

section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

DESIGNATION OF UNITED STATES MILITARY PHYSICIANS
AS CIVIL SURGEONS

Pub. L. 102-484, div. A, title X, §1079, Oct. 23, 1992, 106 Stat. 2514, provided that: "Notwithstanding any other provision of law, United States military physicians with not less than four years professional experience shall be considered to be civil surgeons for the purpose of the performance of physical examinations required under section 234 of the Immigration and Nationality Act (8 U.S.C. 1224) of special immigrants described in section 101(a)(27)(K) of such Act (8 U.S.C. 1101(a)(27)(K))."

CROSS REFERENCES

Definition of alien, Attorney General, crewman, entry, immigration officer, and special inquiry officer, see section 1101 of this title.

Public Health Service, see section 201 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1226 of this title.

§ 1225. Inspection by immigration officers

(a) Powers of officers

The inspection, other than the physical and mental examination, of aliens (including alien crewmen) seeking admission or readmission to or the privilege of passing through the United States shall be conducted by immigration officers, except as otherwise provided in regard to special inquiry officers. All aliens arriving at ports of the United States shall be examined by one or more immigration officers at the discretion of the Attorney General and under such regulations as he may prescribe. Immigration officers are authorized and empowered to board and search any vessel, aircraft, railway car, or other conveyance, or vehicle in which they believe aliens are being brought into the United States. The Attorney General and any immigration officer, including special inquiry officers, shall have power to administer oaths and to take and consider evidence of or from any person touching the privilege of any alien or person he believes or suspects to be an alien to enter, reenter, pass through, or reside in the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and, where such action may be necessary, to make a written record of such evidence. Any person coming into the United States may be required to state under oath the purpose or purposes for which he comes, the length of time he intends to remain in the United States, whether or not he intends to remain in the United States permanently and, if an alien, whether he intends to become a citizen thereof, and such other items of information as will aid the immigration officer in determining whether he is a national of the United States or an alien and, if the latter, whether he belongs to any of the excluded classes enumerated in section 1182 of this title. The Attorney General and any immigration officer, including special inquiry officers, shall have power to require by subpoena the attendance and testimony of witnesses before immigration officers and special inquiry officers and the produc-

tion of books, papers, and documents relating to the privilege of any person to enter, reenter, reside in, or pass through the United States or concerning any matter which is material and relevant to the enforcement of this chapter and the administration of the Service, and to that end may invoke the aid of any court of the United States. Any United States district court within the jurisdiction of which investigations or inquiries are being conducted by an immigration officer or special inquiry officer may, in the event of neglect or refusal to respond to a subpoena issued under this subsection or refusal to testify before an immigration officer or special inquiry officer, issue an order requiring such persons to appear before an immigration officer or special inquiry officer, produce books, papers, and documents if demanded, and testify, and any failure to obey such order of the court may be punished by the court as a contempt thereof.

(b) Detention for further inquiry; challenge of favorable decision

Every alien (other than an alien crewman), and except as otherwise provided in subsection (c) of this section and in section 1323(d) of this title, who may not appear to the examining immigration officer at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for further inquiry to be conducted by a special inquiry officer. The decision of the examining immigration officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer and such challenge shall operate to take the alien, whose privilege to land is so challenged, before a special inquiry officer for further inquiry.

(c) Temporary exclusion; permanent exclusion by Attorney General

Any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during the examination before either of such officers to be excludable under subparagraph (A) (other than clause (ii)), (B), or (C) of section 1182(a)(3) of this title shall be temporarily excluded, and no further inquiry by a special inquiry officer shall be conducted until after the case is reported to the Attorney General together with any such written statement and accompanying information, if any, as the alien or his representative may desire to submit in connection therewith and such an inquiry or further inquiry is directed by the Attorney General. If the Attorney General is satisfied that the alien is excludable under any of such paragraphs on the basis of information of a confidential nature, the disclosure of which the Attorney General, in the exercise of his discretion, and after consultation with the appropriate security agencies of the Government, concludes would be prejudicial to the public interest, safety, or security, he may in his discretion order such alien to be excluded and deported without any inquiry or further inquiry by a special inquiry officer. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman.

(June 27, 1952, ch. 477, title II, ch. 4, §235, 66 Stat. 198; Nov. 29, 1990, Pub. L. 101-649, title VI, §603(a)(11), 104 Stat. 5083.)

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-649 substituted “subparagraph (A) (other than clause (ii)), (B), or (C) of section 1182(a)(3) of this title” for “paragraph (27), (28), or (29) of section 1182(a) of this title”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-649 applicable to individuals entering United States on or after June 1, 1991, see section 601(e)(1) of Pub. L. 101-649, set out as a note under section 1101 of this title.

FEDERAL RULES OF CRIMINAL PROCEDURE

Criminal contempt, see rule 42, Title 18, Appendix, Crimes and Criminal Procedure.

CROSS REFERENCES

Contempts, see section 401 et seq. of Title 18, Crimes and Criminal Procedure.

Definition of the term—

Alien, see section 1101(a)(3) of this title.

Attorney General, see section 1101(a)(5) of this title.

Crewman, see section 1101(a)(10) of this title.

Entry, see section 1101(a)(13) of this title.

Immigration officer, see section 1101(a)(18) of this title.

National of the United States, see section 1101(a)(22) of this title.

Service, see section 1101(a)(34) of this title.

Special inquiry officer, see section 1101(b)(4) of this title.

United States, see section 1101(a)(38) of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1155, 1159, 1226, 1323 of this title.

§ 1226. Exclusion of aliens**(a) Proceedings**

A special inquiry officer shall conduct proceedings under this section, administer oaths, present and receive evidence, and interrogate, examine, and cross-examine the alien or witnesses. He shall have authority in any case to determine whether an arriving alien who has been detained for further inquiry under section 1225 of this title shall be allowed to enter or shall be excluded and deported. The determination of such special inquiry officer shall be based only on the evidence produced at the inquiry. No special inquiry officer shall conduct a proceeding in any case under this section in which he shall have participated in investigative functions or in which he shall have participated (except as provided in this subsection) in prosecuting functions. Proceedings before a special inquiry officer under this section shall be conducted in accordance with this section, the applicable provisions of sections 1225 and 1357(b) of this title, and such regulations as the Attorney General shall prescribe, and shall be the sole and exclusive procedure for determining admissibility of a person to the United States under the provisions of this section. At such inquiry, which shall be kept separate and apart from the public, the alien may have one friend or relative present, under such conditions as may be prescribed by the Attorney General. A complete record of the proceedings and of all testimony and evidence produced at such inquiry, shall be kept.

(b) Appeal

From a decision of a special inquiry officer excluding an alien, such alien may take a timely

appeal to the Attorney General, and any such alien shall be advised of his right to take such appeal. No appeal may be taken from a temporary exclusion under section 1225(c) of this title. From a decision of the special inquiry officer to admit an alien, the immigration officer in charge at the port where the inquiry is held may take a timely appeal to the Attorney General. An appeal by the alien, or such officer in charge, shall operate to stay any final action with respect to any alien whose case is so appealed until the final decision of the Attorney General is made. Except as provided in section 1225(c) of this title such decision shall be rendered solely upon the evidence adduced before the special inquiry officer.

(c) Finality of decision of special inquiry officers

Except as provided in subsections (b) or (d) of this section, in every case where an alien is excluded from admission into the United States, under this chapter or any other law or treaty now existing or hereafter made, the decision of a special inquiry officer shall be final unless reversed on appeal to the Attorney General.

(d) Physical and mental defects

If a medical officer or civil surgeon or board of medical officers has certified under section 1224 of this title that an alien has a disease, illness, or addiction which would make the alien excludable under paragraph (1) of section 1182(a) of this title, the decision of the special inquiry officer shall be based solely upon such certification. No alien shall have a right to appeal from such an excluding decision of a special inquiry officer.

(e) Custody of alien

(1) Pending a determination of excludability, the Attorney General shall take into custody any alien convicted of an aggravated felony upon release of the alien (regardless of whether or not such release is on parole, supervised release, or probation, and regardless of the possibility of rearrest or further confinement in respect of the same offense).

(2) Notwithstanding any other provision of this section, the Attorney General shall not release such felon from custody unless the Attorney General determines that the alien may not be deported because the condition described in section 1253(g) of this title exists.

(3) If the determination described in paragraph (2) has been made, the Attorney General may release such alien only after—

(A) a procedure for review of each request for relief under this subsection has been established,

(B) such procedure includes consideration of the severity of the felony committed by the alien, and

(C) the review concludes that the alien will not pose a danger to the safety of other persons or to property.

(June 27, 1952, ch. 477, title II, ch. 4, § 236, 66 Stat. 200; Nov. 29, 1990, Pub. L. 101-649, title V, § 504(b), title VI, § 603(a)(12), 104 Stat. 5050, 5083; Dec. 12, 1991, Pub. L. 102-232, title III, § 306(a)(5), 105 Stat. 1751.)

AMENDMENTS

1991—Subsec. (e)(1). Pub. L. 102-232 substituted “upon release of the alien (regardless of whether or not such