

115TH CONGRESS  
1ST SESSION

# H. R. 2431

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 16, 2017

Mr. LABRADOR (for himself, Mr. GOODLATTE, Mr. COLLINS of Georgia, Mr. SMITH of Texas, Mr. CARTER of Texas, and Mr. POE of Texas) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committees on Foreign Affairs, and 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

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## A BILL

To amend the Immigration and Nationality Act to improve immigration law enforcement within the interior of the United States, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

## 1 SEC. 2. TABLE OF CONTENTS.

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

Sec. 1. Short title.

Sec. 2. Table of contents.

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Sec. 101. Definitions and severability.

Sec. 102. Immigration law enforcement by States and localities.

Sec. 103. Listing of immigration violators in the national crime information center database.

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Sec. 106. Financial assistance to State and local police agencies that assist in the enforcement of immigration laws.

Sec. 107. Increased Federal detention space.

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### TITLE II—NATIONAL SECURITY

Sec. 201. Removal of, and denial of benefits to, terrorist aliens.

Sec. 202. Terrorist bar to good moral character.

Sec. 203. Terrorist bar to naturalization.

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Sec. 208. Revocation or denial of passports and passport cards to terrorists.

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Sec. 302. Precluding admissibility of aliens convicted of aggravated felonies or other serious offenses.

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Sec. 304. Prohibition of the sale of firearms to, or the possession of firearms by, certain aliens.

Sec. 305. Uniform statute of limitations for certain immigration, naturalization, and peonage offenses.

Sec. 306. Conforming amendment to the definition of racketeering activity.

- See. 307. Precluding asylee and refugee adjustment of status for certain grounds of inadmissibility and deportability.
- See. 308. Precluding withholding of removal for aggravated felons.
- See. 309. Inadmissibility and deportability of drunk drivers.
- See. 310. Detention of dangerous aliens.
- See. 311. Grounds of inadmissibility and deportability for alien gang members.
- See. 312. Extension of identity theft offenses.
- See. 313. Laundering of monetary instruments.
- See. 314. Penalties for illegal entry or presence.
- See. 315. Illegal reentry.
- See. 316. Reform of passport, visa, and immigration fraud offenses.
- See. 317. Forfeiture.
- See. 318. Expedited removal for aliens inadmissible on criminal or security grounds.
- See. 319. Increased penalties barring the admission of convicted sex offenders failing to register and requiring deportation of sex offenders failing to register.
- See. 320. Protecting immigrants from convicted sex offenders.
- See. 321. Clarification to crimes of violence and crimes involving moral turpitude.
- See. 322. Penalties for failure to obey removal orders.
- See. 323. Pardons.
- See. 324. Convictions.

#### TITLE IV—VISA SECURITY

- See. 401. Cancellation of additional visas.
- See. 402. Visa information sharing.
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#### TITLE V—AID TO IMMIGRATION AND CUSTOMS ENFORCEMENT OFFICERS

- Sec. 501. ICE deportation officers.
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- Sec. 601. Timely repatriation.
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Sec. 616. Waiver of rights by B visa nonimmigrants.

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

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

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

9           (b) SECRETARY DEFINED.—For the purpose of this  
10   title, the term “Secretary” means the Secretary of Home-  
11   land Security.

12          (c) SEVERABILITY.—If any provision of this title, or  
13     the application of such provision to any person or cir-  
14     cumstance, is held invalid, the remainder of this title, and  
15     the application of such provision to other persons not simi-  
16     larly situated or to other circumstances, shall not be af-  
17     fected by such invalidation.

1   **SEC. 102. IMMIGRATION LAW ENFORCEMENT BY STATES**

2                   **AND LOCALITIES.**

3                 (a) IN GENERAL.—Subject to section 274A(h)(2) of  
4   the Immigration and Nationality Act (8 U.S.C.  
5 1324a(h)(2)), States, or political subdivisions of States,  
6 may enact, implement and enforce criminal penalties that  
7 penalize the same conduct that is prohibited in the crimi-  
8 nal provisions of immigration laws (as defined in section  
9 101(a)(17) of the Immigration and Nationality Act (8  
10 U.S.C. 1101(a)(17))), as long as the criminal penalties do  
11 not exceed the relevant Federal criminal penalties (without  
12 regard to ancillary issues such as the availability of proba-  
13 tion or pardon). States, or political subdivisions of States,  
14 may enact, implement and enforce civil penalties that pe-  
15 nalyze the same conduct that is prohibited in the civil pro-  
16 visions of immigration laws (as defined in such section  
17 101(a)(17)), as long as the civil penalties do not exceed  
18 the relevant Federal civil penalties.

19                 (b) LAW ENFORCEMENT PERSONNEL.—Subject to  
20 section 274A(h)(2) of the Immigration and Nationality  
21 Act (8 U.S.C. 1324a(h)(2)), law enforcement personnel of  
22 a State, or of a political subdivision of a State, may inves-  
23 tigate, identify, apprehend, arrest, detain, or transfer to  
24 Federal custody aliens for the purposes of enforcing the  
25 immigration laws of the United States to the same extent  
26 as Federal law enforcement personnel. Law enforcement

1 personnel of a State, or of a political subdivision of a  
2 State, may also investigate, identify, apprehend, arrest, or  
3 detain aliens for the purposes of enforcing the immigration  
4 laws of a State or of a political subdivision of State, as  
5 long as those immigration laws are permissible under this  
6 section. Law enforcement personnel of a State, or of a po-  
7 litical subdivision of a State, may not admit aliens to or  
8 remove them from the United States.

9 **SEC. 103. LISTING OF IMMIGRATION VIOLATORS IN THE NA-**

10 **TIONAL CRIME INFORMATION CENTER DATA-**  
11 **BASE.**

12 (a) PROVISION OF INFORMATION TO THE NCIC.—  
13 Not later than 180 days after the date of the enactment  
14 of this Act and periodically thereafter as updates may re-  
15 quire, the Secretary shall provide the National Crime In-  
16 formation Center of the Department of Justice with all  
17 information that the Secretary may possess regarding any  
18 alien against whom a final order of removal has been  
19 issued, any alien who has entered into a voluntary depar-  
20 ture agreement, any alien who has violated the terms or  
21 conditions of the alien's admission or parole into the  
22 United States or is unlawfully present in the United  
23 States (as defined in section 212(a)(9)(B)(ii) of the Immi-  
24 gration and Nationality Act (8 U.S.C. 1182(a)(9)(B)(ii))  
25 subject to the exceptions set forth in section

1 212(a)(9)(B)(iii) of the Act (8 U.S.C.  
2 1182(a)(9)(B)(iii)), and any alien whose visa has been  
3 revoked. The National Crime Information Center shall  
4 enter such information into the Immigration Violators File  
5 of the National Crime Information Center database, re-  
6 gardless of whether—

7 (1) the alien has received notice of a final order  
8 of removal;  
9 (2) the alien has already been removed; or  
10 (3) sufficient identifying information is avail-  
11 able with respect to the alien.

12 (b) INCLUSION OF INFORMATION IN THE NCIC  
13 DATABASE.—

14 (1) IN GENERAL.—Section 534(a) of title 28,  
15 United States Code, is amended—  
16 (A) in paragraph (3), by striking “and” at  
17 the end;  
18 (B) by redesignating paragraph (4) as  
19 paragraph (5); and  
20 (C) by inserting after paragraph (3) the  
21 following:

22 “(4) acquire, collect, classify, and preserve  
23 records of violations by aliens of the immigration  
24 laws (as defined in section 101(a)(17) of the Immi-  
25 gration and Nationality Act (8 U.S.C.

1        1101(a)(17))), regardless of whether any such alien  
2        has received notice of the violations or whether suffi-  
3        cient identifying information is available with respect  
4        to any such alien or whether any such alien has al-  
5        ready been removed from the United States; and".

6                (2) EFFECTIVE DATE.—The Attorney General  
7        and the Secretary shall ensure that the amendment  
8        made by paragraph (1) is implemented by not later  
9        than 6 months after the date of the enactment of  
10      this Act.

11 **SEC. 104. TECHNOLOGY ACCESS.**

12        States shall have access to Federal programs or tech-  
13        nology directed broadly at identifying inadmissible or de-  
14        portable aliens.

15 **SEC. 105. STATE AND LOCAL LAW ENFORCEMENT PROVI-**  
16                **SION OF INFORMATION ABOUT APPRE-**  
17                **HENDED ALIENS.**

18                (a) PROVISION OF INFORMATION.—In compliance  
19        with section 642 of the Illegal Immigration Reform and  
20        Immigrant Responsibility Act of 1996 (8 U.S.C. 1373)  
21        and section 434 of the Personal Responsibility and Work  
22        Opportunity Reconciliation Act of 1996 (8 U.S.C. 1644),  
23        each State, and each political subdivision of a State, shall  
24        provide the Secretary of Homeland Security in a timely  
25        manner with the information specified in subsection (b)

1 with respect to each alien apprehended in the jurisdiction  
2 of the State, or in the political subdivision of the State,  
3 who is believed to be inadmissible or deportable.

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

6 (1) The alien's name.

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

8 (3) A physical description of the alien.

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

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

14 (6) If applicable, the type of any other identi-  
15 fication document issued to the alien, any designa-  
16 tion number contained on the identification docu-  
17 ment, and the issuing entity for the identification  
18 document.

19 (7) If applicable, the license plate number,  
20 make, and model of any automobile registered to, or  
21 driven by, the alien.

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

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

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

6       (d) REIMBURSEMENT.—The Secretary shall reim-  
7 burse States, and political subdivisions of a State, for all  
8 reasonable costs, as determined by the Secretary, incurred  
9 by the State, or the political subdivision of a State, as  
10 a result of providing information under subsection (a).

11     (e) CONSTRUCTION.—Nothing in this section shall re-  
12 quire law enforcement officials of a State, or of a political  
13 subdivision of a State, to provide the Secretary with infor-  
14 mation related to a victim of a crime or witness to a crimi-  
15 nal offense.

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

20 **SEC. 106. FINANCIAL ASSISTANCE TO STATE AND LOCAL**  
21 **POLICE AGENCIES THAT ASSIST IN THE EN-**  
22 **FORCEMENT OF IMMIGRATION LAWS.**

23     (a) GRANTS FOR SPECIAL EQUIPMENT FOR HOUSING  
24 AND PROCESSING CERTAIN ALIENS.—From amounts  
25 made available to make grants under this section, the Sec-

1     retary shall make grants to States, and to political subdivi-  
2     sions of States, for procurement of equipment, technology,  
3     facilities, and other products that facilitate and are di-  
4     rectly related to investigating, apprehending, arresting,  
5     detaining, or transporting aliens who are inadmissible or  
6     deportable, including additional administrative costs in-  
7     curred under this title.

8         (b) ELIGIBILITY.—To be eligible to receive a grant  
9     under this section, a State, or a political subdivision of  
10    a State shall have a written policy and a practice to assist  
11    in the enforcement of the immigration laws of the United  
12    States in the course of carrying out the routine law en-  
13    forcement duties of such State or political subdivision of  
14    a State. Entities covered under this section may not have  
15    any policy or practice that is in violation of section 642  
16    of the Illegal Immigration Reform and Immigrant Respon-  
17    sibility Act of 1996 (8 U.S.C. 1373).

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

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

24         (a) CONSTRUCTION OR ACQUISITION OF DETENTION  
25    FACILITIES.—

1                             (1) IN GENERAL.—The Secretary shall con-  
2                             struct or acquire, in addition to existing facilities for  
3                             the detention of aliens, detention facilities in the  
4                             United States for aliens detained pending removal  
5                             from the United States or a decision regarding such  
6                             removal. Each facility shall have a number of beds  
7                             necessary to effectuate the purposes of this title.

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

11                             (b) TECHNICAL AND CONFORMING AMENDMENT.—  
12                     Section 241(g)(1) of the Immigration and Nationality Act  
13                     (8 U.S.C. 1231(g)(1)) is amended by striking “may ex-  
14                     pend” and inserting “shall expend”.

15                     **SEC. 108. FEDERAL CUSTODY OF INADMISSIBLE AND DE-**  
16                             **PORTABLE ALIENS IN THE UNITED STATES**  
17                             **APPREHENDED BY STATE OR LOCAL LAW EN-**  
18                             **FORCEMENT.**

19                             (a) STATE APPREHENSION.—

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

1     “CUSTODY OF INADMISSIBLE AND DEPORTABLE ALIENS  
2                          PRESENT IN THE UNITED STATES  
3     “SEC. 240D. (a) TRANSFER OF CUSTODY BY STATE  
4     AND LOCAL OFFICIALS.—If a State, or a political subdivi-  
5     sion of the State, exercising authority with respect to the  
6     apprehension or arrest of an inadmissible or deportable  
7     alien submits to the Secretary of Homeland Security a re-  
8     quest that the alien be taken into Federal custody, not-  
9     withstanding any other provision of law, regulation, or pol-  
10   icy the Secretary may take the alien into custody not later  
11   than 48 hours (excluding Saturdays, Sundays, and holi-  
12   days) after a detainer has been issued pursuant to section  
13   111(b)(2) of the Michael Davis, Jr., and Danny Oliver in  
14   Honor of State and Local Law Enforcement Act following  
15   the conclusion of the State or local charging process or  
16   dismissal process, or if no State or local charging or dis-  
17   missal process is required, the Secretary may take the  
18   alien into custody not later than 48 hours (excluding Sat-  
19   urdays, Sundays, and holidays) after a detainer has been  
20   issued pursuant to section 111(b)(2) of the Michael Davis,  
21   Jr., and Danny Oliver in Honor of State and Local Law  
22   Enforcement Act, in order to determine whether the alien  
23   should be detained, placed in removal proceedings, re-  
24   leased, or removed.

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

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

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

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

18       “(c) REIMBURSEMENT.—The Secretary of Homeland  
19 Security shall reimburse a State, or a political subdivision  
20 of a State, for all reasonable expenses, as determined by  
21 the Secretary, incurred by the State, or political subdivi-  
22 sion, as a result of the incarceration and transportation  
23 of an alien who is inadmissible or deportable as described  
24 in subsections (a) and (b). Compensation provided for  
25 costs incurred under such subsections shall be the average

1 cost of incarceration of a prisoner in the relevant State,  
2 as determined by the chief executive officer of a State,  
3 or of a political subdivision of a State, plus the cost of  
4 transporting the alien from the point of apprehension to  
5 the place of detention, and to the custody transfer point  
6 if the place of detention and place of custody are different.

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

11       “(e) TRANSFER.—

12           “(1) IN GENERAL.—In carrying out this sec-  
13 tion, the Secretary of Homeland Security shall es-  
14 tablish a regular circuit and schedule for the prompt  
15 transfer of apprehended aliens from the custody of  
16 States, and political subdivisions of a State, to Fed-  
17 eral custody.

18           “(2) CONTRACTS.—The Secretary may enter  
19 into contracts, including appropriate private con-  
20 tracts, to implement this subsection.”.

21           (2) CLERICAL AMENDMENT.—The table of con-  
22 tents of such Act is amended by inserting after the  
23 item relating to section 240C the following new item:

“Sec. 240D. Custody of inadmissible and deportable aliens present in the United States.”.

1       (b) GAO AUDIT.—Not later than 3 years after the  
2 date of the enactment of this Act, the Comptroller General  
3 of the United States shall conduct an audit of compensa-  
4 tion to States, and to political subdivisions of a State, for  
5 the incarceration of inadmissible or deportable aliens  
6 under section 240D(a) of the Immigration and Nationality  
7 Act (as added by subsection (a)(1)).

8       (c) EFFECTIVE DATE.—Section 240D of the Immi-  
9 gration and Nationality Act, as added by subsection (a),  
10 shall take effect on the date of the enactment of this Act,  
11 except that subsection (e) of such section shall take effect  
12 on the date that is 120 day after the date of the enactment  
13 of this Act.

14 **SEC. 109. TRAINING OF STATE AND LOCAL LAW ENFORCE-**  
15 **MENT PERSONNEL RELATING TO THE EN-**  
16 **FORCEMENT OF IMMIGRATION LAWS.**

17       (a) ESTABLISHMENT OF TRAINING MANUAL AND  
18 POCKET GUIDE.—Not later than 180 days after the date  
19 of the enactment of this Act, the Secretary shall estab-  
20 lish—

21               (1) a training manual for law enforcement per-  
22 sonnel of a State, and of a political subdivision of  
23 a State, to train such personnel in the investigation,  
24 identification, apprehension, arrest, detention, and  
25 transfer to Federal custody of inadmissible and de-

1       portable aliens in the United States (including the  
2       transportation of such aliens across State lines to  
3       detention centers and the identification of fraudulent  
4       documents); and

5               (2) an immigration enforcement pocket guide  
6       for law enforcement personnel of a State, and of a  
7       political subdivision of a State, to provide a quick  
8       reference for such personnel in the course of duty.

9               (b) AVAILABILITY.—The training manual and pocket  
10      guide established in accordance with subsection (a) shall  
11      be made available to all State and local law enforcement  
12      personnel.

13               (c) COSTS.—The Secretary shall be responsible for  
14      any costs incurred in establishing the training manual and  
15      pocket guide.

16               (d) TRAINING FLEXIBILITY.—

17               (1) IN GENERAL.—The Secretary shall make  
18      training of State and local law enforcement officers  
19      available through as many means as possible, includ-  
20      ing through residential training at the Center for  
21      Domestic Preparedness, onsite training held at State  
22      and local police agencies or facilities, online training  
23      courses by computer, teleconferencing, and video-  
24      tape, or the digital video display (DVD) of a train-  
25      ing course or courses. E-learning through a secure,

1       encrypted distributed learning system that has all its  
2       servers based in the United States, is scalable, sur-  
3       vivable, and can have a portal in place not later than  
4       30 days after the date of the enactment of this Act,  
5       shall be made available by the Federal Law Enforce-  
6       ment Training Center Distributed Learning Pro-  
7       gram for State and local law enforcement personnel.

8                 (2) FEDERAL PERSONNEL TRAINING.—The  
9       training of State and local law enforcement per-  
10       sonnel under this section shall not displace the train-  
11       ing of Federal personnel.

12                 (3) CLARIFICATION.—Nothing in this title or  
13       any other provision of law shall be construed as  
14       making any immigration-related training a require-  
15       ment for, or prerequisite to, any State or local law  
16       enforcement officer to assist in the enforcement of  
17       Federal immigration laws.

18                 (4) PRIORITY.—In carrying out this subsection,  
19       priority funding shall be given for existing Web-  
20       based immigration enforcement training systems.

21 **SEC. 110. IMMUNITY.**

22       Notwithstanding any other provision of law, a law en-  
23       forcement officer of a State or local law enforcement agen-  
24       cy who is acting within the scope of the officer's official  
25       duties shall be immune, to the same extent as a Federal

1 law enforcement officer, from personal liability arising out  
2 of the performance of any duty described in this title, in-  
3 cluding the authorities to investigate, identify, apprehend,  
4 arrest, detain, or transfer to Federal custody, an alien for  
5 the purposes of enforcing the immigration laws of the  
6 United States (as defined in section 101(a)(17) of the Im-  
7 migration and Nationality Act (8 U.S.C. 1101(a)(17))) or  
8 the immigration laws of a State or a political subdivision  
9 of a State.

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

11 (a) CONTINUATION AND EXPANSION.—

12 (1) IN GENERAL.—The Secretary shall continue  
13 to operate and implement a program designed to—  
14 (A) identify removable criminal aliens in  
15 Federal and State correctional facilities;  
16 (B) ensure such aliens are not released  
17 into the community; and  
18 (C) remove such aliens from the United  
19 States after the completion of their sentences.

20 (2) EXPANSION.—The program shall be ex-  
21 tended to all States. Any State that receives Federal  
22 funds for the incarceration of criminal aliens (pursu-  
23 ant to the State Criminal Alien Assistance Program  
24 authorized under section 241(i) of the Immigration

1 and Nationality Act (8 U.S.C. 1231(i)) or other  
2 similar program) shall—

- 3                             (A) cooperate with officials of the program;
- 4                             (B) expeditiously and systematically iden-  
5                                 tify criminal aliens in its prison and jail popu-  
6                                 lations; and
- 7                             (C) promptly convey such information to  
8                                 officials of such program as a condition of re-  
9                                 ceiving such funds.

10                         (b) AUTHORIZATION FOR DETENTION AFTER COM-  
11                         PLETION OF STATE OR LOCAL PRISON SENTENCE.—Law  
12                         enforcement officers of a State, or of a political subdivision  
13                         of a State, are authorized to—

14                             (1) hold a criminal alien for a period of up to  
15                             48 hours (excluding Saturdays, Sundays, and holi-  
16                                 days) after the alien has completed the alien's sen-  
17                                 tence under State or local law in order to effectuate  
18                                 the transfer of the alien to Federal custody when the  
19                                 alien is inadmissible or deportable; and

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

24                         (c) TECHNOLOGY USAGE.—Technology, such as video  
25                                 conferencing, shall be used to the maximum extent prac-

1 ticable in order to make the program available in remote  
2 locations. Mobile access to Federal databases of aliens and  
3 live scan technology shall be used to the maximum extent  
4 practicable in order to make these resources available to  
5 State and local law enforcement agencies in remote loca-  
6 tions.

7       (d) EFFECTIVE DATE.—This section shall take effect  
8 of the date of the enactment of this Act, except that sub-  
9 section (a)(2) shall take effect on the date that is 180 days  
10 after such date.

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

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

14           (1) in paragraph (1) by striking “may enter”  
15 and all that follows through the period at the end  
16 and inserting the following: “shall enter into a writ-  
17 ten agreement with a State, or any political subdivi-  
18 sion of a State, upon request of the State or political  
19 subdivision, pursuant to which officers or employees  
20 of the State or subdivision, who are determined by  
21 the Secretary to be qualified to perform a function  
22 of an immigration officer in relation to the investiga-  
23 tion, apprehension, or detention of aliens in the  
24 United States (including the transportation of such  
25 aliens across State lines to detention centers), may

1 carry out such function at the expense of the State  
2 or political subdivision and to extent consistent with  
3 State and local law. No request from a bona fide  
4 State or political subdivision or bona fide law en-  
5 forcement agency shall be denied absent a compel-  
6 ling reason. No limit on the number of agreements  
7 under this subsection may be imposed. The Sec-  
8 retary shall process requests for such agreements  
9 with all due haste, and in no case shall take not  
10 more than 90 days from the date the request is  
11 made until the agreement is consummated.”;

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

15 (3) by inserting after paragraph (1) the fol-  
16 lowing:

17 “(2) An agreement under this subsection shall accom-  
18 modate a requesting State or political subdivision with re-  
19 spect to the enforcement model or combination of models,  
20 and shall accommodate a patrol model, task force model,  
21 jail model, any combination thereof, or any other reason-  
22 able model the State or political subdivision believes is best  
23 suited to the immigration enforcement needs of its juris-  
24 diction.

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

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

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

14       “(ii) The State or political subdivision shall have the  
15 right to a hearing before an administrative law judge and,  
16 if the ruling is against the State or political subdivision,  
17 to appeal the ruling to the Federal Circuit Court of Ap-  
18 peals and, if the ruling is against the State or political  
19 subdivision, to petition the Supreme Court for certiorari.

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

22           (4) by inserting after paragraph (5) (as redesig-  
23 nated) the following:

24       “(6) The Secretary of Homeland Security shall make  
25 training of State and local law enforcement officers avail-

1 able through as many means as possible, including  
2 through residential training at the Center for Domestic  
3 Preparedness and the Federal Law Enforcement Training  
4 Center, onsite training held at State or local police agen-  
5 cies or facilities, online training courses by computer, tele-  
6 conferencing, and videotape, or the digital video display  
7 (DVD) of a training course or courses. Distance learning  
8 through a secure, encrypted distributed learning system  
9 that has all its servers based in the United States, is seal-  
10 able, survivable, and can have a portal in place not later  
11 than 30 days after the date of the enactment of this Act,  
12 shall be made available by the COPS Office of the Depart-  
13 ment of Justice and the Federal Law Enforcement Train-  
14 ing Center Distributed Learning Program for State and  
15 local law enforcement personnel. Preference shall be given  
16 to private sector-based Web-based immigration enforce-  
17 ment training programs for which the Federal Govern-  
18 ment has already provided support to develop.”.

19 **SEC. 113. STATE CRIMINAL ALIEN ASSISTANCE PROGRAM**

20 **(SCAAP).**

21 Section 241(i) of the Immigration and Nationality

22 Act (8 U.S.C. 1231(i)) is amended—

23 (1) by striking “Attorney General” the first  
24 place such term appears and inserting “Secretary of  
25 Homeland Security”;

- 1                         (2) by striking “Attorney General” each place  
2                         such term appears thereafter and inserting “Sec-  
3                         retary”; and  
4                         (3) in paragraph (3)(A), by inserting “charged  
5                         with or” before “convicted”.

6 **SEC. 114. STATE NONCOMPLIANCE WITH ENFORCEMENT OF**  
7                         **IMMIGRATION LAW.**

8                         (a) IN GENERAL.—Section 642 of the Illegal Immi-  
9 gration Reform and Immigrant Responsibility Act of 1996  
10 (8 U.S.C. 1373) is amended—

11                         (1) by striking subsection (a) and inserting the  
12 following:

13                         “(a) IN GENERAL.—Notwithstanding any other pro-  
14 vision of Federal, State, or local law, no Federal, State,  
15 or local government entity, and no individual, may prohibit  
16 or in any way restrict, a Federal, State, or local govern-  
17 ment entity, official or other personnel from complying  
18 with the immigration laws (as defined in section  
19 101(a)(17) of the Immigration and Nationality Act (8  
20 U.S.C. 1101(a)(17))), or from assisting or cooperating  
21 with Federal law enforcement entities, officials or other  
22 personnel regarding the enforcement of these laws.”;

23                         (2) by striking subsection (b) and inserting the  
24 following:

1       “(b) LAW ENFORCEMENT ACTIVITIES.—Notwith-  
2 standing any other provision of Federal, State, or local  
3 law, no Federal, State, or local government entity, and no  
4 individual, may prohibit, or in any way restrict, a Federal,  
5 State, or local government entity, official or other per-  
6 sonnel from undertaking any of the following law enforce-  
7 ment activities as they relate to information regarding the  
8 citizenship or immigration status, lawful or unlawful, the  
9 inadmissibility or deportability, and the custody status, of  
10 any individual:

11           “(1) Making inquiries to any individual in order  
12 to obtain such information regarding such individual  
13 or any other individuals.

14           “(2) Notifying the Federal Government regard-  
15 ing the presence of individuals who are encountered  
16 by law enforcement officials or other personnel of a  
17 State or political subdivision of a State.

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

21           (3) by amending subsection (c) by striking “Im-  
22 migration and Naturalization Service” and inserting  
23 “Department of Homeland Security”; and

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

25       “(d) COMPLIANCE.—

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

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

14                 “(B) any other grant administered by the  
15       Department of Justice or Department of Home-  
16       land Security that is substantially related to law  
17       enforcement, terrorism, national security, or im-  
18       migration or naturalization.

19                 “(2) TRANSFER OF CUSTODY OF ALIENS PEND-  
20       ING REMOVAL PROCEEDINGS.—The Secretary, at the  
21       Secretary’s discretion, may decline to transfer an  
22       alien in the custody of the Department of Homeland  
23       Security to a State or political subdivision of a State  
24       found not to be in compliance with subsection (a) or

1       (b), regardless of whether the State or political sub-  
2       division of the State has issued a writ or warrant.

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

11          “(4) ANNUAL DETERMINATION.—The Secretary  
12       shall determine for each calendar year which States  
13       or political subdivision of States are not in compli-  
14       ance with subsection (a) or (b) and shall report such  
15       determinations to Congress by March 1 of each suc-  
16       ceeding calendar year.

17          “(5) REPORTS.—The Secretary of Homeland  
18       Security shall issue a report concerning the compli-  
19       ance with subsections (a) and (b) of any particular  
20       State or political subdivision of a State at the re-  
21       quest of the House or Senate Judiciary Committee.  
22       Any jurisdiction that is found not to be in compli-  
23       ance shall be ineligible to receive Federal financial  
24       assistance as provided in paragraph (1) for a min-  
25       imum period of 1 year, and shall only become eligi-

1       ble again after the Secretary of Homeland Security  
2       certifies that the jurisdiction has come into compli-  
3       ance.

4           “(6) REALLOCATION.—Any funds that are not  
5       allocated to a State or to a political subdivision of  
6       a State due to the failure of the State or of the po-  
7       litical subdivision of the State to comply with sub-  
8       section (a) or (b) shall be reallocated to States or to  
9       political subdivisions of States that comply with both  
10      such subsections.

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

15          (b) EFFECTIVE DATE.—The amendments made by  
16       this section shall take effect on the date of the enactment  
17       of this Act, except that subsection (d) of section 642 of  
18       the Illegal Immigration Reform and Immigrant Responsi-  
19       bility Act of 1996 (8 U.S.C. 1373), as added by this sec-  
20       tion, shall apply only to prohibited acts committed on or  
21       after the date of the enactment of this Act.

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

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

1       “(d) DETAINER OF INADMISSIBLE OR DEPORTABLE  
2 ALIENS.—

3           “(1) IN GENERAL.—In the case of an individual  
4 who is arrested by any Federal, State, or local law  
5 enforcement official or other personnel for the al-  
6 leged violation of any criminal or motor vehicle law,  
7 the Secretary may issue a detainer regarding the in-  
8 dividual to any Federal, State, or local law enforce-  
9 ment entity, official or other personnel if the Sec-  
10 retary has probable cause to believe that the indi-  
11 vidual is an inadmissible or deportable alien.

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

14           “(A) the individual who is the subject of  
15 the detainer matches, pursuant to biometric  
16 confirmation or other Federal database records,  
17 the identity of an alien who the Secretary has  
18 reasonable grounds to believe to be inadmissible  
19 or deportable;

20           “(B) the individual who is the subject of  
21 the detainer is the subject of ongoing removal  
22 proceedings, including matters where a charg-  
23 ing document has already been served;

24           “(C) the individual who is the subject of  
25 the detainer has previously been ordered re-

1                         moved from the United States and such an  
2                         order is administratively final;

3                         “(D) the individual who is the subject of  
4                         the detainer has made voluntary statements or  
5                         provided reliable evidence that indicate that  
6                         they are an inadmissible or deportable alien; or

7                         “(E) the Secretary otherwise has reason-  
8                         able grounds to believe that the individual who  
9                         is the subject of the detainer is an inadmissible  
10                         or deportable alien.

11                         “(3) TRANSFER OF CUSTODY.—If the Federal,  
12                         State, or local law enforcement entity, official or  
13                         other personnel to whom a detainer is issued com-  
14                         plies with the detainer and detains for purposes of  
15                         transfer of custody to the Department of Homeland  
16                         Security the individual who is the subject of the de-  
17                         tainer, the Department may take custody of the in-  
18                         dividual within 48 hours (excluding weekends and  
19                         holidays), but in no instance more than 96 hours,  
20                         following the date that the individual is otherwise to  
21                         be released from the custody of the relevant Federal,  
22                         State, or local law enforcement entity.”.

23                         (b) IMMUNITY.—

24                         (1) IN GENERAL.—A State or a political sub-  
25                         division of a State (and the officials and personnel

1 of the State or subdivision acting in their official ca-  
2 pacities), and a nongovernmental entity (and its per-  
3 sonnel) contracted by the State or political subdivi-  
4 sion for the purpose of providing detention, acting in  
5 compliance with a Department of Homeland Secu-  
6 rity detainer issued pursuant to this section who  
7 temporarily holds an alien in its custody pursuant to  
8 the terms of a detainer so that the alien may be  
9 taken into the custody of the Department of Home-  
10 land Security, shall be considered to be acting under  
11 color of Federal authority for purposes of deter-  
12 mining their liability and shall be held harmless for  
13 their compliance with the detainer in any suit seek-  
14 ing any punitive, compensatory, or other monetary  
15 damages.

16 (2) FEDERAL GOVERNMENT AS DEFENDANT.—  
17 In any civil action arising out of the compliance with  
18 a Department of Homeland Security detainer by a  
19 State or a political subdivision of a State (and the  
20 officials and personnel of the State or subdivision  
21 acting in their official capacities), or a nongovern-  
22 mental entity (and its personnel) contracted by the  
23 State or political subdivision for the purpose of pro-  
24 viding detention, the United States Government  
25 shall be the proper party named as the defendant in

1       the suit in regard to the detention resulting from  
2       compliance with the detainer.

3                     (3) BAD FAITH EXCEPTION.—Paragraphs (1)  
4       and (2) shall not apply to any mistreatment of an  
5       individual by a State or a political subdivision of a  
6       State (and the officials and personnel of the State  
7       or subdivision acting in their official capacities), or  
8       a nongovernmental entity (and its personnel) con-  
9       tracted by the State or political subdivision for the  
10      purpose of providing detention.

11                     (c) PRIVATE RIGHT OF ACTION.—

12                     (1) CAUSE OF ACTION.—Any individual, or  
13       their spouses, parents, or children (if the individual  
14       is deceased), who is the victim of a murder, rape, or  
15       any felony, as defined by the State, for which an  
16       alien (as defined in section 101(a)(3) of the Immi-  
17       gration and Nationality Act (8 U.S.C. 1101(a)(3)))  
18       has been convicted and sentenced to a term of im-  
19       prisonment of at least one year, may bring an action  
20       against a State or political subdivision of a State in  
21       the appropriate Federal or State court if the State  
22       or political subdivision released the alien from cus-  
23       tody prior to the commission of such crime as a con-  
24       sequence of the State or political subdivision's de-  
25       clining to honor a detainer issued pursuant to sec-

tion 287(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1357(d)(1)).

## **13 TITLE II—NATIONAL SECURITY**

14 SEC. 201. REMOVAL OF, AND DENIAL OF BENEFITS TO, TER-  
15 RORIST ALIENS.

16           (a) ASYLUM.—Section 208(b)(2)(A) of the Immigration  
17 and Nationality Act (8 U.S.C. 1158(b)(2)(A)) is  
18 amended—

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

1                   212(a)(3)(B)(i), the Secretary of Home-  
2                   land Security or the Attorney General de-  
3                   termines, in the discretion of the Secretary  
4                   or the Attorney General, that there are not  
5                   reasonable grounds for regarding the alien  
6                   as a danger to the security of the United  
7                   States; or”.

8                 (b) CANCELLATION OF REMOVAL.—Section  
9 240A(c)(4) of such Act (8 U.S.C. 1229b(c)(4)) is amend-  
10 ed—

11                 (1) by striking “inadmissible under” and insert-  
12                 ing “described in”; and  
13                 (2) by striking “deportable under” and insert-  
14                 ing “described in”.

15                 (c) VOLUNTARY DEPARTURE.—Section  
16 240B(b)(1)(C) of such Act (8 U.S.C. 1229c(b)(1)(C)) is  
17 amended by striking “deportable under section  
18 237(a)(2)(A)(iii) or section 237(a)(4);” and inserting “de-  
19 scribed in paragraph (2)(A)(iii) or (4) of section 237(a);”.

20                 (d) RESTRICTION ON REMOVAL.—Section  
21 241(b)(3)(B) of such Act (8 U.S.C. 1231(b)(3)(B)) is  
22 amended—

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

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

2                         (3) in clause (iv), by striking the period at the

3                         end and inserting a semicolon;

4                         (4) by striking the flush matter that follows

5                         after clause (iv); and

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

7                                 “(v) the alien is described in subparagraph (B)(i) or (F) of section 212(a)(3),

8                                 unless, in the case of an alien described in

9                                 subparagraph (IV) or (IX) of section

10                                 212(a)(3)(B)(i), the Secretary of Homeland Security or the Attorney General de-

11                                 termines, in discretion of the Secretary or

12                                 the Attorney General, that there are not

13                                 reasonable grounds for regarding the alien

14                                 as a danger to the security of the United

15                                 States; or”.

18                         (e) RECORD OF ADMISSION.—

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

21                         “RECORD OF ADMISSION FOR PERMANENT RESIDENCE IN  
22                                 THE CASE OF CERTAIN ALIENS WHO ENTERED THE  
23                                 UNITED STATES PRIOR TO JANUARY 1, 1972

24                         “SEC. 249. The Secretary of Homeland Security, in  
25                                 the discretion of the Secretary and under such regulations  
26                                 as the Secretary may prescribe, may enter a record of law-

1 ful admission for permanent residence in the case of any  
2 alien, if no such record is otherwise available and the  
3 alien—

4           “(1) entered the United States before January  
5           1, 1972;

6           “(2) has continuously resided in the United  
7           States since such entry;

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

10          “(4) is not ineligible for citizenship;

11          “(5) is not described in paragraph (1)(A)(iv),  
12           (2), (3), (6)(C), (6)(E), or (8) of section 212(a); and

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

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

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

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

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

1 of this Act and sections 208(b)(2)(A), 212(a), 240A,  
2 240B, 241(b)(3), and 249 of the Immigration and Nation-  
3 ality Act, as so amended, shall apply to—

4 (1) all aliens in removal, deportation, or exclu-  
5 sion proceedings;

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

8 (3) with respect to aliens and applications de-  
9 scribed in paragraph (1) or (2) of this subsection,  
10 acts and conditions constituting a ground for exclu-  
11 sion, deportation, or removal occurring or existing  
12 before, on, or after the date of the enactment of this  
13 Act.

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

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

18 (1) by inserting after paragraph (1) the fol-  
19 lowing:

20 “(2) one who the Secretary of Homeland Secu-  
21 rity or Attorney General determines to have been at  
22 any time an alien described in section 212(a)(3) or  
23 237(a)(4), which determination may be based upon  
24 any relevant information or evidence, including clas-  
25 sified, sensitive, or national security information;”;

1                             (2) in paragraph (8), by inserting “, regardless  
2 whether the crime was classified as an aggravated  
3 felony at the time of conviction, except that the Sec-  
4 retary of Homeland Security or Attorney General  
5 may, in the unreviewable discretion of the Secretary  
6 or Attorney General, determine that this paragraph  
7 shall not apply in the case of a single aggravated fel-  
8 ony conviction (other than murder, manslaughter,  
9 homicide, rape, or any sex offense when the victim  
10 of such sex offense was a minor) for which comple-  
11 tion of the term of imprisonment or the sentence  
12 (whichever is later) occurred 10 or more years prior  
13 to the date of application” after “(as defined in sub-  
14 section (a)(43))”; and

15                             (3) in the matter following paragraph (9), by  
16 striking the first sentence and inserting the fol-  
17 lowing: “The fact that any person is not within any  
18 of the foregoing classes shall not preclude a discre-  
19 tionary finding for other reasons that such a person  
20 is or was not of good moral character. The Secretary  
21 or the Attorney General shall not be limited to the  
22 applicant’s conduct during the period for which good  
23 moral character is required, but may take into con-  
24 sideration as a basis for determination the appli-  
25 cant’s conduct and acts at any time.”.

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

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

8       (c) TECHNICAL CORRECTION TO THE INTELLIGENCE  
9 REFORM ACT.—Section 5504(2) of the Intelligence Re-  
10 form and Terrorism Prevention Act of 2004 (Public Law  
11 108–458) is amended by striking “adding at the end” and  
12 inserting “inserting after paragraph (8)”.

13       (d) EFFECTIVE DATE.—The amendments made by  
14 subsections (a) and (b) shall take effect on the date of  
15 the enactment of this Act, shall apply to any act that oc-  
16 curred before, on, or after such date and shall apply to  
17 any application for naturalization or any other benefit or  
18 relief, or any other case or matter under the immigration  
19 laws pending on or filed after such date. The amendments  
20 made by subsection (c) shall take effect as if enacted in  
21 the Intelligence Reform and Terrorism Prevention Act of  
22 2004 (Public Law 108–458).

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

24       (a) NATURALIZATION OF PERSONS ENDANGERING  
25 THE NATIONAL SECURITY.—Section 316 of the Immigra-

1 tion and Nationality Act (8 U.S.C. 1426) is amended by  
2 adding at the end the following:

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

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

1 such person has established his eligibility for naturaliza-  
2 tion as required by this title;”.

3 (c) PENDING DENATURALIZATION OR REMOVAL  
4 PROCEEDINGS.—Section 204(b) of the Immigration and  
5 Nationality Act (8 U.S.C. 1154(b)) is amended by adding  
6 at the end the following: “No petition shall be approved  
7 pursuant to this section if there is any administrative or  
8 judicial proceeding (whether civil or criminal) pending  
9 against the petitioner that could (whether directly or indi-  
10 rectly) result in the petitioner’s denaturalization or the  
11 loss of the petitioner’s lawful permanent resident status.”.

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

18 (e) DISTRICT COURT JURISDICTION.—Subsection  
19 336(b) of the Immigration and Nationality Act (8 U.S.C.  
20 1447(b)) is amended to read as follows:

21 “(b) If there is a failure to render a final administra-  
22 tive decision under section 335 before the end of the 180-  
23 day period after the date on which the Secretary of Home-  
24 land Security completes all examinations and interviews  
25 conducted under such section, as such terms are defined

1 by the Secretary of Homeland Security pursuant to regu-  
2 lations, the applicant may apply to the district court for  
3 the district in which the applicant resides for a hearing  
4 on the matter. Such court shall only have jurisdiction to  
5 review the basis for delay and remand the matter to the  
6 Secretary of Homeland Security for the Secretary's deter-  
7 mination on the application.”.

8 (f) CONFORMING AMENDMENT.—Section 310(c) of  
9 the Immigration and Nationality Act (8 U.S.C. 1421(c))  
10 is amended—

11 (1) by inserting “, not later than the date that  
12 is 120 days after the Secretary of Homeland Secu-  
13 rity's final determination,” after “seek”; and

14 (2) by striking the second sentence and insert-  
15 ing the following: “The burden shall be upon the pe-  
16 titioner to show that the Secretary's denial of the  
17 application was not supported by facially legitimate  
18 and bona fide reasons. Except in a proceeding under  
19 section 340, notwithstanding any other provision of  
20 law (statutory or nonstatutory), including section  
21 2241 of title 28, United States Code, or any other  
22 habeas corpus provision, and sections 1361 and  
23 1651 of such title, no court shall have jurisdiction  
24 to determine, or to review a determination of the  
25 Secretary made at any time regarding, for purposes

1       of an application for naturalization, whether an alien  
2       is a person of good moral character, whether the  
3       alien understands and is attached to the principles  
4       of the Constitution of the United States, or whether  
5       an alien is well disposed to the good order and hap-  
6       piness of the United States.”.

7       (g) EFFECTIVE DATE.—The amendments made by  
8       this section shall take effect on the date of the enactment  
9       of this Act, shall apply to any act that occurred before,  
10      on, or after such date, and shall apply to any application  
11      for naturalization or any other case or matter under the  
12      immigration laws pending on, or filed after, such date.

13 **SEC. 204. DENATURALIZATION FOR TERRORISTS.**

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

16               (1) by redesignating subsections (f) through (h)  
17               as subsections (g) through (i), respectively; and  
18               (2) by inserting after subsection (e) the fol-  
19               lowing:

20               “(f)(1) If a person who has been naturalized partici-  
21          pates in any act described in paragraph (2), the Attorney  
22          General is authorized to find that, as of the date of such  
23          naturalization, such person was not attached to the prin-  
24          ciples of the Constitution of the United States and was  
25          not well disposed to the good order and happiness of the

1 United States at the time of naturalization, and upon such  
2 finding shall set aside the order admitting such person to  
3 citizenship and cancel the certificate of naturalization as  
4 having been obtained by concealment of a material fact  
5 or by willful misrepresentation, and such revocation and  
6 setting aside of the order admitting such person to citizen-  
7 ship and such canceling of certificate of naturalization  
8 shall be effective as of the original date of the order and  
9 certificate, respectively.

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

12           “(A) Any activity a purpose of which is the op-  
13 position to, or the control or overthrow of, the Gov-  
14 ernment of the United States by force, violence, or  
15 other unlawful means.

16           “(B) Engaging in a terrorist activity (as de-  
17 fined in clauses (iii) and (iv) of section  
18 212(a)(3)(B)).

19           “(C) Incitement of terrorist activity under cir-  
20 cumstances indicating an intention to cause death or  
21 serious bodily harm.

22           “(D) Receiving military-type training (as de-  
23 fined in section 2339D(c)(1) of title 18, United  
24 States Code) from or on behalf of any organization  
25 that, at the time the training was received, was a

1 terrorist organization (as defined in section  
2 212(a)(3)(B)(vi)).”.

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

**7 SEC. 205. USE OF 1986 IRCA LEGALIZATION INFORMATION**

**8 FOR NATIONAL SECURITY PURPOSES.**

9           (a) SPECIAL AGRICULTURAL WORKERS.—Section  
10 210(b)(6) of the Immigration and Nationality Act (8  
11 U.S.C. 1160(b)(6)) is amended—

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

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

22                   “(C) AUTHORIZED DISCLOSURES —

“(i) CENSUS PURPOSE.—The Secretary of Homeland Security may provide, in his discretion, for the furnishing of in-

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

5                   “(ii) NATIONAL SECURITY PUR-  
6                   POSE.—The Secretary of Homeland Secu-  
7                   rity may provide, in his discretion, for the  
8                   furnishing, use, publication, or release of  
9                   information furnished under this section in  
10                  any investigation, case, or matter, or for  
11                  any purpose, relating to terrorism, national  
12                  intelligence or the national security.”; and  
13                  (5) in subparagraph (D), as redesignated, by  
14                  striking “Service” and inserting “Department of  
15                  Homeland Security”.

16                 (b) ADJUSTMENT OF STATUS UNDER THE IMMIGRA-  
17                 TION REFORM AND CONTROL ACT OF 1986.—Section  
18                 245A(c)(5) of the Immigration and Nationality Act (8  
19                 U.S.C. 1255a(c)(5)), is amended—

20                 (1) by striking “Attorney General” each place  
21                 such term appears and inserting “Secretary of  
22                 Homeland Security”;

23                 (2) in subparagraph (A), by striking “Depart-  
24                 ment of Justice,” and inserting “Department of  
25                 Homeland Security,”;

1                             (3) by amending subparagraph (C) to read as  
2                             follows:

3                             “(C) AUTHORIZED DISCLOSURES.—

4                             “(i) CENSUS PURPOSE.—The Sec-  
5                             retary of Homeland Security may provide,  
6                             in his discretion, for the furnishing of in-  
7                             formation furnished under this section in  
8                             the same manner and circumstances as  
9                             census information may be disclosed under  
10                            section 8 of title 13, United States Code.

11                            “(ii) NATIONAL SECURITY PUR-  
12                             POSE.—The Secretary of Homeland Secu-  
13                             rity may provide, in his discretion, for the  
14                             furnishing, use, publication, or release of  
15                             information furnished under this section in  
16                             any investigation, case, or matter, or for  
17                             any purpose, relating to terrorism, national  
18                             intelligence or the national security.”; and

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

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

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

1       “(h) Notwithstanding any other provision of law  
2 (statutory or nonstatutory), including but not limited to  
3 section 309 of Public Law 107–173, sections 1361 and  
4 1651 of title 28, United States Code, and section 706(1)  
5 of title 5, United States Code, neither the Secretary of  
6 Homeland Security, the Attorney General, nor any court  
7 may—

8           “(1) grant, or order the grant of or adjudica-  
9 tion of an application for adjustment of status to  
10 that of an alien lawfully admitted for permanent res-  
11 idence;

12          “(2) grant, or order the grant of or adjudica-  
13 tion of an application for United States citizenship  
14 or any other status, relief, protection from removal,  
15 employment authorization, or other benefit under  
16 the immigration laws;

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

19           “(4) issue or order the issuance of any docu-  
20 mentation evidencing or related to any such grant,  
21 until—

22           “(A) such background and security checks  
23 as the Secretary may in the Secretary’s discre-  
24 tion require have been completed or updated to  
25 the satisfaction of the Secretary; and

1               “(B) any suspected or alleged materially  
2               false information, material misrepresentation or  
3               omission, concealment of a material fact, fraud  
4               or forgery, counterfeiting, or alteration, or fal-  
5               sification of a document, as determined by the  
6               Secretary, relating to the adjudication of an ap-  
7               plication or petition for any status (including  
8               the granting of adjustment of status), relief,  
9               protection from removal, or other benefit under  
10              this subsection has been investigated and re-  
11              solved to the Secretary’s satisfaction.

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

21              (b) CONSTRUCTION.—

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

## 1                   “CONSTRUCTION

2         “SEC. 362. (a) IN GENERAL.—Nothing in this Act  
3 or any other law, except as provided in subsection (d),  
4 shall be construed to require the Secretary of Homeland  
5 Security, the Attorney General, the Secretary of State, the  
6 Secretary of Labor, or a consular officer to grant any ap-  
7 plication, approve any petition, or grant or continue any  
8 relief, protection from removal, employment authorization,  
9 or any other status or benefit under the immigration laws  
10 by, to, or on behalf of—

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

14               “(2) any alien with respect to whom a criminal  
15 or other proceeding or investigation is open or pend-  
16 ing (including, but not limited to, issuance of an ar-  
17 rest warrant, detainer, or indictment), where such  
18 proceeding or investigation is deemed by the official  
19 described in subsection (a) to be material to the  
20 alien’s eligibility for the status or benefit sought.

21         “(b) DENIAL OR WITHHOLDING OF ADJUDICA-  
22 TION.—An official described in subsection (a) may, in the  
23 discretion of the official, deny (with respect to an alien  
24 described in paragraph (1) or (2) of subsection (a)) or  
25 withhold adjudication of pending resolution of the inves-

1 tigation or case (with respect to an alien described in sub-  
2 section (a)(2) of this section) any application, petition, re-  
3 lief, protection from removal, employment authorization,  
4 status or benefit.

5       “(c) JURISDICTION.—Notwithstanding any other pro-  
6 vision of law (statutory or nonstatutory), including section  
7 309 of the Enhanced Border Security and Visa Entry Re-  
8 form Act (8 U.S.C. 1738), sections 1361 and 1651 of title  
9 28, United States Code, and section 706(1) of title 5,  
10 United States Code, no court shall have jurisdiction to re-  
11 view a decision to deny or withhold adjudication pursuant  
12 to subsection (b) of this section.

13       “(d) WITHHOLDING OF REMOVAL AND TORTURE  
14 CONVENTION.—This section does not limit or modify the  
15 applicability of section 241(b)(3) or the United Nations  
16 Convention Against Torture and Other Cruel, Inhuman or  
17 Degrading Treatment or Punishment, subject to any res-  
18 ervations, understandings, declarations and provisos con-  
19 tained in the United States Senate resolution of ratifica-  
20 tion of the Convention, as implemented by section 2242  
21 of the Foreign Affairs Reform and Restructuring Act of  
22 1998 (Public Law 105–277) with respect to an alien oth-  
23 erwise eligible for protection under such provisions.”.

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

“Sec. 362. Construction.”.

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

8     **SEC. 207. TECHNICAL AMENDMENTS RELATING TO THE IN-**  
9                             **TELLIGENCE REFORM AND TERRORISM PRE-**  
10                             **VENTION ACT OF 2004.**

11                             (a) TRANSIT WITHOUT VISA PROGRAM.—Section  
12     7209(d) of the Intelligence Reform and Terrorism Preven-  
13     tion Act of 2004 (8 U.S.C. 1185 note) is amended by  
14     striking “the Secretary, in conjunction with the Secretary  
15     of Homeland Security,” and inserting “the Secretary of  
16     Homeland Security, in consultation with the Secretary of  
17     State.”.

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

22     **SEC. 208. REVOCATION OR DENIAL OF PASSPORTS AND**  
23                             **PASSPORT CARDS TO TERRORISTS.**

24     The Act entitled “An Act to regulate the issue and  
25     validity of passports, and for other purposes”, approved

1 July 3, 1926 (22 U.S.C. 211a et seq.) (commonly known  
2 as the “Passport Act of 1926”), is amended by adding  
3 at the end the following:

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

6       “(a) ISSUANCE.—Subject to subsection (e), the Sec-  
7 retary of State, in the Secretary’s discretion, may decline  
8 to issue a passport or passport card to any national of  
9 the United States who—

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

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

14               “(A) in subclause (IV)(aa) or (VIII) of sec-  
15 tion 212(a)(3)(B)(i) of the Immigration and  
16 Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)),  
17 but only to the extent that the relevant terrorist  
18 organization is described in subclause (I) or (II)  
19 of section 212(a)(3)(B)(vi) of such Act (8  
20 U.S.C. 1182(a)(3)(B)(vi));

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

23               “(C) in subclause (IV)(bb), (V)(bb), or  
24 (VI)(cc) of section 212(a)(3)(B)(iv) of such Act  
25 (8 U.S.C. 1182(a)(3)(B)(iv)).

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

5       “(c) LIMITATION FOR RETURN TO UNITED  
6 STATES.—

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

14          “(2) REVOCATION.—If the Secretary of State  
15 revokes a passport or passport card pursuant to sub-  
16 section (b) to a national of the United States who  
17 is not physically present in the United States, the  
18 Secretary shall, at the national’s request, issue a  
19 passport or passport card only valid for direct return  
20 to the United States.

21          “(d) RIGHT OF REVIEW.—Any person who, in ac-  
22 cordance with this section, is denied issuance of a passport  
23 or passport card, or has their passport or passport card  
24 revoked, by the Secretary of State, may request a due

1 process hearing not later than 60 days after receiving such  
2 notice of the nonissuance or revocation.

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

4           “(1) ALIEN.—The term ‘alien’ has the meaning  
5       given such term in section 101(a)(3) of the Immigra-  
6       tion and Nationality Act (8 U.S.C. 1101(a)(3)).

7           “(2) NATIONAL OF THE UNITED STATES.—The  
8       term ‘national of the United States’ has the meaning  
9       given such term in section 101(a)(22) of such Act  
10      (8 U.S.C. 1101(a)(22)).”.

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

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

14           (1) in subclause (I), by striking “death or seri-  
15       ous bodily injury, a terrorist activity;” and inserting  
16       “death, serious bodily injury, or substantial damage  
17       to property, a terrorist activity”;

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

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

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

23                   “(VII) to threaten, attempt, or  
24       conspire to do any of the acts de-

1 scribed in subclauses (I) through  
2 (VI).”.

3           **TITLE III—REMOVAL OF**  
4           **CRIMINAL ALIENS**

## 5 SEC. 301. DEFINITION OF AGGRAVATED FELONY.

6 (a) DEFINITION OF AGGRAVATED FELONY.—Section  
7 101(a)(43) of the Immigration and Nationality Act (8  
8 U.S.C. 1101(a)(43)) is amended—

1       of a sexual nature involving a victim under the age  
2       of 18 years;”;

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

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

13                 (5) by striking subparagraph (G) and inserting  
14      the following:

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

- 1                     (6) in subparagraph (N)—  
2                         (A) by striking “paragraph (1)(A) or (2)  
3                         of”; and  
4                         (B) by inserting a semicolon at the end;  
5                     (7) in subparagraph (O), by striking “section  
6                     275(a) or 276 committed by an alien who was pre-  
7                     viously deported on the basis of a conviction for an  
8                     offense described in another subparagraph of this  
9                     paragraph” and inserting “section 275 or 276 for  
10                     which the term of imprisonment is at least 1 year”;  
11                     (8) in subparagraph (P)—  
12                         (A) by striking “(i) which either is falsely  
13                         making, forging, counterfeiting, mutilating, or  
14                         altering a passport or instrument in violation of  
15                         section 1543 of title 18, United States Code, or  
16                         is described in section 1546(a) of such title (re-  
17                         lating to document fraud) and (ii)” and insert-  
18                         ing “which is described in any section of chap-  
19                         ter 75 of title 18, United States Code, and”;  
20                         and  
21                         (B) by striking “, except in the case of a  
22                         first offense for which the alien has affirma-  
23                         tively shown that the alien committed the of-  
24                         fense for the purpose for assisting, abetting, or  
25                         aiding only the alien’s spouse, child, or parent

(10) by striking the undesignated matter following subparagraph (U).

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

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

(A) shall take effect on the date of the enactment of this Act; and

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

## 20 (2) APPLICATION OF IIBIBA AMENDMENTS —

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

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

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

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

9 (1) in subsection (a)(2)(A)(i)—

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

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

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

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

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

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

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

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

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

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

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

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

22                  (3) in subsection (h)—

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

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

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

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

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

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

22 (1) in clause (ii), by striking “or” at the end;  
23 (2) in clause (iii), by inserting “or” at the end;  
24 and

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

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

6                         (c) DEPORTABILITY; OTHER CRIMINAL OFFENSES.—

7     Section 237(a)(2) of the Immigration and Nationality Act  
8     (8 U.S.C. 1227(a)(2)) is amended by adding at the end  
9     the following:

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

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

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

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

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

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

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

14                                 “(A) IN GENERAL.—Any alien who a con-  
15                             sular officer, the Attorney General, or the Sec-  
16                             retary of Homeland Security knows, or has rea-  
17                             sonable ground to believe, seeks to enter the  
18                             United States to engage solely, principally, or  
19                             incidentally in, or who is engaged in, or with re-  
20                             spect to clauses (i) and (iii) of this subpara-  
21                             graph has engaged in—

22                                 “(i) any activity—  
23                                     “(I) to violate any law of the  
24                                     United States relating to espionage or  
25                                     sabotage; or

1                         “(II) to violate or evade any law  
2                         prohibiting the export from the  
3                         United States of goods, technology, or  
4                         sensitive information;  
5                         “(ii) any other unlawful activity; or  
6                         “(iii) any activity a purpose of which  
7                         is the opposition to, or the control or over-  
8                         throw of, the Government of the United  
9                         States by force, violence, or other unlawful  
10                        means;  
11                        is inadmissible.”.

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

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

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

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

25                        (3) in subsection (y)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12                             (1) in subparagraph (T), by striking “and”;  
13                             (2) in subparagraph (U), by striking the period  
14                             at the end and inserting “; and”; and  
15                             (3) by inserting after subparagraph (U) the fol-  
16                             lowing:

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

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

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

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

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

8       (a) IN GENERAL.—Section 241(a) of the Immigra-  
9 tion and Nationality Act (8 U.S.C. 1231(a)) is amended—  
10           (1) by striking “Attorney General” each place  
11           it appears, except for the first reference in para-  
12           graph (4)(B)(i), and inserting “Secretary of Home-  
13           land Security”;

14           (2) in paragraph (1), by amending subparagraph (B) to read as follows:

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

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

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

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

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

10                 “(C) SUSPENSION OF PERIOD.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3           (4) in paragraph (3)—

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

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

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

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

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

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

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

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

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

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



Secretary's efforts to establish the alien's identity and carry out the removal order, including making timely application in good faith for travel or other documents necessary to the alien's departure, or conspires or acts to prevent removal;

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

“(aa) in consultation with the Secretary of Health and Human Services, that the alien has a highly contagious disease that poses a threat to public safety;

“(bb) after receipt of a written recommendation from the Secretary of State, that release of the alien is likely to have serious adverse foreign policy consequences for the United States;

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

Homeland Security (including  
classified, sensitive, or national  
security information, and without  
regard to the grounds upon  
which the alien was ordered re-  
moved), that there is reason to  
believe that the release of the  
alien would threaten the national  
security of the United States; or  
“(dd) that the release of the  
alien will threaten the safety of  
the community or any person,  
conditions of release cannot rea-  
sonably be expected to ensure the  
safety of the community or any  
person, and either (AA) the alien  
has been convicted of one or  
more aggravated felonies (as de-  
fined in section 101(a)(43)(A))  
or of one or more crimes identi-  
fied by the Secretary of Home-  
land Security by regulation, or of  
one or more attempts or conspir-  
acies to commit any such aggra-  
vated felonies or such identified

24                         “(iii) NO RIGHT TO BOND HEARING.—

25                         An alien whose detention is extended under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4                             “(f) LENGTH OF DETENTION.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15                 “(1) Aliens in exclusion proceedings.

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

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

19                 “(h) RELEASE ON BOND.—

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

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

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

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

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

20              (d) EFFECTIVE DATES.—

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

(B) acts and conditions occurring or existing before, on, or after such date.

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

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

“(53)(A) The term ‘criminal gang’ means an ongoing group, club, organization, or association of five or more persons that has as one of its primary purposes the commission of one or more of the following criminal offenses and the members of which engage, or have engaged within the past 5 years, in a continuing series of such offenses, or that has been designated as a criminal gang by the Secretary of Homeland Security, in consultation with the At-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## 1       (d) DESIGNATION.—

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

## 6                       “DESIGNATION

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

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

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

“220. Designation.”.

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

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

(2) ANNUAL REPORT.—Not later than March 1 of each year (beginning 1 year after the date of the enactment of this Act), the Secretary of Homeland Security, after consultation with the appropriate Federal agencies, shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate on the number of aliens detained under the amendments made by paragraph (1).

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

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

(C) by inserting after clause (v) the following:

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

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

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

19 (2) in subparagraph (c)(2)(B)—

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

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

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

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

5                         (3) in subsection (d)—

6                             (A) by striking paragraph (3); and  
7                             (B) in paragraph (4), by adding at the end  
8                         the following: “The Secretary of Homeland Se-  
9                         curity may detain an alien provided temporary  
10                         protected status under this section whenever  
11                         appropriate under any other provision of law.”.

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

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

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

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

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

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

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

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

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

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

19               “(B) knowing that the transaction—

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

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

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

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

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

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

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

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

## 19 “ILLEGAL ENTRY OR PRESENCE

**20           “SEC. 275. (a) IN GENERAL.—**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17           “REENTRY OF REMOVED ALIEN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 **“CHAPTER 75—PASSPORTS AND VISAS**

“Sec.

- “1541. Issuance without authority.
- “1542. False statement in application and use of passport.
- “1543. Forgery or false use of passport.
- “1544. Misuse of a passport.
- “1545. Schemes to defraud aliens.
- “1546. Immigration and visa fraud.
- “1547. Attempts and conspiracies.
- “1548. Alternative penalties for certain offenses.
- “1549. Definitions.

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

7 “(a) IN GENERAL.—Whoever—

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

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

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

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

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

7       “Whoever knowingly—

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

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

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

21       “Whoever—

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

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

10 **“§ 1544. Misuse of a passport**

11       “Whoever knowingly—  
12           “(1) uses any passport issued or designed for  
13       the use of another;  
14           “(2) uses any passport in violation of the condi-  
15       tions or restrictions therein contained, or in violation  
16       of the laws, regulations, or rules governing the  
17       issuance and use of the passport;  
18           “(3) secures, possesses, uses, receives, buys,  
19       sells, or distributes any passport knowing it to be  
20       forged, counterfeited, altered, falsely made, procured  
21       by fraud, stolen, or produced or issued without law-  
22       ful authority; or  
23           “(4) violates the terms and conditions of any  
24       safe conduct duly obtained and issued under the au-  
25       thority of the United States;

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

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

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

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

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

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

19 “Whoever knowingly—  
20 “(1) uses any immigration document issued or  
21 designed for the use of another;  
22 “(2) forges, counterfeits, alters, or falsely  
23 makes any immigration document;

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

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

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

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

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

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

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

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

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

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

12   **“§ 1549. Definitions**

13       “In this chapter:

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

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

23   **SEC. 317. FORFEITURE.**

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

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

6 **SEC. 318. EXPEDITED REMOVAL FOR ALIENS INADMISSIBLE**

7 **ON CRIMINAL OR SECURITY GROUNDS.**

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

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

13           (2) in subsection (b)—

14              (A) in paragraph (1)—

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

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

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

1 (C) in paragraph (5)—

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

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

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

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

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

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

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

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

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

12              “(1) The Secretary of Homeland Security—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1       (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect on the date of the enactment  
3 of this Act but shall not apply to aliens who are in removal  
4 proceedings under section 240 of the Immigration and Na-  
5 tionality Act (8 U.S.C. 1229a) on such date.

6 **SEC. 319. INCREASED PENALTIES BARRING THE ADMIS-**

7                   **SION OF CONVICTED SEX OFFENDERS FAIL-**  
8                   **ING TO REGISTER AND REQUIRING DEPORTA-**  
9                   **TION OF SEX OFFENDERS FAILING TO REG-**  
10                  **ISTER.**

11       (a) INADMISSIBILITY.—Section 212(a)(2)(A)(i) of  
12 the Immigration and Nationality Act (8 U.S.C.  
13 1182(a)(2)(A)(i)), as amended by section 302(a) of this  
14 Act, is further amended—

15               (1) in subclause (II), by striking “or” at the  
16 end;

17               (2) in subclause (III), by adding “or” at the  
18 end; and

19               (3) by inserting after subclause (III) the fol-  
20 lowing:

21                           “(IV) a violation of section 2250  
22 of title 18, United States Code (relat-  
23 ing to failure to register as a sex of-  
24 fender),”.

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

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

5                 and

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

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

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

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

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

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

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

9                     (2) in subparagraph (B)(i)—  
10                         (A) by redesignating the second subclause  
11                         (I) as subclause (II); and  
12                         (B) by amending such subclause (II) to  
13                         read as follows:

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

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

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

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

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

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

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

22 (b) DEPORTABLE ALIENS.—

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

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

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

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

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

1                   was engaged constitutes a crime of violence.”.

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

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

9                 (a) IN GENERAL.—Section 243(a) of the Immigration  
10 and Nationality Act (8 U.S.C. 1253(a)) is amended—  
11                 (1) in the matter preceding subparagraph (A)  
12 of paragraph (1), by inserting “212(a) or” before  
13 “237(a),”; and  
14                 (2) by striking paragraph (3).

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

22                 **SEC. 323. PARDONS.**

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

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

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

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

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

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

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

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

22 **SEC. 324. CONVICTIONS.**

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

## 1               “(O) CONVICTIONS.—

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

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

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

## 22               “(J) CRIMINAL OFFENSES.—

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

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

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

## 15                  **TITLE IV—VISA SECURITY**

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

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

19                  (1) in paragraph (1)—

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

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

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

8                             (b) EFFECTIVE DATE.—The amendment made by  
9                             subsection (a) shall take effect on the date of the enact-  
10                             ment of this Act and shall apply to a visa issued before,  
11                             on, or after such date.

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

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

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

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

20                                 (3) in paragraph (2)(A)—

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

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

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

3           (4) in paragraph (2)(B)—

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

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

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

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

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

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

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

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

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

7                         (3) in paragraph (2)—

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

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

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

13                             “(G) is an individual—

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

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

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

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

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

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

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

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

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

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

2 (a) AUTHORITY OF THE SECRETARY OF HOMELAND

3 SECURITY AND THE SECRETARY OF STATE.—

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

8 “(b) AUTHORITY OF THE SECRETARY OF HOMELAND

9 SECURITY.—

10 “(1) IN GENERAL.—Notwithstanding section  
11 104(a) of the Immigration and Nationality Act (8  
12 U.S.C. 1104(a)) or any other provision of law, and  
13 except as provided in subsection (c) and except for  
14 the authority of the Secretary of State under sub-  
15 paragraphs (A) and (G) of section 101(a)(15) of the  
16 Immigration and Nationality Act (8 U.S.C.  
17 1101(a)(15)), the Secretary—18 “(A) shall have exclusive authority to issue  
19 regulations, establish policy, and administer and  
20 enforce the provisions of the Immigration and  
21 Nationality Act (8 U.S.C. 1101 et seq.) and all  
22 other immigration or nationality laws relating  
23 to the functions of consular officers of the  
24 United States in connection with the granting  
25 and refusal of a visa; and

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

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

8                     “(A) shall take effect immediately; and  
9                     “(B) shall automatically cancel any other  
10                 valid visa that is in the alien’s possession.

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

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

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

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

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

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

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

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

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

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

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

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

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

9                             “(a) SIGNATURE REQUIREMENT.—

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

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

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

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

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

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

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

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

12                 “(1) the petitioner or applicant; and

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

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

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

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

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

“211A. Petition and application processing.  
“211B. Background checks and other screening requirements.”.

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

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

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

24       (a) PROSPECTIVE ANALYTICS TECHNOLOGY.—

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

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

16                             (b) BENEFITS FRAUD ASSESSMENT.—

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

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

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

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

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

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

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

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

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

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

## 1 SEC. 408. VISA SECURITY PROGRAM.

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

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

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

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

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

16 (B) by striking subsection (i).

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

6        **TITLE V—AID TO IMMIGRATION**  
7        **AND CUSTOMS ENFORCE-**  
8        **MENT OFFICERS**

9        **SEC. 501. ICE DEPORTATION OFFICERS.**

10       (a) IN GENERAL.—The Secretary of Homeland Secu-  
11       rity shall authorize all deportation officers of the Depart-  
12       ment of Homeland Security who have successfully com-  
13       pleted basic immigration law enforcement training to exer-  
14       cise the powers conferred by—

15               (1) section 287(a)(5)(A) of the Immigration  
16       and Nationality Act (8 U.S.C. 1357(a)(5)(A)) to ar-  
17       rest for any offense against the United States;

18               (2) section 287(a)(5)(B) of such Act (8 U.S.C.  
19       1357(a)(5)(B)) to arrest for any felony;

20               (3) section 274(a) of such Act (8 U.S.C.  
21       1324(a)) to arrest for bringing in, transporting, or  
22       harboring certain aliens, or inducing them to enter;

23               (4) section 287(a) of such Act (8 U.S.C.  
24       1357(a)) to execute warrants of arrest for adminis-  
25       trative immigration violations issued under section

1        236 of such Act (8 U.S.C. 1226) or to execute war-  
2        rants of criminal arrest issued under the authority  
3        of the United States; and

4                (5) section 287(a) of such Act (8 U.S.C.  
5        1357(a)) to carry firearms, if they are individually  
6        qualified by training and experience to handle and  
7        safely operate the firearms they are permitted to  
8        carry, maintain proficiency in the use of such fire-  
9        arms, and adhere to the provisions of the enforce-  
10      ment standard governing the use of force.

11                (b) ARREST POWERS.—Section 287(a)(2) of the Im-  
12      migration and Nationality Act (8 U.S.C. 1357(a)(2)) is  
13      amended by striking “regulation and is likely to escape  
14      before a warrant can be obtained for his arrest,” and in-  
15      serting “regulation.”.

16 **SEC. 502. ICE DETENTION ENFORCEMENT OFFICERS.**

17                (a) AUTHORIZATION.—The Secretary of Homeland  
18      Security shall, subject to the availability of appropriations  
19      for such purpose, increase the number of positions for full-  
20      time active duty United States Immigration and Customs  
21      Enforcement detention enforcement officers by 2,500  
22      above the number of full-time positions for which funds  
23      were appropriated for fiscal year 2017. The Secretary will  
24      determine the rate at which the additional officers will be  
25      added with due regard to filling positions as expeditiously

1 as possible without making any compromises in the selec-  
2 tion or the training of the additional officers.

3 (b) DUTIES.—U.S. Immigration and Customs En-  
4 forcement detention enforcement officers who have suc-  
5 cessfully completed detention enforcement officers' basic  
6 training shall be responsible for—

7 (1) taking and maintaining custody of any per-  
8 son who has been arrested by an immigration offi-  
9 cer;

10 (2) transporting and guarding immigration de-  
11 tainees;

12 (3) securing Department of Homeland Security  
13 detention facilities; and

14 (4) assisting in the processing of detainees.

15 **SEC. 503. ENSURING THE SAFETY OF ICE OFFICERS.**

16 (a) BODY ARMOR.—The Secretary of Homeland Se-  
17 curity shall ensure that every U.S. Immigration and Cus-  
18 toms Enforcement deportation officer on duty is issued  
19 high-quality body armor that is appropriate for the climate  
20 and risks faced by the agent. Enough body armor must  
21 be purchased to cover every agent in the field.

22 (b) WEAPONS.—Such Secretary shall ensure that  
23 U.S. Immigration and Customs Enforcement deportation  
24 officers are equipped with weapons that are reliable and  
25 effective to protect themselves, their fellow agents, and in-

1 nocent third parties from the threats posed by armed  
2 criminals. Such weapons shall include, at a minimum,  
3 standard-issue handguns, M-4 (or equivalent) rifles, and  
4 Tasers.

5       (c) SPECIAL TRAINING FOR HIGH-RISK ENFORCE-  
6 MENT OPERATIONS.—Such Secretary shall provide appro-  
7 priate training and certification to selected U.S. Immigra-  
8 tion and Customs Enforcement deportation officers, at  
9 each field office, to conduct high-risk enforcement oper-  
10 ations requiring enhanced tactical capabilities effectively  
11 to combat known dangers, to assist in high-risk trans-  
12 ports, or to participate in other special assignments as  
13 designated by the Secretary and consistent with law, ex-  
14 cept that nothing in this subsection shall be construed to  
15 impose a requirement that such training be completed, or  
16 such certification be obtained, in order to participate in  
17 such a high-risk enforcement operation.

18       (d) EFFECTIVE DATE.—This section shall take effect  
19 90 days after the date of the enactment of this Act.

20 **SEC. 504. ICE ADVISORY COUNCIL.**

21       (a) ESTABLISHMENT.—An ICE Advisory Council  
22 shall be established not later than 3 months after the date  
23 of the enactment of this Act.

24       (b) MEMBERSHIP.—The ICE Advisor Council shall  
25 be comprised of 7 members.

1       (c) APPOINTMENT.—Members shall to be appointed  
2 in the following manner:

3           (1) One member shall be appointed by the  
4 President.

5           (2) One member shall be appointed by the  
6 Chairman of the Judiciary Committee of the House  
7 of Representatives.

8           (3) One member shall be appointed by the  
9 Chairman of the Judiciary Committee of the Senate.

10          (4) One member shall be appointed by the  
11 Local 511, the ICE prosecutor's union.

12          (5) Three members shall be appointed by the  
13 National Immigration and Customs Enforcement  
14 Council.

15          (d) TERM.—Members shall serve renewable, 2-year  
16 terms.

17          (e) VOLUNTARY.—Membership shall be voluntary and  
18 non-remunerated, except that members will receive reim-  
19 bursement from the Secretary of Homeland Security for  
20 travel and other related expenses.

21          (f) RETALIATION PROTECTION.—Members who are  
22 employed by the Secretary of Homeland Security shall be  
23 protected from retaliation by their supervisors, managers,  
24 and other Department of Homeland Security employees  
25 for their participation on the Council.

1       (g) PURPOSE.—The purpose of the Council is to ad-  
2 vise the Congress and the Secretary of Homeland Security  
3 on issues including the following:

4           (1) The current status of immigration enforce-  
5 ment efforts, including prosecutions and removals,  
6 the effectiveness of such efforts, and how enforce-  
7 ment could be improved.

8           (2) The effectiveness of cooperative efforts be-  
9 tween the Secretary of Homeland Security and other  
10 law enforcement agencies, including additional types  
11 of enforcement activities that the Secretary should  
12 be engaged in, such as State and local criminal task  
13 forces.

14           (3) Personnel, equipment, and other resource  
15 needs of field personnel.

16           (4) Improvements that should be made to the  
17 organizational structure of the Department of  
18 Homeland Security, including whether the position  
19 of immigration enforcement agent should be merged  
20 into the deportation officer position.

21           (5) The effectiveness of specific enforcement  
22 policies and regulations promulgated by the Sec-  
23 retary of Homeland Security, and whether other en-  
24 forcement priorities should be considered.

1       (h) REPORTS.—The Council shall provide quarterly  
2 reports to the Chairmen and Ranking Members of the  
3 Committees on the Judiciary of the Senate and the House  
4 of Representatives and to the Secretary of Homeland Se-  
5 curity. The Council members shall meet directly with the  
6 Chairmen and Ranking Members (or their designated rep-  
7 resentatives) and with the Secretary to discuss their re-  
8 ports every 6 months.

9 **SEC. 505. PILOT PROGRAM FOR ELECTRONIC FIELD PROC-  
10                         ESSING.**

11       (a) IN GENERAL.—The Secretary of Homeland Secu-  
12 rity shall establish a pilot program in at least 5 of the  
13 10 U.S. Immigration and Customs Enforcement field of-  
14 fices with the largest removal caseloads to allow U.S. Im-  
15 migration and Customs Enforcement deportation officers  
16 to—

17               (1) electronically process and serve charging  
18 documents, including notices to appear, while in the  
19 field;

20               (2) electronically process and place detainers  
21 while in the field; and

22               (3) electronically collect biometric data for the  
23 purpose of identifying an alien and establishing both  
24 immigration status and criminal history while in the  
25 field.

1       (b) DUTIES.—The pilot program described in sub-  
2 section (a) shall be designed to allow deportation officers  
3 to use handheld or vehicle-mounted computers to—

4                 (1) enter any required data, including personal  
5 information about the alien subject and the reason  
6 for issuing the document;

7                 (2) apply the electronic signature of the issuing  
8 officer or agent;

9                 (3) set the date the alien is required to appear  
10 before an immigration judge, in the case of notices  
11 to appear;

12                 (4) print any documents the alien subject may  
13 be required to sign, along with additional copies of  
14 documents to be served on the alien; and

15                 (5) interface with the ENFORCE database so  
16 that all data is stored and retrievable.

17       (c) CONSTRUCTION.—The pilot program described in  
18 subsection (a) shall be designed to replace, to the extent  
19 possible, the current paperwork and data-entry process  
20 used for issuing such charging documents and detainers.

21       (d) DEADLINE.—The Secretary shall initiate the pilot  
22 program described in subsection (a) not later than 6  
23 months after the date of the enactment of this Act.

24       (e) REPORT.—The Government Accountability Office  
25 shall report to the Judiciary Committee of the Senate and

1 the House of Representatives no later than 18 months  
2 after the date of the enactment of this Act on the effective-  
3 ness of the pilot program and provide recommendations  
4 for improving it.

5       (f) ADVISORY COUNCIL.—The ICE Advisory Council  
6 established by section 504 shall include recommendations  
7 on how the pilot program should work in the first quar-  
8 terly report of the Council, and shall include assessments  
9 of the program and recommendations for improvement in  
10 each subsequent report.

11       (g) EFFECTIVE DATE.—This section shall take effect  
12 180 days after the date of the enactment of this Act.

13 **SEC. 506. ADDITIONAL ICE DEPORTATION OFFICERS AND  
14 SUPPORT STAFF.**

15       (a) IN GENERAL.—The Secretary of Homeland Secu-  
16 rity shall, subject to the availability of appropriations for  
17 such purpose, increase the number of positions for full-  
18 time active-duty U.S. Immigration and Customs Enforce-  
19 ment deportation officers by 10,000 above the number of  
20 full-time positions for which funds were appropriated for  
21 fiscal year 2017. The Secretary will determine the rate  
22 at which the additional officers will be added with due re-  
23 gard to filling the positions as expeditiously as possible  
24 without making any compromises in the selection or the  
25 training of the additional officers.

1       (b) SUPPORT STAFF.—The Secretary shall, subject  
2 to the availability of appropriations for such purpose, in-  
3 crease the number of positions for full-time support staff  
4 for U.S. Immigration and Customs Enforcement deporta-  
5 tion officers by 700 above the number of full-time posi-  
6 tions for which funds were appropriated for fiscal year  
7 2017.

8 **SEC. 507. ADDITIONAL ICE PROSECUTORS.**

9       The Secretary of Homeland Security shall increase,  
10 subject to the availability of appropriations for such pur-  
11 pose, increase the number of positions for full-time trial  
12 attorneys working for United States Immigration and  
13 Customs Enforcement by 60 above the number of full-time  
14 positions for which funds were appropriated for fiscal year  
15 2017. The Secretary will determine the rate at which the  
16 additional trial attorneys will be added with due regard  
17 to filling positions as expeditiously as possible without  
18 making any compromises in the selection or the training  
19 of the additional attorneys.

20      **TITLE VI—MISCELLANEOUS  
21 ENFORCEMENT PROVISIONS**

22 **SEC. 601. TIMELY REPATRIATION.**

23       (a) LISTING OF COUNTRIES.—Beginning on the date  
24 that is 6 months after the date of the enactment of this  
25 Act, and every 6 months thereafter, the Secretary of

1 Homeland Security shall publish a report including the  
2 following:

3 (1) A list of the following:

4 (A) Countries that have refused or unrea-  
5 sonably delayed repatriation of an alien who is  
6 a national of that country since the date of the  
7 enactment of this Act and the total number of  
8 such aliens, disaggregated by nationality.

9 (B) Countries that have an excessive repa-  
10 triation failure rate.

11 (2) A list of each country that was included  
12 under subparagraph (B) or (C) of paragraph (1) in  
13 both the report preceding the current report and the  
14 current report.

15 (b) SANCTIONS.—Beginning on the date that a coun-  
16 try is included in a list under subsection (a)(2) and ending  
17 on the date that that country is not included in such list,  
18 that country shall be subject to the following:

19 (1) The Secretary of State may not issue visas  
20 under section 101(a)(15)(A)(iii) of the Immigration  
21 and Nationality Act (8 U.S.C. 1101(a)(15)(A)(iii))  
22 to attendants, servants, personal employees, and  
23 members of their immediate families, of the officials  
24 and employees of that country who receive non-

1       immigrant status under clause (i) or (ii) of section  
2       101(a)(15)(A) of such Act.

3                   (2) Each 6 months thereafter that the country  
4       is included in that list, the Secretary of State shall  
5       reduce the number of visas available under clause (i)  
6       or (ii) of section 101(a)(15)(A) of the Immigration  
7       and Nationality Act in a fiscal year to nationals of  
8       that country by an amount equal to 10 percent of  
9       the baseline visa number for that country. Except as  
10      provided under section 243(d) of the Immigration  
11      and Nationality Act (8 U.S.C. 1253), the Secretary  
12      may not reduce the number to a level below 20 per-  
13      cent of the baseline visa number.

14               (c) WAIVERS.—

15                   (1) NATIONAL SECURITY WAIVER.—If the Sec-  
16       retary of State submits to Congress a written deter-  
17       mination that significant national security interests  
18       of the United States require a waiver of the sanc-  
19       tions under subsection (b), the Secretary may waive  
20       any reduction below 80 percent of the baseline visa  
21       number. The Secretary of Homeland Security may  
22       not delegate the authority under this subsection.

23                   (2) TEMPORARY EXIGENT CIRCUMSTANCES.—If  
24       the Secretary of State submits to Congress a written  
25       determination that temporary exigent circumstances

1 require a waiver of the sanctions under subsection  
2 (b), the Secretary may waive any reduction below 80  
3 percent of the baseline visa number during 6-month  
4 renewable periods. The Secretary of Homeland Secu-  
5 rity may not delegate the authority under this sub-  
6 section.

7       (d) EXEMPTION.—The Secretary of Homeland Secu-  
8      rity, in consultation with the Secretary of State, may ex-  
9      empt a country from inclusion in a list under subsection  
10     (a)(2) if the total number of nonrepatriations outstanding  
11     is less than 10 for the preceding 3-year period.

12           (e) UNAUTHORIZED VISA ISSUANCE.—Any visa  
13 issued in violation of this section shall be void.

(f) NOTICE.—If an alien who has been convicted of a criminal offense before a Federal or State court whose repatriation was refused or unreasonably delayed is to be released from detention by the Secretary of Homeland Security, the Secretary shall provide notice to the State and local law enforcement agency for the jurisdictions in which the alien is required to report or is to be released. When possible, and particularly in the case of violent crime, the Secretary shall make a reasonable effort to provide notice of such release to any crime victims and their immediate family members.

25 (g) DEFINITIONS.—For purposes of this section:

## 1                   (1) REFUSED OR UNREASONABLY DELAYED.—

2     A country is deemed to have refused or unreasonably  
3     delayed the acceptance of an alien who is a citizen,  
4     subject, national, or resident of that country if, not  
5     later than 90 days after receiving a request to repa-  
6     triate such alien from an official of the United  
7     States who is authorized to make such a request, the  
8     country does not accept the alien or issue valid trav-  
9     el documents.

10                  (2) FAILURE RATE.—The term “failure rate”  
11     for a period means the percentage determined by di-  
12     viding the total number of repatriation requests for  
13     aliens who are citizens, subjects, nationals, or resi-  
14     dents of a country that that country refused or un-  
15     reasonably delayed during that period by the total  
16     number of such requests during that period.

17                  (3) EXCESSIVE REPATRIATION FAILURE  
18     RATE.—The term “excessive repatriation failure  
19     rate” means, with respect to a report under sub-  
20     section (a), a failure rate greater than 10 percent  
21     for any of the following:

22                      (A) The period of the 3 full fiscal years  
23                        preceding the date of publication of the report.

24                      (B) The period of 1 year preceding the  
25                        date of publication of the report.

1                             (4) NUMBER OF NON-REPATRIATIONS OUT-  
2 STANDING.—The term “number of non-repatriations  
3 outstanding” means, for a period, the number of  
4 unique aliens whose repatriation a country has re-  
5 fused or unreasonably delayed and whose repatri-  
6 ation has not occurred during that period.

7                             (5) BASELINE VISA NUMBER.—The term “base-  
8 line visa number” means, with respect to a country,  
9 the average number of visas issued each fiscal year  
10 to nationals of that country under clauses (i) and  
11 (ii) of section 101(a)(15)(A) of the Immigration and  
12 Nationality Act (8 U.S.C. 1101(a)(15)(A)) for the 3  
13 full fiscal years immediately preceding the first re-  
14 port under subsection (a) in which that country is  
15 included in the list under subsection (a)(2).

16                             (h) GAO REPORT.—On the date that is 1 day after  
17 the date that the President submits a budget under sec-  
18 tion 1105(a) of title 31, United States Code, for fiscal year  
19 2016, the Comptroller General of the United States shall  
20 submit a report to Congress regarding the progress of the  
21 Secretary of Homeland Security and the Secretary of  
22 State in implementation of this section and in making re-  
23 quests to repatriate aliens as appropriate.

## 1 SEC. 602. ENCOURAGING ALIENS TO DEPART VOLUN-

2 **TARILY.**

3 (a) IN GENERAL.—Section 240B of the Immigration

4 and Nationality Act (8 U.S.C. 1229c) is amended—

5 (1) in subsection (a)—

6 (A) by amending paragraph (1) to read as

7 follows:

8 “(1) INSTEAD OF REMOVAL PROCEEDINGS.—If  
9 an alien is not described in paragraph (2)(A)(iii) or  
10 (4) of section 237(a), the Secretary of Homeland Se-  
11 curity may permit the alien to voluntarily depart the  
12 United States at the alien’s own expense under this  
13 subsection instead of being subject to proceedings  
14 under section 240.”;

15 (B) by striking paragraph (3);

16 (C) by redesignating paragraph (2) as  
17 paragraph (3);18 (D) by adding after paragraph (1) the fol-  
19 lowing:20 “(2) BEFORE THE CONCLUSION OF REMOVAL  
21 PROCEEDINGS.—If an alien is not described in para-  
22 graph (2)(A)(iii) or (4) of section 237(a), the Sec-  
23 retary of Homeland Security may permit the alien to  
24 voluntarily depart the United States at the alien’s  
25 own expense under this subsection after the initi-  
26 ation of removal proceedings under section 240 and

1 before the conclusion of such proceedings before an  
2 immigration judge.”;

3 (E) in paragraph (3), as redesignated—

4 (i) by amending subparagraph (A) to  
5 read as follows:

6 “(A) INSTEAD OF REMOVAL.—Subject to  
7 subparagraph (C), permission to voluntarily de-  
8 part under paragraph (1) shall not be valid for  
9 any period in excess of 120 days. The Secretary  
10 may require an alien permitted to voluntarily  
11 depart under paragraph (1) to post a voluntary  
12 departure bond, to be surrendered upon proof  
13 that the alien has departed the United States  
14 within the time specified.”;

15 (ii) by redesignating subparagraphs  
16 (B), (C), and (D) as subparagraphs (C),  
17 (D), and (E), respectively;

18 (iii) by adding after subparagraph (A)  
19 the following:

20 “(B) BEFORE THE CONCLUSION OF RE-  
21 MOVAL PROCEEDINGS.—Permission to volun-  
22 tarily depart under paragraph (2) shall not be  
23 valid for any period in excess of 60 days, and  
24 may be granted only after a finding that the  
25 alien has the means to depart the United States

1 and intends to do so. An alien permitted to vol-  
2 untarily depart under paragraph (2) shall post  
3 a voluntary departure bond, in an amount nec-  
4 essary to ensure that the alien will depart, to be  
5 surrendered upon proof that the alien has de-  
6 parted the United States within the time speci-  
7 fied. An immigration judge may waive the re-  
8 quirement to post a voluntary departure bond  
9 in individual cases upon a finding that the alien  
10 has presented compelling evidence that the  
11 posting of a bond will pose a serious financial  
12 hardship and the alien has presented credible  
13 evidence that such a bond is unnecessary to  
14 guarantee timely departure.”;

15 (iv) in subparagraph (C), as redesign-  
16 nated, by striking “subparagraphs (C) and  
17 (D)(ii)” and inserting “subparagraphs (D)  
18 and (E)(ii)”;

19 (v) in subparagraph (D), as redesign-  
20 nated, by striking “subparagraph (B)”  
21 each place that term appears and inserting  
22 “subparagraph (C)”; and

23 (vi) in subparagraph (E), as redesign-  
24 nated, by striking “subparagraph (B)”

1           each place that term appears and inserting  
2           “subparagraph (C)”; and

3           (F) in paragraph (4), by striking “para-  
4           graph (1)” and inserting “paragraphs (1) and  
5           (2)”;

6           (2) in subsection (b)(2), by striking “a period  
7           exceeding 60 days” and inserting “any period in ex-  
8           cess of 45 days”;

9           (3) by amending subsection (c) to read as fol-  
10          lows:

11          “(c) CONDITIONS ON VOLUNTARY DEPARTURE.—

12           “(1) VOLUNTARY DEPARTURE AGREEMENT.—

13          Voluntary departure may only be granted as part of  
14          an affirmative agreement by the alien. A voluntary  
15          departure agreement under subsection (b) shall in-  
16          clude a waiver of the right to any further motion,  
17          appeal, application, petition, or petition for review  
18          relating to removal or relief or protection from re-  
19          moval.

20           “(2) CONCESSIONS BY THE SECRETARY.—In  
21          connection with the alien’s agreement to depart vol-  
22          untarily under paragraph (1), the Secretary of  
23          Homeland Security may agree to a reduction in the  
24          period of inadmissibility under subparagraph (A) or  
25          (B)(i) of section 212(a)(9).

1                 “(3) ADVISALS.—Agreements relating to vol-  
2         untary departure granted during removal pro-  
3         ceedings under section 240, or at the conclusion of  
4         such proceedings, shall be presented on the record  
5         before the immigration judge. The immigration  
6         judge shall advise the alien of the consequences of  
7         a voluntary departure agreement before accepting  
8         such agreement.

9                 “(4) FAILURE TO COMPLY WITH AGREEMENT.—

11                 “(A) IN GENERAL.—If an alien agrees to  
12         voluntary departure under this section and fails  
13         to depart the United States within the time al-  
14         lowed for voluntary departure or fails to comply  
15         with any other terms of the agreement (includ-  
16         ing failure to timely post any required bond),  
17         the alien is—

18                 “(i) ineligible for the benefits of the  
19         agreement;

20                 “(ii) subject to the penalties described  
21         in subsection (d); and

22                 “(iii) subject to an alternate order of  
23         removal if voluntary departure was granted  
24         under subsection (a)(2) or (b).

1                 “(B) EFFECT OF FILING TIMELY AP-  
2 PEAL.—If, after agreeing to voluntary depar-  
3 ture, the alien files a timely appeal of the immi-  
4 gration judge’s decision granting voluntary de-  
5 parture, the alien may pursue the appeal in-  
6 stead of the voluntary departure agreement.  
7                 Such appeal operates to void the alien’s vol-  
8 untry departure agreement and the con-  
9 sequences of such agreement, but precludes the  
10 alien from another grant of voluntary departure  
11 while the alien remains in the United States.

12                 “(5) VOLUNTARY DEPARTURE PERIOD NOT AF-  
13 FECTED.—Except as expressly agreed to by the Sec-  
14 retary in writing in the exercise of the Secretary’s  
15 discretion before the expiration of the period allowed  
16 for voluntary departure, no motion, appeal, applica-  
17 tion, petition, or petition for review shall affect, rein-  
18 state, enjoin, delay, stay, or toll the alien’s obligation  
19 to depart from the United States during the period  
20 agreed to by the alien and the Secretary.”;

21                 (4) by amending subsection (d) to read as fol-  
22 lows:

23                 “(d) PENALTIES FOR FAILURE TO DEPART.—If an  
24 alien is permitted to voluntarily depart under this section  
25 and fails to voluntarily depart from the United States

1 within the time period specified or otherwise violates the  
2 terms of a voluntary departure agreement, the alien will  
3 be subject to the following penalties:

4           “(1) CIVIL PENALTY.—The alien shall be liable  
5 for a civil penalty of \$3,000. The order allowing vol-  
6 untary departure shall specify this amount, which  
7 shall be acknowledged by the alien on the record. If  
8 the Secretary thereafter establishes that the alien  
9 failed to depart voluntarily within the time allowed,  
10 no further procedure will be necessary to establish  
11 the amount of the penalty, and the Secretary may  
12 collect the civil penalty at any time thereafter and  
13 by whatever means provided by law. An alien will be  
14 ineligible for any benefits under this chapter until  
15 this civil penalty is paid.

16           “(2) INELIGIBILITY FOR RELIEF.—The alien  
17 shall be ineligible during the time the alien remains  
18 in the United States and for a period of 10 years  
19 after the alien’s departure for any further relief  
20 under this section and sections 240A, 245, 248, and  
21 249. The order permitting the alien to depart volun-  
22 tarily shall inform the alien of the penalties under  
23 this subsection.

24           “(3) REOPENING.—The alien shall be ineligible  
25 to reopen the final order of removal that took effect

1       upon the alien's failure to depart, or upon the alien's  
2       other violations of the conditions for voluntary de-  
3       parture, during the period described in paragraph  
4       (2). This paragraph does not preclude a motion to  
5       reopen to seek withholding of removal under section  
6       241(b)(3) or protection against torture, if the mo-  
7       tion—

8                 “(A) presents material evidence of changed  
9                 country conditions arising after the date of the  
10               order granting voluntary departure in the coun-  
11               try to which the alien would be removed; and

12                 “(B) makes a sufficient showing to the sat-  
13                 isfaction of the Secretary of Homeland Security  
14                 that the alien is otherwise eligible for such pro-  
15                 tection.”;

16       (5) by amending subsection (e) to read as fol-  
17       lows:

18       “(e) **ELIGIBILITY.**—

19                 “(1) **PRIOR GRANT OF VOLUNTARY DEPAR-**  
20                 **TURE.**—An alien shall not be permitted to volun-  
21                 tarily depart under this section if the Secretary of  
22                 Homeland Security or the Attorney General pre-  
23                 viously permitted the alien to depart voluntarily.

24                 “(2) **RULEMAKING.**—The Secretary may pro-  
25                 mulgate regulations to limit eligibility or impose ad-

1 ditional conditions for voluntary departure under  
2 subsection (a)(1) for any class of aliens. The Sec-  
3 retary may by regulation limit eligibility or impose  
4 additional conditions for voluntary departure under  
5 subsections (a)(2) or (b) of this section for any class  
6 or classes of aliens.”; and

7 (6) in subsection (f), by adding at the end the  
8 following: “Notwithstanding section 242(a)(2)(D) of  
9 this Act, sections 1361, 1651, and 2241 of title 28,  
10 United States Code, any other habeas corpus provi-  
11 sion, and any other provision of law (statutory or  
12 nonstatutory), no court shall have jurisdiction to af-  
13 fect, reinstate, enjoin, delay, stay, or toll the period  
14 allowed for voluntary departure under this section.”.

15 (b) RULEMAKING.—The Secretary shall within one  
16 year of the date of the enactment of this Act promulgate  
17 regulations to provide for the imposition and collection of  
18 penalties for failure to depart under section 240B(d) of  
19 the Immigration and Nationality Act (8 U.S.C. 1229c(d)).

20 (c) EFFECTIVE DATES.—

21 (1) IN GENERAL.—Except as provided in para-  
22 graph (2), the amendments made by this section  
23 shall apply with respect to all orders granting vol-  
24 untary departure under section 240B of the Immi-  
25 gration and Nationality Act (8 U.S.C. 1229c) made

1       on or after the date that is 180 days after the enact-  
2       ment of this Act.

11       (a) INADMISSIBLE ALIENS.—Section 212(a)(9)(A) of  
12 the Immigration and Nationality Act (8 U.S.C.  
13 1182(a)(9)(A)) is amended—

1       (b) BAR ON DISCRETIONARY RELIEF.—Section 274D

2 of such Act (8 U.S.C. 324d) is amended—

3                 (1) in subsection (a), by striking “Commissioner” and inserting “Secretary of Homeland Security”; and

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

7       “(c) INELIGIBILITY FOR RELIEF.—

8                 “(1) IN GENERAL.—Unless a timely motion to reopen is granted under section 240(c)(6), an alien described in subsection (a) shall be ineligible for any discretionary relief from removal (including cancellation of removal and adjustment of status) during the time the alien remains in the United States and for a period of 10 years after the alien’s departure from the United States.

16                 “(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall preclude a motion to reopen to seek withholding of removal under section 241(b)(3) or protection against torture, if the motion—

20                 “(A) presents material evidence of changed country conditions arising after the date of the final order of removal in the country to which the alien would be removed; and

24                 “(B) makes a sufficient showing to the satisfaction of the Secretary of Homeland Security

1           that the alien is otherwise eligible for such pro-  
2           tection.”.

3       (c) EFFECTIVE DATES.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act with respect to aliens who are subject to a final  
6 order of removal entered before, on, or after such date.

7 **SEC. 604. REINSTATEMENT OF REMOVAL ORDERS.**

8       (a) IN GENERAL.—Section 241(a)(5) of the Immigra-  
9 tion and Nationality Act (8 U.S.C. 1231(a)(5)) is  
10 amended to read as follows:

11           “(5) REINSTATEMENT OF REMOVAL ORDERS  
12 AGAINST ALIENS ILLEGALLY REENTERING.—If the  
13 Secretary of Homeland Security finds that an alien  
14 has entered the United States illegally after having  
15 been removed, deported, or excluded or having de-  
16 parted voluntarily, under an order of removal, depor-  
17 tation, or exclusion, regardless of the date of the  
18 original order or the date of the illegal entry—

19               “(A) the order of removal, deportation, or  
20 exclusion is reinstated from its original date  
21 and is not subject to being reopened or reviewed  
22 notwithstanding section 242(a)(2)(D);

23               “(B) the alien is not eligible and may not  
24 apply for any relief under this Act, regardless

1           of the date that an application or request for  
2           such relief may have been filed or made; and

3           “(C) the alien shall be removed under the  
4           order of removal, deportation, or exclusion at  
5           any time after the illegal entry.

6           Reinstatement under this paragraph shall not re-  
7           quire proceedings under section 240 or other pro-  
8           ceedings before an immigration judge.”.

9           (b) JUDICIAL REVIEW.—Section 242 of the Immigra-  
10          tion and Nationality Act (8 U.S.C. 1252) is amended by  
11          adding at the end the following:

12           “(h) JUDICIAL REVIEW OF REINSTATEMENT UNDER  
13          SECTION 241(a)(5).—

14           “(1) REVIEW OF REINSTATEMENT.—Judicial  
15          review of determinations under section 241(a)(5) is  
16          available in an action under subsection (a).

17           “(2) NO REVIEW OF ORIGINAL ORDER.—Not-  
18          withstanding any other provision of law (statutory or  
19          nonstatutory), including section 2241 of title 28,  
20          United States Code, any other habeas corpus provi-  
21          sion, or sections 1361 and 1651 of such title, no  
22          court shall have jurisdiction to review any cause or  
23          claim, arising from, or relating to, any challenge to  
24          the original order.”.

1       (c) EFFECTIVE DATE.—The amendments made by  
2 subsections (a) and (b) shall take effect as if enacted on  
3 April 1, 1997, and shall apply to all orders reinstated or  
4 after that date by the Secretary of Homeland Security (or  
5 by the Attorney General prior to March 1, 2003), regard-  
6 less of the date of the original order.

## 7 SEC. 605. ATTORNEY GENERAL'S DISCRETION IN DETER-

## 8 MINING COUNTRIES OF REMOVAL.

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

## 19 SEC. 606. STATUTE OF LIMITATIONS FOR FRAUD OFFENSES

**20 INVOLVING CERTAIN HUMAN RIGHTS VIOLA-**

**21 TIONS OR WAR CRIMES.**

22 (a) IN GENERAL.—Chapter 213 of title 18, United  
23 States Code, is amended by adding at the end the fol-  
24 lowing:

1   **“§ 3302. Fraud in connection with certain human**  
2                   **rights violations or war crimes**

3         “(a) IN GENERAL.—Unless the indictment is found  
4     or the information is instituted within 10 years after the  
5     commission of the offense, no person shall be prosecuted,  
6     tried, or punished for a violation of any provision of sec-  
7     tion 1001, 1015, 1546, or 1621, or for attempt or con-  
8     spiracy to violate any of such provisions, when the viola-  
9     tion, attempt, or conspiracy concerns the alleged offend-  
10   er’s—

11                 “(1) participation, at any time, at any place,  
12     and irrespective of the nationality of the alleged off-  
13     fender or any victim, in a human rights violation or  
14     war crime; or

15                 “(2) membership in, service in, or authority  
16     over, a military, paramilitary, or police organization  
17     that participated in such conduct during any part of  
18     any period in which the alleged offender was a mem-  
19     ber of, served in, or had authority over, the organi-  
20     zation.

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

22                 “(1) The term ‘extrajudicial killing under color  
23     of foreign law’ means conduct specified in section  
24     212(a)(3)(E)(iii) of the Immigration and Nationality  
25     Act (8 U.S.C. 1182(a)(3)(E)(iii)).

1           “(2) The term ‘female genital mutilation’  
2 means conduct described in section 116.

3           “(3) The term ‘genocide’ means conduct de-  
4 scribed in section 1091(a).

5           “(4) The term ‘human rights violation or war  
6 crime’ means genocide, incitement to genocide, war  
7 crimes, torture, female genital mutilation, extrajudi-  
8 cial killing under color of foreign law, persecution,  
9 particularly severe violations of religious freedom by  
10 a foreign government official, or the use or recruit-  
11 ment of child soldiers.

12          “(5) The term ‘incitement to genocide’ means  
13 conduct described in section 1091(c).

14          “(6) The term ‘particularly severe violations of  
15 religious freedom’ has the meaning given such term  
16 in section 3(13) of the International Religious Free-  
17 dom Act of 1998 (22 U.S.C. 6402(13)).

18          “(7) The term ‘persecution’ means conduct de-  
19 scribed in section 208(b)(2)(A)(i) of the Immigra-  
20 tion and Nationality Act (8 U.S.C.  
21 1158(b)(2)(A)(i)).

22          “(8) The term ‘torture’ means conduct de-  
23 scribed in paragraph (1) or (2) of section 2340.

24          “(9) The term ‘use or recruitment of child sol-  
25 diers’ means conduct described in section 2442(a).

1               “(10) The term ‘war crimes’ means conduct de-  
2               scribed in section 2441.”.

3               (b) CLERICAL AMENDMENT.—The table of sections  
4 at the beginning of chapter 213 of title 18, United States  
5 Code, is amended by adding at the end the following:

“3302. Fraud in connection with certain human rights violations or war  
crimes.”.

6               (c) APPLICATION.—The amendments made by this  
7 section shall apply to any offense committed on or after  
8 the date of the enactment of this Act.

9 **SEC. 607. CLARIFICATION WITH RESPECT TO DEFINITION**

10               **OF ADMISSION.**

11               Section 101(a)(13)(A) of the Immigration and Na-  
12 tionality Act (8 U.S.C. 1101(a)(13)(A)) is amended by  
13 adding at the end the following: “An alien’s adjustment  
14 of status to that of lawful permanent resident status under  
15 any provision of this Act, or under any other provision  
16 of law, shall be considered an ‘admission’ for any purpose  
17 under this Act, even if the adjustment of status occurred  
18 while the alien was present in the United States.”.

19 **SEC. 608. TEMPORARY PROTECTED STATUS DESIGNATION.**

20               (a) CONGRESSIONAL REVIEW OF EXTENSION OF  
21 DESIGNATION.—Section 244(b)(3) of the Immigration  
22 and Nationality Act (8 U.S.C. 1254a(b)(3)) is amended—

23               (1) in subparagraph (A), by striking the final  
24 sentence; and

1                             (2) by striking subparagraph (C) and inserting  
2                             the following:

3                             “(C) RECOMMENDATION TO CONGRESS TO  
4                             EXTEND DESIGNATION.—If the Secretary deter-  
5                             mines under subparagraph (A) that a foreign  
6                             state (or part of such foreign state) continues  
7                             to meet the condition for designation under  
8                             paragraph (1), the Secretary of Homeland Se-  
9                             curity shall submit a recommendation to the  
10                             Congress to extend the period of designation for  
11                             not more than 18 months. The Secretary shall  
12                             set forth the justification for the extension, in-  
13                             cluding the humanitarian concerns, or how the  
14                             extension otherwise is in the national interest.  
15                             If, 90 days after the submission of the Sec-  
16                             retary’s recommendation, the President has not  
17                             signed into law legislation passed by the House  
18                             and the Senate extending the designation, the  
19                             designation shall be terminated in accordance  
20                             with subsection (d)(3).”.

21                             (b) ADJUSTMENT OF STATUS OF ALIENS WITH TEM-  
22                             PORARY PROTECTED STATUS.—Section 244(f)(4) of the  
23                             Immigration and Nationality Act (8 U.S.C. 1254(f)(4)) is  
24                             amended by striking the period at the end and inserting

1 “but shall not be regarded as satisfying the definition of  
2 the term ‘admitted’ under section 101(a)(13)(A).”.

3       (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act, except that the amendments made by sub-  
6 section (a) shall not apply to extensions pursuant to sub-  
7 section 244(b)(3)(C) of the Immigration and Nationality  
8 Act (8 U.S.C. 1254a(b)(3)(C)) of designations originally  
9 made pursuant to section 244(b)(1) of such Act (8 U.S.C.  
10 1254a(b)(1)) before such date.

11 **SEC. 609. INFORMATION ON FOREIGN CRIMES.**

12       Section 245(a) of the Immigration and Nationality  
13 Act (8 U.S.C. 1255(a)) is amended by striking “and (3)”  
14 and inserting the following “(3) the Secretary of Home-  
15 land Security or the Attorney General has thoroughly ex-  
16 amined the records of the alien’s countries of prior resi-  
17 dence to determine whether the alien has committed a  
18 crime in any of those countries that renders the alien inad-  
19 missible, and (4)”.

20 **SEC. 610. CLARIFICATION OF STANDARDS FOR FAMILY DE-  
21 TENTION.**

22       (a) IN GENERAL.—Section 235 of the William Wil-  
23 berforce Trafficking Victims Protection Reauthorization  
24 Act of 2008 (8 U.S.C. 1232) is amended by adding at  
25 the end the following:

1       “(j) CONSTRUCTION.—

2           “(1) IN GENERAL.—Notwithstanding any other  
3           provision of law, judicial determination, consent de-  
4           cree, or settlement agreement, the detention of any  
5           alien child who is not an unaccompanied alien child  
6           shall be governed by sections 217, 235, 236, and  
7           241 of the Immigration and Nationality Act (8  
8           U.S.C. 1187, 1225, 1226, and 1231). There exists  
9           no presumption that an alien child who is not an un-  
10          accompanied alien child should not be detained, and  
11          all such determinations shall be in the discretion of  
12          the Secretary of Homeland Security.

13           “(2) RELEASE OF MINORS OTHER THAN UNAC-  
14          COMPANIED ALIENS.—In no circumstances shall an  
15          alien minor who is not an unaccompanied alien child  
16          be released by the Secretary of Homeland Security  
17          other than to a parent or legal guardian.

18           “(3) CONDITIONS OF CONFINEMENT.—The con-  
19          ditions of confinement applicable under this sub-  
20          section shall be in the discretion of the Secretary  
21          and, in no instance may specific licensing require-  
22          ments be imposed beyond those deemed appropriate  
23          by the Secretary of Homeland Security.”.

24       (b) EFFECTIVE DATE.—The amendment made by  
25          subsection (a) shall take effect on the date of the enact-

1 ment of this Act and shall apply to all actions that occur  
2 before, on, or after the date of the enactment of this Act.

3 **SEC. 611. REPORTS TO CONGRESS ON THE EXERCISE AND**

4 **ABUSE OF PROSECUTORIAL DISCRETION.**

5 (a) IN GENERAL.—Not later than 180 days after the  
6 end of each fiscal year, the Secretary of Homeland Secu-  
7 rity and the Attorney General shall each provide to the  
8 Committees on the Judiciary of the House of Representa-  
9 tives and of the Senate a report on the following:

10 (1) Aliens apprehended or arrested by State or  
11 local law enforcement agencies who were identified  
12 by the Department of Homeland Security in the pre-  
13 vious fiscal year and for whom the Department of  
14 Homeland Security did not issue detainers and did  
15 not take into custody despite the Department of  
16 Homeland Security's findings that the aliens were  
17 inadmissible or deportable.

18 (2) Aliens who were applicants for admission in  
19 the previous fiscal year but not clearly and beyond  
20 a doubt entitled to be admitted by an immigration  
21 officer and who were not detained as required pursu-  
22 ant to section 235(b)(2)(A) of the Immigration and  
23 Nationality Act (8 U.S.C. 1225(b)(2)(A)).

24 (3) Aliens who in the previous fiscal year were  
25 found by Department of Homeland Security officials

1        performing duties related to the adjudication of ap-  
2        plications for immigration benefits or the enforce-  
3        ment of the immigration laws to be inadmissible or  
4        deportable who were not issued notices to appear  
5        pursuant to section 239 of such Act (8 U.S.C. 1229)  
6        or placed into removal proceedings pursuant to sec-  
7        tion 240 (8 U.S.C. 1229a), unless the aliens were  
8        placed into expedited removal proceedings pursuant  
9        to section 235(b)(1)(A)(i) (8 U.S.C.  
10      1225(b)(1)(A)(5)) or section 238 (8 U.S.C. 1228),  
11      were granted voluntary departure pursuant to sec-  
12      tion 240B, were granted relief from removal pursu-  
13      ant to statute, were granted legal nonimmigrant or  
14      immigrant status pursuant to statute, or were deter-  
15      mined not to be inadmissible or deportable.

16                (4) Aliens issued notices to appear that were  
17        cancelled in the previous fiscal year despite the De-  
18        partment of Homeland Security's findings that the  
19        aliens were inadmissible or deportable, unless the  
20        aliens were granted relief from removal pursuant to  
21        statute, were granted voluntary departure pursuant  
22        to section 240B of such Act (8 U.S.C. 1229c), or  
23        were granted legal nonimmigrant or immigrant sta-  
24        tus pursuant to statute.

1                         (5) Aliens who were placed into removal pro-  
2                         ceedings, whose removal proceedings were termi-  
3                         nated in the previous fiscal year prior to their con-  
4                         clusion, unless the aliens were granted relief from  
5                         removal pursuant to statute, were granted voluntary  
6                         departure pursuant to section 240B, were granted  
7                         legal nonimmigrant or immigrant status pursuant to  
8                         statute, or were determined not to be inadmissible or  
9                         deportable.

10                         (6) Aliens granted parole pursuant to section  
11                         212(d)(5)(A) of such Act (8 U.S.C. 1182(d)(5)(A)).

12                         (7) Aliens granted deferred action, extended  
13                         voluntary departure or any other type of relief from  
14                         removal not specified in the Immigration and Na-  
15                         tionality Act or where determined not to be inadmis-  
16                         sible or deportable.

17                         (b) CONTENTS OF REPORT.—The report shall include  
18                         a listing of each alien described in each paragraph of sub-  
19                         section (a), including when in the possession of the De-  
20                         partment of Homeland Security their names, fingerprint  
21                         identification numbers, alien registration numbers, and  
22                         reason why each was granted the type of prosecutorial dis-  
23                         cretion received. The report shall also include current  
24                         criminal histories on each alien from the Federal Bureau  
25                         of Investigation.

1   **SEC. 612. CLARIFYING RESCISSION OF ADJUSTMENT OF**  
2                   **STATUS.**

3         Section 246(a) of the Immigration and Nationality  
4   Act (8 U.S.C. 1256(a)) is amending by striking “within  
5   five years”.

6   **SEC. 613. GAO STUDY ON DEATHS IN CUSTODY.**

7         The Comptroller General of the United States shall  
8   submit to Congress within 6 months after the date of the  
9   enactment of this Act, a report on the deaths in custody  
10   of detainees held by the Department of Homeland Secu-  
11   rity. The report shall include the following information  
12   with respect to any such deaths and in connection there-  
13   with:

14                 (1) Whether any such deaths could have been  
15   prevented by the delivery of medical treatment ad-  
16   ministered while the detainee is in the custody of the  
17   Department of Homeland Security.

18                 (2) Whether Department practice and proce-  
19   dures were properly followed and obeyed.

20                 (3) Whether such practice and procedures are  
21   sufficient to protect the health and safety of such  
22   detainees.

23                 (4) Whether reports of such deaths were made  
24   to the Deaths in Custody Reporting Program.

## **1 SEC. 614. REMOVAL PROCEEDINGS.**

2 Section 240(b) of the Immigration and Nationality  
3 Act (8 U.S.C. 1229a(b)) is amended by adding at the end  
4 the following:

5                 “(8) ORDER OF CONSIDERATION OF PRO-  
6     CEEDINGS.—Whenever possible, proceedings shall  
7     take place in the order in which aliens are placed in  
8     proceedings, except that proceedings pertaining to  
9     aliens in the custody of the Secretary of Homeland  
10    Security shall, to the extent practical, take place  
11    prior to proceedings for aliens not in such custody.”.

**12 SEC. 615. PROPER FILING OF INCOME TAXES REQUIRED**

## FOR GOOD MORAL CHARACTER.

14       Section 101(f) of the Immigration and Nationality  
15 Act (8 U.S.C. 1101(f)) is amended by inserting after para-  
16 graph (1) the following:

17               “(2) one who has failed properly to file an in-  
18       come tax return for each year that one was required  
19       to be filed, has not committed fraud on any tax re-  
20       turn filed, and has paid all taxes owed;”.

## **21 SEC. 616. WAIVER OF RIGHTS BY B VISA NONIMMIGRANTS.**

22       Section 101(a)(15)(B) of the Immigration and Na-  
23 tionality Act (8 U.S.C. 1101(a)(15)(B) is amended by  
24 adding before the semicolon at the end the following: “,  
25 and who has waived any right to review or appeal of an  
26 immigration officer’s determination as to the admissibility

- 1 of the alien at the port of entry into the United States,
- 2 or to contest, other than on the basis of an application
- 3 for asylum, any action for removal of the alien”.

○