

Pub. L. 102-232, title III, §306(c)(6), 105 Stat. 1753; Oct. 25, 1994, Pub. L. 103-416, title II, §219(i), 108 Stat. 4317.)

AMENDMENTS

1994—Subsec. (c)(1). Pub. L. 103-416 struck out comma after “convincing evidence that”.

1991—Subsec. (a)(1)(E). Pub. L. 102-232, §306(c)(6)(A), struck out “, upon request,” after “represented by counsel and”.

Subsec. (a)(2). Pub. L. 102-232, §306(c)(6)(C), inserted at end “In the case of an alien not in detention, a written notice shall not be required under this paragraph if the alien has failed to provide the address required under subsection (a)(1)(F) of this section.”

Subsec. (a)(2)(A)(ii). Pub. L. 102-232, §306(c)(6)(B), inserted “, except under exceptional circumstances,” after “failure”.

Subsec. (b)(1). Pub. L. 102-232, §306(c)(6)(D), inserted before period at end “, unless the alien requests in writing an earlier hearing date”.

Subsec. (b)(2). Pub. L. 102-232, §306(c)(6)(E), inserted “pro bono” after “to represent” and inserted at end “Such lists shall be provided under subsection (a)(1)(E) of this section and otherwise made generally available.”

Subsec. (c)(1). Pub. L. 102-232, §306(c)(6)(F)(i), (ii), struck out “except as provided in paragraph (2),” after “counsel of record,” and after “convincing evidence that,” and inserted at end “The written notice by the Attorney General shall be considered sufficient for purposes of this paragraph if provided at the most recent address provided under subsection (a)(1)(F) of this section.”

Subsec. (c)(2). Pub. L. 102-232, §306(c)(6)(F)(iii), struck out at end “Such written notice shall be considered sufficient if provided at the most recent address provided under such subsection.”

Subsec. (c)(4). Pub. L. 102-232, §306(c)(6)(G), inserted “(or 30 days in the case of an alien convicted of an aggravated felony)” after “60 days”.

Subsec. (d). Pub. L. 102-232, §306(c)(6)(H), substituted “the Attorney General” for “the Board” in last sentence.

Subsec. (e)(4)(B). Pub. L. 102-232, §306(c)(6)(I), inserted “a” after “with respect to”.

Subsec. (e)(5). Pub. L. 102-232, §306(c)(6)(J), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: “relief under section 1182(c) of this title.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-416 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 219(dd) of Pub. L. 103-416, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102-232 effective as if included in the enactment of the Immigration Act of 1990, Pub. L. 101-649, see section 310(1) of Pub. L. 102-232, set out as a note under section 1101 of this title.

EFFECTIVE DATE

Section 545(g) of Pub. L. 101-649 provided that:

“(1) NOTICE-RELATED PROVISIONS.—

“(A) Subsections (a), (b), (c), and (e)(1) of section 242B of the Immigration and Nationality Act [8 U.S.C. 1252b(a), (b), (c) and (e)(1)] (as inserted by the amendment made by subsection (a)), and the amendment made by subsection (e) [amending section 1252 of this title], shall be effective on a date specified by the Attorney General in the certification described in subparagraph (B), which date may not be earlier than 6 months after the date of such certification.

“(B) The Attorney General shall certify to the Congress when the central address file system (described in section 242B(a)(4) of the Immigration and Nationality Act) has been established.

“(C) The Comptroller General shall submit to Congress, within 3 months after the date of the Attorney General’s certification under subparagraph (B), a report on the adequacy of such system.

“(2) CERTAIN LIMITS ON DISCRETIONARY RELIEF; SANCTIONS FOR FRIVOLOUS BEHAVIOR.—Subsections (d), (e)(2), and (e)(3) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on the date of the enactment of this Act [Nov. 29, 1990].

“(3) LIMITS ON DISCRETIONARY RELIEF FOR FAILURE TO APPEAR IN ASYLUM HEARING.—Subsection (e)(4) of section 242B of the Immigration and Nationality Act (as inserted by the amendment made by subsection (a)) shall be effective on February 1, 1991.

“(4) CONSOLIDATION OF RELIEF IN JUDICIAL REVIEW.—The amendments made by subsection (b) [amending section 1105a of this title] shall apply to final orders of deportation entered on or after January 1, 1991.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1252, 1252a of this title.

§ 1253. Countries to which aliens shall be deported

(a) Acceptance by designated country; deportation upon nonacceptance by country

The deportation of an alien in the United States provided for in this chapter, or any other Act or treaty, shall be directed by the Attorney General to a country promptly designated by the alien if that country is willing to accept him into its territory, unless the Attorney General, in his discretion, concludes that deportation to such country would be prejudicial to the interests of the United States. No alien shall be permitted to make more than one such designation, nor shall any alien designate, as the place to which he wishes to be deported, any foreign territory contiguous to the United States or any island adjacent thereto or adjacent to the United States unless such alien is a native, citizen, subject, or national of, or had a residence in such designated foreign contiguous territory or adjacent island. If the government of the country designated by the alien fails finally to advise the Attorney General within three months following original inquiry whether that government will or will not accept such alien into its territory, such designation may thereafter be disregarded. Thereupon deportation of such alien shall be directed to any country of which such alien is a subject, national, or citizen if such country is willing to accept him into its territory. If the government of such country fails finally to advise the Attorney General or the alien within three months following the date of original inquiry, or within such other period as the Attorney General shall deem reasonable under the circumstances in a particular case, whether that government will or will not accept such alien into its territory, then such deportation shall be directed by the Attorney General within his discretion and without necessarily giving any priority or preference because of their order as herein set forth either—

(1) to the country from which such alien last entered the United States;

(2) to the country in which is located the foreign port at which such alien embarked for the United States or for foreign contiguous territory;

- (3) to the country in which he was born;
- (4) to the country in which the place of his birth is situated at the time he is ordered deported;
- (5) to any country in which he resided prior to entering the country from which he entered the United States;
- (6) to the country which had sovereignty over the birthplace of the alien at the time of his birth; or
- (7) if deportation to any of the foregoing places or countries is impracticable, inadvisable, or impossible, then to any country which is willing to accept such alien into its territory.

(b) Deportation during war

If the United States is at war and the deportation, in accordance with the provisions of subsection (a) of this section, of any alien who is deportable under any law of the United States shall be found by the Attorney General to be impracticable, inadvisable, inconvenient, or impossible because of enemy occupation of the country from which such alien came or wherein is located the foreign port at which he embarked for the United States or because of reasons connected with the war, such alien may, in the discretion of the Attorney General, be deported as follows:

- (1) if such alien is a citizen or subject of a country whose recognized government is in exile, to the country in which is located that government in exile if that country will permit him to enter its territory; or
- (2) if such alien is a citizen or subject of a country whose recognized government is not in exile, then to a country or any political or territorial subdivision thereof which is proximate to the country of which the alien is a citizen or subject, or, with the consent of the country of which the alien is a citizen or subject, to any other country.

(c) Payment of deportation costs; within five years

If deportation proceedings are instituted at any time within five years after the entry of the alien for causes existing prior to or at the time of entry, the cost of removal to the port of deportation shall be at the expense of the appropriation for the enforcement of this chapter, and the deportation from such port shall be at the expense of the owner or owners of the vessels, aircraft, or other transportation lines by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter: *Provided*, That the costs of the deportation of any such alien from such port shall not be assessed against the owner or owners of the vessels, aircraft, or other transportation lines in the case of any alien who arrived in possession of a valid unexpired immigrant visa and who was inspected and admitted to the United States for permanent residence. In the case of an alien crewman, if deportation proceedings are instituted at any time within five years after the granting of the last conditional permit to land temporarily under the provisions of section 1282 of this title, the cost of removal to the port of

deportation shall be at the expense of the appropriation for the enforcement of this chapter and the deportation from such port shall be at the expense of the owner or owners of the vessels or aircraft by which such alien came to the United States, or if in the opinion of the Attorney General that is not practicable, at the expense of the appropriation for the enforcement of this chapter.

(d) Cost of deportation, subsequent to five years

If deportation proceedings are instituted later than five years after the entry of the alien, or in the case of an alien crewman later than five years after the granting of the last conditional permit to land temporarily, the cost thereof shall be payable from the appropriation for the enforcement of this chapter.

(e) Refusal to transport or to pay

A failure or refusal on the part of the master, commanding officer, agent, owner, charterer, or consignee of a vessel, aircraft, or other transportation line to comply with the order of the Attorney General to take on board, guard safely, and transport to the destination specified any alien ordered to be deported under the provisions of this chapter, or a failure or refusal by any such person to comply with an order of the Attorney General to pay deportation expenses in accordance with the requirements of this section, shall be punished by the imposition of a penalty in the sum and manner prescribed in section 1227(b) of this title.

(f) Payment of expenses of physically incapable deportees

When in the opinion of the Attorney General the mental or physical condition of an alien being deported is such as to require personal care and attendance, the Attorney General shall, when necessary, employ a suitable person for that purpose who shall accompany such alien to his final destination, and the expense incident to such service shall be defrayed in the same manner as the expense of deporting the accompanied alien is defrayed, and any failure or refusal to defray such expenses shall be punished in the manner prescribed by subsection (e) of this section.

(g) Countries delaying acceptance of deportees

Upon the notification by the Attorney General that any country upon request denies or unduly delays acceptance of the return of any alien who is a national, citizen, subject, or resident thereof, the Secretary of State shall instruct consular officers performing their duties in the territory of such country to discontinue the issuance of immigrant visas to nationals, citizens, subjects, or residents of such country, until such time as the Attorney General shall inform the Secretary of State that such country has accepted such alien.

(h) Withholding of deportation or return

(1) The Attorney General shall not deport or return any alien (other than an alien described in section 1251(a)(4)(D) of this title) to a country if the Attorney General determines that such alien's life or freedom would be threatened in such country on account of race, religion, nationality, membership in a particular social group, or political opinion.

(2) Paragraph (1) shall not apply to any alien if the Attorney General determines that—

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

(B) the alien, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of the United States;

(C) there are serious reasons for considering that the alien has committed a serious non-political crime outside the United States prior to the arrival of the alien in the United States; or

(D) there are reasonable grounds for regarding the alien as a danger to the security of the United States.

For purposes of subparagraph (B), an alien who has been convicted of an aggravated felony shall be considered to have committed a particularly serious crime.

(June 27, 1952, ch. 477, title II, ch. 5, § 243, 66 Stat. 212; Oct. 3, 1965, Pub. L. 89-236, § 11(f), 79 Stat. 918; Oct. 30, 1978, Pub. L. 95-549, title I, § 104, 92 Stat. 2066; Mar. 17, 1980, Pub. L. 96-212, title II, § 203(e), 94 Stat. 107; Dec. 29, 1981, Pub. L. 97-116, § 18(i), 95 Stat. 1620; Nov. 29, 1990, Pub. L. 101-649, title V, § 515(a)(2), title VI, § 603(b)(3), 104 Stat. 5053, 5085.)

AMENDMENTS

1990—Subsec. (h)(1). Pub. L. 101-649, § 603(b)(3), substituted “1251(a)(4)(D)” for “1251(a)(19)”.

Subsec. (h)(2). Pub. L. 101-649, § 515(a)(2), inserted sentence at end relating to aliens who have been convicted of aggravated felonies.

1981—Subsec. (a). Pub. L. 97-116 inserted a comma after “subject” in fourth sentence.

1980—Subsec. (h). Pub. L. 96-212 substituted provisions relating to deportation or return of an alien where the Attorney General determines that the return would threaten the life or freedom of the alien on account of race, religion, nationality, membership in a particular social group, or political opinion, for provisions relating to withholding of deportation for any necessary period of time where the Attorney General decides the alien would be subject to persecution on account of race, religion, or political opinion.

1978—Subsec. (h). Pub. L. 95-549 inserted “(other than an alien described in section 1251(a) of this title)” before “within the United States”.

1965—Subsec. (h). Pub. L. 89-236 substituted “persecution on account of race, religion, or political opinion” for “physical persecution”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 515(a)(2) of Pub. L. 101-649 applicable to convictions entered before, on, or after Nov. 29, 1990, and to applications for withholding of deportation made on or after such date, see section 515(b)(2) of Pub. L. 101-649, as amended, set out as a note under section 1158 of this title.

Amendment by section 603(b)(3) of Pub. L. 101-649 not applicable to deportation proceedings for which notice has been provided to the alien before Mar. 1, 1991, see section 602(d) of Pub. L. 101-649, set out as a note under section 1251 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-116 effective Dec. 29, 1981, see section 21(a) of Pub. L. 97-116, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-212 effective Mar. 17, 1980, and applicable to fiscal years beginning with the fiscal year beginning Oct. 1, 1979, see section 204 of Pub. L. 96-212, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89-236, see section 20 of Pub. L. 89-236, set out as a note under section 1151 of this title.

SENSE OF CONGRESS RESPECTING TREATMENT OF CUBAN POLITICAL PRISONERS

Pub. L. 99-603, title III, § 315(c), Nov. 6, 1986, 100 Stat. 3440, provided that: “It is the sense of the Congress that the Secretary of State should provide for the issuance of visas to nationals of Cuba who are or were imprisoned in Cuba for political activities without regard to section 243(g) of the Immigration and Nationality Act (8 U.S.C. 1253(g)).”

CROSS REFERENCES

Definition of the term—

Adjacent islands, section 1101(b)(5) of this title.

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

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

Consular officer, see section 1101(a)(9) of this title.

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

Immigrant visa, see section 1101(a)(16) of this title.

National, see section 1101(a)(21) of this title.

Permanent, see section 1101(a)(31) of this title.

Residence, see section 1101(a)(33) of this title.

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

Peace Corps programs, deportation of foreign participants pursuant to provisions of this section, see section 2508 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1184, 1226, 1252a, 1254a, 1330, 1427 of this title; title 7 section 2015; title 22 sections 618, 2508; title 42 section 1436a.

§ 1254. Suspension of deportation

(a) Adjustment of status for permanent residence; contents

As hereinafter prescribed in this section, the Attorney General may, in his discretion, suspend deportation and adjust the status to that of an alien lawfully admitted for permanent residence, in the case of an alien (other than an alien described in section 1251(a)(4)(D) of this title) who applies to the Attorney General for suspension of deportation and—

(1) is deportable under any law of the United States except the provisions specified in paragraph (2) of this subsection; has been physically present in the United States for a continuous period of not less than seven years immediately preceding the date of such application, and proves that during all of such period he was and is a person of good moral character; and is a person whose deportation would, in the opinion of the Attorney General, result in extreme hardship to the alien or to his spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence;

(2) is deportable under paragraph (2), (3), or (4) of section 1251(a) of this title; has been physically present in the United States for a continuous period of not less than ten years immediately following the commission of an act, or the assumption of a status, constituting a ground for deportation, and proves that