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TITLE 8—ALIENS AND NATIONALITY

§ 1101. Definitions

(a) As used in this chapter—

(1) The term “administrator” means the official designated by the Secretary of State pursuant to section 1104(b) of this title.

(2) The term “advocates” includes, but is not limited to, advises, recommends, furthers by overt act, and admits belief in.

(3) The term “alien” means any person not a citizen or national of the United States.

(4) The term “application for admission” has reference to the application for admission into the United States and not to the application for the issuance of an immigrant or nonimmigrant visa.


(6) The term “border crossing identification card” means a document of identity bearing that designation issued to an alien who is lawfully admitted for permanent residence, or to an alien who is a resident in foreign contiguous territory, by a consular officer or an immigration officer for the purpose of crossing over the borders between the United States and foreign contiguous territory in accordance with such conditions for its issuance and use as may be prescribed by regulations. Such regulations shall provide that (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.

(7) The term “clerk of court” means a clerk of a naturalization court.

(8) The terms “Commissioner” and “Deputy Commissioner” mean the Commissioner of Immigration and Naturalization and a Deputy Commissioner of Immigration and Naturalization, respectively.

(9) The term “consular officer” means any consular, diplomatic, or other officer or employee of the United States designated under regulations prescribed under authority contained in this chapter, for the purpose of issuing immigrant or nonimmigrant visas or, when used in subchapter III, for the purpose of adjudicating nationality.

(10) The term “crewman” means a person serving in any capacity on board a vessel or aircraft.

(11) The term “diplomatic visa” means a nonimmigrant visa bearing that title and issued to a nonimmigrant in accordance with such regulations as the Secretary of State may prescribe.

(12) The term “doctrine” includes, but is not limited to, policies, practices, purposes, aims, or procedures.

(13)(A) The terms “admission” and “admitted” mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.

(B) An alien who is paroled under section 1182(d)(5) of this title or permitted to land temporarily as an alien crewman shall not be considered to have been admitted.

(C) An alien lawfully admitted for permanent residence in the United States shall not be regarded as seeking an admission into the United States for purposes of the immigration laws unless the alien—

(i) has abandoned or relinquished that status,

(ii) has been absent from the United States for a continuous period in excess of 180 days,

(iii) has engaged in illegal activity after having departed the United States,

(iv) has departed from the United States while under legal process seeking removal of the alien from the United States, including removal proceedings under this chapter and extradition proceedings,

(v) has committed an offense identified in section 1182(h)(2) of this title, unless since such offense the alien has been granted relief under section 1182(h) or 1229b(a) of this title, or

(vi) is attempting to enter at a time or place other than as designated by immigration officers or has not been admitted to the United States after inspection and authorization by an immigration officer.

(14) The term “foreign state” includes outlying possessions of a foreign state, but self-governing dominions or territories under mandate or trusteeship shall be regarded as separate foreign states.

(15) The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens—

(A)(i) an ambassador, public minister, or career diplomatic or consular officer who has been accredited by a foreign government, recognized de jure by the United States and who
is accepted by the President or by the Secretary of State, and the members of the alien's immediate family;

(ii) upon a basis of reciprocity, other officials and employees who have been accredited by a foreign government recognized by the United States, who are accepted by the Secretary of State, and the members of their immediate families; and

(iii) upon a basis of reciprocity, attendants, servants, personal employees, and members of their immediate families, of the officials and employees who have a nonimmigrant status under (i) and (ii) above;

(B) an alien (other than one coming for the purpose of study or of performing skilled or unskilled labor or as a representative of foreign press, radio, film, or other foreign information media coming to engage in such vocations) having a residence in a foreign country which he has no intention of abandoning and who is visiting the United States temporarily for business or temporarily for pleasure;

(C)(i) an alien in immediate and continuous transit through the United States, for a period not to exceed 29 days;

(ii) an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District (as defined in section 450b(e) of title 22 and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Agreement regarding the Headquarters of the United Nations, done at Lake Success June 26, 1947 (61 Stat. 758); or

(iii) an alien passing in transit through the United States to board a vessel on which the alien will perform, or to disembark from a vessel on which the alien performed, ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade, for a period not to exceed 180 days;

(D)(i) an alien crewman serving in good faith as such in a capacity required for normal operation and service on board a vessel, as defined in section 1288(a) of this title (other than a fishing vessel having its home port or an operating base in the United States), or aircraft, who intends to land temporarily and solely in pursuit of his calling as a crewman and to depart from the United States with the vessel or aircraft on which he arrived or some other vessel or aircraft;

(ii) an alien crewman serving in good faith as such in any capacity required for normal operations and service aboard a fishing vessel having its home port or an operating base in the United States who intends to land temporarily in Guam or the Commonwealth of the Northern Mariana Islands and solely in pursuit of his calling as a crewman and to depart from Guam or the Commonwealth of the Northern Mariana Islands with the vessel on which he arrived; or

(iii) an alien crewman performing ship-to-ship liquid cargo transfer operations to or from another vessel engaged in foreign trade, who intends to land temporarily solely in pursuit of the alien's responsibilities as a crewman and to depart from the United States with the vessel on which the alien arrived or on another vessel or aircraft, for a period not to exceed 180 days;

(E) an alien entitled to enter the United States under and in pursuance of the provisions of a treaty of commerce and navigation between the United States and the foreign state of which the alien is a national (or, in the case of an alien who acquired the relevant nationality through a financial investment and who has not previously been granted status under this subparagraph, the foreign state of which the alien is a national and in which the alien has been domiciled for a continuous period of not less than 3 years at any point before applying for a nonimmigrant visa under this subparagraph), and the spouse and children of any such alien if accompanying or following to join such alien: (i) solely to carry on substantial trade, including trade in services or trade in technology, principally between the United States and the foreign state of which the alien is a national; (ii) solely to develop and direct the operations of an enterprise in which the alien has invested, or of an enterprise in which the alien is actively in the process of investing, a substantial amount of capital; or (iii) solely to perform services in a specialty occupation in the United States if the alien is a national of the Commonwealth of Australia and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 1182(t)(1) of this title;

(F)(i) an alien having a residence in a foreign country which he has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who seeks to enter the United States temporarily and solely for the purpose of pursuing such a course of study consistent with section 1184(l)1 of this title at an established college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in an accredited language training program in the United States, particularly designated by him and approved by the Attorney General after consultation with the Secretary of Education, which institution or place of study shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant student, and if any such institution of learning or place of study fails to make reports promptly the approval shall be withdrawn, (ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien's qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;

(G)(i) a designated principal resident representative of a foreign government recog-
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nized de jure by the United States, which foreign government is a member of an international organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (50 Stat. 669) [22 U.S.C. 286 et seq.], accredited resident members of the staff of such representatives, and members of his or their immediate family;

(ii) other accredited representatives of such a foreign government to such international organizations, and the members of their immediate families;

(iii) an alien able to qualify under (i) or (ii) above except for the fact that the government of which such alien is an accredited representative is not recognized de jure by the United States, or that the government of which he is an accredited representative is not a member of such international organization; and the members of his immediate family;

(iv) officers, or employees of such international organizations, and the members of their immediate families;

(v) attendants, servants, and personal employees of any such representative, officer, or employee, and the members of the immediate families of such attendants, servants, and personal employees;

(H) an alien (I) [(a) Repealed. Pub. L. 106–95, §2(c), Nov. 12, 1999, 113 Stat. 1316] (b) subject to section 1182(j)(2) of this title, who is coming temporarily to the United States to perform services (other than services described in subclause (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P) in a specialty occupation described in section 1184(i)(1) of this title or as a fashion model, who meets the requirements for the occupation specified in section 1184(i)(2) of this title or, in the case of a fashion model, is of distinguished merit and ability, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with the Secretary an application under section 1182(m)(1) of this title, or (h(i) who is entitled to enter the United States under and in pursuance of the provisions of an agreement listed in section 1184(g)(8)(A) of this title, who is engaged in a specialty occupation described in section 1184(i)(3) of this title, and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 1182(t)(1) of this title, or (c) who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 1182(m)(1) of this title, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 1182(m)(2) of this title for the facility (as defined in section 1182(m)(6) of this title) for which the alien will perform the services; or (ii)(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States to perform other temporary service or labor if unemployed persons capable of performing such service or labor cannot be found in this country, but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession; or (iii) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States as a trainee, other than to receive graduate medical education or training, in a training program that is not designed primarily to provide productive employment; and the alien spouse and minor children of any such alien specified in this paragraph if accompanying him or following to join him;

(I) upon a basis of reciprocity, an alien who is a bona fide representative of foreign press, radio, film, or other foreign information media, who seeks to enter the United States solely to engage in such vocation, and the spouse and children of such a representative, if accompanying or following to join him;

(J) an alien having a residence in a foreign country which he has no intention of abandoning who is a bona fide student, scholar, trainee, teacher, professor, research assistant, specialist, or leader in a field of specialized knowledge or skill, or other person of similar description, who is coming temporarily to the United States as a participant in a program designated by the Director of the United States Information Agency, for the purpose of teaching, instructing or lecturing, studying, observing, conducting research, consulting, demonstrating special skills, or receiving training and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 1182(j) of this title, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(K) subject to subsections (d) and (p) of section 1184 of this title, an alien who—

(i) is the fiancée or fiancé of a citizen of the United States (other than a citizen described in section 1154(a)(1)(A)(viii)(I) of this title) and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission;

(ii) has concluded a valid marriage with a citizen of the United States (other than a citizen described in section 1154(a)(1)(A)(viii)(I) of this title) who is the petitioner, is the beneficiary of a petition to accord a status under section 1151(b)(2)(A)(k)(i) of this title that was filed under section 1154
of this title by the petitioner, and seeks to enter the United States to await the approval of such petition and the availability to the alien of an immigrant visa; or

(iii) the minor child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien;

(L) subject to section 1184(c)(2) of this title, an alien who, within 3 years preceding the time of his application for admission into the United States, has been employed continuously for one year by a firm or corporation or other legal entity or an affiliate or subsidiary thereof and who seeks to enter the United States temporarily in order to continue to render his services to the same employer or a subsidiary or affiliate thereof in a capacity that is managerial, executive, or involves specialized knowledge, and the alien spouse and minor children of any such alien if accompanying him or following to join him;

(M)(i) an alien having a residence in a foreign country which he has no intention of abandoning who seeks to enter the United States temporarily and solely for the purpose of pursuing a full course of study at an established vocational or other recognized nonacademic institution (other than in a language training program) in the United States particularly designated by him and approved by the Secretary of Education, which institution shall have agreed to report to the Attorney General the termination of attendance of each nonimmigrant nonacademic student and if any such institution fails to make reports promptly the approval shall be withdrawn, (ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien’s course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;

(N)(i) the parent of an alien accorded the status of special immigrant under paragraph (27)(L), but only if and while the alien is a child, or

(ii) a child of such parent or of an alien accorded the status of a special immigrant under paragraph (27)(L), but only if and while the alien is a child, or

(O) an alien who—

(i) has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim or, with regard to motion picture and television productions a demonstrated record of extraordinary achievement, and whose achievements have been recognized in the field through extensive documentation, and seeks to enter the United States to continue work in the area of extraordinary ability; or

(ii) seeks to enter the United States temporarily and solely for the purpose of accompanying and assisting in the artistic or athletic performance by an alien who is admitted under clause (i) for a specific event or events,

(II) is an integral part of such actual performance,

(III)(a) has critical skills and experience with such alien which are not of a general nature and which cannot be performed by other individuals, or (b) in the case of a motion picture or television production, has skills and experience with such alien which are not of a general nature and which are critical either based on a pre-existing long-standing working relationship or, with respect to the specific production, because significant production (including pre- and post-production work) will take place both inside and outside the United States and the continuing participation of the alien is essential to the successful completion of the production, and

(IV) has a foreign residence which the alien has no intention of abandoning; or

(iii) is the alien spouse or child of an alien described in clause (i) or (ii) and is accompanying, or following to join, the alien;

(P) an alien having a foreign residence which the alien has no intention of abandoning who—

(i) is described in section 1184(c)(4)(A) of this title (relating to athletes), or (b) is described in section 1184(c)(4)(B) of this title (relating to entertainment groups);

(ii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely for the purpose of performing as such an artist or entertainer or with such a group under a reciprocal exchange program which is between an organization or organizations in the United States and an organization or organizations in one or more foreign states and which provides for the temporary exchange of artists and entertainers, or groups of artists and entertainers;

(iii)(I) performs as an artist or entertainer, individually or as part of a group, or is an integral part of the performance of such a group, and

(II) seeks to enter the United States temporarily and solely to perform, teach, or coach as such an artist or entertainer or with such a group under a commercial or noncommercial program that is culturally unique; or

(iv) is the spouse or child of an alien described in clause (i), (ii), or (iii) and is accompanying, or following to join, the alien;

(Q) an alien having a residence in a foreign country which he has no intention of abandoning who is coming temporarily (for a period not to exceed 15 months) to the United States as a participant in an international cultural exchange program approved by the Secretary of Homeland Security for the purpose of providing practical training, employ-
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Secretary of Homeland Security, in consultation with an alien who the Secretary of Homeland Security determines, or following to join, the alien; and

(i) for the 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; and

(ii) seeks to enter the United States for a period not to exceed 5 years to perform the work described in subclause (I), (II), or (III) of paragraph (27)(O)(ii);

(S) subject to section 1184(k) of this title, an alien—

(i) who the Attorney General determines—

(I) is in possession of critical reliable information concerning a criminal organization or enterprise;

(II) is willing to supply or has supplied such information to Federal or State law enforcement authorities or a Federal or State court; and

(III) whose presence in the United States the Attorney General determines is essential to the success of an authorized criminal investigation or the successful prosecution of an individual involved in the criminal organization or enterprise; or

(ii) who the Secretary of State and the Attorney General jointly determine—

(I) is in possession of critical reliable information concerning a terrorist organization, enterprise, or operation;

(II) is willing to supply or has supplied such information to Federal law enforcement authorities or a Federal court;

(III) will be or has been placed in danger as a result of providing such information; and

(IV) is eligible to receive a reward under section 2708(a) of title 22,

and, if the Attorney General (or with respect to clause (ii), the Secretary of State and the Attorney General jointly) considers it to be appropriate, the spouse, married and unmarried sons and daughters, and parents of an alien described in clause (i) or (ii) if accompanying, or following to join, the alien; (T)(i) subject to section 1184(o) of this title, an alien who the Secretary of Homeland Security, or in the case of subclause (III)(aa) the Secretary of Homeland Security, in consultation with the Attorney General, determines—

(I) is or has been a victim of a severe form of trafficking in persons, as defined in section 1101 of title 22; (II) is physically present in the United States, American Samoa, or the Commonwealth of the Northern Mariana Islands, or at a port of entry thereto, on account of such trafficking, including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking;

(III)(aa) has complied with any reasonable request for assistance in the Federal, State, or local investigation or prosecution of acts of trafficking or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime;

(bb) in consultation with the Attorney General, as appropriate, is unable to cooperate with a request described in item (aa) due to physical or psychological trauma; or

(cc) has not attained 18 years of age; and

(iv) the alien would suffer extreme hardship involving unusual and severe harm upon removal; and

(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien;

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; or

(iii) any parent or unmarried sibling under 18 years of age, or any adult or minor children of a derivative beneficiary of the alien, as of an alien described in subclause (I) or (II) who the Secretary of Homeland Security, in consultation with the law enforcement officer investigating a severe form of trafficking, determines faces a present danger of retaliation as a result of the alien’s escape from the severe form of trafficking or cooperation with law enforcement.

(U)(i) subject to section 1184(p) of this title, an alien who files a petition for status under this subparagraph, if the Secretary of Homeland Security determines that—

(I) the alien has suffered substantial physical or mental abuse as a result of having been a victim of criminal activity described in clause (iii);

(II) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) possesses information concerning criminal activity described in clause (iii);

(iii) the alien (or in the case of an alien child under the age of 16, the parent, guardian, or next friend of the alien) has been helpful, is being helpful, or is likely to be helpful to a Federal, State, or local law enforcement official, to a Federal, State, or local prosecutor, to a Federal or State judge, to the Service, or to other Federal, State, or local authorities investigating or prosecuting criminal activity described in clause (iii); and

(iv) the criminal activity described in clause (iii) violated the laws of the United States or occurred in the United States (including in Indian country and military installations) or the territories and possessions of the United States;
(ii) if accompanying, or following to join, the alien described in clause (i)—

(I) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien; or

(II) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien; and

(iii) the criminal activity referred to in this clause is that involving one or more of the following or any similar activity in violation of Federal, State, or local criminal law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; conspiracy, or solicitation to commit any of the above mentioned crimes; or

(V) subject to section 1184(q) of this title, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa properly issued to an alien as an eligible immigrant or of the United States designated by the Attorney General under section 1154 of this title on or before December 21, 2000, if—

(I) such petition has been pending for 3 years or more; or

(ii) such petition has been approved, 3 years or more have elapsed since such filing date, and—

(I) an immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 1153(d) of this title; or

(II) the alien’s application for an immigrant visa, or the alien’s application for adjustment of status under section 1255 of this title on or before September 30, 2015, if—

(i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States; or

(ii) seeks to enter the United States—

(I) solely for the purpose of carrying on the vocation of a minister of that religious denomination;

(II) before September 30, 2015, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

(III) before September 30, 2015, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of title 26) at the re-

\[\text{See Availability of Funds note below.}\]
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quest of the organization in a religious vocation or occupation; and

(iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i);

(D) an immigrant who—

(i) is an employee, or an honorably retired former employee, of the United States Government abroad, or of the American Institute in Taiwan, and who has performed faithful service for a total of fifteen years, or more, and his accompanying spouse and children: Provided, That the principal officer of a Foreign Service establishment (or, in the case of the American Institute in Taiwan, the Director thereof), in his discretion, shall have recommended the granting of special immigrant status to such alien in exceptional circumstances and the Secretary of State approves such recommendation and finds that it is in the national interest to grant such status; or

(ii) is the surviving spouse or child of an employee of the United States Government abroad: Provided, That the employee performed faithful service for a total of not less than 15 years or was killed in the line of duty;

(E) an immigrant, and his accompanying spouse and children, who is or has been an employee of the Panama Canal Company or Canal Zone Government before the date on which the Panama Canal Treaty of 1977 (as described in section 3602(a)(1) of title 22) enters into force [October 1, 1979], who was resident in the Canal Zone on the effective date of the exchange of instruments of ratification of such Treaty [April 1, 1979], and who has performed faithful service as such an employee for one year or more;

(F) an immigrant, and his accompanying spouse and children, who is a Panamanian national and (i) who, before the date on which such Panama Canal Treaty of 1977 enters into force [October 1, 1979], has been honorably retired from United States Government employment in the Canal Zone with a total of 15 years or more of faithful service, or (ii) who, on the date on which such Treaty enters into force, has been employed by the United States Government in the Canal Zone with a total of 15 years or more of faithful service and who subsequently is honorably retired from such employment or continues to be employed by the United States Government in an area of the former Canal Zone;

(G) an immigrant, and his accompanying spouse and children, who was an employee of the Panama Canal Company or Canal Zone Government on the effective date of the exchange of instruments of ratification of such Panama Canal Treaty of 1977 [April 1, 1979], who has performed faithful service for five years or more as such an employee, and whose personal safety, or the personal safety of whose spouse or children, as a direct result of such Treaty, is reasonably placed in danger because of the special nature of any of that employment;

(H) an immigrant, and his accompanying spouse and children, who—

(i) has graduated from a medical school or has qualified to practice medicine in a foreign state,

(ii) was fully and permanently licensed to practice medicine in a State on January 9, 1978, and was practicing medicine in a State on that date,

(iii) entered the United States as a nonimmigrant under subsection (a)(15)(H) or (a)(15)(J) before January 10, 1978, and

(iv) has been continuously present in the United States in the practice or study of medicine since the date of such entry;

(I)(i) an immigrant who is the unmarried son or daughter of an officer or employee, of a former officer or employee, of an international organization described in paragraph (15)(G)(i), and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years between the ages of five and 21 years, and (II) applies for a visa or adjustment of status under this subparagraph no later than his twenty-fifth birthday or six months after October 24, 1988, whichever is later;

(ii) an immigrant who is the surviving spouse of a deceased officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least 15 years before the date of the death of such officer or employee, and (II) files a petition for status under this subparagraph no later than six months after the date of such death or six months after October 24, 1988, whichever is later;

(iii) an immigrant who is a retired officer or employee of such an international organization, and who (I) while maintaining the status of a nonimmigrant under paragraph (15)(G)(iv) or paragraph (15)(N), has resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph and for a period or periods aggregating at least seven years before the date of application for a visa or for adjustment of status to a status under this subparagraph no later than his twenty-fifth birthday or six months after October 24, 1988, whichever is later;

(iv) an immigrant who is the spouse of a retired officer or employee accorded the status of special immigrant under clause (iii), accompanying or following to join such retired offi-
cer or employee as a member of his immediate family;

(J) an immigrant who is present in the United States—

(i) who has been declared dependent on a juvenile court located in the United States or whom such a court has legally committed to, or placed under the custody of, an agency or department of a State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose re-unification with 1 or both of the immigrant’s
parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;

(ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

(K) an immigrant who has served honorably on active duty in the Armed Forces of the United States after October 15, 1978, and after original lawful enlistment outside the United States (under a treaty or agreement in effect on October 1, 1991) for a period or periods aggregating—

(i) 12 years and who, if separated from such service, was never separated except under honorable conditions, or

(ii) 6 years, in the case of an immigrant who is on active duty at the time of seeking special immigrant status under this subparagraph and who has reenlisted to incur a total active duty service obligation of at least 12 years,

and the spouse or child of any such immigrant if accompanying or following to join the immigrant, but only if the executive department under which the immigrant serves or served recommends the granting of special immigrant status to the immigrant;

(L) an immigrant who would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; and

(iii) in whose case the Secretary of Homeland Security consents to the grant of special immigrant juvenile status, except that—

(I) no juvenile court has jurisdiction to determine the custody status or placement of an alien in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction; and

(II) no natural parent or prior adoptive parent of any alien provided special immigrant status under this subparagraph shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter;

(M) subject to the numerical limitations of section 1153(b)(4) of this title, an immigrant who seeks to enter the United States to work as a broadcaster in the United States for the International Broadcasting Bureau of the Broadcasting Board of Governors, or for a grantee of the Broadcasting Board of Governors, and the immigrant’s accompanying spouse and children.

(28) The term “organization” means, but is not limited to, an organization, corporation, company, partnership, association, trust, foundation or fund; and includes a group of persons, whether or not incorporated, permanently or temporarily associated together with joint action on any subject or subjects.

(29) The term “outlying possessions of the United States” means American Samoa and Swains Island.

(30) The term “passport” means any travel document issued by competent authority showing the bearer’s origin, identity, and nationality if any, which is valid for the admission of the bearer into a foreign country.

(31) The term “permanent” means a relationship of continuing or lasting nature, as distinguished from temporary, but a relationship may be permanent even though it is one that may be dissolved eventually at the instance either of the United States or of the individual, in accordance with law.

(32) The term “profession” shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academies, or seminaries.

(33) The term “residence” means the place of general abode; the place of general abode of a person means his principal, actual dwelling place in fact, without regard to intent.

(34) The term “Service” means the Immigration and Naturalization Service of the Department of Justice.

(35) The term “spouse”, “wife”, or “husband” do not include a spouse, wife, or husband by reason of any marriage ceremony where the contracting parties thereto are not physically present in the presence of each other, unless the marriage shall have been consummated.

(36) The term “State” includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

4 So in original. Probably should be followed by “; or”.
(37) The term “totalitarian party” means an organization which advocates the establishment in the United States of a totalitarian dictatorship or totalitarianism. The terms “totalitarian dictatorship” and “totalitarianism” mean and refer to systems of government not representative in fact, characterized by (A) the existence of a single political party, organized on a dictatorial basis, with so close an identity between such party and its policies and the governmental policies of the country in which it exists, that the party and the government constitute an indistiguishable unit, and (B) the forcible suppression of opposition to such party.

(38) The term “United States”, except as otherwise specifically herein provided, when used in a geographical sense, means the continental United States, Alaska, Hawaii, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

(39) The term “unmarried”, when used in reference to any individual as of any time, means an individual who at such time is not married, whether or not previously married.

(40) The term “world communism” means a revolutionary movement, the purpose of which is to establish eventually a Communist totalitarian dictatorship in any or all the countries of the world through the medium of an internationally coordinated Communist political movement.

(41) The term “graduates of a medical school” means aliens who have graduated from a medical school or who have qualified to practice medicine in any foreign country, other than such aliens who are of national or international renown in the field of medicine.

(42) The term “refugee” means (A) any person who is outside any country of such person’s nationality or, in the case of a person having no nationality, is outside any country in which such person last habitually resided, and who is unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion, or (B) in such special circumstances as the President after appropriate consultation (as defined in section 1157(e) of this title) may specify, any person who is within the country of such person’s nationality or, in the case of a person having no nationality, within the country in which such person is habitually residing, and who is persecuted or who has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. The term “refugee” does not include any person who 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. For purposes of determinations under this chapter, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure or refusal to undergo such a procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has a well founded fear that he or she will be forced to undergo such a procedure or subject to persecution for such failure, refusal, or resistance shall be deemed to have a well founded fear of persecution on account of political opinion.

(43) The term “aggravated felony” means—
(A) murder, rape, or sexual abuse of a minor;
(B) illicit trafficking in a controlled substance (as defined in section 802 of title 21), including a drug trafficking crime (as defined in section 924(c) of title 18);
(C) illicit trafficking in firearms or destructive devices (as defined in section 921 of title 18) or in explosive materials (as defined in section 841(c) of that title);
(D) an offense described in section 1566A of title 18 (relating to laundering of monetary instruments) or section 1957 of that title (relating to engaging in monetary transactions in property derived from specific unlawful activity) if the amount of the funds exceeded $10,000;
(E) an offense described in—
(i) section 842(h) or (i) of title 18, or section 844(d), (e), (f), (g), (h), or (i) of that title (relating to explosive materials offenses);
(ii) section 922(g)(1), (2), (3), (4), or (5), (j), (n), (o), (p), or (r) or 924(b) or (h) of title 18 (relating to firearms offenses); or
(iii) section 5861 of title 26 (relating to firearms offenses);
(F) a crime of violence (as defined in section 16 of title 18, but not including a purely political offense) for which the term of imprisonment at § 5 least one year;
(G) a theft offense (including receipt of stolen property) or burglary offense for which the term of imprisonment at § 5 least one year;
(H) an offense described in section 875, 876, 877, or 1202 of title 18 (relating to the demand for or receipt of ransom);
(I) an offense described in sections 2251, 2251A, or 2252 of title 18 (relating to child pornography);
(J) an offense described in section 1992 of title 18 (relating to racketeer influenced corrupt organizations), or an offense described in section 1094 (if it is a second or subsequent offense) or 1955 of that title (relating to gambling offenses), for which a sentence of one year imprisonment or more may be imposed;
(K) an offense that—
(i) relates to the owning, controlling, managing, or supervising of a prostitution business;
(ii) is described in section 2421, 2422, or 2423 of title 18 (relating to transportation for the purpose of prostitution) if committed for commercial advantage; or
(iii) is described in any of sections 1581–1585 or 1595–1591 of title 18 (relating to peonage, slavery, involuntary servitude, and trafficking in persons);
(L) an offense described in—
(i) section 793 (relating to gathering or transmitting national defense information),
other provision of law (including any effective
date), the term applies regardless of whether the
conviction was entered before, on, or after Sep-
tember 30, 1996.

(44)(A) The term “managerial capacity” means
an assignment within an organization in which the
employee primarily—
(i) manages the organization, or a depart-
ment, subdivision, function, or component of
the organization;
(ii) supervises and controls the work of other
supervisory, professional, or managerial em-
ployees, or manages an essential function
within the organization, or a department or
subdivision of the organization;
(iii) if another employee or other employees
are directly supervised, has the authority to
hire and fire or recommend those as well as
other personnel actions (such as promotion
and leave authorization) or, if no other em-
ployee is directly supervised, functions at a
senior level within the organizational hier-
archy or with respect to the function man-
aged; and
(iv) exercises discretion over the day-to-day
operations of the activity or function for
which the employee has authority.

A first-line supervisor is not considered to be
acting in a managerial capacity merely by virtue
of the supervisor’s supervisory duties unless the
employees supervised are professional.

(B) The term “executive capacity” means an
assignment within an organization in which the
employee primarily—
(i) directs the management of the organiza-
tion or a major component or function of the
organization;
(ii) establishes the goals and policies of the
organization, component, or function;
(iii) exercises wide latitude in discretionary
decision-making; and
(iv) receives only general supervision or di-
rection from higher level executives, the board
of directors, or stockholders of the organiza-
tion.

(C) If staffing levels are used as a factor in de-
termining whether an individual is acting in a
managerial or executive capacity, the Attorney
General shall take into account the reasonable
needs of the organization, component, or func-
tion in light of the overall purpose and stage of
development of the organization, component, or
function. An individual shall not be considered
to be acting in a managerial or executive capac-
ity (as previously defined) merely on the basis of
the number of employees that the individual su-
 pervises or has supervised or directs or has di-
rected.

The term “substantial” means, for pur-
poses of paragraph (15)(E) with reference to
trade or capital, such an amount of trade or cap-
ital as is established by the Secretary of State,
after consultation with appropriate agencies of
Government.

(46) The term “extraordinary ability” means,
for purposes of subsection (a)(15)(O)(i), in the
case of the arts, distinction.

(47)(A) The term “order of deportation” means
the order of the special inquiry officer, or other
such administrative officer to whom the Attor-
ney General has delegated the responsibility for determining whether an alien is deportable, concluding that the alien is deportable or ordering deportation.

(B) The order described under subparagraph (A) shall become final upon the earlier of—

(i) a determination by the Board of Immigration Appeals affirming such order; or

(ii) the expiration of the period in which the alien is permitted to seek review of such order by the Board of Immigration Appeals.

(48)(A) The term "conviction" means, with respect to an alien, a formal judgment of guilt of the alien entered by a court or, if adjudication of guilt has been withheld, where—

(i) a judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt, and

(ii) the judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.

(B) Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.

(49) The term "stowaway" means any alien who obtains transportation without the consent of the owner, charterer, master or person in command of any vessel or aircraft through concealment aboard such vessel or aircraft. A passenger who boards with a valid ticket is not to be considered a stowaway.


(51) The term "VAYA self-petitioner" means an alien, or a child of the alien, who qualifies for relief under—

(A) clause (ii), (iv), or (vii) of section 1154(a)(1)(A) of this title;

(B) clause (ii) or (iii) of section 1154(a)(1)(B) of this title;

(C) section 1186a(c)(4)(C) of this title;

(D) the first section of Public Law 89–732 (8 U.S.C. 1255 note) (commonly known as the Cuban Adjustment Act) as a child described in clause (i) or subparagraph (F)(i); and

(E) any provision under subsection (b) of section 1229b of this title, or

Provided, That no natural parent of any such adopted child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter; or

(ii) subject to the same proviso as in clause (i), a child who: (I) is a natural sibling of a child described in clause (i) or subparagraph (F)(i); (II) was adopted by the adoptive parent or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child was adopted while under the age of 18 years; (F)(i) a child, under the age of sixteen at the time a petition is filed in his behalf to accord a classification as an immediate relative under section 1151(b) of this title, who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care and has in writing irrevocably released the child for emigration and adoption; who has been adopted abroad by a United States citizen and spouse jointly, or by an unmarried United States citizen who is at least 25 years of age, at least 1 of whom personally saw and observed the child before or during the adoption proceedings; or who is coming to the United States for adoption by a United States citizen and spouse jointly, or by an unmarried United States citizen at least twenty-five years of age, who have or has complied with the preadoption requirements, if any, of the child's proposed residence; Provided, That the Attorney General is satisfied that proper care will be furnished the child if admitted to the United States: Provided further, That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter; or

(ii) subject to the same provisos as in clause (i), a child who: (I) is a natural sibling of a child described in clause (i) or subparagraph
(E)(i); (II) has been adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in such clause or subparagraph; and (III) is otherwise described in clause (i), except that the child is under the age of 18 at the time a petition is filed on the child’s behalf to accord a classification as an immediate relative under section 1151(b) of this title; or

(G)(i) a child, younger than 16 years of age at the time a petition is filed on the child’s behalf to accord a classification as an immediate relative under section 1151(b) of this title, who has been adopted in a foreign state that is a party to the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on May 29, 1993, or who is emigrating from such a foreign state to be adopted in the United States by a United States citizen and spouse jointly or by an unmarried United States citizen who is at least 25 years of age. Provided. That—

(I) the Secretary of Homeland Security is satisfied that proper care will be furnished the child if admitted to the United States;

(II) the child’s natural parents (or parent, in the case of a child who has one sole or surviving parent because of the death or disappearance of, abandonment or desertion by, the other parent), or other persons or institutions that retain legal custody of the child, have freely given their written irrevocable consent to the termination of their legal relationship with the child, and to the child’s emigration and adoption;

(III) in the case of a child having two living natural parents, the natural parents are incapable of providing proper care for the child;

(IV) the Secretary of Homeland Security is satisfied that the purpose of the adoption is to form a bona fide parent-child relationship, and the parent-child relationship of the child and the natural parent has been terminated (and in carrying out both obligations under this subclause the Secretary of Homeland Security may consider whether there is a petition pending to confer immigrant status on one or both of such natural parents); and

(V) in the case of a child who has not been adopted—

(aa) the competent authority of the foreign state has approved the child’s emigration to the United States for the purpose of adoption by the prospective adoptive parent or parents; and

(bb) the prospective adoptive parent or parents has or have complied with any pre-adoption requirements of the child’s proposed residence; and

(ii) except that no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this chapter; or

(iii) subject to the same provisions as in clauses (i) and (ii), a child who—

(I) is a natural sibling of a child described in clause (i), subparagraph (E)(i), or subparagraph (F)(i); and

(II) was adopted abroad, or is coming to the United States for adoption, by the adoptive parent (or prospective adoptive parent) or parents of the sibling described in clause (i), subparagraph (E)(i), or subparagraph (F)(i); and

(III) is otherwise described in clause (i), except that the child is younger than 18 years of age at the time a petition is filed on his or her behalf for classification as an immediate relative under section 1151(b) of this title.

(2) The terms “parent”, “father”, or “mother” mean a parent, father, or mother only where the relationship exists by reason of any of the circumstances set forth in subdivision (1) of this subsection, except that, for purposes of paragraph (1)(F) (other than the second proviso therein) and paragraph (1)(G)(i) in the case of a child born out of wedlock described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term “parent” does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption.

(3) The term “person” means an individual or an organization.

(4) The term “immigration judge” means an attorney whom the Attorney General appoints as an administrative judge within the Executive Office for Immigration Review, qualified to conduct specified classes of proceedings, including a hearing under section 1229a of this title. An immigration judge shall be subject to such supervision and shall perform such duties as the Attorney General shall prescribe, but shall not be employed by the Immigration and Naturalization Service.

(5) The term “adjacent islands” includes Saint Pierre, Miquelon, Cuba, the Dominican Republic, Haiti, Bermuda, the Bahamas, Barbados, Jamaica, the Windward and Leeward Islands, Trinidad, Martinique, and other British, French, and Netherlands territory or possessions in or bordering on the Caribbean Sea.

(c) As used in subchapter III—

(1) The term “child” means an unmarried person under twenty-one years of age and includes a child legitimated under the law of the child’s residence or domicile, or under the law of the father’s residence or domicile, whether in the United States or elsewhere, and, except as otherwise provided in sections 1431 and 1432 of this title, a child adopted in the United States, if such legitimation or adoption takes place before the child reaches the age of 16 years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1)), and the child is in the legal custody of the legitimating or adopting parent or parents at the time of such legitimation or adoption.

(2) The terms “parent”, “father”, and “mother” include in the case of a posthumous child a deceased parent, father, and mother.


(e) For the purposes of this chapter—

(1) The giving, loaning, or promising of support or of money or any other thing of value to be used for advocating any doctrine shall con-
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(1) The giving, loaning, or promising of support or of money or any other thing of value for any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of affiliation.

(2) Advocating the economic, international, and governmental doctrines of world communism means advocating the establishment of a totalitarian Communist dictatorship in any or all of the countries of the world through the medium of an internationally coordinated Communist movement.

(f) For the purposes of this chapter—

(1) a habitual drunkard;

(2) a member of one or more of the classes of persons described in paragraphs (2)(D), (6)(E), and (10)(A) of section 1182(a) of this title; or subparagraphs (A) and (B) of section 1182(a)(2) of this title and subparagraph (C) thereof of such section except as such paragraph relates to a single offense of simple possession of 30 grams or less of marijuana, if the offense described therein, for which such person was convicted, or of which he admits the commission, was committed during such period;

(3) one who has been convicted of two or more gambling offenses committed during such period;

(4) one who has given false testimony for the purpose of obtaining any benefits under this chapter;

(5) one who has been convicted of an aggravated felony (as defined in subsection (a)(43)); or

(6) one who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)); or

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who has been convicted of any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of advocating.

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(3) one who has been convicted of two or more gambling offenses committed during such period;

(4) one who has given false testimony for the purpose of obtaining any benefits under this chapter;

(5) one who has been convicted of an aggravated felony (as defined in subsection (a)(43)); or

(6) one who at any time has been convicted of an aggravated felony (as defined in subsection (a)(43)); or

(7) one who during such period has been confined, as a result of conviction, to a penal institution for an aggregate period of one hundred and eighty days or more, regardless of whether the offense, or offenses, for which he has been confined were committed within or without such period;

(8) one who at any time has been convicted of any purpose to any organization shall be presumed to constitute affiliation therewith; but nothing in this paragraph shall be construed as an exclusive definition of advocating.


**AMENDMENTS**

2023—Subsec. (a)(15)(C). Pub. L. 117–360, §2(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “an alien in immediate and continuous transit through the United States, or an alien who qualifies as a person entitled to pass in transit to and from the United Nations Headquarters District and foreign countries, under the provisions of paragraphs (3), (4), and (5) of section 11 of the Headquarters Agreement with the United Nations (61 Stat. 758).”


Subsec. (a)(15)(E). Pub. L. 117–293, §5902(b), inserted “(or, in the case of an alien who acquired the relevant nationality through a financial investment and who has not previously been granted status under this subparagraph, the foreign state of which the alien is a national and in which the alien has been domiciled for a continuous period of not less than 3 years at any point before applying for a nonimmigrant visa under this subparagraph)” before “, and the spouse”, substituted “such alien” for “him”, and substituted “the alien” for “he” when appearing appearing.


2014—Subsec. (b)(1)(F)(i). Pub. L. 113–76 substituted “who is at least 25 years of age, at least 1 of whom personally saw and observed the child before or during the adoption proceedings:” for “at least twenty-five years of age, who personally saw and observed the child prior to or during the adoption proceedings:”.

2013—Subsec. (a)(15)(T)(i)(II). Pub. L. 113–4, §1221, inserted “or any adult or minor children of a derivative beneficiary of the alien, as” after “18 years of age”.

Subsec. (a)(15)(U)(iii). Pub. L. 113–4, §§801, 1222, inserted “‘sexual exploitation’,” after “‘fraud in foreign labor contracting’ (as defined in section 1351 of title 18);” after “perjury;”.


Subsec. (b)(1)(G). Pub. L. 111–287 amended subpar. (G) generally. Prior to amendment, subpar. (G) provided that the term “child” includes a child who is migrating from certain foreign states to the United States to be adopted if the Attorney General is satisfied that certain criteria are met.


Subsec. (a)(15)(T)(i)(II). Pub. L. 110–457, §201(a)(1)(C), inserted at end “including physical presence on account of the alien having been allowed entry into the United States for participation in investigative or judicial processes associated with an act or a perpetrator of trafficking;”.


Subsec. (a)(15)(T)(iii). Pub. L. 110–457, §201(a)(1)(E), struck out cl. (ii) which read as follows: “if the Secretary of Homeland Security, in his or her discretion and with the consultation of the Attorney General, determines that a trafficking victim, due to psychological or physical trauma, is unable to cooperate with a request for assistance described in clause (i)(III)(aa), the request is unreasonable.”


Subsec. (a)(27)(J)(i). Pub. L. 110–457, §235(d)(1)(A), substituted “State, or an individual or entity appointed by a State or juvenile court located in the United States, and whose reunification with 1 or both of the immigrant’s parents is not viable due to abuse, neglect, abandonment, or a similar basis found under State law;” for “State and who has been deemed eligible by the court for long-term foster care due to abuse, neglect, or abandonment;”.


Subsec. (a)(27)(J)(iii)(I). Pub. L. 110–457, §235(d)(1)(B)(ii), substituted “in the custody of the Secretary of Health and Human Services unless the Secretary of Health and Human Services specifically consents to such jurisdiction;” for “in the actual or constructive custody of the Attorney General unless the Attorney General specifically consents to such jurisdiction;”.


2006—Subsec. (a)(15)(K)(i)(II). Pub. L. 109–248, which directed insertion of “(other than a citizen described in section 1154(c)(1)(A)(viii)(I) of this title)” after “citizen of the United States” appearing in section 101(a)(15)(K), without specifying the Act to be amended, was executed to subsec. (a)(15)(K) of this section, which...
is section 101 of the Immigration and Nationality Act, to reflect the probable intent of Congress.  


Pub. L. 109–162, § 801(a)(1)(B)(ii), which directed substitution of “or the investigation of crime where acts of trafficking are at least one central reason for the commission of that crime; or” for “, or”, was executed by making the substitution for “, or” the second time appearing to reflect the probable intent of Congress.  


(i) in the case of an alien described in clause (i) who is under 21 years of age, the spouse, children, unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause, and parents of such alien;  

(ii) in the case of an alien described in clause (i) who is 21 years of age or older, the spouse and children of such alien, if accompanying, or following to join him, the alien described in clause (i).”  


Subsec. (a)(15)(U)(ii). Pub. L. 109–162, §801(b)(2), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “If accompanying, or following to join, the alien described in clause (i):  

(i) if the Attorney General considers it necessary to avoid extreme hardship to the spouse, the child, or, in the case of an alien child, the parent of the child, of any such alien if accompanying him or following to join him”;  

Subsec. (a)(15)(U)(iii). Pub. L. 109–162, §801(b)(3), inserted before colon “or if the child has been battered or subjected to extreme cruelty by the adopting parent or by a family member of the adopting parent residing in the same household”.

Subsec. (f)(3). Pub. L. 109–162, §822(c)(1)(A), substituted “an alien who is” for “an alien who”.  


Subsec. (a)(15)(H)(ii)(a). Pub. L. 109–90 substituted “agriculture as defined in section 203(h) of title 29, and the pressing of apples for cider on a farm,” for “agriculture as defined in section 203(h) of title 29,” and made technical amendment to reference in original act which appears in text as reference to section 3121(g) of title 26.

2004—Subsec. (a)(15)(Q). Pub. L. 108–449, §1(b)(1), substituted “Secretary of Homeland Security” for “Attorney General” in two places, “citizen of the United Kingdom or the Republic of Ireland, 21 to 35 years of age, unemployed for not less than 12 months, and having a residence for not less than 2 years of age or younger having a residence”, and “24 months” for “36 months”.  


2003—Subsec. (a)(15)(H)(i). Pub. L. 108–77, §107(c), 402(a)(1), temporarily substituted “1182(n)(1) of this title, or (b1) who is entitled to enter the United States under and in pursuance of the provisions of an agreement listed in section 1184(g)(8)(A) of this title, who is engaged in a specialty occupation described in section 1184(i)(3) of this title, and with respect to whom the Secretary of Labor determines and certifies to the Secretary of Homeland Security and the Secretary of State that the intending employer has filed with the Secretary of Labor an attestation under section 1183(c)(1) of this title, or (c)’’ for “1182(n)(1) of this title,” and realigned margins.  


Subsec. (a)(15)(T)(i). Pub. L. 108–193, §4(b)(1)(B), inserted “unmarried siblings under 18 years of age on the date on which such alien applied for status under such clause,” before “and parents”.  


Subsec. (a)(43)(K)(iii). Pub. L. 108–193, §4(b)(5), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “is described in section 1581, 1582, 1583, 1584, 1585, or 1588 of title 18 (relating to peonage, slavery, and involuntary servitude);”.  

2002—Subsec. (a)(15)(F)(ii), (iii). Pub. L. 107–274, §2(a), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: “(ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;”.


Subsec. (a)(15)(M)(ii), (iii). Pub. L. 107–274, §2(b), added cls. (ii) and (iii) and struck out former cl. (ii) which read as follows: “(ii) the alien spouse and minor children of any such alien if accompanying him or following to join him;”.

2000—Subsec. (a)(15)(K). Pub. L. 106–553, §1(a)(2)(T), amended subpar. (K) generally. Prior to amendment, subpar. (K) read as follows: “an alien who is the fiancée or fiancé of a citizen of the United States and who seeks to enter the United States solely to conclude a valid marriage with the petitioner within ninety days after admission, and the minor children of such fiancée or fiancé accompanying him or following to join him;.”


Subsec. (b)(2). Pub. L. 106–279, §302(c), inserted “and paragraph (1)(G)(i)” after “second proviso therein”.  

Subsec. (c). Pub. L. 106–385 inserted at end: “In the case of an alien who makes a false statement or claim of citizenship, or who registers to vote or votes in a Federal, State, or local election (including an initia-
tive, recall, or referendum) in violation of a lawful restriction of such registration or voting to citizens, if each natural parent of the alien (or, in the case of an adopted alien, each adoptive parent of the alien) is or was a citizen (whether by birth or naturalization), the alien permanently resided in the United States prior to attaining the age of 16, and the alien reasonably believed, at the time of such statement, claim, or violation that he or she was a citizen, no finding that the alien is, or was, not of good moral character may be made based on it.”


1999—Subsec. (a)(15)(H)(1)(A). Pub. L. 106–95, §2(c), struck out subcl. (a) which read as follows: “who is coming temporarily to the United States to perform services as a registered nurse, who meets the qualifications described in section 1182(m)(1) of this title, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that an unexpired attestation is on file and in effect under section 1182(m)(2) of this title for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien’s employer or controlled by the employer) for which the alien will perform the services, or”.


Subsec. (c)(1). Pub. L. 106–139, §1(b)(1), substituted “16 years (except to the extent that the child is described in subparagraph (E)(ii) or (F)(ii) of subsection (b)(1),)” for “sixteen years,”.

1998—Subsec. (a)(9). Pub. L. 105–277, §222(e), inserted “or employee” after “other officer” and “or, when used in subchapter III, for the purpose of adjudicating nationality” before period at end.


Subsec. (a)(15)(Q). Pub. L. 105–319, §2(e)(2), formerly §2(d)(2), renumbered §2(e)(2) and amended Pub. L. 108–449, §1(a)(2)(B), (3)(A), struck out cl. (i) designation before “an alien having a residence” and struck out at end “an alien citizen of the United Kingdom, or the Republic of Ireland, 21 to 35 years of age, unemployed for not less than 12 months, and having a residence for not less than 18 months in Northern Ireland, or the counties of Louth, Meath, Monaghan, Cavan, Leitrim, Sligo, and Donegal within the Republic of Ireland, which the alien has no intention of abandoning who is coming temporarily (for a period not to exceed 24 months) to the United States as a participant in a cultural and training program approved by the Secretary of State and the Secretary of Homeland Security under section 2(a) of the Irish Peace Process Cultural and Training Program Act of 1998 for the purpose of providing practical training, employment, and the experience of coexistence and conflict resolution in a diverse society, and (II) the alien spouse and minor children of any such alien if accompanying the alien or following to join the alien;”.

Pub. L. 105–319, §2(b)(1), designated existing provisions as cl. (i) and added cl. (ii).


Subsec. (a)(27)(J). Pub. L. 105–119 amended subpar. (J) generally. Prior to amendment, subpar. (J) read as follows: “an immigrant (i) who has been declared dependent on a juvenile court located in the United States or which such a court has legally committed or placed under the custody of, an agency or department of a State and who has been deemed eligible by that court for long-term foster care, and (ii) for whom it has been determined in administrative or judicial proceedings that it would not be in the alien’s best interest to be returned to the alien’s or parent’s previous country of nationality or country of last habitual residence; except that no natural parent or prior adoptive parent of any alien provided special immigrant status under this section at the time of such parent’s or such parent’s age, be accorded any right, privilege, or status under this chapter; or”.

1996—Subsec. (a)(6). Pub. L. 104–208, §104(a), inserted at end “Such regulations shall provide that: (A) each such document include a biometric identifier (such as the fingerprint or handprint of the alien) that is machine readable and (B) an alien presenting a border crossing identification card is not permitted to cross over the border into the United States unless the biometric identifier contained on the card matches the appropriate biometric characteristic of the alien.”

Subsec. (a)(15). Pub. L. 104–208, §301(a), amended par. (13) generally. Prior to amendment, par. (13) read as follows: “The term ‘entry’ means any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that his or her departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.”

Subsec. (a)(15)(F). Pub. L. 104–208, §625(a)(2), inserted “consistent with section 1184(f) of this title” after “a course of study”.


Subsec. (a)(17). Pub. L. 104–208, §304(d)(4)(A), substituted “expulsion, or removal” for “or expulsion”.


Subsec. (a)(42). Pub. L. 104–208, §601(a)(1), inserted at end “For purposes of determinations under this chapter, a person who has been forced to abort a pregnancy or to undergo involuntary sterilization, or who has been persecuted for failure to undergo a sterilization procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion, and a person who has been forced to take a course of study or to undergo involuntary sterilization, or who has been persecuted for failure to undergo a sterilization procedure or for other resistance to a coercive population control program, shall be deemed to have been persecuted on account of political opinion.”

Subsec. (a)(43). Pub. L. 104–208, §321(b), inserted at end of concluding provisions “Notwithstanding any other provision of law (including any effective date), the term applies regardless of whether the conviction was entered before, on, or after September 30, 1996.”


Subsec. (a)(43)(B). Pub. L. 104–208, §321(a)(2), substituted “$10,000” for “$100,000”.


Subsec. (a)(43)(G). Pub. L. 104–208, §322(a)(3)(A), which directed amendment of this section by striking out “imposed (regardless of any suspension of imprisonment)”, was executed by striking out “imposed (regardless of
any suspension of such imprisonment") after "term of imprisonment" to reflect the probable intent of Congress.

Pub. L. 104–208, §321(a)(3), substituted "at least one year" for "is at least 5 years".


Pub. L. 104–132, §440(e)(1), inserted "or an offense described in section 1581 if it is a second or subsequent offense or 1955 of that title relating to gambling offenses", after "corrupt organizations"


Pub. L. 104–208, §321(a)(5), inserted "if committed" before "for commerce advantage".


Subsec. (a)(43)(M). Pub. L. 104–208, §321(a)(7), substituted "$10,000" for "$320,000" in cl. (i) and (ii).


Pub. L. 104–208, §321(a)(8), substituted ", except in the case of a first offense for which the alien has affirmatively shown that the alien committed the offense for the purpose of assisting, abetting, or aiding only the alien's spouse, child, or parent (and no other individual) to violate a provision of this chapter" for "for which the term of imprisonment imposed regardless of any suspension of imprisonment" at least one year;".

Pub. L. 104–208, §321(a)(3), substituted "at least one year" for "is at least 5 years".

Pub. L. 104–132, §440(e)(3), amended subpar. (N) by striking "sentence of one year imprisonment" for "sentence of two years imprisonment".

Subsec. (a)(43)(P). Pub. L. 104–208, §321(a)(9), substituted for "commercial advantage" "commercial advantage due to, or placed under the custody of, an agency or department designated by the Secretary of State pursuant to section 802 of title 21, including any drug trafficking or establishment".

Pub. L. 104–208, §321(a)(3), substituted "or whom such a court has legally committed to the custody of a State for Consular Affairs".

Pub. L. 104–208, §321(a)(7), struck out former subcl. (II) which read "and has" before "and has" after October 24, 1988, whichever is later; or".

Subsec. (a)(43)(Q). Pub. L. 104–132, §440(e)(6), redesignated subpar. (P) as (Q). (Former subpar. (Q) redesignated (U).)

Sub. (a)(43)(R). Pub. L. 104–208, §321(a)(10), substituted "for which the term of imprisonment is at least one year" for "for which a sentence of 5 years imprisonment or more may be imposed".


Sub. (a)(43)(S). Pub. L. 104–208, §321(a)(11), substituted "for which the term of imprisonment is at least one year" for "for which a sentence of 5 years imprisonment or more may be imposed".

Pub. L. 104–132, §440(e)(8), added subpar. (S).


Pub. L. 104–208, §321(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

"The term 'special inquiry officer' means any immigration officer who the Attorney General deems specially qualified to conduct specified classes of proceedings, in whole or in part, required by this chapter to be conducted by or before a special inquiry officer and who is designated and selected by the Attorney General, individually or by regulation, to conduct such proceedings. Such special inquiry officer shall be subject to such supervision and shall perform such duties, not inconsistent with this chapter, as the Attorney General shall prescribe."

Sub. (c)(1). Pub. L. 104–208, §671(e)(2), substituted "1932" for "1932 and 1443".


Sub. (b)(1)(D). Pub. L. 104–51, §1(1)(B), substituted "a child born out of wedlock" for "an illegitimate child".

Sub. (b)(2). Pub. L. 104–51, §1(2), substituted "a child born out of wedlock" for "an illegitimate child".

1994—Sub. (a)(1). Pub. L. 103–236 substituted "official designated by the Secretary of State pursuant to section 1104(b) of this title" for "Assistant Secretary of State for Consular Affairs".


Sub. (a)(27)(D). Pub. L. 103–416, §201, inserted "or of the American Institute in Taiwan," after "Government abroad, " and "(or, in the case of the American Institute in Taiwan, the Director thereof)" after "Service establishment;"

Sub. (a)(27)(F)(ii). Pub. L. 103–337 inserted "or continues to be employed by the United States in an area of the former Canal Zone" after "employment."

Sub. (a)(27)(I)(iii)(II). Pub. L. 103–418, §202, added subcl. (II) and struck out former subcl. (I) which read as follows: "files a petition for status under this subchapter while such an application is pending for the benefit of a person, including a child, born in the United States of a citizen of the United States of whom the alien is the parent."
trafficking crime as defined in section 926(c)(2) of title 18, or any illicit trafficking in any firearms or destructive devices as defined in section 921 of such title, any offense described in section 1565 of title 18 (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, not including a purely political offense) for which the term of imprisonment is not less than 5 years, or any attempt or conspiracy to commit any such act. Such term applies to offenses described in the previous sentence whether in violation of Federal or State law and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years.”


Pub. L. 102–222, § 303(a)(5)(A), inserted “subject to section 1182(j)(2) of this title,” after “or (b)”.

Pub. L. 102–222, § 206(b), struck out before semicolon at end “, but only if the Attorney General determines that the alien’s entry into the United States will substantially benefit prospectively the United States”.

Subsec. (a)(15)(O)(ii)(III)(b). Pub. L. 102–222, § 206(o)(2), (3), substituted “(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” after “(b)”, and inserted “(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” for “(b)”. Subsec. (a)(15)(H)(ii). Pub. L. 101–649, § 206(e)(4), inserted “having a residence in a foreign country which he has no intention of abandoning” after “(iii)”. Pub. L. 101–649, § 205(d), inserted “in a training program that is not designed primarily to provide productive employment” before semicolon at end.


Subsec. (a)(15)(S). Pub. L. 101–649, § 151(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been a member of a religious denomination having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” after “(b)”. Subsec. (a)(15)(H)(i)(b). Pub. L. 101–649, § 205(o)(2), inserted “having a residence in a foreign country which he has no intention of abandoning” after “(iii)”. Pub. L. 101–649, § 203(a)(5)(A), inserted “subject to section 1182(n)(1) of this title”.

Subsec. (a)(15)(H)(i). Pub. L. 101–649, § 205(o)(1), inserted “a capacity” for “any capacity” and inserted “files a petition for status” for “applies for a visa or adjustment of status”.

Subsec. (a)(15)(D)(i). Pub. L. 101–649, § 206(c), substituted “a capacity” for “any capacity” and inserted “files a petition for status” for “applies for a visa or adjustment of status”.

Subsec. (a)(15)(E)(i). Pub. L. 101–649, § 204(a), inserted “including trade in services or trade in technology” after “substantial trade”.

Subsec. (a)(15)(H). Pub. L. 101–649, § 205(e)(1), struck out “having a residence in a foreign country which he has no intention of abandoning” after “an alien”. Subsec. (a)(15)(H)(i)(a). Pub. L. 101–649, § 205(a)(2)(A), substituted “for each facility (which facility shall include the petitioner and each worksite, other than a private household worksite, if the worksite is not the alien’s employer or compelled by the employment contract under which the alien will perform the services, or)” for “for the facility for which the alien will perform the services, or”. Subsec. (a)(15)(H)(i)(b). Pub. L. 101–649, § 205(c)(1), substituted “who is coming temporarily to the United States to perform services (other than services described in subsection (a) during the period in which such subclause applies and other than services described in subclause (ii)(a) or in subparagraph (O) or (P)) in a specialty occupation described in section 1184(i)(1) of this title, who meets the requirements for the occupation specified in section 1184(i)(2) of this title, and with respect to whom the Secretary of Labor determines and certifies to the Attorney General that the intending employer has filed with, and had approved by, the Secretary an application under section 1182(n)(1) of this title for who is of distinguished merit and ability and who is coming temporarily to the United States to perform services (other than services as a registered professional person of an exceptional nature requiring skill, knowledge, and ability, and who, in the case of a graduate of a medical school coming to the United States to perform services as a member of the medical profession, is coming pursuant to an invitation from a University or non-profit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency).” Subsec. (a)(15)(H)(ii). Pub. L. 101–649, § 205(e)(2), (3), substituted “(a) having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States (a)”, and in subcl. (b) inserted “having a residence in a foreign country which he has no intention of abandoning” after “(iii)”. Pub. L. 101–649, § 205(d), inserted “in a training program that is not designed primarily to provide productive employment” before semicolon at end.


Subsec. (a)(27)(C). Pub. L. 101–649, § 151(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “(i) an immigrant who continuously for at least two years immediately preceding the time of his application for admission to the United States has been a member of a religious denomination having a residence in a foreign country which he has no intention of abandoning who is coming temporarily to the United States” after “(b)”. Subsec. (a)(27)(J). Pub. L. 101–649, § 153(a), added subpar. (J).


Subsec. (a)(45). Pub. L. 101–649, § 501(a)(6), inserted “and also applies to offenses described in the previous sentence in violation of foreign law for which the term of imprisonment was completed within the previous 15 years” after “Federal or State law”.

\[\text{\textparagraph 1101}
\text{TITLE 8—ALIENS AND NATIONALITY}
\]
Pub. L. 101–649, § 501(a)(5), inserted at end “Such term applies to offenses described in the previous sentence whether in violation of Federal or State law.”

Pub. L. 101–649, § 501(a)(4), struck out “committed within the United States after “to commit any such act.’’

Pub. L. 101–649, § 501(a)(3), inserted “any offense described in section 1566 of title 18 (relating to laundering of monetary instruments), or any crime of violence (as defined in section 16 of title 18, not including a purely political offense) for which the term of imprisonment imposed (regardless of any suspension of such imprisonment) is at least 5 years,” after “section 921 of that title,’’.

Pub. L. 101–649, § 501(a)(2), inserted “any illicit trafficking in any controlled substance (as defined in section 802 of title 21), including” after “murder,’’.


Subsec. (f)(3). Pub. L. 101–649, § 603(a)(1)(A), substituted “subparagraphs (2)(D), (6)(E), and (9)(A)’’ for “paragraphs (11), (12), and (31)’’.

Pub. L. 101–649, § 603(a)(1)(B), substituted “subparagraphs (A) and (B) of section 1122(a)(2) of this title and subparagraph (C) thereof” for “paragraphs (9) and (10) of section 1122(a) of this title and paragraph 120’’.

Subsec. (f)(6). Pub. L. 101–649, § 609(a), substituted “an aggravated felony (as defined in subsection (a)(43))’’ for “the crime of murder’’.

Pub. L. 101–649, § 609(a)(1)(C), substituted “1122(a)(2)(E) of this title’’ for “1123(a)(34) of this title’’.

Pub. L. 101–236 added subcl. (h).

1989—Subsec. (a)(15)(H)(1). Pub. L. 101–236 added subcl. (a), designated existing provisions as subcl. (b), and inserted “other than services as a registered nurse” after “to perform services’’.

Subsec. (b)(2). Pub. L. 101–162 inserted before period at end “, except that, for purposes of paragraph (1)(F) (other than the second proviso therein) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term ‘parent’ does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption’’.


Subsec. (a)(15)(H)(2). Pub. L. 100–525, § 9(b)(1), substituted “October 24, 1988” for “November 6, 1986” and “applies for a visa or adjustment of status” for “applies for admission’’.

Subsec. (a)(30). Pub. L. 100–525, § 9(a)(2), struck out “For the purpose of issuing certificates of citizenship to persons who are citizens of the United States, the term ‘United States’ as used in section 1452 of this title includes the Canal Zone.’’


Subsec. (b)(2). Pub. L. 100–459, temporarily inserted before period at end “, except that, for purposes of paragraph (1)(F) in the case of an illegitimate child described in paragraph (1)(D) and not described in paragraph (1)(C), the term ‘parent’ does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption’’.

1986—Subsec. (a)(15)(K)(ii). Pub. L. 99–653, § 3, struck out par. (1) defining “child”, was repealed by Pub. L. 100–525, § 8(b), and such par. (1) was revived as of Nov. 1, 1986, see Repeal and Revival note below.

1984—Subsec. (a)(9). Priv. L. 98–47 struck out provisos which directed that in Canal Zone and outlying possessions of the United States “consular officer meant an officer designated by the Governor of the Canal Zone, or the governors of the outlying possessions for purposes of issuing immigrant or non-immigrant visas under this chapter.

1980—Subsec. (a)(15)(F). Pub. L. 96–212 substituted in cl. (i) “college, university, seminary, conservatory, academic high school, elementary school, or other academic institution or in a language training program for “institution of learning or other recognized place of study’, and “Secretary of Education” for “Office of Education of the United States’’.

Subsec. (a)(15)(H), (J), (K), (L). Pub. L. 97–116, § 18(a)(2), substituted a semicolon for the period at end of subpars. (H), (J), (K), and (L) and inserted “or” at end of subpar. (L).


Subsec. (a)(33). Pub. L. 97–116, § 18(a)(3), struck out provisor that residence be considered continuous for the purposes of sections 1482 and 1484 of this title where there is a continuity of stay but not necessarily an uninterrupted physical presence in a foreign state or states or outside the United States.


Subsec. (b)(1)(E). Pub. L. 97–116, §§ 2(b), 18(a)(5)(C), substituted “sixteen” for “fourteen”, and “or” for the period at the end.


Subsec. (f). Pub. L. 97–116, § 2(c), struck out par. (2) which provided that a person not be considered a person of good moral character if within the period for which good moral character is required to be established the person commits adultery, and substituted in par. (3) “paragraphs (9) and (10) of section 1182(a) of this title and paragraph 23 of such section (except as such paragraph relates to a single offense of simple possession of 30 grams or less of marihuana)’’ for “paragraphs (9), (10), and (23) of section 1182(a) of this title’’.


1979—Subsec. (a)(27)(E) to (G). Pub. L. 96–70 added subpars. (E) to (G).


Subsec. (a)(41). Pub. L. 95–95 substituted “a” after “graduates of” and “, other than such aliens who are of national or international renown in the field of medicine’’ after “in a foreign state’’.

services as a member of the medical profession, is coming pursuant to an invitation from a public or non-profit private educational or research institution or agency in the United States to teach or conduct research, or both, at or for such institution or agency".

Subsec. (a)(15)(H)(ii). Pub. L. 94–484, § 601(b)(2), inserted "but this clause shall not apply to graduates of medical schools coming to the United States to perform services as members of the medical profession".

Subsec. (a)(15)(H)(iii). Pub. L. 94–484, § 601(b)(3), inserted "other than to receive graduate medical education or training".

Subsec. (a)(15)(J). Pub. L. 94–484, § 601(b)(4), inserted "and who, if he is coming to the United States to participate in a program under which he will receive graduate medical education or training, also meets the requirements of section 1182(j) of this title".

Subsec. (a)(27). Pub. L. 94–571 struck out subpar. (A) provision defining term "special immigrant" to include an immigrant born in any independent foreign country of the Western Hemisphere or in the Canal Zone and the spouse and children of any such immigrant, if accredited, or following to join him and restricting issuance of an immigrant visa until consular officer was in receipt of a determination made by the Secretary of Labor pursuant to former provisions of section 1182(a)(14) of this title, and redesignated as subpars. (A) to (D) former subpars. (B) to (E).


1975—Subsec. (b)(1)(F). Pub. L. 94–155 provided for adoption of alien children under the age of fourteen by unmarried United States citizens who are at least twenty-five years of age and inserted requirement that adoption by the Attorney General be satisfied that proper care will be provided the child after admission.

1970—Subsec. (a)(15)(H). Pub. L. 91–225, § 1(a), provided for nonimmigrant alien status for alien spouse and minor children of any alien specified in par. (H) if accompanying him or following to join him and struck out "temporary", "other", and "industrial" before "services", "temporary services", and "trainee" in cls. (i) to (iii), respectively.

Subsec. (a)(15)(K), (L). Pub. L. 91–225, § 1(b), added subpars. (K) and (L).

1966—Subsec. (a)(38). Pub. L. 89–710 inserted sentence providing that term "United States" as used in section 1452 of this title, for the purpose of issuing certificates of citizenship to persons who are citizens of the United States, shall include the Canal Zone.


Subsec. (b)(1)(F). Pub. L. 89–236, § 8(c), expanded definition to include a child, under the age of 14 at the time a petition is filed in his behalf to accord a classification as an immediate relative or who is an orphan because of the death or disappearance of, abandonment or desertion by, or separation or loss from, both parents, or for whom the sole or surviving parent is incapable of providing the proper care which will be provided the child if admitted to the United States and who has in writing irrevocably released the child for emigration and adoption, and made minor amendments in the existing definition.

Subsec. (b)(6). Pub. L. 89–236, § 24, struck out part (6) which defined term "eligible orphan".

1961—Subsec. (a)(15). Pub. L. 87–250 included the alien spouse and minor children of any such alien if accompanying him or following to join him in subpar. (F), and added subpar. (J).


Effective Dates of 2008 Amendment

(1) take effect on the date of enactment of the Act [Dec. 23, 2008]; and

(2) apply to applications for immigration benefits filed on or after such date.’’

Pub. L. 110–391, §2(d), Oct. 10, 2008, 122 Stat. 4193, provided that: ‘‘The amendments made by subsection (a) [amending this section] shall take effect on the date that the Secretary of Homeland Security submits the certification described in subsection (b)(2) [set out as a note below] stating that the final regulations required by subsection (b)(1) [set out as a note below] have been issued and are in effect [Notice that the regulations have been issued and are in effect Nov. 26, 2008, was published in the Federal Register, Nov. 26, 2008. See 73 F.R. 72298.]’’

Amendment by Pub. L. 110–229 effective on the transition program effective date described in section 1806 of Title 48, Territories and Insular Possessions, see section 705(b) of Pub. L. 110–229, set out as an Effective Date note under section 1806 of Title 48.

Effective Date of 2006 Amendment
Pub. L. 110–182, title VIII, §822(c)(2), Jan. 5, 2006, 119 Stat. 3063, provided that: ‘‘The amendment made by paragraph (1) [amending this section] shall be effective as if included in section 603(a)(1) of the Immigration Act of 1990 (Public Law 101–649, 104 Stat. 5820).’’

Amendment by Pub. L. 108–77 effective on the date the United States-Chile Free Trade Agreement enters into force (Jan. 1, 2004), and ceases to be effective on the date the Agreement ceases to be in force, see section 107 of Pub. L. 108–77, set out in a note under section 3805 of Title 19, Customs Duties.

Effective Date of 2000 Amendment
Pub. L. 106–553, §1(a)(2) [title XI, §1102(e)], Dec. 21, 2000, 114 Stat. 2762, 2762A–144, provided that: ‘‘The amendments made by this section [amending this section and sections 1184 and 1252 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2000] and shall apply to an alien who is the beneficiary of a classification petition filed under section 204 of the Immigration and Nationality Act [8 U.S.C. 1154] on or before the date of the enactment of this Act.’’

Pub. L. 106–553, §1(a)(2) [title XI, §1103(d)], Dec. 21, 2000, 114 Stat. 2762, 2762A–146, provided that: ‘‘The amendments made by this section [amending this section and sections 1184, 1186a, and 1252 of this title] shall take effect on the date of the enactment of this Act [Dec. 21, 2000] and shall apply to an alien who is the beneficiary of a classification petition filed under section 204 of the Immigration and Nationality Act [8 U.S.C. 1154] before, on, or after the date of the enactment of this Act.’’

Pub. L. 106–409, §2(b), Nov. 1, 2000, 114 Stat. 1787, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall take effect on October 1, 2000, and


Effective Date of 1999 Amendment
Amendment by Pub. L. 106–95 applicable to classification petitions filed for nonimmigrant status only beginning on the date that interim or final regulations are first promulgated and ending on the date that interim or final regulations after Dec. 20, 2006, see section 2(e) of Pub. L. 106–95, as amended, set out as a note under section 1182 of this title.

Effective Date of 1998 Amendment

Effective Date of 1997 Amendment
Pub. L. 105–139, §1(f), Dec. 2, 1997, 111 Stat. 2645, provided that: ‘‘The amendments made by this section [amending provisions set out as notes under this section and sections 1151, 1153, and 1255 of this title]—

(1) shall take effect upon the enactment of the Nicaraguan Adjustment and Central American Relief Act [title II of Pub. L. 105–100, approved Nov. 19, 1997] (as contained in the District of Columbia Appropriations Act, 1998); and

(2) shall be effective as if included in the enactment of such Act.’’

Pub. L. 105–54, §1(b), Oct. 6, 1997, 111 Stat. 1175, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Oct. 6, 1997]’’

Effective Date of 1996 Amendment

(1) Clause A.—Clause (A) of the sentence added by the amendment made by subsection (a) [amending this section] shall apply to documents issued on or after 18 months after the date of the enactment of this Act [Sept. 30, 1996].

(2) Clause B.—Clause (B) of such sentence shall apply to cards presented on or after 6 years after the date of the enactment of this Act.’’


(a) In General.—Except as provided in this section and sections 303(b)(2), 306(c), 308(d)(2)(D), or 308(d)(5) of this division [amending sections 1225, 1227, and 1251 of this title, enacting provisions set out as notes under sections 1225, 1226, 1227, and 1252 of this title, and repealing provisions set out as a note under section 1255 of this title], the subtitle [subtitle A (§301–309) of title III of div. C of Pub. L. 104–208, see Tables for classification] and the amendments made by this subtitle shall take effect on the first day of the first month beginning more than 180 days after the date of the enactment of this Act [Sept. 30, 1996] (in this title [see Tables for classification] referred to as the ‘‘title III–A effective date’’).

(b) Promulgation of Regulations.—The Attorney General shall first promulgate regulations to carry out this subtitle by not later than 30 days before the title III–A effective date.

(c) Transition for Certain Aliens.—

(1) General Rule that New Rules Do Not Apply.— Subject to the succeeding provisions of this sub-
section, in the case of an alien who is in exclusion or deportation proceedings before the title III–A effective date—

"(A) the amendments made by this subtitle shall not apply, and

"(B) the proceedings (including judicial review thereof) shall continue to be conducted without regard to such amendments.

"(2) ATTORNEY GENERAL OPTION TO ELECT TO APPLY NEW PROCEDURES.—In a case described in paragraph (1) in which an evidentiary hearing under section 236 (1) in which an evidentiary hearing under section 235 or 242(a) of such Act [8 U.S.C. 1225, 1229b(a)(1)] has not commenced as of the title III–A effective date, the Attorney General may elect to proceed under chapter 4 of title II [of] the Immigration and Nationality Act [former 8 U.S.C. 1105a] (as amended by this subtitle). The Attorney General shall provide notice of such election to the alien involved not later than 30 days before the date any evidentiary hearing is commenced. If the Attorney General makes such election, the notice of hearing provided to the alien under section 235 or 242(a) of such Act [8 U.S.C. 1225, 1229b(a)(1)] shall be valid as if provided under section 239 of such Act [8 U.S.C. 1229(a)] (as amended by this subtitle) to confer jurisdiction on the immigration judge.—

"(3) ATTORNEY GENERAL OPTION TO TERMINATE AND REINITIATE PROCEEDINGS.—In the case described in paragraph (1), the Attorney General may elect to terminate proceedings in which there has not been a final administrative decision and to reinitiate proceedings under chapter 4 of title II [of] the Immigration and Nationality Act [8 U.S.C. 1221 et seq.] (as amended by this subtitle) to confer jurisdiction on the immigration judge.

"(4) TRANSITIONAL CHANGES IN JUDICIAL REVIEW.—In the case in which a final order of exclusion or deportation is entered more than 30 days after the date of the enactment of this Act [Sept. 30, 1996], notwithstanding any provision of section 106 of the Immigration and Nationality Act [former 8 U.S.C. 1105a] (as in effect as of the date of the enactment of this Act) to the contrary—

"(A) in the case of judicial review of a final order of exclusion, subsection (b) of such section shall not apply and the action for judicial review shall be governed by the provisions of subsections (a) and (c) of such section in the same manner as they apply to judicial review of orders of deportation;

"(B) a court may not order the taking of additional evidence under section 234(c) of title 28, United States Code;

"(C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation;

"(D) the petition for review shall be filed with the court of appeals for the judicial circuit in which the administrative proceedings before the special inquiry officer or immigration judge were completed;

"(E) there shall be no appeal of any discretionary decision under section 212(c), 212(h), 212(i), 244, or 245 of the Immigration and Nationality Act [8 U.S.C. former 1182(c), 1125(h), (i), former 1254, 1255] (as in effect as of the date of the enactment of this Act [Sept. 30, 1996]);

"(F) service of the petition for review shall not stay the deportation of an alien pending the court’s decision on the petition, unless the court orders otherwise; and

"(G) there shall be no appeal permitted in the case of an alien who is inadmissible or deportable by reason of having committed a criminal offense covered by section 212(a)(2)(A)(ii), (B), (C), or (D) of the Immigration and Nationality Act [8 U.S.C. former 1182(a)(2), former 1255(a)(2)(A)(ii), (B), (C), (D)] (as in effect as of the date of the enactment of this Act (Sept. 30, 1996));

"(H) the en banc court of appeals shall have exclusive jurisdiction to review a final order of deportation, or any order of removal, of such alien, for purposes of calculating any period of time the alien is subject to deportation, unless under section 242(b) of the Immigration and Nationality Act (former 8 U.S.C. 1252b(a)(1)), as in effect before the title III–A effective date, the Attorney General elects to apply new procedures in accordance with paragraph (3) of this subsection, paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act [8 U.S.C. 1229a(d)(1), (2)] shall not apply to an order to show cause issued before April 1, 1997.

"(I) SPECIAL RULE FOR CERTAIN ALIENS GRANTED TEMPORARY PROTECTION FROM DEPORTATION AND FOR RATIONELED SPOUSES AND CHILDREN.—

"(1) in general.—For purposes of calculating the period of continuous physical presence under section 244(a) of the Immigration and Nationality Act (former 8 U.S.C. 1254(a)) (as in effect before the title III–A effective date) or section 240A of such Act (8 U.S.C. 1229a) (as in effect after the title III–A effective date), subparagraph (A) of this paragraph and paragraphs (1) and (2) of section 240A(d) of the Immigration and Nationality Act shall not apply in the case of an alien, regardless of whether the alien is in exclusion or deportation proceedings before the title III–A effective date, who has not been convicted at any time of an aggravated felony (as defined in section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)) and—

"(i) was not apprehended after December 19, 1990, at the time of entry, and is—

"(aa) a Salvadoran national who first entered the United States on or before September 18, 1990, and who registered for benefits pursuant to the settlement agreement in American Baptist Churches, et al. v. Thornburgh (ABC), 760 F. Supp. 796 (N.D. Cal. 1991) on or before October 31, 1991, or applied for temporary protected status on or before October 31, 1991; or

"(bb) a Guatemalan national who first entered the United States on or before October 1, 1990, and who registered for benefits pursuant to the settlement agreement on or before December 5, 1991; and

"(ii) is a Guatemalan or Salvadoran national who filed an application for asylum under the Immigration and Naturalization Service on or before April 1, 1990;

"(ii) is the spouse or child (as defined in section 101(b)(1) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(1))) of an individual, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such individual, if the individual has been determined to be described in this clause (excluding this subclause and subclauses (I)); and

"(I) is the unmarried son or daughter of an alien parent, at the time a decision is rendered to suspend the deportation, or cancel the removal, of such alien parent, if—

"(aa) the alien parent has been determined to be described in this clause (excluding this subclause and subclauses (II)); and

"(bb) in the case of a son or daughter who is 21 years of age or older at the time such decision is rendered, the son or daughter entered the United States on or before October 1, 1990;
"(V) is an alien who entered the United States on or before December 31, 1990, who filed an application for asylum on or before December 31, 1991, and who, at the time of filing such application, was a national of the Soviet Union, Russia, any republic of the former Soviet Union, Latvia, Estonia, Lithuania, Poland, Czechoslovakia, Romania, Hungary, Bulgaria, Albania, East Germany, Yugoslavia, or any state of the former Yugoslavia; or

"(VI) is an alien who was issued an order to show cause or was in deportation proceedings before April 1, 1997, and who applied for suspension of deportation under section 244(a)(3) of the Immigration and Nationality Act (former 8 U.S.C. 1254(a)(3)) (as in effect before the date of the enactment of this Act [Sept. 30, 1996]); or

"(VII)(aa) was the spouse or child of an alien described in subsection (I), (II), or (V)

"(AA) at the time at which a decision is rendered to suspend the deportation or cancel the removal of the alien;

"(BB) at the time at which the alien filed an application for suspension of deportation or cancellation of removal; or

"(CC) at the time at which the alien registered for benefits under the settlement agreement in American Baptist Churches, et al. v. Thornburgh (ABC), applied for temporary protected status, or applied for asylum; and

"(bb) the spouse, child, or child of the spouse has been battered or subjected to extreme cruelty by the alien described in subsection (I), (II), or (V).

"(ii) LIMITATION ON JUDICIAL REVIEW.—A determination by the Attorney General as to whether an alien satisfies the requirements of clause (i) is final and shall not be subject to review by any court. Nothing in the preceding sentence shall be construed as limiting the application of section 242(a)(2)(B) of the Immigration and Nationality Act [8 U.S.C. 1252(a)(2)(B)] (as in effect after the title III–A effective date) to other eligibility determinations pertaining to discretionary relief under this Act [probably should be "division"], see Short Title of 1996 Amendment note below.

"(iii) CONSIDERATION OF PETITIONS.—In acting on a petition filed under subsection (VII) of clause (i) the provisions set forth in section 204(a)(1)(H) [probably means section 204(a)(1)(H) of the Immigration and Nationality Act [former 8 U.S.C. 1254(a)(1)(H)] to the term 'inadmissible' is defined to include a reference to the term 'excludable', and

"(iv) any reference in law to an order of removal shall be deemed to include a reference to an order of exclusion and deportation or an order of deportation.

"(v) TRANSITION.—No petition filed before the date of the enactment of this Act [Sept. 30, 1996] shall be included in the period of 1 year described in section 212(a)(6)(B)(i) of the Immigration and Nationality Act [8 U.S.C. 1186a(b)(6)(B)(i)] (as amended by section 301(c) of this division).

"(f) SPECIAL RULE FOR CANCELLATION OF REMOVAL.—

"(1) IN GENERAL.—Subject to the provisions of the Immigration and Nationality Act [8 U.S.C. 1101 et seq.] (as in effect after the title III–A effective date), other than subsections (b)(1), (d)(1), and (e) of section 240A of such Act [8 U.S.C. 1229b(b)(1), (d)(1), (e)] (but including section 242(a)(2)(B) of such Act [8 U.S.C. 1252(a)(2)(B)]), the Attorney General may, under section 240A of such Act, cancel removal, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States, if the alien applies for such relief, the alien is described in subsection (c)(1)(i) of this section, and—

"(A) the alien—

"(i) is not inadmissible or deportable under paragraph (2) or (3) of section 212(a) or paragraph (2), (3), or (4) of section 237(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(2), (3), 1227(a)(3), (4)] and is not an alien described in section 241(b)(3)(B)(i) of such Act [8 U.S.C. 1251(b)(3)(B)(i)];

"(ii) has been physically present in the United States for a continuous period of not less than 7 years immediately preceding the date of such application;

"(iii) has been a person of good moral character during such period; and

"(iv) establishes that removal would result in extreme hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence; or

"(B) the alien—


"(ii) has been physically present in the United States for a continuous period of not less than 10 years immediately following the commission of an act, or the assumption of a status, constituting a ground for removal;

"(iii) has been a person of good moral character during such period; and

"(iv) establishes that removal would result in exceptional and extremely unusual hardship to the alien or to the alien's spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

"(2) TREATMENT OF CERTAIN BREAKS IN PRESENCE.—

"Section 240A(d)(2) [8 U.S.C. 1229b(d)(2)] shall apply for purposes of calculating any period of continuous physical presence under this subsection, except that the reference to subsection (b)(1) in such section shall be considered to be a reference to paragraph (1) of this section.

"(g) MOTIONS TO REOPEN DEPORTATION OR REMOVAL PROCEEDINGS.—Notwithstanding any limitation imposed by law on motions to reopen removal or deportation proceedings (except limitations imposed on the basis of an alien's conviction of an aggravated felony as defined in section 101(a) of the Immigration and Nationality Act [8 U.S.C. 1101(a)]) for the purposes of carrying out the Immigration and Nationality Act [8 U.S.C. 1101 et seq.], as amended by this subtitle—

§ 1101

TITLE 8—ALIENS AND NATIONALITY


Pub. L. 104–208, div. C, title III, § 323(c), Sept. 30, 1996, 110 Stat. 3009–628, provided that: "The amendments made by this section [amending this section] shall apply to actions taken on or after the date of the enactment of this Act [Sept. 30, 1996], regardless of when the conviction occurred, and shall apply under section 278(b) of the Immigration and Nationality Act [8 U.S.C. 1101 note] only to violations of section 278(a) of such Act occurring on or after such date."

Pub. L. 104–208, div. C, title III, § 322(c), Sept. 30, 1996, 110 Stat. 3009–629, provided that: "The amendments made by subsection (a) [amending this section and section 1182 of this title] shall apply to convictions and sentences entered before, on, or after the date of the enactment of this Act [Sept. 30, 1996]. Subparagraphs (B) and (C) of section 281(e)(3) of the Immigration and Nationality Act [8 U.S.C. 1225(a)(3)(B), (C)], as inserted by section 304(a)(3) of this division, shall apply to proving such convictions."


Pub. L. 104–208, div. C, title III, § 371(d)(1), Sept. 30, 1996, 110 Stat. 3009–646, provided that: "Subsections (a) and (b) [amending this section and sections 1124, 1225, 1226, 1252, 1323, and 1362 of this title] shall take effect on the date of the enactment of this Act [Sept. 30, 1996]."

Pub. L. 104–208, div. C, title V, § 591, Sept. 30, 1996, 110 Stat. 3009–688, provided that: "Except as provided in this title [enacting sections 1369 to 1371 and 1624 of this title, amending sections 1162, 1183a, 1612, 1631, 1632, 1641, and 1642 of this title, section 506 of Title 18, Crimes and Criminal Procedure, section 1091 of Title 20, Education, and sections 402, 13230–7, and 1439a of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section, sections 1162, 1183a, 1611, 1612, and 1621 of this title, and sections 402 and 1493a of Title 42, and repealing provisions set out as a note under section 1183a of this title], this title and the amendments made by this title shall take effect on the date of the enactment of this Act [Sept. 30, 1996]."

Pub. L. 104–208, div. C, title VI, § 625(c), Sept. 30, 1996, 110 Stat. 3009–700, provided that: "The amendments made by subsection (a) [amending this section and section 1184 of this title] shall apply to individuals who obtain the status of a nonimmigrant under section 101(a)(15)(F) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(F)] after the end of the 60-day period beginning on the date of the enactment of this Act [Sept. 30, 1996], including aliens whose status as such nonimmigrant is extended after the end of such period."


Pub. L. 104–208, div. C, title VI, § 671(b)(14), Sept. 30, 1996, 110 Stat. 3009–722, provided that: "Except as otherwise provided in this subsection [amending this section and sections 1225a, 1255b, 1233, 1356, and 1483 of this title, enacting provisions set out as notes under sections 1161 and 1433 of this title, and amending provisions set out as notes under this section and sections 1255a, 1323, and 1401 of this title], the amendments made by this subsection shall take effect as if included in the enactment of INTCA [Pub. L. 103–416]."

Pub. L. 104–132, div. C, title IV, § 446(f), Apr. 24, 1996, 110 Stat. 1278, provided that: "The amendments made by subsection (e) [amending this section] shall apply to convictions entered on or after the date of the enactment of this Act [Apr. 24, 1996] (except that the amendment made by subsection (e)(3) [amending this section] shall take effect as if included in the enactment of section 281(e)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 [amending section 281(e)(3) of such Act] shall take effect as if included in the enactment of such Act)."

Pub. L. 104–132, div. C, title IV, § 446(f), Apr. 24, 1996, 110 Stat. 1278, provided that: "The amendments made by subsection (e) [amending this section] shall apply to convictions entered on or after the date of the enactment of this Act [Apr. 24, 1996] (except that the amendment made by subsection (e)(3) [amending this section] shall take effect as if included in the enactment of such Act)."

**EFFECTIVE DATE OF 1994 AMENDMENTS**

Pub. L. 103–416, title II, §219(dd), Oct. 25, 1994, 108 Stat. 4319, provided that: "Except as otherwise specifically provided in this section, the amendments made by this section [amending this section and section 1151, 1153, 1154, 1160, 1182, 1188, 1251, 1252, 1252b, 1254a, 1255, 1255a, 1256, 1288, 1302, 1322, 1323, 1324a, 1324b, 1324c, 1330, 1336, 1421, 1425, 1444, 1449, and 1525 of this title, repealing sections 1161 of this title, and repealing provisions set out as notes under this section and sections 1182, 1254a, 1255a, and 1356 of this title, and repealing provisions set out as a note under section 1268 of this title] shall be effective as if included in the enactment of the Immigration Act of 1990 [Pub. L. 101–649]."


Amendment by Pub. L. 103–236 applicable with respect to officials, offices, and bureaus of Department of State when executive orders, regulations, or departmental directives implementing the amendments by sections 161 and 162 of Pub. L. 103–236 become effective, or 90 days after Apr. 30, 1994, whichever comes earlier, see section 161(b) of Pub. L. 103–236, as amended, set out as a note under section 286a of Title 22, Foreign Relations and Intercourse.

**EFFECTIVE DATE OF 1991 AMENDMENT**


1. Section 103 [enacting provisions set out as a note under section 1152 of this title] (relating to the classification of the employment under paragraph (4), and for which a filing fee was paid, any additional filing fee shall not exceed one-half the filing fee otherwise required in this section, the amendments made by this section and sections 1103, 1151 to 1154, 1157, 1159, 1182, 1251, 1254, 1255, and 1235 of this title, and of the Public Health and Welfare, enacting provisions set out as notes under this section and sections 1152, 1153, 1159, 1182, 1201, and 1251 of this title, and amending provisions set out as notes under section 1255 of this title] shall take effect on October 1, 1991, and apply beginning with fiscal year 1992.

2. Section 121 [enacting provisions set out as a note under section 1153 of this title] (relating to transition for employees of certain U.S. businesses in Hong Kong).

3. Section 123 [enacting provisions set out as a note under section 1155 of this title] (relating to one-year diversity transition for aliens who have been notified of availability of N P-5 visas).

4. Section 134 [enacting provisions set out as a note under section 1155 of this title] (relating to transition for displaced Tibetans).

5. Section 135 [amending section and section 1251 of this title and enacting provisions set out as notes under section 1251 of this title] (relating to transition for employees of certain U.S. businesses in Hong Kong).

6. Section 133 [enacting provisions set out as a note under section 1155 of this title] (relating to transition for employees of certain U.S. businesses in Hong Kong).

7. Section 134 [enacting provisions set out as a note under section 1251 of this title] (permitting extension of validity of visas for certain residents of Hong Kong).

8. Section 135 [enacting provisions set out as a note under section 1153 of this title] (relating to expedited issuance of Lebanese second and fifth preference visas).

9. Section 162(b) [amending section 1154 of this title] (relating to immigrant visa petitioning process), but only insofar as such section relates to visas for fiscal years beginning with fiscal year 1992.

10. Section 162(b) (amending section 1154 of this title) (relating to immigrant visa petitioning process), but only insofar as such section relates to visas for fiscal years beginning with fiscal year 1992.

(c) GENERAL TRANSITIONS.—

1. In the case of a petition filed under section 204(a) of the Immigration and Nationality Act [8 U.S.C. 1154(a)] before October 1, 1991, for preference status under section 203(a)(3) or section 203(a)(6) of such Act [8 U.S.C. 1153(a)(3), (6)] (as in effect before such date)—

half of the fee for the filing of the new petition referred to in subparagraph (A).

"(2) Any petition filed under section 204(a) of the Immigration and Nationality Act before October 1, 1991, for preference status under section 203(a)(4) or section 203(a)(5) of such Act (as in effect before such date) shall be deemed, as of such date, to be a petition approved to accord status under section 203(a)(3) or section 203(a)(4), respectively, of such Act (as amended by this title).

"(3) In the case of an alien who is described in section 203(a)(3) or 203(a)(4) of the Immigration and Nationality Act (as in effect before October 1, 1991) as the spouse or child of an alien admitted for permanent residence as a preference immigrant under section 203(a)(3) or 203(a)(4) of such Act (as in effect before such date) and who would be entitled to enter the United States under such section 203(a)(3) but for the amendments made by this title [see subsec. (a) above], such an alien shall be deemed to be described in section 203(c)(4) of such Act as the spouse or child of an alien described in section 230(b)(2) or 230(b)(3)(A)(i), respectively, of such Act with the same priority date as that of the principal alien.

"(4)(A) Subject to subparagraph (B), any petition filed before October 1, 1991, and approved on any date, to accord status under section 203(a)(3) or 203(a)(4) of the Immigration and Nationality Act (as in effect before such date) shall be deemed, and on and after October 1, 1991 (or, if later, the date of such approval), to be a petition approved to accord status under section 203(b)(2) or under the appropriate classification under section 230(b)(3), respectively, of such Act (as in effect on and after such date). Nothing in this subparagraph shall be construed as exempting the beneficiaries of such petitions from the numerical limitations under section 203(b)(2) or 230(b)(3) of such Act.

"(B) Subparagraph (A) shall not apply more than two years after the date the priority date for issuance of a visa on and after such date.

"(d) Admissibility Standards.—When an immigrant, in possession of an unexpired immigrant visa issued before October 1, 1991, makes application for admission, the immigrant’s admissibility under paragraph (7)(A) of section 212(a) of the Immigration and Nationality Act [8 U.S.C. 1182(a)(7)(A)] shall be determined under the provisions of law in effect on the date of the issuance of such visa.


Pub. L. 101–649, title I, §1162(f)(3), Nov. 29, 1990, 104 Stat. 5012, provided that: "The amendments made by this subsection [amending this section, sections 1182 of this title, and provisions set out as a note under section 1255 of this title], and provisions set out as a note under section 1255 of this title, shall apply to services performed on or after 180 days after the date of the enactment of this Act [Nov. 29, 1990]."

[Pub. L. 101–649, title II, §230(d), Nov. 29, 1990, 104 Stat. 5019, provided that: "The amendments made by this section [enacting section 1288 of this title and amending this section and section 1281 of this title] shall apply to services performed on or after 180 days after the date of the enactment of this Act [Nov. 29, 1990]."

Pub. L. 101–649, title II, §231, Nov. 29, 1990, 104 Stat. 5028, provided that: "Except as otherwise provided in this title, this title, and the amendments made by this title [enacting section 1288 of this title, amending this section and sections 1182, 1184, 1187, 1281, and 1523 of this Act, and enacting provisions set out as notes under this section], shall take effect on October 1, 1991, except that sections 222 and 223 (enacting provisions set out as notes under this section) shall take effect on the date of the enactment of this Act [Nov. 29, 1990]."


Pub. L. 101–649, title V, §501(b), Nov. 29, 1990, 104 Stat. 5048, provided that: "The amendments made by subsection (a) [amending this section] shall apply to offenses committed on or after the date of the enactment of this Act [Nov. 29, 1990], except that the amendments made by paragraphs (2) and (5) of subsection (a) shall be effective as if included in the enactment of section 7342 of the Anti-Drug Abuse Act of 1988 [Pub. L. 100–680]."

Pub. L. 101–649, title V, §509(b), Nov. 29, 1990, 104 Stat. 5051, as amended by Pub. L. 102–222, title III, §306(a)(7), Dec. 12, 1991, 105 Stat. 1751, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 29, 1990] and shall apply only to convictions occurring on or after such date, except with respect to conviction for murder which shall be considered a bar to good moral character regardless of the date of the conviction."

Pub. L. 101–649, title VI, §601(e), Nov. 29, 1990, 104 Stat. 5077, provided that: "(1) Except as provided in paragraph (2), the amendments made by this section [amending sections 1181 of this title and by section 603(a) of this Act [amending this section and sections 1102, 1153, 1157, 1159, 1160, 1161, 1181, 1183, 1201, 1224, 1235, 1256a, 1256f, 1259, 1322, and 1327 of this title, repealing section 209 of Title 22, Foreign Relations and Intercourse, amending provisions set out as notes under this section and sections 1255 and 1255a of this title, and repealing provisions set out as notes under section 1182 of this title] shall apply to applications for adjustment of status made on or after June 1, 1991.

"(2) The amendments made by paragraphs (2) and (3) of section 609(a) [amending sections 1162 and 1255a of this title] shall apply to applications for adjustment of status made on or after June 1, 1991."

Effective Date of 1989 Amendment

Amendment by Pub. L. 101–238 applicable to classification petitions filed for nonimmigrant status only during the 5-year period beginning on the first day of the 9th month beginning after Dec. 18, 1989, and after Dec. 18, 1989, 104 Stat. 1162, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1989, upon the expiration of the similar amendment made by section 210(a) of the Department of Justice Appropriations Act, 1989 [title II of Public Law 100–455, 102 Stat. 2389]."

Effective and Termination Dates of 1988 Amendment

Pub. L. 100–525, §2(e), Oct. 24, 1988, 102 Stat. 2614, provided that: "The amendments made by this section [amending this section, sections 1160, 1161, 1184, 1186, 1187, 1188, 1193, 1255, 1258, 1259, 1292, 1294, 1259a, 1259b, 1322, and 1327 of this title, and enacting provisions set out as notes under this section and sections 1188 and 1255a of this title and repealing provisions set out as a note under section 1255a of this title] shall be effective as if they were included in the enactment

Pub. L. 100-232, title III, §309(b)(5), Dec. 12, 1989, 105 Stat. 2283, provided that: "The amendments made by section 8 of the Immigration Technical Corrections Act of 1988 [Pub. L. 100-525, amending this section, sections 1152, 1182, 1201 to 1202, 1301, 1302, 1304, 1356, 1409, 1431 to 1433, 1452, 1481, and 1483 of this title, and section 4185 of Title 22, Foreign Relations and Intercourse, enacting provisions set out as notes under this section, sections 1153, 1201, 1409, 1451, and 1461 of this title, and section 4155 of Title 22, amending provisions set out as notes under this section and section 1153 of this title] shall be effective as if included in the enactment of the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653)."


**Effective Date of 1986 Amendment**

Pub. L. 99-653, §23(a), as added by Pub. L. 100-525, §8(7), Oct. 24, 1988, 102 Stat. 2618, provided that: "The amendments made by sections 2, 4, and 7 [amending this section and sections 1152, 1182, 1228, 1251, and 1356 of this title] apply to visas issued, and admissions occurring, on or after November 14, 1986."

Amendment by section 303(a) of Pub. L. 99-663 applicable to petitions and applications filed under sections 1184(c) and 1188 of this title on or after the first day of the seventh month beginning after Nov. 6, 1986, see section 303(d) of Pub. L. 99-663, as amended, set out as an Effective Date note under section 1188 of this title.

**Effective Date of 1981 Amendment**


"(a) Except as provided in subsection (b) and in section 5(c) [set out as a note under section 1182 of this title], the amendments made by this Act [see Short Title of 1981 Amendment note below] shall take effect on the date of the enactment of this Act [Dec. 29, 1981]."

"(b)(1) The amendments made by section 2(a) [amending this section] shall apply on and after the first day of the sixth month beginning after the date of enactment of this Act [Dec. 29, 1981]."

"(2) The amendment made by section 16 [amending section 1150 of this title] shall apply to fiscal years beginning on or after October 1, 1981."

**Effective Date of 1980 Amendment**

Pub. L. 96-212, title II, §204(a)-(c), Mar. 17, 1980, 94 Stat. 108, provided that:

"(a) Except as provided in subsections (b) and (c), this title and the amendments made by this title [enacting sections 1157, 1158, and 1159 of this title, amending this section and sections 1151 to 1153, 1182, 1253, and 1254 of this title, enacting provisions set out as notes under sections 1153, 1157, 1158, 1182, and 1521 of this title, and amending provisions set out as a note under sections 1182 and 1255 of this title] shall take effect on the date of the enactment of this Act [Mar. 17, 1980], and shall apply to fiscal years beginning with the fiscal year beginning October 1, 1979.

"(b)(1)(A) Section 207(c) of the Immigration and Nationality Act (as added by section 201(b) of this Act) [section 1157(c) of this title] and the amendments made by subsections (b), (c), and (d) of section 203 of this Act [amending sections 1152, 1153, 1182, and 1254 of this title] shall take effect on April 1, 1980.

"(B) The amendments made by section 203(f) [amending section 1182 of this title] shall apply to aliens paroled into the United States on or after the sixthtieth day after the date of the enactment of this Act [Mar. 17, 1980]."

"(C) The amendments made by section 203(l) [amending section 1153 of this title and provisions set out as notes under section 1255 of this title] shall take effect immediately before April 1, 1980.

"(2) Notwithstanding sections 207(a) and 208(b) of the Immigration and Nationality Act (as added by section 201(b) of this Act) [sections 1157(a) and 1159(b) of this title], the fifty thousand and five thousand numerical limitations specified in such respective sections shall, for fiscal year 1980, be equal to 25,000 and 2,500, respectively.

"(3) Notwithstanding any other provision of law, for fiscal year 1980—

"(A) the fiscal year numerical limitation specified in section 201(a) of the Immigration and Nationality Act [section 1151(a) of this title] shall be equal to 280,000,

"(B) for the purpose of determining the number of immigrant visa and adjustments of status which may be made available under sections 203(a)(2) and 202(e)(2) of such Act [sections 1153(a)(2) and 1152(e)(2) of this title], the granting of a conditional entry or adjustment of status under section 203(a)(7) or 202(e)(7) of such Act after September 30, 1979, and before April 1, 1980, shall be considered to be the granting of an immigrant visa under section 202(a)(2) or 202(e)(2), respectively, of such Act during such period.

"(C)(1) The repeal of subsections (g) and (h) of section 203 of the Immigration and Nationality Act, made by section 208(c)(8) of this title [section 1153(g) and (h) of this title], shall not apply with respect to any individual who before April 1, 1980, was granted a conditional entry under section 203(a)(7) of the Immigration and Nationality Act and under section 203(e)(7) of such Act [section 1152(e)(7) of this title], if applicable, as in effect immediately before such date, and it shall not apply to any alien paroled into the United States before April 1, 1980, who is eligible for the benefits of section 5 of Public Law 95-412 [set out as a note under section 1182 of this title].

"(2) An alien who, before April 1, 1980, established a date of registration at an immigration office in a foreign country on the basis of entitlement to a conditional entrant status under section 203(a)(7) of the Immigration and Nationality Act (as in effect before such date) [section 1153(a)(7) of this title], shall be deemed to be entitled to refugee status under section 207 of such Act [as added by section 201(b) of this title] [section 1157 of this title] and shall be accorded the date of registration previously established by that alien. Nothing in this paragraph shall be construed to preclude the acquisition by such an alien of a preference status under section 203(a) of such Act.

"(3) The provisions of paragraphs (14), (15), (20), (21), (25), and (32) if section 212(a) of the Immigration and Nationality Act [former section 1182(a)(14), (15), (20), (21), (25), and (32) of this title] shall not be applicable to any alien who has entered the United States before April 1, 1980, pursuant to section 203(a)(7) of such Act [section 1153(a)(7) of this title] or who has been paroled as a refugee into the United States under section 212(d)(5) of such Act, and who is seeking adjustment of status, and the Attorney General may waive any other provision of section 212(a) of such Act (other than paragraph (27), (29), or (35) and other than so much of paragraph (23) as relates to trafficking in narcotics with respect to such an alien for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest)."

**Effective Date of 1979 Amendment**

Pub. L. 96-70, title III, §3201(d)(1), Sept. 27, 1979, 93 Stat. 497, provided that: "The amendments made by this section [amending this section and section 1182 of this title] shall take effect on the date of the enactment of this Act [Sept. 27, 1979]."

**Effective Date of 1977 Amendment**

Pub. L. 94-484, title VI, §602(d), as added by Pub. L. 95-83, title III, §307(q)(3), Aug. 1, 1977, 91 Stat. 395, provided that: "This section [amending this section and
enacting provisions set out as a note under section 1182 of this title] and the amendment made by subsection (c) [amending this section] are effective January 10, 1977, and the amendments made by subsections (b) and (d) of section 601 [amending this section and section 1182 of this title] shall apply only on and after January 10, 1978, notwithstanding subsection (f) of such section [set out as an Effective Date of 1976 Amendments note under section 1182 of this title].”

**Effective Date of 1976 Amendment**

Pub. L. 94–571, § 10, Oct. 20, 1976, 90 Stat. 2707, provided that: “The foregoing provisions of this Act, including the amendments made by such provisions [see Short Title of 1976 Amendment, below], shall become effective on the first day of the first month which begins more than sixty days after the date of enactment of this Act [Oct. 20, 1976].”

Amendment by Pub. L. 94–484 effective ninety days after Oct. 12, 1976, see section 601(f) of Pub. L. 94–484, set out as an Effective Date of 1977 Amendment note above.

Amendment by Pub. L. 94–484 effective ninety days after Oct. 12, 1976, see section 601(f) of Pub. L. 94–484, set out as a note under section 1182 of this title.

**Effective Date**

Act June 27, 1952, ch. 477, title IV, § 407, 66 Stat. 281, provided that: “Except as provided in subsection (k) of section 401 [former section 1106(k) of this title], this Act [this chapter] shall take effect at 12:01 am meridian United States Eastern Standard Time on the one hundred eightieth day immediately following the date of its enactment [June 27, 1952].”

**Short Title of 2023 Amendment**


**Short Title of 2022 Amendment**


**Short Title of 2020 Amendment**


Pub. L. 116–133, § 1, Mar. 26, 2020, 134 Stat. 274, provided that: “This Act [amending section 1431 of this title] may be cited as the ‘Citizenship for Children of Military Members and Civil Servants Act’.”

**Short Title of 2018 Amendment**

Pub. L. 115–226, § 1, Aug. 1, 2018, 132 Stat. 1625, provided that: “This Act [enacting provisions set out as a note under this section] may be cited as the ‘Knowledgeable Innovators and Worthy Investors Act’ or the ‘KIWI Act’.”

**Short Title of 2015 Amendment**


Pub. L. 114–70, § 1, Oct. 16, 2015, 129 Stat. 561, provided that: “This Act [amending section 1201 of this title] may be cited as the ‘Adoptive Family Relief Act’.”

**Short Title of 2014 Amendment**


**Short Title of 2010 Amendment**

Pub. L. 111–287, § 1, Nov. 30, 2010, 124 Stat. 3058, provided that: “This Act [amending section 1182 of this title and enacting provisions set out as a note under this section] may be cited as [the] ‘International Adoption Simplification Act’.”

**Short Title of 2008 Amendment**

Pub. L. 110–391, § 1, Oct. 10, 2008, 122 Stat. 4193, provided that: “This Act [amending this section and enacting provisions set out as notes under this section] may be cited as [the] ‘Special Immigrant Nonminister Religious Worker Program Act’.”


Pub. L. 110–251, § 1, June 26, 2008, 122 Stat. 2319, provided that: “This Act [enacting sections 1440f and 1440g of this title] may be cited as the ‘Kendell Frederick Citizenship Assistance Act’.”

**Short Title of 2007 Amendment**


**Short Title of 2006 Amendment**


**Short Title of 2005 Amendment**

this title, amending this section, sections 1157 to 1159, 1182, 1184, 1227, 1229a, 1231, 1252, and 1356 of this title, and section 1028 of Title 18, Crimes and Criminal Procedure, enacting provisions set out as notes under this section, sections 1157, 1158, 1182, 1184, 1227, 1225, 1712, and 1721 of this title, and section 30301 of Title 49, Transportation, amending provisions set out as notes under section 1157, 1182, and 1184 of this title, and repealing provisions set out as a note under section 30301 of Title 49 may be cited as the ‘REAL ID Act of 2005’.


### SHORT TITLE OF 2004 AMENDMENT


### SHORT TITLE OF 2003 AMENDMENT


### SHORT TITLE OF 2002 AMENDMENT


### SHORT TITLE OF 2000 AMENDMENT

Pub. L. 106–554, § 1(a)(d) [div. B, title XV, § 1501], Dec. 21, 2000, 114 Stat. 2763, 2763A–254, provided that: “This title [amending section 1252 of this title, enacting provisions set out as notes under sections 1252a and 1356 of this title and amending provisions set out as notes under this section and section 1255 of this title] may be cited as the ‘LIFE Act Amendments of 2000’.”

Pub. L. 106–553, § 1(a)(2) [title XI], Dec. 21, 2000, 114 Stat. 2762, 2762A–122, provided that: “This title [enacting this section and amending provisions set out as notes under this section] may be cited as the ‘Religious Workers Act of 2000’.”

Pub. L. 106–406, § 1, Nov. 1, 2000, 114 Stat. 1776, provided that: “This Act [amending this section and enacting provisions set out as a note under this section] may be cited as the ‘International Patient Act of 2000’.”

Pub. L. 106–396, § 1, Oct. 30, 2000, 114 Stat. 1637, provided that: “This Act [amending sections 1182, 1184, 1187, and 1372 of this title, enacting provisions set out as a note under section 1187 of this title and classified as a note under section 763 of Title 47, Telecommunications, and amending provisions set out as a note under section 1153 of this title] may be cited as the ‘Visa Waiver Permanent Program Act’.”

Pub. L. 106–395, § 1, Oct. 30, 2000, 114 Stat. 1631, provided that: “This Act [amending this section, sections 1182, 1227, 1431, and 1433 of this title, and sections 611 and 1015 of Title 18, Crimes and Criminal Procedure, repealing section 1432 of this title, and enacting provisions set out as notes under this section, sections 1182, 1227, and 1431 of this title, and section 611 of Title 18] may be cited as the ‘Child Citizenship Act of 2000’.”

Pub. L. 106–386, div. B, title V, § 1501, Oct. 28, 2000, 114 Stat. 1518, provided that: “This Act [amending this section, sections 1151, 1154, 1182, 1184, 1227, 1229a, 1230a, 1255, 1367, 1439, and 1641 of this title, section 1152 of Title 20, Education, and sections 3796gg, 3796hh, and 1397 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 1229a, 1229b, and 1255 of this title, and amending provisions set out as notes under this section and section 1255 of this title] may be cited as the ‘Battered Immigrant Women Protection Act of 2000’.”

Pub. L. 106–313, title I, § 101, Oct. 17, 2000, 114 Stat. 1251, provided that: “This Act [amending sections 1152, 1154, 1182, 1184, and 1356 of this title, section 2916a of Title 29, Labor, and section 1869c of Title 42, The Public Health and Welfare, enacting provisions set out as notes under this section and sections 1229a, 1229b, and 1255 of this title, and amending provisions set out as notes under this section and section 1255 of this title] may be cited as the ‘American Competitiveness in the Twenty-first Century Act of 2000’.”

Pub. L. 106–215, § 1, June 15, 2000, 114 Stat. 337, provided that: “This Act [amending section 1365a of this title and enacting provisions set out as a note under section 1365a of this title] may be cited as the ‘Immigration and Naturalization Service Data Management Improvement Act of 2000’.”

### SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–95, § 1, Nov. 12, 1999, 113 Stat. 1312, provided that: “This Act [amending this section and sections 1153 and 1182 of this title, enacting provisions set out as a note under section 1182 of this title, and amending provisions set out as a note under this section] may be cited as the ‘Nursing Relief for Disadvantaged Areas Act of 1999’.”

### SHORT TITLE OF 1998 AMENDMENT

Title VIII—Aliens and Nationality

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TREATY OF GUATEMALA, June 27, 1952, ch. 477, title IV, § 404(b), 66 Stat. 280, provided that: "Except as otherwise provided in section 405 [set out below], all other laws, or parts of laws, in conflict or inconsistent with this Act [this chapter] are, to the extent of such conflict or inconsistency, repealed.

REGULATIONS


(1) issue final regulations to eliminate or reduce fraud related to the granting of special immigrant status for special immigrants described in subclause (II) or (III) of section 101(a)(27)(C)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(C)(ii)); and

(2) submit a certification to Congress and publish notice in the Federal Register that such regulations have been issued and are in effect.

Pub. L. 110–162, title VIII, § 828, Jan. 5, 2006, 119 Stat. 3066, provided that: "Not later than 180 days after the date of enactment of this Act [Jan. 5, 2006], the Attorney General, the Secretary of Homeland Security, and the Secretary of State shall promulgate regulations to implement the provisions contained in the Battered Immigrant Women Protection Act of 2000 [title V of Public Law 106–386] [see section 1901 of Pub. L. 106–386, set out as a Short Title of 2000 Amendments note under this section], this Act [see Tables for classification], and the amendments made by this Act.


"(a) The Attorney General shall prescribe regulations under title 5, United States Code, to carry out section 404(b)(1) of the Immigration and Nationality Act [act June 27, 1952, as amended, set out as a note above], including a delineation of (1) scenarios that constitute an immigration emergency, (2) the process by which the President declares an immigration emergency, (3) the role of the Governor and local officials in requesting a declaration of emergency, (4) a definition of 'assistance as required by the Attorney General', and (5) the process by which States and localities are to be reimbursed.

"(b) The Attorney General shall prescribe regulations under title 5, United States Code, to carry out section 404(b)(2) of such Act, including providing a definition of the terms in section 404(b)(2)(A)(ii) and a delineation of 'in any other circumstances' in section 404(b)(2)(A)(iii) of such Act.

"(c) The regulations under this section shall be published for comment not later than 30 days after the date of enactment of this Act [Oct. 29, 1991] and issued in final form not later than 15 days after the end of the comment period.

SAVINGS CLAUSE

Act June 27, 1952, ch. 477, title IV, § 405, 66 Stat. 280, provided in part that:"
“(a) Nothing contained in this Act [this chapter], unless otherwise specifically provided therein, shall be construed to affect the validity of any declaration of invalidity, petition for naturalization, certificate of naturalization, certificate of citizenship, warrant of arrest, order or warrant of deportation, order of exclusion, or other document or proceeding which shall be valid at the time this Act [this chapter] shall take effect; or to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation, or matter, civil or criminal done or existing, at the time this Act [this chapter] shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act [this chapter] are, unless otherwise specifically provided therein, hereby continued in force and effect. When an immigrant, in possession of an unexpired immigrant visa issued prior to the effective date of this Act [this chapter], makes application for admission, his admissibility shall be determined under the provisions of law in effect on the date of issuance of such visa. An application for suspension of deportation under section 19 of the Immigration Act of 1917, as amended [former section 155 of this title], or for adjustment of status under section 4 of the Displaced Persons Act of 1948, as amended [former section 1953 of the former Appendix to Title 50], which is pending on the date of enactment of this Act [June 27, 1952], shall be regarded as a proceeding within the meaning of this subsection.

“(b) Except as otherwise specifically provided in title III [subchapter III of this chapter], any petition for naturalization herebefore filed which may be pending at the time this Act [this chapter] shall take effect shall be heard and determined in accordance with the requirements of law in effect when such petition was filed.

“(c) Except as otherwise specifically provided in this Act [this chapter], or any amendment thereto, fees, charges and prices for purposes specified in title V of the Independent Offices Appropriation Act, 1932 (Public Law 73, Eighty-second Congress, approved August 25, 1951), may be fixed and established in the manner and by the head of any Federal Agency as specified in that Act.

“(d) Except as otherwise specifically provided in this Act [this chapter], or any amendment thereto, the time of the filing of any petition for naturalization herebefore filed which may be pending at the time this Act [this chapter] shall take effect shall be determined under the provisions of law in effect when such petition was filed.

“(e) This Act [this chapter] shall not be construed to repeal, alter, or amend section 231(a) of the Act of April 30, 1946 (60 Stat. 148; [section 1251(a) of title 22]), the Act of June 22, 1949 (Public Law 110, section 8, Eighty-first Congress, first session; 63 Stat. 208 [section 3508 of title 50]), the Act of June 5, 1950 (Public Law 555, Eighty-first Congress, second session [former section 1501 et seq. of title 22]), nor title V of the Agricultural Act of 1949, as amended (Public Law 78, Eighty-second Congress, first session [former sections 1461 to 1468 of title 7])."

**SEPARABILITY**

Pub. L. 106-393, title I, §116, Oct. 17, 2000, 114 Stat. 1312, provided that: "If any provision of this title [see Short Title of 2000 Amendments note above] or any amendment made by this title) or the application thereof to any person or circumstance is held unconstitutional, the remainder of this title and the application of the provisions of this title to any person or circumstance shall not be affected thereby."

Act June 27, 1952, ch. 477, title IV, §404, 66 Stat. 280, as amended, provided that: "For purposes of this Act [see Short Title of 2023 Amendment note set out above], and the amendments made by this Act, the performance by a crewman of ship-to-ship liquid cargo transfer operations to or from any other vessel engaged in foreign trade shall not be considered, for immigration purposes, to be services, work, labor or employment by the crewman within the United States.

**TRANSFER OF FUNCTIONS**

United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of Title 22, Foreign Relations and Intercourse.

**ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS**

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of this title.

**ADMISSION OF ALASKA AS STATE**

Effectiveness of amendment of this section by Pub. L. 85-508 as dependent on admission of State of Alaska into the Union, see section 8(b) of Pub. L. 85-508, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions.

**APPROPRIATIONS**


“(a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act [this chapter] (other than chapter 2 of title IV) [subchapter IV of this chapter],

“(b)(1) There are authorized to be appropriated (for fiscal year 1991 and any subsequent fiscal year) to an immigration emergency fund, to be established in the Treasury, an amount sufficient to provide for a balance of $35,000,000 in such fund, to be used to carry out paragraph (2) and to provide for an increase in border patrol or other enforcement activities of the Service and for reimbursement of States and localities in providing assistance as requested by the Attorney General in meeting an immigration emergency, except that no amounts may be withdrawn from such fund with respect to an emergency unless the President has determined that the immigration emergency exists whenever such fact to the Judiciary Committees of the House of Representatives and of the Senate.

“(2)(A) Funds which are authorized to be appropriated by paragraph (1), subject to the dollar limitation contained in subparagraph (B), shall be available, by application for the reimbursement of States and localities providing assistance as required by the Attorney General, to States and localities whenever

“(i) a district director of the Service certifies to the Commissioner that the number of asylum applica-
tions filed in the respective district during a calendar quarter exceeds by at least 1,000 the number of such applications filed in that district during the preceding calendar quarter.

"(ii) the lives, property, safety, or welfare of the residents of a State or locality are endangered, or

"(iii) in any other circumstances as determined by the Attorney General.

In applying clause (i), the providing of parole at a point of entry in a district shall be deemed to constitute an application for asylum in the district.

"(B) Not more than $20,000,000 shall be made available for all localities under this paragraph.

"(C) For purposes of subparagraph (A), the requirement of paragraph (1) that an immigration emergency be determined shall not apply.

"(D) A decision with respect to an application for reimbursement under subparagraph (A) shall be made by the Attorney General within 15 days after the date of receipt of the application."

[Pub. L. 101–649, title VII, §705(b), Nov. 29, 1990, 104 Stat. 5087, provided that: "Section 404(d)(2)(A)(i) of the Immigration and Nationality Act [act June 27, 1952, set out above] before October 1, 1989. The Attorney General may not spend any amounts from the immigration emergency fund pursuant to the amendments made by subsection (a) [amending section 404 of act June 27, 1952, set out above] before October 1, 1991."] [Determination of President of the United States, No. 97–16, Feb. 12, 1997, 62 F.R. 13981, provided that: "(a) IN GENERAL.—Notwithstanding any other provision of law, a citizen or national of Afghanistan (or a person with no nationality who last habitually resided in Afghanistan) shall be eligible for the benefits described in subsections (b) and (c) if—

"(1) such individual completed security and law enforcement background checks to the satisfaction of the Secretary of Homeland Security and was subsequently—

"(A) paroled into the United States between February 24, 2022 and September 30, 2023; or

"(B) paroled into the United States after September 30, 2023 and—

"(i) is the spouse or child of an individual described in subparagraph (A); or

"(ii) is the parent, legal guardian, or primary caregiver of an individual described in subparagraph (A) who is determined to be an unaccompanied child under section 422(g)(2) of the Immigration and Nationality Act of 2002 (8 U.S.C. 1522(d)(2)(B)); and

"(2) such individual's parole has not been terminated by the Secretary of Homeland Security.

"(b) BENEFITS.—An individual described in subsection (a) shall be eligible for—

"(1) resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1522(c)); and

"(2) services described under section 422(d)(2) of the Immigration and Nationality Act of 2002 (8 U.S.C. 1522(d)(2)), subject to subparagraph (B) of such section, if such individual is an unaccompanied alien child as defined under section 422(g)(2) of the Homeland Security Act of 2002 (8 U.S.C. 279(g)(2))."

"(C) CLARIFICATIONS.—

"(1) Nothing in this section shall be interpreted to:

"(A) preclude an individual described in subsection (a) from applying for or receiving any immigration benefits to which such individual is otherwise eligible; or

"(B) entitle a person described in subsection (a) to lawful permanent resident status.

"(2) Section 421(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–188) (8 U.S.C. 1631(a)) shall not apply with respect to determining the eligibility and the amount of benefits made available pursuant to subsection (b).

"(d) NON-APPLICATION OF THE PAPERWORK REDUCTION ACT.—Chapter 35 of title 44, United States Code (commonly referred to as the Paperwork Reduction Act of 1995), shall not apply to any action taken to implement this section that involves translating a currently approved collection of information into a new language."

BENEFITS FOR CERTAIN CITIZENS OR NATIONALS OF AFGHANISTAN


"(a) IN GENERAL.—Notwithstanding any other provision of law, a citizen or national of Afghanistan (or a person with no nationality who last habitually resided in Afghanistan) shall be eligible for the benefits described in subsections (b) and (c) if—

"(1) such individual completed security and law enforcement background checks to the satisfaction of the Secretary of Homeland Security and was subsequently—

"(A) paroled into the United States between July 31, 2021, and September 30, 2023; or

"(B) paroled into the United States after September 30, 2022 and—

"(i) is the spouse or child (as such term is defined under section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)) of an individual described in subparagraph (A); or

"(ii) is the parent or legal guardian of an individual described in subparagraph (A) who is determined to be an unaccompanied child under 8 U.S.C. 279(g)(2); and

"(2) such individual's parole has not been terminated by the Secretary of Homeland Security.

"(b) BENEFITS.—An individual described in subsection (a) shall be eligible for—

"(1) resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1522(c)); and

"(2) services described under section 422(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1522(d)(2)), subject to subparagraph (B) of such section, if such individual is an unaccompanied alien child as defined under 8 U.S.C. 279(g)(2); and

"(3) a driver's license or identification card under section 202 of the REAL ID Act of 2005 (division B of Public Law 109–139; 8 U.S.C. 1351 note), notwithstanding subsection (c)(2)(B) of such Act (probably means "such section").

"(c) EXPEDITIOUS ADJUDICATION OF ASYLUM APPLICATIONS.—With respect to an application for asylum under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158) filed by an individual described in subsection (a), the Secretary of Homeland Security shall—

"(1) conduct the initial interview on the asylum application not later than 45 days after the date on which the application is filed; and
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“(2) in the absence of exceptional circumstances, issue a final administrative adjudication on the asylum application within 150 days after the date the application is filed.”

“(d) CLARIFICATION.—Notwithstanding any other provision of law, nothing in this Act [probably should be ‘Act’], meaning div. C of Pub. L. 117–48, see Tables for classification] shall be interpreted to—

“(1) preclude an individual described in subsection (a), from applying for or receiving any immigration benefits to which such individual is otherwise eligible; or

“(2) entitle a person described in subsection (a) to lawful permanent resident status.

“(e) REPORT.—Not later than 120 days after the date of enactment of this Act [Sept. 30, 2021], and every 3 months thereafter, the Secretary of Homeland Security, in consultation with the Secretary of Defense and the Secretary of State, shall submit a report to Congress detailing the number of individuals described in subsection (a); the number of individuals receiving benefits in subsection (b), including their eligibility for benefits as refugees notwithstanding this Act; and any other information deemed relevant by the Secretary.

WAIVER OF MEDICAL EXAM REQUIREMENT FOR CERTAIN AFGHANS SEEKING ADMISSION


“(a) AUTHORIZATION.—The Secretary of State and the Secretary of Homeland Security may jointly issue a blanket waiver of the requirement that aliens described in section 602(b)(2) of the Afghan Allies Protection Act of 2009 [Pub. L. 111–8, div. F, title VI] (8 U.S.C. 1101 [note]) undergo a medical exam under section 223(d) of the Immigration and Nationality Act (8 U.S.C. 1231(d)), or any other applicable provision of law, prior to issuance of an immigrant visa or admission to the United States.

“(b) DURATION.—A waiver under subsection (a) shall be for a period of 1 year, and, subject to subsection (g), may be extended by the Secretary of State and Secretary of Homeland Security for additional periods, each of which shall not exceed 1 year.

“(c) NOTIFICATION.—Upon exercising the waiver authority under subsection (a), or the authority to extend a waiver under subsection (b), the Secretary of State and the Secretary of Homeland Security shall notify the appropriate congressional committees.

“(d) REQUIREMENT FOR MEDICAL EXAMINATION AFTER ADMISSION.—

“(1) IN GENERAL.—The Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services, shall establish procedures to ensure, to the greatest extent practicable, that any alien who receives a waiver of the medical examination requirement under this section complies with all other medical and health requirements applicable to such alien.

“(2) CONDITIONAL BASIS FOR STATUS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, an alien who receives a waiver of the medical examination requirement under this section shall be considered, at the time of admission to the United States, as an alien lawfully admitted for permanent residence on a conditional basis.

“(B) REMOVAL OF CONDITIONS.—The Secretary of Homeland Security shall remove the conditional basis of the alien’s status upon the Secretary’s confirmation that such alien has completed the medical examination and is not inadmissible under section 212(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(1)(A)).

“(3) REPORT.—Not later than 1 year after the date on which the waiver authority under subsection (a) is exercised, or such waiver is extended under subsection (b), as applicable, the Secretary of Homeland Security, in consultation with the Secretary of Health and Human Services, shall submit to the appropriate congressional committees a report on the status of medical examinations required under paragraph (1), including—

“(A) the number of pending and completed examinations; and

“(B) the number of aliens who have failed to complete the medical examination within the 30-day period after the date of such aliens’ admission.

“(e) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate committees of Congress’ means—

“(1) the Committee on Armed Services, the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Homeland Security and Governmental Affairs of the Senate; and

“(2) the Committee on Armed Services, the Committee on the Judiciary, the Committee on Foreign Affairs, and the Committee on Homeland Security of the House of Representatives.

“(f) RULE OF CONSTRUCTION.—Nothing in this Act [probably means this section] may be construed to prevent the Secretary of State, the Secretary of Homeland Security, the Secretary of Defense, or the Secretary of Health and Human Services from adopting appropriate measures to prevent the spread of communicable diseases, including COVID–19, to the United States.

“(g) SUNSET.—The authority under subsections (a) and (b) expires on the date that is 3 years after the date of enactment of this Act [July 30, 2021].

(BR) EMERGENCY REQUIREMENT.—The amount provided by this section is designated by the Congress as being for an emergency requirement pursuant to section 251(b)(2)(A)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 901(b)(2)(A)(i)].

AVAILABILITY OF FUNDS


Similar provisions were contained in the following prior appropriation acts:


ANNUAL REPORT ON IMMIGRATION APPLICATIONS MADE BY VICTIMS OF ABUSE

Pub. L. 113–4, title VIII, § 802, Mar. 7, 2013, 127 Stat. 110, provided that: “Not later than December 1, 2014, and annually thereafter, the Secretary of Homeland Security shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report that includes the following:

“(1) The number of aliens who—

“(A) submitted an application for nonimmigrant status under paragraph (15)(T)(i), (15)(U)(i), or (51) of section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)) during the preceding fiscal year;

“(B) were granted such nonimmigrant status during such fiscal year; or

“(C) were denied such nonimmigrant status during such fiscal year.

“(2) The mean amount of time and median amount of time to adjudicate an application for such nonimmigrant status during such fiscal year.”
"(3) The mean amount of time and median amount of time between the receipt of an application for such nonimmigrant status and the issuance of work authorization to an eligible applicant during the preceding fiscal year.

"(4) The number of aliens granted continued presence in the United States under section 101(c)(3) of the Trafficking Victims Protection Reauthorization Act of 2000 (22 U.S.C. 7105(c)(3)) during the preceding fiscal year.

"(5) A description of any actions being taken to reduce the adjudication and processing time, while ensuring the safe and competent processing, of an application described in paragraph (1) or a request for continued presence referred to in paragraph (4)."

**SPECIAL RULE FOR ALIEN VICTIMS**

Pub. L. 112–239, div. A, title XVII, §1706(b), Jan. 2, 2013, 126 Stat. 2097, provided that: "No alien may be admitted to the United States pursuant to subparagraph (U) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) as a result of the alien being a victim of a crime described in subsection (b) of section 1331 of title 18, United States Code, as added by subsection (a)."

**NO AUTHORITY FOR NATIONAL IDENTIFICATION CARD**

Pub. L. 112–176, §5, Sept. 26, 2012, 126 Stat. 1335, provided that: "Nothing in this Act (amending this section and provisions set out as notes under sections 1153, 1182, and 1321a of this title) may be construed to authorize the planning, testing, piloting, or development of a national identification card."

**FEE INCREASES**


"(a) Notwithstanding any other provision of this Act or any other provision of law, during the period beginning on the date of the enactment of this Act (Aug. 13, 2010) and ending on September 30, 2010, the filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) shall be increased by $2,250 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are such nonimmigrants.

"(b) Notwithstanding any other provision of this Act or any other provision of law, during the period beginning on the date of the enactment of this Act and ending on September 30, 2015, the filing fee and fraud prevention and detection fee required to be submitted with an application for admission as a nonimmigrant under section 101(a)(15)(L) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) shall be increased by $2,250 for applicants that employ 50 or more employees in the United States if more than 50 percent of the applicant’s employees are such nonimmigrants admitted pursuant to section 101(a)(15)(H)(i)(b) of such Act or section 101(a)(15)(L) of such Act.

"(c) During the period beginning on the date of the enactment of this Act and ending on September 30, 2015, all amounts collected pursuant to the fee increased authorized under this section shall be deposited in the General Fund of the Treasury.

**AFGHAN ALLIES PROTECTION**


"SEC. 601. SHORT TITLE.

"This title may be cited as the 'Afghan Allies Protection Act of 2009'.

"SEC. 602. PROTECTION FOR AFGHAN ALLIES.

"(a) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term 'appropriate committees of Congress' means—

"(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on the Judiciary of the Senate; and

"(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives.

"(b) SPECIAL IMMIGRANT STATUS FOR CERTAIN AFGHANS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Secretary of Homeland Security, or, notwithstanding any other provision of law, the Secretary of State in consultation with the Secretary of Homeland Security, may provide an alien described in subparagraph (A), (B), or (C) of paragraph (2) with the status of a special immigrant under section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)), if the alien—

"(A) or an agent acting on behalf of the alien, submits a petition for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4));

"(B) is otherwise eligible to receive an immigrant visa,

"(C) is otherwise admissible to the United States for permanent residence (excluding the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4))), and

"(D) clears a background check and appropriate screening, as determined by the Secretary of Homeland Security.

"(2) ALIENS DESCRIBED.—

"(A) PRINCIPAL ALIENS.—An alien is described in this subparagraph if the alien—

"(i) is a citizen or national of Afghanistan;

"(ii) was or is employed in Afghanistan on or after October 7, 2001, for not less than 1 year—

"(I) by, or on behalf of, the United States Government;

"(II) by the International Security Assistance Force (or any successor name for such Force) to serve as an interpreter or translator for such United States military personnel; or

"(bb) to perform activities for the United States military personnel stationed at the International Security Assistance Force (or any successor name for such Force) in a capacity that required the alien—

"(aa) while traveling off-base with United States military personnel stationed at the International Security Assistance Force (or any successor name for such Force),

"(iii) provided faithful and valuable service to an entity or organization described in clause (ii), which is documented in a positive recommendation or evaluation, subject to subparagraph (D), from the employee’s senior supervisor or the person currently occupying that position, or a more senior person, if the employee’s senior supervisor has left the employer or has left Afghanistan; and
“(iv) has experienced or is experiencing an ongoing serious threat as a consequence of the alien’s employment described in clause (i);”

“(B) Sponsoring or accompanying child.—An alien is described in this subparagraph if the alien—

“(I) is the spouse or child of a principal alien described in subparagraph (A); and

“(II) is accompanying or following to join the principal alien in the United States.”

“(C) Surviving spouse or child.—

“(i) is the spouse or child of a principal alien described in subparagraph (A) who had submitted an application to the Chief of Mission pursuant to this section or section 1059 of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–183; 8 U.S.C. 1101 note) which included the alien as an accompanying spouse or child; and

“(bb) such petition would have been approved if the principal alien had survived.

“(ii) is accompanying or following to join the surviving spouse or child; and

“(cc) is accompanying or following to join the principal alien in the United States.”

“(D) Alien who has been employed by the United States Government prior to public disclosure of the alien’s employment, together with official evidence of such employment and an independent review by the appropriate Chief of Mission, who shall conduct a risk assessment of the alien and an independent review by the appropriate Chief of Mission, or the designee of the appropriate Chief of Mission, who shall conduct a risk assessment of the alien and an independent review of records maintained by the United States Government or hiring organization or entity to confirm employment and faithful and valuable service to the United States Government prior to a first or subsequent application for special immigrant status under this section.”

“(E) Evidence of serious threat.—A credible sworn statement depicting dangerous country conditions, together with official evidence of such country conditions from the United States Government, should be considered as a factor in determination of whether the alien has experienced or is experiencing an ongoing serious threat as a consequence of the alien’s employment by the United States Government for purposes of subparagraph (A)(iv).

“(F) Representation.—An alien applying for admission to the United States pursuant to this title may be represented during the application process, including at relevant interviews and examinations, by an attorney or other accredited representative. Such representation shall not be at the expense of the United States Government.

“(3) Numerical Limitations.—

“(A) In general.—Except as provided in subparagraph (C), the total number of principal aliens who may be provided special immigrant status under this section may not exceed 1,500 per year for each of the fiscal years 2009, 2010, 2011, 2012, and 2013.

“(B) Exclusion from numerical limitations.—Aliens provided special immigrant status under this subsection shall not be counted against any numerical limitation under sections 201(d), 202(a), or 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151(d), 1152(a), and 1153(b)(4)).

“(C) Carry forward.—

“(i) Fiscal Years 2009 through 2012.—If the numerical limitation specified in subparagraph (A) is not reached during a given fiscal year, with respect to fiscal year 2009, 2010, 2011, 2012, or 2013, the numerical limitation specified in such subparagraph for the following fiscal year shall be increased by a number equal to the difference between—

“(I) the numerical limitation determined under clause (i) for fiscal year 2013; and

“(ii) the number of principal aliens provided special immigrant status under this subsection during fiscal year 2012.

“(ii) Fiscal Year 2013.—If the numerical limitation determined under clause (i) is not reached in fiscal year 2013, the total number of principal aliens who may be provided special immigrant status under this subsection for fiscal year 2014 shall be equal to the difference between—

“(I) the numerical limitation determined under clause (i) for fiscal year 2013; and

“(ii) the number of principal aliens provided such status under this section during fiscal year 2012.

“(D) Additional Fiscal Year.—For fiscal year 2014, the total number of principal aliens who may be provided special immigrant status under this section may not exceed 3,000, except that any unused balance of the total number of principal aliens who may be provided special immigrant status in fiscal year 2014 may be carried forward and provided through the end of fiscal year 2015, notwithstanding the provisions of paragraph (C), except that the one year period during which an alien must have been employed in accordance with subsection (b)(2)(A)(ii) shall be the period from October 7, 2001 through December 31, 2014, and except that the principal alien seeking special immigrant status under this subparagraph shall apply to the Chief of Mission in accordance with subsection (b)(2)(D) no later than September 30, 2014.

“(E) Special Rule for End of Calendar Year 2014.—
“(i) IN GENERAL.—During the period beginning on the date of the enactment of this subparagraph [Aug. 8, 2014] and ending on December 31, 2014, an additional 1,900 principal aliens may be provided special immigrant status under this section. For purposes of status provided under this subparagraph—

“(I) the period during which an alien must have been employed in accordance with paragraph (2)(A)(ii) must terminate on or before December 31, 2014;

“(II) the principal alien seeking special immigrant status under this subparagraph shall apply to the Chief of Mission in accordance with paragraph (2)(D) not later than December 31, 2014; and

“(III) the authority to provide such status shall terminate on December 31, 2014.

“(ii) CONSTRUCTION.—Clause (i) shall not be construed to affect the authority, numerical limitations, or terms for provision of status, under paragraph (D).

“(F) FISCAL YEARS 2015 THROUGH 2023.—In addition to any unused balance under subparagraph (D), for the period beginning on the date of the enactment of this subparagraph [Dec. 19, 2014] until such time that all available special immigrant visas under subparagraphs (D) and (E) and this subparagraph are exhausted, the total number of principal aliens who may be provided special immigrant status under this section shall not exceed 56,500. For purposes of status provided under this subparagraph—

“(i) the period during which an alien must have been employed in accordance with paragraph (2)(A)(ii) must terminate on or before December 31, 2024;

“(ii) the principal alien seeking special immigrant status under this subparagraph shall apply to the Chief of Mission in accordance with paragraph (2)(D) not later than December 31, 2024; and

“(iii) the authority to issue visas shall commence on the date of the enactment of this subparagraph [Dec. 19, 2014] and shall terminate on the date such visas are exhausted.

“(4) APPLICATION PROCESS.—

“(A) IN GENERAL.—Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2014 [Dec. 26, 2013], the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall improve the efficiency by which applications for special immigrant visas under paragraph (1), are processed so that all steps, including Chief of Mission approval, under the control of the respective departments incidental to the issuance of such visas, including required screenings and background checks, should be completed not later than 9 months after the date on which an eligible alien submits all required materials to complete an application for such visa.

“(B) CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of a Secretary referred to in subparagraph (A) to take longer than 9 months to complete those steps incidental to the issuance of such visas in high-risk cases for which satisfaction of national security concerns requires additional time.

“(C) PROHIBITION ON FEES.—The Secretary of Homeland Security or the Secretary of State may not charge an alien an fee described in subparagraph (A), (B), or (C) of paragraph (2) any fee in connection with an application for, or issuance of, a special immigrant visa under this section.

“(D) ASSISTANCE WITH PASSPORT ISSUANCE.—The Secretary of State shall make a reasonable effort to ensure that an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is issued a special immigrant visa pursuant to this subsection is provided with the appropriate series Afghan passport necessary to enter the United States.

“(6) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other appropriate Federal agencies, shall make a reasonable effort to provide an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is seeking special immigrant status under this subsection protection or to immediately remove such alien from Afghanistan, if possible, if the Secretary determines, after consultation, that such alien is in imminent danger.

“(7) OTHER ELIGIBILITY FOR IMMIGRANT STATUS.—No alien shall be denied the opportunity to apply for admission under this subsection solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

“(8) RESettlement SUPPORT.—A citizen or national of Afghanistan who is granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

“(9) ADJUSTMENT OF STATUS.—Notwithstanding paragraph (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subparagraph (A), (B), or (C) of paragraph (2) of this subsection or in section 1244(b) of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 397] [8 U.S.C. 1157 note] to that of an alien lawfully admitted for permanent residence under subsection (a) of such section 245 if the alien—

“(A) was paroled or admitted as a nonimmigrant into the United States; and

“(B) is otherwise eligible for special immigrant status under—

“(i) the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

“(ii) the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)); and

“(ii) such section 1244(b); and

“(ii) the period during which an alien must have been employed in accordance with paragraph (2)(A)(ii) must terminate on or before December 31, 2014.

“(III) the authority to issue visas shall commence on the date of the enactment of this subparagraph [Dec. 19, 2014] and shall terminate on the date such visas are exhausted.

“(4) APPLICATION PROCESS.—

“(A) IN GENERAL.—Not later than 120 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 2014 [Dec. 26, 2013], the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall improve the efficiency by which applications for special immigrant visas under paragraph (1), are processed so that all steps, including Chief of Mission approval, under the control of the respective departments incidental to the issuance of such visas, including required screenings and background checks, should be completed not later than 9 months after the date on which an eligible alien submits all required materials to complete an application for such visa.

“(B) CONSTRUCTION.—Nothing in this section shall be construed to limit the ability of a Secretary referred to in subparagraph (A) to take longer than 9 months to complete those steps incidental to the issuance of such visas in high-risk cases for which satisfaction of national security concerns requires additional time.

“(C) PROHIBITION ON FEES.—The Secretary of Homeland Security or the Secretary of State may not charge an alien an fee described in subparagraph (A), (B), or (C) of paragraph (2) any fee in connection with an application for, or issuance of, a special immigrant visa under this section.

“(D) ASSISTANCE WITH PASSPORT ISSUANCE.—The Secretary of State shall make a reasonable effort to ensure that an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is issued a special immigrant visa pursuant to this subsection is provided with the appropriate series Afghan passport necessary to enter the United States.

“(6) PROTECTION OF ALIENS.—The Secretary of State, in consultation with the heads of other appropriate Federal agencies, shall make a reasonable effort to provide an alien described in subparagraph (A), (B), or (C) of paragraph (2) who is seeking special immigrant status under this subsection protection or to immediately remove such alien from Afghanistan, if possible, if the Secretary determines, after consultation, that such alien is in imminent danger.

“(7) OTHER ELIGIBILITY FOR IMMIGRANT STATUS.—No alien shall be denied the opportunity to apply for admission under this subsection solely because such alien qualifies as an immediate relative or is eligible for any other immigrant classification.

“(8) RESettlement SUPPORT.—A citizen or national of Afghanistan who is granted special immigrant status described in section 101(a)(27) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)) shall be eligible for resettlement assistance, entitlement programs, and other benefits available to refugees admitted under section 207 of such Act (8 U.S.C. 1157) to the same extent, and for the same periods of time, as such refugees.

“(9) ADJUSTMENT OF STATUS.—Notwithstanding paragraph (2), (7), or (8) of subsection (c) of section 245 of the Immigration and Nationality Act (8 U.S.C. 1255), the Secretary of Homeland Security may adjust the status of an alien described in subparagraph (A), (B), or (C) of paragraph (2) of this subsection or in section 1244(b) of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 397] [8 U.S.C. 1157 note] to that of an alien lawfully admitted for permanent residence under subsection (a) of such section 245 if the alien—

“(A) was paroled or admitted as a nonimmigrant into the United States; and

“(B) is otherwise eligible for special immigrant status under—

“(i) the number of citizens or nationals of Afghanistan or Iraq who submitted an application for status as a special immigrant pursuant to this section or section 1244 of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 396] [8 U.S.C. 1157 note].

“(B) CONTENT.—Each report required by subparagraph (A) submitted in a fiscal year shall include the following information for the previous fiscal year:

“(i) The number of citizens or nationals of Afghanistan or Iraq who submitted an application for status as a special immigrant pursuant to this section or section 1244 of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 396], disaggregated—

“(II) were denied, including a description of the basis for each denial.

“(II) REPORT ON IMPROVEMENTS.—

“(A) REQUIREMENT.—Not later than 120 days after the date of the enactment of this Act, and annually thereafter, the Secretary of Homeland Security shall submit to the appropriate committees of Congress a report on the number of citizens or nationals of Afghanistan or Iraq who have applied for status as special immigrants under this subsection or section 1244 of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 396] [8 U.S.C. 1157 note].

“(B) CONTENT.—Each report required by subparagraph (A) submitted in a fiscal year shall include the following information for the previous fiscal year:

“(i) The number of citizens or nationals of Afghanistan or Iraq who submitted an application for status as a special immigrant pursuant to this section or section 1244 of the Refugee Crisis in Iraq Act of 2007 [Public Law 110–181; 122 Stat. 396], disaggregated—

“(II) by the number of spouses and children of principal aliens applying for such status.

“(ii) The number of applications referred to in clause (i) that—

“(I) were approved; or

“(II) were denied, including a description of the basis for each denial.

“(II) REPORT ON IMPROVEMENTS.—

“(A) REQUIREMENT.—Not later than 120 days after the date of the enactment of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 [Aug. 13, 2018], the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall
submit to the appropriate committees of Congress a report, with a classified annex, if necessary.

"(B) CONTENTS.—The report required by subparagraph (A) shall describe the implementation of improvements to the processing of applications for special immigrant visas under this subsection, including information relating to—

"(i) the financial, security, and personnel considerations and resources necessary to carry out this section;

"(ii) the implementation of systems for conducting background and security checks of persons applying for special immigrant status, which shall—

"(I) support immigration security; and

"(II) provide for the orderly processing of such applications without significant delay;

"(iii) the number of aliens who have applied for special immigrant visas under this subsection during each month of the preceding fiscal year;

"(iv) the reasons for the failure to process any applications that have been pending for longer than 9 months;

"(v) the total number of applications that are pending due to the failure—

"(I) to receive approval from the Chief of Mission;

"(II) of U.S. Citizenship and Immigration Services to complete the adjudication of the Form I–360;

"(III) to conduct a visa interview; or

"(IV) to issue the visa to an eligible alien;

"(vi) the average wait times for an applicant at each of the stages described in clause (v);

"(vii) the number of denials or rejections at each of the stages described in clause (v); and

"(viii) the reasons for denials by the Chief of Mission based on the categories already made available to denied special immigrant visa applicants in the denial letter sent to them by the Chief of Mission.

"(12) PUBLIC QUARTERLY REPORTS.—Not later than December 31, 2016, and annually thereafter through January 31, 2024, the Secretary of Defense, in consultation with the Secretary of State and the Secretary of Homeland Security, shall submit a report to the Committee on Armed Services to complete the adjudication of the Form I–360;

"(13) REPORT.—Not later than January 31, 2024, the Secretary of State and the Secretary of Homeland Security, in consultation with the Secretary of Defense, shall provide to the Senate and the Committee on Armed Services and the Committee on the Judiciary a report that contains—

"(A) a description of the United States force presence in Afghanistan during the previous 6 months;

"(B) a description of the projected United States force presence in Afghanistan;

"(C) the number of citizens or nationals of Afghanistan who were employed by or on behalf of the United States Government that were appealed and the number of those appeals that were overturned pursuant to the appeal.

"(14) REPORTS INFORMING THE CONCLUSION OF THE AFGHAN SPECIAL IMMIGRANT VISA PROGRAM.—Not later than June 1, 2016, and every six months thereafter, the Secretary of Defense, in conjunction with the Secretary of State, shall submit to the Committee on Armed Services and the Committee on the Judiciary of the Senate and the Committee on Armed Services and the Committee on the Judiciary a report that contains—

"(A) a description of the United States force presence in Afghanistan during the previous 6 months;

"(B) a description of the projected United States force presence in Afghanistan;

"(C) the number of citizens or nationals of Afghanistan who were employed by or on behalf of the United States Government that were appealed and the number of those appeals that were overturned pursuant to the appeal.

"(D) the projected number of such citizens or nationals who will be employed by or on behalf of such entities.

"(15) SENSE OF CONGRESS.—It is the sense of Congress that the necessity of providing special immigrant status under this subsection should be assessed at regular intervals by the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, taking into account the scope of the current and planned presence of United States troops in Afghanistan, the current and prospective numbers of citizens and nationals of Afghanistan employed by or on behalf of the entities described in paragraph (2)(A)(ii), and the security climate in Afghanistan.


"(d) PUBLICATION.—It is the sense of Congress that the report required by subsection (c) shall be published in the Federal Register.

**SPECIAL IMMIGRANT STATUS FOR PERSONS SERVING AS TRANSLATORS WITH UNITED STATES ARMED FORCES**


"(a) IN GENERAL.—The Secretary of Homeland Security or the Secretary of State may convert an approved petition for special immigrant status under section 1059 of the National Defense Authorization Act for Fiscal Year 2006 [Pub. L. 109–163] (8 U.S.C. 1101 note) with respect to which a visa under such section 1059 is not immediately available to an approved petition for special immigrant status under section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) [8 U.S.C. 1157 note] notwithstanding any requirement of subsection (a) or (b) of such section 1244 but subject to the numerical limitations applicable under subsection (c) of such section 1244, as amended by this Act."

"(b) DURATION.—The authority under subsection (a) shall expire on the date on which the numerical limitation specified under section 1244 of the National Defense Authorization Act for Fiscal Year 2008 (Public Law 110–181) [8 U.S.C. 1157 note] with respect to which a visa under such section 1059 is not immediately available to an approved petition for special immigrant status under section 1244, as amended by this Act, is reached.


"(a) IN GENERAL.—For purposes of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), subject to subsection (c)(1), the Secretary of Homeland Security may provide an alien described in subsection (b) with the status of a special immigrant under section 101(a)(27) of such Act (8 U.S.C. 1101(1)(a)(27)), if the alien—

"(1) files with the Secretary of Homeland Security a petition under section 204 of such Act (8 U.S.C. 1154) for classification under section 203(b)(4) of such Act (8 U.S.C. 1153(b)(4)); and

"(2) is otherwise eligible to receive an immigrant visa and is otherwise admissible to the United States for permanent residence, except in determining such admissibility, the grounds for inadmissibility specified in section 212(a)(4) of such Act (8 U.S.C. 1182(a)(4)) shall not apply.

"(b) ALIENS DESCRIBED.—

"(1) PRINCIPAL ALIENS.—An alien is described in this subsection if the alien—

"(A) is a national of Iraq or Afghanistan;

"(B) worked directly with United States Armed Forces, or under Chief of Mission authority, as a translator or interpreter for a period of at least 12 months;

"(C) obtained a favorable written recommendation from the Chief of Mission or a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

"(D) before filing the petition described in subsection (a)(1), cleared a background check and screening, as determined by the Chief of Mission or a general or flag officer in the chain of command of the United States Armed Forces unit that was supported by the alien; and

"(2) SPOUSES AND CHILDREN.—An alien is described in this subsection if the alien is the spouse or child of a principal alien described in paragraph (1), and is following or accompanying to join the principal alien.

"(c) NUMERICAL LIMITATIONS.—

"(1) IN GENERAL.—The total number of principal aliens who may be provided special immigrant status under this section—

"(A) during each of the fiscal years 2007 and 2008, shall not exceed 500; and

"(B) during any other fiscal year shall not exceed 50.

"(2) ALIENS EXEMPT FROM EMPLOYMENT-BASED NUMERICAL LIMITATIONS.—For purposes of the application of sections 201 through 205 of the Immigration and Nationality Act (8 U.S.C. 1101–1115) in any fiscal year, aliens eligible to be provided status under this section shall be treated as special immigrants described in section 101(a)(27) of such Act (8 U.S.C. 1101(a)(27)) who are not described in subparagraph (A), (B), (C), or (K) of such section and shall not be counted against the numerical limitations under sections 201(d), 202(a), and 203(b)(4) of the Immigration and Nationality Act (8 U.S.C. 1151–1153).

"(3) CARRY FORWARD.—If the numerical limitation described in paragraph (1) is not reached during a given fiscal year, the numerical limitation for the following fiscal year shall be increased by a number equal to the difference between the number of visas authorized for the given fiscal year and the number of aliens provided special immigrant status during the given fiscal year.

"(d) ADJUSTMENT OF STATUS.—Notwithstanding paragraphs (2), (7) and (8) of section 245(c) of the Immigration and Nationality Act (8 U.S.C. 1255(c)), the Secretary of Homeland Security may adjust the status of an alien to that of a lawful permanent resident under section 245(a) of such Act if the alien—

"(1) was paroled or admitted as a nonimmigrant into the United States; and

"(2) is otherwise eligible for special immigrant status under this section and under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

"(e) NATURALIZATION.—

"(1) IN GENERAL.—A period of absence from the United States described in paragraph (2)—

"(A) shall not be considered to break any period for which continuous residence or physical presence in the United States is required for naturalization under title III of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

"(B) shall be treated as a period of residence and physical presence in the United States for purposes of satisfying the requirements for naturalization under such title.

"(2) PERIOD OF ABSENCE DESCRIBED.—A period of absence described in this paragraph is a period of absence from the United States due to a person's employment by the Chief of Mission or United States Armed Forces, under contract with the Chief of Mission or United States Armed Forces, or by a firm or corporation under contract with the Chief of Mission or United States Armed Forces, if—

"(A) such employment involved supporting the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity; and

"(B) the person spent at least a portion of the time outside the United States working directly with the Chief of Mission or United States Armed Forces as a translator, interpreter, or in a security-related position in an executive or managerial capacity.

"(f) APPLICATION OF IMMIGRATION AND NATIONALITY ACT PROVISIONS.—The definitions in subsections (a) and (b) of section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) shall apply in the administration of this section.


BATTERED IMMIGRANT WOMEN: FINDINGS AND PURPOSES


“(a) FINDINGS.—Congress finds that—

"(1) the goal of the immigration protections for battered immigrants included in the Violence Against Women Act of 1994 [Pub. L. 103–322, title IV, see Tables for classification] was to remove immigration laws as a barrier that kept battered immigrant women and children locked in abusive relationships;

"(2) providing battered immigrant women and children who were experiencing domestic violence at home with protection against deportation allows them to obtain protection orders against their abusers and frees them to cooperate with law enforcement and prosecutors in criminal cases brought against their abusers and the abusers of their children without fearing that the abuser will retaliate by withdrawing or threatening withdrawal of access to an immigration benefit under the abuser’s control; and

"(3) there are several groups of battered immigrant women and children who do not have access to the immigration protections of the Violence Against Women Act of 1994 which means that their abusers are virtually immune from prosecution because their victims can be deported as a result of action by their abusers and the Immigration and Naturalization Service cannot offer them protection no matter how compelling their case under existing law.

"(b) PURPOSE.—The purposes of this title [see Short Title of 2000 Amendments note above] are—

"(1) to remove barriers to criminal prosecutions of persons who commit acts of battery or extreme cruelty against immigrant women and children; and

"(2) to offer protection against domestic violence occurring in family and intimate relationships that are covered in State and tribal protection orders, domestic violence, and family law statutes.

PROTECTION FOR CERTAIN CRIME VICTIMS INCLUDING VICTIMS OF CRIMES AGAINST WOMEN


"(a) FINDINGS AND PURPOSE.—

"(1) FINDINGS.—Congress makes the following findings:

"(A) Immigrant women and children are often targeted to be victims of crimes committed against them in the United States, including rape, torture, kidnaping, trafficking, incest, domestic violence, sexual assault, female genital mutilation, forced prostitution, involuntary servitude, being held hostage or being criminally restrained.

"(B) All women and children who are victims of these crimes committed against them in the United States must be able to report these crimes to law enforcement and fully participate in the investigation of the crimes committed against them and the prosecution of the perpetrators of such crimes.

"(2) PURPOSE.—

"(A) The purpose of this section [amending this section and sections 1182, 1184, 1255, and 1367 of this title] is to create a new nonimmigrant visa classification that will strengthen the ability of law enforcement agencies to detect, investigate, and prosecute cases of domestic violence, sexual assault, trafficking of aliens, and other crimes described in section 101(a)(15)(U)(iii) of the Immigration and Nationality Act [§ 8 U.S.C. 1101(a)(15)(U)(iii)] committed against aliens, while offering protection to victims of such offenses in keeping with the humanitarian interests of the United States. This visa will encourage law enforcement officials to better serve immigrant crime victims and to prosecute crimes committed against aliens.

"(B) Creating a new nonimmigrant visa classification will facilitate the reporting of crimes to law enforcement officials by trafficked, exploited, victimized, and abused aliens who are not in lawful immigration status. It also gives law enforcement officials a means to regularize the status of cooperating individuals during investigations or prosecutions. Providing temporary legal status to aliens who have been severely victimized by criminal activity also comports with the humanitarian interests of the United States.

"(C) Finally, this section gives the Attorney General discretion to convert the status of such nonimmigrants to that of permanent residents when doing so is justified on humanitarian grounds, for family unity, or is otherwise in the public interest.

PHILIPPINE TRADERS AS NONIMMIGRANTS

 Philippine traders classifiable as nonimmigrants under subsec. (a)(15)(E) of this section, see section 1184a of this title.

IRISH PEACE PROCESS CULTURAL AND TRAINING PROGRAM


COORDINATION OF AMENDMENTS BY PUB. L. 104–208


"(1) whenever in this division [see Tables for classification] an amendment or repeal is expressed as the amendment or repeal of a section or other provision, the reference shall be considered to be made to that section or provision in the Immigration and Nationality Act [§ 8 U.S.C. 1101 et seq.]; and

"(2) amendments to a section or other provision are to such section or other provision before any amendment made to such section or other provision elsewhere in this division."

APPLICABILITY OF TITLE V OF DIVISION C OF PUB. L. 104–208 TO FOREIGN ASSISTANCE

Pub. L. 104–208, div. C, title V, § 593, Sept. 30, 1996, 110 Stat. 3009–688, provided that: ‘‘This title [see Effective Date of 1996 Amendment note above] does not apply to any Federal, State, or local government, or to any criminal program, assistance, or benefits provided to an alien under any program of foreign assistance as determined by the Secretary of State in consultation with the Attorney General.’’

NOTIFICATION TO PUBLIC AND PROGRAM RECIPIENTS OF CHANGES REGARDING ELIGIBILITY FOR PROGRAMS


"(a) IN GENERAL.—Each agency of the Federal Government or a State or political subdivision that administers a program affected by the provisions of this title [see Effective Date of 1996 Amendment note above], shall, directly or through the States, provide general notification to the public and to program recipients of the changes regarding eligibility for any such program pursuant to this title.

"(b) FAILURE TO GIVE NOTICE.—Nothing in this section shall be construed to require or authorize continuation of eligibility if the notice under this section is not provided.

REPORT ON ALIENS GRANTED REFUGEE STATUS OR ASYLUM DUE TO PERSECUTION FOR RESISTANCE TO COMMUNIST POPULATION CONTROL METHODS

Pub. L. 104–208, div. C, title VI, § 601(a)(2), Sept. 30, 1996, 110 Stat. 3009–689, provided that: ‘‘Not later than 90 days after the end of each fiscal year, the Attorney
General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate describing the number and countries of origin of aliens granted refugee status or asylum under determinations pursuant to the amendment made by paragraph (1) [amending this section]. Each such report shall also contain projects regarding the number and countries of origin of aliens that are likely to be granted refugee status or asylum for the subsequent 2 fiscal years.

SENSE OF CONGRESS REGARDING AMERICAN-MADE PRODUCTS; REQUIREMENTS FOR NOTICE


“(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this division [see Tables for classification] should be American-made.

“(b) NOTICE TO RECIPIENTS OF GRANTS.—In providing grants under this division, the Attorney General, to the greatest extent practicable, shall provide to each recipient of a grant a notice describing the statement made in subsection (a) by the Congress.

IMPROVING BORDER CONTROLS


“(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the Immigration and Naturalization Service to increase the resources for the Border Patrol, the Inspections Program, and the Deportation Branch to apprehend illegal aliens who attempt clandestine entry into the United States or entry into the United States with fraudulent documents or who remain in the country after their nonimmigrant visas expire—

“(1) $228,000,000 for fiscal year 1995;

“(2) $185,000,000 for fiscal year 1996;

“(3) $234,000,000 for fiscal year 1997; and

“(4) $58,000,000 for fiscal year 1998.

“(b) REPORT.—By September 30, 1996 and September 30, 1997, the Attorney General shall report to the Congress on the programs described in this section. The report shall include an evaluation of the programs, an outcome-based measurement of performance, and an analysis of the cost effectiveness of the additional resources provided under this Act [see Tables for classification].”

VISAS FOR OFFICIALS OF TAIWAN


“(1) trade or business with Taiwan that will reduce the United States-Taiwan trade deficit,

“(2) prevention of nuclear proliferation,

“(3) threats to the national security of the United States,

“(4) the protection of the global environment,

“(5) the protection of endangered species, or

“(6) regional humanitarian disasters, the official shall be admitted here to the United States, unless the official is otherwise inadmissible under the immigration laws of the United States.”

CONSTRUCTION OF EXPEDITED DEPORTATION REQUIREMENTS


[Amendment by Pub. L. 104–132 effective as if included in enactment of Pub. L. 103–416, see section 496(b)(3) of Pub. L. 104–132 set out as an Effective Date of 1996 Amendment note under section 1252 of this title.]

REPORT ON ADMISSION OF CERTAIN NONIMMIGRANTS

Pub. L. 102–232, title II, §202(b), Dec. 12, 1991, 105 Stat. 1737, directed Comptroller General, by not later than Oct. 1, 1994, to submit to Committees on the Judiciary of Senate and of House of Representatives a report containing information relating to the admission of artists, entertainers, athletes, and related support personnel as nonimmigrants under §1101(a)(15)(O), (P), and information on the laws, regulations, and practices in effect in other countries that affect United States citizens and permanent resident aliens in the arts, entertainment, and athletics, in order to evaluate the impact of such admissions, laws, regulations, and practices on such citizens and aliens, directed Chairmen of the Committees on the Judiciary of Senate to make the report available to interested parties and to hold a hearing respecting the report and directed such Committee to report to Senate its findings and any legislation it deems appropriate.

DELAY UNTIL APRIL 1, 1992, IN IMPLEMENTATION OF PROVISIONS RELATING TO NONIMMIGRANT ARTISTS, ATHLETES, ENTERTAINERS, AND FASHION MODELS

Pub. L. 102–110, §3, Oct. 1, 1991, 105 Stat. 557, provided that: “Section 214(g)(1)(C) of the Immigration and Nationality Act [8 U.S.C. 1184(g)(1)(C)] shall not apply to the issuance of visas or provision of status before April 1, 1992. Aliens seeking nonimmigrant admission as artists, entertainers, or fashion models (or for the purpose of accompanying or assisting in an artistic or athletic performance) before April 1, 1992, shall not be admitted under subparagraph (O)(i), (O)(ii), (P)(i), or (P)(ii) of section 101(a)(15) of such Act [8 U.S.C. 1101(a)(15)], but may be admitted under the terms of subparagraph (H)(i)(b) of such section (as in effect on September 30, 1991).”

COMMISSION ON IMMIGRATION REFORM


“(a) ESTABLISHMENT AND COMPOSITION OF COMMISSION.—(1) Effective October 1, 1991, there is established a Commission on Immigration Reform (in this section referred to as the ‘Commission’) which shall be composed of 9 members to be appointed as follows:

“(A) One member who shall serve as Chairman, to be appointed by the President.

“(B) Two members to be appointed by the Speaker of the House of Representatives who shall select such members from a list of nominees provided by the Chairman of the Committee on the Judiciary of the House of Representatives.

“(C) Two members to be appointed by the Minority Leader of the House of Representatives who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration, Refugees, and International Law of the Committee on the Judiciary of the House of Representatives.

“(D) Two members to be appointed by the Majority Leader of the Senate who shall select such members
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from a list of nominees provided by the Chairman of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate. "(E) Two members to be appointed by the Minority Leader of the Senate who shall select such members from a list of nominees provided by the ranking minority member of the Subcommittee on Immigration and Refugee Affairs of the Committee on the Judiciary of the Senate.

"(2) Initial appointments to the Commission shall be made during the 45-day period beginning on October 1, 1991. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

"(B) Members shall be appointed to serve for the life of the Commission, except that the term of the member described in paragraph (1)(A) shall expire at noon on January 20, 1993, and the President shall appoint an individual to serve for the remaining life of the Commission.

"(b) FUNCTIONS OF COMMISSION.—The Commission shall—

"(1) review and evaluate the impact of this Act and the amendments made by this Act [see Tables for classification], in accordance with subsection (c); and

"(2) transmit to the Congress—

"(A) not later than September 30, 1991, a report describing the progress made in carrying out paragraph (1), and

"(B) not later than September 30, 1997, a final report setting forth the Commission's findings and recommendations, including such recommendations for additional changes that should be made with respect to legal immigration into the United States as the Commission deems appropriate.

"(c) CONSIDERATIONS.—

"(1) PARTICULAR CONSIDERATIONS.—In particular, the Commission shall consider the following:

"(A) The requirements of citizens of the United States and of aliens lawfully admitted for permanent residence to be joined in the United States by immediate family members and the impact which the establishment of a national level of immigration has upon the availability and priority of family preference visas.

"(B) The Impact of immigration and the implementation of the employment-based and diversity programs on labor needs, employment, and other economic and domestic conditions in the United States.

"(C) The social, demographic, and natural resources impact of immigration.

"(D) The impact of immigration on the foreign policy and national security interests of the United States.

"(E) The impact of per country immigration levels on family-sponsored immigration.

"(F) The Impact of the numerical limitation on the adjustment of status of aliens granted asylum.

"(G) The Impact of the numerical limitations on the admission of nonimmigrants under section 214(g) of the Immigration and Nationality Act [8 U.S.C. 1184(g)].

"(2) DIVERSITY PROGRAM.—The Commission shall analyze the information maintained under section 203(c)(3) of the Immigration and Nationality Act [8 U.S.C. 1153(c)(3)] and shall report to Congress in its report under subsection (b)(2) on—

"(A) the characteristics of individuals admitted under section 203(c) of the Immigration and Nationality Act, and

"(B) how such characteristics compare to the characteristics of family-sponsored immigrants and employment-based immigrants.

The Commission shall include in the report an assessment of the effect of the requirement of paragraph (2) of section 203(c) of the Immigration and Nationality Act on the diversity, educational, and skill level of aliens admitted.

"(d) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the Federal Government is entitled to receive, subject to such amounts as are provided in advance in appropriations Acts, pay at the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-18 of the General Schedule. Each member of the Commission who is such an officer or employee shall serve without additional pay.

"(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence.

"(e) MEETINGS, STAFF, AND AUTHORITY OF COMMISSION.—The provisions of section 304 of the Immigration Reform and Control Act of 1986 [Pub. L. 99–603, set out as a note under section 1160 of this title] shall apply to the Commission in the same manner as they apply to the Commission established under such section, except that paragraph (2) of subsection (e) thereof shall not apply.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

"(2) Notwithstanding any other provision of this section, the authority to make payments, or to enter into contracts, under this section shall be effective only to such extent, or in such amounts, as are provided in advance in appropriations Acts.

"(g) TERMINATION DATE.—The Commission shall terminate on the date on which a final report is required to be transmitted under subsection (b)(2)(B), except that the Commission may continue to function until January 1, 1998, for the purpose of concluding its activities, including providing testimony to standing committees of Congress concerning its final report under this section and disseminating that report.

"(h) CONGRESSIONAL RESPONSE.—(1) No later than 90 days after the date of receipt of each report transmitted under subsection (b)(2), the Committees on Appropriations of the House of Representatives and the Senate shall initiate hearings to consider the findings and recommendations of the report.

"(2) No later than 180 days after the date of receipt of such a report, each such Committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

"(i) PRESIDENTIAL REPORT.—The President shall conduct a review and evaluation and provide for the transmission of reports to the Congress in the same manner as the Commission is required to conduct a review and evaluation and to transmit reports under subsection (b)."

[References in laws to the rates of pay for 16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 (title I, §101(c)(12) of Pub. L. 101–509, set out in a note under section 5576 of Title 5.)

SPECIAL IMMIGRANT STATUS FOR CERTAIN ALIENS EMPLOYED AT UNITED STATES MISSION IN HONG KONG (D SPECIAL IMMIGRANTS)


"(a) IN GENERAL.—Subject to subsection (c), an alien described in subsection (b) shall be treated as a special immigrant described in section 101(a)(27)(D) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(27)(D)].

"(b) ALIENS COVERED.—An alien is described in this subsection if—

"(1) the alien is—

"(A) an employee at the United States consulate in Hong Kong under the authority of the Chief of Mission (including employment pursuant to section 5913 of title 5, United States Code) and has performed faithful service as such an employee for a total of three years or more, or
“(B) a member of the immediate family (as defined in section 301 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(B)), to be a foreign state described in section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) that is a successor to such a foreign state, with respect to the employment as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) to be the employment as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) to be the employment as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)) to be the employment as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101); or

(b) by a member of the immediate family of an alien, as defined in section 301 of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), to be an alien who is a national of the United States.

of children with physical, mental, or emotional disabilities
or who is the spouse or minor child of such an alien if
accompanying or following to join the alien.

"(b) Numerical Limitation.—The number of aliens who may be admitted as (or otherwise be provided the
status of) a nonimmigrant under this section in any fis-
cal year may not exceed 50.''

EXTENSION OF H-1 IMMIGRATION STATUS FOR CERTAIN NONIMMIGRANTS EMPLOYED IN COOPERATIVE RESEARCH AND DEVELOPMENT PROJECTS AND COPRODUCTION PROJECTS

Pub. L. 101–189, div. A, title IX, §937, Nov. 29, 1989, 103 Stat. 1538, provided that: "The Attorney General shall provide for the extension through December 31, 1991, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(i)) for an alien to perform temporarily services relating to a cooperative research and development project or a coproduction project provided under a government-to-government agreement administered by the Secretary of Defense in the case of an alien who has had such status for a period of at least five years if such status has not expired as of the date of the en-
actment of this Act (Nov. 29, 1989) but would otherwise expire during 1989, 1990, or 1991, due only to the time
limitations with respect to such status.""
spouse or child of such an alien), and is accompanying, or following to join, the principal alien.

(2) An immigrant visa may not be issued to an alien under paragraph (1)(C) unless the officer referred to in paragraph (1) has determined, in the officer’s discretion, that (A) such an alien has a bona fide relationship with the principal alien similar to that which exists between close family members and (B) the admission of such an alien is necessary for humanitarian purposes or to assure family unity. If an alien described in paragraph (1)(C)(ii) is admitted to the United States, then, thereafter, be accorded any right, privilege, or status under the Immigration and Nationality Act (§ 8 U.S.C. 1101 et seq.) by virtue of such parentage.

(3) For purposes of this section, the term ‘child’ has the meaning given such term in section 101(b)(1)(A), (B), (C), (D), and (E) of the Immigration and Nationality Act (§ 8 U.S.C. 1101(b)(1)(A)–(E)).

(4) Any alien admitted (or awaiting admission) to the United States under this section shall be eligible for benefits under chapter 2 of title IV of the Immigration and Nationality Act (§ 8 U.S.C. 1521 et seq.) to the same extent as individuals admitted (or awaiting admission) to the United States under section 207 of such Act (§ 8 U.S.C. 1157) are eligible for benefits under such chapter.

(5) The Attorney General, in cooperation with the Secretary of State, shall report to Congress 1 year, 2 years, and 3 years, after the date of the enactment of this Act (Dec. 22, 1987) on the implementation of this section. Each such report shall include the number of aliens who are issued immigrant visas and who are admitted to the United States under this section and number of waivers granted under subsection (a)(2) and the reasons for granting such waivers.

(c) Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act (§ 8 U.S.C. 1101 et seq.) shall apply in the administration of this section and nothing contained in this section shall be held to repeal, amend, alter, modify, effect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization. The fact that an alien may be eligible to be granted the status of having been lawfully admitted for permanent residence under this section shall not preclude the alien from seeking such status under any other provision of law for which the alien may be eligible.


AUTHORIZATION OF APPROPRIATIONS FOR ENFORCEMENT AND SERVICE ACTIVITIES OF IMMIGRATION AND NATURALIZATION SERVICE

Pub. L. 99–603, title I, § 111, Nov. 6, 1986, 100 Stat. 3381, provided that:

(a) TWO ESSENTIAL ELEMENTS.—It is the sense of Congress that two essential elements of the program of immigration control established by this Act [see Short Title of 1986 Amendments note above] are—

(1) an increase in the border patrol and other inspection and enforcement activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to prevent and deter the illegal entry of aliens into the United States and the violation of the terms of their entry, and

(2) an increase in examinations and other service activities of the Immigration and Naturalization Service and other appropriate Federal agencies in order to ensure prompt and efficient adjudication of petitions and applications provided for under the Immigration and Nationality Act [this chapter].

(b) INCREASED AUTHORIZATION OF APPROPRIATIONS FOR INS AND EOIR.—In addition to any other amounts authorized to be appropriated, in order to carry out this Act there are authorized to be appropriated to the Department of Justice—

(1) for the Immigration and Naturalization Service, for fiscal year 1987, $422,000,000, and for fiscal year 1988, $419,000,000; and

(2) for the Executive Office of Immigration Review, for fiscal year 1987, $12,000,000, and for fiscal year 1988, $15,000,000.

Of the amounts authorized to be appropriated under paragraph (1) sufficient funds shall be available to provide for an increase in the border patrol personnel of the Immigration and Naturalization Service so that the average level of such personnel in each of fiscal years 1987 and 1988 is at least 50 percent higher than such level for fiscal year 1986.

(c) USE OF FUNDS FOR IMPROVED SERVICES.—Of the funds appropriated to the Department of Justice for the Immigration and Naturalization Service, the Attorney General shall provide for improved immigration and naturalization services and for enhanced community outreach and in-service training of personnel of the Service. Such enhanced community outreach shall include the establishment of appropriate local community taskforces to improve the working relationship between the Service and local community groups and organizations (including employers and organizations representing minorities).

(d) SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR WAGE AND HOUR ENFORCEMENT.—There are authorized to be appropriated, in addition to such sums as may be available for such purposes, such sums as may be necessary to the Department of Labor for enforcement activities of the Wage and Hour Division and the Office of Federal Contract Compliance Programs within the Employment Standards Administration of the Department in order to deter the employment of unauthorized aliens and remove the economic incentive for employers to exploit and use such aliens.

ELIGIBILITY OF H-2 AGRICULTURAL WORKERS FOR CERTAIN LEGAL ASSISTANCE

Pub. L. 99–603, title III, § 305, Nov. 6, 1986, 100 Stat. 3434, provided that: ‘‘A nonimmigrant worker admitted to or permitted to remain in the United States under section 101(a)(15)(H)(ii)(a) of the Immigration and Nationality Act (§ 8 U.S.C. 1101(a)(15)(H)(ii)(a)) for the purpose of performing agricultural labor or service shall be considered to be an alien described in section 101(a)(20) of such Act (§ 8 U.S.C. 1101(a)(20)) for purposes of establishing eligibility for legal assistance under the Legal Services Corporation Act (42 U.S.C. 2996 et seq.), but only with respect to legal assistance on matters relating to wages, housing, transportation, and other employment rights as provided in the worker’s specific contract under which the nonimmigrant was admitted.’’

DENIAL OF CREW MEMBER NONIMMIGRANT VISA IN CASE OF STRIKES

Pub. L. 99–603, title III, § 315(d), Nov. 6, 1986, 100 Stat. 3440, provided that:

(1) Except as provided in paragraph (2), during the one-year period beginning on the date of the enactment of this Act [Nov. 6, 1986], an alien may not be admitted to the United States as an alien crewman (under section 101(a)(15)(D) of the Immigration and Nationality Act, § 8 U.S.C. 1101(a)(15)(D)) for the purpose of performing close service on board a vessel or aircraft at a time when there is a strike in the bargaining unit of the employer in which the alien intends to perform such service.

(2) Paragraph (1) shall not apply to an alien employee who was employed before the date of the strike concerned and who is seeking admission to enter the
United States to continue to perform services as a crewman to the same extent and on the same routes as the alien performed such services before the date of the strike."

**Sense of Congress Respecting Consultation With Mexico**

Pub. L. 99–661, title IV, §407, Nov. 6, 1986, 100 Stat. 3443, provided that: "It is the sense of the Congress that the President of the United States should consult with the President of the Republic of Mexico within 90 days after enactment of this Act [Nov. 6, 1986] regarding the implementation of this Act [see Short Title of 1986 Amendments note above] and its possible effect on the United States and mutually beneficial reciprocal trade and investment programs to alleviate conditions which contribute to unauthorized migration, etc., of a Commission for the Study of International Migration and Cooperative Economic Development to examine, in consultation with governments of Mexico and other sending countries in Western Hemisphere, the conditions which contribute to unauthorized migration to United States and mutually beneficial reciprocal trade and investment programs to alleviate conditions leading to such unauthorized migration and to report to President and Congress, not later than 3 years after appointment of members of Commission, on results of Commission's examination with recommendations on providing mutually beneficial reciprocal trade and investment programs to alleviate such unauthorized migration.

**Treatment of Departures From Guam**

Pub. L. 99–565, §2, Oct. 21, 1986, 100 Stat. 2806, provided that: "In the administration of section 101(a)(15)(D)(i)(I) of the Immigration and Nationality Act [8 U.S.C. 1101(a)(15)(D)(i)(I)] (added by the amendment made by section 1 of this Act), an alien crewman shall be considered to have departed from Guam after leaving the territorial waters of Guam, without regard to whether the alien arrives in a foreign state before returning to Guam."

**Alien Employers of American University of Beirut**

"(1) the terms ‘alien’, ‘Attorney General’, ‘national’, ‘naturalization’, ‘State’, and ‘United States’ shall have the meaning given such terms in section 101(a) of the Immigration and Nationality Act (8 U.S.C. 1101(a)); and

"(2) the term ‘child’ shall have the meaning given such term in section 101(c) of the Immigration and Nationality Act."

Pub. L. 85–316, §14, Sept. 11, 1957, 71 Stat. 643, provided that: "Except as otherwise specifically provided in this Act, the definitions contained in subsections (a) and (b) of section 101 of the Immigration and Nationality Act [8 U.S.C. 1101(a), (b)] shall apply to sections 4, 5, 6, 7, 8, 9, 12, 13, and 15 of this Act (enacting sections 1182a, 1182c, 1201a, 1205a, 1251a, 1255a, and 1255b of this title and provisions set out as notes under section 1153 of this title and section 1971a of the former Appendix to Title 50, War and National Defense.)"

Executive Documents

Admission of Hawaii as State

Admission of Hawaii into the Union was accomplished Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 25, 1959, 25 F.R. 6668, 73 Stat. 747, as required by sections 1 and 7(c) of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as notes preceding former section 491 of Title 48, Territories and Insular Possessions.

EX. ORD. NO. 12711. POLICY IMPLEMENTATION WITH RESPECT TO NATIONALS OF PEOPLE'S REPUBLIC OF CHINA

Ex. Ord. No. 12711, Apr. 11, 1990, 55 F.R. 13897, provided:

By the authority vested in me as President by the Constitution and laws of the United States of America, the Attorney General and the Secretary of State are hereby ordered to exercise their authority, including that under the Immigration and Nationality Act (8 U.S.C. 1101–1557), as follows:

SECTION 1. The Attorney General is directed to take any steps necessary to defer until January 1, 1994, the enforced departure of all nationals of the People's Republic of China (PRC) and their dependents who were in the United States on or after June 5, 1989, up to and including the date of this order (hereinafter "such PRC nationals").

SECTION 2. The Secretary of State and the Attorney General are directed to take all steps necessary with respect to such PRC nationals (a) to waive through January 1, 1994, the requirement of a valid passport and (b) to provide and provide necessary documents, both within the United States and at U.S. consulates overseas, to facilitate travel across the borders of other nations and reentry into the United States in the same status such PRC nationals had upon departure.

SECTION 3. The Secretary of State and the Attorney General are directed to provide the following protections:

(a) irrevocable waiver of the 2-year home country residence requirement that may be exercised until January 1, 1994, for such PRC nationals;
(b) maintenance of lawful status for purposes of adjustment of status or change of nonimmigrant status for such PRC nationals who were in lawful status at any time on or after June 5, 1989, up to and including the date of this order;
(c) authorization for employment of such PRC nationals through January 1, 1994; and
(d) notice of expiration of nonimmigrant status (if applicable) rather than the institution of deportation proceedings, and explanation of options available for such PRC nationals eligible for deferral of enforced departure whose nonimmigrant status has expired.

SECTION 4. The Secretary of State and the Attorney General are directed to provide for enhanced consideration under the immigration laws for individuals from any country who express a fear of persecution upon return to their country related to that country's policy of forced abortion or coerced sterilization, as implemented by the Attorney General's regulation effective January 29, 1990.

Sic. 5. The Attorney General is directed to ensure that the Immigration and Naturalization Service finalizes and makes public its position on the issue of training for individuals in F–1 visa status and on the issue of reinstatement into lawful nonimmigrant status of such PRC nationals who have withdrawn their applications for asylum.

Sic. 6. The Departments of Justice and State are directed to consider other steps to assist such PRC nationals in their efforts to utilize the protections that I have extended pursuant to this order.

Sic. 7. This order shall be effective immediately.

GEORGE BUSH.

DETERRING ILLEGAL IMMIGRATION

Memorandum of President of the United States, Feb. 7, 1995, 60 F.R. 7885, provided:

Memorandum for the Heads of Executive Departments and Agencies

It is a fundamental right and duty for a nation to protect the integrity of its borders and its laws. This Administration shall stand firm against illegal immigration and the continued abuse of our immigration laws. By closing the back door to illegal immigration, we will continue to open the front door to legal immigrants.

My Administration has moved swiftly to reverse the course of a decade of failed immigration policies. Our initiatives have included increasing overall Border personnel by over 50 percent since 1993. We also are strengthening worksite enforcement and work authorization verification to deter employment of illegal aliens. Asylum rules have been reformed to end abuse by those falsely claiming asylum, while offering protection to those in genuine fear of persecution. We are cracking down on smugglers of illegal aliens and reforming criminal alien deportation for quicker removal. And we are the first Administration to obtain funding to reimburse States for a share of the costs of incarcerating criminal illegal aliens.

While we already are doing more to stem the flow of illegal immigration than has any previous Administration, more remains to be done. In conjunction with the Administration's unprecedented budget proposal to support immigration initiatives, this directive provides a blueprint of policies and priorities for this Administration's continuing work to curtail illegal immigration. With its focus on strong border deterrence backed up by effective worksite enforcement, removal of criminal and other deportable aliens and assistance to states, this program protects the security of our borders, our jobs and our communities for all Americans—citizens and legal immigrants alike.

COMPREHENSIVE BORDER CONTROL STRATEGY

A. Deterring Illegal Immigration At Our Borders

I have directed the Attorney General to move expeditiously toward full implementation of our comprehensive border control strategy, including efforts at the southwest border. To support sustained long-term strengthening of our deterrence capacity, the Administration shall seek funding to add new Border Patrol agents to reach the goal of at least 7,000 agents protecting our borders by the year 2000.

B. Flexible Border Response Capacity

To further this strategy, the Department of Justice shall implement the capacity to respond to emerging situations anywhere along our national borders to deter buildups of illegal border crossers, smuggling operations, or other developing problems.

C. Strategic Use of High Technology

Through the strategic use of sensors, night scopes, helicopters, light planes, all-terrain vehicles, fingerprinting and automated recordkeeping, we have freed many Border Patrol agents from long hours of bureaucratic tasks and increased the effectiveness of these highly-trained personnel. Because these tools are essential for the Immigration and Naturalization Serv-
ice (INS) to do its job, I direct the Attorney General to accelerate to the greatest extent possible their utilization and enhancement to support implementation of our deterrence strategy.

**Strong Enforcement Against Repeat Illegal Crossers**

The Department of Justice shall assess the effectiveness of efforts underway to deter repeat illegal crossers, such as fingerprinting and dedicating prosecution resources to enforce the new prosecution authority provided by the Violent Crime Control and Law Enforcement Act of 1994 [Pub. L. 103–322, see Tables for classification].

The Department of Justice shall determine whether accelerated expansion of these techniques to additional border sectors is warranted.

**B. Deterring Alien Smuggling**

This Administration has had success deterring large ship-based smuggling directly to United States shores. In response, smugglers are testing new routes and tactics. Our goal: similar success in choking off these attempts by adjusting our anti-smuggling initiatives to anticipate shifting smuggling patterns.

To meet new and continuing challenges posed along transport routes and in foreign locations by smuggling organizations, we will augment diplomatic and enforcement resources at overseas locations to work with host governments, and increase related intelligence gathering efforts.

The Departments of State and Justice, in cooperation with other relevant agencies, will report to the National Security Council within 30 days on the structure of interagency coordination to achieve these objectives.

Congressional action will be important to provide U.S. law enforcement agencies with needed authority to deal with international smuggling operations. I will propose that the Congress pass legislation providing wiretap authority for investigation of alien smuggling cases and providing authorization to seize the assets of groups engaged in trafficking in human cargo.

In addition, I will propose legislation to give the Attorney General authority to implement procedures for expedited exclusion to deal with large flows of undocumented migrants, smuggling operations, and other extraordinary migration situations.

**C. Visa Overstay Deterrence**

Nearly half of this country’s illegal immigrants come in the country legally and then stay after they are required by law to depart, often using fraudulent documentation. No Administration has ever made a serious effort to identify and deport these individuals. This Administration is committed to curtailing this form of illegal immigration.

Therefore, relevant departments and agencies are directed to review their policies and practices to identify necessary reforms to curtail visa overstayers and to enhance investigations and prosecution of those who fraudulently produce or misuse passports, visas, and other travel related documents. Recommendations for administrative initiatives and legislative reform shall be presented to the White House Interagency Working Group on Immigration by June 30, 1995.

**REDUCING THE MAGNET OF WORK OPPORTUNITIES, WORKSITE ENFORCEMENT, AND DETENTION**

Border deterrence cannot succeed if the lure of jobs in the United States remains. Therefore, a second major component of the Administration’s deterrence strategy is to toughen worksite enforcement and employer sanctions. Employers who hire illegal immigrants not only obtain unfair competitive advantage over law-abiding employers, their unlawful use of illegal immigrants suppresses wages and working conditions for our country’s legal workers. Our strategy, which targets enforcement efforts at employers and industries that historically have relied upon employment of illegal immigrants, will not only strengthen deterrence of illegal immigration, but better protect American workers and businesses that do not hire illegal immigrants.

Central to this effort is an effective, nondiscriminatory means of verifying the employment authorization of all new employees. The Administration fully supports the recommendation of the Commission on Legal Immigration Reform to create pilot projects to test various techniques for improving workplace verification, including a computer database test to validate a new worker’s social security number for work authorization purposes. The Immigration and Naturalization Service (INS) and Social Security Administration are directed to establish, implement, monitor, and review the pilots and provide me with an interim report on the progress of this program by March 1, 1996.

In addition, the INS is directed to finalize the Administration’s reduction of the number of authorized documents to support work verification for noncitizens. Concurrently, the Administration will seek further reduction legislatively in the number of documents that are acceptable for proving identity and work authorization. The Administration will improve the security of existing documents to be used for work authorization and seek increased penalties for immigration fraud, including fraudulent production and use of documents.

The Department of Labor shall intensify its investigations in industries with patterns of labor law violations that promote illegal immigration.

I also direct the Department of Labor, INS, and other relevant Federal agencies to expand their collaboration in cracking down on those who subvert fair competition by hiring illegal aliens. This may include increased Federal authority to confiscate assets that are the fruits of that unfair competition.

The White House Interagency Working Group on Immigration shall further examine the link between immigration and employment, including illegal immigration, and recommend to me other appropriate measures.

**DETENTION AND REMOVAL OF DEPORTABLE ILLEGAL ALIENS**

The Administration’s deterrence strategy includes strengthening the country’s detention and deportation capability. No longer will criminals and other high risk deportable aliens be released back into communities because of a shortage of detention space and ineffective deportation procedures.

**A. Comprehensive Deportation Process Reform**

The Department of Justice, in consultation with other relevant agencies, shall develop a streamlined, fair, and effective procedure to expedite removal of deportable aliens. As necessary, additional legislative authority will be sought in this area. In addition, the Department of Justice shall increase its capacity to staff deportation and exclusion hearings to support these objectives.

**B. National Detention and Removal Plan**

To address the shortage of local detention space for illegal aliens, the Administration shall devise a National Detention, Transportation, and Removal Policy that will permit use of detention space across the United States and improve the ability to remove individuals with orders of deportation. The Department of Justice, in consultation with other agencies as appropriate and working under the auspices of the White House Interagency Working Group on Immigration, shall finalize this plan by April 30, 1996.

The Administration will seek support and funding from the Congress for this plan and for our efforts to double the removal of illegal aliens with final orders of deportation.

**C. Identification and Removal of Criminal Aliens**

The Institutional Hearing Program is successfully expediting deportation of incarcerated criminal aliens after they serve their sentences.
To further expedite removal of criminal aliens from this country and reduce costs to Federal and State governments, the Department of Justice is directed to develop an expanded program of verification of the immigration status of criminal aliens within our country’s prisons. In developing this program, the viability of expanding the work of the Law Enforcement Support Center should be assessed and all necessary steps taken to increase coordination and cooperative efforts with State, and local law enforcement officers in identification of criminal aliens.

TARGETED DETERRENCE AREAS

Many of the Administration’s illegal immigration enforcement initiatives are mutually reinforcing. For example, strong interior enforcement supports border control. While there have been efforts over the years at piecemeal cooperation, this Administration will examine, develop, and test a more comprehensive coordinated package of deterrence strategies in selected metropolitan areas by multiple Federal, State, and local agencies.

The White House Interagency Working Group on Immigration shall coordinate the development of this interagency and intergovernmental operation.

VERIFICATION OF ELIGIBILITY FOR BENEFITS

The law denies most government benefits to illegal aliens. The government has a duty to assure that taxpayer-supported public assistance programs are not abused. As with work authorization, enforcement of eligibility requirements relies upon a credible system of verification. The INS, working with the White House Interagency Working Group on Immigration as appropriate, shall review means of improving the existing benefits verification program. In addition, we will seek new mechanisms—including increased penalties for false information used to qualify for benefits—to protect the integrity of public programs.

ANTI-DISCRIMINATION

Our efforts to combat illegal immigration must not violate the privacy and civil rights of legal immigrants and U.S. citizens. Therefore, I direct the Attorney General, the Secretary of Health and Human Services, the Chair of the Equal Employment Opportunity Commission, and other relevant Administration officials to vigorously protect our citizens and legal immigrants from and immigration-related instances of discrimination and harassment. All illegal immigration enforcement measures shall be taken with due regard for the basic human rights of individuals and in accordance with our obligations under applicable international agreements.

ASSISTANCE TO STATES

States today face significant costs for services provided to illegal immigrants as a result of failed policies of the past. Deterring illegal immigration is the best long-term solution to protect States from growing costs for illegal immigration. This is the first Administration to address this primary responsibility squarely. We are targeting most of our Federal dollars to those initiatives that address the root causes that lead to increased burdens on States.

The Federal Government provides States with billions of dollars to provide for health care, education, and other services and benefits for immigrants. This Administration is proposing increases for immigration and immigration-related spending of 25 percent in 1996 compared to 1993 levels. In addition, this Administration is the first to obtain funding from the Congress to reimburse States for a share of the costs of incarcerating illegal aliens.

This Administration will continue to work with States to obtain more Federal help for certain State costs and will oppose inappropriate cost-shifting to the States.

INTERNATIONAL COOPERATION

This Administration will continue to emphasize international cooperative efforts to address illegal immigration.

Pursuant to a Presidential Review Directive (PRD), the Department of State is now coordinating a study on United States policy toward international refugee and migration affairs. I hereby direct that, as part of that PRD process, this report to the National Security Council include the relationship of economic development and migration in the Western Hemisphere and, in particular, provide recommendations for further foreign economic policy measures to address causes of illegal immigration.

The Department of State shall coordinate an interagency effort to consider expanded arrangements with foreign governments for return of criminal and deportable aliens.

The Department of State also shall seek to negotiate readmission agreements for persons who could have sought asylum in the last country from which they arrived. Such agreements will take due regard of U.S. obligations under the Protocol Relating to the Status of Refugees.

The Department of State further shall implement cooperative efforts with other nations receiving smuggled aliens or those used as transshipment points by smugglers. In particular, we will look to countries in our hemisphere to join us by denying their territory as bases for smuggling operations.

The Department of State shall initiate negotiations with foreign countries to secure authority for the United States Coast Guard to board source country vessels suspected of transporting smuggled aliens.

This directive shall be published in the Federal Register.

WILLIAM J. CLINTON.

§ 1102. Diplomatic and semidiplomatic immunities

Except as otherwise provided in this chapter, for so long as they continue in the non-immigrant classes enumerated in this section, the provisions of this chapter relating to ineligibility to receive visas and the removal of aliens shall not be construed to apply to non-immigrants—

(1) within the class described in paragraph (15)(A)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph and, and, under such rules and regulations as the President may deem to be necessary, the provisions of subparagraphs (A) through (C) of section 1182(a)(3) of this title; and

(2) within the class described in paragraph (15)(G)(i) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraph and the provisions of subparagraphs (A) through (C) of section 1182(a)(3) of this title; and

(3) within the classes described in paragraphs (15)(A)(ii), (15)(G)(ii), (15)(G)(iii), or (15)(G)(iv) of section 1101(a) of this title, except those provisions relating to reasonable requirements of passports and visas as a means of identification and documentation necessary to establish their qualifications under such paragraphs, and the provisions of