aliens, and the Secretary of Homeland Secu-

rity shall make the notification to the Secretary of State

prescribed in section 243(d) of the Immigration and Na-

tionality Act (8 U.S.C. 1253(d)). The Secretary of State

shall accordingly discontinue the issuance of non-immi-

grant visas to citizens, subjects, or nationals of such for-

eign state.

SEC. 706. WAIVER OF SUSPENSIONS.

The Secretary of Homeland Security may in his or

her discretion waive, on an individual case-by-case basis,

the suspension of applications under sections 702, 703,

or 704, if the beneficiaries of such applications are not

inadmissible under section 212(a) of the Immigration and

Nationality Act (8 U.S.C. 1182(a)) or deportable under

section 237(a) of such Act (8 U.S.C 1227).

SEC. 707. TERMINATION OF TEMPORARY SUSPENSIONS.

The emergency suspension of issuance of non-

immigrant visas, and of admissions to the United States,

as mandated by sections 702 through 704, shall terminate

one week after the certification by the Secretary of Home-

land Security to the Congress that the following conditions

are satisfied:

(1) The integrated entry and exit data system

required by the Immigration and Naturalization

Service Data Management Improvement Act of 2000
(Public Law 106–215), including the requirements added by section 302(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173), is fully operational at all ports of entry.

(2) The system of machine-readable tamper-resistant visas and other alien travel and entry documents described in section 202 of this Act is fully implemented at all ports of entry.

(3) The Department of Homeland Security has the operational capability to take into custody and remove from the United States any alien described in section 237(a) of the Immigration and Nationality Act (8 U.S.C. 1227(a)) who has been lawfully detained by a State or local law enforcement agency, and such agency has notified the Department of such detention.

(4) The data system for the registration of aliens under chapter 7 of title II of the Immigration and Nationality Act (8 U.S.C. 261 et seq.) is fully operational and—

(A) is fully compliant with the data system integration and interoperability standards enacted in section 202(a) of the Enhanced Border
Security and Visa Entry Reform Act of 2002
(Public Law 107–173);

(B) ensures the entry of all registrations
made in accordance with section 221(b) of the
Immigration and Nationality Act (8 U.S.C.
1201(b)) into the registration system at the
time of the relevant visa application;

(C) ensures that all other registrations
made under procedures required by section 264
of such Act (8 U.S.C. 1304) are entered into
the data system within 72 hours of receipt from
the alien of an approved form of registration;
and

(D) ensures that all notices of change of
address required by section 265 of such Act (8
U.S.C. 1305) are entered in the data system
within 5 working days of receipt from the alien
of an approved change of address form.

(5) A program for the random audit of the
backlog of applications for changes in immigration
status by aliens present in the United States existing on the effective date of this Act has been fully
implemented by the Department of Homeland Secu-


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(6) The program described in paragraph (5) reliably indicates that the estimated incidence of fraud or false statements is no more than three percent of all approved applications and a program is in place to ensure that all benefits granted on the basis of such fraud or false statements are revoked in a timely manner.

(7) The foreign student monitoring system described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (8 U.S.C. 1372), as amended and expanded by sections 501 and 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173), is fully operational, and no educational institution certified to receive nonimmigrant students under subparagraph (F), (M), or (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) knowingly registers or admits aliens present in the United States in violation of law.

(8) The number of aliens removed from the United States, during the 4 month period preceding the month in which the certification under this section is executed, was at least 25 percent higher than in the comparable period of the previous year.
(9) All reports and plans, and all operational transfers of functions, required under title IV of the Homeland Security Act of 2002 (6 U.S.C. 201 et seq.) have been successfully performed and implemented to the extent required by law as of the certification date.

(10) The annual report required by section 205(b) of the American Competitiveness in the Twenty-First Century Act of 2000 (8 U.S.C.1574(b)), for the fiscal year preceding the date of the certification, has been submitted to the Congress.

(11) Process changes described in section 205(b)(2)(C)(vi) of the American Competitiveness in the Twenty-First Century Act of 2000 (8 U.S.C. 1574(b)(2)(C)(vi)) have been implemented and are substantially operational.

SEC. 708. EFFECTIVE DATE.

The provisions of this title shall take effect at midnight on the first Saturday that occurs two weeks after the date of enactment of this Act.
TITLE VIII—REFORMING LEGAL IMMIGRATION
Subtitle A—Promotion of Citizenship

SEC. 801. CHANGES IN NATURALIZATION REQUIREMENTS.

(a) Study of Naturalization Examination.—

(1) In general.—The Chief of the Office of Citizenship of the Department of Homeland Security shall conduct a study of the scope and nature of the examination of applicants for naturalization. The study shall analyze the value of the questions on the exam, and recommend questions that ought to be eliminated and new questions that ought to be included. The study shall recommend new questions to be included that gauge an applicant’s understanding of the principles in the oath of allegiance required under section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a)).

(2) Civics course.—The study shall also analyze and make recommendations as to whether applicants for naturalization ought to be required to complete a course in civic education.

(3) Report.—Not later than 6 months after the date of the enactment of this Act, the Chief of the Office of Citizenship for the Bureau of Citizen-
ship and Immigration Services of the Department of Homeland Security shall submit a report to the Congress containing the results of the study conducted under this subsection. The report shall also contain a proposed revised examination to be administered to applicants for naturalization that reflects the recommendations developed through the study. In developing the proposed examination, the Chief of the Office of Citizenship shall consult with interested groups specializing in immigration issues, civics organizations, patriotic associations, and veterans’ groups.

(b) REQUIRING APPLICANTS FOR NATURALIZATION TO UNDERSTAND OATH.—

(1) REQUIREMENTS FOR NATURALIZATION.—

Section 312(a) (8 U.S.C. 1423(a)) is amended—

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

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) an understanding of the oath of allegiance required under section 337(a).”.

(2) EXAMINATION.—Section 332(a) (8 U.S.C. 1443(a)) is amended by inserting before “ability”
the following: “understanding of the oath of allegiance required under section 337(a),”.

(c) CONTENTS OF CERTIFICATE OF NATURALIZATION.—Section 338 (8 U.S.C. 1449) is amended by inserting before “and the seal” the following: “the oath of allegiance required under section 337(a); a statement that the applicant recognizes the privileges and responsibilities of citizenship;”.

SEC. 802. OATH OF RENUNCIATION AND ALLEGIANCE.

Section 337(a) of the Immigration and Nationality Act (8 U.S.C. 1448(a)) is amended by inserting after “the child is unable to understand its meaning.” the following: “The oath referred to in this section shall read the same as the oath provided for in paragraph (a) or (b) of part 337.1 of title 8, Code of Federal Regulations, as in effect on September 1, 2003.”.

Subtitle B—Treatment of Nationals of State Sponsors of Terrorism

SEC. 811. TREATMENT OF NATIONALS OF STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—

(1) AMENDMENT.—Chapter 9 of title II, as amended by section 265 of this Act, is further amended by inserting after section 295 the following new section:
“TREATMENT OF NATIONALS OF STATE SPONSORS OF TERRORISM

“Sec. 296. (a) In General.—No nonimmigrant or immigrant visa may be issued, or nonimmigrant or immigrant status otherwise provided, other than a visa or status described in section 101(a)(15)(A) or 201(b)(2)(A)(i), to any alien who is a national of, or residing in, a country that is determined to be a state sponsor of terrorism, except the Secretary of Homeland Security (or the consular officer, in the case of an application for a visa) may, on a case-by-case basis, waive the application of this subsection in the case of an alien who—

“(1) requires examination or treatment for an emergency medical condition (as defined in section 562(d) of the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (8 U.S.C. 1396(d))); or

“(2) is eligible for admission as a refugee under section 207 or for asylum under section 208.

“(b) State Sponsor of Terrorism Defined.—

“(1) In General.—In this section, the term ‘state sponsor of terrorism’ means any country the government of which has been determined by the Secretary of State under any of the laws specified in paragraph (2) to have repeatedly provided support

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for acts of terrorism. Such term shall apply to a
country beginning on the date on which such deter-
mination takes effect and ending on the date on
which such determination is withdrawn, terminated,
revoked, or otherwise ceases to be effective.

“(2) LAWS UNDER WHICH DETERMINATIONS
WERE MADE.—The laws specified in this paragraph
are the following:

“(A) Section 6(j)(1)(A) of the Export Ad-
ministration Act of 1979 (or successor statute).

“(B) Section 40(d) of the Arms Export
Control Act.

“(C) Section 620A(a) of the Foreign As-
sistance Act of 1961.”.

(2) CLERICAL AMENDMENT.—The table of con-
tents of the Immigration and Nationality Act is
amended by inserting after the item relating to sec-
tion 295 the following:

“296. Treatment of nationals of state sponsors of terrorism.”.

(3) EFFECTIVE DATE.—The amendments made
by this subsection shall take effect on the date of the
enactment of this Act and shall apply to visas
issued, or status provided, on and after such date.

(b) APPLICATION TO ADMITTED NONIMMIGRANTS.—

In the case of a nonimmigrant alien lawfully admitted into
the United States who would have been ineligible to be
granted such nonimmigrant status if the amendments made by subsection (a) had been in effect on the date on which such status was granted, notwithstanding any other provision of law, the period of authorized admission as such a nonimmigrant shall terminate 60 days after the date of the enactment of this Act, unless the Secretary of Homeland Security makes an individualized determination described in section 296(a) of the Immigration and Nationality Act (as added by subsection (a)) with respect to the alien.

(c) REPEAL.—Section 306 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is repealed.

Subtitle C—Legal Immigration Reform

SEC. 821. EXTENDED FAMILY PREFERENCE CATEGORIES.

(a) IN GENERAL.—Section 203(a) (8 U.S.C. 1153(a)) is amended to read as follows:

“(a) PREFERENCE ALLOCATION FOR FAMILY-SUPPORTED IMMIGRANTS.—Qualified immigrants who are the spouses or children of an alien lawfully admitted for permanent residence shall be subject to the worldwide level specified in section 201(c) for family-sponsored immigrants, and shall be allocated visas in a number not to exceed such level.”.
(b) Worldwide Level of Family-Sponsored Immigrants.—Section 201(e) (8 U.S.C. 1151(e)) is amended—

(1) by striking “480,000” and inserting “87,934”; and

(2) by striking “226,000” and inserting “87,934”.

(c) Numerical Limitation to Any Single Foreign State.—Section 202 (8 U.S.C. 1152) is amended—

(1) in subsection (a)(4), by striking subparagraph (A) and inserting the following:

“(A) 75 percent not subject to per country limitation.—Of the visa numbers made available under section 203(a) in any fiscal year, 75 percent shall be issued without regard to the numerical limitation under paragraph (2).”;

(2) in subsection (e)—

(A) in paragraph (1), by adding “and” at the end;

(B) by striking paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2).

(d) Procedure for Granting Immigrant Status.—Section 204 (8 U.S.C. 1154) is amended—
(1) in subsection (a)(1)(A)(i), by striking “paragraph (1), (3), or (4) of”;
(2) in subsection (a)(1)(B), by striking “203(a)(2)” and “203(a)(2)(A)” each place such terms appear and inserting “203(a)”;
(3) in subsection (a)(1)(D)(i)—
   (A) in subclause (I), by striking “a petitioner for preference status under paragraph (1), (2), or (3)” and all that follows through the period at the end and inserting “to be an individual under 21 years of age for purposes of adjudicating such petition, and for purposes of admission as an immediate relative under section 201(b)(2)(A)(i), notwithstanding the actual age of the individual.”; and
   (B) in subclause (III), by striking “paragraph (1), (2), or (3) of section 203(a), whichever paragraph is applicable,” and inserting “section 203(a), and under 21 years of age (notwithstanding the actual age of the individual),”; and
(4) in subsection (f), by striking “201(b), 203(a)(1), or 203(a)(3), as appropriate.” and inserting “201(b).”.

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(f) Conditional Permanent Resident Status for Certain Alien Spouses and Sons and Daughters.—Section 216(g)(1)(C) (8 U.S.C. 1186a(g)(1)(C)) is amended by striking “203(a)(2)” and inserting “203(a)”.

(g) Effective Date.—The amendments made this section shall take effect on the date of enactment of this Act.

SEC. 822. EMPLOYMENT THIRD PREFERENCE CATEGORY.

(a) In General.—Paragraph (3) of section 203(b) (8 U.S.C. 1153(b)) is amended to read as follows:

“(3) Skilled workers and professionals.—

“(A) In general.—Visas shall be made available, in a number not to exceed 28.6 percent of such worldwide level, plus any visas not required for the classes specified in paragraphs (1) and (2), to the following classes of aliens who are not described in paragraph (2):

“(i) Skilled workers.—Qualified immigrants who are capable, at the time of petitioning for classification under this
paragraph, of performing skilled labor (requiring at least 2 years training or experience), not of a temporary or seasonal nature, for which qualified workers are not available in the United States.

“(ii) PROFESSIONALS.—Qualified immigrants who hold baccalaureate degrees and who are members of the professions.

“(B) LABOR CERTIFICATION REQUIRED.—An immigrant visa may not be issued to an immigrant under subparagraph (A) until the consular officer is in receipt of a determination made by the Secretary of labor pursuant to the provisions of section 212(a)(5)(A).”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 823. ELIMINATION OF DIVERSITY IMMIGRANT PROGRAM.

(a) WORLDWIDE LEVEL OF DIVERSITY IMMIGRANTS.—Section 201 (8 U.S.C. 1151) is amended—

(1) in subsection (a)—

(A) by inserting “and” at the end of paragraph (1);
(B) by striking ‘‘; and’’ at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3); and

(2) by striking subsection (e).

(b) Allocation of Diversity Immigrant Visas.—

Section 203 (8 U.S.C. 1153) is amended—

(1) by striking subsection (c);

(2) in subsection (d), by striking ‘‘(a), (b), or (e),’’ and inserting ‘‘(a) or (b),’’;

(3) in subsection (e), by striking paragraph (2)

and redesignating paragraph (3) as paragraph (2);

(4) in subsection (f), by striking ‘‘(a), (b), or (e),’’ and inserting ‘‘(a) or (b),’’; and

(5) in subsection (g), by striking ‘‘(a), (b), and (e),’’ and inserting ‘‘(a) and (b).’’

(c) Procedure for Granting Immigrant Status.—Section 204 (8 U.S.C. 1154) is amended—

(1) by striking subsection (a)(1)(I); and

(2) in subsection (e), by striking ‘‘(a), (b), or (e),’’ and inserting ‘‘(a) or (b),’’.

(e) Effective Date.—The amendments made this section shall take effect on the date of enactment of this Act.
SEC. 824. REFUGEE ADMISSIONS.

(a) In General.—Paragraphs (1) and (2) of section 207(a) (8 U.S.C. 1157(a)) are amended to read as follows:

“(a)(1) Except as provided in paragraph (2) and subsection (b), the number of refugees who may be admitted under this section in any fiscal year shall be such number as the President determines, before the beginning of the fiscal year and after appropriate consultation, is justified by humanitarian concerns or is otherwise in the national interest.

“(2)(A) Except as provided in subparagraphs (B) and (C), the number determined under paragraph (1) for a fiscal year may not exceed the number of United Nations High Commissioner for Refugees-referred refugees who were resettled in a country other than the United States (excluding any internally resettled person) in the second preceding calendar year.

“(B) The number determined under paragraph (1) for a fiscal year may exceed the limit specified in subparagraph (A) by the number of refugees admitted pursuant to section 599D(b)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (8 U.S.C. 1157 note).

“(C) The number determined under paragraph (1) for a fiscal year may exceed the limit specified in subpara-
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graph (A) if the Congress enacts a law providing for a
higher number.”.

(b) Emergency Refugee Situations.—Section
207(b) (8 U.S.C. 1157(b)) is amended by striking “the
President may fix” and inserting “the President may, if
the Congress enacts a law providing such authority, fix”.

(c) Effective Date.—The amendments made by
this section shall take effect on the date of enactment of
this Act.

SEC. 825. Aliens Subject to Direct Numerical Limita-
tions.

Section 201(b)(1) (8 U.S.C. 1151(b)(1)) is amend-
ed—

(1) by striking subparagraphs (C), (D), and
(E); and

(2) by amending subparagraph (B) to read as
follows:

“(B) Aliens who are admitted under sec-
tion 207.”.

SEC. 826. Education of Family-Sponsored Immi-
grants.

Section 203(a) (8 U.S.C. 1153(a)) is amended by
adding at the end the following:

“(5) Limitation.—An adult alien other than a
derivative spouse is not eligible for a visa under this
subsection unless the alien has attained at least a high school education or its equivalent.”.

SEC. 827. SPONSORSHIP LEVELS.

Section 213A(f)(1)(E) (8 U.S.C. 1183a(f)(1)(E)) is amended by striking “125 percent of the Federal poverty line” and inserting “200 percent of the poverty line”.

SEC. 828. REPEAL OF SECTION 245(I).

Section 245(i) (8 U.S.C. 1255(i)) is repealed.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. TEMPORARY PROTECTED STATUS.

(a) In General.—Section 244 (8 U.S.C. 1254a) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3)(D);

(B) in paragraph (4)—

(i) by striking subparagraph (B);

(ii) by moving the text of subparagraph (A) up and to the right so that it follows immediately after the paragraph heading; and

(iii) by striking “(A)”; and

(C) in paragraph (5), by striking “to deny temporary protected status to an alien based on the alien’s immigration status or”;

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(2) in subsection (b)—

   (A) in paragraph (1)—

      (i) in subparagraph (A), by adding

         “or” at the end;

      (ii) in subparagraph (B)—

         (I) in clause (i), by striking “dis-

         ruption of living conditions” and in-

         sering “physical destruction of homes

         and businesses”;

         (II) by amending clause (ii) to

         read as follows:

         “(ii) the foreign state is unable, tem-

         porarily, to house and employ the aliens

         who are nationals of the state residing in

         the United States, but has officially re-

         quested designation and submitted to the

         Secretary of State a specific plan to repa-

         triate such nationals in a short and speci-

         fied period of time; and”; and

         (III) in clause (iii), by striking “;

         or” and inserting a period;

   (iii) by striking subparagraph (C);

   and

   (iv) by adding at the end the fol-

   lowing:
An initial designation, or extension of a designation, of a foreign state (or part of such foreign state) under this paragraph shall not become effective if the Secretary of Homeland Security finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.’’

(B) in the last sentence of paragraph (2), by striking “18 months” and inserting “12 months’’;

(C) in paragraph (3)—

(i) in subparagraph (A), by inserting “all” after “and shall determine whether’’;

(ii) in subparagraph (B), by inserting “all” after “no longer continues to meet’’;

and

(iii) by amending subparagraph (C) to read as follows:

“(C) Extension of designation.—If the Secretary of Homeland Security determines under subparagraph (A) that a foreign state (or part of such foreign state) continues to meet all the conditions for designation under paragraph (1) and that the foreign state warrants an extension, the period of designation of the foreign State is extended for an additional period of 6
months (or, in the discretion of the Secretary, a period of 12 months).”’; and

(D) in paragraph (5)—

(i) by striking subparagraph (B);

(ii) by moving the text of subparagraph (A) up and to the right so that it follows immediately after the paragraph heading; and

(iii) by striking “(A) Designations.—”;

(3) in subsection (c)—

(A) in paragraph (1)(B), by striking “The amount of any such fee shall not exceed $50.”;

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “of paragraph (1)—” and all that follows through the end and inserting the following: “, the provisions of section 212(a)(1) may be waived in the Secretary of Homeland Security’s discretion if a denial of temporary protected status would separate the alien from a spouse or child in the United States.”;

(ii) in subparagraph (B)—
(I) by amending clause (i) to read as follows:

“(i) the alien is inadmissible under section 212(a) by reason of having been convicted of a crime committed in the United States, or the alien is deportable under section 237(a) (other than under section 237(a)(1)(B));”;

(II) in clause (ii), by striking the period at the end and inserting “; or”;

and

(III) by adding at the end the following:

“(iii) the alien was unlawfully present in the United States on the effective date of the designation of the applicable foreign state (or part of a state), or the effective date of any extension of such designation, unless a law to the contrary is enacted before such date, except that if the Congress is adjourned sine die on such date, the alien may be granted temporary protected status for a period of not more than 4 months.”;

(C) in paragraph (3)—
(i) by striking “, or” at the end of subparagraph (B) and inserting a semicolon;

(ii) in subparagraph (C)—

(I) by inserting “and record the alien’s current address” after “register”; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(D) the alien commits a crime after being granted temporary protected status; or

“(E) the alien travels, no matter how briefly, to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status.”;

(D) in paragraph (4), in each of subparagraphs (A) and (B), by inserting before the period at the end the following: “, unless the alien travels, no matter how briefly, to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status”; and

(E) by striking paragraph (6);
(4) in subsection (d), by striking paragraph (4);

(5) in subsection (e), by striking “, unless the Attorney General determines that extreme hardship exists” in the first sentence;

(6) in subsection (f)—

(A) by inserting “and” at the end of paragraph (2);

(B) in paragraph (3), by striking “Attorney General; and” and inserting “Secretary of Homeland Security, except to the foreign state (or part of such state) the designation of which was the basis of the alien being granted such status.”; and

(C) by striking paragraph (4); and

(7) in subsection (h)—

(A) in paragraph (1), by inserting “or the House of Representatives” after “Senate”;

(B) in paragraph (2), by striking “three-fifths” and inserting “two-thirds”; and

(C) by inserting “and the House of Representatives” after “Senate” each place such term appears in paragraphs (2) and (3).

(b) **Ineligibility of Certain Aliens.**—

(1) **In General.**—In the case of a foreign state (or part of a foreign state) initially designated
under section 244 (8 U.S.C. 1254a), or having such a designation extended, before the date of the enactment of this Act, an alien who is a national of such state (or in the case of an alien having no nationality, is a person who last habitually resided in such state), and was unlawfully present in the United States on the date of such designation or extension, shall be subject to paragraph (2).

(2) Aliens ineligible.—An alien described in paragraph (1) shall not be considered eligible for temporary protected status under section 244 pursuant to any initial or succeeding extension of a designation described in such paragraph that takes effect after the date of the enactment of this Act, unless a law to the contrary is enacted before such effective date, except that if the Congress is adjourned sine die on such effective date, the alien may be granted temporary protected status for a period of not more than 4 months.

SEC. 902. GOOD MORAL CHARACTER.

(a) In general.—Section 101(f)(6) (8 U.S.C. 1101(f)(6)) is amended to read as follows:

“(6) one who, by fraud or willfully misrepresenting a material fact, seeks to procure (or has sought to procure or has procured) a visa, other doc-
umentation, or admission into the United States or
other benefit provided under this Act, for himself,
herself, or any other alien;”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the date of the enact-
ment of this Act and shall apply to misrepresentations
made on or after such date.

SEC. 903. REMOVAL FOR ALIENS WHO MAKE MISREPRESEN-
TATIONS TO PROCURE BENEFITS.

(a) IN GENERAL.—Section 237(a)(3) (8 U.S.C.
1127(a)(3)) is amended by adding at the end the fol-
lowing:

“(F) MISREPRESENTATION.—Any alien
who, by fraud or willfully misrepresenting a ma-
terial fact, seeks to procure (or has sought to
procure or has procured) a visa, other docu-
mentation, or admission into the United States
or other benefit provided under this Act, for
himself, herself, or any other alien, is deport-
able.”.

(b) EFFECTIVE DATE.—The amendment made by
subsection (a) shall take effect on the date of the enact-
ment of this Act and shall apply to misrepresentations
made on or after such date.
SEC. 904. DESIGNATIONS OF FOREIGN TERRORIST ORGANIZATIONS.

Section 219 (8 U.S.C. 1189) is amended—

(1) by striking "Secretary" each place such term appears, excluding subsection (a)(2)(C), and inserting "official specified under subsection (d)";

(2) in subsection (c)—

(A) in paragraph (2), by adding "and" at the end;

(B) in paragraph (3), by striking "; and" at the end and inserting a period; and

(C) by striking paragraph (4); and

(3) by adding at the end the following:

"(d) IMPLEMENTATION OF DUTIES AND AUTHORITIES.—The duties under this section shall, and authorities under this section may, be exercised by the Secretary of State, the Attorney General, or the Secretary of Homeland Security.".

SEC. 905. FOREIGN STUDENTS.

(a) LENGTH OF VISA TERM.—Section 221(e) (8 U.S.C. 1201(e)) is amended—

(1) by striking "A nonimmigrant visa" and inserting "Except as otherwise provided by law, a nonimmigrant visa"; and

(2) by adding at the end the following:
“In the case of a nonimmigrant visa issued under subparagraph (F), (J), or (M) of section 101(a)(15) for study in the United States, the visa shall not be valid for any period in excess of the stated period that the institution or place of study to which the visa relates determines is necessary and proper for the purpose of achieving the objective of such study. Such determinations shall be timely submitted, in accordance with such regulations as the Secretary of Homeland Security may prescribe, as a condition of the granting of authority to issue documents demonstrating aliens’ eligibility for a visa under subparagraph (F), (J), or (M) of section 101(a)(15).”.

(b) ELIGIBLE INSTITUTION.—Section 214 (8 U.S.C. 1184), as amended by section 204 of this Act, is further amended by adding at the end the following:

“(w) A nonimmigrant visa may not be issued under subparagraph (F), (J), or (M) of section 101(a)(15) for postsecondary study at an educational institution unless that institution is an eligible institution for the purpose of a program authorized under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).”.

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

SEC. 906. PAY GRADE GS–15 AVAILABLE FOR TRIAL ATTORNEYS.

There are authorized to be appropriated such sums as may be to establish a range for the annual rate of basic pay for positions as a trial attorney in the Bureau of Customs and Border Protection, the Bureau of Immigration and Customs Enforcement, and the Bureau of Citizenship and Immigration Services between the minimum annual rate of basic pay payable for grade GS–11 of the General Schedule and the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule.

SEC. 907. PROOF OF IDENTITY OF ALIENS SEEKING RELIEF.

(a) ASYLUM.—Section 208(b)(2) (8 U.S.C. 1158(b)(2)) is amended by adding at the end the following:

“(E) PROOF OF IDENTITY.—No alien may be granted asylum until the alien proves the alien’s true identity by clear and convincing evidence.”.

(b) ADJUSTMENT OF STATUS OF REFUGEES.—Section 209 (8 U.S.C. 1159) is amended by adding at the end the following:
“(d) No alien may have the alien’s status adjusted under this section until the alien proves the alien’s true identity by clear and convincing evidence.”.

(e) CANCELLATION OF REMOVAL.—Section 240A (8 U.S.C. 1229b) is amended by adding at the end the following:

“(f) PROOF OF IDENTITY.—No alien may receive relief under this section until the alien proves the alien’s true identity by clear and convincing evidence.”.

(d) ADJUSTMENT OF STATUS OF NONIMMIGRANTS.—Section 245 (8 U.S.C. 1255) is amended—

(1) by redesignating the subsection (l) added by section 1513(f) of Public Law 106–386 (114 Stat. 1536) as subsection (m); and

(2) by adding at the end the following:

“(n) PROOF OF IDENTITY.—No alien may have the alien’s status adjusted under this section until the alien proves the alien’s true identity by clear and convincing evidence.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to relief provided on and after such date.
SEC. 908. FOLLOWING TO JOIN DEFINED.

Section 101(a) (8 U.S.C. 1101), as amended by section 421, is amended by adding at the end the following:

“(52) The term ‘following to join’ when used with respect to a spouse or child of an alien, means that the spouse or child departs for the United States, in order to reside with the alien, during the 1-year period beginning on the date on which the alien is admitted into the United States.”.

SEC. 909. INFORMATION ON FOREIGN CRIMES.

Section 245(a) (8 U.S.C. 1255(a)) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following: “(3) the Secretary of Homeland Security has thoroughly examined the alien’s countries of prior residence to determine that the alien has not committed a crime in those countries making the alien inadmissible, and”.

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