

111TH CONGRESS
2D SESSION

S. 3113

To amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture.

IN THE SENATE OF THE UNITED STATES

MARCH 15, 2010

Mr. LEAHY (for himself and Mr. LEVIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Refugee Protection Act of 2010”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Elimination of arbitrary time limits on asylum applications.

Sec. 4. Protecting victims of terrorism from being defined as terrorists.

- Sec. 5. Protecting certain vulnerable groups of asylum seekers.
- Sec. 6. Effective adjudication of proceedings.
- Sec. 7. Scope and standard for review.
- Sec. 8. Efficient asylum determination process and detention of asylum seekers.
- Sec. 9. Secure alternatives program.
- Sec. 10. Conditions of detention.
- Sec. 11. Timely notice of immigration charges.
- Sec. 12. Procedures for ensuring accuracy and verifiability of sworn statements taken pursuant to expedited removal authority.
- Sec. 13. Study on the effect of expedited removal provisions, practices, and procedures on asylum claims.
- Sec. 14. Lawful permanent resident status of refugees and asylum seekers granted asylum.
- Sec. 15. Protections for minors seeking asylum.
- Sec. 16. Multiple forms of relief.
- Sec. 17. Protection of refugee families.
- Sec. 18. Reform of refugee consultation process and refugee processing.
- Sec. 19. Admission of refugees in the absence of the annual presidential determination.
- Sec. 20. Authority to designate certain groups of refugees for consideration.
- Sec. 21. Update of reception and placement grants.
- Sec. 22. Legal assistance for refugees and asylees.
- Sec. 23. Protection for aliens interdicted at sea.
- Sec. 24. Protection of stateless persons in the United States.
- Sec. 25. Authorization of appropriations.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **ASYLUM SEEKER.**—The term “asylum seek-
4 er”—

5 (A) means—

6 (i) any applicant for asylum under
7 section 208 of the Immigration and Na-
8 tionality Act (8 U.S.C. 1158);

9 (ii) any alien who indicates an inten-
10 tion to apply for asylum under that sec-
11 tion; and

12 (iii) any alien who indicates an inten-
13 tion to apply for withholding of removal,
14 pursuant to—

1 (I) section 241 of the Immigra-
2 tion and Nationality Act (8 U.S.C.
3 1231); or

4 (II) the Convention Against Tor-
5 ture and Other Cruel, Inhuman or
6 Degrading Treatment or Punishment,
7 done at New York December 10,
8 1984;

9 (B) includes any individual described in
10 subparagraph (A) whose application for asylum
11 or withholding of removal is pending judicial re-
12 view; and

13 (C) does not include an individual with re-
14 spect to whom a final order denying asylum and
15 withholding of removal has been entered if such
16 order is not pending judicial review.

17 (2) SECRETARY.—The term “Secretary” means
18 the Secretary of Homeland Security.

19 **SEC. 3. ELIMINATION OF ARBITRARY TIME LIMITS ON ASY-**
20 **LUM APPLICATIONS.**

21 Section 208(a)(2) of the Immigration and Nationality
22 Act (8 U.S.C. 1158(a)(2)) is amended—

23 (1) by striking subparagraph (B);

24 (2) by redesignating subparagraphs (C) and
25 (D) as subparagraphs (B) and (C), respectively;

1 (3) in subparagraph (B), as redesignated, by
2 striking “(D)” and inserting “(C)”; and

3 (4) by striking subparagraph (C), as redesignated,
4 and inserting the following:

5 “(C) CHANGED CIRCUMSTANCES.—Notwithstanding
6 subparagraph (B), an application for asylum of an alien may be considered if the
7 alien demonstrates, to the satisfaction of the Attorney General, the existence of changed
8 circumstances that materially affect the applicant’s eligibility for asylum.”.

12 **SEC. 4. PROTECTING VICTIMS OF TERRORISM FROM BEING**
13 **DEFINED AS TERRORISTS.**

14 Section 212(a)(3)(B) of the Immigration and Nation-
15 ality Act (8 U.S.C. 1182(a)(3)(B)) is amended—

16 (1) in clause (i)—

17 (A) by amending subclause (IX) to read as
18 follows:

19 “(IX) is an officer, official, representative, or spokesman of the Pal-
20 estine Liberation Organization,”; and

21 (B) by striking the matter following sub-
22 clause (IX) and inserting the following:

23 ““is inadmissible.”;

24

1 (2) in clause (iii), by inserting “which is in-
2 tended to intimidate or coerce a civilian population
3 or to influence the policy of a government by intimi-
4 dation or coercion and” after “means any activity”;

5 (3) in clause (iv)(VI), by inserting “(other than
6 as the result of coercion)” after “to commit an act”;

7 (4) in clause (vi)—

8 (A) in subclause (I), by adding “or” at the
9 end;

10 (B) in subclause (II), by striking “; or”
11 and inserting a period; and

12 (C) by striking subclause (III); and

13 (5) by adding at the end the following:

14 “(vii) As used in this paragraph, the
15 term, ‘coercion’ means—

16 “(I) serious harm, including re-
17 straint against any person; or

18 “(II) any scheme, plan, or pat-
19 tern intended to cause a person to be-
20 lieve that failure to perform an act
21 would result in serious harm to, or re-
22 straint against, any person.”.

1 **SEC. 5. PROTECTING CERTAIN VULNERABLE GROUPS OF**
2 **ASYLUM SEEKERS.**

3 (a) **DEFINED TERM.**—Section 101(a)(42) of the Im-
4 migration and Nationality Act (8 U.S.C. 1101(a)(42)) is
5 amended to read as follows:

6 “(42)(A) The term ‘refugee’ means any person
7 who—

8 “(i)(I) is outside any country of such per-
9 son’s nationality or, in the case of a person hav-
10 ing no nationality, is outside any country in
11 which such person last habitually resided; and

12 “(II) is unable to return to, and is unable
13 or unwilling to avail himself or herself of the
14 protection of, that country because of persecu-
15 tion, or a well-founded fear of persecution, on
16 account of race, religion, nationality, member-
17 ship in a particular social group, or political
18 opinion; or

19 “(ii) in such circumstances as the Presi-
20 dent may specify, after appropriate consultation
21 (as defined in section 207(e))—

22 “(I) is within the country of such per-
23 son’s nationality or, in the case of a person
24 having no nationality, within the country
25 in which such person is habitually residing;
26 and

1 “(II) is persecuted, or who has a well-
2 founded fear of persecution, on account of
3 race, religion, nationality, membership in a
4 particular social group, or political opinion.

5 “(B) The term ‘refugee’ does not include any
6 person who ordered, incited, assisted, or otherwise
7 participated, other than as a result of coercion (as
8 defined in section 212(a)(3)(B)(vii)), in the persecu-
9 tion of any person on account of race, religion, na-
10 tionality, membership in a particular social group, or
11 political opinion.

12 “(C) For purposes of determinations under this
13 Act—

14 “(i) a person who has been forced to abort
15 a pregnancy or to undergo involuntary steriliza-
16 tion, or who has been persecuted for failure or
17 refusal to undergo such a procedure or for
18 other resistance to a coercive population control
19 program, shall be deemed to have been per-
20 secuted on account of political opinion; and

21 “(ii) a person who has a well-founded fear
22 that he or she will be forced to undergo such
23 a procedure or subject to persecution for such
24 failure, refusal, or resistance shall be deemed to

1 have a well-founded fear of persecution on ac-
2 count of political opinion.

3 “(D) For purposes of determinations under this
4 Act, any group whose members share a char-
5 acteristic that is either immutable or fundamental to
6 identity, conscience, or the exercise of the person’s
7 human rights such that the person should not be re-
8 quired to change it, shall be deemed a particular so-
9 cial group, without any additional requirement.”.

10 (b) CONDITIONS FOR GRANTING ASYLUM.—Section
11 208(b)(1)(B) of the Immigration and Nationality Act (8
12 U.S.C. 1158(b)(1)(B)) is amended—

13 (1) in clause (i), by striking “at least one cen-
14 tral reason for persecuting the applicant” and in-
15 serting “a factor in the applicant’s persecution or
16 fear of persecution”;

17 (2) in clause (ii), by striking the last sentence
18 and inserting the following: “If the trier of fact de-
19 termines that the applicant should provide evidence
20 that corroborates otherwise credible testimony, the
21 trier of fact shall provide notice and allow the appli-
22 cant a reasonable opportunity to file such evidence
23 unless the applicant does not have the evidence and
24 cannot reasonably obtain the evidence.”;

25 (3) by redesignating clause (iii) as clause (iv);

1 (4) by inserting after clause (ii) the following:

2 “(iii) SUPPORTING EVIDENCE ACCEPT-
3 ED.—Direct or circumstantial evidence, in-
4 cluding evidence that the State is unable to
5 protect the applicant or that State legal or
6 social norms tolerate such persecution
7 against persons like the applicant, may es-
8 tablish that persecution is on account of
9 race, religion, nationality, membership in a
10 particular social group, or political opin-
11 ion.”; and

12 (5) in clause (iv), as redesignated, by striking
13 “, without regard to whether an inconsistency, inac-
14 curacy, or falsehood goes to the heart of the appli-
15 cant’s claim, or any other relevant factor.” and in-
16 serting “. If the trier of fact determines that there
17 are inconsistencies or omissions, the alien shall be
18 given an opportunity to explain and to provide sup-
19 port or evidence to clarify such inconsistencies or
20 omissions.”.

21 (c) REMOVAL PROCEEDINGS.—Section 240(c)(4) of
22 the Immigration and Nationality Act (8 U.S.C.
23 1229a(c)(4)) is amended—

24 (1) in subparagraph (B), by striking the last
25 sentence and inserting the following: “If the trier of

1 fact determines that the applicant should provide
2 evidence that corroborates otherwise credible testi-
3 mony, the trier of fact shall provide notice and allow
4 the applicant a reasonable opportunity to file such
5 evidence unless the applicant does not have the evi-
6 dence and cannot reasonably obtain the evidence.”;
7 and

8 (2) in subparagraph (C), by striking “, without
9 regard to whether an inconsistency, inaccuracy, or
10 falsehood goes to the heart of the applicant’s claim,
11 or any other relevant factor” and inserting “. If the
12 trier of fact determines that there are inconsis-
13 tencies or omissions, the alien shall be given an op-
14 portunity to explain and to provide support or evi-
15 dence to clarify such inconsistencies or omissions.”.

16 **SEC. 6. EFFECTIVE ADJUDICATION OF PROCEEDINGS.**

17 Section 240(b)(4) of the Immigration and Nationality
18 Act (8 U.S.C. 1229a(b)(4)) is amended—

19 (1) in the matter preceding subparagraph (A),
20 by striking “In proceedings under this section, under
21 regulations of the Attorney General” and inserting
22 “The Attorney General shall promulgate regulations
23 for proceedings under this section, under which—”

24 (2) in subparagraph (B), by striking “, and” at
25 the end and inserting a semicolon;

1 (3) by redesignating subparagraph (C) as sub-
2 paragraph (D); and

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

5 “(C) the Attorney General, or the designee
6 of the Attorney General, may appoint counsel to
7 represent an alien if the fair resolution or effec-
8 tive adjudication of the proceedings would be
9 served by appointment of counsel; and”.

10 **SEC. 7. SCOPE AND STANDARD FOR REVIEW.**

11 Section 242(b) of the Immigration and Nationality
12 Act (8 U.S.C. 1252(b)) is amended—

13 (1) in paragraph (1), by adding at the end the
14 following: “The alien shall not be removed during
15 such 30-day period, unless the alien indicates in
16 writing that he or she wishes to be removed before
17 the expiration of such period.”; and

18 (2) by striking paragraph (4) and inserting the
19 following:

20 “(4) SCOPE AND STANDARD FOR REVIEW.—Ex-
21 cept as provided in paragraph (5)(B), the court of
22 appeals shall sustain a final decision ordering re-
23 moval unless it is contrary to law, an abuse of dis-
24 cretion, or not supported by substantial evidence.

25 The court of appeals shall decide the petition only

1 on the administrative record on which the order of
2 removal is based.”.

3 **SEC. 8. EFFICIENT ASYLUM DETERMINATION PROCESS**
4 **AND DETENTION OF ASYLUM SEEKERS.**

5 (a) IN GENERAL.—Section 235(b)(1)(B) of the Im-
6 migration and Nationality Act (8 U.S.C. 1225(b)(1)(B))
7 is amended—

8 (1) in clause (ii), by striking “shall be detained
9 for further consideration of the application for asy-
10 lum” and inserting “may, in the Secretary’s discre-
11 tion, be detained for further consideration of the ap-
12 plication for asylum by an asylum officer designated
13 by the Director of United States Citizenship and Im-
14 migration Services. The asylum officer, after con-
15 ducting a nonadversarial asylum interview, may
16 grant asylum to the alien under section 208 or refer
17 the case to a designee of the Attorney General, for
18 a de novo asylum determination, for relief under the
19 Convention Against Torture and Other Cruel, Inhu-
20 man or Degrading Treatment or Punishment, done
21 at New York December 10, 1984, or for withholding
22 of removal under section 241(b)(3).”;

23 (2) in clause (iii)(IV)—

24 (A) by amending the subclause heading to
25 read as follows:

1 “(IV) DETENTION.—”; and

2 (B) by striking “shall” and inserting

3 “may, in the Secretary’s discretion,”; and

4 (3) by inserting after clause (v) the following:

5 “(vi) PAROLE OF CERTAIN ALIENS.—

6 Any alien subject to detention under clause

7 (iii)(IV) who has established identity and

8 been determined to have a credible fear of

9 persecution shall be released from the cus-

10 tody of the Department of Homeland Secu-

11 rity not later than 7 days after such deter-

12 mination unless the Department dem-

13 onstrates by substantial evidence that the

14 alien—

15 “(I) poses a risk to public safety,

16 which may include a risk to national

17 security; or

18 “(II) is a flight risk, which can-

19 not be mitigated through other condi-

20 tions of release, such as bond or se-

21 cure alternatives, that would reason-

22 ably ensure that the alien would ap-

23 pear for immigration proceedings.

24 “(vii) REVIEW OF DETENTION.—If an

25 alien described in clause (vi) is denied re-

1 lease from detention, the Attorney General
2 shall—

3 “(I) not later than 7 days after
4 such denial, review the parole deter-
5 mination through a hearing before an
6 immigration judge, who shall deter-
7 mine whether the alien should be pa-
8 roled and any conditions of such re-
9 lease; and

10 “(II) notify the detained alien
11 and the alien’s legal representative of
12 the reason for such denial, orally and
13 in writing, in a language the alien
14 claims to understand.

15 “(viii) WAIVER.—The alien may waive
16 the 7-day review requirement under clause
17 (vii)(I) and request a review at a later
18 time. Any alien whose parole request has
19 been reviewed and denied under clause
20 (vii)(I) may request another review and de-
21 termination upon showing that there was a
22 material change in circumstances since the
23 last review.”.

24 (b) RULEMAKING.—The Secretary and the Attorney
25 General shall promulgate regulations establishing a proc-

1 ess for reviewing the eligibility of aliens for parole in ac-
2 cordance with clause (vi) and (vii) of section 235(b)(1)(B)
3 of the Immigration and Nationality Act, as amended by
4 subsection (a).

5 **SEC. 9. SECURE ALTERNATIVES PROGRAM.**

6 (a) ESTABLISHMENT.—The Secretary shall establish
7 the Secure Alternatives Program (referred to in this sec-
8 tion as the “Program”) under which an alien who has
9 been detained may be released under enhanced super-
10 vision—

11 (1) to prevent the alien from absconding;

12 (2) to ensure that the alien makes appearances
13 related to such detention; and

14 (3) to authorize and promote the utilization of
15 alternatives to detention of asylum seekers.

16 (b) PROGRAM REQUIREMENTS.—

17 (1) NATIONWIDE IMPLEMENTATION.—The Sec-
18 retary shall facilitate the nationwide implementation
19 of the Program.

20 (2) UTILIZATION OF ALTERNATIVES.—The Pro-
21 gram shall utilize a continuum of alternatives based
22 on the alien’s need for supervision, which may in-
23 clude placement of the alien—

24 (A) with an individual or organizational
25 sponsor; or

1 (B) in a supervised group home.

2 (3) PROGRAM ELEMENTS.—The Program shall
3 include—

4 (A) individualized case management by an
5 assigned case supervisor; and

6 (B) referral to community-based providers
7 of legal and social services.

8 (4) RESTRICTIVE ELECTRONIC MONITORING.—

9 (A) IN GENERAL.—Restrictive electronic
10 monitoring devices, such as ankle bracelets,
11 may not be used unless there is a demonstrated
12 need for such enhanced monitoring.

13 (B) PERIODIC REVIEW.—The Secretary
14 shall periodically review any decision to require
15 the use of devices described in subparagraph
16 (A).

17 (5) ALIENS ELIGIBLE FOR SECURE ALTER-
18 NATIVES PROGRAM.—

19 (A) IN GENERAL.—Asylum seekers shall be
20 eligible to participate in the Program.

21 (B) PROGRAM DESIGN.—The Program
22 shall be designed to ensure sufficient super-
23 vision of the population described in subpara-
24 graph (A).

1 (6) **CONTRACTS.**—The Secretary shall enter
2 into contracts with qualified nongovernmental enti-
3 ties to implement the Program.

4 (7) **OTHER CONSIDERATIONS.**—In designing the
5 Program, the Secretary shall—

6 (A) consult with relevant experts; and

7 (B) consider programs that have proven
8 successful in the past, including the Appearance
9 Assistance Program developed by the Vera In-
10 stitute of Justice.

11 **SEC. 10. CONDITIONS OF DETENTION.**

12 (a) **RULEMAKING.**—The Secretary shall promulgate
13 regulations that—

14 (1) authorize and promote the utilization of al-
15 ternatives to detention of asylum seekers;

16 (2) establish the conditions for detention of asy-
17 lum seekers that ensure a safe and humane environ-
18 ment; and

19 (3) include the rights and procedures set forth
20 in subsections (c) through (h).

21 (b) **DEFINITIONS.**—In this section:

22 (1) **DETAINEE.**—The term “detainee” means
23 an individual who is detained under the authority of
24 United States Immigration and Customs Enforce-
25 ment.

1 (2) DETENTION FACILITY.—The term “deten-
2 tion facility” means any Federal, State, local govern-
3 ment facility, or privately owned and operated facil-
4 ity, which is being used to hold detainees longer
5 than 72 hours.

6 (3) SHORT-TERM DETENTION FACILITY.—The
7 term “short-term detention facility” means any Fed-
8 eral, State, local government, or privately owned and
9 operated facility that is used to hold immigration de-
10 tainees for not more than 72 hours.

11 (4) GROUP LEGAL ORIENTATION PRESEN-
12 TATIONS.—The term “group legal orientation presen-
13 tations” means live group presentations, supple-
14 mented by individual orientations, pro se workshops,
15 and pro bono referrals, that—

16 (A) are carried out by private nongovern-
17 mental organizations;

18 (B) are presented to detainees;

19 (C) inform detainees about United States
20 immigration law and procedures; and

21 (D) enable detainees to determine their eli-
22 gibility for relief.

23 (c) ACCESS TO LEGAL SERVICES.—

1 (1) LISTS OF LEGAL SERVICE PROVIDERS.—All
2 detainees arriving at a detention facility shall
3 promptly receive—

4 (A) access to legal information, including
5 an on-site law library with up-to-date legal ma-
6 terials and law databases;

7 (B) free access to the necessary equipment
8 and materials for legal research and cor-
9 respondence, such as computers, printers, copi-
10 ers, and typewriters;

11 (C) an accurate, updated list of free or
12 low-cost immigration legal service providers
13 that—

14 (i) are near such detention facility;

15 and

16 (ii) can assist those with limited
17 English proficiency or disabilities;

18 (D) confidential meeting space to confer
19 with legal counsel; and

20 (E) services to send confidential legal doc-
21 uments to legal counsel, government offices,
22 and legal organizations.

23 (2) GROUP LEGAL ORIENTATION PRESEN-
24 TATIONS.—

1 (A) ESTABLISHMENT OF A NATIONAL
2 LEGAL ORIENTATION SUPPORT AND TRAINING
3 CENTER.—The Attorney General, in consulta-
4 tion with the Secretary, shall establish a Na-
5 tional Legal Orientation Support and Training
6 Center (referred to in this subsection as the
7 “Center”) to ensure quality and consistent im-
8 plementation of group legal orientation pro-
9 grams nationwide.

10 (B) DUTIES.—The Center shall—

11 (i) offer training to nonprofit agencies
12 that will offer group legal orientation pro-
13 grams;

14 (ii) consult with nonprofit agencies of-
15 fering group legal orientation programs re-
16 garding program development and sub-
17 stantive legal issues; and

18 (iii) develop standards for group legal
19 orientation programs.

20 (C) PROCEDURES.—The Secretary shall
21 establish procedures for regularly scheduled,
22 group legal orientation presentations.

23 (3) GRANTS AUTHORIZED.—The Attorney Gen-
24 eral shall establish a program to award grants to
25 nongovernmental agencies to develop, implement, or

1 expand legal orientation programs for all detainees
2 at a detention facility that offers such programs.

3 (4) NOTIFICATION REQUIREMENT.—The Sec-
4 retary shall establish procedures to promptly notify
5 detainees at a detention facility, orally and in writ-
6 ing in a language that the detainee claims to under-
7 stand, of—

8 (A) their available release options; and

9 (B) the procedures for requesting such op-
10 tions.

11 (d) VISITS.—

12 (1) LEGAL REPRESENTATION.—Detainees in
13 detention facilities have the right to meet privately
14 with current or prospective legal representatives, in-
15 terpreters, and other legal support staff for at least
16 8 hours per day on regular business days and 4
17 hours per day on weekends and holidays, subject to
18 appropriate security procedures. Legal visits may
19 only be restricted for narrowly defined exceptional
20 circumstances, such as a natural disaster or com-
21 parable emergency.

22 (2) PRO BONO ORGANIZATIONS.—Detention fa-
23 cilities shall prominently post, in detainee housing
24 units and other appropriate areas, official lists of
25 pro bono legal organizations and their contact infor-

1 mation. The Secretary shall update such lists semi-
2 annually.

3 (3) RELIGIOUS, CULTURAL, AND SPIRITUAL
4 VISITORS.—Detainees have the right to reasonable
5 access to religious or other qualified individuals to
6 address religious, cultural, and spiritual consider-
7 ations.

8 (4) CHILDREN.—Detainees have the right to
9 regular, private contact visits with their children (as
10 defined in section 101(b)(1) of the Immigration and
11 Nationality Act (8 U.S.C. 1101(b)(1)).

12 (e) QUALITY OF MEDICAL CARE.—

13 (1) RIGHT TO MEDICAL CARE.—Each detainee
14 has the right to—

15 (A) prompt and adequate medical care, de-
16 signed to ensure continuity of care, at no cost
17 to the detainee;

18 (B) care to address medical needs that ex-
19 isted prior to detention; and

20 (C) primary care, emergency care, chronic
21 care, reproductive health care, prenatal care,
22 dental care, eye care, mental health care, and
23 other medically necessary specialized care.

24 (2) SCREENINGS AND EXAMINATIONS.—Each
25 detainee shall receive—

1 (A) a comprehensive medical, dental, and
2 mental health intake screening, including
3 screening for sexual abuse or assault, conducted
4 by a licensed health care professional upon ar-
5 rival at a detention facility or short-term deten-
6 tion facility; and

7 (B) a comprehensive medical and mental
8 health examination by a licensed health care
9 professional not later than 14 days after the de-
10 tainee's arrival at a detention facility.

11 (3) MEDICATIONS AND TREATMENT.—

12 (A) PRESCRIPTIONS.—Each detainee tak-
13 ing prescribed medications prior to detention
14 shall be allowed to continue taking such medica-
15 tions, on schedule and without interruption,
16 until a licensed health care professional exam-
17 ines the immigration detainee and decides upon
18 an alternative course of treatment. Detainees
19 who arrive at a detention facility without pre-
20 scription medications and report being on spe-
21 cific prescription medications shall be evaluated
22 by a qualified health care professional not later
23 than 24 hours after such arrival. All decisions
24 to discontinue or modify a detainee's reported
25 prescription medication regimen shall be con-

1 veyed to the detainee in a language that the de-
2 tainee understands and recorded in writing in
3 the detainee's medical records.

4 (B) PSYCHOTROPIC MEDICATION.—Medi-
5 cation may not be forcibly administered to a de-
6 tainee to facilitate transport, removal, or other-
7 wise to control the detainee's behavior. Involun-
8 tary psychotropic medication may only be used,
9 to the extent authorized by applicable law, in
10 emergency situations after a physician has per-
11 sonally examined the detainee and determined
12 that—

13 (i) the detainee is imminently dan-
14 gerous to self or others due to a mental ill-
15 ness; and

16 (ii) involuntary psychotropic medica-
17 tion is medically appropriate to treat the
18 mental illness and necessary to prevent
19 harm.

20 (C) TREATMENT.—Each detainee shall be
21 provided medically necessary treatment, includ-
22 ing prenatal care, prenatal vitamins, hormonal
23 therapies, and birth control. Female detainees
24 shall be provided with adequate access to sani-
25 tary products.

1 (4) MEDICAL CARE DECISIONS.—Any decision
2 regarding requested medical care for a detainee—

3 (A) shall be made in writing by an on-site
4 licensed health care professional not later than
5 72 hours after such medical care is requested;
6 and

7 (B) shall be immediately communicated to
8 the detainee.

9 (5) ADMINISTRATIVE APPEALS PROCESS.—

10 (A) IN GENERAL.—The operators of deten-
11 tion facilities, in conjunction with the Depart-
12 ment of Homeland Security, shall ensure that
13 detainees, medical providers, and legal rep-
14 resentatives are provided the opportunity to ap-
15 peal a denial of requested health care services
16 by an on-site provider to an independent ap-
17 peals board.

18 (B) APPEALS BOARD.—The appeals board
19 shall include health care professionals in the
20 fields relevant to the request for medical or
21 mental health care.

22 (C) DECISION.—Not later than 7 days
23 after an appeal is received by the appeals board
24 under this paragraph, or earlier if medically
25 necessary, the appeals board shall—

1 (i) issue a written decision regarding
2 the appeal; and

3 (ii) notify the detention facility and
4 the appellee, orally and in a writing in a
5 language the appellee claims to under-
6 stand, of such decision.

7 (6) REVIEW OF ON-SITE MEDICAL PROVIDER
8 REQUESTS.—

9 (A) IN GENERAL.—The Secretary shall re-
10 spond within 72 hours to any request by an on-
11 site medical provider for authorization to pro-
12 vide medical or mental health care to a de-
13 tainee.

14 (B) WRITTEN EXPLANATION.—If the Sec-
15 retary denies or fails to grant a request de-
16 scribed in subparagraph (A), the Secretary shall
17 immediately provide a written explanation of
18 the reasons for such decision to the on-site
19 medical provider and the detainee.

20 (C) APPEALS BOARD.—The on-site medical
21 provider and the detainee (or the detainee's
22 legal representative) shall be permitted to ap-
23 peal the denial of, or failure to grant, a request
24 described in subparagraph (A) to an inde-
25 pendent appeals board.

1 (D) DECISION.—Not later than 7 days
2 after an appeal is received by the appeals board
3 under this paragraph, or earlier if medically
4 necessary, the appeals board shall—

5 (i) issue a written decision regarding
6 the appeal;

7 (ii) notify the detainee of such deci-
8 sion, orally and in a writing in a language
9 the detainee claims to understand; and

10 (iii) notify the on-site medical provider
11 and the detention facility of such decision.

12 (7) CONDITIONAL RELEASE.—

13 (A) IN GENERAL.—If a licensed health
14 care professional determines that a detainee has
15 a medical or mental health care condition, is
16 pregnant, or is a nursing mother, the Secretary
17 shall consider releasing the detainee on parole,
18 on bond, or into a secure alternatives program.

19 (B) REEVALUATION.—If a detainee de-
20 scribed in subparagraph (A) is not initially re-
21 leased under this paragraph, the Secretary shall
22 periodically reevaluate the situation of the de-
23 tainee to determine if such a release would be
24 appropriate.

1 (C) DISCHARGE PLANNING.—Upon re-
2 moval or release, all detainees with serious med-
3 ical or mental health conditions and women who
4 are pregnant shall receive discharge planning to
5 ensure continuity of care for a reasonable pe-
6 riod of time.

7 (8) MEDICAL RECORDS.—

8 (A) IN GENERAL.—The Secretary shall—

9 (i) maintain complete, confidential
10 medical records for each detainee and
11 make such records available to the de-
12 tainee, or to individuals authorized by the
13 detainee, not later than 72 hours after re-
14 ceiving a request for such records.

15 (B) TRANSFER OF MEDICAL RECORDS.—

16 Immediately upon a detainee's transfer between
17 detention facilities, the detainee's complete
18 medical records, including any transfer sum-
19 mary, shall be provided to the receiving deten-
20 tion facility.

21 (f) TRANSFER OF DETAINEES.—

22 (1) NOTICE.—Absent exigent circumstances,
23 such as a natural disaster or comparable emergency,
24 the Secretary shall provide written notice to any de-
25 tainee, orally and in a writing in a language the de-

1 tainee claims to understand, not less than 72 hours
2 before transferring such detainee to another deten-
3 tion facility. Not later than 24 hours after such
4 transfer, the Secretary shall notify the detainee's
5 legal representative, or other person designated by
6 the detainee of the transfer, by telephone and in
7 writing.

8 (2) PROCEDURES.—Absent exigent cir-
9 cumstances, such as a natural disaster or com-
10 parable emergency, the Secretary may not transfer
11 a detainee to another detention facility if such trans-
12 fer would—

13 (A) impair an existing attorney-client rela-
14 tionship;

15 (B) prejudice the rights of the detainee in
16 any legal proceeding, including any Federal,
17 State, or administrative proceeding; or

18 (C) negatively affect the detainee's health,
19 including by interrupting the continuity of med-
20 ical care or provision of prescription medication.

21 (g) ACCESS TO TELEPHONES.—

22 (1) IN GENERAL.—Not later than 6 hours after
23 the commencement of a detention of a detainee, the
24 detainee shall be provided reasonable access to a

1 telephone, with at least 1 working telephone avail-
2 able for every 25 detainees.

3 (2) CONTACTS.—Each detainee has the right to
4 contact by telephone, free of charge—

5 (A) legal representatives;

6 (B) nongovernmental organizations des-
7 ignated by the Secretary;

8 (C) consular officials;

9 (D) the United Nations High Commis-
10 sioner for Refugees;

11 (E) Federal and State courts in which the
12 detainee is, or may become, involved in a legal
13 proceeding; and

14 (F) all government immigration agencies
15 and adjudicatory bodies, including the Office of
16 the Inspector General of the Department of
17 Homeland Security and the Office for Civil
18 Rights and Civil Liberties of the Department of
19 Homeland Security, through confidential toll-
20 free numbers.

21 (3) EMERGENCIES.—Each detainee subject to
22 expedited removal or who is experiencing a personal
23 or family emergency, including the need to arrange
24 care for dependents, shall be allowed to make con-
25 fidential calls at no charge.

1 (4) PRIVACY.—Each detainee has the right to
2 hold private telephone conversations for the purpose
3 of obtaining legal representation or related to legal
4 matters.

5 (5) RATES.—The Secretary shall ensure that
6 rates charged in detention facilities for telephone
7 calls are reasonable and do not significantly impair
8 the detainee’s right to make telephone calls.

9 (h) PHYSICAL AND SEXUAL ABUSE.—

10 (1) IN GENERAL.—No detainee, whether in a
11 detention facility or short-term detention facility,
12 shall be subject to degrading or inhumane treatment
13 such as physical abuse, sexual abuse or harassment,
14 or arbitrary punishment.

15 (2) PREVENTION.—The operators of detention
16 facilities shall take all necessary measures—

17 (A) to prevent sexual abuse and sexual as-
18 saults of detainees;

19 (B) to provide medical and mental health
20 treatment to victims of sexual abuse and sexual
21 assaults; and

22 (C) to comply fully with the national
23 standards for the detection, prevention, reduc-
24 tion, and punishment of prison rape adopted

1 pursuant to section 8(a) of the Prison Rape
2 Elimination Act of 2003 (42 U.S.C. 15607(a)).

3 (i) LIMITATIONS ON SOLITARY CONFINEMENT,
4 SHACKLING, AND STRIP SEARCHES.—

5 (1) EXTRAORDINARY CIRCUMSTANCES.—Solitary
6 confinement, shackling, and strip searches of
7 detainees—

8 (A) may not be used unless such tech-
9 niques are necessitated by extraordinary cir-
10 cumstances in which the safety of other persons
11 is at imminent risk; and

12 (B) may not be used for the purpose of
13 humiliating detainees either within or outside
14 the detention facility.

15 (2) PROTECTED CLASSES.—Solitary confine-
16 ment, shackling, and strip searches may not be used
17 on pregnant women, nursing mothers, women in
18 labor or delivery, or children who are younger than
19 18 years of age. Strip searches may not be con-
20 ducted in the presence of children who are younger
21 than 21 years of age.

22 (3) WRITTEN POLICIES.—Detention facilities
23 shall—

24 (A) adopt written policies pertaining to the
25 use of force and restraints; and

1 (B) train all staff on the proper use of
2 such techniques and devices.

3 (j) LOCATION OF DETENTION FACILITIES.—

4 (1) NEW FACILITIES.—All detention facilities
5 first used by the Department of Homeland Security
6 after the date of the enactment of this Act shall be
7 located within 50 miles of a community in which
8 there is a demonstrated capacity to provide free or
9 low-cost legal representation by—

10 (A) nonprofit legal aid organizations; or

11 (B) pro bono attorneys with expertise in
12 asylum or immigration law.

13 (2) EXISTING FACILITIES.—Not later than Jan-
14 uary 1, 2014, all detention facilities used by the De-
15 partment of Homeland Security shall meet the loca-
16 tion requirement described in paragraph (1).

17 (3) REPORT.—If the Secretary fails to comply
18 with the requirement under paragraph (2) by Janu-
19 ary 1, 2014, the Secretary shall submit a report to
20 Congress on such date, and annually thereafter,
21 that—

22 (A) explains the reasons for such failure;
23 and

24 (B) describes the specific plans of the Sec-
25 retary to meet such requirement.

1 (k) TRANSLATION CAPABILITIES.—The operators of
2 detention facilities and short-term detention facilities
3 shall—

4 (1) employ staff who are professionally qualified
5 in any language spoken by more than 10 percent of
6 its detainee population;

7 (2) arrange for alternative translation services,
8 as needed, in the exceptional circumstances when
9 trained bilingual staff members are unavailable to
10 translate; and

11 (3) provide notices and written materials to de-
12 tainees in the native language of such detainees if
13 such language is spoken by more than 5 percent of
14 the detainees in the facility.

15 (l) RECREATIONAL PROGRAMS AND ACTIVITIES.—
16 Detainees shall be provided with access to at least 1 hour
17 of indoor and outdoor recreational programs and activities
18 each day.

19 (m) TRAINING OF PERSONNEL.—All personnel at de-
20 tention facilities and short-term detention facilities shall
21 be given comprehensive, specialized training and regular,
22 periodic updates, including—

23 (1) an overview of immigration detention and
24 all detention standards;

1 (2) the characteristics of the noncitizen de-
2 tainee population, including the special needs of vul-
3 nerable populations among detainees and cultural,
4 gender, gender identity, and sexual orientation
5 issues; and

6 (3) the due process and grievance procedures to
7 protect the rights of detainees.

8 (n) TRANSPORTATION.—The Secretary shall ensure
9 that—

10 (1) each detainee is safely transported, which
11 shall include the appropriate use of safety harnesses
12 and occupancy limitations of vehicles; and

13 (2) female officers are responsible and at all
14 times present during the transfer and transport of
15 female detainees who are in the custody of the De-
16 partment of Homeland Security.

17 (o) VULNERABLE POPULATIONS.—Detention facility
18 conditions and minimum requirements for detention facili-
19 ties shall recognize and accommodate the unique needs of
20 vulnerable detainees, including—

21 (1) families with children;

22 (2) asylum seekers;

23 (3) victims of abuse, torture, or trafficking;

24 (4) individuals who are older than 65 years of
25 age;

1 (5) pregnant women; and

2 (6) nursing mothers.

3 (p) CHILDREN.—The Secretary shall ensure that un-
4 accompanied alien children are—

5 (1) physically separated from any adult who is
6 not an immediate family member; and

7 (2) separated by sight and sound from—

8 (A) immigration detainees and inmates
9 with criminal convictions;

10 (B) pretrial inmates facing criminal pros-
11 ecution;

12 (C) children who have been adjudicated
13 delinquents or convicted of adult offenses or are
14 pending delinquency or criminal proceedings;
15 and

16 (D) inmates exhibiting violent behavior
17 while in detention.

18 (q) SHORT-TERM FACILITY REQUIREMENTS.—

19 (1) ACCESS TO BASIC NEEDS, PEOPLE, AND
20 PROPERTY.—

21 (A) BASIC NEEDS.—All detainees in short-
22 term detention facilities shall receive—

23 (i) potable water;

24 (ii) food, if detained for more than 5
25 hours;

1 (iii) basic toiletries, diapers, sanitary
2 products, and blankets; and

3 (iv) access to bathroom facilities.

4 (B) PEOPLE.—The Secretary shall provide
5 consular officials with access to detainees held
6 at any short-term detention facility. Detainees
7 shall be afforded reasonable access to a licensed
8 health care professional. The Secretary shall en-
9 sure that nursing mothers in such facilities
10 have access to their children.

11 (C) PROPERTY.—Any property belonging
12 to a detainee that was confiscated by an official
13 of the Department of Homeland Security shall
14 be returned to the detainee upon repatriation or
15 transfer.

16 (2) PROTECTIONS FOR CHILDREN.—

17 (A) QUALIFIED STAFF.—The Secretary
18 shall ensure that adequately trained and quali-
19 fied staff are stationed at each major port of
20 entry at which, during the 2 most recent fiscal
21 years, an average of at least 50 unaccompanied
22 alien children have been held per year by
23 United States Customs and Border Protection.
24 Such staff shall include—

1 (i) independent licensed social workers
2 dedicated to ensuring the proper tem-
3 porary care for the children while in the
4 custody of United States Customs and
5 Border Protection; and

6 (ii) agents charged primarily with the
7 safe, swift, and humane transportation of
8 such children to the custody of the Office
9 of Refugee Resettlement.

10 (B) SPECIFIC RIGHTS.—The social workers
11 described in subparagraph (A)(i) shall ensure
12 that each unaccompanied alien child—

13 (i) receives emergency medical care;

14 (ii) receives mental health care in case
15 of trauma;

16 (iii) has access to psychosocial health
17 services;

18 (iv) is provided with—

19 (I) a pillow, linens, and sufficient
20 blankets to rest at a comfortable tem-
21 perature; and

22 (II) a bed and mattress placed in
23 an area specifically designated for res-
24 idential use;

25 (v) receives adequate nutrition;

- 1 (vi) enjoys a safe and sanitary living
2 environment;
3 (vii) receives educational materials;
4 and
5 (viii) has access to at least 3 hours of
6 indoor and outdoor recreational programs
7 and activities per day.

8 (3) CONFIDENTIALITY.—

9 (A) IN GENERAL.—The Secretary of
10 Health and Human Services shall maintain the
11 privacy and confidentiality of all information
12 gathered in the course of providing care, cus-
13 tody, placement, and follow-up services to unac-
14 companied alien children, consistent with the
15 best interest of such children, by not disclosing
16 such information to other government agencies
17 or nonparental third parties, except as provided
18 under paragraph (2).

19 (B) LIMITED DISCLOSURE OF INFORMA-
20 TION.—The Secretary may disclose information
21 regarding an unaccompanied alien child only
22 if—

- 23 (i) the child authorizes such disclosure
24 and it is consistent with the child's best in-
25 terest; or

1 (ii) the disclosure is to a duly recog-
2 nized law enforcement entity and is nec-
3 essary to prevent imminent and serious
4 harm to another individual.

5 (C) WRITTEN RECORD.—All disclosures
6 under paragraph (2) shall be duly recorded in
7 writing and placed in the child’s file.

8 **SEC. 11. TIMELY NOTICE OF IMMIGRATION CHARGES.**

9 Section 236 of the Immigration and Nationality Act
10 (8 U.S.C. 1226) is amended by adding at the end the fol-
11 lowing:

12 “(f) NOTICE AND CHARGES.—Not later than 48
13 hours after the commencement of a detention of an indi-
14 vidual under this section, the Secretary of Homeland Se-
15 curity shall—

16 “(1) file a Notice to Appear or other relevant
17 charging document with the immigration court clos-
18 est to the location at which the individual was appre-
19 hended; and

20 “(2) serve such notice or charging document on
21 the individual.”.

1 **SEC. 12. PROCEDURES FOR ENSURING ACCURACY AND**
2 **VERIFIABILITY OF SWORN STATEMENTS**
3 **TAKEN PURSUANT TO EXPEDITED REMOVAL**
4 **AUTHORITY.**

5 (a) IN GENERAL.—The Secretary shall establish
6 quality assurance procedures to ensure the accuracy and
7 verifiability of signed or sworn statements taken by em-
8 ployees of the Department of Homeland Security exer-
9 cising expedited removal authority under section 235(b)
10 of the Immigration and Nationality Act (8 U.S.C.
11 1225(b)).

12 (b) RECORDING OF INTERVIEWS.—

13 (1) IN GENERAL.—Any sworn or signed written
14 statement taken from an alien as part of the record
15 of a proceeding under section 235(b)(1)(A) of the
16 Immigration and Nationality Act shall be accom-
17 panied by a recording of the interview which served
18 as the basis for such sworn statement.

19 (2) CONTENT.—The recording shall include—

20 (A) a reading of the entire written state-
21 ment to the alien in a language that the alien
22 claims to understand; and

23 (B) the verbal affirmation by the alien of
24 the accuracy of—

25 (i) the written statement; or

1 (ii) a corrected version of the written
2 statement.

3 (3) **FORMAT.**—The recording shall be made in
4 video, audio, or other equally reliable format.

5 (4) **EVIDENCE.**—Recordings of interviews under
6 this subsection may be considered as evidence in any
7 further proceedings involving the alien.

8 (c) **EXEMPTION AUTHORITY.**—

9 (1) **EXEMPTED FACILITIES.**—Subsection (b)
10 shall not apply to interviews that occur at detention
11 facilities exempted by the Secretary under this sub-
12 section.

13 (2) **CRITERIA.**—The Secretary, or the Sec-
14 retary’s designee, may exempt any detention facility
15 if compliance with subsection (b) at that facility
16 would impair operations or impose undue burdens or
17 costs.

18 (3) **REPORT.**—The Secretary shall annually
19 submit a report to Congress that identifies the facili-
20 ties that have been exempted under this subsection.

21 (4) **NO PRIVATE CAUSE OF ACTION.**—Nothing
22 in this subsection may be construed to create a pri-
23 vate cause of action for damages or injunctive relief.

24 (d) **INTERPRETERS.**—The Secretary shall ensure that
25 a professional fluent interpreter is used if—

1 (1) the interviewing officer does not speak a
2 language understood by the alien; and

3 (2) there is no other Federal Government em-
4 ployee available who is able to interpret effectively,
5 accurately, and impartially.

6 **SEC. 13. STUDY ON THE EFFECT OF EXPEDITED REMOVAL**
7 **PROVISIONS, PRACTICES, AND PROCEDURES**
8 **ON ASYLUM CLAIMS.**

9 (a) STUDY.—

10 (1) IN GENERAL.—The United States Commis-
11 sion on International Religious Freedom (referred to
12 in this section as the “Commission”) is authorized
13 to conduct a study to determine whether immigra-
14 tion officers described in paragraph (2) are engaging
15 in conduct described in paragraph (3).

16 (2) IMMIGRATION OFFICERS DESCRIBED.—An
17 immigration officer described in this paragraph is an
18 immigration officer performing duties under section
19 235(b) of the Immigration and Nationality Act (8
20 U.S.C. 1225(b)) with respect to aliens who—

21 (A) are apprehended after entering the
22 United States; and

23 (B) may be eligible to apply for asylum
24 under section 208 or 235 of such Act.

1 (3) CONDUCT DESCRIBED.—An immigration of-
2 ficer engages in conduct described in this paragraph
3 if the immigration officer—

4 (A) improperly encourages an alien re-
5 ferred to in paragraph (2) to withdraw or re-
6 tract claims for asylum;

7 (B) incorrectly fails to refer such an alien
8 for an interview by an asylum officer to deter-
9 mine whether the alien has a credible fear of
10 persecution (as defined in section
11 235(b)(1)(B)(v) of such Act (8 U.S.C.
12 1225(b)(1)(B)(v)));

13 (C) incorrectly removes such an alien to a
14 country in which the alien may be persecuted;
15 or

16 (D) detains such an alien improperly or
17 under inappropriate conditions.

18 (b) REPORT.—Not later than 2 years after the date
19 on which the Commission initiates the study under sub-
20 section (a), the Commission shall submit a report con-
21 taining the results of the study to—

22 (1) the Committee on Homeland Security and
23 Governmental Affairs of the Senate;

24 (2) the Committee on the Judiciary of the Sen-
25 ate;

1 (3) the Committee on Foreign Relations of the
2 Senate;

3 (4) the Committee on Homeland Security of the
4 House of Representatives;

5 (5) the Committee on the Judiciary of the
6 House of Representatives; and

7 (6) the Committee on Foreign Affairs of the
8 House of Representatives.

9 (c) STAFF.—

10 (1) FROM OTHER AGENCIES.—

11 (A) IDENTIFICATION.—The Commission
12 may identify employees of the Department of
13 Homeland Security, the Department of Justice,
14 and the Government Accountability Office that
15 have significant expertise and knowledge of ref-
16 ugee and asylum issues.

17 (B) DESIGNATION.—At the request of the
18 Commission, the Secretary, the Attorney Gen-
19 eral, and the Comptroller General of the United
20 States shall authorize staff identified under
21 subparagraph (A) to assist the Commission in
22 conducting the study under subsection (a).

23 (2) ADDITIONAL STAFF.—The Commission may
24 hire additional staff and consultants to conduct the
25 study under subsection (a).

1 (3) ACCESS TO PROCEEDINGS.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B), the Secretary and the Attor-
4 ney General shall provide staff designated
5 under paragraph (1) or hired under paragraph
6 (2) with unrestricted access to all stages of all
7 proceedings conducted under section 235(b) of
8 the Immigration and Nationality Act (8 U.S.C.
9 1225(b)).

10 (B) EXCEPTIONS.—The Secretary and the
11 Attorney General may not permit unrestricted
12 access under subparagraph (A) if—

13 (i) the alien subject to a proceeding
14 under such section 235(b) objects to such
15 access; or

16 (ii) the Secretary or Attorney General
17 determines that the security of a particular
18 proceeding would be threatened by such
19 access.

20 **SEC. 14. LAWFUL PERMANENT RESIDENT STATUS OF REFU-**
21 **GEES AND ASYLUM SEEKERS GRANTED ASY-**
22 **LUM.**

23 (a) ADMISSION OF EMERGENCY SITUATION REFU-
24 GEES.—Section 207(c) of the Immigration and Nation-
25 ality Act (8 U.S.C. 1157(c)) is amended—

1 (1) in paragraph (1)—

2 (A) by striking “Attorney General” the
3 first time it appears and inserting “Secretary of
4 Homeland Security”;

5 (B) by striking “Attorney General” each
6 additional place it appears and inserting “Sec-
7 retary”; and

8 (C) by striking “(except as otherwise pro-
9 vided under paragraph (3)) as an immigrant
10 under this Act.” and inserting “(except as pro-
11 vided under subsection (b) and (c) of section
12 209) as an immigrant under this Act. Notwith-
13 standing any numerical limitations specified in
14 this Act, any alien admitted under this para-
15 graph shall be regarded as lawfully admitted to
16 the United States for permanent residence as of
17 the date of such alien’s admission to the United
18 States.”;

19 (2) in paragraph (2)(A)—

20 (A) by striking “(except as otherwise pro-
21 vided under paragraph (3))” and inserting
22 “(except as provided under subsection (b) and
23 (c) of section 209)”; and

24 (B) by striking the last sentence and in-
25 serting the following: “An alien admitted to the

1 United States as a refugee may petition for his
2 or her spouse or child to follow to join him or
3 her in the United States at any time after such
4 alien’s admission, notwithstanding his or her
5 treatment as a lawful permanent resident as of
6 the date of his or her admission to the United
7 States.”;

8 (3) by striking paragraph (3);

9 (4) by redesignating paragraph (4) as para-
10 graph (3); and

11 (5) in paragraph (3), as redesignated—

12 (A) by striking “Attorney General” the
13 first time it appears and inserting “Secretary of
14 Homeland Security”; and

15 (B) by striking “Attorney General” each
16 additional place it appears and inserting “Sec-
17 retary”.

18 (b) TREATMENT OF SPOUSE AND CHILDREN.—Sec-
19 tion 208(b)(3) of such Act (8 U.S.C. 1158(b)(3)) is
20 amended—

21 (1) by redesignating subparagraph (B) as sub-
22 paragraph (E); and

23 (2) by inserting after subparagraph (A) the fol-
24 lowing:

1 “(B) PETITION.—An alien granted asylum
2 under this subsection may petition for the same
3 status to be conferred on his or her spouse or
4 child at any time after such alien is granted
5 asylum whether or not such alien has applied
6 for, or been granted, adjustment to permanent
7 resident status under section 209.

8 “(C) PERMANENT RESIDENT STATUS.—
9 Notwithstanding any numerical limitations
10 specified in this Act, a spouse or child admitted
11 to the United States as an asylee following to
12 join a spouse or parent previously granted asy-
13 lum shall be regarded as lawfully admitted to
14 the United States for permanent residence as of
15 the date of such spouse’s or child’s admission to
16 the United States.

17 “(D) APPLICATION FOR ADJUSTMENT OF
18 STATUS.—A spouse or child who was not admit-
19 ted to the United States pursuant to a grant of
20 asylum, but who was granted asylum under this
21 subparagraph after his or her arrival as the
22 spouse or child of an alien granted asylum
23 under section 208, may apply for adjustment of
24 status to that of lawful permanent resident

1 under section 209 at any time after being
2 granted asylum.”.

3 (c) REFUGEES.—

4 (1) IN GENERAL.—Section 209 of such Act (8
5 U.S.C. 1159) is amended to read as follows:

6 **“SEC. 209. TREATMENT OF ALIENS ADMITTED AS REFU-**
7 **GEEES AND OF ALIENS GRANTED ASYLUM.**

8 “(a) IN GENERAL.—

9 “(1) TREATMENT OF REFUGEES.—Notwith-
10 standing any numerical limitations specified in this
11 Act, any alien who has been admitted to the United
12 States under section 207 shall be regarded as law-
13 fully admitted to the United States for permanent
14 residence as of the date of such admission.

15 “(2) TREATMENT OF SPOUSE AND CHIL-
16 DREN.—Notwithstanding any numerical limitations
17 specified in this Act, any alien admitted to the
18 United States under section 208(b)(3) as the spouse
19 or child of an alien granted asylum under section
20 208(b)(1) shall be regarded as lawfully admitted to
21 the United States for permanent residence as of the
22 date of such admission.

23 “(3) ADJUSTMENT OF STATUS.—The Secretary
24 of Homeland Security or the Attorney General, in
25 the discretion of the Secretary or the Attorney Gen-

1 eral, and under such regulations as the Secretary or
2 the Attorney General may prescribe, may adjust, to
3 the status of an alien lawfully admitted to the
4 United States for permanent residence, the status of
5 any alien who, while in the United States—

6 “(A) is granted—

7 “(i) asylum under section 208(b) (as
8 a principal alien or as the spouse or child
9 of an alien granted asylum); or

10 “(ii) refugee status under section 207
11 as the spouse or child of a refugee;

12 “(B) applies for such adjustment of status
13 at any time after being granted asylum or ref-
14 ugee status;

15 “(C) is not firmly resettled in any foreign
16 country; and

17 “(D) is admissible (except as otherwise
18 provided under subsections (b) and (c)) as an
19 immigrant under this Act at the time of exam-
20 ination for adjustment of such alien.

21 “(4) RECORD.—Upon approval of an applica-
22 tion under this subsection, the Secretary of Home-
23 land Security or the Attorney General shall establish
24 a record of the alien’s admission for lawful perma-

1 nent residence as of the date such alien was granted
2 asylum or refugee status.

3 “(5) DOCUMENT ISSUANCE.—An alien who has
4 been admitted to the United States under section
5 207 or 208 or who adjusts to the status of a lawful
6 permanent resident as a refugee or asylee under this
7 section shall be issued documentation indicating that
8 such alien is a lawful permanent resident pursuant
9 to a grant of refugee or asylum status.

10 “(b) INAPPLICABILITY OF CERTAIN INADMISSIBILITY
11 GROUNDS TO REFUGEES, ALIENS GRANTED ASYLUM,
12 AND SUCH ALIENS SEEKING ADJUSTMENT OF STATUS TO
13 LAWFUL PERMANENT RESIDENT.—Paragraphs (4), (5),
14 and (7)(A) of section 212(a) shall not apply to—

15 “(1) any refugee under section 207;

16 “(2) any alien granted asylum under section
17 208; or

18 “(3) any alien seeking admission as a lawful
19 permanent resident pursuant to a grant of refugee
20 or asylum status.

21 “(c) WAIVER OF INADMISSIBILITY OR DEPORT-
22 ABILITY FOR REFUGEES, ALIENS GRANTED ASYLUM, AND
23 SUCH ALIENS SEEKING ADJUSTMENT OF STATUS TO
24 LAWFUL PERMANENT RESIDENT.—

1 “(1) IN GENERAL.—Except as provided in para-
2 graph (2), the Secretary of Homeland Security or
3 the Attorney General may waive any ground of inad-
4 missibility under section 212 or any ground of de-
5 portability under section 237 for a refugee admitted
6 under section 207, an alien granted asylum under
7 section 208, or an alien seeking admission as a law-
8 ful permanent resident pursuant to a grant of ref-
9 ugee or asylum status if the Secretary or the Attor-
10 ney General determines that such waiver is justified
11 by humanitarian purposes, to ensure family unity, or
12 is otherwise in the public interest.

13 “(2) INELIGIBILITY.—A refugee under section
14 207, an alien granted asylum under section 208, or
15 an alien seeking admission as a lawful permanent
16 resident pursuant to a grant of refugee or asylum
17 status shall be ineligible for a waiver under para-
18 graph (1) if it has been established that the alien
19 is—

20 “(A) inadmissible under section
21 212(a)(2)(C) or subparagraph (A), (B), (C), or
22 (E) of section 212(a)(3);

23 “(B) deportable under section
24 237(a)(2)(A)(iii) for an offense described in
25 section 101(a)(43)(B); or

1 “(C) deportable under subparagraph (A),
2 (B), (C), or (D) of section 237(a)(4).”.

3 (d) TECHNICAL AMENDMENTS.—

4 (1) ALIENS NOT SUBJECT TO DIRECT NUMER-
5 ICAL LIMITATIONS.—Section 201(b)(1)(B) of the
6 Immigration and Nationality Act (8 U.S.C.
7 1151(b)(1)(B)) is amended to read as follows:

8 “(B) Aliens who are admitted to the United
9 States as permanent residents under section 207 or
10 208 or whose status is adjusted under section 209.”.

11 (2) TRAINING.—Section 207(f)(1) of such Act
12 (8 U.S.C. 1157(f)(1)) is amended by striking “At-
13 torney General” and inserting “Secretary of Home-
14 land Security”.

15 (3) TABLE OF CONTENTS.—The table of con-
16 tents for such Act is amended by striking the item
17 relating to section 209 and inserting the following:

“Sec. 209. Treatment of aliens admitted as refugees and of aliens granted asy-
lum.”.

18 (e) SAVINGS PROVISIONS.—

19 (1) IN GENERAL.—Nothing in the amendments
20 made by this section may be construed to limit ac-
21 cess to the benefits described at chapter 2 of title IV
22 of the Immigration and Nationality Act (8 U.S.C.
23 1521 et seq.).

1 (2) CLARIFICATION.—Aliens admitted for law-
2 ful permanent residence under section 207 or 208 of
3 the Immigration and Nationality Act (8 U.S.C. 1157
4 and 1158) or who adjust status to lawful permanent
5 resident under section 209 of such Act (8 U.S.C.
6 1159) shall be considered to be refugees and aliens
7 granted asylum in accordance with sections 402,
8 403, 412, and 431 of the Personal Responsibility
9 and Work Opportunity Reconciliation Act of 1996 (8
10 U.S.C. 1612, 1613, 1622, and 1641).

11 (f) EFFECTIVE DATE.—This section, and the amend-
12 ments made by this section, shall become effective on the
13 earlier of—

14 (1) the date that is 180 days after the date of
15 the enactment of this Act; or

16 (2) the date on which a final rule is promul-
17 gated to implement this section.

18 **SEC. 15. PROTECTIONS FOR MINORS SEEKING ASYLUM.**

19 (a) IN GENERAL.—Section 208 of the Immigration
20 and Nationality Act (8 U.S.C. 1158) is amended—

21 (1) in subsection (a)(2), as amended by section
22 3, by adding at the end the following:

23 “(D) APPLICABILITY TO MINORS.—Sub-
24 paragraphs (A), (B), and (C) do not apply to

1 an applicant who is younger than 18 years of
2 age on the earlier of—

3 “(i) the date on which the asylum ap-
4 plication is filed; or

5 “(ii) the date on which any Notice to
6 Appear is issued.”; and

7 (2) in subsection (b)(3), as amended by section
8 14(b), by adding at the end the following:

9 “(F) JURISDICTION.—An asylum officer
10 (as defined in section 235(b)(1)(E)) shall have
11 initial jurisdiction over any asylum application
12 filed by an applicant who is younger than 18
13 years of age on the earlier of—

14 “(i) the date on which the asylum ap-
15 plication is filed; or

16 “(ii) the date on which any Notice to
17 Appear is issued.”.

18 (b) REINSTATEMENT OF REMOVAL.—Section 241(a)
19 of the Immigration and Nationality Act (8 U.S.C.
20 1231(a)) is amended—

21 (1) in paragraph (5), by striking “If the Attor-
22 ney General” and inserting “Except as provided in
23 paragraph (8), if the Secretary of Homeland Secu-
24 rity”; and

25 (2) by adding at the end of the following:

1 “(8) APPLICABILITY OF REINSTATEMENT OF
2 REMOVAL.—Paragraph (5) shall not apply to an
3 alien who has reentered the United States illegally
4 after having been removed or having departed volun-
5 tarily, under an order of removal, if the alien was
6 younger than 18 years of age on the date on which
7 the alien was removed or departed voluntarily under
8 an order of removal.”.

9 **SEC. 16. MULTIPLE FORMS OF RELIEF.**

10 (a) IN GENERAL.—Applicants for admission as refu-
11 gees may simultaneously pursue admission under any visa
12 category for which such applicants may be eligible.

13 (b) ASYLUM APPLICANTS WHO BECOME ELIGIBLE
14 FOR DIVERSITY VISAS.—Section 204(a)(1)(I) (8 U.S.C.
15 1154(a)(1)(I)) of the Immigration and Nationality Act (8
16 U.S.C. 1154(a)(1)(I)) is amended by adding at the end
17 the following:

18 “(iv)(I) An asylum seeker in the United States who
19 is notified that he or she is eligible for an immigrant visa
20 pursuant to section 203(c) may file a petition with the
21 district director that has jurisdiction over the district in
22 which the asylum seeker resides (or, in the case of an asy-
23 lum seeker who is or was in removal proceedings, the im-
24 migration court in which the removal proceeding is pend-

1 ing or was adjudicated) to adjust status to that of a per-
2 manent resident.

3 “(II) A petition under subclause (I) shall be filed not
4 later than 30 days before the end of the fiscal year for
5 which the petitioner received notice of eligibility for the
6 visa and shall contain such information and be supported
7 by such documentary evidence as the Secretary of State
8 may require.

9 “(III) The district director or immigration court shall
10 attempt to adjudicate each petition under this clause be-
11 fore the last day of the fiscal year for which the petitioner
12 was selected. Notwithstanding clause (ii)(II), if the district
13 director or immigration court is unable to complete such
14 adjudication during such fiscal year, the adjudication and
15 adjustment of the petitioner’s status may take place after
16 the end of such fiscal year.”.

17 **SEC. 17. PROTECTION OF REFUGEE FAMILIES.**

18 (a) CHILDREN OF REFUGEE OR ASYLEE SPOUSES
19 AND CHILDREN.—A child of an alien who qualifies for ad-
20 mission as a spouse or child under section 207(c)(2)(A)
21 or 208(b)(3) of the Immigration and Nationality Act (8
22 U.S.C. 1157(c)(2)(A) and 1158(b)(3)) shall be entitled to
23 the same admission status as such alien if the child—

24 (1) is accompanying or following to join such
25 alien; and

1 (2) is otherwise admissible under such section
2 207(c)(2)(A) or 208(b)(3).

3 (b) SEPARATED CHILDREN.—A child younger than
4 18 years of age who has been separated from the birth
5 or adoptive parents of such child and is living under the
6 care of an alien who has been approved for admission to
7 the United States as a refugee shall be admitted as a ref-
8 ugee if—

9 (1) it is in the best interest of such child to be
10 placed with such alien in the United States; and

11 (2) such child is otherwise admissible under sec-
12 tion 207(c)(3) of the Immigration and Nationality
13 Act (8 U.S.C. 1157(c)(3)).

14 (c) ELIMINATION OF TIME LIMITS ON REUNIFICA-
15 TION OF REFUGEE AND ASYLEE FAMILIES.—

16 (1) EMERGENCY SITUATION REFUGEES.—Sec-
17 tion 207(c)(2)(A) of the Immigration and Nation-
18 ality Act (8 U.S.C. 1157(c)(2)(A)) is amended by
19 striking “A spouse or child (as defined in section
20 101(b)(1) (A), (B), (C), (D), or (E))” and inserting,
21 “Regardless of when such refugee was admitted to
22 the United States, a spouse or child (other than a
23 child described in section 101(b)(1)(F))”.

1 (2) ASYLUM.—Section 208(b)(3)(A) of such Act
2 (8 U.S.C. 1158(b)(3)(A)) is amended to read as fol-
3 lows:

4 “(A) IN GENERAL.—A spouse or child
5 (other than a child described in section
6 101(b)(1)(F)) of an alien who was granted asy-
7 lum under this subsection at any time may, if
8 not otherwise eligible for asylum under this sec-
9 tion, be granted the same status as the alien if
10 accompanying or following to join such alien.”.

11 (d) TIMELY ADJUDICATION OF REFUGEE AND
12 ASYLEE FAMILY REUNIFICATION PETITIONS.—The Im-
13 migration and Nationality Act (8 U.S.C. 1101 et seq.) is
14 amended—

15 (1) in section 207(c)(2), as amended by sub-
16 section (c), by adding at the end the following:

17 “(D) The Secretary shall ensure that the application
18 of an alien who is following to join a refugee who qualifies
19 for admission under paragraph (1) is adjudicated not later
20 than 90 days after the submission of such application.”;
21 and

22 (2) in section 208(b)(3), by adding at the end
23 the following:

24 “(G) TIMELY ADJUDICATION.—The Sec-
25 retary shall ensure that the application of each

1 alien described in subparagraph (A) who applies
2 to follow an alien granted asylum under this
3 subsection is adjudicated not later than 90 days
4 after the submission of such application.”.

5 **SEC. 18. REFORM OF REFUGEE CONSULTATION PROCESS**
6 **AND REFUGEE PROCESSING.**

7 Section 207 of the Immigration and Nationality Act
8 (8 U.S.C. 1157) is amended—

9 (1) in subsection (a), by adding at the end the
10 following:

11 “(5) All officers of the Federal Government respon-
12 sible for refugee admissions or refugee resettlement shall
13 treat the determinations made under this subsection and
14 subsection (b) as the refugee admissions goal for the fiscal
15 year.”;

16 (2) in subsection (d), by adding at the end the
17 following:

18 “(4) Not later than 15 days after the last day of each
19 calendar quarter, the President shall submit a report to
20 the Committee on the Judiciary of the Senate and the
21 Committee on the Judiciary of the House of Representa-
22 tives that contains—

23 “(A) the number of refugees who were admitted
24 during the previous quarter;

1 “(B) the percentage of those arrivals against
2 the refugee admissions goal for such quarter;

3 “(C) the cumulative number of refugees who
4 were admitted during the fiscal year as of the end
5 of such quarter;

6 “(D) the number of refugees to be admitted
7 during the remainder of the fiscal year in order to
8 meet the refugee admissions goal for the fiscal year;
9 and

10 “(E) a plan that describes the procedural or
11 personnel changes necessary to achieve the refugee
12 admissions goal for the fiscal year.”; and

13 (3) in subsection (e)—

14 (A) by redesignating paragraphs (1)
15 through (7) as subparagraphs (A) through (G),
16 respectively;

17 (B) in the matter preceding subparagraph
18 (A), as redesignated—

19 (i) by inserting “(1)” after “(e)”; and

20 (ii) by inserting “, which shall be com-
21 menced not later than May 1 of each year
22 and continue periodically throughout the
23 remainder of the year, if necessary,” after
24 “discussions in person”;

1 (C) by striking “To the extent possible,”
2 and inserting the following:

3 “(2) To the extent possible”; and

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

5 “(3)(A) The plans referred to in paragraph (1)(C)
6 shall include estimates of—

7 “(i) the number of refugees the President ex-
8 pects to have ready to travel to the United States
9 at the beginning of the fiscal year;

10 “(ii) the number of refugees and the stipulated
11 populations the President expects to admit to the
12 United States in each quarter of the fiscal year; and

13 “(iii) the number of refugees the President ex-
14 pects to have ready to travel to the United States
15 at the end of the fiscal year.

16 “(B) The Secretary of Homeland Security shall en-
17 sure that an adequate number of refugees are processed
18 during the fiscal year to fulfill the refugee admissions
19 goals under subsections (a) and (b).”.

20 **SEC. 19. ADMISSION OF REFUGEES IN THE ABSENCE OF**
21 **THE ANNUAL PRESIDENTIAL DETERMINA-**
22 **TION.**

23 Section 207(a) of the Immigration and Nationality
24 Act (8 U.S.C. 1157(a)) is amended—

25 (1) by striking paragraph (1);

1 (2) by redesignating paragraphs (2), (3), (4),
2 and (5) as paragraphs (1), (2), (3), and (4), respec-
3 tively;

4 (3) in paragraph (1), as redesignated—

5 (A) by striking “after fiscal year 1982”;

6 and

7 (B) by adding at the end the following: “If
8 the President does not issue a determination
9 under this paragraph before the beginning of a
10 fiscal year, the number of refugees that may be
11 admitted under this section in each quarter be-
12 fore the issuance of such determination shall be
13 25 percent of the number of refugees admissible
14 under this section during the previous fiscal
15 year.”; and

16 (4) in paragraph (3), as redesignated, by strik-
17 ing “(beginning with fiscal year 1992)”.

18 **SEC. 20. AUTHORITY TO DESIGNATE CERTAIN GROUPS OF**

19 **REFUGEES FOR CONSIDERATION.**

20 (a) IN GENERAL.—Section 207(c)(1) of the Immigra-
21 tion and Nationality Act (8 U.S.C. 1157(c)(1)) is amend-
22 ed—

23 (1) by inserting “(A)” before “Subject to the
24 numerical limitations”; and

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

1 “(B)(i) The Secretary of State, after notification to
2 Congress, may designate specifically defined groups of
3 aliens whose resettlement in the United States is justified
4 by humanitarian concerns or is otherwise in the national
5 interest and who share common characteristics that iden-
6 tify them as targets of persecution on account of race, reli-
7 gion, nationality, membership in a particular social group,
8 or political opinion or who otherwise have a shared need
9 for resettlement due to vulnerabilities or a lack of local
10 integration prospects in their country of first asylum.

11 “(ii) An alien who establishes membership in a group
12 designated under clause (i) to the satisfaction of the des-
13 ignee of the Secretary of Homeland Security shall estab-
14 lish, for purposes of admission as a refugee under this sec-
15 tion, that such alien has a well-founded fear of persecution
16 on account of race, religion, nationality, membership in
17 a particular social group, or political opinion.

18 “(iii) A designation under clause (i)—

19 “(I) shall expire at the end of each fiscal year;
20 and

21 “(II) may be extended by the Secretary of State
22 after notification to Congress.

23 “(iv) An alien’s admission under this subparagraph
24 shall count against the refugee admissions goal under sub-
25 section (a).

1 “(v) A designation under clause (i) shall not influence
2 decisions to grant, to any alien, asylum under section 208,
3 protection under section 241(b)(3), or protection under
4 the Convention Against Torture and Other Cruel, Inhu-
5 man or Degrading Treatment or Punishment, done at
6 New York December 10, 1984.”.

7 (b) EFFECTIVE DATE.—The amendments made by
8 this section shall take effect on the first day of the first
9 fiscal year that begins after the date of the enactment of
10 this Act.

11 **SEC. 21. UPDATE OF RECEPTION AND PLACEMENT GRANTS.**

12 Beginning with fiscal year 2012, not later than 30
13 days before the beginning of each fiscal year, the Secretary
14 shall notify Congress of the amount of funds that the Sec-
15 retary will provide in its Reception and Placement Grants
16 in the coming fiscal year. In setting the amount of such
17 grants each year, the Secretary shall ensure that—

18 (1) the grant amount is adjusted so that it is
19 adequate to provide for the anticipated initial reset-
20 tlement needs of refugees, including adjusting the
21 amount for inflation and the cost of living;

22 (2) an amount is provided at the beginning of
23 the fiscal year to each national resettlement agency
24 that is sufficient to ensure adequate local and na-
25 tional capacity to serve the initial resettlement needs

1 of refugees the Secretary anticipates the agency will
2 resettle throughout the fiscal year; and

3 (3) additional amounts are provided to each na-
4 tional resettlement agency promptly upon the arrival
5 of refugees that, exclusive of the amounts provided
6 pursuant to paragraph (2), are sufficient to meet the
7 anticipated initial resettlement needs of such refu-
8 gees and support local and national operational costs
9 in excess of the estimates described in paragraph
10 (1).

11 **SEC. 22. LEGAL ASSISTANCE FOR REFUGEES AND ASYLEES.**

12 Section 412(c)(1)(A) of the Immigration and Nation-
13 ality Act (8 U.S.C. 1522(c)(1)(A)) is amended—

14 (1) in clause (ii), by striking “and” at an end;

15 (2) by redesignating clause (iii) as clause (iv);

16 and

17 (3) by inserting after clause (ii) the following:

18 “(iii) to provide legal services for refugees to
19 assist them in obtaining immigration benefits for
20 which they are eligible; and”.

21 **SEC. 23. PROTECTION FOR ALIENS INTERDICTED AT SEA.**

22 Section 241(b)(3) of the Immigration and Nationality
23 Act (8 U.S.C. 1231(b)(3)) is amended—

24 (1) in the paragraph heading, by striking “TO

25 A COUNTRY WHERE ALIEN’S LIFE OR FREEDOM

1 WOULD BE THREATENED” and inserting “OR RE-
2 TURN IF REFUGEE’S LIFE OR FREEDOM WOULD BE
3 THREATENED OR ALIEN WOULD BE SUBJECTED TO
4 TORTURE”;

5 (2) in subparagraph (A)—

6 (A) by striking “Notwithstanding” and in-
7 serting the following:

8 “(i) LIFE OR FREEDOM THREAT-
9 ENED.—Notwithstanding”;

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

11 “(ii) ASYLUM INTERVIEW.—Notwith-
12 standing paragraphs (1) and (2), a United
13 States officer may not return any alien
14 interdicted or otherwise encountered in
15 international waters or United States wa-
16 ters who has expressed a fear of return to
17 his or her country of departure, origin, or
18 last habitual residence—

19 “(I) until such alien has had the
20 opportunity to be interviewed by an
21 asylum officer to determine whether
22 that alien has a well-founded fear of
23 persecution because of the alien’s
24 race, religion, nationality, membership
25 in a particular social group, or polit-

1 ical opinion, or because the alien
2 would be subject to torture in that
3 country; or

4 “(II) if an asylum officer has de-
5 termined that the alien has such a
6 well-founded fear of persecution or
7 would be subject to torture in his or
8 her country of departure, origin, or
9 last habitual residence.”;

10 (3) by redesignating subparagraphs (B) and
11 (C) as subparagraphs (C) and (D), respectively; and

12 (4) by inserting after subparagraph (A) the fol-
13 lowing:

14 “(B) PROTECTIONS FOR ALIENS INTER-
15 DICTED IN INTERNATIONAL OR UNITED STATES
16 WATERS.—The Secretary of Homeland Security
17 shall issue regulations establishing a uniform
18 procedure applicable to all aliens interdicted in
19 international or United States waters that—

20 “(i) provides each alien—

21 “(I) a meaningful opportunity to
22 express, through a translator who is
23 fluent in a language the alien claims
24 to understand, a fear of return to his

1 or her country of departure, origin, or
2 last habitual residence; and

3 “(II) in a confidential setting and
4 in a language the alien claims to un-
5 derstand, information concerning the
6 alien’s interdiction, including the abil-
7 ity to inform United States officers
8 about any fears relating to the alien’s
9 return or repatriation;

10 “(ii) provides each alien expressing
11 such a fear of return or repatriation a con-
12 fidential interview conducted by an asylum
13 officer, in a language the alien claims to
14 understand, to determine whether the
15 alien’s return to his or her country of ori-
16 gin or country of last habitual residence is
17 prohibited because the alien has a well-
18 founded fear of persecution—

19 “(I) because of the alien’s race,
20 religion, nationality, membership in a
21 particular social group, or political
22 opinion; or

23 “(II) because the alien would be
24 subject to torture in that country;

1 “(iii) ensures that each alien can ef-
2 fectively communicate with United States
3 officers through the use of a translator flu-
4 ent in a language the alien claims to un-
5 derstand; and

6 “(iv) provides each alien who, accord-
7 ing to the determination of an asylum offi-
8 cer, has a well-founded fear of persecution
9 for the reasons specified in clause (ii) or
10 would be subject to torture, an opportunity
11 to seek protection in—

12 “(I) a country other than the
13 alien’s country of origin or country of
14 last habitual residence in which the
15 alien has family or other ties that will
16 facilitate resettlement; or

17 “(II) if the alien has no such
18 ties, a country that will best facilitate
19 the alien’s resettlement, which may in-
20 clude the United States.”.

21 **SEC. 24. PROTECTION OF STATELESS PERSONS IN THE**
22 **UNITED STATES.**

23 (a) IN GENERAL.—Chapter 1 of title II of the Immi-
24 gration and Nationality Act (8 U.S.C. 1151 et seq.) is
25 amended by adding at the end the following:

1 **“SEC. 210A. PROTECTION OF STATELESS PERSONS IN THE**
2 **UNITED STATES.**

3 “(a) DEFINED TERM.—

4 “(1) IN GENERAL.—In this section, the term
5 ‘de jure stateless person’ means an individual who is
6 not considered a national under the laws of any
7 country.

8 “(2) DESIGNATION OF SPECIFIC DE JURE
9 GROUPS.—The Secretary of Homeland Security may
10 designate specific groups of individuals who are con-
11 sidered de jure stateless persons, for purposes of this
12 section.

13 “(b) MECHANISMS FOR REGULARIZING THE STATUS
14 OF STATELESS PERSONS.—

15 “(1) RELIEF FOR INDIVIDUALS DETERMINED
16 TO BE DE JURE STATELESS PERSONS.—The Sec-
17 retary of Homeland Security or the Attorney Gen-
18 eral may cancel removal or provide conditional law-
19 ful status to an alien who is otherwise inadmissible
20 or deportable from the United States if the alien—

21 “(A) is a de jure stateless person;

22 “(B) applies for such relief;

23 “(C) is not inadmissible under paragraph
24 (2) or (3) of section 212(a);

25 “(D) is not deportable under paragraph
26 (2), (3), or (4) of section 237(a); and

1 “(E) is not described in section
2 241(b)(3)(C)(i).

3 “(2) WAIVERS.—

4 “(A) AUTOMATIC WAIVERS.—In deter-
5 mining an alien’s eligibility for relief under
6 paragraph (1), paragraphs (4), (5), (6)(A),
7 (7)(A), and (9) of section 212(a) shall not
8 apply.

9 “(B) APPLICATION.—An alien seeking re-
10 lief under paragraph (1) may apply to the Sec-
11 retary or the Attorney General for a waiver of
12 any of the grounds set forth in subparagraph
13 (C) and (D) of paragraph (1).

14 “(C) OTHER WAIVERS.—The Secretary or
15 the Attorney General may waive any other
16 ground of inadmissibility or deportability (ex-
17 cept for section 241(b)(3)(C)(i)) with respect to
18 such an applicant, including felony convictions
19 and health conditions, if such waiver—

20 “(i) is justified by humanitarian pur-
21 poses;

22 “(ii) would ensure family unity; or

23 “(iii) is otherwise in the public inter-
24 est.

1 “(3) WORK AUTHORIZATION.—The Secretary
2 may—

3 “(A) authorize an alien who has applied
4 for relief under paragraph (1) to engage in em-
5 ployment in the United States while such appli-
6 cation is being considered; and

7 “(B) provide such applicant with an em-
8 ployment authorized endorsement or other ap-
9 propriate document signifying authorization of
10 employment.

11 “(4) DEPENDENT SPOUSES AND CHILDREN.—
12 The spouse, child, or unmarried son or daughter of
13 an alien who has been granted conditional lawful
14 status under paragraph (1) may apply for condi-
15 tional lawful status under this section as a depend-
16 ent if—

17 “(A) the dependent properly files an appli-
18 cation for such status;

19 “(B) the dependent is physically present in
20 the United States on the date on which such
21 application is filed;

22 “(C) the dependent meets the eligibility
23 criteria set forth in paragraph (1); and

24 “(D) the qualifying relationship to the
25 principal beneficiary existed on the date on

1 which such alien was granted conditional lawful
2 status.

3 “(c) ADJUSTMENT OF STATUS.—

4 “(1) INSPECTION AND EXAMINATION.—At the
5 end of the 1-year period beginning on the date on
6 which an alien has been granted conditional lawful
7 status under subsection (b), the alien may apply for
8 lawful permanent residence in the United States if—

9 “(A) the alien has been physically present
10 in the United States for at least 1 year;

11 “(B) the alien’s conditional lawful status
12 has not been terminated by the Secretary of
13 Homeland Security or the Attorney General,
14 pursuant to such regulations as the Secretary
15 or the Attorney General may prescribe; and

16 “(C) the alien has not otherwise acquired
17 permanent resident status.

18 “(2) REQUIREMENTS FOR ADJUSTMENT.—The
19 Secretary or the Attorney General, under such regu-
20 lations as the Secretary or the Attorney General
21 may prescribe, may adjust the status of an alien
22 granted conditional lawful status under subsection
23 (b) to that of an alien lawfully admitted for perma-
24 nent residence if such alien—

25 “(A) is a de jure stateless person;

1 “(B) properly applies for such adjustment
2 of status;

3 “(C) has been physically present in the
4 United States for at least 1 year after being
5 granted conditional lawful status under sub-
6 section (b);

7 “(D) is not firmly resettled in any foreign
8 country; and

9 “(E) is admissible (except as otherwise
10 provided under subsection (b)(2)) as an immi-
11 grant under this chapter at the time of exam-
12 ination of such alien for adjustment of status.

13 “(3) PROVING THE CLAIM.—In determining an
14 alien’s eligibility for adjustment of status under this
15 subsection, the Secretary or the Attorney General
16 shall consider any credible evidence relevant to the
17 application. The determination of what evidence is
18 credible and the weight to be given that evidence
19 shall be within the sole discretion of the Secretary
20 or the Attorney General.

21 “(4) RECORD.—Upon approval of an applica-
22 tion under this subsection, the Secretary or the At-
23 torney General shall establish a record of the alien’s
24 admission for lawful permanent residence as of the
25 date that is 1 year before the date of such approval.

1 “(d) REVIEW.—

2 “(1) ADMINISTRATIVE REVIEW.—The Attorney
3 General shall provide applicants for relief under this
4 section the same right to, and procedures for, ad-
5 ministrative review as are provided to aliens subject
6 to removal proceedings under section 240.

7 “(2) JUDICIAL REVIEW.—The United States
8 Court of Appeals shall—

9 “(A) sustain a final decision denying relief
10 under this section unless it is contrary to law,
11 an abuse of discretion, or not supported by sub-
12 stantial evidence; and

13 “(B) decide the petition only on the admin-
14 istrative record on which the denial of relief is
15 based.

16 “(3) MOTIONS TO REOPEN.—Notwithstanding
17 any limitation imposed by law on motions to reopen
18 removal or deportation proceedings, any individual
19 who is eligible for relief under this section may file
20 1 motion to reopen removal or deportation pro-
21 ceedings in order to apply for relief under this sec-
22 tion.”.

23 (b) CLERICAL AMENDMENT.—The table of contents
24 for the Immigration and Nationality Act is amended by

1 inserting after the item relating to section 210 the fol-
2 lowing:

“Sec. 210A. Protection of stateless persons in the United States.”.

3 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

4 There are authorized to be appropriated such sums
5 as may be necessary to carry out this Act, and the amend-
6 ments made by this Act.

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